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INTRODUCTION TO POLITICS

INTRODUCTION

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MANUFACTURED IN THE UNITED STATES OF AMERICA

To

DR. T. P. CALKINS

and

DR. CLARENCE A. DYKSTRA

Preface

THIS book has been written to satisfy the demand for an introductory textbook in the field of Political Science. In recent years there has been a reaction against the purely descriptive and legalistic approaches to the problem of government. The modern emphasis is on functions. At the same time, we have abandoned our earlier pre-occupation with uniquely domestic institutions, as the modern instruments of communication and competition have brought the nations of the world more closely together, not only in friendly intercourse but also in the violent clash of war. More than ever is it important for the citizens of tomorrow to know what is happening at home and abroad. A vast avalanche of interpretations has descended upon us by means of books, newspapers, the radio, the moving pictures, and other instruments of communication, making it extremely difficult to understand the realities of politics and to determine what principles are sound, what policies are wise.

In this textbook, the editors have invited a number of distinguished collaborators to provide summaries of the basic knowledge in their respective fields. It is no longer possible for one man or even a few men to accumulate facts, digest them, and present conclusions derived from them that are reliable and useful. It is hoped that this venture in co-operative scholarship will satisfy the demand for expert knowledge and at the same time supply a reasonably consistent and systematic synthesis of available facts and mature opinions.

This text begins with an introduction devoted to the essence of politics, discusses the scope and methods of politics, indicates the place of politics in the social sciences, and emphasizes the dynamic factors of folklore, symbols, attitudes, opinions, and ideologies. Having laid this foundation, we direct attention to the structure of politics. Politics is made manifest through or within the framework of people, nations, states, leaders and followers, forms of government, systems of government, and the citizenry. Implicit in all of these concepts is the fact of some kind of organization of individuals for political purposes.

We proceed in the next section with the instruments of politics. Instruments are the ways and means of acting. In the field of politics these are

constitutions, elections, judicial systems, political parties, executives, legislatures, the civil services, and the administrative apparatus and procedures of the modern state. We next assume that people act in a certain way, with certain instruments, in certain places. Hence we discuss the problem of areas, boundaries, and the levels of government.

Thence we proceed into the discussion of what government does. It is convenient to define the two chief functions of government as regulation and service. Although the practice of separating these functions and conferring the tasks of regulation and service on different agencies is generally followed within the modern state, with the vast increase in government functions in the past decade the boundaries between regulation and service have been blurred and ideological confusion has resulted. With the hope of clarifying these forces and rediscovering the principles of political action, we devote the last section to the analysis of trends in politics and government on various levels.

"The price of liberty is eternal vigilance." But vigilance without knowledge and vision is useless. It is hoped that this volume will serve the purpose of introducing present and future citizens to the realities of politics.

Dr. Peel wishes to acknowledge the help of the members of the staff of the Institute of Politics; and also the help of its secretary, Miss Doris DeVore, in typing and proofreading. His indebtedness to scholars for suggestions and inspiration is too extensive to receive individual notice here, but there are a few men whose pioneering endeavors in the field of functional politics and whose personal encouragement and criticisms with respect to the content and the methods of teaching political science cannot go unmentioned. He wishes, therefore, to express his gratitude to Professors Charles E. Merriam, Dexter Perkins, Harold D. Lasswell, Herman Beyle, Henry Pratt Fairchild, Robert C. Brooks, Rinehart J. Swenson, E. O. Sisson, and Mr. Howard P. Jones. The contributions made by these scholars to the better understanding of American democracy makes unnecessary any closer identification of them.

Dr. Roucek wishes to express his gratitude to the administration of Hofstra College for providing secretarial and other help, and to Miss Anita Arbeitel, Mr. LeRoy Millard, Mr. Myron Robbins, Mr. Daniel Rubin, Miss Francine Sanborne and Mr. Richard Francis for assistance with the proofs and for help with the Index.

The Editors also wish to acknowledge the preparation of the Glossary by Miss Julia M. Crisp and the many suggestions made by Miss Marian K. Pavlovich who read the manuscript.

THE EDITORS

November, 1940

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INTRODUCTION

The Essence of Politics

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The Essence of Politics

POLITICS AS THE EXPRESSION OF UNIVERSAL INTEREST

POLITICS has always been man's most exciting game. In ancient Greece or Rome the citizens found it probably the most interesting aspect of their lives, in addition to war-making—and wars are, after all, only one aspect of politics, and thus also a social activity of major importance to everybody. Today, just as in the past, men spend a considerable part of their lives in various aspects of politics, either as active, or even more frequently as passive participants. Think how much space is devoted to various local, national, and international problems in our daily newspapers, in our radio talks, in our discussions at meal times, on street corners, in beer houses, and on all social occasions. Politics, today, just as formerly, is such a potent, time-consuming factor in man's existence that no aspect of human life can be fully comprehended without first understanding what politics is.

There is, however, a difference between the extent to which politics was entered into in former times and that to which it is today. Until recently, the masses had very little to say about politics. Although it is true that the various applications of the rule of *vox populi, vox Dei* have always had to be honored in observance to some degree, in general, the "plebs," the lower ranks of society, were most ineffective in their political demands and pressures. Politics was monopolized by a small stratum of the upper classes—the kings, the emperors, the feudal lords, and the representatives of religion. The masses bore the brunt of these struggles, revolted once in a while, always grumbled and murmured, but, in most cases, had to stand on the sidelines and pay for the fun of the ruling groups.

THE DEMOCRATIZATION OF POLITICS

The situation has changed considerably during the last two centuries. With the popularization of the ideals of democracy, more and more people from the lower ranks of society have been granted the right—in some cases only theoretically—to make their political opinions effective. At any rate, whether the masses have any political rights or not, the modern rulers, from Churchill and Roosevelt to Hitler and Stalin, must always be aware of the existence of the masses and manipulate their political machineries in such

a way that these masses are made to feel that "theirs is the will." Our present-day democracies and dictatorships simply cannot play the political game the way it was played before the rise of the common man to importance.

The present situation is a result of several important historical forces. The discoveries of Vasco da Gama, Columbus, and others during the fifteenth century and the early part of the sixteenth century, the opening up of new geographical areas, and a fundamental change in industrial methods of production—the substitution of machine power for handicraft—in the eighteenth and nineteenth centuries, known as the Industrial Revolution, have not only changed man's ideas about his social relationships, but have transformed the physical world as well. The support of a phenomenal increase of population since the beginning of the Industrial Revolution has been made possible. Technical invention has largely kept pace with scientific discovery, devising machines to supplant human labor in ways undreamed of a few decades ago. The electric motor and the gas engine have displaced or supplemented steam power and have made possible swift locomotion in the air and new automotive contrivances on land and water. With telephone, cables, and wireless, communication has become almost instantaneous over nearly all parts of the world.

These changes in locomotion and communication have made man aware of happenings the world over. Politics today can no longer be carried on in isolation in the palaces of kings, in the bedrooms of their mistresses, or in the antechambers of the holders of powers. Increasingly large masses are intensely interested in what is happening around them and want to be informed, if not consulted. Furthermore, their feelings on various matters can be transmitted to politicians who keep their ears to the ground; and politicians and statesmen make use of means similar to those through which the masses communicate with them to keep the masses informed or misinformed about the course of events. At any rate, *vox populi* cannot be disregarded with such contempt and impunity as it was a few centuries ago. Politics, consequently, has become, more than ever before, man's chief preoccupation.

POLITICS AS STRUGGLE FOR POWER

Politics is, however, more than just a man's game and diversion. It is a matter of life and death to him in some parts of the world today. We cannot even conceive the misery of the millions of sufferers in the wake of Hitler's victories, a result of one aspect of politics—that is, of international politics. For the central problem of politics is that of the distribution and

control of power. Politics is the quest for power, and political relationships are power relationships, actual or potential.

To orthodox proponents of democracy, politics is essentially a peaceful process of reconciling conflicting interests within the framework of governmental institutions, the effort of the people to establish equilibrium between themselves and the governing groups, the attempt to distribute governing power.

But democracy is today in retreat and the dictatorial forms of government appear to be in the ascendancy. The result is that political action is not always peaceful (and, in fact, has always been more violent than peaceful), and its purpose is frequently not to harmonize conflicting interests but to achieve domination, to gain control of state power. This is true not only in the dictatorships but also in democracies, and especially in international relations, since war is one of the techniques of achieving or maintaining power.

Thus doctrinal assumptions and legalistic concepts of the old-fashioned political scientist cannot explain the inner nature and significance of that area of politics operating outside the scope of lawful procedure. Nor can we dispose of this area by classifying certain aspects of political action as "illegal," "unconstitutional," or "undemocratic." Politics unfolds its full meaning in any existing society only in the description and analysis of power relations as essential elements of the pattern of social behavior. In other words, politics embraces every social phenomenon characterized by the struggles of groups or individuals to gain or retain power or influence over others. Political relationships are therefore power relationships, actual or potential. Viewed thus, politics penetrates every sphere of social life, as social life is founded on the ability of some to force others to act in a certain way, even against their own will. It means more than to exert influence. A person has influence over other persons through his wishes or advice. But he has power in so far as he is able to determine their behavior through his orders, even against their wishes.

WHAT IS POWER?

Power is the fundamental concept in social sciences "in the same sense in which Energy is the fundamental concept in physics."[1] Like energy, power has many forms, such as wealth, armaments, civil authority, influence

1. Bertrand Russell, *Power: A New Social Analysis* (New York: Norton, 1938), p. 12. Unfortunately, Russell has failed to include in his work references to numerous other analyses of the phenomenon of power. See the best available bibliography in N. S. Timasheff, *The Sociology of Law* (Cambridge, Mass.: Harvard University Press, 1939). Charles E. Merriam, *Political Power* (New York: McGraw-Hill, 1934) is one of the best readable introductions to this whole problem.

on opinion. No one of these can be regarded as subordinate to any other, and, there is no one form of power from which the others are derivative. Wealth may result from military power or from influence over opinion, just as either of these may result from wealth. Again, propaganda, if it can create an almost unanimous opinion, can generate an irresistible power; but those who have military or economic control can, if they choose, use it for the purpose of propaganda. Reverting to the analogy of physics, Russell holds that power, like energy, must be regarded as continually passing from any one of its forms into any other.

Political power requires, however, differentiation from other forms of compulsion, either physical or moral. In this respect it is limited to force which is employed in imposing an order of relationships in human society and which is limited to uses aimed at securing power or at deciding contested issues within a structure which claims the character of a region of law.[2] Under this conception, political power need not be physical, and can take any form of willed compulsion, whether economic, moral, or any other. But all political power always aims to legalize itself and persistently to seek moral sanctions. Hence not only are plebiscites held and parliamentary votes taken, but political power through its ideology strives to make itself more enduring by intellectual, spiritual, and cultural propaganda at home and abroad. It also aims to symbolize itself in traditions, literature, arts, sciences, technology, and what not. Note also that not every political power (*e.g.*, churches or trade unions) is state power, but that every political power is potentially state power.[3]

THE TERM "POLITICS"

In a narrower sense, the term "politics" is applied, then, in theory as well as in practice, only to those "political" phenomena which have some relation to organs granted, in some legalized form, the power of government; it is applied to the activity of the individuals or groups in a state and its subdivisions, which aims to gain power in that state for the purpose of affecting social changes. Political activity used to achieve this end may range from violence, murder, and terror to no action whatever.

Thus politics is also the use of methods of direct action or force. A revolutionary group may abandon as futile the efforts to win changes by ballot, by legislation, or by the slow process of evolutionary change, and arm itself, if necessary, to obtain its demands. It may not be necessary for it to show its hand completely or to use guns and bayonets, but if it is prepared to do

2. See W. Y. Elliott, "Force, Political," *Encyclopaedia of the Social Sciences*, vol. VI, pp. 338–41.

3. See H. Heller, "Power, Political," *ibid.*, vol. XII, pp. 300–5.

so and obtains what it desires through the threat of physical violence, it is, concretely speaking, using force to achieve political purposes. A most extreme type of political action, a state revolution, indicates that interdependent power relationships are undergoing rapid changes. At the other end of the scale we find political methods which although they appear very mild may be very effective. These may be exemplified by the underdog protecting himself by "grumbling, with obvious gestures and expressions of dissent, halting short of disrespect that would call for discipline or short of making the community so uncomfortable as to arouse its rage." In fact, "the most telling protest may, indeed, be made by doing nothing at all." [4]

POLITICAL PARTIES

Political activities find their organized expression in political parties. The political party is a spontaneous organization of propaganda and militant agitation seeking to acquire power within its state for its leaders and thus also spiritual and material benefits for its followers.[5] The fruits of political power are economic advantage, social prestige and security (tentative, at least). Today, the party is the most important intermediary between the holders of state power, between the mechanism of the state, and the masses subdivided in groups. It helps to translate social pressures into public policies, or transmit the wishes of the politicians, and particularly of dictators, to the masses. Its importance, which has grown enormously in recent times, has increased in proportion to the state's dependence on the active participation or at least the passive acquiescence of masses in the activities of the state. Today the state, which interferes so intensively in all spheres of social life, which directs public and private economics, gives directions to cultural creations and public education, cannot get along without the initiative of the political party.

The most important characteristic distinguishing the party from all other social organizations is its never-ceasing efforts to participate in the political power of the state. In this respect it differs even from the organizations which also carry on political activities, such as various lobbies or political leagues. These not only have no direct participation in political power but do not even aim to achieve it; they merely exercise their political functions by influencing the use of state power, and particularly by exerting pressures on political parties, state officials, or individuals influential in politics. While "political parties are mainly, although not exclusively, concerned with *who*

4. C. E. Merriam, *Political Power*, chap. VI, "The Poverty of Power," p. 160.
5. Max Weber, *Wirtschaft und Gesellschaft, Grundriss der Sozialökonomik*, 2nd ed. (Tübingen, 1925), III, pp. 167, 639.

shall exercise power," pressure groups and similar organizations are, on the other hand, "mainly concerned with *how* power shall be exercised." [6]

By its continuous efforts to gain favorable public opinion for its struggles and to overcome its opponents, the party, which may be thought of as a political activity in an institutional form, always assumes the character of a fighting organization. The element of conflict underlies all party organization, activities, and ideology. Some thinkers go even so far as to conclude that all politics is but a naked struggle for power without any morals or ethics. Vilfredo Pareto is a foremost exponent of this thesis, as is Georges Sorel. To Spengler, war is the primitive politics of all forms of life. Going a step further, Carl Schmitt expanded this theory for Nazism and singled out the conflict between Friend and Enemy as the basic category of the political process.[7]

As the party achieves political power within a state, it is necessary to make clear what the concept of the modern state is.

WHAT IS THE STATE?

It might seem very curious that such an obvious phenomenon as the state should be an object of so many diverse and incompatible definitions. The legalists and political scientists have offered innumerable definitions of the state, which define mostly the formal aspects of a state's sovereignty over a territory. Some writers (such as Franz Oppenheimer and Harold J. Laski) conceive the state not only as a device of a conquering group to impose its will on the conquered, but as an organization which maintains its class character throughout most of its history; others look upon it, as Aristotle said long ago, as a sovereign association, embracing and superseding, for the purposes of human life in society, all other associations. To some it is a necessary evil; to others, it is indistinguishable from society itself. Some writers emphasize freedom as an essential mark of the state; others, subjection.

It has been only lately that modern political scientists, aiming to describe the process of governing, have concentrated their attention on the functions of the state, its character, and its goals, thereby helping to isolate the actual state practices from the superstructure of ideologies, philosophical rationalizations, and legal definitions which in most cases aim to keep any rays of empiricism from penetrating the realities of political action.

The state is a strictly territorial group; its members, contrasted with outsiders, are those who are regarded as permanent inhabitants of a certain exactly defined territory. It is circumscribed and subdivided on the terri

6. P. H. Odegard & E. A. Helms, *American Politics* (New York: Harper, 1939), pp. 1–2.
7. Carl Schmitt, *Politische Romantik* (München, 1925).

torial basis, and its territory is one of its most important collective values, for it constitutes the fundamental material instrument with the help of which its position and function among other groups are determined. It is an organized group, and its organization centers in the institution of government, an essential instrument or contrivance of the state. This central machinery functions by exercising coercive control over the mass of members with the voluntary co-operation of a certain portion of those members. Any group to which members of the state belong can give the government this voluntary assistance which it needs for coercive control. In small, half-savage states, it may be a clan, a village, a secret society; in more developed states, on various stages of civilization, it may be a tribe, a city, a people, a class, an association, a church, a nation, and particularly a political party.

It is important to note that the goals of the state and its activities are not static but are constantly expanding and contracting according to the interplay of various social forces. From this point of view, the state can be viewed as an arena in which numerous interest groups are struggling—all seeking favors from the state, all aiming to influence, in varying degrees, the exercise of state power. The state regulates and arbitrates these never-ending bubbling conflicts of interest groups.

The most important characteristic differentiating the state from other social organizations is the monopolization of political power. It is obvious that there are innumerable conflicts between the individual and the group interests within each state, and they all cannot be satisfied. Either all groups must yield in part or one or more must give way wholly to the others. The state, which has succeeded, during its evolution, in concentrating and legalizing its use of political power in its organs—the government and its branches—and in excluding therefrom all other social organizations (unless it is willing or forced to grant to them some aspects of this power), is the final arbiter of these differences by means of coercion.

The actual methods of the utilization of state power are, however, seldom analyzed and openly discussed. In the public mind, the concept of "power" is identified with such terms as "force" and "violence," and the average citizen who is asked to be patriotic and civic-minded on the basis of lofty principles and slogans does not like to be reminded of the nakedness of power. As a result, various aspects of state power have been treated similarly to the problem of sex—often thought about but not discussed openly in "nice company." Not until recently could sex questions be discussed openly and analyzed scientifically and empirically. Still, in the case of the phenomenon of the state, the power relationships are in most cases hidden under legalistic and ideological smoke-screens, and particularly in democ-

racies, although according to democratic ideology every citizen is entitled to the participation in state power.

How to define the aims or tasks of the state is a much debated question. A majority of modern thinkers conceive the state goals to be changeable and dynamic because the aims of the state are created, propounded, and changed by groups controlling it. In short, the state is a daily plebiscite of the interplay of complex social processes within the framework of power relationships. It is a social organization, a running, working machinery. The fundamental basis of the state is provided, on the one hand, by political power, and, on the other, by its regular execution. We can distinguish, accordingly, between its political and administrative elements. The interplay of political forces initiates the state activity, while the executive element of the state transposes this political activity into action. Basically, political power resides, however, in those groups which initiate and direct policy rather than in those which execute it. In general, the governmental power belongs to those able to force others to obey and carry out orders.

THE NATURE OF GOVERNMENT

Sometimes the term "state" is used to designate government. But government is a different concept, since it is the organization or machinery through which the state formulates and executes its will. This machinery includes not only the central organs, but all the local agencies through which the state exercises its control, and embraces also the instrumentalities for the expression of its will. In our times government has become the sole possessor of legal authority to employ coercion to enforce its will, as we have already suggested; as the representative organization of the state it simply commands, holds out the threat of physical or other punishment, and may in some instances take life. It is, however, unnecessary to discuss further the nature of government, since this topic is more than amply treated in the text of this volume.

THE DIFFICULTY OF STUDYING POLITICS SCIENTIFICALLY

Man's eternal hope for a "better" future achieves its expression in politics, in the struggles of groups and individuals to gain or retain power or influence over others. It is a strife bound up with man's deepest ambitions, emotions, and prejudices. To isolate politics from the emotionality of the person concerned is one of the most difficult tasks facing the social scientist, since his own emotions are entangled in the political struggles going on around him and within him. How many of us, as a matter of fact, can be

"scientifically indifferent" to what Russia did to Finland in 1939 or to what Hitlerism imposed upon the course of world events in recent years?

In short, not much empiric knowledge of politics is available to us today. It is pretty generally acknowledged that the highest goal of the social sciences is to describe the social world around us as it *is*, rather than as it *ought to be*. Fundamentally, no case can be cured until it has been properly diagnosed. If you go to a physician, who diagnoses your ailment as a kind of tuberculosis, the starting point of your cure depends on his analysis of your tubercular condition as it "is"; then steps can be taken to make your condition what "it ought to be." But since it is always easier to view the troublesome world around us as it ought to be, wishful thinking has always had the upper hand over the scientist's attempt to describe the social reality as it is. For some reason or other, we all abhor the "realities" of politics and prefer to hide them under philosophical, legalistic, and moralistic judgments. For instance, we always emphasize the equality of citizenship under the Federal Constitution but are not prone to inquire too deeply how the theoretical provisions of this document become inoperative in regard to the Negro. The most autocratic state in the world, Communist Russia, becomes an outstanding "democracy" in the pronouncements of Stalin and his henchmen, and its new Constitution is so "democratic" that the realistic observer must wonder about the examples of its utter disregard provided by such practices as "liquidations." The King of England is theoretically the ruler of his country; only, in actual practice he is little more than a figurehead. We also can recall what happens when he wants to be more than that. Let us just remember the fate of Edward VIII brought on by his desire to marry an American divorcee.

In short, since politics is always connected with the striving for certain values, sensible, empiric, and non-evaluating description of the phenomenon of politics has been hardly possible in public discussions, although some progress has been made in academic circles. But it has been only in recent years that we have seen the shift from the institutional to the functional, psychological, and sociological approach to politics in academic circles. We are beginning to refuse to be blinded by the legalistic and philosophical definitions. We are anxious to discover the actual operation of politics, the realities which make the political institutions tick or stall, and the actualities of the results. We want to know: what is political power; how is it exercised; what is the power process?

To be sure, the answers to these questions can be found in several recent, realistic studies of our political scientists, and especially those ready to unite their research abilities with those of all the other social scientists, and par-

ticularly the psychologists, social psychologists, sociologists, human geographers, psychiatrists—in addition, of course, to the historians, who have always provided the roots for political studies, and the economists, whose approach has fascinated the American political scientists particularly since the publication of Charles A. Beard's *The Economic Interpretation of the Constitution.*

THE "AWFUL TRUTH" OF POLITICS

It must be noted, however, that the present trend, which furnishes the underlying approach of this volume, is not entirely a novelty. The "awful truth" that all politics are means to ends which power alone can realize was stated by Niccolo Machiavelli, one of the most reprobated men in the history of politics, whose precepts are universally disavowed in principle, but often followed in practice. The vogue for *The Prince,* written at the beginning of the sixteenth century, has recently been revived. One notes the presence of this little work in most of the "humanism" and civilization courses in our higher institutions of learning, because Machiavelli's fifty brilliant pages, in spite of the passing of centuries, have proven their validity as the foundation of political science. This renewed popularity of the book began a decade ago as a by-product of the vogue of Pareto, then of Mosca, then of the researches headed in America by the so-called "Chicago school" of politics, and finally of such writers as T. W. Arnold—all of whom have contributed to our goal—namely, to deal with the realities by removing some of the "fairy-tales" and smoke screens hiding the actualities of politics. This trend has been strengthened by the realization that the theorists of the modern *coups d'état,* whether Fascist or communist, have drawn heavily on Machiavelli. Furthermore, the best known of Machiavellian doctrines, the importance of breaking treaties at the proper moment under the proper circumstances, has had such a lavish exemplification in the last few years that even many laymen are going back to this basic text and are taking a first-hand look at the source of it all.

THE FUNCTIONALISTIC APPROACH TO POLITICAL DYNAMICS

Let it be said in all fairness that the editors and contributors are *not* cold admirers of power or of brutal force. But they are intensely interested in the description of the realities of power in all its aspects, such as skillful and lying propaganda by means of which the masses can be eternally coerced into serving their masters' ends. For the editors and coauthors believe most sincerely that any uplifting of politics, any kind of education for American citizenship, any effort to preserve our democracy must be based

on the understanding of political realities and not on fairy-tales. It is true that our children ought to know the phrasing of our Constitution. But it is equally if not more important that our future voters should also know how this great document has survived the test of time by its adaptability, by the interpretation of its clauses, by the observance and non-observance of its various parts, and what were the social forces in that process. Such an approach is the only sensible approach, and the one which we aim to introduce here in discussing all aspects of politics.

SECTION I

The Scope of Politics

CHAPTER ONE

The Approach to Politics

INTRODUCTION

IT HAS always been one of the relaxations of popular writers to define politics as though it were some obscure term needing only a brilliant phrase, a clever unshuffling of terms to reveal its essential simplicity and matter-of-factness. The man in the street, on the other hand, regards politics as one of the most obvious data of experience, but when he tries to define it he gets lost in a maze of contradictions which so embarrass him that he dismisses the whole subject with a contemptuous shrug.

Since it is essential that we articulate our thought about the formal structure and the processes of organized society, we can accept neither the loose thinking of the man in the street nor the glib generalizations of those who profess to influence public opinion but actually do little more than reflect current misunderstandings and incomprehension.

In this joint effort on the part of many scholars to provide an introduction to the science of politics, there is some difference of opinion to be seen; but we can assume with confidence that men who have been trained in political theory and in the study of public administration are agreed on certain fundamental articles of belief. It is perhaps not incorrect to say that they share the same respect for diligence in research, clarity of thought, and felicity of expression which marks the scholar everywhere. Differing in their views of the nature of man and the world, they are alike in their respect for God, in their innate belief in the dignity of man, and in their confidence in democracy as the one form of government which is capable of producing a world order wherein all men may realize to the full their potentialities for good.

In the realm of the unknown there is only faith to guide us. Although we are constantly adding to our store of knowledge of the past, we have as yet only imperfect knowledge of our forebears. We have no exact information concerning institutions which once existed among men, and we are far from satisfied with what the biologists and the psychologists tell us concerning ourselves as individuals. But this need not discourage us, for even the students of the so-called natural sciences have not achieved a fully satisfactory explanation of natural phenomena. What was once looked upon

as solid, fixed, stable, immutable, is found to be a mass of movement obeying laws that have only begun to be discovered. Even the measurement of so simple an object as a platinum rod is not accurate beyond the shadow of a doubt. This doubt scientists express by the decimal points beyond which they do *not* carry their calculations. And we recognize that they render a useful service to us by presenting us with measurements that are never absolutely precise, with descriptions that are never perfect, and with conclusions that are never based on all the possible considerations. All that we ask is that they perform their work carefully, competently, and honestly, and provide us with reasonably sound information and advice.

Yet, what enormous strides have been made in the natural sciences and what little progress in the science of society! What a challenge is presented us by the issues of personal relationships and social organization! To understand what motives inspire man in his struggle for existence and what impels him to co-operate with his fellows in the subjugation of nature and for the advancement of the common welfare becomes one of the first tasks of man. Not to try to know, and not to care, is suicide. It is the denial of everything which is apparent to the most limited intelligence and the rejection of all that which our senses affirm.

SOME DEFINITIONS

We know that men and women exist, that they live in communities and associate with one another, that they have established forms and procedures for their relationships with one another. We know, further, that there are a variety of forms and procedures characterizing these relationships, and that these different forms and procedures are described and classified according to principles and methods. Where a high degree of formality and a complex system of relationships exists, along with a complete apparatus of implementation, we say that we have *government*. We call the society of men so organized a political society, and we assert that it is composed of men who are "political animals." However, since some of these terms are relative, there is often dispute as to the limits of authority and obedience. Sometimes men say that the *state* is only one form of social organization, analogous to the church or the family.

All of these matters will be discussed later in this book. Here we must content ourselves with saying that a society of men and women who have accepted or agreed to a definite set of rules controlling their status in the society, their relationships to each other, their rights, privileges, duties, and obligations, is a *government*. The personnel, the procedures, and the instruments for implementing the rules may be called *administration*, and the

whole process of determining policies, of deciding what shall and shall not be done is *politics*.[1] This book is called an "Introduction to Politics" not because the determination of public policies is the sole task of government, but because it is the most fundamental task of government.

TACIT ASSUMPTIONS

1. *Religious.* Back of any political system lie the tacit assumptions of those who compose the political society. Briefly, these concern the nature of the universe, the nature of the world, the nature of man, and valuational judgments concerning human behavior. We must begin with God, since there is either a sublime force which designs all that is in the universe, or there is not—and the beliefs which men hold regarding this force shape their political thought as does nothing else. Is God pure force or energy without direction, is He a Being or a Principle, does He enforce rules that we have not yet discovered, or are we created in His image and partial to His will? These are some of the questions men ask themselves and answer. Is God the Providential Father, the Tribal Protector, the Umpire, the Scorekeeper; or is He Evil Incarnate?[2] On the answers men return to these searching questions depend their feelings of hope or futility. Most civilized people hold that God is good, but where there is great humility there may also be great arrogance. If a man believe that his lowly station and his meekness in this world will be rewarded with a position of equality with God in the next, he obviously believes that he has discovered a truth which has not been revealed to other men. Such belief potently influences his attitudes toward his civil obligations and affects his relationships with those who exercise various kinds of authority over him.

If a man believe that God is providential, he may oppose the efforts of his fellows to rescue the unfortunate on the grounds that this is God's business, not man's. He may even regard material and contemporaneous prosperity as evidence of God's favor and hold, therefore, that the current political practices which have enabled him to prosper have received divine sanction and should be perpetuated.

A dictator like Mussolini will find comfort in a tribal God who looks after his own; another dictator, like Hitler, will be inspired by his conception of God as unfailingly impersonal and impartial, to justify his faith in his own ideas by success.

2. *Historical.* Man's political convictions are also the fruit of his under-

1. F. T. Goodnow, *Politics and Administration* (New York: Macmillan, 1900), and J. W. Garner, *Political Science and Government* (New York: American Book, 1928), p. 3.

2. See Elmer Davis, "Hitler's and Spinoza's God," *Harpers Magazine*, July, 1940, pp. 186-195; and standard works on political theory by Dunning, Cook, Sabine, and Coker.

standing of the nature of the world. Historians examine the past and deduce from the progression of events which they have reconstructed, a system of ideas which they advance as plausible explanations of contemporaneous affairs and as a satisfactory guide to future conduct.[3]

3. *Biological.* The studies of biologists resulted in Darwin's doctrines of the origin of the species and the survival of the fittest. Men still hold opinions derived from this source which cause them to favor evolution over revolution, to offer their own success in obtaining power and material wealth as proof of their natural superiority, and then to rage impotently at fate when the assumption of these doctrines by others causes them to lose their pre-eminence.

4. *Geographical.* Other men have been impressed by the findings of geographers and geologists, and have come to believe that people who have for a long time occupied a certain portion of the earth's surface have thereby become a nation and as such should govern themselves without interference by other nations. From this thought it is easy to proceed to the belief that each nation is a personality. As a personality, a nation has the same characteristics as an individual and is faced with the same problems of existence, survival, and attainment of its aspirations. Imbued with sentiments such as these, men are bound in their political thinking to support actions that lead to conflict. Though not always aware of the insufficiency of their claims, men permit their assumptions in regard to nationality to color their political preferences.[4]

5. *Philosophical and Legal.* Closely interwoven with religious, historical, and geographic assumptions are those that relate to man himself. An individual may not understand the process of thought, yet he will work with and support those who think as he does. Even one who has mastered the lessons of biology, psychology, and philosophy and who strives to achieve objectivity in his search for truth, will in many cases find himself incapable of maintaining a detached point of view. So great is the hunger for certainty and security that only a few find themselves able to say with the scholar: "Nothing is certain; not even that nothing is certain." Thus, no very great number of people escape the effects of subjective considerations.

In the chapters that compose the bulk of this text, close attention is given

3. See E. P. Cheyney, "Law in History," *American Historical Review*, vol. 29 (January 1924), pp. 231–48.

4. See G. Taylor, *Environment and Nation* (Chicago: University of Chicago Press, 1936); D. Whittelsey, *The Earth and the State* (New York: Holt, 1939); E. Huntington, *Civilization and Climate* (New Haven: Yale University Press, 1915); C. C. Huntington and F. A. Carlson, *Environmental Basis of Social Geography* (New York: Prentice-Hall, 1931); H S. Jennings, *The Biological Basis of Human Nature* (New York: Norton, 1930); Charles E. Merriam, *New Aspects of Politics* (Chicago: University of Chicago Press, 1931); J. B. S. Haldane, *Heredity and Politics* (London, 1938).

to the explicit assumptions men make in organizing their governments and defining the functions of those governments. At certain places, attention is directed to the impact of the underlying forces of fear, hunger, hope, love, and hate. But it is well to remember that these are the truly dynamic agencies in the whole process of governance. As these words are written, the nations of Europe, Asia, and Africa are engaged in a giant struggle to decide whether one form of government and one system of ideas shall prevail over another. In the New World, vast confusion and indecision obtains. The apparently simple and clear problem of American intervention seems incapable of resolution.

On the surface, the questions which present themselves may be easily enumerated. From the standpoint of international law, one may ask: Does the United States have any ground for intervention because of any specific illegal acts impugning her sovereignty? Have any legally binding commitments been made to the powers soliciting our aid? Advancing to broader ground, does the present situation imperil our independence and well-being, and is there, therefore, any basis for action as a measure of defense against an eventual attack on our liberty? Do we have a moral obligation to intercede in behalf of nations whose systems of government we desire should flourish? Have we any moral obligation to the continent of Europe from whence our whole civilization has sprung?

These and kindred questions are debated less on their merits than on the tacit assumptions we make with reference to war as an instrument of policy. Any action that we might take will be, to some extent, the fruit of our prejudices and a tribute to the skill of the propagandists whose will has become our own.[5]

Similarly, in the field of domestic affairs, we find that men subscribe to one set of principles but practice another. They advocate a general restriction on human behavior but then seek to escape the effect of its operation. They urge the extension of government services and regulation but refuse to contribute their just share of the cost. They defend the two-party system but do all in their power to keep it from functioning.

THE POLITICS OF THE AMERICAN

It has been found convenient to use certain reasonably accurate, commonly accepted terms in describing social behavior and social mechanisms. Some writers have gone so far as to subordinate politics to semantics. A notable array of gifted men from Socrates to Cornewall Lewis and Harold

5. See F. W. Coker, *Recent Political Thought* (New York: Appleton-Century, 1934); G. E. C. Catlin, *Principles of Politics* (New York: Macmillan, 1930); C. E. Merriam, *Political Power* (New York: McGraw-Hill, 1934).

Laski have attempted to check the abuse of political terms.[6] Meanwhile, their own expositions have not escaped criticism. Every word is suspect. Every chain of words is doomed to a life of misconception and misinterpretation. Of what value is a definition of democracy when the words of the definition evoke different images? One writer approves democracy as a principle but rejects it as a method! What then, is a principle? What is a method?

Faced with these questions, we must have recourse to common sense; but it is the tragedy of the world that there is no universally common understanding of what other men are trying to say. Perhaps, those habits of thought which are American and those meanings and assumptions which are real and true for us will prevail over alien habits of thought and forms of expression. It is by no means certain that they will.

If they do, it will be because American democracy has proved itself to be the stronger. Ten years ago, there would not have been any question of that. It was then assumed that our abundant resources of men and materials, our skill in industrial organization, our good will, the rightness of position and the benevolence of our motives, made us independent of the whole world, and justified our isolation. Twenty-two years ago our superiority in arms was supposedly established. Now that the victories of the German war machine have demonstrated the futility of former methods of defense and have even cast doubt on the validity of principles, Americans have had to readjust their thinking and have been forced to make new assumptions, some of which are tacit and others openly expressed.

PRINCIPLES, POLICIES, AND METHODS

What is a principle? A principle is a general statement of fundamental attitudes toward life. When these fundamental attitudes rise out of the unconscious, or emerge from sacred documents or the tomes of the philosophers and are restated in a form that is suitable for action, we call them policies. A number of such policies expressed as mutually interdependent become a program; and programs plus tacit assumptions are systems. Since politics is the determination of public policies, each nation or group of citizens will endorse, and work for, the enactment and application of policies consistent with the program of the nation or the group, and consistent with the system. At any rate, if it thinks straight, it will. But inconsistent, illogical action is often taken because the authors of the action are

6. W. A. Dunning, *Political Theories, Ancient and Mediaeval* (New York: Macmillan, 1913); H. J. Laski, *A Grammar of Politics* (London, 1925); and the writings of Merriam, Coker, Carpenter, Holcombe, and Stuart Chase. The latter, a "popular economist," has treated the subject in his *The Tyranny of Words* (New York: Harcourt, Brace, 1938).

not capable of logical thought, or because they have not revealed principles which would sustain their action—or because they reject the criteria of thought elsewhere accepted, and proceed on the basis of entirely novel and unique postulates. It is hoped that the following pages will aid the student in comprehending these matters.

Philosophers have distinguished between "first" principles and principles of lower rank. We cannot apply their categories to our problem, for to do so would necessitate the selection of an approved system of thought and its defense. Limitations of time and space prevent us from doing so here; but we can gain much benefit from a cursory examination of relevant principles.

The Christian principles of an anthropomorphic God who created the world in His own design and who continues to watch over it are accepted by millions of persons. We have seen how different interpretations of basic principles give rise to different policies. Another principle of great influence today is the principle of the superiority of the Nordic race. Persons who subscribe to this principle may regard it as not subject to disputation. They will not countenance any attack upon it by scientific criticism, and they will entrust its definition and implementation only to authorized agents. With equal vigor, the proponents of the democratic principles of equality, freedom of expression, and liberty of conscience defend the validity of their position; they also establish as firmly as possible the agencies for definition and implementation. But since democracies incorporate in their institutions methods for popular review and representation, there is less consistency and effective systematization of definition and application. In crises, democracies are by virtue of this defect unable to act as quickly and as successfully as dictatorships can.

Of course, one cannot argue that democracy is correct as a principle and not correct as a method, for the methods of democracy are but extensions of the principle. However, one can question whether methods currently employed are the only true and proper extensions of the principle. In this text, and in countless public forums, questions of this type are raised; men examine the constitutional structure of the state to see whether the institutions and procedures found there are valid. Should the constitution be written or unwritten? Should final interpretation of the constitution be reposed in the legislature or in courts? Should the executive branch of government be separated from the legislative and judicial branches? Similar questions are raised in other fields. Should the method of election be by majority vote from single-member constituencies or by proportional representation? Should all citizens desiring public offices be accommodated, or should public officers be selected on a merit basis? Should areas of government once de-

termined be retained, or should new areas be created and existing functions of government redistributed? These are the questions that are asked and answered in this book.

More fundamental are the questions that are asked concerning the democratic process.[7] If great decisions are to be made by the people, must not a more effective system of education be instituted? Should not the age limit for participation in political activity be lowered? Should civil servants be allowed free rein in their work for political parties? Finally, and most important, which decisions shall be left for popular determination?

THE SPHERE OF POLITICS

The answer to this last question is in a process of continual reformation. Some democracies have marked out very clearly the areas of popular determination, expert opinion, and administrative discretion. The United States has rejected many policies; some were tried and found wanting, either because they were found by the courts to be inconsistent with the Constitution, or because they broke down under the pressure of external forces and unanticipated domestic pressures. Some were not tried at all but were rejected at the time of their proposal; still others were quickly abandoned. Some methods have been applied without express approval by the people and no way has been found to prevent their application. In many quarters, the impression has been growing that our existing form of government is not adequate to the task imposed on it. Here, again, one of our first principles emerges. This is the principle of survival. The chief sin of Denmark which caused it to be robbed of its independence by Germany was that it was small. When Finland was conquered by Russia, despite a valiant and relatively effectual resistance, men began to wonder whether it was possible to achieve independence, stability, and equality within the borders of a state which is a member of an unruly, undisciplined family of nations.

THE PURPOSES OF POLITICS

Since politics is the process of formulating the public will, it is impossible to dissociate it from social life. In the realm of international relations, opinions are imperfectly canvassed, there are no universally approved institutions for translating them into action, and the method of determination leans heavily to the side of force.

7. C. E. Merriam, *The New Democracy and the New Despotism* (New York: McGraw-Hill, 1939); A. De Tocqueville, *Democracy in America* (2 vols., New York, 1898); Sir Stafford Cripps, *Democracy Up-to-Date* (London, 1939); E. Benes, *Democracy Today and Tomorrow* (New York: Macmillan, 1939); M. T. Bonn, *The Crisis of European Democracy* (New Haven: Yale University Press, 1925).

1. *To Encourage Exchange of Opinion.* In the ideal world state, there would be free exchange of opinion among all people, and decision would be formulated by some method that would permit the optimum participation of all people in the formulation of the decision. The application of the decision (that is, the enforcement of the law) would rest on consent rather than violence. Since this ideal is far from realization, it is clear that one of the objectives of politics is to discover the means of realizing it.

Within the borders of a single state, the same observation could be made; but now other elements in the situation are brought sharply into focus. By what means may the free exchange of opinion be guaranteed? On what grounds should the opinions of all be consulted? How may the quality of such opinions—their motivation, the sufficiency of the facts on which they are based, the logical consistency of the reasoning process—be improved? If not all persons but only some persons are to be consulted, which ones are to be preferred? How are they to be consulted? When, and at what intervals? Further, when the problem of application arises, shall force be employed, and if so, how, when, where? Are there any limits to the exercise of force? Need it have justification? Is it proper to consider that the consent once given to unknown representatives is binding on persons who expressly withheld their consent? Specifically, these questions arise in this form: Are decisions on certain problems to be made only by the people who vote in a referendum election? What shall be the area covered by the election, what the form of the question to be voted on, what the measure of approval?

2. *To Help Educate the Public.* Is there a chronological element in the granting of approval that we have too summarily dismissed? If, in a democratic state, the people are to determine what shall be the distribution of functions between different agencies, they must be equipped with ready information enabling them to discover and analyze trends. The people will also have to be trained in the art of detecting shifts of power. If the political function of reporting such shifts of influence is left to private individuals, citizens will have to be entrusted with authority over these individuals to make sure that they are responsible and competent.

3. *To Determine Limits of State Action.* It is one of the functions of politics to determine the limits of state action. Some men plead for expanded state authority and others resist doggedly any invasion of the area of private initiative on the part of the government. In some degree, this is a problem of motives, and is discussed in the democratic state with reference to the relative merits of individual ambition, selfishness, and pride on the one hand, and regard for the public welfare on the other. It is, further, a problem of results and is discussed with reference to the comparative pro-

ductive capacity and output of privately—and publicly—controlled enterprises. It is also a problem of tendencies and as such is viewed objectively as a phenomenon of economic and social behavior.

DEMOCRACY AND "OBJECTIVE TRUTH"

In summary, we may say that since politics is the process of formulating decisions or of determining policies, its expression is dependent upon the processes whereby men acquire opinions and is contingent upon the validity of their thinking. In a democracy, there is a deep-seated feeling that there is such a thing as "objective truth." Men who have this feeling believe that it is possible to discover right principles of social action and that certain methods of organizing the citizenry, fixing boundaries, arranging the structure of administration, and providing for review and reconsideration are best suited to the quest for objective truth.

PROGRESS TOWARD STANDARDIZATION

In the fields of administration and adjudication great progress has been made toward standardization. We know from innumerable tests and experiments how best to perform the engineering duties of government, how to keep records and accounts, and even how to recruit personnel. In the field of adjudication, a comprehensive body of rules has been developed. Judges have acquired the habit of retrospection and have been able to harmonize their views with previous pronouncements; but every instance of an unexpected decision which is not delivered by a unanimous court and which is not universally approved by experts in the law is testimony to the imperfections of the judicial process. When nations cease to be democratic, the judicial system is one of the first to collapse, since justice is a moral quality. Administration, which is tested by canons of efficiency, has achieved greater stability and a higher degree of standardization.

TESTS OF POLITICS

The test of democratic politics is representativeness; the test of totalitarian politics is loyalty to the leader and adherence to his wish, which may not even be expressed and must be guessed at. In any country, the tests of politics are uncertain and readily lose their tangible form under the pressure of countless forces. Since politics looms so large in a democracy, it is extremely important that every citizen understand the basis for and the nature of his own thinking.

To what extent do historical theories, traditions, folkways, and habits influence our thought? What are symbols and how are they made instruments of

power? How is the area of our participation in government expanded or restricted by violence, by forms of organization, by the abandonment or acquisition of power by bureaucrats? How do leaders operate in a democracy? Is oratory still a useful instrument of politics, or has it been displaced by the press, the radio, the censored book, the control over jobs, espionage, sabotage, murder, and other instruments of power? Is it possible for democracy to provide unlimited opportunities for pre-eminence, or does the modern organization of society compel the rejection of the theory of equal opportunity for all? If there are to be classes, how shall they be formed, and what shall be the rights and privileges of the members thereof? Is there to be left any scope for private enterprise, what shall it be, and how shall decisions be made when the state provides the services now supplied by private individuals and independent groups? Shall regulation over the remainder be accomplished by administrative boards acting under very general grants of power or will the citizens still have a chance to pass judgment on the adequacy and the form of regulation? Even in a democracy, the legislatures, the councils, and the political parties are being reduced to positions of futility. All that legislation which once dealt with the future organization and operation of governmental action has begun to fall within the province of appointed planning boards. Now composed of wise, generous, and competent men, these boards may fall prey to persons with dishonorable motives; and how may that eventually be avoided? These are some of the questions which demand thought from citizens in a democracy.

We believe—that is, the writers of this textbook and those of our colleagues who cherish a regard for the dignity of man—that only by education may democracies be armed against destruction from without or putrefaction from within.

STANDARDS IN POLITICS

After he has learned to his satisfaction what politics is, the citizen will want to decide whether or not the system in force, the tendencies which it reveals, and the ideals which it fosters meet with his approval. If the citizen is to fulfill his obligations, he must be prepared to express preferences and to act upon them. In order that he may exercise these functions intelligently and dutifully he must have standards of judgment. We have already indicated that it is the duty of the scholar to describe conditions as accurately and as discerningly as he is able. This task of the scholar and that of the citizen is discussed in Chapter Twenty-seven. If we assume that the data of politics have been assembled and presented and conclusions based

thereon have been submitted to the citizen, there remains for him the task of evaluation.

1. *The Moral Standard.* This evaluation in a Democracy may be made according to the canons of *morality.* Each citizen must determine for himself what he admires and what he disdains. Philosophy, Religion, and Ethics have provided him with moral standards which must serve him as a guide to his conduct. On the one hand, he will be urged to accept systematic statements of morality that are handed to him by his antecedents; and, on the other hand, he will be urged to keep an open mind and to be governed in his thought by the moral standards which appeal to him at the moment. It is not within the province of this book to discuss these standards, but it is indispensable to the function of citizenship that each person prepare for himself a decalogue of ethical values.[8]

2. *The Legal Standard.* The measure of legality is applied to politics by constitutional lawyers. Although the law is presumed to embody the moral principles of a people, it is a fluid thing that reflects many current aversions, inconsistencies, and prejudices that are not harmonious with our fundamental moral beliefs. Nevertheless, it seems wise not to ascribe illegality to an act that is not in contravention of laws which have been formally enacted and systematically interpreted.

3. *The Political Standard.* Political acts may further be judged on the plane of *representativeness.* This is especially true of democratic countries where decisions must be made by representatives of the people and executed according to their will. It may be found that the application of this standard will reveal practices which have been morally justified by the practitioners and which have legal authority, yet which are not consistent with the will of the people as it is discovered by new techniques.

4. *The Engineering Standard.* The final test which may be applied to political actions is that of efficiency, and it is the measure not only of the effectiveness of administration in the execution of policies but also of the political process. Under the influence of the Efficiency Liberals, administration has been vastly improved, but we are just beginning to discover ways and means of bettering the process of making decisions. It remains to be noted that political actions which are perfectly representative of the will of the people at a given time and place may not satisfy the requirements of canons of efficiency which transcend those limitations.[9]

8. See C. E. Merriam, *Civic Education in the United States* (New York: Scribner, 1934).

9. See Z. Magyary, *The Industrial State* (New York: Nelson, 1938); and for the entire subject of standards, see R. V. Peel (ed.), *Better City Government, Annals of the American Academy of Political and Social Science,* Sept., 1938 (whole number).

IDEOLOGIES

Much has been said these days concerning the war of ideologies. An ideology may be defined as a system of ideas or a confession of faith characterizing the politics of a group of persons. By some writers an *ideology* has been described as a system of ideas which contemporaneously dominates behavior, particularly of other groups, and a *utopia* as a system of ideas and a pattern of political action which is held to be the ideal of one's own group. Since an ideology is a system of ideas generated by a few persons and subscribed to by large numbers of persons, it is uniformly the result of a compromise even if the final compromise is enforced by violence and other instruments of power.

To define an ideology is, therefore, no simple task. The objective observer encounters the same difficulties in determining which are and which are not authoritative expressions of the ideology and in discovering sources, that he encounters in the realm of constitutional law. In various chapters of this book ideologies will be discussed and criticized. For the sake of clarity and in order to give the reader a preview of these ideologies, we can submit here an enumeration of them which is illustrative though not exhaustive.

With regard to the contemporary distribution of political attitudes the dominant ideologies appear to be: Communism, Socialism, Anarchism, Liberalism, Totalitarianism, and Conservatism.

Intersecting these "isms" are a number of others which relate to the distribution of political power and which range the whole distance from Authoritarianism to Democracy. On the economic plane, the primary political ideologies are intersected by systems of thought and action which relate to the distribution of economic power. Among these may be listed Capitalism, Agrarianism, Labor Unionism, and Co-operation.

On still other planes our primary scheme of ideologies is intersected by systems of power distribution relating to religious or ethical values. In some countries various combinations of systems have resulted in a characteristic complex of systems. Thus we have in Japan the Imperial Way and in the United States the American Way.

1. *Communism, Socialism, and Anarchism.* Communism may be defined as an ideology which comprehends the equalization of rights, privileges, wealth, and obligations among all the members of a political society; but in particular states and from time to time there are different interpretations of the territorial extent and nature of Communistic procedures. Typical interpretations are expressed in such slogans as: "From each according to his capacity, to each according to his need"; "Workers of the World, unite!"

Socialism may be defined as a moderate form of Communism which emphasizes the spirit of equality but exercises more discretion in its application. Fundamentally, Socialism demands the control by the political state over the means of production and over the processes of distribution; but, in practice, Socialistic theory has been limited to control by the state over the "essential industries."

Anarchism is an ideological preference for the absence of all state control. It stresses the factor of mutual aid in individual motivation and group cohesion.

Communism, Socialism, and Anarchism, like all "isms," distinguish between the order of society that they ultimately wish to achieve and the strategies by means of which they hope to achieve it. Consequently, one finds in these "isms," as well as in those that will be subsequently discussed, an apparently sharp divergence between theory and practice. Conservatism is generally regarded as that position on a scale of attitudes that wishes to preserve the status quo. Viewed in this way, Conservatism may be allied with Communism, Fascism, Capitalism, or any other dominant "ism," even if and when it is also regarded as an extreme form of political organization rather than as a logical mean. In Capitalistic and Agrarian states, Conservatism has usually been identified with the economic elites in banking, industry, and agriculture. It has frequently espoused protective tariffs, repressive labor legislation, and stable monetary standards as instruments for the defense of the status quo.

2. *Reactionism and Radicalism.* Though much confused in practice, theoretically the extreme right wing on a scale of political attitudes might usefully be designated as Reactionism and the extreme left wing as Radicalism. Reactionaries may be identified by their preference for a change which would restore to them power which they had lost a short time previously, and by their advocacy of a distribution of political, economic, and social power which would concentrate control in the hands of the few. Radicals, on the other hand, may be discovered among proponents of change to an entirely new order of society or to a reversion to a system which had prevailed historically a long time ago. Radicals have also usually demanded a flattening of the power pyramid, and have, therefore, been identified in Conservative and Liberal countries with Socialistic and Communistic ideologies.

3. *Liberalism.* Liberalism hovers somewhere in the vicinity of Conservatism and represents an attack on the elite by the counter-elites. In Continental and American political ideologies, Liberals may be classified as: Liberty Liberals, who would maintain the economic status quo but would

extend the rights of free expression and other civil liberties to all citizens; Libertarian Liberals, who manifest the same regard for the economic and social status quo but desire the elimination of restrictions on human conduct found in liquor legislation and various acts regulating the consumption habits and the speculating and sexual activities of man; Efficiency Liberals, who would also protect the economic status quo but would improve public administration and render it more effective in the execution of the public will; and Welfare Liberals, who would enact a program of social welfare and modify the effects of Capitalism by extending systematic public assistance to the underprivileged and the unfortunate.

4. *Totalitarianism.* Totalitarianism is an ideological system that is similar to Communism in its desire to equalize the benefits and burdens of organized political society. On the other hand, it deifies the state and demands the total submergence of the individual in the welfare of the state.

5. *Authoritarianism and Democracy.* Authoritarianism is a system of government that requires the subjection of all the citizens of a state to one person and that provides a hierarchical system of relationships within the state. Democracy, on the other hand, inverts the pyramid of power and subjects the few to the direction and supervision of the many. In the economic realm, Capitalism is a system of power relationships that stresses the profit motive and that concentrates the control over wealth in the hands of the few. Capitalism embraces many temporary expedients and illogical attributes, however, and may nowhere be found in a form that is dissociated from other "isms." The prevailing Capitalism of the eighteenth century was one dominated by the ship-owners. The nineteenth century witnessed the emergence of the industrial and manufacturing classes. At the present time the dominant form of Capitalism is Finance Capitalism, in which influence over economic processes, and to some extent political processes also, is shared by financiers and industrialists.

6. *Agrarianism and Labor Unionism.* Agrarianism may be defined as that order of society which confers major influence over economic, social, and political processes on the agricultural class, or that movement which seeks to achieve such an order of society. Labor Unionism has seldom attained so high an ambition. In most cases, it is limited to the defense of gains already made by the workers and to the attainment of a moderate improvement in their status. Co-operation in the economic sense may be regarded as a principle uniting producers, or consumers, or both, in such a way that rewards of economic activity are distributed proportionately on the basis of work or investment, and that political power within the economic structure is equally and uniformly conferred upon all.

In certain countries competing ideologies appear side by side. The political structure may be infused with Socialistic principles and still sustain Finance Capitalism. Authoritarianism in the religous organization of society may exist side by side with a Democratic political organization. Historians may discover in the past life of a nation an emerging trend which may bring, or which may already have brought about, the triumph of one "ism" over another; whereas, other scholars may deny to the historians the privilege of prediction and may attribute to their own research the quality of validity.

NATIONAL SYSTEMS

In Japan there has developed a complex ideology which has been called the "Imperial Way," and which to devotees of Democracy represents nothing more than a regnant Authoritarianism embracing the religious, political, and economic activities of a relatively narrow national group. The "American Way"—if one may blithely summarize the opinions of scores of scholars—seems to be an ideological system which pays allegiance first to political Democracy and yet tolerates a certain measure of Capitalism, Agrarianism, and Labor Unionism. It is perhaps indicative of the future character of the American Way that it has nearly always stipulated the priority of political power over economic control and social influence.[10]

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10. These principles and ideologies are discussed at length in J. S. Roucek and R. V. Peel, *Comparative Political Parties* (New York: Van Nostrand, 1941). See also G. E. C. Catlin, *The Story of the Political Philosophers* (New York: McGraw-Hill, 1939); and standard treatises by Laski, Hook, Elliott, Davis, Barnes, and others.

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CHAPTER TWO

Political Ideas and Folklore

What habit is to an individual during the brief term of his existence here, Traditions are to a nation whose life extends over hundreds or thousands of years. In them dwells the moral continuity of its existence. They link each generation to those that have gone before and sum up its collective memories.

—J. BRYCE, *Modern Democracies*, I:134.

THE DEVELOPMENT OF POLITICAL TRADITIONS

POLITICAL organization is a common characteristic of society, because wherever people live together in groups there arises the problem of liberty on the one hand and authority on the other. The problem of government is to find a mean between extreme authority, which produces dictatorship and totally submerges the individual, and extreme liberty, which ultimately leads to a state of anarchy, the survival of the strongest, and, in the end, dictatorship. To government is left the problem to decide at what point in political organization the private rights of the individual must be curbed in order to produce the greatest good for the greatest number of people. The answer to this question depends upon the ideas we have concerning the proper relationship between the state and its citizens.

Relationship of State and Citizens. If the state exists for the well-being of its inhabitants, the personal rights of the individual will be curtailed only as far as is necessary to provide for the general welfare. If, on the other hand, as in the totalitarian state, the good of the state takes precedence over that of the citizen, if the end of all social effort is the glorification of the state, individual liberties become of minor importance and the public voice is stilled by the voice of authority. The highest conception of the function of the state is to promote the full life for all mankind, and this aim must be realized through the operation of governmental machinery and political organization. But there is no general agreement as to the manner in which the full life of mankind may be promoted because what brings political well-being to one group may bring hardship and misery to another; thus the interests of labor are not served by legislation which primarily benefits the capitalist. Since the conflicting interests and desires of different groups of people make agreement difficult, we find many different conceptions of the good life and how to attain it. Thus political

theories concern themselves basically with the aims and purpose of government and the degree of popular participation in governmental operation.

The past two centuries have seen notable progress in the growth of democratic institutions; political privileges of birth and class have tended to disappear, and there is greater emphasis, in democratic constitutions particularly, on the importance of personal rights, both civil and procedural. These are commonly incorporated in what has come to be known as the Bill of Rights, which assures the individual not merely a reasonable amount of personal freedom in thought and activity, but protects him from the arbitrary exercise of power on the part of governmental authority. On the other hand, the past two decades have seen a remarkable development of totalitarianism, in which the individual counts for little and his personal rights and privileges are in eclipse.

History of Political Theory. Political theory is the rationalization of the interests of a particular group in terms of morality, law, and philosophy. From the background of political theories emerges the connection of the idea with the situation out of which it grew. It is therefore essential to the understanding of the political ideology of any period to study the general social, economic, and political forces of the period in question and the specific political problem of the time. Since political thinking is always done in the light of concrete questions, the scope of political thought includes such subjects as (a) the origin and the bases of the state, (b) the problem of sovereignty, (c) the relation of the state to the individual, involving types of government, and (d) the obligations and scope of state activity involving problems of popular consent, liberty, and the right of revolution.

THE MEDIEVAL PERIOD. In the medieval period, when the Empire and the Papacy were struggling for control, the political philosopher was attempting to find the warrant for government in the right of the ruler, through God, rather than in any consent of the governed. This was the period of theological politics, the focal point of which was an endeavor to square political precepts with church doctrine. The fourteenth century was marked by the decline of the papal hegemony, and the characteristic trends of thought were away from the theory of divine right through the Church. Questions arose as to the interpretation of the Law of God and also as to its interpreter; the power of the Pope was challenged in what developed into the Conciliar movement of the fifteenth century. The non-conformist Marsiglio of Padua[1] was a forerunner of this movement of revolt in the Church. He developed the principle of popular sovereignty in his *Defensor Pacis,* in

1. See T. I. Cook, *History of Political Philosophy* (New York: Prentice-Hall, 1936), pp. 237–42, and G. H. Sabine, *History of Political Theory* (New York: Holt, 1937), pp. 287–304.

which he also argued for the superiority of the Church Council over the Pope. Marsiglio's ideas were radical for his time; he advocated popular sovereignty in the Church Council, which, by majority vote, should have the power to interpret the Scriptures, fill ecclesiastical offices, and excommunicate. William of Occam worked out the details of the Representative General Council.

THE FIFTEENTH CENTURY. The political theory of the fifteenth century reflected the struggle for representative government in the Church and rationalized it. Authority under God was in the people, not in one man; consent of the governed was the basis for legitimacy in government. This was the period of the Council of Constance and the theory of Gerson, and the Council of Basel and that of Nicolas Cusanus. Figgis, in an article on the "Politics at the Council of Constance" in the *Transactions of the Royal Historical Society* (1899), page 103, said "this Council first exhibited the conflicts of pure politics on a grand scale . . . it paved the way for the constitutional reformers of future generations." William A. Dunning has summarized the importance and the contributions of the fifteenth century and the conciliar movement to political theory in the statement that it

> . . . established the tendency to regard the ecclesiastical and political institutions as instruments of human advantage subject to modification dictated by reason and experience, and not as unchangeable embodiments of divine will.[2]

This century is also significant to political theory because it

> embodied in its philosophy ideas as to sovereignty, the popular basis of government, natural law and rights, and the social contract which, under the impulse of changed conditions in objective life, were to characterize the modern age.[3]

MACHIAVELLI. Political thinking after the fifteenth century was no longer theological, and the man who changed the whole spirit of political thought was Niccolo Machiavelli, whose writings and life bridged the gap between the fifteenth and sixteenth centuries. Machiavelli has been called the founder of modern political science because he was the first political thinker since Aristotle, whose conclusions were based upon inductive reasoning, to base his reasoning upon the practical observation of life around him. He was a realist in his observations, a scientist who looked upon phenomena objectively and without emotion. He saw people as they were and was not impressed by their motives or their rationality. His commentaries on the individual in his relation to the ruler were not flattering to the morality, intelligence, or motives of his fellow-citizens. One is reminded of the opin-

2. *Political Theories, Ancient and Mediaeval* (New York: Macmillan, 1902), p. 282. See chaps. 9 and 10 for complete discussion.
3. *Ibid.*, p. 283.

ions and estimate of Thurman Arnold on this same subject in our own day.[4] In evaluating Machiavelli's work as a political scientist, Dunning wrote:

> In no system of political philosophy is the influence of environment more manifest than in that of Machiavelli. The brilliant Florentine was in the fullest sense the child of his times. The period of his maturity coincided with the first quarter of the sixteenth century. . . . Florence was the acknowledged centre of Italian culture during the Renaissance, and Machiavelli was to the core of his being a Florentine. . . . The actual source of his speculations was the interest he felt in the men and conditions of his own time. His philosophy is *a study of the art of government rather than a theory of state.* He was interested in the forces through which governmental power was generated and applied. The spirit and the motives of the governed are merely incidental to the activity of the governor.[5]

Thus in discussing the rules of conduct that should govern the Prince in his relations to his subjects, Machiavelli enumerated the attributes of the successful ruler and gave his reasons for choosing them.

> It being my intention to write a thing which shall be useful . . . it appears to me to be more appropriate to follow up the real truth of a matter than the imagination of it . . . for how one lives is so far distant from how one ought to live, that he who neglects what is done for what ought to be done, sooner effects his ruin than his preservation; for a man who wishes to act entirely up to his profession of virtue, soon meets with what destroys him among so much that is evil; hence it is necessary for a Prince wishing to hold his own, to know how to do wrong, and to make use of it or not according to his own necessity.[6]

In his analysis of the traits of character desirable in a Prince Machiavelli raises the questions of whether liberality or meanness is more valuable; whether it is better to be loved than feared; and whether a Prince should keep his promises and compacts. In respect to the first, Machiavelli maintains that it is wise for the ruler to be reputed liberal but that it

> . . . is wiser to have a reputation for meanness which brings reproach without hatred than to be compelled through seeking a reputation for liberality to incur a name for rapacity which begets reproach and hatred.

In answer to the second question he asserts that

> . . . one should wish to be both, but . . . it is much better to be feared than loved, when of the two either must be dispensed with. Because this is to be asserted in general of men, that they are ungrateful, fickle, false, cowards, covetous and as long as you succeed, entirely yours . . . men have less scruple in offending one who is loved than one who is feared, for love is preserved by the link of obligation which, owing to the baseness of men, is broken at every opportunity for their advantage, but fear preserves you by a dread of punishment which never fails.[7]

4. *The Folklore of Capitalism* (New Haven: Yale University Press, 1938).
5. *Op. cit.*, pp. 285, 291; 293–4.
6. *The Prince*, trans. by W. K. Marriott (New York: Dutton, 1928), pp. 121–2.
7. *Ibid.*, pp. 130, 135.

As to whether a Prince should keep his agreements and promises, he concluded that

> . . . a wise lord cannot nor ought he to keep faith when such observance may be turned against him, and when the reasons that caused him to pledge it, exist no longer. If men were entirely good, this precept would not hold, but because they are bad, and will not keep faith with you, you too are not bound to observe it with them. . . .
>
> A Prince ought to appear to him who sees and hears him, altogether merciful, faithful, humane and religious. There is nothing more necessary to appear to have than this last quality, inasmuch as men judge generally more by the eye than by the hand, because it belongs to everybody to see you, to few to touch you. Everyone sees what you appear to be, few really know what you are.[8]

These selections from Machiavelli do not prove the lack of personal morals in the author; they do indicate that he wrote from his observation of people and conditions about him. He lived in what was one of the most corrupt eras in history. It is because he wrote bluntly and realistically of the times in which he lived that he has been held in bad repute by those who identify his private morals with his political writings. His value to the political scientist lies in the fact that he did not theorize over imaginary situations but took life as he found it in his time, and formulated the kind of government most likely to be effective at that time. There was no theology in his writings, no utopia in his ideology for a machinery of state.[9]

THE SIXTEENTH CENTURY. The sixteenth century was, roughly speaking, the period of the Protestant Revolt. It was an age of protest against ecclesiastical and secular tyranny. Anti-monarchic doctrines vindicating the right of revolution and the principles of representation and consent of the governed, which had been developed and used by Marsiglio and Nicolas Cusanus, were applied by the "Monarchomachs" to political situations. For example, it was reasoned that the basis of government is a double contract: the first made between God on the one hand and the King and the people on the other, provides for the maintenance of the law of God; the second is a contract between the King and the people, by which the King agrees to rule justly and according to the precepts of Jehovah, and the people agree to honor and obey him as long as he rules justly. Thus the King's agreement with the people was conceived to be absolute, but that of the people was conditional, for if the King ruled with the hand of tyranny, they were justified in resisting his power. This, however, could not be done by the masses but only by their magistrates or assemblies. Popular rebellion against the temporal abuse of power by the King was justified on the ground that

8. Machiavelli, *op. cit.*, p. 143.

9. For a discussion of Machiavelli and his place in political theory see Dunning, *op. cit.*, chap. 11. Also see T. I. Cook, *op. cit.*, chap. 10, and G. H. Sabine, *op. cit.*, chap. 17.

. . . royalty is merely an institution of convenience for the benefit of the people. A King never reigns in his own right, he is chosen by God and is installed by the consent of the people. That the essential function of royalty is to provide for the welfare of the people is obvious from the nature of things.[10]

Meditating upon these principles, George Buchanan, a writer of this period, developed the principle of representation, and Althusius developed the doctrine of popular sovereignty. But neither this doctrine nor that vindicating the right to revolt against tyranny had any practical significance at this time, since this was the period of the national state and of absolute monarchy, and "only when a new content was put into the old formula of popular sovereignty was the dogma properly adaptable to revolutionary propaganda."[11]

THE REVOLUTIONARY PERIOD. The revolutionary period of the seventeenth and eighteenth centuries concerned itself with the development of democratic ideas, including the concept of liberty, the definition and nature of popular consent, the contractual basis of the state, and the right of revolution. John Milton supported the cause of the Commonwealth in England, particularly in his *Tenure of Kings and Magistrates* (1649) and in the *Areopagitica* (1644), which is a brilliant treatise on the freedom of the press. In the first work he brought out the important principles that rulers are the agents of the people, that their power is limited by laws, that the people are essentially sovereign no matter what the form of government; and that liberty is the birthright of men and of nations. Liberty, as he conceived it, is the assurance that the individual has a wide sphere of activity unrestricted by government. Dunning says of Milton that he is "the earliest great prophet of that individualism which came to be almost a philosophic fetich in the nineteenth century."[12] Milton holds that the aim of government must be to give opportunity to each man to work out his destiny in his own way. Liberty manifests itself in religious toleration and in freedom of the press, but Milton's idea of liberty went much further. To quote Dunning:

To the whole system of governmental supervision and restriction which he finds sustained by Plato and his school, Milton opposes the demand for a rational freedom. . . . He denounces as destructive of the very foundations of virtue the attempt to enforce a rigid and austere code in diet, dress and amusements. He protests against uniformity in conduct, thought and expression as not only unattainable, but wholly undesirable.[13]

10. Dunning, *Political Theories. Luther to Montesquieu* (New York: Macmillan, 1905), pp. 46–56.
11. Dunning, *op. cit.*, p. 78.
12. *Ibid.*, pp. 243, 244.
13. Dunning, *op. cit.*, pp. 245, 246.

Milton did not favor universal suffrage and he felt that only those who are really capable should be vested with the authority to govern.

This same period saw also the revival and development of the natural law philosophy and of the contract theory of the origin of government. The latter theory is of particular interest to the student of American government because it occupied a conspicuous position in two periods of American history. An interesting fact about both the natural law and the contract theories is that both were used by political thinkers who set out to produce conclusions that were fundamentally contradictory to each other. Thus, Thomas Hobbes, an ardent defender of the Stuart regime in England, used these ideas to support the divine monarchy, while John Locke and Jean Jacques Rousseau used them to justify the right of revolution. Hobbes reasoned that since men are bestial in a state of nature, they need a common power to overawe them into keeping their agreements. This they were able to secure through a contract whereby the people conferred the power of all on one person or upon an assembly and thereby reduced their will to one. In doing so, they surrendered *all* their rights to the sovereign, who was outside the contract, not a party to it, and therefore not bound by it. Thus the King could do no wrong, because not being a party to the contract he could not break it. The covenant was conceived to be irrevocable and so no man had the right of revolution, no matter how bad the government of the ruler might be. This was an ingenious way of defending the absolute tyranny of the later Stuart kings. One might well ask what happens to liberty under such an arrangement, and the answer is that it depends upon the will of the sovereign. In the words of Hobbes

> In cases where the sovereign has prescribed no rule, there the subject hath the liberty to do or forebear, according to his own discretion. And therefore such liberty is in some places more, in some less; and in some times more, in other times less, according as they that have the sovereignty shall think most convenient.[14]

John Locke, defender of the Revolution of 1689, wrote *Two Treatises of Government,* in which he attempted to justify the Revolution. In the first treatise he seeks to disprove the fact that any divine prerogative attaches to the office of king, and in the second, entitled *Of Civil Government,* he presents a systematic discussion of the origin, character, and province of government. Locke asserts that the law of nature determines the rules that govern the conduct of men in their natural state. Equality is the fundamental fact in men's relations with each other. He defines the natural rights of man as

14. T. Hobbes, *The Leviathan,* Morley's ed. (London, 1887), pt. II, chap. 21.

life, liberty, and property,[15] and asserts that the purpose of the contract is to preserve these inalienable rights. The contract is made by the people, each with each. The power to judge is the only right given up, and all others are retained. Thus government becomes the agency of the collective will and may be called to account if it oversteps the bounds of its power. Locke also advocated majority rule and the separation of powers, but maintained the supremacy of the legislative branch of government.

Jean Jacques Rousseau became the apostle of the French Revolution. He held that government is a necessary evil, the purpose of which is self-preservation and the basis of which is the contract in which each individual gives up everything and creates a general will, which is sovereign. The governmental contract is an agreement between equals, who remain so even after the contract has been signed. The right of revolution is an inalienable right of man; since the people are sovereign they can revoke the contract. *The Social Contract* is the work in which Rousseau protested the many injustices which plagued France in the eighteenth century. Of this work, Francis W. Coker says:

> Its doctrine of the absolute and inalienable sovereignty of the people and of the subordinacy of all governing agencies, hereditary as well as elective, were stated in such clear and eloquent terms as to appeal powerfully to the imagination and emotions of the men of the French Revolution. The close influence of the *Social Contract,* in ideas and terminology, upon the French Declaration of the Rights of Man is particularly manifest.[16]

It is interesting to note that the principal theories of the contract school were natural rights, popular sovereignty, and consent. Even Hobbes declared that the King derives his power from the consent of the governed, but he differed from both Locke and Rousseau in his contention that the people, having given their consent, cannot revoke it and sovereignty thus remains in the King. In the opinion of the other two philosophers, the existence of government and its continuance depend upon the will of the people who have not surrendered the right of dissent.

The American Revolution was sustained and justified by the theories that were prevalent in England in the middle of the eighteenth century. The leaders among the American colonists were thoroughly imbued with the English law and political literature of the time, and they contributed very little if anything that was original to the thinking that centered around

15. *Of Civil Government,* chap. 6. For a discussion of Locke's concept of the Social Contract see G. Catlin, *The Story of the Political Philosophers* (New York: McGraw-Hill, 1939), chap. 9.

16. *Readings in Political Philosophy* (New York: Macmillan, 1938), p. 631. See also T. I. Cook, *op. cit.,* pp. 626–636.

revolution and popular consent. Dunning believes that the "postulate of their theories of government were those that were transmitted in the history of the revolutions in England during the seventeenth century in the writings of Harrington Sydney, Locke and others."[17] To this list must be added Thomas Paine, whose writings had great influence and vogue during the early days of the Revolution. Indeed, Paine wrote *Common Sense* on the eve of the Revolution and in it urged the colonists to persevere in their revolt against the mother country. Dunning says of Paine that he was "essentially an agitator and a pamphleteer" but that he had a wonderful faculty of thought and expression, and "his keen wit and vivid phrases caught and fixed the doctrine of the revolution often much more effectively than the weightier and deeper analysis of mightier intellects." *Common Sense* was published in 1776 and it achieved an immediate success. In three months 120,000 copies were sold. It served to strike a critical blow in favor of political independence and was a most forceful attack upon monarchy and hereditary government. Its violent and destructive type of reasoning appealed to the colonists in their state of rebellion. Its expression of the sentiment that hereditary succession is an insult to posterity, and its designation of kings as crowned ruffians and William the Conqueror as a bandit were music to the ears of the rebels.[18]

The colonists believed in a pre-governmental state of nature and in the contractual basis of government, the purpose of the compact being to minister to the general welfare. These theories they borrowed from John Locke. They believed also in popular sovereignty, in the right of revolution, in checks and balances as the most certain method for preserving the rights of the people; they believed that life, liberty, and property are the inalienable rights of man and that the purpose of government is to protect these rights. Here again, we see the influence of John Locke. These conceptions were incorporated in the Declaration of Independence by Thomas Jefferson. Charles E. Merriam is of the opinion that the idea of contract particularly appealed to the Americans because of the prominence it had enjoyed when the early New England settlements were formed. Two revolutions had occurred in England in the seventeenth century and

> . . . the theory of revolution had received classic formulation in the treatises of John Locke. The Americans were thus supplied with an ample precedent from England, in both historical events and philosophic formulae.[19]

17. *Political Theories, Rousseau to Spencer* (New York: Macmillan, 1920), p. 91. See also R. G. Gettell's *History of American Political Thought* (New York: Century, 1928), pp. 82 ff.
18. See R. G. Gettell, *op. cit.*, pp. 89 ff., on the influence of Thomas Paine.
19. C. E. Merriam, *American Political Theories* (New York: Macmillan, 1924), pp. 49–50. See also Gettell, *op. cit.*, pp. 196 ff.

Among the writers of this period who expressed the prevailing sentiment of the American Patriots were John Adams, Alexander Hamilton, Thomas Jefferson, and Samuel Adams.

THE POST-REVOLUTIONARY PERIOD. After independence had been won and recognized, it was no longer necessary nor desirable to preach the right of revolution, nor to dwell unduly upon the rights of man. Unrestrained revolutionary enthusiasm disappeared and with it the expression of revolutionary doctrines. Whereas it had been necessary to emphasize the rights of man, more democracy in government, annual elections, the dissolution of political bonds, the post-revolutionary emphasis was upon the necessity of a strong central government, less democracy, a strong executive, a more perfect Union. The Preamble of the United States Constitution gives a clear picture of the aims of the new government and its ideals. So great was the swing away from the rights of man, that it was agreed that since the people had retained these rights automatically, it was not necessary to reserve them in state constitutions by special bills of rights, and a battle of words raged hotly as to whether they need be expressed in the national Constitution.

Deviation from revolutionary doctrines is best seen in the writings of John Adams and Alexander Hamilton and in the *Federalist Papers,* in which the main questions were now of a practical nature: first, can a republican form of government be operated over so large an area? and second, how can constitutional equilibrium of power be attained? In setting up the structure of the national government, the Fathers of the Constitution were greatly influenced by the writings of the Baron de Montesquieu, who lived in the period of the Natural Law and Social Contract School of thought, but remained relatively untouched by it. In 1748 Montesquieu had written the *Spirit of Laws,* in which he advocated the principle of separation of powers of government into legislative, executive, and judicial as the most likely means for preserving the equilibrium of government and political liberty among the people. This principle he thought he saw in the English system of government. "Unless a constitutional system is so arranged that one power is checked by another, the citizen still may lack that security in which liberty consists." Liberty Montesquieu takes to be

> . . . a right of doing whatever the laws permit, and if a citizen should do what they forbid, he would no longer be possessed of liberty, because all his fellow citizens would have the same power. . . . Constant experience shows us that every man invested with power is apt to abuse it, and to carry his authority as far as it will go. To prevent this abuse, it is necessary from the very nature of things that power should be a check to power. In every government there are three sorts of power: the legislative, the executive and the judicial. . . . In order to have political liberty it is requisite the government be so constituted as one

man need not be afraid of another. . . . When legislative and executive powers are united in the same person . . . there can be no liberty. . . . Again, there is no liberty if the judicial power be not separated from the legislative and executive.[20]

Post-revolutionary American theory shows two broad tendencies,[21] the reactionary, best represented in the writings of John Adams, Alexander Hamilton and in the *Federalist Papers;* and the more liberal view, expressed in the ideas of Samuel Adams and Thomas Jefferson. Both made a contribution to American government, the first in establishing a more perfect Union and the latter in furnishing working principles of democracy which could be applied to the Union subsequently. When the common enemy of the Colonies was routed, the forces of disintegration in the new country began to make themselves felt, and it became necessary to devise some means of holding the new nation together. The *Articles of Confederation* were a dismal failure in this respect, but there was wide difference of opinion among leading citizens as to the means of attaining the desired end of "forming a more perfect Union and securing the blessings of liberty" to themselves and their posterity. John Adams expressed in general the sentiments and opinions of the reactionary forces in the new nation. Adams distrusted unlimited democracy and had little confidence in the ability of the masses of the people to govern. He contended that it is just as easy to have tyranny in the masses of people as in one man. In his *Defense of the Constitutions of the Government of the United States of America* (1787–1788), he defends the doctrine of inequality, advocates a government by an aristocracy of birth, education, and wealth, on the ground that such men are best fitted to govern since they have the leisure to learn how to do so. In the opinion of Adams, people are not only capable of tyranny; they are jealous and suspicious and have no abstract love of equality. Popular sovereignty is the basis of all government, but all free government ought to contain limitations upon the direct action of the people in order to render excesses on their part difficult. It is generally agreed that any good government must have the elements of all three of the general types of government—monarchical, represented in the United States by the Chief Executive; aristocratic, repre-

20. *The Spirit of Laws,* Nugent's trans., rev. by J. V. Prichard (2 vols., London: Bohn's Standard Library, 1878), bk. XI, chaps. 4, 6. For further discussion of the place of Montesquieu in political theory consult Gettell, *op. cit.,* p. 102, and Cook, *op. cit.,* chap. 21.

21. It is to be observed that the discussion at this point begins to concern itself with American political doctrines. The development of English political thought proceeded along unique lines, but there was considerable exchange of opinion between English and American political theorists. German political thought penetrated America in the 1890's by way of the returned scholars and the workers, but not until after 1930 was there any systematic attempt at coordination of alien and American streams of thought. At the present time, we are in a transisitional period. Although in practical affairs, political science is being pulverized into competing ideologies, academic scholars are trying, by drawing on new experiences and new thought, to create a universally valid political science.

sented by the United States Senate; and the democratic, by the national House of Representatives. In this way tyranny will be avoided.[22]

Thomas Jefferson typified the more liberal tendency in the post-revolutionary era. He believed that the purpose of government is to guarantee the rights of the citizens, not to take them away; that government should rest upon the consent of the governed; that no generation can prescribe the mode of life for the next, and that therefore popular referenda should determine the willingness of any generation to live under the constitutional arrangement of the previous generation. He did not believe that government is something so sacred as to be above human criticism, nor that when it becomes objectionable it cannot be replaced by something more acceptable. Therefore, he believed in periodic revision of the Constitution in order that the structure of government might keep abreast of the change of the times. We find this theory incorporated in many of our state constitutions today, in the provision for a periodic popular referendum on the question of whether the constitution should be rewritten. Jefferson felt that rebellion is a medicine essential to the health of government and that there is nothing so dangerous to the general welfare as "the dull lethargy that creeps upon and paralyzes the public spirit." He felt that it is not possible to preserve the liberties of the people unless those who govern are made aware of dissent and resistance among the citizens against policies which they consider detrimental to their good.[23]

Jefferson abhorred monarchy. He declared that "no race of kings has ever presented above one man of common sense in twenty generations." He was a great apostle of democracy and laid down numerous principles which should exist in a democracy, of which the most important are (1) equal and exact justice; (2) preservation of the rights of election by the people; (3) majority rule; (4) guarantee of civil liberties, such as freedom of religion and the press, and the right of habeas corpus and trial by jury; (5) subordination of military to civil authority; (6) economical administration. He differed sharply from John Adams in his faith in the common people, and because he believed in wide popular participation in government he advocated a wide program of education and strong local government. To quote Merriam:

> Keenly appreciating the necessity of popular intelligence as a basis for successful popular government, Jefferson was a constant advocate of measures for the diffusion of knowledge among the masses. If government rests upon public

22. See C. E. Merriam, *op. cit.*, chap. 3, for the Reactionary Movement in America. See also R. G. Gettell, *op. cit.*, chap. 6, sec. 4, for the same.

23. R. G. Gettell, *op. cit.*, chap. 7, sec. 2, contains an analysis of Jeffersonian doctrine. See also Merriam, *op. cit.*, chap. 4, "Jeffersonian Democracy."

opinion, then our first and foremost care is to see that the opinion is kept right. Opinion that is unenlightened and unsound could be the death of free government.[24]

Jefferson thought local government a guarantee of liberty, since it distributes power among the various local units, from the state and the county, down to the very smallest unit.

In evaluating Jefferson's place as a political thinker, Merriam states that

> . . . he falls far short of the stature of a great political philosopher, but the scope of his power was very great because he possessed an unusual sagacity and astuteness which made him a great party leader. Another cause of his power was his singular gift in interpreting and expressing popular feeling. In the last place, he possessed a great confidence in the common people, believed in their capacity for self-government and in the soundness of their judgment.[25]

Both the reactionary element and the liberal way of thought made a definite contribution to the post-revolutionary period of American government. The reactionary party achieved the adoption of the Federal Constitution and the establishment of the federal form of government on a firm basis. Alexander Hamilton, John Jay, and James Madison contributed a large share to the acceptance of the Constitution in their writing of the *Federalist Papers*. The liberal thought re-emphasized the importance of individual rights and set forth the principles of democracy which were to be the guiding lines for the establishment of governmental machinery designed to make the democratic way of life a reality.

> When once the central government was fairly established, the opposition, aided by the movement in France, rapidly gained strength and was soon able to obtain control of the administration. Their return marked the reaction from government to liberty again.[26]

The Jacksonian era was marked by the practical application of democratic theory, which was manifested in (1) the extension of the suffrage to a manhood basis, (2) the abolition of property and religious qualifications for holding office, (3) an increase in popular participation in the election of officers, (4) popular opposition to the aristocratic elements of the judicial system in the states—resulting in shorter terms for judges and popular election, and (5) popular ratification of state constitutions.

The political theory in the United States between 1830 and 1860 centered in the discussions relating to slavery and to the nature of the Federal Union, two storm centers so violent in nature that they finally precipitated in the Civil War. The controversy concerning slavery centered around the fundamental conception of liberty prevalent at the time.

24. Merriam, *op. cit.*, pp. 158–9.
25. *Op. cit.*, pp. 170–173.
26. *Ibid.*, p. 174.

It is clear that at the bottom of the controversy between the radical Abolitionists and the Pro-slavery Party, there was a fundamental difference of opinion as to the nature of human liberty. The abolitionists thought that liberty is the birthright of all men; the defenders of slavery thought it the possession of those only who are fit. The Abolitionists thought that as far as rights are concerned, all men are created and should continue to be equal . . . the opposite party thought that rights do not belong to men simply as men, but because of their superior qualities. Thus the Abolitionist argued that . . . the Negro ought to be put in possession of the original and natural rights which are justly his . . . while the slaveholder held that the Negro being an inferior order of man, should be kept in a state of complete subjection for his own and for the general good.[27]

The desire of the South to secede reinvigorated the discussion as to the nature of the Union. Differences of opinion between those who advocated States' rights, ably represented by John C. Calhoun and the nationalist theorists, whose spokesman was Daniel Webster, led to a discussion of the nature of sovereignty and its location. Both sides admitted that it resided with the people, but Calhoun held that "We, the People" were the people in the States, whereas Webster and his followers contended that the Constitution was adopted by the people of the United States as a whole "by means of an agreement as binding as the social contract." The post-bellum period developed a new school of Nationalists, who accepted Calhoun's theory of the indivisibility of sovereignty but contended that this sovereignty resides in the nation and not in the states. Thus the theory of the divisibility of sovereignty between the national government and the States, enunciated by the United States courts in a series of decisions in earlier days,[28] and the contractual character of the United States Constitution were both repudiated, "the nation was declared supreme . . . and the organic and evolutionary character of the nation was given greater attention." [29]

The equalitarian feature is strong in democratic theory, although the negative side has been more emphasized than the positive. The negative side shows itself in the destruction of the hereditary principle and of class privileges. Equality before the law is an ideal that has been realized only relatively. There is one law for the rich man who has the resources to defend himself in the courts, and another for the poor who must take what the state gives him. Some classes and some races have not received equality The Negro is discriminated against in every phase of life and work in the United States. The fight for political equality has centered around the abolition of property, race, and sex qualifications for voting and officeholding.

27. Merriam, *op. cit.*, p. 248.

28. *Chisholm* v. *Georgia*, 2 Dallas 435; *Ware* v. *Hylton*, 3 Dallas 232; *McCullough* v. *Maryland*, 4 Wheaton 316; *Worcester* v. *Georgia*, 6 Peters 591–592.

29. Merriam, *op. cit.*, p. 303. Chap. 7 contains an excellent treatment of the controversy on the Nature of the Union.

Economic equality has been promoted by the destruction of entail and primogeniture, by the fight against combinations and trusts, by heavy taxation to prevent economic concentration of wealth. The fear of large-scale combinations, originally inspired by industrial corporations, has been extended to the gigantic combinations of union labor, which are forcing their power and will not only on the industrial corporations in their demands for favorable labor conditions, but upon the laboring man himself. They are setting themselves up as the ultimate judges of what is fair and just, compelling him to use the forcible instruments of collective bargaining even in cases where he does not consider himself aggrieved. They are also working hardships upon the general public in cases where the Union insists upon enforcing its demands through the curtailment of public services. If the strongest factor in modern democracy is the desire to avoid tyranny, then the fight against arbitrary actions of labor combinations is as much a problem as the fight against the industrial capitalists was at the beginning of the present century.

In concluding this discussion, the author can do no better than quote from the work of Charles E. Merriam:

> It appears that recent political theory in the United States has shown a decided tendency away from many doctrines that were held by the men of 1776. . . . The Revolutionary doctrines of an original state of nature, natural rights, the social contract, the idea that the function of government is limited to the protection of persons and property,—none of these finds wide acceptance among the leaders in the development of political science. The great service rendered by these doctrines is fully recognized and the presence of a certain element of truth in them is freely admitted, but they are no longer generally received as the best explanation of political phenomena. Nevertheless . . . thus far the rejection of these doctrines is a scientific tendency rather than a popular movement. Probably these ideas continue to be articles of the popular creed, although just how far they are seriously adhered to is difficult to ascertain.[80]

SOME TYPICAL INTERPRETATIONS AND CONCERNS OF DEMOCRACY

The interpretations of democracy have varied with the times, and the direction of its activities has changed from period to period.

The Fight Against Political Monopoly. In the seventeenth and eighteenth centuries, democracy was directed against political absolutism, the rule of arbitrary personal power, entrenched political privilege, institutionalized inequality—that is, against the political monopoly of the privileged classes and the disfranchisement of the larger portion of the population. Democracy in this period stood for parliamentary representation, for equality before the law, for "constitutions as solemn guarantees" of a general understand-

30. *Ibid.*, pp. 332–3.

axiom that the monopoly of political power must be in the hands of the state. Party symbols were duly converted into national symbols. Under the Third Reich the Swastika, the uniforms of the services and of the *militiae* party, and all the numerous other insignia of th regime are protected against what the authorities consider misuse by the severest penalties contained in the rewritten penal codes as well as by those stipulated in special legislation.

Contrariwise, democracies, since 1933 on the defense against rising Fascism, could not fail to outlaw certain kinds of manifestations of opposition and of solidarity in symbolistic disguise directed against the existing form of government. Benefiting from the experience of the Weimar Republic when the Nazis could exploit mass emotionalism by symbolistic techniques with impunity, all other constitutional democracies inscribed into their statute books legislative enactments against the wearing of party uniforms, the ostensible demonstration of party allegiance through badges and banners, emblems, and other artificially created devices signifying opposition to and competition with the legitimate order of government. Likewise the recognized symbols of the democratic state were protected from defamation and ridicule. Such legislation was enacted in the period before the second World War in the Scandinavian countries and Finland, in Holland and Belgium, in Switzerland and Czechoslovakia, in England, and, belatedly and half-heartedly, also in France. The problem received due attention also in some of the South American countries, while its importance to the maintenance of constitutional democracy is not yet fully realized in the United States. It is a matter of record that the chances of the survival of a democratic state, no longer able to rely exclusively on the self-evidential truth of democratic values, are proportional to the zeal with which that state is willing to fight the excesses of its own brand of international Fascism.

Political symbolism, thus, has become in our time one of the foremost battlegrounds in the conflict between a free society and despotism and one, it should be added, on which Fascism has proved its superiority in the scientific technique of mass control by emotionalism to the detriment of the democratic order.

POSSIBLE LIMITATIONS IN THE EFFICACY OF POLITICAL SYMBOLISM

It is characteristic of modern politics based on mass parties competing among themselves for political power that political symbols, in a democratic society, have become overtly competitive and decidedly artificial. They no longer just grow, as they did in more static periods of the past; they are invented and manufactured. With the acceleration of the political tempo in

modern times both output and turnover of political symbols have become much more rapid; the symbols themselves are more consciously applied, more violent and emotionally charged. Modern political symbolism bears all traits of the mass character of the age; it is deliberate, rational, at times artificial, frequently noisy and merely propagandistic, and borrows heavily from military habits. Propaganda and symbolism are almost synonymous; as a matter of fact, political symbolization has been converted into the foremost instrument of propaganda. In this respect modern dictatorships, more aware of the potentialities of mass psychology, are by far superior to authoritarian regimes of the past based on legitimacy and tradition, and also to the liberal-democratic organization of political power which depends on the persuasive nature of its political values.

The effective use of political symbolism for emotionalizing and organizing mass politics, in addition to the application of violence and the lack of resistance of their opponents, has contributed to the success of revolutionary totalitarian movements in gaining political power since the first World War. Virtuosity of manipulation and the realization that, under modern conditions, political power must of necessity monopolize the use of political symbols, have contributed to the surprising hold of the new regimes over the masses. But however impressive the accomplishments of these regimes may be for the time being, and perhaps for some time to come, the historically trained observer should not be misled to overestimate the value and importance of the new techniques for stabilizing revolutionary regimes over a long period. Symbols are meaningless and empty unless they correspond to lasting political values and serviceable political institutions. If superimposed and enforced without a simultaneous integration of the underlying political ideas and institutions, they may easily become, as Hamlet says, "weary, stale, flat and unprofitable."

Since the symbolic process is rooted in the unpredictable element of the mass mind, that delicate instrument, when used too continuously, forcibly, and indiscriminately, may well become blunt. Already the Hitler salute in Germany, only yesterday the vehicle of violent emotion, has worn out and is scarcely given unless under public compulsion. In a political civilization which through the constant use of mass responses is rather flattening out instead of deepening, a real danger exists that political symbols when monopolistically enforced by the holders of political power may become mechanically accepted as stereotypes of behavior instead of being living representations of values. Symbols may be ordered by command, but values as moral imperatives are beyond command. No nation can bear over a long period the incessant emotionalism of which the new

symbolism is part and parcel. Mechanization of a process which by its very nature is dependent on the subconscious association with generally accepted values may easily lead to a complete denudation of its externalized forms. A symbolistic rigmarole intended to evoke predictable responses and emotional reactions excludes individual thinking and will not hold the confidence of the common man. Stultification through excessive use of compulsory symbolism may defeat its purpose. Moreover, when the average citizen accustoms himself to satisfy his civic desires by merely participating in the symbolistic processes instead of by operating himself the institutions for which they stand, he takes the shadow for the substance to the detriment of popular integration of institutions and values. Compulsory symbolization as it is used under present-day conditions in totalitarian states alienates the citizen from his government and his state, a situation which, in the long run, cannot fail to affect the stability of the regime for which symbolization is intended to serve. It may well happen that the apprentice sorcerers are losing control of the ghosts they have conjured up from the mass mind.

On the other hand, the few remaining democracies, today as much under fire from dictatorships as was the absolutistic state from rising liberalism and democracy one hundred years ago, may well copy a leaf from the authoritarian book in making a more deliberate and conscious use of the promotional utility of well-directed political symbols. Although it may be true that a governmental philosophy based on reason and persuasion will never be able to emulate the high-pitched emotionalism of totalitarian regimes without itself falling into the pattern of politics of those regimes it combats, it may become imperative to enlist the emotional potentialities of man for the purposes of a better democratic integration. In this mass society of ours, political institutions and ideas, no matter how serviceable they may be or how superior they are in comparison to others, cannot continue to exist without the use of symbolization processes which herald their value to the common man. At any rate the phenomenon of political symbolism is one on which the interest of the political scientist henceforward will be much more fastened than it has been in the past.

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CHAPTER FOUR

Non-Symbolic Instruments of Power

RECENT INTEREST IN THE POWER CONCEPT

IN RECENT years there has been a vigorous revival of interest in and study of the "power concept" in the field of political science. This does not mean, however, that the past studies of political activity have been carried on without any notion of the role played by power in the political life of mankind. Fragmentary knowledge of Egyptian, Babylonian, and Syrian cultures reveals an acquaintance with this concept of force, and both Plato and Aristotle were keenly aware of the significance of force in the governmental cycles of their day. But modern students, having the accumulated experience of mankind at their disposal, have increasingly turned their attention toward an analysis and explanation of the part played by force in the social life of today. Whether this emphasis upon force is the result of its increasingly obvious use in the social activities of contemporary society or whether present-day writers are anticipating a greater use of force in the future remains, of course, a moot question. But there is no dispute about the fact that the second quarter of the twentieth century has witnessed an upsurge of force in all aspects of our social activity.[1]

The student of political activity is primarily interested in the sources, agencies, and techniques of power as these factors seem to operate in the area we call governmental. A knowledge of the part played by force in the political area would be incomplete, fragmentary, and meaningless without an understanding of the intimate relationship which exists between the political, economic, social, and religious activities of social life. While it is impossible, within the confines of a single chapter, to treat all of these interrelated fields fully, it is necessary to know that power operates in them

1. See the sections devoted to political action in *The Cambridge Ancient History* series (Cambridge, England: Cambridge University Press, 1923–1939); Will Durant, *The Story of Civilization*, Vols. I and II (New York: Simon and Schuster, 1939); and J. H. Breasted, *The Dawn of Conscience* (New York: Scribner, 1934); together with H. E. Barnes, *The History of Western Europe* (New York: Harcourt, Brace, 1935), particularly Vol. I. For modern discussions, see Charles Merriam, *Political Power* (New York: McGraw-Hill, 1934), *The New Despotism* (McGraw-Hill, 1939), and *A Prologue to Politics* (Chicago: University of Chicago Press, 1940). See F. L. Schuman, *International Politics*, 2nd ed. (McGraw-Hill, 1937) for the international phase, particularly pp. 483–522.

all and that political power will very often be seen to make itself effective through other social institutions as well as through those recognized as the regular political channels.

This particular chapter has as its purpose the descriptive problem of tracing out the sources, the agencies, and the techniques of political power. Such a problem requires that the interrelatedness of social institutions be kept constantly in mind. Nor should the student be disturbed if he finds that the political, economic, and social institutions of society all seem to work toward a particular end. Likewise, the student will be prepared to expect that other social institutions will enter the picture as exercising political power.[2]

What Is Power? In seeking to discover a reasonable definition of "power," an ingenious use of synonyms becomes obvious. Both political philosophers and practical politicians freely describe power in synonymous terms. Such words and phrases as the following appear with regularity: "coercion," "sanction," "authority," "compulsion," "force," "regulation," "obedience," "control," "direction," "obligation," "submission." It is obvious that such words, if used precisely and carefully, may help to clarify the thought expressed, but too often use of such words merely confuses and beclouds the thought expressed. More often than not such words tell nothing about "power"—they simply substitute one unknown for an unknown, as if the writer or speaker were saying x equals x.[3]

The ingenuity of formal definitions of political power is startling. "Power," says Bertrand Russell, "may be defined as the production of intended results."[4] Such a definition is so broad and general as to be practically useless as a definition of political power because it includes all conscious action. Every normal individual intends to produce results whenever he acts in a conscious manner. His failure to accomplish the intended results does not mean that power has not been exercised; it simply means that power was ineffective. Any definition of an activating force in society which insists that the force exists whether it operates or does not operate, can or cannot be discovered, would seem to be a useless definition.

Professor W. Y. Elliott offers a definition which upon analysis proves to be more worth while. He states that "any form of willed compulsion . . .

2. One word of warning should be inserted at this point in order to avoid misunderstanding. In describing the way in which these social institutions operate there is no need to impute motives to particular people or classes within society; motives may be described by the social psychologist or by the psychoanalyst. But moral prejudgments should be avoided, if at all possible.

3. See *The Encyclopaedia of the Social Sciences* under appropriate titles.

4. Bertrand Russell, *Power* (New York: Norton, 1939), p. 19.

may become political force if it is used to accomplish political ends."[5] Here is definitely established the concept of superior authority willfully compelling certain action on the part of potentially or actually unwilling individuals and confining this phenomenon to the political ends of society. This definition is susceptible, in principle, of objective, factual verification. It leaves the door open to the possibility of establishing the interrelatedness of social institutions and of their role as agencies of political power. The willfullness of the compulsion may be ascertained, as may also the methods of "compulsion." Nor is it impossible, for all practical purposes, to discover what are, at any given time, the "political ends" of a given society.

If these definitions seem abstract and theoretical to the student who is facing the problems of the political world for the first time, perhaps a restricted descriptive definition will help. It may be said that political power is evidenced by the ability of those who control the instruments of government to secure obedience to their decisions. When Adolf Hitler came to the conclusion that more doctors were needed in Germany, he issued a decree shortening the period required for medical training, thus making it easier for doctors to become licensed practitioners of medicine. The decree became a law and was enforced by all of the police powers of the state. Those who objected could be fined, imprisoned, or otherwise compelled to conform to the law. Political power had been exercised. Or again, the Congress of the United States enacted a wages and hours bill establishing minimum wages and maximum hours for labor engaged in industries in interstate commerce. Those who control the governmental structure have come to the conclusion that such a law would be desirable. All of the instruments of government may be used to secure obedience to the statute once it has been enacted into law—the courts, the administrative boards and agencies, the jails, inspectors, policemen, reports of governmental agencies, and so on.

What actually happens in both Germany and the United States is not only that the political instruments operate so as to secure obedience to the end set up, but also that other social institutions operate so as to secure this obedience. Newspapers, radios, forum speakers, education, preachers, entertainment institutions, and the economic machinery all operate in such a way as to secure, as far as is practicable, the observance and acceptance of the law.

Such procedure as that suggested by the examples just given is the usual operating evidence of political power. It is to be found in all governments

5. *The Encyclopaedia of the Social Sciences*, vol. 6, p. 338.

of the present day as well as in all governments of the past, whether they be dictatorial, tyrannical, oligarchic, democratic, or aristocratic.[6] Professor Charles E. Merriam[7] is probably correct in urging that formal definition of political power is fruitless when its manifold manifestations are so clearly visible in the everyday activities of nations and of individuals. His suggestion that this fact of power be taken at its face value and that time can more profitably be spent in describing its manifestations in an objective manner is valuable and will be followed here.

Clearly the inhabitants of what once was Poland could tell any student of government what political power is, as could the native inhabitants of India, China, and America: so too could the democratic apostles in modern Germany and the communistic preachers of present-day France. Most certainly, the student knows power in operation when he is faced with a formal examination upon the completion of a course of study.

Agencies of Power. In order to describe objectively the operation of political power, it is essential that the student have an understanding of the institutions, machinery, and instruments through which political power compels conformity and punishes nonçonformity. Any social institution, formal or informal, may operate in such a manner as to secure obedience or conformity to the rules of society. If any particular institution works in such a manner as to further political ends, that institution becomes an agency of political power, or more correctly, that institution becomes an agency through which political power is exercised.

If the Church should preach that God is on the side of a particular army and if through that action increased devotion to the nation's struggle should be secured, then the Church would become an instrument or an agency of political power. If economic institutions are able to induce a citizen to labor as a patriotic duty to his country, then those institutions become agencies of political power.

Agencies of political power, then, are simply the means by which the coercive authority of government may be made effective—always, of course, in relation to certain political ends.

Techniques of Power. One of the most fascinating activities in the study of political science is to trace the ways in which the instruments of social action are used to accomplish desired ends or goals. In the definite field of political action, the methods used to accomplish political ends are not only fascinating but also extremely complex and highly instructive. These tech-

6. Perhaps the methods whereby this political power is controlled and exercised constitute the distinguishing characteristic of democracies and dictatorships of the present day. This, however, is a point brought out in another section of this book.

7. *Political Power,* p. 7.

niques vary from the sheer brutality and "bullying" methods of a "third degree" squad to the refined subtlety of moral persuasion.

A hypothetical example taken from the everyday life of an average student may be instructive in this connection. John Brown wishes to have a companion with him on his walk in the woods. Jim Smith, a pledge at "the house," wishes to study. So John exercises power by the technique of threatening to "haze" Jim on "meeting night" if Jim will not accompany him on his search for peace and contemplation. Jim, anxious to remain in the good graces of his "superiors," acquiesces. In this imaginary situation the technique used is that of threatening force, and the agency used is that of social conformity as interpreted by the fraternity. Examples from the political field readily come to mind.

Restatement. Upon analysis it appears that the problem set for this chapter is to describe the various ways in which political power operates through the social institutions at the command of a group. As this description develops the intimate relationship between techniques, agencies, and goals becomes increasingly clear as far as the field of political action is concerned. This relationship must be firmly grasped if the operations of governments are to be understood.

SOURCES OF POWER

Political historians and anthropologists together with speculative philosophers have suggested many possible sources of political power. Some of these suggestions have proved fruitful while others have been valueless. But all are instructive for the student of government.

Traditional Theories of the Sources of Power. Customarily the sources of political power are said to be: (a) in the rule of the strongest who secures his position as a result of his superior strength; (b) in the superstition and magic of primitive religion, when the "magic man" uses religion to reach a position of authority and control; (c) in the ownership of real wealth which gives prestige and position to certain individuals who thus exercise authority over others; (d) in a social compact by which coercive power is granted to individuals to be exercised for the general welfare; (e) in divine fiat; and (f) in a combination of these factors.[8]

With the exception of the social compact theory and the doctrine of divine fiat, each of these sources of political power has a respectable body of careful scientific research to substantiate its claims. It is probably true that

8. See W. C. MacLeod, *Origin and History of Politics* (New York: Wiley, 1931); Sir George Frazer, *The Golden Bough*, one-volume edition (New York: Macmillan, 1930); Sigmund Freud, *The Future of an Illusion* (London: L. and Virginia Woolf); Rousseau, *Social Compact;* K. Marx, *Capital*, Everyman edition, foreword by G. D. H. Cole (2 vols., New York: Dutton, 1930).

political power originally may have sprung from these sources. Nevertheless, these historical and philosophical speculations yield very little reliable information about the present-day sources of political power. Political authority may have originated in brute strength, but custom and tradition soon became the basis of a ruling group's subsequent exercise of coercive authority. It also seems true, as many commentators have suggested, that brute strength must be supplemented by other sources or it will fail of its own inadequacy. Whatever may be the original source or sources of power, historic developments soon clothe them with respectability.

Recent Theories of the Sources of Power. More recently students of government have turned to psychology and to sociology for information regarding the sources of present-day political power. Individual psychology in the fields of psychoanalysis, psychiatry, psychopathology, as well as in the areas of normal behavior, has yielded some instructive information regarding possible sources for political power. So likewise the field of social psychology has given valuable clues to the problem at hand. While many of the findings in these fields are incomplete and tentative, they are worth brief consideration at this point.

An analysis of any given society will show that some people submit to authority more easily than others, while still others are better fitted to giving than to obeying commands. It has even been suggested that this may be the social evidence of the difference between the introvert and the extrovert. Some people find better individual adjustment in submitting to authority than others do. It is possible that those who rise to positions of authority do so because they possess the psychological need for power and glory while others submit to leadership because they find submission a more satisfactory technique of personal adjustment. Thus there arises in society a cleavage between those who can and do lead and those who can and do follow. Because most people seem to find submission more agreeable than leadership, those who lead discover the source of their power in this psychological difference among people.

Two other sources of political power afforded by psychological factors are: (a) the adjustment of personality types in social living, giving rise to situations where political authority is needed; and (b) the activities of those who are called, for lack of clearer language, the "power hungry." The activities of the power hungry are seen as sources of governmental power when the actions of present-day dictators are analyzed. In some nations the appetites of the power hungry may be satisfied in the economic areas, as in the case of the empire builders in the United States; or they may find an adequate outlet in religious institutions, as was true in the case of Car-

dinal Pietro Riario during the conspiracies against Pope Sixtus IV during the last quarter of the fifteenth century.[9] The presence of such individuals in any society provides a ready soil out of which political power may grow, for it often results in frictions which can only be kept from breaking into open violence by the power of a third party. Out of this necessary intervention of a "disinterested" authority comes the application of governmental power.[10]

From the sociological point of view, political power may be said to spring from the social need for an equilibrium between competing group demands. Each group seeking a pre-eminent position finds itself faced with other groups seeking predominant positions in the social order. The institution of government has taken over the role of keeping this group competition within the confines necessary for normal social activity. Political power fails to achieve this social function when revolution is successful or when another social institution is able to subordinate the institution of government to its demands, as in the case of the theocratic control of New England under Cotton Mather. The struggle between economic, religious, racial, regional, and cultural groups compels the use of a superior power to preserve a social atmosphere in which these groups may express their demands and fulfill their functions. Thus, it is usually agreed, political power is born.

Summary Statement. It seems highly probable that full knowledge of the sources of political power in present societies must wait upon the findings of psychology (in its various branches) and upon the discoveries of sociology (in all of its specialized fields). But upon the basis of present knowledge power seems to find its source in the biological and sociological inheritances and demands of men.

DEGREES OF POWER

Having suggested the sources from which political power springs, it is appropriate to turn to the problem of finding the factors which determine the amount or degree of political power at the command of a ruling class within a given society or which may be exercised by any given society in the international arena. In this connection, the student of political dynamics is faced with a great many variables and, for that reason alone if for no other, is compelled to think in relative rather than absolute terms. Time, place, and circumstance all play unpredictable roles in this problem of the

9. See Jacob Burckhardt, *The Civilization of the Renaissance in Italy*, p. 57; see also Y. A. Symonds, *The Renaissance in Italy*, Vols. I and II (Modern Library Giants).

10. See Merriam, *Political Power*, for suggestions at this point. See also Lasswell, *Psychoanalysis and Politics* (Chicago: University of Chicago Press, 1930); and Mosca, *The Ruling Class*, trans. by Livingston (New York: McGraw-Hill, 1930).

quantity of power within the control of any individual, group, or nation. The problem also assumes different aspects when viewed from the domestic than when seen from the international side. Some determining factors are more significant than others in international relationships; the same factors, on the other hand, may be almost useless in a domestic situation. For example, geographic location may increase the international power of a given nation but be almost worthless to an individual or a group of individuals seeking to carry a program into action in the domestic field. The location of the British Isles affords a splendid example of the importance of geography in determining the international power of Great Britain but plays a much less significant role in delimiting the domestic power of any group within Great Britain. Ireland's geographic location reduces the international power of that nation almost to zero but is of prime significance to the domestic policy of De Valera.

Natural Resources as Measures of Power. Natural resources are the most obvious determining factor in measuring the political power of a nation, while the ownership and exploitation of these resources are the most obvious determining factors measuring the power of an individual or of a group within a given society. The particular resources which feature in this struggle vary, of course, with the technological knowledge and the needs of the world community. At the present time, coal, oil, cotton, rubber, iron ore, and certain essential metals such as tin and zinc are of basic significance in the international struggles for political power. These resources are important today because of the highly developed mechanization which forms the basis of the "machine age." Internally, the control or ownership of these essential natural resources will increase the power of the group exercising ownership or control. The possession of rubber resources would not have materially altered the power of the Syrian armies of ancient days, nor would ownership of them have noticeably increased the political power of the nobles at the court of Hammurabi. Possession of iron ore would have been of far more significance in measuring political power in the days of Darius than it would be today, because the possession of such ore today must be supplemented by the control of other equally significant resources.

Because certain nations have an abundance of natural resources they are referred to as "Great Powers." At the present time, Great Britain, the U.S.S.R., Germany, and the United States clearly fall within this category. Each, with the possible exception of Germany, contains within its own borders or within the confines of its empire, a large proportion of the natural resources necessary to keep its technological civilization going. And the ownership of these resources by vast corporations in England

and the United States increases the political power of these corporations within their native lands. State control in Germany increases the power of the Nazi party while State ownership enlarges the power of the industrial proletarian party (the Communist Party) in the Union of Soviet Socialist Republics.

But the emphasis upon resources fundamental to industry will be misleading unless counterbalanced by an acknowledgment of the importance of natural resources fundamental to agriculture. While man does not live by bread alone, it remains true that he must have bread to live. The most highly developed technological civilization will perish if the natural resources essential to agriculture are absent or completely consumed. Topography, climate, fertility of the soil, the water table, and a variety of crops —all condition the agricultural basis of political power. To the degree that modern society is dependent upon agriculture, the factors and resources just mentioned will place bounds upon the political power of nations. The farmer who owns a thousand acres of well-drained land high in soil fertility and who is able to raise a diversified crop will be able, other things being equal, to exercise more power than will his neighbor who rents an equal acreage of badly eroded land on which he can raise but a single crop. The mere ownership of agricultural resources increases the potential political power of the owner in relation to the tenant or laborer on the land. The "share-cropper" is evidence of this principle in operation in the United States.

Social Resources as Measures of Power. The mere presence of an abundance of natural resources does not guarantee a high degree of power. An individual may possess a goodly supply of high-grade gasoline; but unless it is utilized as fuel in an automobile, the gasoline cannot transport its owner from his home to his office. A nation may control vast reserves of natural resources, but these will remain only a potential source of power unless the social resources of that nation put them to work. Men, living in society and working through social institutions of all sorts, must use the social resources at their command in order to validate these natural resources as standards whereby political power may be measured. The effectiveness of men in utilizing these resources depends upon a large number of variable factors. Many of these variables are discussed elsewhere in this book, but some of them require special treatment at this point.

Population curves, the size of the existing population, the skills and knowledge available in the population, the scientific, technological, and social insight present in the population, the institutional efficiency, the degree of unity, and the strength of tradition all condition the effectiveness

of the power at the command of a particular society. If scientific skill is essential to an industrial society, those who possess or who control that skill will be able to increase their power in the domestic scene. In the modern world there are heavy demands made upon national morale and national unity. Those nations which have the highest morale and the strongest unity will almost invariably be more powerful than those whose morale cracks or whose unity is broken by internal group conflicts.

Social and human resources are in themselves measures of political power. But when social and human resources and natural resources are welded together to make an efficient society, a powerful nation will emerge. The basic tests of the power of a class, a group, or an individual, no less than of a state, are to be found in the functioning of that class, group, individual, or state in relation to other classes, groups, individuals, or states. As Professor Schuman points out, "The 'power' of a State is a meaningless concept except in relation to the power of other States."[11] The same may be said of the power of groups or of individuals within any given society.

SOCIAL AGENCIES OF POWER

Men and nations possessing all of the sources of political power will be weak and ineffective unless they develop and operate agencies through which certain ends may be gained. Political power comes into being as a functioning, dynamic fact only when individuals or nations build and use social agencies for the achievement of consciously or unconsciously desired political goals. To a greater degree than is usually recognized, all of the social institutions of a nation are used as instruments of political power. Some nations use them more deliberately than others, just as some individuals pursue political power more consciously than others. In every nation there are certain agencies acknowledged as institutions primarily for the exercise of political power. In the ordinary language of the layman these are known as governmental institutions. It is through these agencies that most political power is exercised. However, whenever other agencies are used to accomplish political ends, they become agencies of political power.

The great proportion of the agencies of political power have been formally organized into institutions such as government, newspapers, the Church, corporations, and political parties. But some of these agencies remain outside of the institutionalized area. They operate just as effectively although they are often more difficult to understand and analyze. Such informal agencies of political power as governmental symbols, social prestige, authority, and position fall within this latter class of agencies. Very

11. Schumann, *International Politics*, p. 494.

frequently formal and informal agencies go hand in hand, as in the case of the prestige associated with the individual who is a member of the board of directors of several large corporations. Each may be used as a separate agency for the exercise of political power, but when they reinforce each other the amount of power exercised definitely increases.

Institutional Agencies. 1. GOVERNMENT. The most obvious social agency of political power is government itself. Other chapters in this volume deal with this agency in detail and it is necessary here only to point out that the way in which a government is organized, the methods developed for the control of that government, and the group to whom the government is responsible, together with the social philosophy within which the institution operates, will all determine the kind of political power exercised by government and the degree of its effectiveness. For example, modern dictatorships have been so organized as to concentrate authority in very few hands (theoretically in the hands of a single person). The only control exercised by the general public is the possibility of rebellion or the limits of economic exhaustion. Responsibility is disowned save perhaps to the ruling clique or to the army. A philosophy of force forms the social framework within which such governments operate. It is little wonder, then, that a small group of men are able to exercise great political power, carrying their activities to the point of wholesale "purges," widespread use of "concentration camps," and persecution of racial, religious, and political minorities.[12]

When engaging in war, democratic nations tend toward dictatorial organization and the philosophy of force, thus increasing their power. Corporate organization in the financial field results in powerful group action because of the concentration of authority and lack of responsibility to owners save through the channels of dividend returns. The business philosophy of profits is more forceful than the political philosophy of tolerance or the social philosophy of neighborliness. In a society in which financial corporations thrive, it is to be expected that considerable political power will be exercised by business organizations.

2. MEANS OF COMMUNICATION. All of the instrumentalities for the communication of ideas may become agencies of political power. Newspapers, magazines, and books; telephone, telegraph, and cable service; radio stations, motion pictures, and news reels; schools, forums, and lecturers; stage, music, and art—all these mediums for conveying ideas may become the means by which political power is exercised. To the extent that these

12. This description is not intended as a condemnation, but as an illustration of the fact that the conditioning factors just listed do influence the degree of power which may be directly exercised upon a population.

agencies of communication become themselves "big business," they will reflect the attitudes of the business section of the nation's life. This reflection may be the result of a deliberate and conscious plan of action to achieve certain ends, or it may be the unconscious reflection of an atmosphere surrounding those who own or control the agency. To the degree that these agencies are owned or controlled by government itself, they will tend to reflect the political desires or goals of the group or the individuals exercising political control. This again may be either a deliberate or an unconscious reflection of the ideas current in the political area of the nation's life.

Every agency for the communication of ideas is susceptible to being used as an instrument of propaganda. Propaganda obviously may be either public or private in source and in purpose. It is equally obvious that it may be either good or bad, depending upon the values held by an operator or by an observer. From one point of view, propaganda is good if it carries out its intended results. From another point of view, it is bad if factual truth is falsified, distorted, or withheld no matter how successfully such action achieves its intended results. To the student of political power, it is enough to know that propaganda, however viewed, may operate through all the channels by which ideas are communicated from one portion of the population to another. Examples may be drawn from all of the fields mentioned.[18] Marching bands, martial airs, flaming posters, "four-minute" speakers, courses in "Americanism" in schools and colleges, "fire-side chats," censorship of the mails, patriotic motion pictures—all are evidences of the ways in which institutions for the communication of ideas may become agencies for the exercise of political power.

In the United States today those groups able to finance a program of action find the channels of communication decently available. Conflicting group interests find expression over the radio, in the press, and on the stage. When Father Coughlin used the radio and the press to help defeat the Administrative Reorganization Bill, he was exercising political power. When Henry Ford placed Mr. Cameron on his radio concert hour, he was exercising political power in one of the subtlest and most effective ways. When the *Daily Worker* published a defense of Russian activity in Finland, it was using the printed page to exercise political power. Within the limits of public patience and financial demands, these competing groups may struggle for or exercise political power in the United States. But the obvious and open use of such instrumentalities of political power is to be found in such

13. Charles and Mary Beard have graphically portrayed this picture for the United States in their *America in Mid-passage* (New York: Macmillan, 1939), especially in the chapters entitled "Exploring Domestic Sources of Foreign Policy" and "Shadows and Shapes of Foreign Policy," pp. 381–500.

nations as Germany, Japan, Italy, and Russia, which are all operating under dictatorships of one kind or another. In such nations all of these agencies become the deliberate tools of political power under the immediate control of the government. To the degree that other nations use a technique of censorship, their agencies of communication become instruments of political power.

3. TRANSPORTATION FACILITIES. Other agencies which may be used for the exercise of political power are facilities for the transportation of persons and things from one place to another which are at the command of a given society. Rapid transportation facilities make it easier to move troops, policemen, or deputies from one trouble spot to another. They obviously facilitate the movement of troops and supplies in case of war. Practically all European nations have built railroads and highways with a very practical eye upon their military value. Canals, river improvement projects, air fields, railroad facilities, and modern highways all are possible instruments of political power. Important as they are as carriers of troops and individuals, they are also of primary significance as carriers of articles of commerce. The wide exchange of commodities between different sections of the community is an essential factor in providing an efficient industrial, commercial, and agricultural balance in modern society and secures for a nation a standard of living. Rich agricultural resources cannot increase the power of a nation unless agencies for transporting crops to market are available. The power of any given society increases, other factors remaining constant, as the transportation facilities become increasingly efficient. Indeed, inadequate transportation equipment combined with rich resources invites attack and decreases the power of a nation.

It thus becomes apparent that any nation or any group within a specific nation which has at its command or under its control an adequate, effective, and rapid transportation system will be in position to exercise considerable political power over other groups within a single society. Nations have gone to war to protect or to secure "strategic" passes, roads, straits, or railroads. Thus, in most nations, the instruments of transportation either have been taken over by the government or have been designated as "public utilities" or "common carriers" and subjected to a measure of public control.

4. OTHER PUBLIC UTILITIES. Other "public utilities," such as electricity, gas, and water, may likewise be used as agencies of political power. Those who own or are in control of the agencies upon which people are dependent for their existence are in a position to exert real power, and this power will become political when it is used to achieve political ends.

Informal Agencies. Not all of the instrumentalities through which power

may be exercised have taken on institutional forms. In this area, the student of political dynamics is continually faced with the necessity of drawing fine distinctions between agencies and techniques. But for present purposes, the social facts of leadership and authority may be classified as agencies of power.

1. POLITICAL LEADERSHIP. Those qualities necessary to successful political leadership have been tentatively suggested by Professor Merriam in his *Political Power* and it is not necessary to repeat them here.[14] It is enough for the student of political power to know that leadership is one of the most effective agencies by which a group may exercise political power over other groups. When the "great man" of a group dies, many, each claiming to be the true apostle, seek the dead man's power by means of the structure of leadership built by the leader. The use of the "leadership principle" by modern dictators—instituted by Hitler, *der Fuehrer* (the leader)—clearly illustrates how the fact of leadership may become an agency by which political power is exercised.

2. POLITICAL AUTHORITY. Authority is more clearly an agency of political power than is leadership. The word "authority" carries a sense of source and responsibility. If a thing or a person is responsible to some one or to a group, it or he becomes an agent of the person or persons. The "divine right" theory is a good example of authority's becoming an agency of political power, for here authority has taken on an existence independent of the person or group exercising the authority. The same is true, in a less obvious degree, of the "reasons of state" theory held by modern dictatorships or of the "temporary dictatorship" of the proletarian groups in modern Russia. As generally understood in democratic countries, the idea of "popular sovereignty" falls into the same classification. The meaning of the cry is the same whether it be "The King is dead, Long live the King" or "Parliament is dissolved, Long live Popular Rule"; authority is being used in each case as an agency of political power. It also makes no difference how much philosophers argue over whether authority can or cannot have an existence of its own apart from those who happen to be in positions of authority. As long as the folklore remains folklore, authority can be and very often is used as an agency of political power. Those who are in position to exploit this folklore will be able to exercise political power over others within the group or nation.

SUMMARY STATEMENT. Every social institution may be used as an agency through which political power can be exerted. Instrumentalities for the communication of ideas and for the transportation of persons or things are

14. *Op. cit.*, pp. 31–46.

clearly susceptible of such use. Some informal agencies of political power must be considered, and of these leadership and authority are of paramount significance. To the student of political dynamics, these agencies are important primarily as instrumentalities for the exercise of political power. It is well to keep in mind that power does not reside in these institutions but merely operates through them to accomplish certain political ends.

TECHNIQUES OF POWER

The sources and agencies of political power having been suggested, attention must next be directed to the techniques employed in exercising that power. These techniques may be classified, for purposes of convenience, into three major groups: (1) the traditional or historic techniques; (2) those which are modern in nature only because of contemporary knowledge which makes them more significant than they were formerly; and (3) those which are distinctive in character regardless of time.

1. *Traditional Techniques.* There seem to be as many different ways of exercising political power as there are individuals to whom political power is important. The historical experience of mankind, however, exhibits some techniques which have been consistently and effectively used in applying political power to the accomplishment of certain ends. Varying situations have called for different techniques, and those who have sought to accomplish certain political goals have used techniques applicable to the society in which they found themselves. It should be pointed out also that the dividing lines between the various techniques are in some cases vague and difficult to draw. What is persecution in one situation, for example, may be only intimidation in another. Dividing lines are still more difficult to draw when individuals react differently in the same situation. Two communists, let us assume, are arrested on charges of disturbing the peace. One of them calls this action the technique of persecution, while the other says it is intimidation. But the police department simply says it is the technique of maintaining the peace of the community. Just what is the technique in such a case?

With the difficulties just suggested in mind, a descriptive classification of techniques of power common to the history of mankind may be made as follows: (a) sheer force, (b) intimidation, (c) insinuation, (d) fear, (e) persecution, (f) conquest, (g) "divide and rule," and emotional appeals such as (h) deification of leaders, (i) appeal to unity, and (j) the use of symbols.

a. FORCE. Sheer force as a technique of exerting political power hardly needs explanation, for it is the most obvious method known to man. Mob

action, riot squads, deputization of gangsters, third degree tactics, and similar activities all exemplify sheer force as a technique of political power.[15] The investigation of the La Follette Committee on Civil Liberties revealed evidence enough to warrant the suggestion here that sheer power remains today a commonly used technique of carrying political power into operation. It may be termed primitive, but the fact remains that it is an effective technique in the domestic scene of groups and individuals struggling for positions of control in society. In the international scene, war represents the same technique on a vast scale. Sheer power is in wartime supplemented, of course, with other techniques, but wars remain largely demonstrations of sheer power or brute force staged in the interest of political power.

b. INTIMIDATION. Intimidation is an equally old and common technique for exerting political power, by means of which an individual or group may compel obedience to its dictates through threatening to resort to open force. If troops were concentrated on the Rumanian border, intimidation would be the technique used to compel that nation to follow or refrain from following a path of action desired by the nation massing the troops. If an employer should openly threaten to fire an employee if the employee should vote for a certain candidate, he would be using intimidation as a technique of political power. Or if a labor leader should threaten to call a strike if his employer should campaign against a proposal to establish a municipally owned power plant, he would be using the same technique. Intimidation as a technique of political power is most effective when resorted to by that person who can command effective forces with which to carry out his threat. Threatening to "fire" an individual is a mistaken technique of power unless the person using such a technique possesses the authority to make good his threat. The same rule holds as well in the international field as in the domestic field.

c. INSINUATION. Insinuation is closely akin to intimidation as a technique for exerting political power. Here, however, the threat is far less open and obvious and no application of force may necessarily follow a refusal to comply. A "whispering campaign," a "silent reminder" to "vote right," "mud slinging" tactics in political campaigns, suggestions of "possible" or "alleged" corruption or graft are illustrations of the insinuation techniques at work. In so far as such appeals compel individuals to do or to refrain from doing things political, they become successful techniques of political power. No resort to force need be used in such cases, for a "judiciously

15. The American Civil Liberties Union has catalogued such activity in the United States and their material has been popularly presented by George Seldes in *You Can't Do That* (New York: Modern Age Books, 1938); see especially his bibliography, pp. 257–301.

placed suggestion" may be far more effective than a show of force. This technique is most successful when used by an individual or a group well versed in the moral atmosphere of a community. The particular content of the insinuation will vary, of course, with the moral rules dominant in a particular society. A rival gangster trying to remove the czar of the underworld would hardly suggest that his rival had killed a man and expect such an insinuation to work the moral doom of the czar. But a similar insinuation in "polite society" might be just the correct technique to bring about the defeat of a presidential aspirant.

d. FEAR. The technique of fear seems to be as old as political activity and is one of the most effective known for the exercise of political power. Indeed, Bertrand Russell maintains that "The impulse of submission . . . has its roots in fear."[16] It is true that people literally fear for their reputations, their property, or their lives often enough to provide a person or a group seeking authority with a basis for exercising political power over those who fear. Any action which will inspire fear in peoples or groups will increase the power of the individual or class putting such action into effect. Midnight raids by storm-troopers, the white sheets and flaming crosses of the Ku Klux Klan, mysterious and unexplained events afar off, the long-continued appeal to emotions which leaves people emotionally exhausted and fearful —these are examples of the fear technique in the field of political action. Small, resolute, and compact groups do not fall easy prey to such tactics, but isolated individuals and masses of men do. Hence the technique is usually used in these two areas rather than within the field of solidified group activity.

e. PERSECUTION. Persecution, when it is employed as a technique of political power, is the continuous unrelenting application of pressures of all kinds upon a group, race, or class of persons within any given society. Such action may be taken as an end in itself in order to "liquidate" the opposition and thus increase the power of a particular person or group. Persecution may also be and often is used as a means to other ends—for example, to turn attention to a "scape goat" so that the persecutor may be free to pursue other paths without effective interference. Often these two purposes may become intermixed, as seems to be the case in the Nazi persecution of the Jews in the Third Reich. Persecution may assume many diversified forms, ranging from the use of force to constant insinuation, whispering, ostracism, discrimination, and legal regulations of an irritating rather than a destructive nature. This technique keeps an opponent or a potential one continually on the defensive. It saps the courage and morale of a persecuted

16. Russell, *Power*, p. 19.

group, thus rendering the group less dangerous and more susceptible to regulations.

f. CONQUEST. Of all the techniques historically applied in the international field, conquest occupies the pre-eminent position. This technique is largely dependent for its effectiveness upon two factors: the geography and topography of the area to be conquered, and the relative stages of the technological skills at the command of the contesting groups or nations. The significance of these factors has been illustrated repeatedly in the history of mankind, and recent examples may be found in the German annexation of Poland and the Japanese invasion of China proper.

g. DIVIDE AND RULE. Closely allied to open conquest is the technique of dividing and by this division ruling the opposition. This principle has long guided the foreign policy of the British, especially in their relations with Continental nations. In the domestic field this same technique is evidenced in the American Federation of Labor and the C.I.O. struggle within organized labor. It is well to recall once again that this "divide and rule" principle may be, but does not necessarily have to be, a conscious or deliberately planned technique. A society in which differences of opinion are tolerated or encouraged will produce divisions within a particular class or group, thus permitting another group or person to increase its political power if it is in a position to exploit the new divisions. In some respects this explains the success of the English policy popularly known as "muddling through."

h. EMOTIONAL APPEALS. Deification of leaders, appeal to unity, and the use of symbols differ only in detail and not in their essential nature as techniques of political power. They are all effective because they make use of the emotive and emotional aspects of language while seeming to appeal to the cognitive aspects of language. Because most men are moved by emotional rather than by cognitive appeals, these techniques are very effective in increasing the political power of the group or individual making the appeal. Institutionalized religion has long practiced these techniques. So also has government. The ancient Egyptian Pharaohs were deified as were the later emperors of Rome. Nor has this practice been abandoned, for Lenin, for all practical purposes, has been deified in modern Russia, as has Dr. Sun Yat Sen in present-day China. National heroes becomes deified when time has sanctified their actions. This deification of leaders approaches an appeal to authority. It is effective as a technique of political power in proportion to the strength of the belief in the leader's sanctification. To quote Washington's "Farewell Address" or Lincoln's "Gettysburg Address" is effective as a technique of political power in proportion to the listener's

belief in the greatness of Washington or Lincoln. But to quote Lenin in Russia is as effective as quoting the Koran to the "true believers" or the New Testament to a Christian.

An appeal to "unity" is an effective technique of political power because it makes objection "unpatriotic," or "treason." It places a premium upon conformity, and conformity increases the power at the command of the group or person in control. *Esprit de corps,* "morale," "patriotism," "foreigners," "aliens," "agitators," "external dangers," "vital interests"—all such expressions make their appeal to unity for purposes of solidifying the group, destroying the opposition, and increasing the power of the nation in relation to other groups or nations less unified. Practically all symbols are used for this same purpose. The flag, "for king and country," "fatherland," the cross, "progress"—such expressions and physical things are evidence of man's reliance upon a symbol or external fact for unity and security. They represent man's psychological need of "belonging to" a society in a far more intimate way than his intelligence can ever afford. It is because of this need that the use of symbols is one of the most widespread and time-honored techniques for exerting political power known to man.

2. *Contemporary Techniques.* Even though they are not peculiar to the modern scene, there are some techniques which deserve special treatment because of their contemporary significance, their widespread use, and their effectiveness. Five such techniques have appeared in the political struggles of the past twenty years: (a) consciously directed propaganda; (b) carefully premeditated educational control; (c) deliberate nurture of the racial superiority idea; (d) frank preachment and practice of mass brutality; and (e) repeated reliance upon the supposition that the end justifies the means.

OLD TECHNIQUES WITH NEW IMPORTANCE. It is obvious that these techniques are not new to the practitioners of political power, for all of them have been used more or less effectively in the past. Their current importance lies in the fact that such techniques are now based upon a fund of knowledge and body of instruments far greater than ever existed in the past. Propaganda today rests upon rapid and far-reaching agencies for the communication of ideas and the transportation of persons. These agencies now make it possible to place identical information before an entire nation at any given moment in time. All of the agencies may be integrated and synthesized so as to present an impression of unanimity and power never before possible. Formal and informal educational devices may be used to tell the same story. Church, social organizations, mass meetings, schools, motion pictures, stage, and newspapers all welded into a single agency of propaganda make this technique much more effective today than it was when news traveled by

pony express, or when preachers rode circuits, or when legions moved over Roman roads on horse or on foot.

Even without a detailed discussion of each of these techniques, it is easy to see their importance in the contemporary scene. It is not that they are modern, but that they take on added significance when operating through powerful instruments forged by a scientific age. Were it not for these instrumentalities these techniques would be no more significant than the traditional methods already mentioned. That nation or group within a nation which has these instrumentalities within its possession or under its control will find this group of contemporary techniques powerful agencies for exercising control. The carefully planned mass meetings and programs arranged by Nazi, Fascist, and Communist dictatorships (to say nothing of the "shows" staged by political parties in convention in the United States) illustrate the effectiveness of these techniques in achieving at least a show of unity during which conformity triumphs and a sense of greatness emerges. With such factors at work within a society, political power operates rapidly, smoothly, and effectively in achieving its goals.

3. *Two Techniques Which Destroy the Operator.* Of the five techniques classified as contemporary, at least two would seem to work to the final destruction of their operators: *frank preachment and practice of mass brutality,* and the *repeated reliance upon the doctrine that the end justifies the means.* In the short run, or on the immediate pull, mass brutality will beat down the opposition and thus increase the power of a group over other groups within the nation. But when the population has become brutalized in attitudes it may turn upon its teachers, wrecking them by its own use of brutality. Reliance upon the doctrine that the ends justify the means places the holder or seeker of power in the difficult position of having to achieve his avowed ends. Unless this can be done, or unless ends may be successfully changed, popular unrest, even in the most dictatorial of nations, will dethrone the holders of power. There is no one loved more, feared more, and stoned more quickly than the preacher who turns out to be a false prophet. Witness the life of Savonarola.[17]

4. *Distinctive Techniques.* Those methods of exerting political power just mentioned are the ones usually employed. There are some techniques which deserve special treatment because of their uniqueness or distinctiveness. Of these at least three call for special consideration: (a) the "lie," (b) the idea of a "universality of choice," and (c) the illusion of victory.

a. THE LIE. The technique known as the "lie" reaches its greatest effectiveness when carefully timed and when the temper of the opposition has been

17. See Burckhardt and Symonds, *op. cit.;* also the Old Testament, especially the "Prophets."

correctly gauged. In substance the technique may be simply stated in the following way: inform the opposition of your grand intentions, make the truth appear so fantastic as to be impossible of belief, and then follow your announced intentions to completion. In the present scene, Adolf Hitler seems to be the master of this technique. It is a method often used very successfully on the football field and often found in operation in the social field as well. One of the most successful techniques for combatting the "lie" is to place its user under the moral stigma of a falsifier of the truth. The claims of Germany concerning her submarine raid on the great English naval base at Scapa Flow were branded as "lies" and taken as such by the general public; subsequent British disclosures gave much weight to the German claims. But in the meantime people got the definite habit of disbelieving all German claims, which increased the power of England because it lessened Germany's chances of support from neutral countries. This, to some writers, is the real "lie" technique in exercising political power.[18]

b. UNIVERSALITY OF CHOICE. There are many actions taken in the field of government which are taken because there is no "choice" involved; events often compel or determine certain action. This is, of course, the philosophical "free will vs. determinism" battle brought into the political area. For present purposes it is sufficient to point out that the idea of choice places an individual in the position of being responsible for making a choice. This in turn gives rise to a moral label which may call the choice "good" or "bad." And this, finally, allows a "devil" to enter the picture as the scapegoat for failure should it come. Such emotional thinking, if it can be called thinking at all, allows those who entertain ambitions of power to secure positions of control over those who "think with their blood." The concept of a universality of choice also renders those who exercise political power more liable to attack from opposition, and it is for this reason that the high demand placed upon national solidity at the present time puts a premium upon the concept that things "must" be done and that choice is a luxury too costly to purchase at present.

c. ILLUSION OF VICTORY. The technique known as the "illusion of victory" has its roots deeply fixed in the psychological nature of mankind. This technique is used in international, intergroup, interclass, and interracial struggles and has been practiced throughout the history of man. It is basically a preachment of the final victory of a particular program. "O Grave,

18. A still more correct and much more careful discussion of the "lie" is to be found in Karl Mannheim, *Ideology and Utopia* (New York: Harcourt, Brace, 1936), International Library of Psychology, Philosophy and Scientific Method. (This volume should be used only by well-advanced students and certainly is not material for the beginner.)

where is thy victory!" "the inevitable class war," the "temporary dictatorship of the proletariat," "the triumph of justice" (and "our arms")—these and many other examples could be used to illustrate this technique of political power. Why is it so forceful? In a world of frustration, defeat, and seeming hopelessness, a need for a defense creates the appeal of "ultimate victory." To many the saying seems trite, but to the psychologist it possesses real meaning: "While there is life, there is hope." Out of this hope springs the basis of the technique of ultimate victory. This gives courage and determination and fortifies men to suffer long in order to reap the rewards of victory. Even if victory does not come in the lifetime of mortal man, the promise of future victory will provide men with great power over others.

A much more prosaic interpretation, yet one that does fulfill the same psychological need, is the meaning given to this technique by writers who call it "the band-wagon technique." Contemporary examples would come largely from the current popularity of polls and samples of opinion and desires of a population. Here the appeal is to "join up" with the victors, to "go with the crowd," or to "be on the right side." This appeal has been known to practical men of politics for a long time, but again modern invention and advanced knowledge make the technique distinctive and worthy of separate mention.

Summary Restatement. Techniques of political power are as plentiful and varied as mankind itself. Those which have been described are techniques which have found the most general application. Some of them are of enormous significance for the present generations because of the powerful instruments at the command of technological civilizations. And some are of importance because of their subtle implications and wide ramifications. But all of them are practical and significant means of exercising political power over human beings. The student of politics in operation, those who want to know how things really do work, will do well to observe carefully men in action in the society to which they belong. This observation will disclose all of the techniques mentioned, operating without limitations save those placed upon the holders of power by the social philosophy and institutional organization of the group.

CONCLUSION

To one interested in political dynamics, there is much meaning in the statement of William Penn that "Governments are like clocks; they go by the motion men give to them." Psychology and sociology have much yet to tell to the student of political science. Perhaps their findings will do much to clear up many dark passages in the book of government. Much, however,

has been accomplished during the past twenty years in analyzing and describing the basic factors of political action. No concept has been more fruitful than the "power concept" in making government understandable.

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CHAPTER FIVE

Politics: What Is It?

POLITICS is usually defined as the science and art of government, and as such covers the entire field of political life and behavior. It embraces the relationships between the state and the individual and in this respect is practically synonymous with political philosophy; it includes also the study of the forms of government and the relations between the state and its political subdivisions and between states and other states. In American terminology, politics is usually considered synonymous with government, or political science.

THE DYNAMIC NATURE OF POLITICS

As distinguished from political science, politics is dynamic. Its interest in the structure of government centers on results. It does not assemble the details of political structure in order that men may derive some curious satisfaction in the possession of unrelated facts. Nevertheless, politics is an integral part of political science. Its heritage from political philosophy has left it concerned about the eternal values of life; but its numerous and intimate contacts with other social sciences have prejudiced it in favor of the scientific method. Hence, although politics does not cover the same range as political science, it is more rigorous in its use of the scientific method in treating the matters that come within its ken. Perhaps we can make this subject clear by resorting to analogy. Politics intersects political science on a horizontal plane. It does not reach vertically so high into the clouds of political speculation nor so deep into the labyrinths of law and administration, but its quest for knowledge extends far afield into all the cognate sciences that offer explanations of human limitations, human needs, and human conduct.

THE PRACTICAL NATURE OF POLITICS

As distinguished from government, politics is the art of the practical and the science of actual things. *Government* we have defined as a society of men and women who have accepted a set of rules governing their status and relationships. It is, of course, also the whole *apparatus* of governance: the buildings, the personnel, the materials, the supplies, the regulations and the routines whereby the whole system functions. That portion of it which

is confined to the application of laws we call *administration*—but since we have learned that no administration exists which may be divorced from politics, politics includes administration within the scope of its interest.

Another common expedient employed by those who seek to isolate the disciplines from each other is to place the entire process of settling disputes between men, determining criminal guilt and imposing some kind of punishment for it, and reviewing the acts of legislative bodies and administrators in the realm of the *administration of justice*. Yet, so great is the confusion in this field that in nearly all universities law schools and departments of political science exist side by side and contend with each other for the right of interpreting the facts of adjudication.

POLITICS AND THE RENDERING OF DECISIONS

More narrowly viewed, politics is primarily concerned with political action and political practices; it stresses the tactics and strategy of the practitioner and comprehends the making of all decisions relative to the conduct of government which are not definitely prescribed in the rules which govern administration. Since politics is the function of making decisions, it is practiced both in dictatorships and democracies. Dictators may speak scornfully of parliamentary government and the superior organization which they have developed to control all public action may seem to justify their derision, but even dictators are not free to make decisions which do not have the approval of the people who constitute the citizenry. They, too, must base their action on public support. As Lindsay Rogers has said, "In a dictatorship a dictator does not bar demagogy. He simply monopolizes it."[1] He does not dispense with the referendum but he introduces novel ways of carrying on a continuous referendum of measures that he has tentatively decided upon. In some cases he will abide by the will of the people as contemporaneously expressed; on other occasions he will take steps to alter that will either by the exercise of his power of persuasion, or by the application of force, or by the justification of victory.

Conversely, in a democracy, the rendering of decisions is supposed to be left to "the people"; but no way has yet been found to ensure that the will of all the people shall continuously and effectively prevail. So long as this condition obtains—and some writers, Robert Michels, for example, have contended that it will always exist—certain men and certain groups of men will always exercise a disproportionate influence over all political action. Politics is, therefore, not limited to particular forms and systems of government.

1. L. Rogers, "Politics," *Encyclopaedia of the Social Sciences*, XII, 225.

THE ELEMENTS OF CHANCE AND PREFERENCE IN POLITICS

In the preceding chapters, the authors have attempted to indicate some of the tacit assumptions which form the basis of politics. They have reviewed also the explicit theories which have been offered as descriptive of actual government, in explanation of political functions, and as justification of "what ought to be." Regarding politics broadly as the mode of making political action effective as well as the formulation of public policies, they have sought in symbols and other instruments of power the explanation of the means whereby certain persons make their wills predominant.

Lasswell said, "The study of politics is the study of influence and the influential. . . . The science of politics states conditions; the philosophy of politics justifies preferences."[2] In his compact little volume, Professor Lasswell asserts that he has merely stated conditions; the authors of this volume have, on the contrary, declared preferences. These preferences are clearly indicated. Perhaps, in some instances, they will be found conflicting. At any rate, they are justified by the conviction of the authors that men will act more intelligently if they are advised, and on the assumption that the readers of this volume are capable of forming judgments of their own. As the following pages will show, the failure of politics to attain the attitude of science makes the contributors to this volume skeptical about their own convictions; but the fact that the people of the United States do actually possess a potentially large measure of control over their government renders it necessary to offer some suggestions based on their experience and research.[3]

Although the philosophers have striven to exhaust the catalogue of values, a satisfactorily complete enumeration of them has not yet been attained. What do we want from life? What are the things that we cherish? Lasswell contented himself with naming three: deference, income, safety. To these we might add, at random: convenience, ease, security, the opportunity to employ our talents to the utmost, the exaltation of our spirits, the certainty of future bliss, liberty of action, freedom of movement. "Every new happening brings with it new knowledge, new problems, new opportunities, new purposes. Life is not the expression of a single, already-known idea, a single dominating purpose."[4]

It is true, of course, that man wants "life, liberty and the pursuit of happiness," as Jefferson wrote in the Declaration of Independence; but recently

2. H. D. Lasswell, *Politics, Who Gets What, When, How* (New York: McGraw-Hill, 1936), p. 3.

3. See G. Salvemini, *Historian and Scientist* (Cambridge, Mass.: Harvard University Press, 1939), *passim*.

4. A. Meiklejohn, *What Does America Mean?* (New York: Norton, 1935), pp. 185–6.

he has seemed to believe that he can actually have happiness. Yet when he seeks to find it, his methods may turn him away from his goal. A symbol invented to sanction an established order, such as Bruce Barton's God, may be captured by the revolutionaries and used to overthrow the established order. Violence is a neutral force; it may be employed in behalf of a government or against it. If goods are withheld from the masses, they may revolt and resort to violence. The practices and procedures which a people develop may harbor the germs of dissolution. In such a case, for example, as when the President constitutionally attempts to deprive the Court of power which it has constitutionally acquired, the resulting conflict may have a bitter termination. Or it may be resolved by chance or by compromise.

THE ELEMENT OF COMPROMISE IN DEMOCRATIC POLITICS

In all of the institutions which we have established in the United States for enabling politics to function there is one common element of fundamental importance. This element is compromise. One may properly call this politics—democratic politics. A man must observe certain limits in his struggle for power. He must be satisfied with less than enough to satisfy his contemporaneous needs and less than his command over the techniques of power seem to allow him to obtain—partly because of ethical considerations and partly because of the hope of future gain.

THE SCOPE OF POLITICS AND THAT OF OTHER DISCIPLINES

The search for the essence of politics leads us into many fields. It is our intention now to explore these fields and to determine what relation political science has to other disciplines. We cannot say that the statement of these relationships is elementary. We have already pointed out that the boundaries of the learned disciplines are indistinct; but they are nevertheless present. In the first place, we define art and science in mutually exclusive terms. Art is the use of contrivances by man to alter nature with the purpose of realizing its intrinsic potentialities. Art is everything from primitive handicraft to the most highly complex technological apparatus for subduing nature. Art is the practical. Politics is an art. But no art is possible without science.[5] Science is a discipline of knowledge. Therefore, there can be a science of engineering and a science of architecture, even if the practicing engineer works by rule of thumb and the architect designs his plans and executes them without conscious knowledge of the principles involved in his work. However, politics is not commonly awarded a place in the hall of

5. This is the view of Havelock Ellis as expressed in *The Dance of Life*. A contrary opinion is expressed by André Maurois in his *Captains and Kings*.

Science, because its methods are not scientific.[6] To this subject we shall return later. At this point, let us emphasize the fact that politics is not a quest for that type of knowledge which has been pre-empted by the so-called natural, or exact sciences.[7] It is, however, one of the "social sciences," and it is therefore important for us to determine its place in the social sciences. Here we may ask two questions: What are the boundaries of politics (in the broadest sense) with reference to the substance of the other social sciences, and what are the unique methods of politics as a study?

THE SOCIAL SCIENCES

Although "social science" is a term in common use, there is no commonly accepted definition of it. Perhaps, the clearest statement of the subject is Edwin R. A. Seligmann's introduction to the *Encyclopaedia of the Social Sciences,* wherein he holds that all disciplines which have as their purpose the study of man in association with other men are social sciences. He lists them as: (1) the older social sciences—politics, economics, history, and jurisprudence; (2) the newer social sciences—anthropology, penology, and sociology; (3) the semi-social sciences—ethics, education, philosophy, and psychology; and (4) the sciences with social implications—biology, geography, and linguistics. Obviously, this enumeration is not complete; and one feels obliged to add the sciences, or disciplines, of religion, music, architecture, such variants of psychology as psychiatry, such variants of economics as business administration, and a whole host of peripheral subjects.

THE SOCIAL SCIENCES REFLECTED IN INSTITUTIONS

Knowledge of these disciplines may be obtained by examining the institutions which man has built up. If we establish a sequential relationship among these institutions in point of time, we have history. But when we attempt to define spatial and cultural limits, we are in the province of a science which still has no name. Specialists in many fields have tried their hand at naming it, but the academicians known as "human geographers" and the practitioners known as "planners" seem to have annexed this province. Later in this volume reference will be made to resources and planning, and we shall see how all of the sciences and the arts have co-operated in the attempt to describe factually the existing distributions of populations, resources, and techniques, and to offer suggestions for optimum types of social organization.

The functional description and analysis of institutions is a comparatively

6. See the discussion by G. E. C. Catlin, *The Science and Method of Politics* (New York: Knopf, 1927), pp. 91–145.

7. See B. Ginzburg, "Science," in the *Encyclopaedia of the Social Sciences,* XIII, 591 ff.

simple task that has engrossed the attention of all kinds of specialists. Each one has been impelled to show the relationship between his pet institution and another. Since that is precisely what the author of these lines is doing, the reader will not encounter any expression of annoyance in these pages. Intellectually, we would be happier if power processes remained confined within particular institutions; but political scientists must take things as they are. With these reflections in mind, let us briefly examine some typical institutions.

We have said that when men are gathered together in order that they may by their joint efforts promote the interests of each and all, we have a political society, normally called government. If those interests happen to concern man's relation to God and his religious relationships with others, the institution that results is called the *Church*. If the group is small and consists only of members united by blood relationship, the group is called the *family*. (It is to be noted that a larger family group, comprising members of more remote blood relationships, is called by other names: the *clan*, the *tribe*, the *phratry*.) Groups of men who are associated for the purpose of preying upon other men with whom they have other bonds may be called *gangs*. Other associations for profit which are recognized in law as institutions for the promotion of legal ends are called joint-stock associations, or *corporations*. A special type of organization of this kind is the *co-operative association*, which presumes to work for savings rather than for profits, and which maintains a form of organization that in most cases distributes power equally among its members. Closely allied to co-operative associations are the various types of *mutual benefit associations*. And not entirely dissimilar in structure are *labor unions*, which are composed of men banded together for mutual aid in defense of their rights with respect to wages and conditions of work. Finally, *political parties* are associations of men which sometimes are highly institutionalized and scarcely distinguishable from the State itself. A *world state* has been proposed but none exists at the present time.

SOCIAL SCIENCE AND THE PROBLEMS OF THE STATE

Concepts of the State. A state is distinguishable from other associations by its higher degree of institutionalization and by the fact that it has sovereignty, which is supremacy in rule or power. As a matter of fact, there are no states which have absolute sovereignty, and it is extremely doubtful whether any such state ever existed—unless it be the Graeco-Macedonian state at the moment when Alexander petulantly exclaimed that there were no other worlds to conquer. All things are relative. Whether a government

is a state in the fullest sense of the term depends upon our conceptions of space and time. Over how great an extent of territory must a state be sovereign in order to win the right to be called sovereign? How shall its authority be exercised; by force, by persuasion, or by example?

It is matters such as these that have engaged the attention of political scientists from time immemorial. Once preoccupied with reflection on the nature of the state, they now concern themselves with the great problem of power. Who has power and how much does he have? How does he acquire it, exercise it, lose it? Is it better that one or the few should rule, or is it better that the many should control the destinies of all?

Size of the State. The social sciences have joined their efforts in an attempt to explain the problem of the size of the state. Determining the optimum size of the state appears to be a function of social evolution, but there are sharply divergent views as to whether scholars should confine themselves to the observation of "natural" forces in their study of the state as an institution or should intervene in behalf of ideals to which they are intellectually committed. Some scholars believe that the national state is but an important stage in the evolution of groups from primitive political aggregates of persons bound together by blood relationships or resident within a restricted area, toward leagues and federations of states and ultimately a world state. Today we are profoundly impressed by the variety of conceptions of the world state which have been presented to us.

There is first the conception of the union of the peoples of the world in Christian fellowship, which is the oldest and most vigorously pursued of all propositions for world federation.[8] Second, there is the conception of a communistic world federation of people united for the promotion of the equal welfare of all, but by methods which reject the benign postulates of love, persuasion, and divine inspiration which actuate the Christian philosophers. Third, there is the concept of a totalitarian world state. Once this was applied by the Romans to a large portion of the civilized world and continues to be advocated by the Japanese in the Orient, the Germans and the Italians in Europe, and the "Americans" of the United States in the Western Hemisphere. Common to the aspirations of these great powers is the idea of a union of diverse peoples under the dominance of a national state; but in the thinking of each there are wide discrepancies with reference to the ideal forms of organization and the distribution of rights, privileges, and obligations. It is said that Americans wish to impose democracy on the rest of the world—as do the Federal Unionists (Clarence Streit, W. Ivor Jennings, and others)—but it is patently a far better thing to confer

8. Lionel Curtis, *World Order* (New York: Oxford University Press, 1939).

after the World War of 1914–1918 which made America's place among the Great Powers even more secure.

But why has nationalism in Latin America, where there is difference in language but general identity in religion and less variation in the cultural backgrounds and forms of government than farther north, expressed itself in numerous independent units? "The chief explanation of this divergence must undoubtedly be found in the facts of geography," we are told by a report of the Royal Institute of International Affairs on "Nationalism." Here vast expanses divided by almost insuperable barriers have given rise to a localized type of nationalism, which the comparative safety from foreign invasion, the presence of even less homogeneity in race than there is in Canada and the United States, and cultural differences have caused to thrive.

In Asia, nationalism is of very recent origin, having been introduced by comparatively small groups of native intellectuals and middle-class merchants versed in Western ideas. It has led to a revival in native languages, history, and archaeology and their exaltation in terms of native art and culture; its chief driving element has been the opposition to European rule. When subjected to analysis, "Asiatic" nationalism becomes "Indian," "Chinese," "Japanese," "Persian," and other types, each of which is different and can be explained only in terms of different geographical, historical, social, economic, cultural, and, above all, religious backgrounds. In China, for instance, nationalism, as a consequence of outside pressure and as a reaction against foreign imperialism, exalts China's former cultural achievements and her old position as the "Central State" in the Far East. Japan, on the other hand, not so handicapped as China is by geographic obstacles, has been able to build her nationalism on the achievement of political unity. Furthermore, Japanese nationalism has a strong religious tinge with its preaching that the Emperor is the lineal descendant of the gods who created Japan, and has, unlike that of China, exalted military rather than cultural achievements. In addition, Japan's rapid industrialization, her relatively restricted area, her great increase in population, her international ventures, have led to the veneration of the type of Japanese nationalism which resembles that promoted in Europe by totalitarian national governments.

FACTORS IN NATIONALISM

It is obvious that nationalism expresses itself in specific terms in specific cases; hence nations have ideologies differing according to their geographical and historical environments, which exercise a decisive influence in determining the content of these ideologies. What are the various elements that go into the making of nationalistic ideologies?

Nationalism and Language. Language can be one of the most important elements of nationalism. Speech is a fundamental factor in creating "consciousness of kind"; the man in the street knows whether he can understand the speech of his neighbor, and often has opprobrious epithets for those who speak an alien tongue. The sound of the mother tongue creates a sense of near kinship and inspires confidence and sympathy, for those who have a common language are likely also to have a common spirit. Persons who speak the same language are united by the very fact that they do.

But language unity is neither indispensable to the growth of nationalism nor sufficient to create it. For instance, Switzerland is a truly national community in which more than one language is spoken. In the United States, the Pennsylvania Dutch speak their own dialect and yet would resent not being considered good Americans. In the Province of Quebec, the use of the French language remains as a remnant of former colonial enterprise, and yet the Canadian French pay their allegiance to the Canadian nation. Switzerland has four official languages—German, French, Italian, and Rhaeto-Romanic. The Belgian languages are Flemish, which is Low German, and Walloon, which is Belgian French. In South Africa there is a mixture of Boers, who speak Afrikaans (related to Dutch), and British, who speak English.

Nationalism and Religion. Unity of religion has sometimes been regarded as a factor in nationhood, and there are certain cases in which religion has proved itself a potent nation-making force. It is apparent in civilized, as well as in primitive communities, that men prefer to associate with those who share their religious beliefs or superstitions and worship in the same manner. Though religion has played, and still plays, an important part in creating and stereotyping nationalities—notably in the Balkans where the rising Balkan nations identified their branch of the Greek Orthodox Church with their nationalistic ambitions against the "infidel" Turk[8]—it is not necessarily connected with nationalism. Thus, in all recent wars, Catholics have fought Catholics, and Protestants have fought Protestants. Italy recently fought against one of the oldest Christian nations in the world, Ethiopia. In short, religion can but does not have to play an important role in nationalism.

We are often told that America's nationalism is related to Protestantism, but Catholics would certainly protest against such an assumption. There is no doubt that Roman Catholicism was a very important element in Polish nationalism, squeezed in between Prussian Protestantism and Russia's Greek Orthodox Church policies. The Protestantism of Northern Ireland has played a considerable part in its opposition to union with the Irish Free

8. J. S. Roucek, *The Politics of the Balkans* (New York: McGraw-Hill, 1939), pp. 6, 16.

State, a Roman Catholic hinterland. In Palestine there is religious conflict between Jews and Arabs, but there nationalistic domination and not religion is in reality the main issue. Just as in the United States, religious diversity has not prevented Canada from developing its kind of tolerant nationalism, and the French-Canadian population of Quebec, which is solidly Roman Catholic, cheered England's king on his visit to America in 1939 just as loudly as the Protestants did. There were never any nationalistic troubles in Latvia, although that country includes fifty-six per cent Protestants, twenty-four per cent Roman Catholics, five per cent Jews, and fifteen per cent Orthodox Catholics. The former religious antagonism between Iraq's two major Islamic sects, the Shias (fifty per cent) and the Sunnites (forty per cent) has been absorbed into the growing national feeling.

In fact, nationalism has usurped men's allegiance to religion in many places. Till very recent times Christianity had for centuries known no serious rival in Europe; today the allegiance of men's hearts is claimed by Nazism and Bolshevism as it is by Christianity. Nazism, as the most excessive type of nationalism, is a religion or quasi-religion, as well as a political theory. This explains the inevitability of the "church struggle" in Germany and elsewhere.

OTHER BONDS OF NATIONALISM

In addition to the factors already enumerated, many others which unite a people into a nation could be noted, such as a relatively homogeneous people, a single ruler, symbols such as flags and national hymns, a national economic policy which emphasizes the material well-being of the subjects and leads to the imperialistic acquisition of new resources, to the expansion of trade, and to the building of systems of armaments for the gaining of these or for their protection once they are secured. But we could also show conclusively that no one of these is essential, although each may be helpful, in the propagation of nationalism. We need, however, to note two other nation-making elements.

THE MYTH OF RACIALISM

One of the most important real "myths" in the promotion of nationalism is the conception of racial unity and solidarity. Although it has been demonstrated more than conclusively by numerous writers that race, nationality, and nations are not identical,[9] the concept of race has become a fundamental factor in the driving forces of national egotism.

9. F. H. Hankins, *The Racial Basis of Civilization* (New York: Knopf, 1926); C. S. Stevens, *The Races of Europe* (New York: Macmillan, 1939); R. J. Bunche, *A World View of Race* (Washington, D. C.: The Associates in Negro Folk Education, 1936); Jacques Barzun, *Race: A Study in Modern Superstition* (New York: Harcourt, Brace, 1937).

"Pure" and "Impure" Nations. Although racialism as a form of biological determinism, which attempts to prove the "purity" or "impurity" of nations and to assign them their particular missions in the world as "masters" and "inferior" nations, has no scientific foundation, it has become one of the most influential myths of the world, particularly in Germany, which has developed and nurtured the Nordic or Aryan myth. This has led to an extreme megalomania under the Nazi regime, which is dedicated to a racial creed and program. Elsewhere racialism has also become popular. In the United States it has been propounded in the Nordic theories and expressed in immigration legislation. In general, here the group representing primarily the theories set forth by Madison Grant's *The Passing of the Great Race* have claimed that the greatness of our civilization has been due to the "Nordic" (Northern) races and that the infiltration of other "inferior" races into America has contaminated it.

Such racial theories are powerful levers in nationalistic ambitions, since they rationalize the desires of powerful nations to extend their domination over other "inferior" nations. The earliest attempts to rationalize dominance were based on supernatural sanctions. Since at that time the Europeans were Christians and most of the subject peoples were not, it was natural that the all-powerful God of the Christians should condemn the "inferior" ones to be hewers of wood and drawers of water. When the supernatural sanctions began to lose their force, the theory of evolution and of the survival of the fittest came along and again rationalized the theory of the superiority of certain European races. In a world where one cannot put physical distance between the "we group" and the "others," "one has need of the spiritual distance created by belief in one's own 'election' and the satanic character of the 'others.'"[10] The racial myth performs this function of creating social distance and giving a spiritual basis for national unity in times of stress and confusion.

Racialism in Modern Germany. It is but natural that this idea should play its part most vigorously in Germany; for Germany, however old its culture, lacks the long-rooted tradition of political unity which England, France, and even the United States have. With utter fanaticism, combined with a shrewd sense of political utility, Hitler and his racial prophets have fixed upon a central, unifying idea—the "indissoluble community of blood and destiny, uniting the Germans all over the world" for the building of the future "German Reich of Teutonic Nationality." The high priests of this mystical conception address themselves to a hundred million "racial com-

10. Erich Voegelin, *Rasse und Staat* (Tübingen: J. C. B. Moh, 1933), p. 153.

rades," one-third of whom are outside the present frontiers of Germany, scattered in many countries, but all—according to Nazi dogma—owing allegiance to the Teutonic "blood brotherhood." This thesis of the racial state has become a deliberate challenge to the integrity of all states having any considerable proportion of citizens of "German blood." Special organizations have been set up to discipline citizens of the Reich in foreign countries and to indoctrinate all "racial" Germans irrespective of their citizenship. The success of these far-flung but integrally directed efforts at Germanization meant the absorption of Austria, the dismemberment of Czechoslovakia, and would reverse in our own country the process of Americanization in favor of a permanent German-Americanism.

How irrational and mythical is the German doctrine of racial superiority can be seen already from the fact that Hitler himself, that high priest of racial mysticism, ought to eliminate himself as a contamination of his pure German stock, since he is really racially "impure"; he has a foreign blood strain (Bohemian) from his mother's line. Furthermore, while breeds are genuine biological entities, races are really creations of the theorists and creations with regard to which all the creators are by no means in agreement. There is, in addition, no "pure" race in the world. Owing to constant migrations and continued intermarriage, racial purity does not exist anywhere. There is no German race, although there is such a thing as a German nationality. What differences there are between various people are usually cultural differences, since biologically there are not several races of mankind but a single one. The so-called Nordic, Mediterranean, Alpine, Dinaric, East Baltic, and other "races," are purely artificial creations, mental constructs corresponding to idealizations. When we look for living specimens presenting a good combination of all the traits pertaining to the race in question, they are seldom, if ever, found. There is simply no nation and nationality that is not of mixed race. Every modern large population consists of innumerable genetically distinct individuals and therefore of distinct family lines. These hereditary factors are important in family lines but they cannot possibly be extended so as to include a whole population which consists of many diverse family lines.

It is therefore absurd to speak of the population of any modern nation as a "race." The bodily form and functions of an individual are determined not only by heredity but also by the conditions under which he lives and grows, and the mental life of man is still more subject to environmental influences. The same individual does not behave in the same way under different cultural conditions. Cultural forms (which we have already dis-

cussed) depend upon geographic, historical, and social conditions and are only very indirectly related to hereditary factors. For these reasons the claims that there are superior and inferior "races" must be rejected. There are superior and inferior individuals, but nobody has ever proved that the achievements of a people depend upon their innate, hereditary abilities.

We cannot but conclude most emphatically that the racial bases of nationalism are the products of pure phantasy. But because mankind is given to making and acting in response to mythologies and fairy tales, the race myth exerts a powerful influence in this nationalistic world of today.

Nationalism and Anti-Semitism. A particular aspect of "racism," raised by Adolf Hitler in Germany to the status of a political religion and imitated in Italy and elsewhere, has been Anti-Semitism, which has been lately turning the recurrent Jewish tragedy in Central and Eastern Europe into a final disaster of truly historic magnitude. In the former Poland, the country with the largest Jewish population outside the United States and the highest percentage of Jews in proportion to its total population except for Palestine, and in the Baltic and Balkan countries there were about five million Jews (or thirty per cent of the whole Jewish population of the world). Most of these are now facing the choice of repeating the Exodus on a larger scale than that chronicled in the Bible and somehow crashing through the immigration bars erected against them everywhere, or spending the rest of their lives in an atmosphere of impending peril and dying a slow death from economic and social strangulation.

This situation, partly the result of overpopulation, has been fostered for military and political reasons and has been aggravated by the economic crisis. But it is even more the result of a national political, social, psychological, and economic revolution in the new Eastern and Central European States, which demand a place in the sun for oppressed nations at the expense of "national minorities" though without the dogmatic exclusion of any of them. The most spectacular manifestation of this revolution is rowdy anti-Semitism, which is growing everywhere at an alarming rate, and which seeks to drive the revolution forward and the Jews out of the country by a program of terroristic activities recalling the days of the Crusades, the Black Death, and other periods of anti-Jewish persecution. This revolution is proceeding with the force of an earthquake. The Jews are the main sufferers, first, because they had the most to lose, and second, because their unhealthy social structure, which concentrated them in commercial and professional pursuits, has made them easier victims than other minorities that are rooted in their native soil.

What is this Jewish "race" that the Nazi leaders hate so much that they

are willing to incur the enmity of the whole world in their attempts to suppress it? In fact, a "typical" or "full-blooded" Jew is even rarer than that mythical blond being, the "true" Nordic. The following statement by Dr. Frank Thone appeared in *The New York Times* of January 2, 1939:

> The Jew as he stands today, far from being a "race" in any scientifically intelligible sense of the word, is about the most thoroughly mixed product of history's melting pot that the world affords. There have been, for instance, many jokes about the Jewish nose, but the nose itself is the biggest joke of all on the jokesters. For it is not a part of the original Semitic facial equipment, but a Hittite contribution, and the Hittites were an Indo-Germanic people!

From all the shouting and tumult that preceded the present super-pogroms in the German Reich, one might have concluded that the Jews in Germany swarmed everywhere, ready to overwhelm the land with their millions. As a matter of sober statistics, however, the 750,000 Jews within the Reich's boundaries constituted only a trifle more than one per cent of the total population. Still, the Jew has rarely been studied in German literature except for the purpose of showing that he is the negation of all that the Nordic German ought to be. The Jew is, from the Nazi point of view, footloose, adaptable, a racial mixture, a believer in nothing—not even in himself. Even though all this is true, the function of anti-Semitism is not to reform or even remove the Jew, but to set out more sharply, by contrast, what the Nordic ought to be. If there were more reality in the Nordic type —as idealized in the racial myth—there would be no need of this contrast.

HISTORY AND NATIONALISTIC MYTHS

At the cradle of nations stood usually strong and fighting warriors who united a group of people under their scepter. Only when this framework became a more permanent structure was there created a mutual atmosphere, which then helped the growth of a common language and other important national elements, all integrated in a spiritual product, the nationalistic spirit.

National Heroes. The stories of the founders of the nations are often retold. A nation must conceive of itself, in its collective consciousness, as meaning something and going somewhere. So it will inevitably set up its myths—the sleeping, long-bearded king of ancient times, who will some day wake to set his people free; the peasant who gathered into his own breast the Austrian spears; the general who left his victorious army to return to the plow. National egotisms will creep into these myths—the Napoleonic legend, "manifest destiny," the belief in a conquering race. Nations set up heroes according to their moods. Some are sinister and some make the heart

sing. But, for good or evil, every nation makes its heroes in its own image. The image is never historically true. It seldom dies, or is ever tarnished by any human reality behind it. And while such myths live and are cherished no brutal or arbitrary doctrine, no denial of human rights, can do away with nationalism.

Historical myths are most powerful when they are based on the group's past struggles for survival. Common subjection can be considered as an element in nationhood. A group differing in its mentality and in other characteristics from the dominant group and suffering during a long period of time under a firm and oppressive government forms mental attitudes ready to create nationalistic reactions. In fact, one of the most potent of all nation-moulding forces is a common tradition, memories of sufferings endured and victories won, expressed in songs and legends, in the beloved and revered names of great personalities (and particularly war leaders) that seem to embody in themselves the character and ideals of the nation, and in the names of national shrines, commemorative buildings, and sacred places.

> These heroes are dead. They died for liberty—they died for us. They are at rest. They sleep in the land they made free, under the flag they rendered stainless, under the solemn pines, the sad hemlocks, the tearful willows, the embracing vines. They sleep beneath the shadows of the clouds, careless alike of sunshine or storm, each in the windowless place of rest. Earth may run red with other wars—they are at peace. In the midst of battles, in the roar of conflict, they found the serenity of death.
>
> —Robert Green Ingersoll, *Memorial Day Vision*

Or let us quote the following appreciation of Polish nationalism:

> Poland repelled the Mongols when, centuries ago, they overran half of Europe. Again, it was a Polish king, Jan Sobieski, who turned back the Turk from the gates of Vienna. Throughout the Middle Ages Poland was a bulwark of Christian civilization against the invader. Then three European monarchs combined to destroy her. Thrice she suffered vivisection, yet always the mutilated body retained life. Again and again that life manifested itself in revolts savagely suppressed, ever renewed. Against the indomitable spirit of Polish nationalism tyranny could do nothing.
>
> Josef Pilsudski was a manifestation of Poland's spirit and the World War his opportunity. The ragged regiment he raised and led first against Russia, then against Austria, became a brigade, the brigade a legion. Pilsudski, arrested and imprisoned in a German fortress, emerged at the Armistice to triumph at Versailles. Poland was recreated and under him grew strong. The marching song of his legion, "We, the First Brigade," became a second Polish national anthem.
>
> Pilsudski died in 1935 amid such mourning as few peoples bestow even upon their national heroes. His heart is buried in Vilna as he had wished, but his body lies in the cathedral crypt at Cracow beside that of Jan Sobieski and Poland's other bravest. And in the plain below, whence his ragged legionnaires set out

against the foe, there rises a great mound to his memory. It is made of little basketfuls of earth carried there from every town and village in Poland and from every settlement elsewhere where Poles abide. Herr Hitler might well contemplate that mound.

On that plain only a few weeks ago there was celebrated the anniversary of the setting out of Pilsudski's legionnaires. Those who are left met on the spot whence they started in 1914, a forlorn hope out of which came a nation's rebirth, and the priest who had blessed them then again blessed them. The night before the great day they had built a huge pile of wood for a bonfire. Around it sat a few survivors, old men all of them, of an earlier revolt against the Czar.

They waited long, the bonfire unlighted, until at last came a breathless runner carrying a burning torch. Crying "Vilna" he cast it upon the pile. He had set off from Vilna two days before. After him came another runner crying the name of another distant Polish city, and then another and another, each casting his torch upon the wood until it was all ablaze. And from the church tower above sounded a trumpet blowing a call that was heard when, centuries ago, a sentinel on that same tower saw the Mongols coming on their shaggy ponies and sounded the alarm. Before he had ended, a Mongol arrow pierced his throat; but the call had been heard and Cracow drove back the foe.

Such is Polish tradition and of such stuff are made the Poles whose stand against the present [Nazi] invader has brought to arms other free peoples threatened by his doctrine of unbridled force. When Herr Hitler proclaims that Poland as a free and independent nation shall never live again he promises more than a dictator can insure. And Polish history refutes him.[11]

History as a Nation-Making Force. History is, consequently, one of the most powerful nation-making forces. From this point of view, history can never become scientific, and nearly all history has been written by man's conviction of what is valid and invalid. All historical work is written from the standpoint of certain definite ideas, and particularly nationalistic ideas.[12] Hence, nationalism influences the writing of history, and the writing of history influences nationalism. Consequently, only when studying history of individual nations can we understand their nationalism. In fact, nationalism can be understood only when we study each nationalistic movement all by itself.

WHAT IS NATIONALISM AFTER ALL?

All in all, we do not have a single infallible test of nationalism, except, possibly, that nationalism feeds on and flourishes in conflicts.

What is nationalism, in the last analysis?

Obviously, the motives and traditions which hold the nations together, the meanings read into nationalistic consciousness and nationalistic aspirations, differ. Furthermore, they are in a constant state of evolution and change. Nationalism is simply a term which means different things to dif-

11. Editorial, *The New York Times,* Sept. 24, 1939.

12. See Allan Nevins, *The Gateway to History* (Boston: Heath, 1938), chap. IX, "Ideas in History," pp. 238–76.

ferent people in different languages and symbols, in different times and in different parts of the world, and which creates different combinations of concepts. A nation is a spiritual creation; it is a culturally homogeneous social group, conscious and tenacious of its cultural and psychic unity. Nationalism is a collective behavior, a very complex phenomenon, built primarily around ideological myths, the quest for an all-embracing social faith, and the confession of that faith. The resulting nationalistic behavior has become one of the most powerful living social forces of today. It is the most powerful social dynamite. There is no really vital force in the world today which could supplant its terrible effectiveness in appeal and response. It feeds on social, political, and economic conflicts, not *racial,* though they are frequently given a racial label and seek a racial justification.

NATIONALITY AND NATION

A nationality, then, is composed of the individuals sharing a common nationalistic ideology who belong to their nation by virtue of their convictions; if they do not share such an ideology then they do not belong to it, even though they may be of the same race as their fellowmen, speak the same language, and live in the same territory. The nationality, on the other hand, also determines its membership by its own ideology. Hitler, for instance, has decided that the German Jew, even if born in Germany, if speaking the German language, and even if having some "pure" Germanic blood in him, cannot be a German.

Since the nationality is fundamentally a psychic unit, it is apparent that nationality may exist without political unity—that is, without an organized sovereign state of its own. And, vice versa, a political state may embrace several nationalities, although the tendency has been pronounced in modern times for every nationality to aspire to political unity and independence. A nationality which is not politically independent and united is metaphorically styled as "oppressed" or "subject" or even "enslaved nationality."[13] A nationality, by forming a sovereign political state, becomes a "nation."[14] A state is essentially political; a nationality is primarily cultural and only occasionally political.

PATRIOTISM

Patriotism, which is love of country or feeling of loyalty toward country, is another highly complex emotion or mood. It is another word with no precise definition. Usually it is made up of two quite different elements—love of one's "country" on the one hand, and dislike of and a feeling of

13. C. J. H. Hayes, *Essays on Nationalism* (New York: Macmillan, 1926), p. 21.
14. *Loc. cit.*

superiority to foreigners and aliens on the other. But there is little agreement as to what is meant by one's country, who one's countrymen are, what services and sacrifices one owes them, and what sort of social conduct results from the patriotic sentiment.

The strength of patriotism becomes apparent only in case of national emergency, especially when some other state becomes aggressive. Patriotism sometimes unwittingly contributes to national egotism; sometimes it denies full responsibility of the nation to international obligations. Sometimes it creates chauvinism. The profession of patriotism may be, quite often, a cloak for selfish interest or narrow conservatism or class pride or the hatred of other nations. But the most unselfish type of patriotism is a deep group emotion, capable of inspiring the most devoted and disinterested service, in peace and in war. Patriotism gives high emotional value to the state, and strong appeals to patriotic sentiments are often made in defense of national institutions when they are confronted by dangers either fancied or real. It is compounded of a series of pictures that the individual has of loyalties to ideals, symbols, a geographic area, familiar surroundings, familiar institutions, and familiar people.

There is, however, wide disagreement as to what the qualities are that characterize the good citizen and patriot. In fact, most civil wars have been wars of patriots—those of Secessionists or Home Rulers against Unionists or Nationalists, of colonials against the mother country, of Catholics against Protestants, or Republicans against Monarchists, of Fascists against Socialists and Democrats. A mere change of party control may transform a black list into a roll of patriots, as we have seen in the disgrace of Ramsay MacDonald, a pacifist "traitor" during the World War, and his rise to power on the wave of the postwar "pacifist" period. The pacifists and militarists too always represent each other as "unpatriotic." The defenders of the established order commonly picture the advocates of change as "dangerous radicals." Although Karl Marx wrote in the Communist Manifesto, "The working men have no country. We cannot take from them what they have not got," the events of recent decades have indicated how not only workers but also Russians themselves are patriotic and nationalistic.

METHODS OF PROMOTING NATIONALISM

Like all religions, nationalism has its rituals and symbols—the Swastika, the pictures of the King or Lenin, the raised-arm salute, brown and other colored shirts, the "dipping," lowering, and "hoisting" of the flag, the pledging of allegiance, national holidays, pictures, parades, mass demonstrations, and stirring music are just a few of the techniques used to inculcate

patriotic emotionalism, a process which is always promoted by all governments, patriotic individuals, and organizations (the Daughters of the American Revolution, the American Legion, the Brown Shirts, the Elite Guards of Fascism, and so on) in order to deepen the loyalty of individuals to the nation and the state.

> The flag of our stately battles, not struggles of wrath and greed,
> Its stripes were a holy lesson, it spangles a deathless creed:
> It was red with the blood of freemen and white with the fear of foe;
> And the stars that fight in their courses 'gainst tyrants its symbols know.
> —Julia Ward Howe, *The Flag*

Self-Renewal in Posterity. All nationalistic movements have a definite advantage over such social movements as socialism, communism, and free thought (unless connected with the nationalistic causes), in that they are self-renewing in each succeeding generation by the continuity of blood, family ties, culture, and language,[15] and strengthened by the invisible circle of consecrated spirits, heroes, martyrs, and national saints. They are spiritual communities living not in the present alone but in their past, and with the will to live in the future. It is the force of this time dimension which gives them power to carry on under the most discouraging conditions. It seems that the nationalistic spirit cannot be killed; suffering, persecution, and conflict only strengthen its "will to live" and determination to survive. To illustrate: In the last half of the nineteenth century Smetana was Bohemia's national bard in symphonic composition. Today his music again arouses and furiously excites his countrymen, so that the performance of his opera *Libusha,* when it was given in May, 1939, in Prague, had such an effect that the Nazi authorities of the "Protectorate" were compelled immediately to forbid its further presentation. Thus the performance of an opera which treats of the liberation of the Czechs from foreign oppression helped to promote the survival of a small nation.

Use of Art. The nationalistic leaders are, of course, aware of the value of art in promoting nationalism. In nearly every country the government office devoted to art is part of the Department of Education, for art is a definite appendage of the national culture. Most countries offer indirect or direct assistance to artists in the form of scholarships, purchases of work, competitions, and prizes. Government support of art and indirect or direct assistance to artists are, in other words, a part of the culture pattern of nearly every nation in the world today. The French *Administration des Beaux-Arts,* built on Colbert's foundation of 1664, is the oldest, the most famous, and the most extensive of all official organizations designed to make

15. Alfred Baumler, *Studien zur deutschen Geistesgeschichte* (Berlin, 1937).

art serve nationalistic purposes. Public buildings, monuments, historic pictures, sculpture—all may serve as symbols of nationalism. The cultivation of folk-dances, songs, poetry, music, public speeches, which create an ideal nationalistic world and possess a peculiar drawing power, may be a powerful instrument in shaping nationalistic attitudes. The force of art is inherent in its power of indirect suggestion, its appeal not to reason but to the imagination. It does not moralize; it presents beauty. Historical paintings may reveal to the observer the whole force of a historic event or of a lifelong biography in a moment of time. That is the reason why the totalitarian states, such as Germany, Italy, and Russia, require the artist to make his art an expression of the ideology of the governing order.

Use of Music. Music, in particular, serves nationalism well. It is a language which speaks to a nationalistic group. Because of its ability to promote a sense of brotherhood, it is one of the most effective mediums of group communication. Nothing is more stirring than the martial and majestic music of national anthems. National songs bring the nations to their feet in enthusiastic and united acclaim. Quite often they are based on national poetry. A single great poet or a single epic poem has helped to shape modern nations, and a single work of poetry has sometimes given a specific stamp to a national group. Through constantly repeating its patterns, nationalistic poetry produces a lasting mood, unites a group, and elevates it by awakening in its members emotional reactions high above the harsh, daily experiences of life.

NAZISM AND ART

The highest integration of nationalism and art can be found in Nazism. Parental guidance of the arts in contemporary Germany is just as integral a function of the Nazi government as is its supervision of labor, capital, religion, education, and every other aspect of life in a complex, modern, industrialized civilization. What appear to be the Nazi principles of art, as expounded by Hitler and his spokesmen, may be stated briefly as follows:

Art is the loftiest expression of the genius of each race and is therefore racially determined and timeless. The arts in the Third Reich must, therefore, be German and eternal and not international and modern—which would mean transient. They must receive their inspiration from the German racial consciousness as revealed in the Nazi *Weltanschauung*. They must have their bases in a beautiful simplicity which can be understood by all of the people. In short, they must become an arm of the great propaganda machine designed to effect the National Socialist millennium, and by educating and inspiring the German people with the ideology of the Third

Reich enable them to progress toward the new civilization which Nazism anticipates building in the West. Dr. Goebbels' "Reich's Chamber of Culture" supervises all cultural activities of the nation. Any practicing artist must belong to the "Chamber," if he wishes publicly to sell or exhibit his work or demonstrate his talent. The price of membership is conformity. Criticism of the arts simply does not exist; it is deemed unnecessary. What appears must, *a priori,* be permissible and sanctioned. Otherwise, it would never have appeared and so is above criticism regardless of intrinsic merit. The Nazis are firmly convinced that the next generation brought up on the new ideology will be so in tune with its tenets that masterpieces will of necessity evolve from the superior type of men and the geniuses developed by the Third Reich.

CONFUSION OF THE TERMS "NATION" AND "STATE"

The word "nation" has a number of connotations. The word "nation" is often used as a synonym for "state." What is usually called "international law" is really interstate law, since nations which are not states have no recognized right in international law. The League of Nations is really a league of states and not of nations. Hayes, as we have already indicated, tried to be precise in his use of terms. For instance, he pointed out that a nationality is a culturally homogeneous group; if it acquires political unity and sovereign independence, it becomes a nation, forms a national state.[16] But the difficulty with this definition is that the nation which the nationality forms does not have to be recognized as a nation or state by international law. Thus the Ukrainians have always been a nation but have never formally established their nationhood or statehood according to international law.

Disregarding this difficulty in terminology, let us notice, however, that a subject nationality usually insists on its rights to create its own state.

SELF-DETERMINATION OF NATIONS

The World War was supposedly fought for the self-determination of small nations. President Wilson made this point very articulate in his address to the Congress on February 11, 1918:

> National aspirations must be respected: peoples may now be dominated and governed only by their consent. "Self-determination" is not a mere phrase. It is an imperative principle of action, which statesmen will henceforth ignore at their peril.

This declaration not only appealed to the democratic ideals of the Western Allies, but still more to the repressed sense of nationality of the minor-

16. Hayes, *op. cit.,* p. 5.

ities under the domination of their enemies. It received a further expression. On November 11, 1918, the armistice was concluded on the basis of President Wilson's peace program, of which he had said himself, after stating his fourteen points:

> An evident principle runs through the whole program I have outlined. It is the principle of justice to all people and nationalities, and their right to live on equal terms of liberty and safety with one another, whether they be strong or weak. Unless this principle be made its foundation, no part of the structure of international justice can stand.

LIMITS OF SELF-DETERMINATION

But when Wilson flung the slogan of self-determination into the world's arena, he was using a statement capable of many interpretations. We have already shown that there is no definite criterion whereby we may say that this or that group constitutes a nation. If it is true that a myth or a psychological will to form a nation are the tests, then who is to pass judgment? As a matter of fact, infelicitous experimentation in self-determination by the Peace Conference has revealed some of the serious limitations of the principle of self-determination. It may be only another name for secession —as was shown by the Sudeten Germans or the Slovaks of Czechoslovakia. Thus it has also become an international weapon for the aggressive designs of Hitler, whose technique of dynamiting the established order of Central Europe up to 1939 had consisted of "saving" German and other minorities from the established states. Since Central and Eastern Europe are "freckled" with minorities which are on the wrong side of frontiers—from a nationalistic viewpoint—and which in many cases cannot be put on the right side, self-determination has become an explosive doctrine which can be applied again and again by Germany (or some other aggressive state) and bids fair to blow the map of Europe to pieces. Then, how many nationalities there will be in the world! And if they all have a right to freedom and unity, shall we ever establish a more or less stable political order in Europe and elsewhere? How, indeed, can we hope for stable international order if at any given moment particularistic aspirations may break the territorial unity of states by invoking an unlimited right of secession?

We must recognize that it is impossible to give consideration to capricious or hasty expressions of opinion by means of which certain people might suddenly manifest their desire for separation. Self-determination must find its limits in the conditions of existence and the vital interests of the surrounding society. There is a logical limitation on the right of a nationality to assert its self-determination in opposition to larger and possibly more

vital interests. A nationality is also conditioned by the size and geographical configuration of the area, and, to some extent also, by its economic resources. Sometimes a people may be too small to stand alone; sometimes, as in parts of Central Europe and the Balkans, the mixture of people may defy separation. The question whether a state may live independently depends partly upon whether it is provided with a means of living. After achieving statehood, a nationality may not be able to keep it. Common causes holding a nationality together as a state may be transitory.

THE NUISANCE OF MINORITIES

The last but not the least important problem of the striving of nations for self-determination is the perpetual tendency of nation-states, once successful in establishing their authority, to attempt to destroy the national characteristics of the other nations within their borders by assimilation, which aims to obliterate the cultural characteristics of all minorities and to force upon them the characteristics of the dominant nation. We know this policy as Germanization, Americanization, Russification, Magyarization, Roumanization, Turkification, and so forth. The crystal-clear illustration of this trend is Fascism, which is the extreme in nationalistic ideology. The results are explosive political undercurrents undermining the existing states, accompanied by mutual bitterness and hatred. The states whose nations are located as minorities in neighboring states feel justified in promoting the intransigency of such minorities and try to "protect" them by various international means. They often use this "oppression" as a pretext for interfering in the national policies of the states burdened with such minorities, as we have seen in the support given to the "Christian" minorities in Turkey in prewar days, or in the policies of Hitler in regard to Czechoslovakia and Poland.

National Minorities. The first World War ended with the victory of Western Europe and the defeat of the absolutist states of Central and Eastern Europe. As a result new nation-states arose in that part of the continent. Territorial adjustments had to be made on the basis of numerous and complicated considerations—nationalistic, historical, strategic, economic, military, political. There were many places where state lines and national lines did not agree and where it was impossible to make them agree.

In the area extending from the North Sea to the Adriatic and from the Baltic Sea to the Black Sea there were crowded before 1914 some sixty million or more people belonging to twenty nations and lingual groups, dis-

satisfied with the political order of the day.[17] The postwar map of this European area showed a number of new national states. But fully a third of the national minorities living there did not—and probably could not—attain their independence. If we estimate the population of the subjugated nations at approximately sixty million before the War, then there were still twenty million malcontents in this zone.[18]

The insolubility of the situation became apparent again with each step which Hitler has taken recently to "liberate" various minorities. It must be noted, from the standpoint of "racial justice" and "self-determination," that of 2,822,899 souls ceded to Germany at Munich in 1939, 758,502 were Czechoslovaks. Hungary, following Germany's example of claiming her "racial" rights, then picked up 992,492 inhabitants, of whom 288,803 were Czechs and Slovaks, 25,261 Ruthenians, 13,608 Germans, and 51,578 Poles. Poland, which also claimed the right of acquiring her minority in Czechoslovakia, swallowed 230,282 people, of whom only 73,303 were Poles, 134,311 Czechs and Slovaks, and 17,351 Germans.[19] She was subsequently reminded by Hitler's *Blitzkrieg* that she had not offered to repatriate 4,500,000 Russians (including 3,500,000 Ukrainians), nor nearly 1,000,000 Germans. Hungary, which also acquired territorial concessions from Czechoslovakia by this right of self-determination, ought to remember that she had ruled some 500,000 Germans, 80,000 Yugoslavs, and 141,000 Slovaks.

In fact, it is impossible to estimate the number of nations and nationalities definitely, since the political map of the world is an ever-changing one. In 1932, Dr. Otto Junghann estimated in his *National Minorities in Europe* that the population of the "chief European minorities" had reached the figure of 35,030,000—excluding the Soviet Union. Since then the number of Europe's minorities has increased as a result of Hitler's determination to "liberate" various people in the way of his expansionist moves. Besides driving something like 400,000 Germans into exile, Hitler has increased Germany's population by 21,000,000; Russia's by 14,000,000; and Lithuania's by 500,000—most of them Poles—by the fourth partition of Poland which followed the absorption of the remaining population of Czechoslovakia into Germany in March, 1939, a step which has increased Germany's minorities by some 6,454,000 Czechs and 2,056,000 Slovaks.

Majority-Minority Relationships. Politics is basically struggle for power. The majority-minority relationships are only one aspect of this struggle for

17. Joseph Chmelar, *National Minorities in Central Europe* (Prague: Orbis, 1937), p. 10.
18. *Ibid.*, p. 12.
19. J. S. Roucek, "The 'Second' Republic of Czecho-Slovakia," *The Journal of Geography*, Mar., 1939, XXXVIII, 89–98.

power. Basically, the minorities problem is one form of the struggle of individuals or groups to gain or retain power or influence within a social unit.[20]

The relationships between the minority and the majority are never static, since both of these groups when in contact tend to impose their characteristics, particularly their cultural and political ones, peacefully or violently, on the other group or groups. As we have pointed out, their cultural or their assumed biological characteristics are dear to the heart of every nationalistic "in-group." To unify the individual with his group, opposition to the "out-group" (other minorities or the "foreign" ruling group) is continually maintained. The possible amalgamation or disappearance of the characteristics emotionally valuable to each group results in fear motives. The fear of fate, the fear of losing identity as a group, the fear of internal disruption, accentuates the use of weapons against the existence of the minority, which then strengthens its own sense of internal unity in order to resist the attacks or forestall a possible attack (of propaganda or of arms). Bellicose unassimilated minorities are suspected of lack of loyalty, and are considered dangerous to the state. It becomes a vicious circle: oppression creates resistance, and resistance creates more oppression. The points of differentiation (the "racial" traits, religious beliefs, political power, economic and class interests, language and culture traits) become accentuated by the emergence of social conflicts which have a tendency to stereotype the national character. An overemphasis on differences and on the potential or actual conflicts leads to nationalistic minority behavior such as chauvinism, the persecution complex, Irredentism, and the "manifest destiny" idea similar to Messianism.

In the complicated situation in which both groups find themselves, all this becomes sublimated into a whole set of specific actions. The minority may run away from the territory controlled by an intolerant majority, ask other people for help, try to get other nations interested in its fate, ask for international and constitutional protection. The majority, on the other hand, may look for all kinds of rationalization for its actions, provide arguments justifying them, accuse the minority of exaggerating the situation, blame it for the difficult internal situation, and so on. In other words, we have a form of social conflict with all the paraphernalia accompanying every conflict process of this kind.

The minority-majority group relationship is therefore a power relationship, based on the assumption that either group can force the other to act a

20. The discussion in the next several paragraphs is summarized from J. S. Roucek, "Minorities—A Basis of the Refugee Problem," *The Annals of the American Academy of Political and Social Science*, CCIII (May, 1939), "Refugees," 1–17. See also Roucek, "Sociological Aspects of the Problem of Minorities," *Social Science*, Vol. 15 (Oct., 1940), pp. 383–7.

certain way. It is the dominance-submission relationship, in which the minority or the majority (or the minority controlling the majority) accepts either the role of dominance or that of submission; otherwise, the resulting social struggle assumes violent aspects. This relationship exists even in the states which pay lip service to the rights of minorities. In the United States, for instance, tolerance is exercised as long as the minorities do not threaten our valued culture traits, and provided we know that the dominant culture pattern will eventually absorb all minorities.[21] Contrariwise, as certain minorities—such as the Nazi agitators—threaten our system, we become increasingly irritated and prone to enforce strict submission of minorities to our domination. In short, in our dynamic social order the rights of majorities and minorities cannot be divorced from each other; they must be considered functionally in relation to each other and to the total situation, which is often complicated by larger social movements.

International Protection of National Minorities. To take the explosiveness out of the problem of minorities and to assure certain rights to the minorities still existing on the reorganized map of Europe, the Peace Conference of 1919 tried—on the basis of certain precedents[22]—to freeze the majority-minority relationships in the Minorities Treaties. These guaranteed the minorities absolute and unlimited protection of life and liberty without distinction of birth, nationality, language, race, or religion, and entitled them to the free exercise, public or private, of any creed, religion, or belief whose practices are not inconsistent with public order or public morals. Other civil and political rights were guaranteed. Carefully worked out procedures were created providing the ways and means by which the League of Nations could make this protection effective.[23]

Dissolution of International Protection. It is quite obvious from the perspective of today that the gradual breakdown of the whole system placed under the League has been due to the unwillingness of the subjects to be bound by the legalistic expression of the whole plan. In the first place, the Minorities Treaties protect the inhabitants who differ in "race, language, nationality, and religion" from the majority of the state concerned. As we indicated, everyone of the attributes may be questioned in theory as well as in practice. There is, as we have said, no nation and nationality that is not of mixed race. Is the Jew of the "Protectorate of Bohemia-Moravia," born and living there for some centuries, a "race," "religion," "nationality,"

21. See F. J. Brown and J. S. Roucek, *Our Racial and National Minorities* (New York: Prentice-Hall, second printing, 1939).

22. See J. S Roucek, "Minorities—A Basis of the Refugee Problem," *op. cit.*, pp. 5–6.

23. J. S. Roucek, *The Working of the Minorities System Under the League of Nations* (Prague: Orbis, 1929).

or "language" minority? Or was a Slovak in the former Czechoslovakia, speaking a dialect of the Czech language, a "language" minority? Is the Macedonian, speaking a Serbo-Bulgarian dialect, a "Macedonian" as his terrorist organization, the famed IMRO (Internal Macedonian Revolutionary Organization) claims,[24] or is he just another "South Serb" as the Belgrade Government has decreed, or a Bulgarian "national" minority oppressed in Yugoslavia, as Sofia claims? Then there is that troublesome problem of religion: Is the Catholic Croat, resentful of the ruling Greek Orthodox Serb, a minority in Yugoslavia? Or what is the Protestant Slovak, now pushed around in the "Protectorate" of Slovakia by the Catholic Slovaks in power at the present moment?

Without examining any more of these extremely complex cases, we are able to see that all in all the attempt to find a legalistic expression for the protection of minorities has failed because the sociological forces at work in such cases have been too powerful to overcome.[25]

Need for the Protection of Majorities. One of the most amazing consequences of the two postwar decades has been the growing need for the protection of the majorities against their own minorities. The seriousness of this problem had already been indicated in the resolution of the Third Assembly of the League of Nations:

> While the Assembly recognizes the primary right of the minorities to be protected by the League from oppression, it also emphasizes the duty incumbent upon persons belonging to racial, religious or linguistic minorities to co-operate as loyal fellow citizens with the nations to which they now belong.

But the spirit of the resolution has been observed mostly in its disregard. Let us remember, for example, the terrorist activities of the Internal Macedonian Revolutionary Organization in Yugoslavia, Bulgaria, and Greece, or the seditious activities of the Sudeten Germans in Czechoslovakia, and of the Nazi Germans the world over.

Here we have to note another anomalous situation, usually overlooked. There are numerous dominant minorities enjoying a privileged position and often taking advantage of other numerically greater but dynamically weaker nationalities. To such minorities belonged the Austrian Germans (who dominated the rest of the population of Austria-Hungary) before the World War, the English in Ireland, the Prussian Junkers in the Polish parts of imperial Germany before 1914, and the Baltic Germans in the Baltic States. For seven centuries the German element in the population of the

24. See Roucek, *The Politics of the Balkans*, chap. VIII, "Macedonians," pp. 183–251.

25. It must be also noted that there is no country in the world in the author's opinion without its problem of minorities For statistical data on this problem, see Roucek, *The Annals, op. cit.*, pp. 9 ff.

Baltic states has consisted of a thin upper layer of German administrators, merchants, and adventurers, continually reinforced from Germany. For several centuries this group made common cause with the powers successively controlling the region—Denmark, the Teutonic Order, Sweden, Russia, and (for eight months in 1918) Germany. This relationship had mainly one aim: to maintain the political, social, and economic supremacy of the infinitestimal German minority over the vast majority of the native population. In Estonia, particularly, the relationship between the new state and the Baltic Germans was delicate. The Germans were embittered by the loss of political and administrative control after the World War and severely criticized the Agrarian Reform of 1919, when the big landed property, which at that time constituted fifty-eight per cent of the entire area of the country, was nationalized for a compensation they considered inadequate. The apologists and polemists of the German minority invariably defended the interests of this Baltic nobility. One of the main reproaches leveled against the majority population was that of ingratitude towards the German minority, who claimed to have secured Estonia for Western civilization. The origin of Estonian culture was reputed to be entirely due to the German Baltics. Is it any wonder, then, that the majorities tend to become embittered against their minorities, and particularly when their very national existence (as in the case of Czechoslovakia or Poland) is at stake?

Remedy of Migration. For the whole pestiferous problem of minorities there has been found one solution—which, however, has cost much in human suffering and misery. The Greeks and Turks exchanged their mutual minorities during the postwar period, an experiment which was nearly universally condemned. It was tried again. In the summer of 1939 the German minority living in the mountainous section of northeastern Italy known as Bolzano, or the Tyrol, were given the choice of emigrating to Germany at the government's expense or of remaining in Italy and renouncing forever all allegiance to the fatherland from which they had been severed after the World War. When the final vote was tabulated, at the beginning of 1940, Italians were shocked to learn that 185,400 (or roughly sixty-seven per cent of the 267,000 Tyrolean Germans) had voted to return to Germany; 32,000 (twelve per cent) had voted to stay, while the remainder had not voted at all. In Italian eyes, the vote spelled the failure of all efforts to assimilate these Germans, but in German eyes it meant more Germans for Germany.

In fact, besides driving something like 400,000 Germans into exile, Hitler has moved 120,000 Germans from Lithuania, Latvia, and Estonia into the former Polish Corridor, 160,000 Germans from Russian into German Po-

land, and 110,000 German farm families from Western Germany into conquered Poland, these to be followed by an undetermined number of artisans, officials, and others.

There are other forced migrations now going on in Europe, which are among the most distressing, if not the greatest, in history. Russians are being sent from Germany to their own country. Poles are being transported to the new Polish district from the provinces taken over by Germany, and in two months following the fourth partition of Poland the Nazis moved 1,200,000 luckless Poles out of West Poland into Central Poland. It is of great interest to notice the arrangements for the emigration of the German Balts from Estonia and Latvia under the German-Russo agreement. With the exception of some of their smaller movable belongings, they had to leave all their valuables, their real estate and, if they were merchants, their merchandise, to the governments of the small Baltic States. What they had left behind was supposed to be used by the Baltic countries to maintain, without charge to Russia, the Soviet troops sent into those countries according to the Russo-German treaties imposed on the smaller signatory powers. The arrangements provided that the Soviet government send Germany foodstuffs and raw materials without charge and receive in return the free support of Soviet troops along the Baltic; to compensate the Baltic States, Germany stipulated that they should have the bulk of what the German Balts had left behind them. To compensate the repatriated Balts, Germany gave them the loot of the five conquered provinces from which she had deported the Poles.

Another forced migration went on along the Adriatic Sea. More than a century ago the Austrians moved a group of Italians from Torento down to Bosnia to colonize a district. In January 1940 more than a thousand of the great-grandchildren of the original colonists were brought back to Italy —to be followed by other groups. Premier Mussolini had made an arrangement with the Yugoslav Government for their transfer. They were destined for Pontinia, the newest village built on the former Pontine marshes; the others are to be sent to Lybia and Abyssinia.

THE SMOKE SCREEN OF *LEBENSRAUM*

Germany's cry for *Lebensraum*, more "elbow-room," for her crowded population exemplifies again how the nationalistic drive for power is hidden under misleading smoke screens. Not only did Hitler use the doctrine of self-determination as an instrument of disruption and turn it against the very principles of self-determination by the acquisition of the Czechs, Slovaks, and Poles in the German Reich, but the territorial acquisitions

themselves have made the problem of "elbow-room" more acute than ever. At the same time, the population of Germany is being increased in other ways. As a result of the Nazi drive for large families, the birth rate has increased from 14.7 births for every thousand people in 1933, to 20.7 for every thousand in 1939. By means of territorial conquest, repatriation, and the encouragement of large families, the German government has increased the population under its control from 66,000,000 in 1933, to nearly 105,000,000 today, and has thus been preparing additional arguments for nationalistic aggression and expansion. It now appears, furthermore, that eleven million subjugated Slavs stand ready to insist on their right to "living space" in Hitler's Germanic Reich.

PAN-NATIONALISM

Nationalism has also been more or less associated with the nation-mission and with ethno-cultural movements, such as Panslavism, Pan-Germanism, and Pan-Americanism. The nations try to make their fight for nationalistic causes appear to transcend their national interests by appealing to groups related to them and to each other by common or kindred language, race, or traditions, or by some other postulated tie, such as geographical proximity. One aspect of such pretenses is exemplified in these pan-national, pan-religious, and pan-continental movements. Pan-Americanism has often been accused of serving the imperialistic policies of the United States. In prewar days, the drive of Russia toward Constantinople was promoted by the Panslavonic policy in the Balkans, which consisted of "protecting" and supporting the cause of little Montenegro and Serbia against Austria-Hungary and Turkey. Today the same policy is being inaugurated in the Balkans again by the cultivation of "Slavic" ties with Bulgaria. The Pan-Germanism of prewar days, in anticipation of the annexation to a United Germany of all German-speaking peoples in the neighboring foreign states, has reappeared in Hitler's battle-cry in his *Mein Kampf* that

> The German Reich as a State must embrace all Germans; its duty is not only to rally and to preserve the most valuable original racial elements, but to lead them onward, slowly, but surely, to a position of dominance. . . .

Pan-Anglicanism has tried to encourage closer political relations between the English-speaking peoples; it has put the emphasis on the Anglo-Saxon traditions, with the motive, some people think, of influencing the United States to pull chestnuts out of the world fire for England. Pan-Africanism, Pan-Islamism, Pan-Arabianism, Pan-Turanianism, Pan-Asianism, and other movements reflect similar sentiments and ambitions.[26]

26 R. L. Buell, *International Relations* (New York: Holt, 1929), pp. 76–95; Hans Kohn,

Pan-religious movements (Pan-Islamism, Pan-Anglicanism) bear a structural resemblance to pan-national movements in that they are built upon community of tradition and outlook, while functionally they sometimes serve to strengthen pan-national movements, sometimes to create a rival alignment of forces. Pan-continental movements, on the other hand, not only serve imperialism (Japan's "Asia for the Asiatics" means actually "Asia for the Japanese"); they also attempt to overcome the forces of national particularism, and to arrive at a political order free from diversity of nationality or culture and united by common interests operating along the geographical base. Pan-Europanism, Pan-Asianism, Pan-Americanism, and Latin-Americanism are examples.

NATIONALISTIC PRETENSIONS OF UNIVERSAL CAUSES

The difficulty is that in nearly all pan-movements, which are designed to bridge the barriers arising from nationalistic, social, or linguistic diversities, attempts have been made to harness the movement to national interests and particularly to imperialistic ambitions. This has been particularly evident in Europe's recent history.

Participants in the first and second World Wars took up arms to fight for certain values which they had always felt transcended their own existence, for ideologies for or against democracy, communism, Fascism, and the like. Thus Germany claimed, until recently, that she was fighting not only for her own existence, but to preserve the world from bolshevism. Britain and France claimed that they went to war to preserve democracy, but that did not prevent them from scuttling the democratic cause in Spain, or from handing Czechoslovakia over to the unsatiable wolf beyond the Sudeten mountains. Russia was very vociferous in her efforts to fight Fascism until it appeared that the defensive requirements of the Russian state were better served by an alliance with, rather than against, Germany.

In short, nations are primarily first and last of all interested only in themselves and in their own causes. But even the super-streamlined nationalistic states, Germany and Italy, smoke-screen their international policies with the claim that they struggle for universal "truth." Nations fight—for such idealistic principles as "peace"; but when nations unite, it may be that they do so not because of their belief in universal principles but because union will benefit their national policies at the moment.

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CHAPTER SEVEN

Areas of Government

DECENTRALIZATION into areas of government is characteristic of every system no matter how unified its structure or how centralized its powers. The United States displays a particularly complex pattern of federal regions, federal districts, states, counties, townships and municipalities, but Canada has its provinces and local units, France its departments and communes, Britain its counties, districts, and municipalities.

GENERAL ADVANTAGES OF DECENTRALIZATION

This principle of decentralization has many advantages:

1. *Better Adaptation of Government to Local Needs.* Decentralization facilitates the adaptation of governmental policies and services to local needs. While metropolitan New York does not stand in urgent need of an official fence viewer, such a functionary might be very useful in rural areas. A type of planting program deemed by the Federal Forest Service most suitable to the region including Minnesota would differ markedly from one adapted to the Florida region. Where, as in parts of the South, living costs and general wage levels are lower than in the North, a "fair" minimum wage for waitresses might be considerably lower than the amount necessary to maintain decent living standards in a northern city.

2. *Better and More Economical Administration.* More expeditious and economical administration also results from decentralization in many cases. The recent establishment by the Bureau of Internal Revenue of regional offices where speedy decisions on income tax problems can be secured by the tax payer without the expense and delay of a trip to Washington is an example of this. Indeed on just this principle states and localities have for centuries delegated tax collection and assessment to local political areas. Obviously such services as police and fire protection and health and welfare activities must be handled by the smaller areas, and even a single city is often too large for their effective administration. For this reason precincts and districts are formed.

3. *More Accurate Tests of New Government Techniques.* Experimentation is best conducted on a restricted scale in order that results can be verified and errors eliminated before a widespread adoption of new tech-

niques. All levels of government utilize their subdivisions for this purpose. A new procedure in the issuance of Social Security account numbers was recently tried out in one region by the Federal Bureau of Old Age Insurance. Both states and cities test new welfare programs in certain areas, and such technical devices as two-way police radios may be first installed by a city in one of its sections. Sometimes an entire state may subject itself to experiment, as Nebraska is doing with its unicameral legislature.

All these advantages are common to both political and administrative decentralization. The stimulation of popular interest in government is an additional value in the case of the former. Professor Titus has suggested that if it is true that citizen interest in municipal government is demonstrated by the proportion of citizens voting, then that interest would seem to be in inverse ratio to the size of the population.[1] Since there is some correlation between population and area, it seems at least probable that smaller areas of government are conducive to increased citizen interest.

DISTINCTION BETWEEN ADMINISTRATIVE AND POLITICAL AREAS

Before discussing the various kinds of governmental decentralization into areas in the United States, a clear distinction should be made between purely administrative areas and political areas. The former are subdivisions of a governmental jurisdiction, such as the "regions" of the Federal Social Security Board or of the Federal Forest Service or even of the districts into which a city police force divides the total area it must patrol. Such areas are not self-governing and are established largely for administrative purposes. Political areas, on the other hand, are established with more or less power to govern themselves in certain respects. They include townships, counties, municipalities, states, and other governmental units.

There do occur certain hermaphrodite units which partake of the nature of both political and administrative areas. They are sufficiently infrequent, however, to leave the rough classification into political and administrative areas useful for purposes of analysis.

DECENTRALIZATION IN ADMINISTRATIVE AREAS

Administrative areas, although of great importance, involve far fewer governmental problems than do political areas. For this reason decentralization in the former will be discussed briefly before we turn our major attention to decentralization in the latter.

Subdivisions designed to achieve the three advantages listed above are established by all levels of government. It should be noted, however, that

1. C. H. Titus, *Voting Behavior in the United States, A Statistical Study* (Berkeley: University of California Press, 1935), p. 68.

they are set up departmentally. Rarely does the subdivision structure of one agency coincide exactly with that of other agencies. This overlapping of districts, although to some extent justified by the usefulness of "natural" regions for different purposes, is one of the greatest weaknesses of the American administrative decentralization.

In Federal Government. The larger the governmental unit, the larger, quite naturally, the number of administrative areas. In a study published by the National Resources Committee[2] Fesler notes that there are more than a hundred separate regional schemes in use by the Federal Government. The twelve-region plan is most popular, although the region itself may differ between agencies. There has as yet been little attempt to discover whether some relatively satisfactory general basis for division could be worked out and thus a co-ordination of federal administrative policies in several fields be achieved on an area basis. The National Resources Planning Board has made some effort to encourage focalization of various regional headquarters; but most agencies have been more interested in achieving a system which in their own field will have the most local adaptability and which will reduce the span of supervisory control, experimentation, and expedition, than in co-operating on a more general plan.

In State Governments. State governments, too, have favored decentralization, especially where it results in reduction of travel expense or span of control, but the states have been far slower to delegate the responsibility for policy-making or even for administrative decisions to their area headquarters. Those departments which have decentralized most extensively include state police, tax, conservation, and welfare departments, and highway maintenance divisions.

In Local Governments. While it has been most customary for municipalities to decentralize their police, fire, public assistance, and public works activities, to some extent there is a local tendency away from systematic administrative decentralization. Radio and telephonic communication have reduced the physical necessity for these areas, and among police departments traffic control, accident prevention, and detective work are being increasingly organized on a city-wide basis.

This local movement, however, does not seem to be typical. As the more central governmental units (state and Federal) assume additional functions, there is apparent both a greater need and a greater willingness to delegate responsibilities to smaller areas.

2. *Regional Factors in National Planning* (National Resources Committee, December, 1935), chap. VIII.

DECENTRALIZATION IN POLITICAL AREAS

In most parts of the United States citizens are under the jurisdiction of four separate political levels of government—Federal, state, county, and city or township. Often there are in addition school districts, irrigation districts, park districts, and sanitary districts—all political units.

Variations in Size, Population, and Wealth in Political Units. Since the size, population, and wealth of an area are often very relevant to its administrative efficiency, some discussion of this point is important. Curiously enough there are no uniform requirements with respect to any of these elements in the American political units. Rhode Island is in all essentials the same class of governmental unit as Texas, although the latter is 210 times as large as the former. Nor do the states resemble each other much more closely, if any, in wealth or population, as we see if we compare the wealth of Arkansas with that of California, the population of Nevada with that of New York. Rhode Island and Delaware differ markedly from Pennsylvania in size, wealth, and population.

The Areal Divisions. Within the states the largest areal divisions are the counties, of which there are approximately 3,050. Although on the whole the size of the counties within each state is more uniform than the size of the states within the Union, still this is not invariably true. For example, the counties of Michigan's upper peninsula average twice the size of the counties in her lower peninsula. And when we compare the size of the counties within different states, we see that the disparity is enormous. Rhode Island counties average an area of only 177 square miles, while in Montana, Oregon, California, Utah, New Mexico, and Wyoming the average county contains more than 2,500 square miles.[3] While it is of course true that many western regions are very thinly populated, it is impossible to feel that population has been the unconscious standard for county jurisdictions when we recall the number of small, thinly populated counties in the East and Middle West. Professor Anderson notes that "nearly a fourth of all counties have less than 10,000 inhabitants, nearly a third range from 10,000 to 20,000, and over a fourth range between 20,000 and 40,000."[4] Yet Cook County, Los Angeles County, and Wayne County, for instance, include millions of citizens.

Towns and townships—of which there are 20,262 in the United States—are much more uniform in size. Many of them are "survey townships," 36 square miles in area. While this area has often proved too small for any

3. All average figures on areas are taken from Professor William Anderson, *The Units of Government in the United States* (Chicago: Public Administration Service, 1934).

4. *Ibid.*

great governmental vitality, in New England, for instance, the small town has proved very satisfactory.

Most numerous of all American political units is the school district. There are more than 120,000 of these and they, like the other special districts already mentioned, vary widely both as to size and population.

DISADVANTAGES OF THE PRESENT SYSTEM

Our system of political decentralization has brought, in addition to the advantages we have already noted, a rather serious set of disadvantages:

1. *Weakened Law Enforcement.* In the first place, law enforcement has been notably handicapped by our existing system. Police officers still operate largely on a city and county basis, although the days when it was possible to apprehend a criminal within the county by covering the railway station and a half dozen buggy roads has long gone by. Good roads and high-powered automobiles make it possible for a criminal to be out of the county and the state often before the local police are even aware that a crime has been committed. Extended state and federal police systems and active police co-operation between levels and units of government are essential to meet this problem. Some progress is being made, but local jealousies and inaptitudes have greatly hampered the work.

2. *Disparity in Kinds and Qualities of Government Services.* Enormous disparities among the kinds and qualities of governmental services offered in the various areas are also the inevitable result of complete political independence of each unit. Some states pay recipients of old-age assistance less than ten dollars a month; others pay twenty-five dollars. Some states pay thirty dollars a month to recipients of general relief; others have *no* state funds and infinitesimal county funds for this purpose. Yet the basic economic and social reasons for old-age assistance and unemployment relief are similar throughout the country, and any slight difference in living costs does not approach the spread between the sums expended. Benefit rates under old-age insurance which is administered by the Federal Government are uniform in all the states.

Similar disparities often exist in connection with municipal-county services. The city of Detroit maintains an efficient health department and building inspection department to protect the health and housing standards of its people. Yet every day thousands of persons go into Detroit to work from dwellings in outlying townships where housing standards are deplorable and public-health work almost nonexistent. Another example of this evil is to be seen in connection with fire protection. Most cities in the United States maintain fairly adequate fire departments. Yet surrounding those

cities are often heavily built up residential areas in no way protected against fire. The same haphazard and socially undesirable distribution of services often applies to sewer and waterworks activities.

3. *Lack of Unity in Large City Governments.* Many of these problems arise most urgently in metropolitan areas. The tremendous growth of American urban population has often resulted in the spread of a "city" over an area including several townships, counties, and even other cities. To develop one unit of government for such an area is very difficult for reasons which will be discussed later. Hence we find often competing, often non-co-operating, never completely integrated systems for providing police and fire protection, water supply, sewage disposal, parks, roads, hospitals, and the like within a commercially and socially unified area. That great waste and friction often result is inevitable. Governments are handicapped in the performance of services, and private property often suffers by being unplanned, uninspected, and unprotected in the midst of a surfeit of government.

4. *Unequal Distribution of Wealth.* One of the most pressing problems stems from the unequal distribution of wealth among the territorial units. The state disparities in relief and old-age assistance payments noted above are largely the result of this economic situation. The larger units—federal and state—have access to the resources of all sections and are thus able to collect more taxes than are essential for the central services. A grant system has grown up whereby much of this money is redistributed to smaller areas. While the conditions attached to the grant and the central supervision secure the maintenance of minimum standards, and while some of the values of local responsibility are at the same time maintained, the system is not flawless. The pre-existence of the local unit handicaps the creation of reasonable administrative districts and often hinders inter-district co-operation. In the case both of unemployment compensation, which is administered by the states, and of public assistance, which is administered through the states but by the counties, the areas are often too small for economical administration. It should, however, be noted that the prior existence of social institutions on the state and county level largely justifies this type of areal organization, and it should also be added that a desirable flexibility is being evidenced in some cases. A few states are abandoning the small county unit in favor of larger public-assistance districts.

None of these problems is peculiar to the United States. The world over local areas are being rendered less self-contained because of improved roads and speedier transportation facilities. The same rapid growth of urban centers has taken place in Europe as in America. The fiscal limitations of

our states are paralleled by those of the states or provinces in other federal systems. But in most other countries there has been less full political decentralization than in ours.

CHANGE IMPEDED BY THE "WE-GROUP" FEELING

Decentralization based in part on administrative considerations is of course much more flexible. In this country once a political area is set up—no matter how irrational a unit it may be—it is soon sanctified by a surprisingly intense "we-group" feeling. This local political loyalty seems to remain quite independent of potent forces making for economic, social, and cultural unification. Rhode Island is neither an economic nor a social entity, yet its inhabitants have never expressed a desire to merge with a larger state. They would undoubtedly become embattled at the very suggestion. The cultural and economic influence of Chicago extends beyond a hundred-mile radius and metropolitan Chicago is located in three states. Not only do the state loyalties remain unimpaired, but none of the sixteen hundred local governments which exist within a fifty-mile radius of the city evidence any anxiety to become incorporated within its jurisdiction.

Even where separatism is financially costly—as, for instance, in the maintenance of little red school houses by districts of a few farmer families —the "we-group" feeling continues. It is of course true that some of this is artificially stimulated. A few determined township or county officeholders, fearful of losing their local jobs, wave the flag of local self-government and foster the feeling that "Smith county is different from Jones county." Their remarkable success, however, does indicate that they are simply capitalizing upon an emotion which is fairly deep-rooted.

REQUIREMENTS FOR SUITABLE AREAS

It is difficult to set arbitrary criteria by which to determine the most desirable type of area for the efficient performance of modern governmental functions. However, a few practical guides are possible.

First, an area should be technically suitable. It should be the optimum size, and other factors should be conducive to the proper performance of the operations and services with which it is charged.

Second, it should either be financially self-sufficient, or so obviously adapted to its functions that some degree of subsidization is justifiable.

Third, it should be characterized by some elements of cohesiveness. Citizens within an area should be held together by some tangible ties not shared by inhabitants of adjacent areas.

Quite obviously the present system of decentralization in the United States completely ignores the first two requirements, and even the third is not perfectly met.

SUGGESTED SOLUTIONS FOR CITY-COUNTY PROBLEMS

Certain suggested solutions of varying practicability will be considered and evaluated.

1. *Consolidation of Rural Counties.* It has been proposed that if small, poor, rural counties were combined, a more efficient and economical performance of their functions would be possible. Since today the farmer in his automobile can cross three counties as easily as he could formerly drive to the county seat, it would not seem impossible to broaden the area to which the "we-group" feeling could extend.

As a matter of fact, however, in spite of several decades of agitation, county consolidation has made little progress. There are over 3,000 counties in this country, and less than a half dozen have consolidated. Much of the obstruction has come from local politicians.

Oddly enough the county seems rather to be entering upon a period of revivification. State and federal grants for various purposes—pre-eminently roads and welfare—have increased the activity of the county, and during the past eight years under a federal administration which has so often been charged with over-centralization the assumption of new responsibilities plus the increase of available revenue has so strengthened the county unit as to make widespread consolidations even less likely in the future.

2. *Adjustment of City and County Jurisdictions.* It has been noted above that many complications arise from the impact of metropolitan centers on the county system. Experiments in various parts of the country indicate that these problems are not insoluble.

Los Angeles County is proving that the county may be a valuable unit for undertaking public works and other services which it is impossible for any one of the cities within its boundaries to undertake. It is engaged in extensive plans for flood control, co-ordinating water-supply facilities, and offering superior police and personnel services on contract to the cities. Similar activities seem feasible in other medium-sized metropolitan regions or where—as in the case of Los Angeles—the county is unusually large. Such a program is obviously impossible where the metropolitan area extends over several counties or even states.

Another solution has been tried in a few urban areas such as San Francisco and Denver, where city and county government are combined. The writer is aware that in recommending this solution where the two areas

are roughly identical, he is running counter to the almost universal American belief in the separation of city from county units; but it is his conviction that the competing jurisdictions which now exist are often absurd. Cities and counties render many of the same services—law enforcement, road construction, health programs, and planning. The tax systems are frequently closely interwoven. No longer is there a sharp boundary between urban and rural sections. Since the advent of the automobile, the "city" is no longer compact and unified; it stretches out through suburban sections, and the last of these is practically continuous with the farming districts.

Where the units of government are separate, financial loads become uneven, and "tax colonies" arise in the areas where tax rates are lower. Even in so small a town as that in which the writer lives—with a population of 30,000—many so-called good citizens by living outside the city limits evade their share of the welfare, police, health, and other obligations of the community to which they really belong. Moreover, because of the curious city-county relationship which exists there, as in many other areas, the city-dwellers pay not only for their own police protection but also supply one-half of the funds necessary to support the several county departments which protect those living on the periphery of the community. This case is by no means atypical. Possibly the height of absurdity in city-county separation is reached in New York City, where several counties are maintained *within* the city—serving no possible purpose other than as citadels of patronage.

Opposition to the merging of city and county will always be found, of course, among local politicians who can usually gain at least a limited following. Under the usual American provision requiring that annexation of territory or city-county mergers must be approved by voters in *all* areas affected, it is relatively easy to block many desirable consolidations of this type.

The major danger to be avoided in connection with this solution is city-county unification where the county is not actually large enough to cover the metropolitan area. The adequate performance of truly "metropolitan" services demands that the unit boundaries be based on more than political demarcations.

The commonwealth of Virginia has utilized a somewhat different solution. In that state, cities are distinct from counties[5] and thus the dangers of overlapping services and inequitable financial arrangements are greatly reduced. Moreover, Virginia does not rely on the judgment of the electorate in determining the size of areas. Cities may bring suits in court to compel

5. The same is true in St. Louis, where the city proper is governmentally distinct from St. Louis County surrounding it.

annexation of parts of surrounding counties, and if the data submitted indicates that the combination would be generally beneficial, annexation is ordered by the court.

On the whole the Virginia system is a saner one than that of most states, but certain dangers should be noted. The separation of a prosperous city from small and poor areas around it may leave the latter handicapped—lacking both efficient administration and financial self-sufficiency. When a city is expanding and is desirous of annexing territory, it should unquestionably be forced to take the poor areas with the wealthy ones.

3. *Ad Hoc Areas.* Where useful consolidation of governmental areas has been blocked for economic or political reasons, many states have established so-called *ad hoc*[6] authorities. The New York Port Authority not only extends into several cities and counties; it crosses two state borders. The Boston Metropolitan District furnishes parks and other services for the unconnected municipalities which make up that urban agglomeration of two million inhabitants.

These ad hoc districts are to be viewed with some suspicion, since they do tend to confuse political responsibility and to decrease the over-all fiscal control of local governments, but until some better solution for the very real areal problems of government is devised, they serve a useful purpose.

THE PROBLEMS OF THE STATES

The most difficult problems of all are those which arise from the areal unsuitability of several of the States. Many are either intrinsically too small for efficient administration or are so located as naturally to seem parts of other more "reasonable" areas of government. Sometimes adequate law enforcement is handicapped by physical features of the artificial area. Frequently a concentration of wealth or of poverty renders fiscal equalization impossible. Inadequate resources may handicap intelligent study of, and experimentation in, governmental and social problems. The President's Advisory Committee on Education found that many American states were too poor to maintain adequate standards of education. But the Constitution safeguards each state against involuntary change; and voluntary change, in view of the strong state loyalties, seems unlikely, at least for many decades. Where then can we find a solution for the obvious and serious evils attendant upon the present state areas?

Regionalism as a Possible Solution. There has been much discussion recently of "regionalism." A large part of the writing on this subject seems to be characterized more by a sort of geographic mysticism than by con-

6. "For this purpose."

structive planning, but it is possible to outline three major types of regionalism which have been recommended.

a. OVER-ALL ADMINISTRATIVE AREAS. First of all there is the very practical attempt by the National Resources Planning Board and a few other federal agencies to work out general over-all administrative areas which would serve to co-ordinate Federal activities in several fields and which would facilitate the adaptation of various Federal programs to the needs of the regions. These have proved to be useful, but there is no indication that they would ever become a factor in counteracting the weaknesses of the state pattern.

b. LARGE CULTURAL AREAS. The value of the regionalism which Professor Odum and certain others are advocating seems too largely cultural. It is undoubtedly true that our civilization can best be understood in terms of certain great cultural areas, and the significance of this aspect of regionalism in artistic and sociological fields is probably great; but it seems unlikely that it will have any substantial effect on concrete political and administrative problems for some time to come.

c. REGIONAL "GOVERNMENTS." More directly relevant to our difficulties is a suggestion made by Professor W. Y. Elliott of Harvard. He has proposed that the Federal Government delegate certain legislative and administrative functions to various regional "governments." This is the most practical of the "regionalisms" which have been outlined; but its adoption seems extremely unlikely in the first place, and in the second place the plan itself is not above criticism. Within an American system already over-complicated with levels of government, the addition of another level is hardly an unmixed blessing. Moreover, regionalism itself is no solution to some of the problems, particularly the fiscal ones, since certain whole regions are wealthier than others.

More Obvious Solutions. The solution seems to lie in two directions:

1. CO-OPERATION BETWEEN THE STATES. To some extent co-operation between the states can modify many of the evils from which we are suffering. Bridges have been constructed by two state governments where a political boundary was not a natural boundary. Co-operative crime control is becoming increasingly effective. For instance, a police teletype network stretches from New England to Ohio, and police blockades can be co-operatively laid on Michigan's southern boundary. States have proved that they can forget their isolationism where joint advertisement or joint representation of common economic interests seems desirable.

2. ABSORPTION OF CERTAIN FUNCTIONS BY THE FEDERAL GOVERNMENT. Where interstate co-operation is impossible or inadequate, the role of the Federal

Government will undoubtedly increase. Functions which the states are failing to perform either because geographical situation prevents or because the functions are by necessity "national" in scope will probably in time be absorbed by the Federal Government. Where the services are well or best performed by the states but where some of the latter are handicapped by lack of financial resources, an extensive program of federal equalization between areas seems to be the best solution.

3. ONE LEVEL OF GOVERNMENT IN EVERY AREA. Every effort should be made to alter state statutes and constitutions so that there is only one level of local government in every area, and that level broad enough for all normal local governmental purposes. The goal may never be attained but it is worth striving towards.

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CHAPTER EIGHT

Political Boundaries and the Law

THE first beginnings of co-operation among men are shrouded in the dim prehistoric past. The ordinary exigencies of getting food and shelter and of successfully reproducing their kind in a primitive world compelled co-operation, even if working together had not been imperative when attacks from human or animal enemies occurred, or when forest fires or floods assailed them. In these emergencies the leadership of the strongest and most resourceful naturally asserted itself and was likely to be continued and respected in more normal times.

One cannot doubt, either, that in the long millenniums of jungle life war and conquest led to the creation of petty empires and finally of larger ones. First the valley of the Nile was brought under one dominion, as early as 3400 B.C.; then the Babylonian and Assyrian Empires ruled the valleys of Mesopotamia. Later a splendid, virile civilization grew up in the Greek city-states and was merged into that of Rome—Republic and Empire—after which there was no widely recognized authority, except the Church, for a thousand years.

NATIONALISM *VS.* IMPERIALISM

After A.D. 1500 the first national states, as we know them, arose in England, France, Holland, Portugal, and Spain. Each of these nations acquired great empires, mainly by occupying lands sparsely populated by primitive peoples. Only occasionally were densely populated lands conquered, as in India and French North Africa.

Today the greatest of empires—the British Empire—still exists. But the present is undoubtedly the age of the national state, that union of people who have enough of the common bonds of race, language, religion, and tradition to make them feel themselves a unit, a nation. In every part of the world peoples aspire to that national unity. In China, Central Europe, and the Balkan States people are determined to assert their right to nationhood. The right of these peoples to an independent life is at present challenged by the Japanese, the Germans, and the Italians, who consider themselves to be superior peoples and who are striving to compel the rising nationalities to serve them. It is possible that this attempt may succeed, but

in densely populated China and Europe it can only do so if wholesale eviction of people from their ancient homes is resorted to, and if the surviving population is reduced to a servile status. There is no analogy between the recent conquest of old, thickly settled civilizations, as in China and Czechoslovakia, and the occupation some centuries ago of empty continents like Australia and North America. The present attempts at imperialistic conquest cannot succeed without the repression of the strongest force in the world today—nationalism.

It is possible that by totalitarian methods, by the use of bombing planes, machine guns and mass extermination, some rising nations might be suppressed, but the result would not be justified if the experience of the British Empire may be taken as a criterion. This empire now includes five fully self-governing Dominions which are held to Britain by no bonds of force whatever. Many other parts of the British Empire are self-governing to a large degree, and only a few military posts are without any organs of self-rule. Even India is advancing rapidly toward full self-government, and the time when she will receive it is not remote. If it cannot be said that the French and Dutch were as willing to grant self-rule to peoples capable of rising to nationhood, at least the governments of those empires operated in some accord with democratic rights and principles. The peoples of modern empires have looked forward to the relaxation of imperial control over them, as they were able to demonstrate their ability to govern themselves.

THE PROBLEMS OF NATIONAL SOVEREIGNTY

Unless the Japanese and Germans are able to set up vast empires, ruthlessly centralized and exploited for the benefit of new "master races," we may expect to live in a world of many national, sovereign states, each claiming the right to an independent existence of its own. There are many definitions of sovereignty and of the State, but the essence of both is to be found in the ability of the state to enforce its will both internally and externally.

Other Loyalties of Citizens. While the State is essential to the protection and permanence of the lesser groups within it, it is not absolute sovereign within its own boundaries; people living in a state may have many other loyalties. One has only to think of churches, corporations, lodges, colleges and their alumni, labor unions, and professional organizations in great variety to understand that the sovereignty of the state is not absolute over its own citizens. It has the power to coerce other groups, but its exercise of this power is limited. This, at any rate, is the normal situation in free societies.

Totalitarian Attempt to Defy Limitations. It remains to be seen whether the current effort of the totalitarian regimes to absorb and control every other form of group life can succeed. The present prospect is that the fate of their attempt to exert absolute sovereignty at home will be determined by their ability to exert it abroad. The totalitarian state, especially in its Fascist form, is not able to be one thing at home and another outside its boundaries. It cannot exert complete control over every group and individual activity under it and at the same time exercise toleration and forbearance toward other states. Indeed the Fascist state is openly founded on the understanding that all group conflict within the state shall be vigorously repressed in favor of aggression against other states. It is this understanding which "justifies" the pouring of everyone's wealth and energy into making armaments and preparing for war. If the expectation of war and booty to be taken abroad were removed, the totalitarian state would be obliged to relax its iron controls, to stop driving its workers at a killing pace, to permit its people to have again some of the free associations and activities which make normal life worth living. A Fascist state is therefore obliged always to be at war with at least one of its neighbors, and thus with the remainder of humanity. There is no logical or practical stopping place in the expansion of the totalitarian state.

The Clash of Sovereign States and the Destruction of War. But if this attempt to extend absolute sovereignty limitlessly is abnormal and fails in the end, we will still have no explanation for the normal assertion of national sovereignty. Even the democratic states profess to exercise the right to impose their will upon their neighbors in the settlement of disputes. Lesser means are usually tried first, but if these fail the sovereign state then goes to war to impose its will upon another "sovereign" state. Then, obviously, one state or the other has its sovereignty suppressed or extinguished, except in the rare event of a perfect stalemate, in which case the sovereignty of both is impotent.

The way in which this exercise of sovereignty is likely to work out at any time is illustrated by the outbreak of the Great Wars of 1914 and 1939. In 1914 the Austro-Hungarian Empire was rapidly disintegrating from within. The Austrians and Hungarians were in a distinct minority in their respective halves of the Empire. The subject Roumanians, Italians, Poles, and South Slavs, especially the last, were surging outward to join their fellow nationalities in surrounding states. Elaborate treason trials and other means of repression were ineffective. Hence the state, as represented by its dominant minorities, seized the occasion of the Sarajevo murders to assert its sovereignty over Serbia, the strongest outside magnet, hoping in the

process to re-establish its sovereignty within its own borders. Germany also exercised her sovereignty by warning all the other Powers to keep hands-off the Austro-Serbian war. But Russia, by an equally valid assertion of her supreme will, refused to stand idly by, and she was supported by France. Germany and Austria thereupon hastened to make their sovereignty good by waging war on France and Russia, and upon Britain, which refused the demand that she be neutral. At once the clash of sovereign wills among the Great Powers brought Europe down from a high peak of civilization to utterly stupid and destructive anarchy, in which such unthinkable follies were committed as: (a) the effort of Germany to bleed France to death at Verdun, at a cost of 600,000 lives, half of them German; (b) the wasting of 400,000 British lives by Marshal Haig in the capture of Passchendaele ridge during the annual rainy season; and (c) the sinking of millions of tons of shipping vessels filled with all manner of usable goods.

This clash of sovereign wills ended with Austria-Hungary demolished, Germany starved and humiliated, the Russian and Turkish Empires liquidated, and the economy of the entire world almost fatally dislocated. Yet in 1939 the indefinitely expanding sovereignty of Nazi Germany, as vested in one man, Hitler, plunged Europe into another deadly waste of human life and resources.

The Illusion of Absolute Sovereignty. It would seem that no further demonstration of the fact that absolute national sovereignty is an illusion would be needed. Such a sovereignty could exist only if one state mastered the whole of the world, as Rome once did master it. It is conceivable that one state could exercise sovereignty over Europe and its colonies, another over Asia, and another over the Americas. Yet no one of the logical candidates for this distinction cares to stand on its own in attempting to attain it. There was a time when the United States refused to enter the League of Nations and withdrew unto herself on the sovereign mount of isolation. But when the foundations of all civilized life on this planet began to crack resoundingly again, our Government made a long-sustained effort to draw the other states of this hemisphere around it in closer union. In a quaking world, half a League was better than none. Likewise, Russia scoffed at the League of Nations for fifteen years, until great danger on two fronts made her glad to seek the haven of the already damaged and weakened League. Nor did she waver from support of the League until a treaty with Germany had been made. And Germany, the supreme embodiment of sovereign ego, also did not dare to enforce her mastery upon her neighbors until she had made alliances first with Italy and Japan and then with Russia.

If no single state on the globe is willing really to trust to its own sovereign power, either for aggressive or defensive purposes, it is clear that absolute national sovereignty does not exist. Of course the conception of some sixty sovereign states all imposing their supreme will upon one another is an intellectual absurdity. It adds up to nothing more than a condition of world anarchy, latent, perhaps, at times, but always likely to break out with devastating and ever-spreading force.

The continual clash of nations over state sovereignty patently constitutes the greatest problem which confronts the human race. It prevents any nation from enjoying security, for if it escapes war or conquest its economic life is disrupted or curtailed by recurrent wars and fears of war. When nations were all primarily agricultural and nearly self-sufficient, when they were really separated from each other in time and space, when horses and sails were used for motive power and weapons were effective only at close range, each nation could claim to be sovereign without the claim's being obviously untenable. But now that man's scientific genius shrinks time and space visibly every decade, the chaos of jostling nationalisms becomes constantly more dangerous to all. Also, in this period of revolutionary change the one thing which appears to be most certain is the progressive increase in speed of means of communication and means of destruction. Our scientists and chemists, our inventors and engineers are inexorably destroying the physical immunity of every spot on the globe. If only the present rates of "progress" are maintained, it may safely be predicted that within a very few decades there will not be a great city on any continent which cannot be attacked from the air. And in the United States alone there are 18,000,000 people who live in seacoast cities, which are, of course, the most liable to attack.

MEANS OF PREVENTING MUTUAL DESTRUCTION OF NATIONS

What, then, are the means at our disposal for preventing the mutual destruction of modern nations in the machine age?

The Resources of Diplomacy. The oldest resource is, of course, the diplomatic intercourse which the nations maintain with each other. Ambassadors were sent on special occasions in ancient times, but it was not until international life expanded in the modern era that permanent diplomatic representatives became the rule. Now, more than a thousand diplomatic missions of varying rank connect fifty capitals, keeping their nations in touch with one another and settling a multitude of disputes, not all of them minor. Only the Great Powers may send ambassadors, according to the rules drawn

up at the Congress of Vienna in 1815, but there are missions of appropriate rank for the smaller states.

These state missions are supplemented by a far more numerous body of consuls, some six thousand in number, who are stationed in foreign countries. These men and their staffs control directly the great streams of international life which flow between the nations. Each one shepherds, assists, and governs the people of his nation who come his way, even to administering their estates, if necessary. He also looks after the commercial interests of his country. Every ship and every case of goods must have consular authority to move. And it is the duty of the consul, as well, to send back complete information to his government on all business and economic developments.

Of recent years our consular and diplomatic services have been organized together as the Foreign Service of the United States. As in other countries, this service is our first line of defense, yet Congress never thinks of appropriating for its yearly operation half as much as the original cost of one first-class battleship.

It does, however, finance contacts with other countries by other departments of government, such as the Departments of Agriculture and Commerce. Private groups also maintain a great multitude of international organizations. Bankers, business men, lawyers, doctors, clergymen, laborers, and many other groups have their own international organizations, which exchange information and promote understanding in their various fields.

Public International Unions. The urgent necessity of regulating international life has also compelled the creation of a long list of public international unions, which are governmental in character, but whose functions are largely non-political. Great rivers which flow through several nations are subject to international regulation, such as that of the European Commission of the Danube, established in 1856, and that of the Rhine, Congo, and Chinese river commissions. In 1856, the widespread use of the telegraph necessitated the creation of the International Telegraphic Union, which now has a permanent administrative bureau at Berne. Its sixty members are all states which have public ownership of telegraph facilities. The union is responsible in great measure for the efficient telegraph service which operates throughout the world.

By 1906 a Radiotelegraphic Union had become essential. This organization now has eighty member states complying with the rules made by its administrative bureau. But best known of all is the Universal Postal Union, initiated by the Postmaster General of the United States in 1872. Now,

with a few minor exceptions, every state and colony in the world belongs to this Union, and are co-ordinated by its administrative bureau at Berne. In the periodic congresses which discuss and modify its fundamental rules, action is taken by a majority vote, and the disadvantages of being outside the union are so great that no member which finds itself in the minority ever resigns. The world is accordingly a unit for postal services. Mail moves smoothly over the whole of its surface at uniform rates and normally without delay, whereas formerly it required dollars for postage and several months of time to send a letter to a far-distant land.

Before the League of Nations was founded there were nearly fifty public international unions, dealing with such subjects as health, sanitation, commerce, and navigation. Many were merged with the League, but at least twenty-five important ones remain. Among these are the International Bureau of Weights and Measures (Paris); the Bureau of Trade Marks, Copyrights, and Patents (Berne); the International Red Cross (Geneva); and the International Institute of Agriculture (Rome), which owes its origin to an American, David Lubin. In all of these organizations, which are now considered indispensable, the member states have surrendered a fraction of their sovereign control over what used to be purely domestic matters before increased facilities for communication throughout the world made them matters of international concern.[1]

IMPULSES TOWARD WAR

It is not these chiefly economic matters which lead to the tragedies of war, but the political issues—the desire for prestige or power, the desire to possess certain territories, the urge to unite racial comrades (real or bogus), the wish to get political control of economic resources. It is when nations surrender to myths and mystical leaders that the peace is most endangered. There is no denying, of course, that in times of world-wide economic depression there are too many people in Japan, Italy, and Germany, just as there are at such times in Britain, the United States, and Brazil. It does not follow, however, that the first three peoples, any more than the second three, can solve their future problems by bringing a vast aggregation of alien peoples and territories under their rule, for the United States, supposedly the richest of all nations in land resources, has probably had as tremendous an unemployment problem in recent years as any nation.

1. L. F. Schmeckebier discusses twenty-nine international organizations in which the United States has membership, including the International Labor Organization, in his *International Organizations in Which the United States Participates* (Washington: Brookings Institution, 1935). The United States entered the I. L. O. by a joint resolution of the two houses of Congress on June 19, 1934, thus avoiding a long struggle to achieve a two-thirds vote in the Senate by the usual treaty route.

It is agreed also that the three Scandinavian peoples were never notably better off in economic resources than the Germans. Yet the Scandinavians, knowing that conquest was not for them, managed by their wits and by economic and political co-operation at home to trade with the whole of the earth and to maintain a fine and splendidly distributed standard of living, without war or threats of war until the advent of Hitler.

The Germans, on the other hand, having become rich and prosperous by world trade, were, in 1914, still restless and dissatisfied—at least this was true of their ruling classes. A politically inexperienced and immature people, in whom the herd instinct had been deepened by many generations of the most individuality-destroying military discipline, the Germans surrendered again, in 1933, to a regime which promised to solve all their economic troubles and make them great again by the sword or, preferably, by brandishing the sword. The result has been the squandering of at least fifty billion dollars for wholly uneconomic *ersatz* industries and for weapons of war which can earn a return only if they are used to loot other peoples. The logical end result is the prostration of the German people again in the ruins of a country which could have been highly prosperous, instead of strained and rationed; a country which could have been firmly braced against another world depression, instead of ruined by the economic dislocations which her own war is certain to cause in the world, if she had spent the fifty billions for constructive, peaceful purposes. Thus "poor" Germany squanders immense wealth in ways which impoverish her, in an effort to become great and impregnably strong.

Mussolini's costly exploits in Ethiopia and Spain are a lesser example of the operation of the same delusion, and Japan's colossal campaign of rapine in China may prove to be the greatest catastrophe of all. Many students believe that Japan will destroy herself as a Great Power. It should be added also that no nation has a right to the lands of its neighbors merely because it pursues a policy of unlimited aggressive expansion.

BEGINNINGS IN INTERNATIONAL GOVERNMENT

The pursuit of such manias inevitably compels the study and development of stronger institutions of world government by all peacefully inclined peoples. The follies and indescribable wastes of war also drive us toward this objective. It is, of course, after one of these orgies of barbaric conduct that we feel the urgency of international government most keenly. Even the kings and their ministers who finally overcame Napoleon felt that Europe should have some sort of "general management."

The Holy Alliance. The Holy Alliance formed by the rulers of Russia,

Austria, and Prussia, in 1815, was a very rudimentary form of government, but it gave mandates to Austria and France to suppress revolts in Italy and Spain.

The Monroe Doctrine. When it tried to suppress the new republics of Latin America, it was blocked by the Anglo-American Monroe Doctrine, which, enforced by the British Navy, gave the Americas a century of immunity from invasion. After the collapse of the Holy Alliance in 1830, British authority was sufficient to prevent world wars from starting in Europe.

The Triple Alliance and the Triple Entente. But when Bismarck created the Triple Alliance between Germany, Austria-Hungary, and Italy (1879–1882), France and Russia drew together (1892–1894) and a balance of power resulted which eventually compelled Britain to take sides and complete the Triple Entente (1904–1907). There were then two rival organizations, each straining for physical and diplomatic mastery, until they finally slid into the World War of 1914.

The "Concert of Europe." Occasionally from 1848 to 1914 all of the Great Powers did manage to work together as the "Concert of Europe." The Concert had no permanent organization, and its functioning depended upon the initiative of one power and the chance that neither of the two grand alliances wanted to fight over the dispute of the moment. The most successful operation of the Concert came during the Balkan Wars of 1912–1913. For six months during this critical period the ambassadors of the six Powers met almost incessantly in London, quarreling and bickering constantly, but managing to keep any of the Powers from joining in the Balkan wars. Yet the very success of the Concert in this instance laid the ground for the World War the next year, for the Austrians were so outraged by the restraints which the London Conference of Ambassadors put upon their freedom to prevent Serbia's aggrandizement that they fully resolved not to find themselves in that predicament again. And when the Sarajevo assassinations gave them a chance to strike, the Vienna rulers first dissimulated for three weeks and then hurled at Serbia—and Europe—ultimatum, declaration of war, and armed hostilities in such rapid succession that neither Sir Edward Grey nor any one else could assemble a conference.

THE CREATION OF THE LEAGUE OF NATIONS

After the World War, with its toll of ten millions dead, its $386,000,000,000 of wasted wealth, its world-wide train of famine, pestilence, and economic dislocation, there was a strong demand in every civilized nation that some international organization be formed to prevent the outbreak of

such colossal follies in the future. Long before the war ended, the European Neutrals had a great organization centering in Holland, the British had a distinguished organization, and the Americans had their League to Enforce Peace—all looking toward the creation of a league of nations to keep the peace in the future. The League to Enforce Peace was probably the greatest spontaneous movement in American history. Organized in June 1915, with Ex-President William H. Taft at its head, it grew rapidly until its leadership contained most of the celebrated names in the land, especially Republican names, and its great rank and file was organized in every congressional district. Its second national convention in Washington, May 17, 1916, was an immense gathering of more than 2,000 delegates who heard President Wilson's first commitment to the league idea.

From then until the end of the war the President put the league proposal at the heart of his series of momentous addresses, and there seemed to be almost complete national agreement that a league of nations should be created. But as the war closed the congressional elections of 1918 gave the Republicans a majority of two in the Senate, and thus control of the machinery of the body which would ratify the treaty of peace. At once the new Senate leaders decided that they would oppose with reservations and amendments whatever league of nations charter the President might later secure in the peace conference. On April 29, 1919, after the League Covenant had been published, Senators Lodge and Borah agreed that a direct vote on the Treaty in the Senate would mean the approval of the League. Action was therefore delayed until the following November, and the parliamentary struggle did not end in the final defeat of the Covenant until March 19, 1920.

While the long campaign against the League was being waged in the United States, the League came into being and thirty-three states entered it, including most of the American Republics which would be even more subject than the United States to all the dangers which the latter feared. For many months the other nations refused to believe that the abstention of the United States could be permanent. When it became evident that we would not soon reconsider, other distant nations, such as Canada, began to say that they were too remote and too safe to be required to enforce the League Covenant. Then other peoples, such as the Danes, complained that they were too close to the probable scene of future trouble to be able to take part in all League action against aggressor states. Great Britain also took the position that she could not be responsible for order beyond the Rhine. The result of so much retreating was that the League Assembly finally interpreted Articles 10 and 16, the key articles of the Covenant, in such

fashion as to remove their automatic character and to assure future aggressors that League action against them would probably not be very drastic.

THE WORLD COURT

In the United States the belief that our aid in a crucial world endeavor was being frustrated was so deep that successive administrations felt forced to offer some substitute for the League. President Harding's campaign managers had promised "an association of Nations"—"a" league instead of the League which already existed. And when they found the other nations unreceptive to this idea, Harding proposed our entry into the World Court.

In 1899 the Czar of Russia, finding himself too poor to keep up the arms race with Germany and Austria, suddenly astounded the foreign offices of Europe by proposing a disarmament conference. No one liked the idea, but all felt compelled to attend, and the American delegation succeeded in securing the adoption of what was called the Permanent Court of Arbitration. It was really not a court, but a large *panel* of qualified men from which arbitrators might be drawn. The effort to secure a real court failed, partly because the powers did not want it and partly because they could not agree on a method of selecting the judges. It was the old deadlock of large and small states.

This difficulty was solved in creating the World Court provided for in the League Covenant, on the suggestion of Elihu Root, who had labored for a world court for many years. He proposed that the judges be elected by both the League Council, in which the Great Powers would have a veto, and the League Assembly, in which equal representation of all states would give the small states a veto. The Court was thus successfully constituted as a permanent body, with eleven judges elected for nine years and four deputy judges—now fifteen and four respectively. Its seat is at the Hague, and it has decided twenty-seven cases and handed down the same number of advisory opinions. These opinions have frequently been of great aid in elucidating points of international law and in determining treaty interpretations requested by the League Council in its attempts to settle international disputes. No one could allege that the twenty-seven judgments of the Court have settled any of the political disputes between great powers which lead to war. Yet many of the decisions have been of real importance in disposing of serious international litigation, and they have constituted a beginning of authoritative case law, out of which a viable international law may grow.

Nevertheless, the Court was never a substitute for the League itself, since

for a long time to come the governments will not submit the decisive political questions to it, if indeed they ever can. The effort of the United States to enter the Court was frustrated, moreover, by the opposition of the same Senate leaders who blocked our entry into the League, and by the same methods. They prevented action from February 24, 1923, to January 28, 1926, at which time reservations were voted, some of which the other members of the Court could not accept. Other years of delay followed, and the measure was defeated again in 1933, largely by a deluge of telegrams precipitated by Father Charles E. Coughlin and William Randolph Hearst.[2]

THE PACT OF PARIS

The attempt to enter the Court having failed, a substitute for the substitute was found in the Kellogg-Briand Pact of 1929. In this short, concise treaty every nation in existence, with one or two unimportant exceptions, agreed that they would renounce war "as an instrument of national policy," and that the "settlement or the solution of all disputes or conflicts, of whatever nature or of whatever origin they may be," should never be "sought," "except by peaceful means." In language which no one could evade, war was at last declared to be illegal.

To be sure, there was no express obligation in the treaty to take any action against war-makers, and for this reason the treaty was piloted successfully through the Senate by its leading isolationist, Senator William E. Borah. To the extent that it lulled the uneasy conscience of the American people into feeling that at last we had made our contribution to the world's peace it was a loss. Yet the complaint of many international lawyers that it was a bad mistake, since wars must be and so it is better to have them "declared" and conducted under the rules of "the law" than waged as a clandestine activity, does not seem very substantial. Surely it was time that the cloak of legality and perfect respectability was removed from a practice so utterly destructive of human values and material achievements as war is. As the machine age gathers ever-increasing momentum it becomes constantly clearer that the race between war and our efforts to control it is deadly and desperate. With the whole future of civilization in the greatest peril it cannot be too soon to de-legalize war.

THE BREAK-UP OF WORLD ORDER

The same conclusion applies with still greater force to the organization of the nations for protection against war. Nor does the failure of the first League of Nations absolve the nations from continuing to strive for such a

2. The earlier years of the struggle have been described by the writer in his *The Treaty Veto of the American Senate* (New York: Putnam, 1930), chaps. 9 and 10.

world organization. The coming of world war again, on an immense scale both in Europe and in Asia, and before the near-mortal wounds of the last holocaust had healed, only hammers home with crushing weight the necessity of stopping the degradation and destruction of our civilization while there is time.

The descent of the nations into another maelstrom of mutual destruction was rapid enough. Up until the Japanese invasion of Manchuria, in September 1931, the authority of the League of Nations still seemed impressive. But the Japanese militarists knew that British and French imperialists would not back the League strongly in order to restrain them in Manchuria, especially when the world was at the bottom of a great depression. Suddenly Americans discovered that the world did need a League of Nations. We hastened to Geneva and tried to stiffen the League, but we could not suddenly do from the outside what ten years of powerful leadership on the inside might have done. The smaller nations did register through the League Assembly an almost total moral condemnation of Japan's conduct by the whole of humanity. It was demonstrated by the League's Lytton Commission, too, that the facts concerning a dispute could be obtained under the most unfavorable circumstances. From the long-range view these were important gains, achievements which would have been declared impossible before 1920.

But from the standpoint of fulfilling the League's main function they were meager enough. Most important was the turning loose of a flood of other predatory adventures. As soon as he saw that Japan was to go unrestrained, Mussolini plunged at once for Ethiopia. But the British people rallied to such strong support of the League in the great Peace Ballot of 1935 that the British Government was compelled, against its will, to lead the League in a pretense of imposing economic sanctions upon Italy. Had the Ethiopians been able to hold out as long as the military critics predicted, the sanctions would have brought Italy to a serious condition. But Italian bombers and poison gas ended the war quickly, while Hitler was militarizing the Rhineland. Having fortified his back door, Hitler drove Germany furiously forward on the road of conquest, always combining threats and promises to the outside world and covering his advances with great clouds of anti-communist vituperation. His resignation from the League of Nations, October 14, 1933; the murder of Chancellor Dollfus of Austria, July 25, 1934; the announced creation of a German air force and of conscription in March, 1935; denunciation of the Locarno Treaty, March 7, 1936; the conquest of Austria in March, 1937; the destruction of Czechoslovakia in the Munich surrender by France and Britain in September, 1938; the con-

quest of Prague in March, 1939 and the destruction of Poland in September, 1939—this roster of successful forays is evidence enough of the international anarchy which one determined aggressor, if tolerated, can create. But the loosing of Communist Russia as a conquering force brought the number of Great Power aggressors to four, out of seven, and left the peoples who had not yet lost their liberties precariously on the defensive.

THE ACHIEVEMENTS OF THE LEAGUE

In the midst of this dire state of affairs, the achievements of the League of Nations seem to be very small constructive elements in a world lashed by destructive storms. Yet these achievements should not be lost sight of in building for the future.

Solution of Political Problems of Small States. In the political field the League did secure settlements in the Aaland Islands and Upper Silesia disputes; when all other means had failed. It saved Albania from piecemeal extinction in 1921. After failures in the Vilna and Corfu *putsches* the League produced its model case in the Greco-Bulgarian clash of 1925, when a typical frontier war between two small states was squelched. In the same year its mediation of the Mosul dispute was also successful.

Supervision of the Mandate System. The League's supervision of the Mandate System for the administration of the ex-German and Turkish colonies has been only partly effective, but it has unquestionably pointed the way toward a solution of the vexed question of the exploitation and control of backward areas. In its supervision of the many treaties designed to guarantee the rights of the racial and cultural minorities in Central Europe, the League likewise had only limited success, but again its action pointed in the right direction.

International Labor Organization. In the non-political field the League's great wing, the International Labor Organization, has become a recognized world source of information about labor conditions and action for their improvement.

Rehabilitation of Austria, Hungary, and Greece. The League's Financial Section presided over the successful rehabilitation of Austria, Hungary, and Greece, administering large loans in each case.

Improvement of Health Conditions. The League's world-wide fight against the opium traffic compelled the participation even of a reluctant United States, in its own self defense, as did the splendid work of the Health Section. The dope traffic and epidemic diseases will respect no national boundaries. Nor do the dealers in the white-slave traffic, as the League's labors in this field have amply shown.

Improvement in Means of Travel and Communication. The work of the Transit and Communications Section has been of great value to numberless travelers and business men. And the League's work in intellectual co-operation cannot be dismissed as negligible.

THE DISTRIBUTION OF AUTHORITY AND LOYALTY

The direction in which international government is evolving can best be determined by observing the movement of life within the nations—the democratic nations, if we assume that their way of life is valid and sound.

In Town, County, State and Nation. In the free countries every man is a citizen of a town or county which gets his first loyalty and performs as many functions for him as it can. In Canada, Australia, and the United States each citizen is also a part of a province or state which bears the main responsibilities of government—public order, public health, education, the provision and control of transportation, the regulation of business, and the promotion of agriculture. This governmental unit also gains loyalty from its citizens in return for important services which it renders them. Yet in times of stress some of these services have to be supported or taken over by the stronger hand of the national government, which has always the crucial duty to preserve the life of the whole people and to look after their general welfare. This government, too, exacts a loyalty from the citizen, the supreme loyalty of death in its defense, if that is necessary. In some cases it enjoys a greater loyalty than the other areas of government receive; in others a lesser.

A New "Layer" of Government. Today another "layer" of government, the final one, is in process of creation, and with it a new loyalty. Before 1915 no belief in the necessity or desirability of world government existed. Since then the League of Nations, with its many successes and its tragic failures, when the fate of all peoples finally rested upon its too slender supports, has dramatized to informed people everywhere the inescapable need of world government—for a world which science has fused into a unit for purposes of trade and travel and war. In the past twenty years a union of nations has been born in the minds of a minority of citizens in every state on the globe. At least at times it has also lived in the minds of a majority of the people in some nations, both great and small. Considering that for millenniums war was accepted as a matter of course, and that for centuries the national state has been worshiped as the final fruit of man's political genius, the sweep of the league idea has been unbelievably rapid—perhaps not rapid enough to keep man from destroying himself with the machines he has created, but swift enough to give real hope for the future. Nor is

there cause to believe that the new loyalty to super-national government which events seem to be demanding will destroy the old loyalties. They will live in proportion to the services rendered by each unit of government.

In the future distribution of authority from county seat to world capital the ideal will undoubtedly be to keep power at the bottom as much as possible, conceding to the top what must be yielded if life is to be safe or even tolerable in the lower units. With the power to keep order on a world scale there must go also the power to permit and control peaceful change. It will not be enough to forbid forcible change, unless the processes for supervising inevitable changes are created. An indisputably dynamic world requires dynamic processes of government, not dynamic dictatorships to hold it up at the point of numberless cannon.

TOWARD FUTURE WORLD ORGANIZATION

The enormous new building which housed the staffs of the League Secretariat, which dealt with all the matters just noted and many others, still stands on the shores of Lake Leman, symbolizing the problem of world government with which the future must wrestle. That there should be world organization for keeping the peace essential to the performance of necessary administrative services can hardly be questioned again. In every village in the United States there are dozens of organizations, educational, fraternal, cultural, business, and economic. In each of our states there are federations of many hundreds and thousands of local organizations. In the United States there are national federations of countless subsidiary organizations. From the village to the nation we attempt to do nothing without organization, permanent or temporary. It is accordingly not reasonable to suppose that the greatest problem which confronts a world becoming more and more closely knit can be handled without organization on a scale adequate to achieve conditions in which the people of every nation can live and breathe and plan.

World opinion is divided as to the most feasible method of taking another step in world organization. There are three principal schools of thought.

Plan of the European Unionists. First, there are the European Unionists, some of whom believed that the close union of France and Britain in the second World War would form the natural nucleus of a wider union. The Allies achieved unity of their armed forces on land and sea before the second World War opened. They quickly pooled their economic resources and their shipping, fixed the exchange rate for their moneys, combined for foreign buying, and lowered tariffs between themselves. Even Mr. Chamber-

lain looked forward to preserving much of this unity after the war. Others stand for a more theoretical all-European federal union into which Germany and Italy would somehow be fitted.

treit's Plan for "Union Now." The advocates of Clarence Streit's plan for "Union Now" [3] would begin with a nucleus of the fifteen most advanced democracies—including the British Dominions, and the older democracies of Western Europe. The incomplete democracies of Latin America and any new ones created later would be left for later admission, after they had demonstrated the stability of their democratic institutions. This set-up would have a world basis and the economic and military power to keep the peace. It would be a true federal union, formed on the model of our own, and would control foreign affairs, defense, currency, immigration, and tariffs for all its members.

Return to the League. The third course open in the future is obviously to return to the League of Nations, build on the invaluable experience of its first twenty years, strengthen its powers and its membership, but leave it a confederation which would allow its members some leeway in deciding what contribution they would make to the suppression of each case of aggression. If each member were bound to take *some* action against every aggressor, be it only economic sanctions of lesser degree, it is contended by many that enough flexibility would be achieved to give a workable confederation. The assumption is that the experience of war on a world scale twice in rapid succession, together with the possibility of other wars in the future, will make the whole world feel that no nation can afford to hold entirely aloof when aggression begins anywhere.

Only the future can tell what form the coming international government will take; but of one thing we may be certain—that it will not be the expression of any idealistic yearning but only of response to the compulsions of the machine age. The trend toward wider union is too strong to be doubted, but it will come only because life is found to be too intolerably insecure without it. It would seem to be clear that the peoples of the world are going to be integrated, either on regional or world bases, by the brute force of new "master races" obeying dictatorial rulers, or in federal unions of free peoples. Which road we shall take is of the utmost importance to every person in every nation. The one path runs forward toward a healthy development of free world civilization; the other leads backward toward the domination and decadence of Rome, with humane and civilized living blacked out all along the way—and at the end.

3. See Clarence K. Streit, *Union Now* (New York: Harper, 1939). This remarkable book is the most stimulating one to appear in the current debate.

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CHAPTER NINE

Forms and Types of Government

STATES AND GOVERNMENTS DISTINGUISHED

WHEREVER people gather into communities in a definite territory and possess that common consciousness which causes them to speak of themselves as a state, there political organization is necessary. This organization, called government, enables the state to issue its commands and exercise its powers of ruling. Thus the American people living on a fixed part of North America called the United States, which they regard as their state, are governed by a political organization which has the power and the right to rule over them. It is not unusual for states to change their governments in order to meet new conditions, or for other reasons. The state of France has experienced two imperial and three republican forms of government since the beginning of her revolution in 1789.

SUCCESSION OF GOVERNMENTAL FORMS

Students of government, especially those of ancient times, have wondered if there is a natural order by which governments develop, for no state has ever retained the same form of government throughout its entire history. Thus far there is no unanimity of opinion. One of the earliest of the speculators was the philosopher, Plato, who listed the succession of governmental forms as aristocracy, timocracy (rule by the military), oligarchy, mob rule, and tyranny.[1] His pupil, Aristotle, disagreed with Plato, saying that the types and their order should be: monarchy, tyranny, aristocracy, oligarchy, polity, and democracy (mob rule). When democracy had run its course, monarchy appeared again, whereupon the succession was repeated. This rotation came to be known as the Aristotelian cycle of government.[2] The list of writers on this subject since Aristotle is long. Perhaps the most prominent among them during Roman times was the historian, Polybius. In modern times Bluntschli, Schleiermacher, and Montesquieu are typical.[3]

1. Plato, *The Republic*, bk. VIII.

2. See Aristotle, *Politics*, bk. III, chap. 15; Woodrow Wilson, *The State*, chap. XIII, secs. 1395–7.

3. Montesquieu, *Spirit of the Laws*, bk. II, chap. 1. James Wilford Garner, *Political Science and Government* (New York: American Book, 1928), pp. 362 ff., is the most helpful elementary discussion of this topic.

But in spite of learned discussions and ingenious treatments the thesis has not been established.

HISTORICAL DEVELOPMENT OF STATES AND GOVERNMENT

A review of history establishes that each period has been characterized by certain types of government.

1. *Tribes and Blood Groups.* During the earliest of recorded times tribes and blood groups prevailed. They were of necessity small and were ruled by chiefs and councils. It was a period for the testing of political power, when the authority of the chief was limited by the democratic opinion of general assemblies or by the views of the warriors or of the elders, or by a combination of these. Sometimes the older men ruled, as was the case among the ancient Hebrews. This form of government was called patriarchy. Sometimes, as was the case among some of the American Indians, the women ruled, and this form of government was called matriarchy.

2. *Oriental Empires.* Later appeared the ancient Oriental states, the empires of Egypt, Persia, Chaldea, Babylon, and others, which were ruled by kings, emperors, and their courts. These monarchies and despotisms tended to develop ruling classes and administrative officials. Society was controlled by a hierarchy of officials, headed by the priestly, military, and civil-servant classes. At their head was the emperor. The greatest role of government was adjustment of relationships between political authority and individual freedom. Classification of these governments was impossible.

3. *Oligarchy, Aristocracy, and Democracy in Greece.* Ancient Greece tried almost all forms of government known to man, but oligarchy, aristocracy, and democracy prevailed. Self-government made rapid advances as democracy and its principles were exploited. The city-state was a political laboratory and the results of their experiments were tributes to the political genius of the Greeks. Almost all forms of government tried since ancient times have been modifications and adaptations of Greek predecessors. Because Greece tried so many different forms of government, her scholars were the first to attempt serious classifications of them.

4. *The First World Empire.* Rome followed Greece, building the first world-empire. Beginning as a city-state similar to those of Greece, she merged by successive stages into a despotic empire ruled by wealthy aristocrats who controlled the votes of the Roman mobs. This world state with its sovereign organization, widespread unity, uniform laws, and world peace found no practical need for a classification of the forms of government, although philosophers such as Polybius and Cicero attempted to account for Rome's greatness by demonstrating the superiority of Roman institutions

over those of other people. For instance, Polybius attributed the permanence of the Roman government to the fact that it contained a share of every good form of government: Monarchy was represented in the consuls, aristocracy in the nobles who made up the senate, and democracy in the popular assemblies.

5. *Feudalism in the Middle Ages.* Rome gave way to the Middle Ages and feudalism. During this time the Catholic Church predominated. Its government was modeled on that of the Roman Empire. These times were principally religious and secondarily political. Kings, lords, barons, princes, and other rulers waged constant warfare for political independence or control. The Aristotelian classification of governments was modified to meet the exigencies of a society with its eyes constantly fixed on the day of judgment. Roman, Teutonic, and Christian institutions were fused when the Roman Empire fell without being replaced by any new state and government. It was a strange period when men fixed one eye on the Roman greatness which had passed beyond return, and the other eye on the day of judgment which, when it came, could only mean the end of all government.

6. *The National State.* This chaos gave birth to the national state, whose rulers at first were the sworn enemies of world empires, and to the centralized authority both of the Church and of the State. When the monarchs had served their usefulness, they gave way to democracy and representative government. Meanwhile, a new international order, composed of sovereign states, equals one of the other in the eyes of the law, appeared. It gave rise to modern international law and the concept of a family of nations acknowledging and agreeing to common rules and usages by which members were to live. The old classifications of government were juggled about to suit the thoughts of individual scholars, but the ideas and the standards remained basically unaltered.

In this evolution of governments from simple primitive forms to modern complex ones, each country and state has had its own individual experiences. These have shaped its government, and because no two states have had identical experiences, no two governments in the world today are identical. This makes modern classification difficult and oftentimes inaccurate. Furthermore the system of classification used for primitive governments—primitive states have been classified into war bands, matriarchy, patriarchy, robber bands, primitive viking governments, primitive feudalism, and the primitive maritime orders—is useless for modern governments. The ancient Greek classifications had no categories for despotism, autocracy, constitutional government, conservative government, and radical experiments, none of which modern classifications can ignore.

COMMON TYPES OF CLASSIFICATION

Many writers have set up their own bases for classification. Thus J. Q. Dealey,[4] for example, divides governments according to the extent of popular control which can be discerned in their conduct. There is some validity to most of these; but if government, as this volume aims to show, is the exercise of power, then governments may be classified according to (1) the number of people who exercise the power, (2) the location of the power, and (3) the responsibility for the exercise of the power.

1. *According to the Number Who Rule.* a. MONARCHY. The state which is guided by one physical will is a monarchy, no matter whether the power has been derived by election, hereditary succession, or usurpation. A real monarchy can exist only when the power of the single will is effective and dominant. Such pure monarchies as survived or appeared in modern times had been modified or had passed out of existence by the end of the nineteenth century except for Russia, Siam, and a few other states. Monarchies today are modifications of the absolute type and are called limited monarchies, which will be mentioned shortly.

Monarchies may be divided according to the method of acquiring supreme power into (1) hereditary monarchy, (2) elective monarchy, and (3) usurped monarchy.

Hereditary monarchy is so-called because the monarch inherits the crown according to a fixed rule of succession, as is the case in England and Sweden, and as was the case in Holland before the time of Hitler. Elective monarchy takes its name from the fact that the kings are chosen by an assembly; for example, in the early Roman monarchy the kings were chosen by the Senate. Usurped monarchy is so-called because the ruler simply takes the power, as King Ahmed Zogu did in Albania in 1928, when he had himself proclaimed Zog I.

Monarchies may be divided according to the way in which the ruling power is exercised into (1) absolute monarchy and (2) constitutional or limited monarchy.

Absolute monarchy (which may also be called arbitrary and despotic monarchy) exists where the ruler need consult no will but his own. The Russian Tsars of the last century are an excellent illustration. If such monarchs rule well and generously, as Elizabeth did, they are called benevolent despots. If they rule harshly and badly, as Ivan the Terrible did, they are called tyrants. Constitutional, sometimes called limited, monarchy is the most prevalent form today. The monarch's powers are limited by a fundamental law or will. England's monarchy is an illustration in point, for the

4. *The State and Government* (New York: Appleton, 1921), p. 150.

King is governed in most of his actions by rules and regulations adopted by Parliament and agreed to by him.

Monarchy is believed to be the oldest form of government known to man because it is the most simple and efficient. The political chaos, which followed the World War of 1914 to 1918, showed how natural it is for people, who are uncertain of themselves, or who need leadership, to turn to a single man for rule. This has always been so. Monarchs are the result. Monarchy was almost universal during the Middle Ages and the last stronghold of absolutism in the West disappeared with Tsarism. This was believed, at that time, to be the inevitable consequence of historical development. In fact, it was then stated that democratic and representative government were on the march, so that it was only a question of time before all absolutism would disappear and only limited monarchies could possibly survive. Thus the slogan "Make the world safe for democracy" was natural and logical in those times.

Today, however, we are not so sure that democracy is inevitable for all people, and indeed in some places it is on the defensive. Recently a new type of ruler has appeared. He does not change the government, which he takes over, but allows it to retain its old form while he exercises the real power with the freedom of an ancient despot. These men are known as dictators. Thus Italy is a monarchy headed by King Victor Emmanuel, while Mussolini rules; Germany is technically a republic, for it has a parliament; but Hitler, combining the presidency and the chancellorship in his Fuehrership, has absolute power; and, Kalinin is the president of Soviet Russia, while Stalin is the master and ruler. Dictators are rulers but not monarchs in the sense in which that word is used in this classification.

It is an interesting anomaly that the definition of monarchy is government by a single will, but in dictator states like Italy the real power is exercised not by the monarch but by someone else. The reason is that these monarchies are limited and the functions of the most vigorous king is merely to advise, encourage, warn, and help. In England the king has largely lost all political powers and stands chiefly as a symbol or a sort of rallying point for the Empire. And although titular head, he stands above parties and strife, perhaps commanding greater respect and loyalty than the average elected president. His court is an expensive institution and is prized by the state. Such chiefs are only monarchs in name and not in fact. Before the present war all forms of representative and democratic governments were to be found parading in the guise of monarchy in Norway, Denmark, Sweden, England, Holland, and Belgium, which list is not complete.

There are certain strong points to be noted in absolute monarchy. In its

earliest stages it was often connected with religion, the monarch usually claiming to be descended from the gods, as is still the case with the emperor of Japan, who is supposed literally to be divinely given. Monarchy is simple in form and is adapted to prompt and energetic action, which gives it strength and unity. Responsibility is easily fixed, and in modern monarchies the king is expected to avoid party strife, ruling impartially. There is little doubt that this form of government is ideal for disciplining primitive peoples and producing obedience. It is also excellent for the concentration of powers and the welding of a state into a political unit.

Monarchy also has its weaknesses. There is no guarantee that an hereditary monarch will do or be able to do the work expected of him. The concentration of powers tempts the ruler to exercise his duties not in the interest of the people as a whole but to his own advantage and to that of his immediate advisers. There is also the ever-present danger that a monarch may lose his powers to others. Finally, most writers agree that absolute monarchy is not effective or wise for advanced and highly civilized people, no matter how capable and fine a particular ruler may be.

b. ARISTOCRACY. The state which is ruled and guided by a few people is an aristocracy. These may be a particular class set apart by birth, age, landowning, wealth, priesthood, education, military functions, and the like. It is government by a comparatively small part of the population. The Greeks considered it to be government by the best. As a matter of fact it makes little difference what the actual form may be; the power is exercised by a small group so that the large majority have no voice in affairs. Thus all governments partake of the nature of aristocracy, for the monarch cannot possibly handle all the functions of his government, while in a democracy the masses have neither the knowledge nor the time to rule.

The more common types of aristocracies are divided according to the method used in selecting the ruling classes into (1) aristocracies of birth, (2) of property, (3) of the military class, and (4) of the priestly class.

Birth is no guide to a true aristocracy; property is no test of fitness to rule; and neither the military nor priestly classes are necessarily good rulers. This has led to the further division of aristocracies into real and sham, the former existing where the few fit rule because of virtue and talent, the latter where they do not. While education does make for better government, it does not necessarily make for good government unless those who rule are inherently fit to do so in the beginning. The English government of the eighteenth century was a good example of an aristocracy of land and birth. Ancient Persia was a religious aristocracy, while Napoleon's Empire was dominated by a military aristocracy.

A term often used in connection with aristocracy is oligarchy, which Seeley called "deranged" or "diseased" aristocracy. The Greeks called it government by the few in their own interest, or government by the wealthy; it was also called plutocracy.

Aristocracy has some outstanding strengths, just as monarchy does. When it is based on ability to rule it is of the highest quality, for it is character and ability and not numbers that make for good government. Aristocracy rewards virtue, training, experience, and political acumen, thus honoring authority especially if it happens to be based on custom and tradition. It makes for stability, curbing passion and violent change, which are great dangers to a democracy. Montesquieu said that it possessed an inherent vigor unknown to democracy,[5] for it stands between the tyranny of monarchy and the unrestrained violence of the mob. It is willing to use genius and can maintain a vigorous and consistent policy both in domestic and foreign affairs.

But at the same time it also has weaknesses, which are so pronounced that aristocracy is out of general favor today, being classed as undesirable and barely distinguishable from oligarchy. It fails to recognize the effect of the use of power on the masses, but its greatest weakness lies in the fact that there has never yet been found any sound principle on which the fittest to rule can be consistently selected. And even when the most fit do rule, they are always subjected to the temptation of misusing their powers. Thus it is elementary that heredity is no fit test of ability, character, and honesty, yet those who govern on that basis tend to develop arrogance and class pride, which in themselves are often inimical to sound government. The great value of aristocracy lies in its stress upon training, ability, and efficiency, in contrast to the democratic assumption of mass equality and ability. Among the most ardent modern champions of aristocracy have been Sir Henry Maine, W. E. H. Lecky, and J. R. Seeley.

c. DEMOCRACY. Democracy may be described as an ethical concept and a social condition; but as a form of government it is the rule by the many. Aristotle called it mob rule[6] and had only condemnation for it, saying that which was everybody's business was nobody's business. Other definitions are: that government in which everyone has a share;[7] that form of government in which the mass of the people possess a share in the exercise of the sovereign power,[8] which is built on the assumption that there is political equality among all men, and in which the ruling power is not vested in any

5. *Op. cit.*, bk. 3, chap. 4.
6. *Politics*, book 3, Section 8.
7. J. R. Seeley, *Introduction to Political Science* (London: Macmillan and Co., 1896), p. 324.
8. R. G. Gettell, *Political Science* (Boston: Ginn, 1933), p. 195.

single class; and, a government in which the majority rules by a vote of confidence.[9]

In no democracy which has ever existed have all the people shared directly in the ruling power; and tests of age and literacy have been held to be consistent with the democratic exercise of governmental functions. Until recently women were generally excluded from suffrage, and governmental offices vary in the type and extent of powers which they carry. Thus, while democracy is based on a theoretical equality it operates in fact upon a basis of inequality. For this reason Gettell says a democracy in fact exists where the following conditions are in effect: (1) if the form of government is supported by general consent; (2) if the laws are made by representatives who are chosen by a wide referendum or by popular suffrage; (3) if the governing head is elected directly or indirectly by popular vote or is responsible to the legislature; (4) if the right to vote is conferred equally on a large part of the population; and, (5) if the opportunity to serve in a governmental capacity is open to all classes of the population.[10]

Democracies may be classified as (1) pure or direct or as (2) representative, sometimes called republican.

A pure democracy is one in which the will of the people is directly expressed in mass meetings or in a primary assembly instead of through an assembly of representatives or delegates. It is practical in small states and is supposed to have existed in ancient Greece. Survivals may be seen in small communities, such as the New England town meetings, and in the Swiss cantons of Appenzell, Glarus, Uri, and Unterwalden.

Representative democracy is the more common form. In it the will of the people is formulated and expressed through a small body of persons chosen by the people to act as their representatives for lawmaking and governing. It is important, however, that the electorate should be broad in order to represent the people as the ultimate power; otherwise the government may not be a democracy. This type of democracy is based upon the principle that the people as a whole are not capable of exercising the authority themselves. Although its antecedents go far back into history, it did not become prevalent until the middle of the last century. Its essentials seem to be: (1) that the electorate should be democratically constituted; (2) that the agents must reflect the will of the people during their term of office; and (3) that the agents are subject to an enforceable popular responsibility. Obviously these are severe tests and would lead to the conclusion that no representative democracy could exist if women or any other group were

9. James Bryce, *Modern Democracies* (New York: Macmillan, 1924), vol. I, pp. 1 ff.
10. *Op. cit.*, pp. 105–6.

excluded from the polls. In most such democracies there is only a minority of the total population who constitute the electorate. It is generally believed that a representative democracy exists if the legislature is popularly elected. The late government of France was a good example of such a democracy.

Our own government is republican in character, which means that it is based on a widely extended suffrage, is operated by a small group of officials in the interests of those who elected them, and that these officials hold their office at their pleasure for a limited period of time, or during good behavior. Under a broad interpretation such a classification might include elective monarchy, but a strict interpretation excludes monarchies and applies the classification only to aristocracies and democracies.

The worship of democracy by many people prompts a listing of its virtues, for blind worship is almost as dangerous to democracy as despising it is. A government based on popular control, election, and responsibility is likely to insure, in the long run, greater efficiency and truer service of the interests of the people than any other form of government. The individual has an opportunity to secure his rights by standing up for them. Each individual contributes to the general prosperity by promoting his own, thus following the greatest incentive in any society. The masses are elevated, and patriotism, love of country, and loyalty are generally increased. Really free men are produced, for only a small share in the government makes men free and not subject. It is often argued, but has never been proved, that the elected officials of a democracy are more likely to be efficient and honest than those serving under other forms of government. Since in democracy sovereignty and its exercise are based on consent and not force, the dangers of revolution are supposedly reduced.

Obviously many of these contentions are open to challenge as they stand. There are also several weaknesses to be noted in the democratic form of government. It disregards on its face ability, aptitudes, and training, and has a tendency to distrust specialists and experts, entrusting the government to those who are untrained and often unfitted for complex duties. There is a lack of enforceable responsibility within its operation, and it permits the breeding of agitators, flatterers, demagogues, and bosses. Groups are leveled down rather than lifted up, so that education, science, literature, and art, are poorer than they would otherwise be. It is vulnerable to attack by armies and mobs, and it has not been able to stand up indefinitely against ardent nationalists. The poorest and the most ignorant make the decisions because they are the most numerous; thus it runs contrary to nature's rules that only the fit and the superior shall survive and that inferiority must perish. There never has been, nor is there now, a real democracy with equal

opportunity for all. It is costlier than other forms of government, slow and cumbersome in operation, especially in matters of justice, and destructive to confidence in the legislature. Wealth becomes a formidable influence in perverting legislation, while politics becomes a trade and a profession. Parties and their organizations acquire undue power as legislators and executives tend to swap laws for votes.

Obviously, these statements are also open to challenge as they stand. Consideration of the strengths and weaknesses of democracy in light of the events of our times raises the question of the future of democracy. Before the war it was believed that its universality was inescapable. Now that thesis no longer holds. Russia, Turkey, Italy, Germany, and other states with democratic constitutions have adopted dictatorial rule as the confidence in representative government has declined. As this chapter is being written dictatorial rule menaces all the free institutions of Europe, if not actually of the whole world. A successful democracy requires a constitution, security of property, security of rights, some means for insuring the will of the majority, political intelligence among the people, and direction of the wisest and the best.

Some people because of their experience or natural aptitudes or training seem to be better suited for democracy than others. To succeed, democracy demands the preparation and training of citizens. It must lean upon general literacy and a strong middle class. Therefore some writers feel that it has no place in Asia, and that the lack of some one or more of these essential elements is responsible for many of its failures in Central and South America. In any case the burdens of democracy are supposedly great, for as the state grows the complexity of voting increases beyond the competence of the people. The initiative and referendum are the last of these complex burdens. In some quarters voices are heard demanding even the popular control of foreign affairs. The assertion is often made that there are far too many elections and that the people are not competent to handle them. There is a tendency also in modern representative democracy to transfer elective duties to administrative functionaries, which obviously is also destructive to democracy.

2. *According to the Location of Supreme Power and Authority.* Governments classified according to the place where supreme power is located may be divided into two groups, namely, those with a unitary or centralized system of government and those with a federal or decentralized system.

a. CENTRALIZED OR UNITARY GOVERNMENTS. All modern governments have territorial subdivisions, which are called by different names: commonwealths, cantons, counties, communes, or townships. Whenever the whole

power of government rests in one central organ or in several central organs and there is no division of powers between the central government and the subordinate states, the government is said to be centralized or unitary in form. The subordinate districts, departments, communes, and counties are parts of the central government acting as its agents for the administration of local government. They are subject to it in administration, and enjoy autonomy only in those functions which have been conceded to them. England and most European and Asiatic governments belong in this class. The government of republican France was the classical example.

Such governments are strong in that they easily achieve uniformity of law, policy, and administration. Their foreign policies and national defense programs are coherent. Their governmental machinery tends to be more efficient and less expensive. Having a single patriotism, they are more easily adaptable to changing conditions with a minimum amount of conflict of authority, confusion, and overlapping and duplication of powers.

They are weak in that local self-government is absent. The policies settled by the central agency may only remotely apply to a given local community because they are made by officials who may not know the local conditions. Unitary governments are not suited to a liberty-loving people, and they are unsuitable for large countries with communities varying in character and make-up. The local community suffers from neglect while the national parliament is overburdened with petty details. There is a tendency to destroy local initiative, while interest in public affairs lags.

b. FEDERAL OR DECENTRALIZED GOVERNMENT. Whenever the governmental power in a state is divided by agreement, constitution, or fundamental act between a central government and the individual states or territorial subdivisions, the government is said to be federal or decentralized in character. In most cases such an arrangement has resulted because the central government has been created by the smaller states. This is the case in the United States, Switzerland, Australia, and some of the countries of Latin America. Under this arrangement there are several local governments each supreme within its own sphere, which has been marked out with definity and clarity. The central government as a rule exercises power in national affairs, military matters, foreign policy, commerce, patents, money, copyrights, revenue naturalization, and other common functions. The local states regulate safety, welfare, and police matters. The tendency is for the central power to expand at the expense of the local states or political units.

The strengths of the federal form are several. It permits local self-government to grow, although occasionally it allows the local communities to band against the central organization. The balance of government is observed,

and such a system has proved particularly efficient in vast areas. It stimulates interest in public affairs because a greater number of people have a share in the government than under the unitary type. There is less danger of despotism, and at the same time the central administration and parliament are relieved of many petty details. Differences between local groups are usually easily settled. Bureaucracy is prevented; patriotism is stimulated; local communities are permitted experiments, and consistent national policies are possible without choking local autonomy.

Like all other forms of government the decentralized form has its weaknesses. While it is strong politically and externally, it may be weak internally and economically. It is weak in foreign affairs, and one administration is often embarrassed by the action of the former administration in such matters. The division of power internally necessitates innumerable arrangements for uniform laws concerning crime, labor, marriage, divorce, banking, exchange, and the like. Conflicts of jurisdiction arise—between state and state, states and the central government, and even between a state and the citizen of another state. This double system is cumbersome, slow, and expensive, especially since it divides lawmaking between two sets of powers. It is notorious as a government of constant compromise and change.

c. CONFEDERACY. A modification of the federal form is confederacy, in which each local or member state maintains its own sovereignty and grants to the central government or organization certain powers for mutual support or defense. The United States prior to 1789 and Germany from 1870 to 1918 are examples in point. Under this arrangement there are many sovereignties, the arrangement often lacking an executive head and judicial machinery. The confederacy provides protection and uniformity in foreign relations, war, and interstate relations. It is transitory in character, lacks stability, and exists at the pleasure of the member states.

d. BUREAUCRATIC GOVERNMENT. Cutting across these types is the bureaucratic type of government, in which the power is exercised by ministerial bodies and administrative chiefs. Generally it means a government in which the power lies in the hands of a professional class. The career service of Prussia from 1720 to 1808 was an example. Bureaucratic government is based upon training, seniority, merit, and permanent tenure. It is skilled and capable, but formal and brittle. It is efficient but dry. Opposed to it is popular government, with brief tenure subject to the will of the people and indifference to training. Of this same nature is paternalistic government, which aims to promote public welfare by government services extended to all types of enterprises and activities. Finally in this classification there is the individualistic government, which operates on the principle that the

greatest latitude possible should be provided for individual enterprise. Many believe that government's sole function is to remove obstacles from the path of the individual, and that that government governs best which governs least.

3. *According to the Location of Responsibility.* One of the assumptions of some writers on politics is that governments have two main functions, namely, to make laws and to administer them. Since governments are therefore classified according to who exercises responsibility for the governing power, it is common to divide governments into the cabinet and the presidential types.

a. CABINET, MINISTERIAL, OR PARLIAMENTARY GOVERNMENT. Cabinet government is deemed to exist when a prime minister standing at the head of a cabinet is responsible for the proper exercise of his powers to a parliament. In bi-cameral governments it is usually the lower house to which he is responsible. This form of government is also known as parliamentary and ministerial. It is especially useful in permitting collaboration between the executive and legislative authorities and fixes responsibility squarely upon them, for they may be challenged and turned out of office at any time. It is flexible, elastic, and helpful in times of international crises and domestic emergencies, and yet the administration is always subject to popular control. England possesses and France did possess such governments. On the other hand, the guarantees sought by those who believe in a separation of powers are sacrificed by such a union of the executive and the legislative powers. The government tends to become partisan, that is, controlled by parties; and unless the bi-party system prevails, cabinets have a tendency to be compromise or coalition cabinets drawn from several parties, which has a paralyzing effect upon consistent and definite programs. Finally, the legislature tends to abdicate its legislative initiative, leaving the recommending of at least the major bills to the cabinet.

b. PRESIDENTIAL OR NON-PARLIAMENTARY GOVERNMENT. The presidential or non-parliamentary form of government exists where the president is chosen for a fixed term, holding office at his pleasure until the term has expired. The legislature may not turn him out no matter how much they may dislike his policy, and he, on the other hand, may not dissolve the legislature. Such is the government of the United States. Such a government is valuable in times of crisis because stability of its administration is assured for a fixed period of years. It has proved itself energetic and powerful, and has had the virtue of being able to place experts instead of party leaders at the head of each major administrative unit. Nor is the president completely subject to party control, as is the Prime Minister.

But in this form of government every election period is one of disturbance. There is always the possibility of a deadlock between the legislature and the executive, with a consequent loss of governmental energy. There is lack of direct responsibility because the president has only a negative and recommendatory share in legislation, which becomes largely a committee function.

c. OTHER FORMS. This classification of states into cabinet and presidential types does not make due allowance for new types of government which refuse to recognize the distinction between the legislative and executive functions. Thus, for example, there is the Swiss administration carried out by an executive council chosen by the legislature for a term of years coinciding with its own. Each member of this council is the head of one of the administrative departments, and his position is much like that of a cabinet officer in England. But the members are not responsible to the legislature nor of necessity to the party. These similarities to both systems are matched by dissimilarities, so that Switzerland is cabinet form for some purposes, presidential for others, and neither for still others.

The government of Russia places the supreme constituent and legislative power in the All Russian Congress, representing various soviets organized on a vocational basis. This body has placed the power in the Council of the People's Commissars. The whole system disregards completely any idea of a division of powers.

Then there are the totalitarian states—Germany, for example. The presidency and chancellorship are both vested in the Fuehrer. There is only one party, and while the Fuehrer is the head of that party he is theoretically responsible only to the people, which restriction he interprets as he pleases. The whole order is based on the principle of leadership. This type of government also disregards the theory of the separation of powers and operates on a dictatorial principle, placing the supreme executive power in the hands of the Fuehrer, who decrees laws at his pleasure. All officials are directly responsible to him. He is the final source of appeal and the Reichstag is his sounding board. Such government is strong in that it possesses singleness of purpose and of will, is flexible and adjustable to the needs of any exigency, and is stable and consistent. On the other hand, it is arbitrary and has no place for liberty and human rights; it lays everything in the hands of one man, making him a power for good or for evil, for right or for wrong.

SECONDARY FORMS OF GOVERNMENTS

Governments may be classified according to the type of person or persons who exercise the power. For instance, a government ruled by priests is a

theocracy, one ruled by military men a timocracy, one ruled by the wealthy class a plutocracy; one ruled by the middle class is bourgeoisie, and one ruled by the laboring class is proletariat. Governments may also be classified according to whether they are well or badly carried on. For example, a monarchy which is badly administered is a tyranny; a perverted aristocracy has been called an oligarchy; and a degenerate democracy was branded as mob rule by Aristotle.

These are secondary classifications because they are superimposed upon the primary or basic classifications discussed in this chapter. Some of them run back in history to the days of Greece and so bear the stamp of great antiquity.

THE BEST FORM OF GOVERNMENT

The best form of government depends entirely upon one's conception of what the purposes of government should be. Tests and purposes differ, but in the last analysis that government is best which best achieves its purposes. That government is best which is best administered. One test for a good government is its efficiency, vigor, economy, and prompt action. Another test is public interest in governmental affairs, loyalty, and patriotism in the citizens, and the amount of political education and freedom. Still another test is the increase in happiness and in the sum of good qualities possessed by people in the community. There are other tests as well.

To us democracy seems the best government. But it is well to remember that no single form of government suits any people for all times. It must be altered and adapted to fit new demands and needs. A short while ago the drift of government change was from despotism to democracy; now it seems to be from democracy to dictatorship. The interesting thing about all forms of government is that the leaders claim that they represent the people. Representative government is extolled everywhere. Mussolini approves of it, for example, and says that he has only weeded out its spurious form in Italy.

Good government is neither a philosophy, a subject for argument, nor a matter of opinion. It is a fact. Its test is a people who flourish even on an inhospitable soil. Bad governments kill even the best and most prosperous lands. The important fact is not the type or form of government which a people have, but the way in which it is carried on. If it respects human rights, property, and institutions, it is good. A divine form of government in the hands of ignorant devils would most assuredly come to grief anywhere, and so it is on this earth.

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CHAPTER TEN

Systems of Government

SYSTEMS DISTINGUISHED FROM FORMS AND TYPES

HAVING classified governments according to form and type, it is also possible to distinguish between them according to their functions, purposes, and philosophies. This has been called classification according to system. A system in this sense is an underlying program or philosophy according to which a state exercises its power or force to coerce obedience to its orders and laws.

Ideas of what a proper program of government should consist of have changed from time to time and modern concepts have not always prevailed. Before examining the present systems, a view of the past systems should give a helpful perspective.

SYSTEMS PRIOR TO THOSE OF THE PRESENT

It is impossible to distinguish any governmental system among the earliest tribes, since government did not appear at the beck of philosophical speculation but grew out of social needs. The earliest political organizations lacked philosophy, conscious purpose, and program. Long established custom alone justified the exercise of power. Government grew and no one knew how nor when it made its appearance. It would be difficult to state when leadership, social customs, and usages ripened into institutions. Governments existed long before any system could be evolved, since all systems require theory and ideals which presuppose an advanced social and political development.[1]

1. *Ancient Oriental Empires.* The first systems were the ancient Oriental empires of Egypt, Chaldea, Phoenicia, Babylon, Assyria, and others.[2] These people lived in the warm fertile lands of the Near East which allowed them to grow, prosper, and organize. Natural boundaries gave them the protection necessary for them to integrate society and government. After accomplishing this task they undertook foreign conquests, adding many subject peoples to their empires. The exercise of political power aimed (1) to pro-

1. William G. Sumner and Albert Galloway Keller, *The Science of Society* (New Haven: Yale University Press, 1927), chap. 16.

2. For a ready reference giving a perspective on the evolution of systems of government exclusive of the primitive, see John W. Burgess, *The Reconciliation of Government with Liberty* (New York: Scribner, 1915), especially bks. I and II.

vide the needed protection against invaders from abroad, and (2) to establish relationships between the conqueror and the conquered. Conquest made for the dominance of the conquerors over the conquered. There existed the belief that the rulers could exercise their powers over their own realm and over the conquered areas as though the lands and people were their personal property. Their power was unchecked and unbridled.

2. *The Greek Systems.* Next in order came the Greeks, who developed many systems which were based chiefly on ethical principles. To the Greeks the just state was the good state, and when Plato sought his just man, he did so in what he considered the just state. Each man was supposed to be a mirror of the state in which he lived, possessing its strengths and its weaknesses. Men patriotically devoted their lives to the progress of the state. So absorbed was the average Greek in his city that anything smacking of modern individualism would have been radical if not actually treasonable. Thus, although the Greeks did not develop any system peculiar to themselves, they did create many types differing according to the prevailing opinion in each state. The military oligarchy of Sparta and the commercial democracy of Athens are classical examples of how widely these differed.

3. *The Roman Empire.* The Roman program was essentially legal, stressing authority, uniformity of law, universal peace, and centralized organization. The ancient Oriental empires had had a high respect for the individual and some of the city-states had given him a chance to be heard; but the Romans were the first people to talk of the equality of man. A world empire and a universal legal system were created by a state which witnessed the transfer of power from the patrician to the plebeian groups within its own borders. Rome achieved the stability which previous governments had unsuccessfully sought to achieve.

4. *Systems of the Middle* Ages. It was this stability and universality, which the succeeding ages tried to recapture.[3] During the Middle Ages the universal empire became the objective of both the Holy Roman Empire and of the Papacy, while actually political diversity reigned. Because of the essentially religious character of these times, what was thought to be God's way was considered the right way in political matters. The chief trouble lay in deciding what was God's way, for various sources of authority believed that they had the true answers, even though they did not agree with those of other agencies speaking *ex cathedra.* Roman and Teutonic institutions were fused with a landholding social system, which was both economic and social. Society was concentrated about the Church while the individual,

3. See the six-volume study by R. W. Carlyle and A. J. Carlyle, *A History of Medieval Political Theory in the West* (Edinburgh and London: William Blackwood and Sons, 1927-1936).

liberty, and local self-government were emphasized. Under these circumstances the prince ruled for the people and it was his office which was important, not the man himself, although the man and the office might not be distinguishable for practical purposes. They were distinguishable only when church and political ruler came into conflict. The system was a peculiar combination of religious ferver, eschatology, magic, superstition, political relics, primitive social institutions, and stratified society.

5. *The National State.* A new program appeared with the advent of the national state, which brought with it far-reaching changes. Freedom from church control was sought through the support of the political power against the might of universal Rome. Philip the Fair was supported by his people when France blossomed into modern nationhood. The German people flocked to the standards of their rulers when they were attacked by Charles V. National unity became the objective of most new states, and they gave it expression in the support of their rulers, as the English did in their support of Elizabeth. Whatever the ruler willed had the force of law. The State became an object in itself, while the ruler was the living symbol—sometimes so powerful that Louis XIV is erroneously reported to have said, "I am the State." National armies and navies grew as the monarchs tried to strengthen their power. In economics a paternalistic and closely supervised system called mercantilism was created, which regarded economic activities as the special interest of the State. A government measured its strength in the gold and precious stuffs it could accumulate. A host of navigation acts and trading acts and closed colonial trade developed, until by the middle of the eighteenth century the system began to irk and totter.

The last vestiges of the Middle Ages disappeared with the Industrial Revolution. Man had shed his shame and depravity in the Renaissance and the Reformation, and he had won freedom from the Church through his monarch. When the economic restraints following the commercial revolution became too onerous, Adam Smith, the Physiocrats, and the *laissez faire* idealists achieved similar freedom in economic fields. This resulted eventually in the doctrines of individualism. The full fruition of these doctrines has been reached today, and the world is not united in its opinion of which governmental system is the best.

PRESENT SYSTEMS

According to present ideas it is possible for a government to exercise its power so as to (1) give the fullest freedom possible to the individual, (2) submerge the individual in favor of the group, (3) strike a middle ground between emphasis on the individual and emphasis on the group, or (4)

eliminate all government. If the last were possible of achievement, there could, of course, be no governmental system.

1. *Systems Which Emphasize the Individual.* a. INDIVIDUALISM. Individualism as a system of government was generally accepted before the War of 1914. According to its precepts government exists to help man realize himself to the fullest. Individualists believe that if nature is allowed to follow her own rules, she will create the best society and she can do this by developing each individual by himself. They regard political control and paternalism only as meddlesome interference retarding progress. If, therefore, the individual is left alone, he will perfect himself unhampered and the ideal society will be achieved most quickly. Government aiming at man's social well-being functions only so far as people are willing to accept it and to work towards the fulfillment of its ends. It may control an individual only in order to prevent him from interfering with the freedom of another. Government's chief purpose is to remove obstacles from the path of the individual, and that government is best, which is least felt and noticed.[4] Such are the teachings of individualism.

Individualism is modern, but students may detect its beginnings in early Athens and in some of the Greek city-state philosophers. It was also implicit in the Renaissance and in the natural rights idea. Medieval Christianity emphasized individual aloofness from worldliness, while the Reformation was a revolt against authority, especially in religious matters. In spite of this, it was not until the Industrial and the French Revolutions that individualism blossomed into its modern being.

It found a congenial vehicle in democracy, which advocated the rights of man in many attacks on absolutism. The economic aspect of this battle for freedom was the revolt against mercantilism which has already been mentioned. This was buttressed by the French Revolution's test of the rights of man and the American Revolution's emphasis upon the individual. During the century from 1750 to 1850 these doctrines were reinforced by the ideas of the Utilitarians, who considered the best society to be the one in which the greatest number of people were happiest. Individualism was advanced from many other sources. The economic man was convinced of the respectable character of business, and followed *laissez faire* doctrines and practices. Competition meant individual enterprise and was the essence of good society. The idealist believed in natural rights and these were incorporated into constitutions and governmental instruments, which guaranteed the rights of life, liberty, the pursuit of happiness, fraternity, and

4. Edmond Kelly, *Government or Human Evolution* (London and Bombay: Longmans, Green, 1901), vol. 2, bk. 1.

equality. The biologist added his theories of evolution and the survival of the fittest, which were essentially individualistic. It was not surprising that under such a barrage political leaders should encourage the individual to develop himself to the fullest, since the sum of all individual development would make for the greatest possible progress in the State.

The first formal statement of individualism was made in 1791 by Wilhelm Humboldt, who published the theory which was to play an important role in the systems of government in the western world during the eighteenth, nineteenth, and twentieth centuries. While many men developed the idea further, it was Herbert Spencer in England who expressed it best, although the impetus of John Stuart Mill was fully as telling as the speculations of Spencer. In the United States these ideas fell upon fruitful ground and became the basic American doctrine through the years of our greatest development. The views of Jackson and Jefferson were logical expressions of the new individualism, which promised so much for an undeveloped country. The fruition of the philosophy resulted in the attack on the institution of slavery and later in the emancipation of women. It is only recently that this philosophy has come under attack.

The individualist system created freedom of the press, of speech, and of religion, immunity from unreasonable searches and seizures, and scores of other liberties. It made it possible for the first time in hundreds of years for the individual to disagree with the current social and political programs without rendering him liable to charges of treason and crime. It also expressed itself in the government's withdrawal from the close regulation of economic life. It was not long before legal individualism, bolstered by natural law, was contributing to the protection of the private person. The creed of the new democracies and constitutional government everywhere spoke of inalienable rights. The critics of the individualist system assert that it reached its goal at this point; for it had achieved the protection of the then incipient, but now powerful, capitalist class.

In the minds of the individualists, government exists in order to remove obstacles in the way of free competition; thus the Clayton and Sherman Anti-Trust acts were designed to help the free flow of competitive enterprise in the United States. This belief is accompanied by a profound belief in man's own worth, for the individual is the end in himself, and the State's function is to develop him to his fullest capacity. This theory is based on the assumption that the individual knows best what he wants. The State provides him with a society in which to live, with facilities for an education, and with the right to engage in business. It is up to man to elect whether or not he will sieze these opportunities. If the individual cares to use these

opportunities, he does so; if he does not and fails to achieve what he considers success in life, his failure is his own fault and society does not bear any share in it. This philosophy is based upon the idea that the State cannot change the inherent nature of any man and therefore it is wisest if it leaves him alone. In the United States the system of individualism protected all rights. The great majority of amendments to the Constitution of the United States are ample testimony to this fact.[5]

This system of government has resulted in a stratified society, which its critics have described as predatory and devastating in its inequalities. Economic differences have given rise to the newly-coined phrase "social injustice." In a society based on unrestricted competition and on business and the dollar, liberty for the buyer and the seller unfortunately has not always been liberty for the worker. The control of labor has produced opposition and revolt because of the unhappy relations between a top-heavy capitalist class and a mass of poor workers, the former growing richer with each passing day and the latter growing commensurately poorer. Wage slavery and unemployment are believed to grow out of the uncontrolled type of individualism characteristic of the last few generations. At least these are the criticisms of those who have suffered from individualism.

We shall not attempt to judge the validity of these criticisms, but it must not be forgotten that they often confuse the results of the Industrial Revolution with those of individualism. Capitalism may in part grow out of the philosophy of individualism, but it is essentially economic and the product of the Industrial Revolution.[6]

b. ANARCHISM. Driven to its logical conclusion, the theory underlying individualism leads to anarchy; for absolute freedom is the complete absence of regulation, be it state or any other. Some philosophers and idealists have advocated this idea in the past; but unlike the idea of individualism, it never ripened into a system of government, although the anarchists in recent Loyalist Spain and the Nihilists in Russia actually gave it expression in political parties. Therefore it deserves a moment's attention.

Although defined as the absence of government, anarchy is, in the last analysis, a complete lack of governmental system. All anarchists have a few fundamental ideas in common, for there are schools of anarchists as there are schools of collectivists and individualists. To the anarchist force used by government to coerce individuals to conform to its will merely breeds

5. For a brief and lucid account of American individualism in its philosophic, spiritual, economic, and political phases see Herbert Hoover, *American Individualism* (New York: Doubleday, Page, 1923).

6. See W. Barnard Faraday, *Democracy and Capitalism* (London: John Murray, 1921), last chapter.

perversity and crime. Every use of force by the State is a repression of liberty. Everyone is supposed to surrender some of his freedom to the State, but in almost every instance the State has taken advantage of its position and has demonstrated its unfitness to be the custodian of individual freedom. Morality is the result of the free election of the proper course of conduct by an individual, and the State in exercising its governmental power is destructive of moral values.

The first great critic of this aspect of government was William Godwin (1756–1836), in his *Enquiry Concerning Political Justice* (1793).[7] He acknowledged as right only a minimum power in society for the purpose of government. The Frenchman Proudhon went even farther, repudiating all forms of government and calling the ownership of property theft. He not only hated private property, but considered the State to be an arch-criminal. This philosophy was drawn both from liberalism, with its objections to state control, and socialism, with its opposition to private property.

Anarchism has been classified by political and social philosophers into the individualistic and the communistic types. Such classification is superficial because even in communistic anarchism all societies are voluntary associations, the individual being able to terminate his association with the community when it suits his purpose. The best statement of the theories of individualistic anarchism is found in Max Stirner's *Der Einzige und sein Eigenthum*.[8] Stirner holds that the family and society interfere with freedom and should be eliminated as quickly and as completely as possible, that might is the only test of right and authority, and that a society or state based upon authority has no right to exist.

The main group of anarchists are called communistic because they believe that societies should be voluntary associations. Their ideas were originally propounded by Michael Bakunin and Prince Kropotkin, who opposed law and order because they protected the privileged classes and destroyed equality of chances. According to the communistic anarchists the police, taxes, military service, and other state functions are means of protecting the privileged against the unprivileged. The communistic anarchists advocate all manner of voluntary associations, sometimes elaborate and far-reaching, but they always stipulate that these associations must eliminate political control.

Some anarchists believe that a new order should be achieved gradually, while others urge that change be effected by revolution and the use of violence, so that the overthrow of the existing order shall be as complete as

7. The most recent edition of this work is the two-volume edition (New York: Knopf, 1926).

8. Leipzig: Verlag von Otto Wigand, 1845.

possible. Such doctrines have little use for the democratic and individualist doctrine that governments should be of the people, by the people, and for the people. The anarchist challenges this doctrine, claiming that all governments are only "by and for" the privileged classes.

2. *Collectivist Systems.* a. COLLECTIVISM.[9] There have been other critics of the individualistic system during the last few generations. The Industrial Revolution, like all great economic and social revolutions in history, has taken a toll in human life, misery, and suffering. This has been indiscriminately attributed to the governmental system which permits competition and capitalism to thrive. The individualism of the eighteenth, nineteenth, and twentieth centuries has not answered all the needs of society and those who have suffered under it have devised new and challenging systems, which they believe will correct its shortcomings. Most of these have been described as socialistic and proletarian.

The idea of unlimited competition has been the chief point of attack for the collectivists who state that instead of less government, more paternalistic government is needed. Instead of free and unbridled competition, governmental control and regulation of private enterprise is vital to the welfare of the community as a whole. The collectivists claim that the individualistic society distributes economic benefits in a way that inevitably fosters injustice, because it helps a favored few to amass huge fortunes and thereby robs and starves the unfortunate masses. Obviously the general critics of governmental systems range from those who would provide means for the control of economic and social welfare by governmental regulation to those who would abolish private property by force and violence.

In some instances the collectivists have not waited for government and society to correct what they consider to be undesirable conditions. They have banded together into voluntary societies for the control of production and consumption to reap such benefits as they can. Thus, consumers and producers co-operatives have come into being and to some people they mark the beginning of industrial democracy. It has been only a short step from this movement to the movement for state ownership of certain key industries and activities. During the years before the World War the collectivists succeeded in several directions. Their theories developed until they advocated state control of industries: (1) to protect public interests in natural monopolies (such as mining); (2) to eliminate waste in certain non-monopolistic industries (such as fishing); (3) to guarantee a better protection for the future than private enterprise could give (by means of such benefits as old-age pensions); (4) to give society goods and services which are badly

9. See Edmond Kelley, *op. cit.*, vol. 2, bk. 2.

needed (such as the service known as social security); and, (5) to bring about closer social bonds by making men realize that they are bound into one great social and economic brotherhood, which is not of national but of international magnitude.

Simple as these ideals are, they have been impossible of practical achievement. Many problems have arisen as to (1) the ownership of land, (2) which governmental units should be publicly owned, (3) how to make the state democratic in society and economics as well as at the polls, (4) how to take over property, and (5) the amount of government which should be exercised in any given case. Naturally, such rocks in the broad stream of collective and social philosophy have divided the stream into several substreams. The result is that collectivism and co-operatives are governmental systems only on paper.

b. SYNDICALISM. The syndicalists advocate the organization of producers so that they shall control and manage industries through groups of worker, trade, and labor unions. The term *syndicat,* borrowed from the French, among whom the theory of syndicalism has had some vogue, means an organization of producers managing their own affairs.

Syndicalism, commonly called criminal syndicalism in the United States, is an impatient doctrine, which teaches that the action of democratic institutions is slow and weak and that democratic institutions are therefore highly undesirable. It advocates sabotage, the general strike, resort to violence, overthrow of existing government, and revolution. It sprang up in France after the Revolution and stood for a combination of local unions into a society of federated industries characterized by extreme decentralization. The state and government were generally condemned as hostile to the proletariat. In 1895 the syndicalists organized into the General Confederation of Labor in France, with George Sorel as their great leader. In the United States the banner was raised by the Industrial Workers of the World under the leadership of Big Bill Haywood.

The philosophy of syndicalism has been incorporated imperfectly into the Russian governmental system. Some American states have made its advocacy a crime, but the tendency of some of our courts seems to be in the opposite direction. There is something sardonically humorous in a court's looking with favor upon a doctrine which preaches the destruction of that court as soon as the doctrine can be put into effect.

c. GUILD SOCIALISM.[10] Another doctrine which has been given partial trial in recent governmental systems is guild socialism. It teaches that all primary

10. See Niles Carpenter, *Guild Socialism* (New York and London: D. Appleton, 1922), especially pts. II and III.

state and governmental functions should be vested in guilds or craft unions similar to those which existed during the Middle Ages. Such residual powers as are left may be vested in society and government.

Guild socialism is a compromise between collectivism and syndicalism. It proposes that workers be organized into occupational unions or guilds whose function it is to control production, and that consumers, represented by the state, own the means of production. Many phases of this doctrine have been given practical trial in Soviet Russia, where phases of syndicalism have also been tried. Guild socialism denies the so-called monistic theory of sovereignty, which places the supreme political power in the state, and adheres to the pluralistic theory, which assumes that this power is exercised by functional groups and that the state is the sum of such groups in operation.[11] It stipulates that industry, education, and the Church all have their organizations supreme within their own spheres and answerable to the state only in the case of those functions which are outside of their sphere.

Like all socialistic philosophies, guild socialism dislikes state and government. Its supporters do not consider political democracy to be enough; there must be economic and industrial democracy as well. Their aim is to create greater opportunities for the individual. Thus, control over production should never vest in the state but in the producing group, which should have the power to determine the conditions and the character of the productive enterprises. The state should represent only the consumer, while the producer should have a national organization of his own, meeting as a congress of national guilds. Beyond these criticisms, guild socialism has no serious quarrel with democratic individualism. Guild socialism has been described as a compromise between anarchy and autocracy possessed of a decentralized government.[12]

3. *Authoritarian Systems.* Since the beginning of the World War authoritarian states have appeared from time to time. Their systems of government emphasize the power and authority of the state as these were never emphasized in the immediate past. They challenge directly the individualistic democracy of the last century.[13] Functioning social power is the center of their interest, and they contend that they can achieve a social and political optimum by directing the whole activity of the state to this end. The significance may be seen in that this system has room for only one political party and, at least in its early stages, lives under a positive and absolute

11. Kung Chuan Hsiao, *Political Pluralism* (London: Kegan Paul, Trench, Trubner and Co., Ltd., 1927), pp. 1–258.

12. W. Barnard Faraday, *op. cit.*; see especially the last chapter.

13. See Maurice Parmelee, *Bolshevism, Fascism and the Liberal-Democratic State* (New York: Wiley, 1934).

dictatorship. There is a denial of democratic and parliamentary ideals whether the dictatorship be under the leadership of the proletariat class as in Russia or of the middle classes as in Italy and Germany.

a. RUSSIAN COMMUNISM. Soviet Russia is first in point of time and length of experience in communism. Communism was established there as a result of two revolutions in 1917. The first essayed constitutional parliamentarism; but the second discarded it and leaped centuries to set up a new proletarian state on modern industrial lines. The second revolution organized a new society ruled by a single class of producers headed by a dictatorship which systematically purged the state of all the ancient privileged classes. The justice-mad workers used governmental power to root out all chance of future opposition.

Underlying this revolution and its subsequent government was the philosophy of Karl Marx set forth in his *Communist Manifesto* (1848). Marx showed that historically man had always been divided into classes, and it had been the habit of one class to exploit another. All stratified society ultimately became predatory. The present exploited class, composed of the workers of the mills and factories, was called the proletariat. It had been created by the machines and distribution methods of the Industrial Revolution. With each passing year the proletariat were reduced to more and more miserable circumstances, while the bloated bourgeoisie, the capitalist class, grew more opulent at their expense. Their only salvation was for the proletariat of the world to unite, throw off the yoke of the capitalistic class, and create a new single-class state. World revolution was the goal.[14]

This communistic philosophy and the Russian system of government based upon it regard the state not only as a political entity but also as a social and economic one. Production is both a social and an economic matter. Distribution, which is not for the general benefit, is forbidden. All real value lies in labor because capitalism is considered a form of exploitation. Political well-being and political equality are not necessarily synonymous with social well-being and happiness.

The system does not stop there, however, for it is a tenet of communistic and Bolshevik philosophy that the exploiter does not readily give up his power. Therefore, only revolution can achieve the desired social change. Since the exploiter is taking unfair advantage of the worker, it is the prerogative and right of the worker to use every means at his disposal to overthrow his exploiter.[15] The destruction must be complete, which means

14. See R. W. Pastgate, *The Bolshevik Theory* (London: Grant Richards, Ltd., 1920).

15. See John Spargo, *The Enemy of Political and Industrial Democracy* (New York: Harper, 1923).

that the bourgeoisie must be killed, and the worker must seize the state whenever he can. Revolution must be spread not only among the workers, but also among the soldiers and the sailors and all similar groups. The old order must be undermined and the revolution must be complete. In short, everything is fair, if it aims at establishing the new order.

At first the idea was to get rid of the state, but the prospect of such a change seemed hopeless in Russia. When the time did come for revolution, terrorism and violence were exercised without restraint. There was no compromise, for terrorism was used as an instrument of political action, and is still the instrument of political action of the Bolshevik State. The standard was borne by the Bolshevik Party, who thereupon became the political elite replacing the old privileged classes. This party also became the international agency for the spread of revolutionary doctrines abroad. When in 1919 the Third International was organized in Moscow, it became the new agency for spreading propaganda and for the union of all communist parties which had been organized throughout the world since the Russian Revolution.[16]

The government which was created was absolute in power, paternalistic in nature, and intolerant of all opposition. Life, liberty, and property were all subjected to state interests. Private property was abolished. Religious worship was stamped out. All of the institutions of the old order were systematically destroyed, while political control was maintained by espionage, secret police, and resort to violence and force both for protective and exemplary purposes.

A federal union of soviet republics and autonomous areas were united by a common social philosophy and the organization of the political leaders. The state was organized into a large number of committees which were delegated to perform various functions, depending on the character of the communities from which they were drawn and other factors. By the process of pyramiding committees upon committees two immense Congresses were created which theoretically were the ruling bodies. Practically, the real government was a central executive committee in which the real ruler of Russia was to be found. The personnel of the government of the Bolshevik party and of the Third International overlapped, so that Russia became the fountainhead from which the propaganda and the money for the spread of world revolution poured.

As a system of government, Russian communism is economic, social, and

16. See Paul Miliukov, *Bolshevism: an International Danger* (London: George Allen and Unwin, Ltd., 1920).

political paternalism, supervising every act of the individual, caring for him through all the vicissitudes of life, dictating to him what he may or may not do. The state defines the individual's interests, rights, and duties, giving them expression as it sees fit.

b. ITALIAN FASCISM. Fascism is the bloody answer of the non-proletarian groups to the bloody revolution of the proletariat. It meets force with force and is the conservative's defense against communism, fighting with the same controls and techniques as communism uses. It, too, is authoritarianism inspired by violence. Like communism it is a denial of western individualism; but unlike communism, which is internationalist in character, Fascism makes a strong appeal to the purely nationalistic feelings of the masses. Its rise in Italy can be traced directly to the results of the World War and to the failure of communism.[17]

It is a combination of several things, being anti-intellectual, ultraradical, pragmatic, positive, romantic, and violent. With a syndicalist background, it is strongly nationalistic, looking romantically forward to the return of Italy to her position of former greatness. The Fascist Party is the nucleus about which the State revolves. Its leadership overlaps that of the State, and its Grand Council is perhaps the greatest final power in all Italy.

The Italian Government is now organized on the corporative basis. The nation and national production are stressed, and the whole productive force has been organized into corporations following the lines of the guild socialists and the medieval ideas of guilds. The national economy is a unit into which corporation fits. While private property is respected, it is regulated by the State and controlled by the corporations. Each corporation is headed by a cabinet minister and each unit is carefully worked into the unified whole.

Meticulous care for the individual in all walks of life, both in work and in relaxation, the exercise of paternalism through all social needs, single-party government, resort to force as the final arbiter of right, and dictatorial leadership characterize Italy's totalitarian system.

c. GERMAN NATIONAL SOCIALISM. National Socialism in Germany is a product of the after-war experience. Like the two authoritarian systems hereinbefore mentioned, it is a single-party dictatorship. It is the logical result of Teutonic nationalism, which stresses the importance of the state beyond that of the individual.[18] As Fascism is the Italian middle-class answer to

17. The system is excellently set forth in Mario Palmieri, *The Philosophy of Fascism* (Chicago: The Dante Alighieri Society, 1936).

18. For conflicting evaluations see Cesare Santoro, *Hitler Germany* (Berlin: Internationale Verlag, 1938) and Robert A. Brady, *The Spirit and Structure of German Fascism* (New York: Viking, 1937).

communism, National Socialism is the German middle-class answer to that ideology. It is a romantic revival of racism and historical objectives, seeking its essence in the spirit of the people and their relation to the soil. It is built on principles hostile to the old individualism.

This system believes in a steady and constant evolution in which the forces of the State, including education, are aimed at improving the well-being of the state. Might is right, and the individual fits into a niche which has been created for him by the past and in which he is today to perform the duty of helping to make a better order for the future. It is not for him to speak of rights. He has only duties. As an individual he is merely a cog in the huge state machine, who lives for a moment to make the future better for those who are to follow him. Since his life is one of duty and sacrifice, he must live dangerously. The State is highly social. The worst crime a man can commit in such an order is to act in an antisocial manner. Every detail of his life is carefully supervised and regimented, whether it be work, relaxation, travel, play, finance, procreation, or physical development. Since the government knows best what a man should do, it becomes dangerous for him to take issue with the government, and if he does so, it is at his own peril. Indeed in no authoritarian state is difference of opinion permitted to interfere with the smooth operation of the social, economic, and political machinery.

As for the government itself, it is based on the German mystical concept of leadership, the people expressing themselves through the leader. Constitutions and laws become supplementary subsidiaries to the leader, if they exist at all. It is the community and the people who are deemed to be of primary importance. The people are linked to the soil and to each other, forming an association called a *Gemeinschaft*. Law is the expression of this community. The government, therefore, must be absolute in order to express the community properly and in order to promote its welfare without hindrance. State authority is placed above everything else, and it is expressed through the leaders. Democracy, liberalism, and internationalism have no place in such a scheme. The National Socialist Party is a synonym for the State, fitting into the army its leadership, which overlaps the State leadership.

Russia speaks of herself as the state of the proletariat; Italy does not say which class she represents; but Germany announces that she is a classless state; yet all three are authoritarian. In all three force and power are used to compel obedience to a paternalistic government, which has a high social purpose, brooks no opposition, and punishes dissension with physical violence, imprisonment, and death.

CONCLUSION

Every government has its own system. At one extreme stands theoretical individualistic anarchism, giving the individual complete and sole right to determine for himself the rules by which he shall be governed, eliminating the State and all forms of political control. At the other extreme stands the authoritarian system with its paternalism, telling the individual what he may and may not do, making him a part of the social and political pattern whether he likes it or not. These systems came into being in the revolt against individualism, which is still the basis of government in the majority of states throughout the world. It is a middle-of-the-way program, rapidly being modified to meet the serious challenges of new ideas.

Between the two extremes are many governmental systems which cannot be classified into any of the patterns described above. Such, for instance, are the Scandinavian systems, with their producers and consumers co-operatives and their housing and recreation facilities. In spite of these social programs, the rights of the individual are carefully fostered and protected.

As to which system is best, there is no final answer. Various systems arise to meet specific needs. So ours are peculiar to our times and will undoubtedly change as future times and civilizations change. Each country is the best judge of its own needs, and, therefore, of its own system.

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CHAPTER ELEVEN

Citizenship

INDIVIDUAL LIBERTY AND ITS LIMITATIONS

THE question of the status of the citizen must always be fundamental to any study of politics. From his legal rights and obligations to the philosophical speculations concerning his ultimate relationship to the state, the citizen has been the subject of definition and description through the ages.

With the rise of totalitarian government in certain countries following the first World War, a halt was called to the emphasis upon rights. This trend, however, had manifested itself much earlier with the flowering of capitalism toward the end of the nineteenth century. As governments abandoned a *laissez faire* policy toward industry through sheer force of necessity there resulted a restriction of individual rights. Hence the apparent conflict between so-called "democratic" and totalitarian conceptions of individual liberty may not be so great as appears upon the surface. Perhaps the criterion is the extent to which the masses have a voice in determining the degree to which the inhabitants of the state are to be regulated. The very complexity of life in the machine age may mark the death knell of Spencerian or Jacksonian individualism.

Even in a politically democratic country like the United States or England, the inhabitant is born into the S[redacted]ut his consent, his life is guarded by the State even against his [redacted]ents, and throughout his life the State regulates closely his major activities. Finally he cannot leave the state legally without certain formalities; for example, he cannot get a passport without a birth certificate.

CITIZENSHIP DEFINED

Citizenship may be defined as the legal relationship between a permanent member of a politically organized community and that community. The idea of citizenship has always connoted certain privileges which are enjoyed by the group which is legally identified with a given state and its institutions. Noncitizens, or aliens, in the United States, for example, although entitled to the protection of its laws, are not accorded the privileges of voting and holding office. Nor is an alien resident of the United States entitled to a passport for travel abroad.

ANCIENT AND MEDIEVAL CITIZENSHIP

Citizenship has from time immemorial been a prized possession. Despite the vaunted democracy of Athens, only a minority of the population could claim the rights of citizens. Roman citizenship, originally the possession only of the freemen of Rome, was first extended to the rest of the Italian peninsula and later to freemen within the far-flung empire. The Apostle Paul claimed immunity from scourging because of his citizenship in the Empire.

In the Middle Ages, before the birth of the sovereign state as we know it today, such citizenship as was recognized was determined by mere birth upon the soil.

JUS SOLI AND *JUS SANGUINIS*

Among modern states, citizenship is determined either on the principle of *jus soli,* or birth upon the soil, or *jus sanguinis,* inheritance of citizenship from the parents, or on both principles.[1]

CITIZENSHIP IN THE UNITED STATES

The United States, along with Great Britain and a number of Latin American states, confers citizenship upon all born on the soil and under jurisdiction of the national laws. A child born of parents ineligible for naturalization would nevertheless be an American citizen.[2] A child born to a foreign ambassador under the international law doctrine of extraterritoriality would not be an American citizen, although one born to a foreign consul resident in the United States would be.

Congress has at times admitted collectively to citizenship the inhabitants of territories acquired from [redacted] states, as in the case of Hawaii in 1900, Puerto Rico in 1917, and the Virgin Islands in 1927.

Children born abroad of American parents acquire citizenship through the principle of *jus sanguinis,* provided that the American parent has resided in the United States at some time. To perfect citizenship, however, a child thus born must when eighteen years old record at an American consulate his intention to retain American citizenship, and when twenty-one years old must take an oath of allegiance to the United States.

Naturalization Laws. The United States Congress makes regulations for individual naturalization. Any eligible individual may obtain American citizenship by complying with the regulations fixed by Congress. The steps are as follows: (A) declaration of intention can be filed at any time in a federal or state court of record designated by Congress; (B) petition for

1. Charles G. Fenwick, *International Law,* 2nd rev. ed. (New York: Appleton-Century, 1934), p. 178.
2. *United States* v. *Wong Kim Ark,* 169 U. S. 649 (1898).

citizenship must be filed at least two years and not more than seven years after the "first papers" have been obtained and after a residence of five years in the United States and one year within the jurisdiction of the court. The petition must be accompanied by affidavits of two citizens with respect to the applicant's residence and moral character; (C) An examination and a public hearing are conducted ninety days after the petition is filed. "Final" or citizenship papers are then granted if the applicant has satisfied the judge as to his residence, good character, and belief in the principles of the United States Government.

Although African Negroes are eligible for American citizenship, all other nonwhite races are excluded. Congress has specifically excluded Chinese, and the ineligible groups include Japanese, Burmese, Koreans, native Filipinos, North American Indians, and Hindus. The arbitrary character of this legislation and its interpretation by the courts are apparent in the fact that although Armenians, Syrians, and Mexicans are regarded as "white" and thus eligible for naturalization, Hindus are not deemed white and cannot be naturalized.[3]

Civil Liberty. The doctrine of natural rights was stressed by the founders of the American system of government and was also emphasized at the time of the French Revolution. The theories of John Locke and Jean Jacques Rousseau to the effect that man, primitively in a state of nature, while instituting civil government for security, nevertheless retained "certain inalienable rights," were basic to nineteenth-century democracy. Certain states would not adopt the American Federal Constitution of 1787 until those rights were guaranteed in the first ten amendments to the document.

The Bill of Rights and the Fourteenth Amendment. In the American Bill of Rights were defined what Dr. Nicholas Murray Butler has called "The Four Freedoms," the freedom of religion, of speech, of the press, and of assembly.[4] These rights are protected against encroachment of the States of the American Union by the Fourteenth Amendment, which in addition to defining Federal citizenship provides that

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The Fifth Amendment similarly protects individual rights from encroachment of the Federal Government.

3. Samuel P. Orth and Robert E. Cushman, *American National Government* (New York: Crofts, 1935), pp. 110 ff.

4. "The Four Freedoms," *International Conciliation* (New York: Carnegie Endowment for International Peace), No. 350 (May, 1939), pp. 284 ff.

Constitutional Obstacles to Social Reform. Liberals have at various times seen in the Supreme Court's interpretation of the guarantees of these two amendments and of the contract clause of Article I, Section 10, of the Constitution an obstacle to social reform, particularly with respect to governmental regulation of economic institutions. Employers in their efforts to resist the demands of union labor have alleged that the laborer has the right to make a contract for employment, begging the question of the inequality of economic status of the worker as compared with that of the employer, because of which he can be forced into accepting a low wage. The Supreme Court in the case of *Coppage* v. *Kansas* declared void an act of the Kansas State Legislature which prohibited "yellow-dog contracts."[5] In the case of *Lochner* v. *New York,* the Supreme Court pronounced unconstitutional a maximum hours law passed by the New York State Legislature, on the ground that the statute interfered with the right of contract between employer and employees with respect to the number of hours of work.[6]

Since the passage of the National Labor Relations Act in 1935, and the sustainment of its constitutionality by the Supreme Court[7] it would appear that some of the former obstacles to social reform have been overcome by Federal protection of collective bargaining. Employers assert, however, that the statute unduly favors labor and demand revision of the act.

Aliens in the United States. Although certain classes or groups may at times seek to pervert these constitutional guarantees to their own ends, it must not be supposed that they have not been efficacious in preserving the principles of American civil liberty. A number of fundamental rights, ranging from the right of habeas corpus to the right of contract, are protected by the Federal Constitution and may be claimed by the domiciled alien as well as the citizen.[8]

One of the greatest guarantees of American civil liberty is the stipulation in the Fifth and Fourteenth Amendments that "no person shall be deprived of life, liberty, or property *without due process of law.*" This means that an alien as well as a citizen shall have a reasonable or fair hearing, whether his case calls for administrative or court procedure. It also means reasonable legislation and a final appeal to the courts.[9]

5. 236 U. S. 1, 14 (1915).

6. 198 U. S. 45 (1905). Cf. J. Mark Jacobson, *The Development of American Political Thought* (New York: Century, 1932), pp. 513–17.

7. Frederic A. Ogg and P. Orman Ray, *Introduction to American Government,* 6th rev. ed. (New York: Appleton-Century, 1938), pp. 574, 577.

8. See Samuel P. Orth and Robert Eugene Cushman, *op. cit.,* chap. V, especially pp. 103–156.

9. *Bugajewitz* v. *Adams,* 228 U. S. 585; *American School of Magnetic Healing* v. *McAnnulty,* 187 U. S. 94; *Chin Chow* v. *U. S.,* 208 U. S. 8. See E. S. Corwin, *The Constitution and What it Means To-day,* 6th ed., pp. 153–8.

By reason of these guarantees an alien cannot be deported simply on the ground that his conduct or his views are obnoxious to certain individuals or groups in the country. In the case of Joseph Strecker, an alien whom the United States Department of Labor sought to deport on the ground that he had admittedly joined the Communist Party after entry into the United States, the Supreme Court held that Strecker was not liable to deportation since he was not a member of the Communist Party at the time that the warrant was issued for his apprehension as an undesirable alien.[10]

Despite the fact that Harry Bridges, an alien engaged in organizing workers on the Pacific Coast, admitted accepting the assistance, political aid, and picketing support of the Communist Party, he was not deemed deportable by the United States Department of Labor since he was not a member of the Communist Party nor did he accept its program of political changes by force.[11] The House of Representatives, alarmed by reports of "Fifth Column" activities, subsequently voted to deport Harry Bridges. The bill failed to receive the approval of the Senate and was condemned by a Special Committee on the Bill of Rights of the House of Delegates of the American Bar Association as "contrary to the spirit of our institutions." The committee held that Bridges, "like any other alien should have a hearing under a general law applicable to all under similar circumstances."

Since the rise of Russian Communism and the totalitarian governments in Europe, American public opinion has been increasingly sensitive to foreign ideologies and the danger that they may impair the traditional American political system. The investigations of the Dies Committee of the House of Representatives reflects this feeling.

American Bar Association Warning against Intolerance. A committee of the American Bar Association issued the following declaration on March 2, 1940, as a warning against intolerance and the use of illegal methods to suppress unpopular beliefs:

> Whether threats to traditional American liberties proceed from the "Right" or the "Left" makes no difference. Whether they consist of illegal efforts to suppress the expression of orthodox opinions or of radical and unpopular opinions makes no difference.
>
> Whether they consist of illegal attempts to coerce workers to join unions or not to join them makes no difference. All tendencies to violate civil rights should be equally discountenanced at all times, but especially in the present critical period.
>
> Illegal violence in any circumstances, even against activities deemed subversive, cannot be justified upon grounds of supposed necessity. Orderly methods exist under our Constitution and laws, which are fully adequate to protect our institutions and the legitimate interests of all groups.

10. *Kessler* v. *Strecker,* 307 U. S. 22 (1939).

11. This case was reported in an Associated Press dispatch from Washington, Dec. 30, 1939, which appeared in the *Christian Science Monitor,* Jan. 1, 1940.

It is vital to liberty that the most unpopular be given the opportunity to speak. When we deny this right, especially by violence, we are using the very methods of dictatorship and tyranny that we abhor.[12]

This statement, which might be taken as a clear, nontechnical expression of the American concept of civil liberty, affords a strong contrast to the idea of civic subordination and the legalization of violence which has become characteristic of post-World-War political institutions in Russia, Italy, and Germany.

TOTALITARIAN CITIZENSHIP

When the Russians embraced Bolshevism, the civil and political rights of the individual, safeguarded in England, France, the United States, and other democratic countries at that time by constitutions and charters, were subordinated to what was considered the "well-being" of the citizen. In Italy and Germany, the state is held to be supreme, the individual a mere pawn. Both Fascism and National Socialism conceive political power as the just prerogative of the elite, a small minority which maintains itself in power by blood and iron.

Lack of Citizen Rights in Soviet Russia. Despite a vaunted trend toward democracy in the Russian Constitution of December 5, 1936,[13] the Union of Soviet Socialist Republics remains "a socialist State of workers and peasants"[14] with all power belonging "to the Toilers of city and village as represented by the councils of toilers' deputies."[15]

The long Bill of Rights[16] is more a statement of the social and economic objectives of the Soviet government than a guarantee of the many rights enumerated to all persons. Although in Article 125 the citizens of the U.S.S.R. are "guaranteed by law: (A) freedom of speech, (B) freedom of the press, (C) freedom of assemblies and meetings, (D) freedom of processions and demonstrations," we know that these liberties may not be enjoyed to the same extent as they may in a democratic country. We cannot conceive of the Soviet government's granting permission to citizens to organize any other political party (there is only the Communist Party in Soviet Russia) or allowing them to criticize communist principles in meetings.[17] Despite the fact that these rights appear in many cases to exist only on paper, the very inclusion of them in the Constitution of the U.S.S.R. is a tribute to the

12. *The New York Times*, March 2, 1940.
13. Text in *International Conciliation*, No. 327 (Feb., 1937), pp. 143–63.
14. *Ibid.*, Article 1.
15. *Ibid.*, Article 3.
16. *Ibid.*, Articles 118–133.
17. Cf. Note of Sir Bernard Pares, *International Conciliation*, No. 327, pp. 141 ff.

vitality of the principle of democracy. The Bill of Rights represents an ideal toward which Soviet Russia aspires, rather than a condition already realized in actual political practice.

Citizens entitled to these rights are described as workers, and it is assumed that all citizens are or should be workers. Sir Edward Pares estimates that in a population of one hundred and seventy-five millions, about two per cent, or three and one-half millions, are excluded from citizenship.[18]

A trend toward greater nationalism is indicated by the Soviet Citizenship Law of 1938, which concentrates the authority with reference to citizenship in the highest organs of State. The statute eliminated the simplified form of naturalization and denied to foreign workers and peasants residing in the Soviet Union privileges theretofore granted, namely, the enjoyment of the same political rights as citizens of the U.S.S.R.[19]

It is a commonplace that totalitarian government flourishes today in countries in which there has never been a vigorous democratic growth. Although the Italian *Statuto,* the constitution of monarchial Italy, defined individual rights, every one of them was subject to legislative infringement. The government of Mussolini, consequently, was restrained by no constitutional bounds when it proceeded to limit the press and any personal or property rights "in the interest of public order."[20]

Limited Rights in Hitler's Germany. The same convenient constitutional "guarantees" paved the way for the advent of Hitlerism in Germany. The framers of the Weimar Constitution painstakingly set down page after page of "inviolable" private rights, only to sprinkle the same pages generously with such vitiating qualifications as "Exceptions are permissible only by authority of law." In almost every case the rights could be limited by ordinary process of legislation.[21]

Subordination of the Citizen under Fascism. These limitations upon the citizen and the emphasis upon his obligations rather than upon his rights are also characteristic of Fascist political thought. Italian Fascism completely subordinates the value of the individual and stresses the greater importance of society, of which he is a part. Society is the permanent, the individual is the impermanent; society is the end, the individual the means. A spokesman for Italian Fascism, however, makes the following qualification:

18. *Ibid.,* p. 142.

19. T. A. Taracouzio, "The Soviet Citizenship Law of 1938," *American Journal of International Law,* XXXIII (1939), pp. 157–60.

20. Arthur H. Steiner, *Government in Fascist Italy,* 1st ed. (New York: McGraw-Hill, 1938), p. 59.

21. William Bennett Munro and Arthur Norman Holcombe (translators), "The Constitution of the German Commonwealth," *League of Nations,* Vol. II, No. 6 (Dec., 1919), (Boston: World Peace Foundation). The quotation is from "Fundamental Rights and Duties of Germans," pp. 30–44.

> Fascism does not submerge the individual in the social group. It subordinates him, but does not eliminate him; the individual as a part of his generation ever remaining an element of society however transient and insignificant he may be. Moreover the development of individuals in each generation, when coordinated and harmonized, conditions the development and prosperity of the entire social unit.[22]

Democratic liberalism, on the contrary, regards the development of the individual as the primary end of the State. In Fascist theory, the individual is a mere drop in the great stream of the State, which flows on toward its sublime objective regardless of the fate of any individual.

Soviet Russia and the totalitarian states have introduced also the idea of membership in the Party as the highest goal of citizenship. They have emphasized the importance of the Communist, the Fascist, or the National Socialist Party to such a point that in many respects party membership has the same value which ordinary citizenship has in a democratic country. Only those who have qualified by devotion to the cause of the government in power or of the Leader are admitted to the party ranks, and derelict members are dropped by "purges."

CIVIC EDUCATION TOTALITARIAN STYLE

One of the chief sources of strength of the totalitarian states is the emphasis placed by both the single political party and the government upon civic education. It is in civic education, which in the totalitarian countries is carefully planned and directed, that democratic countries have shown their greatest weakness. Communism and Fascism are quasi-religions, which are inculcated in children during their formative years.

Under Hitler. In Germany the schools, the Hitler Youth League, and the family are enlisted in an effort to orient the individual in the life of the state. Self-education and self-discipline are the basic principles of the Hitler Youth League, which includes all boys and girls between ten and fourteen years of age. By decree of June 7, 1934, children in this group devote their Saturdays to this instruction, which continues all day, both winter and summer.

To break down social barriers in the Third Reich, the government provides for the exchange of city and rural students. In the National Training Schools, at which the pupils are boarded, strenuous physical training supplements the cultural program.

Both compulsory labor and military service are utilized to mobilize the physical strength of German youth. Only non-Aryans are exempt from

22. Alfredo Rocco, "The Political Doctrine of Fascism," *International Conciliation*, No. 223 (Oct., 1926), p. 402.

obligatory labor, which is required of all persons of both sexes between the ages of eighteen and twenty-six.[23]

Every able-bodied young German must lend his brawn to the service of the state after he has finished his secondary-school examinations. For six months the young men are taught to work with their hands and are given instruction in the ideals of the totalitarian state. There are special regulations for similar service by young women.

Foreign observers who have witnessed the Spartan routine which characterizes life in German labor camps have been impressed with the loyalty and willingness with which the young German, apparently imbued with a "strength, a high resolve, and a burning love" for the Fatherland, accepts discipline and hard work.[24]

A year's military training follows the labor camp detail immediately; each German male is liable to call from his eighteenth to the end of his forty-fifth year. In wartime German women are also subject to military duty.[25]

Under Mussolini. The body, mind, and heart of youth are similarly pressed into the service of the state in Italy and in Russia. Under the Fascist reforms in education undertaken by Giovanni Gentile, the building of national and religious character were made the backbone of the curriculum.

During his attendance in the secondary schools, which is compulsory until his fourteenth year, the Italian youth is instructed in the history of his country so that he may acquire a strong patriotic bias. Not only is emphasis placed upon the achievements of modern heroes—such as Mazzini—in the Italian nationalistic movement, but the glories of ancient Rome are recalled, and a generous use is made of symbols such as the lictor's rod and pictures of the King and of Mussolini.

The secondary schools and the universities are similarly enlisted in behalf of civic training, although in the latter institutions history seems to be taught more critically than in the former. Teachers in both classes of institutions are subject to the "purification" law of December 24, 1925.[26]

WAR GLORIFIED. Fascism in Italy has been militaristic from its inception. Mussolini strikes the dominant note in such utterances as the following:

> Fascism does not, generally speaking, believe in the possibility or utility of perpetual peace. It therefore discards pacifism as a cloak for cowardly and

23. James K. Pollock, ed., "Documents on the Nazi Government in Germany," in William E. Rappard and others, *Source Book on European Governments* (New York: Van Nostrand, 1937), Sec. IV, p. 98.
24. James K. Pollock, ed., *ibid.*, Sec. IV, p. 102.
25. Law for National Defense, May 21, 1935, *ibid.*, Sec. IV, p. 291.
26. Herbert W. Schneider and Shepard B. Clough, *Making Fascists* (Chicago: University of Chicago Press, 1929), chap. V.

supine renunciation in contra-distinction to self-sacrifice. War alone keys up all human energies to their maximum tension and sets the seal of nobility on those peoples who have the courage to face it.[27]

THE BALILLA AND AVANGUARDIA. The young Italian is subjected to military training from the age of eight until he enters the army for compulsory duty in his twenty-first year. Patriotic youth organizations like *Balilla* and *Avanguardia* have replaced such "dangerous" organizations of the old democratic regime as the Catholic Boy Scouts. These uniformed societies for young persons were set up by the Law of April 3, 1926,[28] the Balilla including children from eight to fourteen years old and the Avanguardisti those from fourteen to eighteen. ("Balilla" was the nickname of a Genoese boy, Giovanni Battista Perasso, who performed heroic acts in the war with Austria in 1746.)

Both organizations according to the law are part of an official educational and charitable foundation "for the moral and physical training of the young."[29]

The Militia of Avanguardisti (Advance Guard) and Balilla are designed to make youth "worthy of the new standard of Italian life."[30]

The boys are taught the elements of military drill and modern warfare. They are formed in squads, centuries, and legions in imitation of the Roman army and are instructed in the doctrines of Fascism. Avanguardia really amounts to a junior Fascist army. Sports are emphasized in the training and military camps; naval cruises are a summer feature.

Physical, cultural, and patriotic education is provided for girls in *Piccole Italiane* and *Giovani Italiane*.[31]

Under the Hammer and Sickle. In the Union of Socialist Soviet Republics civic training is similarly of a propagandistic and militaristic character. The organizations of the Little Octobrists, comprising children from eight to ten years of age, the Pioneers, ranging in age from ten to sixteen years, and finally the Komsomol, including in its ranks in 1931 more than three million youths, make up perhaps the most comprehensive system of political education in the world.

From the beginning of the Russian Communist movement the leaders have made a cult of the doctrines of Marx as modified by Lenin. The theory of Soviet education is well stated by Madame Krupskaya, the widow of Lenin, in the following passage quoted by Charles Edward Merriam:

27. *Fascism, Doctrine and Institutions* (Rome: "Ardita," 1935), p. 19.
28. Text in Mussolini, *Fascism, Doctrines and Institutions*, pp. 264–9.
29. Article I of the Law. *Ibid.*
30. Royal Decree of January 9, 1927, No. 6, Article I, pp. 270–275.
31. Herbert W. Schneider and Shepard B. Clough, *op. cit.*, pp. 180–2.

The Pioneer movement reaches the children at that age when the personality of the individual is still being formed and promotes the social instincts of the children, helping to develop in them civic habits and a social consciousness. It places before the children a wonderful goal, that goal which has been brought to the fore by the period through which they are living, and for which the working class of the whole world is fighting. This goal is the liberation of the toilers and the organization of a new order in which there will be no division into classes, no oppression and no exploitation, and where all the people will live a full and happy life.[32]

In Russia political indoctrination is, in theory, the object of education with a view toward training leaders and teachers who will carry on the Revolution. On the practical side is stressed the need for eradicating illiteracy, improving sanitation, and raising the cultural level of the family.

Education for adults is carried on in the home, in the factory, in the school, and on every possible occasion to make the citizen aware of what are considered the best interests of the working class. A constant campaign is carried on in behalf of wider education and sanitation, and in the development of technical skills of value in the process of production.[33]

In the Land of the Rising Sun. Despite a difference in origin of the theory of the submergence of the individual citizen and his rights, which is held in the European totalitarian states, the same conception dominates Japanese life. Since the awakening of Japan in the middle of the nineteenth century, many of the forms of parliamentary democracy have been adopted, but beneath this façade persists the belief that the State, as personified by the Emperor, is supreme. The Emperor is revered as the direct descendant of the Sun Goddess. Deeply ingrained in the Japanese people are the principles of loyalty and self-sacrifice, against which the Western principles of liberalism and the equality of man have gained but slight headway.

The indigenous religion of *Shinto* has been revived in Japan as a patriotic cult, sponsored by the Imperial Government, and the shrines and rites of this native faith play a conspicuous role in imbuing the young Japanese with the feelings of loyalty to the Emperor and the firm conviction that it is the destiny of the race of Yamato to dominate Asia. Japanese superpatriotism is all the more dangerous in the modern world because it combines the tribal superstitions of a bygone era with the international struggle for power in the machine age.

Despite the lip service given to liberalism in the twentieth century, the Japanese people have never gotten more than halfway between feudalism

32. *The Making of Citizens* (Chicago: University of Chicago Press, 1935), p. 115.

33. Charles E Merriam, *op. cit.*, pp. 115–16. This section is chiefly a summary of the findings of Samuel N. Harper, *Civic Training in Soviet Russia* (Chicago: University of Chicago Press, 1929).

and democracy, and today the armed forces of the Empire dominate the parliament.[34]

Military training is emphasized in education, beginning with the first year of primary school and continuing through the "middle school." "Morals," or loyalty to the immediate family, the nation, and the Emperor are required subjects in every primary and middle school. Conscription into the imperial military service is regarded as an honor. Only one person out of eight can qualify for the stiff examinations; the rest are drafted into the reserve. During the two-years' service with the colors the soldier becomes part of a fighting machine that fears neither discomfort nor death, in keeping with the Japanese proverb that "The cherry is the best of flowers, the soldier is the best of men."[35]

During the first World War, when democracy seemed to be in the ascendancy throughout the Western world, the Japanese for the time being were ostensibly sympathetic toward the ideals of the Allies. Since that time, also, there have been influential Japanese liberals like Inazo Nitobé, who have striven to keep Japan in the democratic pathway; but since the rise of Germany to power the innate inclination of the Japanese people toward an authoritarian regime has reasserted itself, until the Imperial Government has aligned itself with the European dictators. For this latest orientation Japanese institutions and civic training are admirably adapted.

CIVIC EDUCATION IN THE DEMOCRACIES: THE UNITED STATES

In democratic countries training of citizens is much more indirect and less self-conscious than in totalitarian countries. England has rich national and cultural traditions and a wide body of literature to draw on. France was also able to draw on her culture and traditions in training citizens while she was still a democracy. This was not the case in Russia and Italy; nor was it the case in Germany, although there was a great mass of Germanic tradition which antedated unification in 1871. The school system was used more directly in France than it has been in Great Britain for education in citizenship.[36]

The United States started as a political entity without traditions of its own, but such tradition as has been built up since the American Revolution has been made the most of, even exaggerated. Formal schools, political parties, the press, and special patriotic organizations have all been used to

34. G. D. H. and Margaret Cole, *A Guide to Modern Politics* (New York: Knopf, 1934), chap. X: "The Political System of Modern Japan." See also Robert Karl Reischauer, *Japan, Government-Politics* (New York: Nelson, 1939).

35. Willard Price, "Consider the Japanese." Reprinted from the London *Spectator* in *The Living Age*, vol. 352 (June, 1937), pp. 338–41.

36. Merriam, *op. cit.*, pp. 178–97.

build up a national consciousness among the polyglot population of the Republic. Great stress has been placed upon courses in the history of the country, in civics, and in government. State legislatures in some instances have made courses in American government compulsory. Private organizations like the Boy Scouts and Camp Fire Girls supplement the work of the public schools. More than a million members of these organizations every year are instructed in principles of citizenship by means of precept, symbolism, play, and excursions.[37]

Interest in political questions is stimulated by the two major political parties, which avowedly support the best type of American citizenship, although since the last great depression the Republican Party is avowedly the party of "Americanism" and has attacked the Democratic Party for innovations which, it is charged, have an "alien" origin.

A number of other special organizations, like the Sons and Daughters of the American Revolution, the National Security League, the American Legion, and the Masonic Order, attempt to instill in the adult population standards of American citizenship. The press, the motion picture, and the radio also play a serious and increasingly important role in training for citizenship.

Great stress has been laid by many of the special organizations since the end of the first World War upon the familiarization of the individual newly admitted to citizenship with the basic principles of American democracy. In the great centers of population certain organizations sponsor "civic birthday" programs. These were originally advocated shortly after the first World War by Mrs. Carrie Bridge-Wall, a Washington, D. C., clubwoman, who believed that the induction of immigrants into American citizenship and the admission of natives to the franchise should be signalized by public exercises appropriate to the dignity of the occasion.

Criticisms of the Liberals. The chief criticisms of the liberals of the customary methods of civic education which have been sketched briefly in the paragraphs above are summarized ably by Dr. Merriam in *The Making of Citizens,* which has been drawn upon so freely by the present writer. Civic education in all countries has always tended to be nationalistic, traditional, and dogmatic. Even in democratic countries there is a tendency toward overemphasis of the inflexible elements. It is rather generally believed that one's own country and its people and institutions are superior to other countries, and their people and institutions, and that within the state the existing social and economic order is the best possible and should not be changed.

37. Merriam, *op. cit.,* p. 212.

Professor Merriam points out that in each country a scientific study should be made of just what should be recognized as the civic virtues, and that these findings should be used as the basis of education for citizenship.

Need for Flexibility. Only as much of tradition as is applicable to the exigencies of modern life should survive, in the opinion of Professor Merriam. As a substitute for exaggerated nationalism and its fetishes, which have been partly responsible for the persistence of war in the world, Professor Merriam would imbue the citizen with the ideal of internationalism. Nationalistic symbols, like the Swastika or the Hammer and Sickle, might, he thinks, be replaced by international symbolism.[38]

Of the need for flexibility he says:

> It will be found possible to establish a better balance between the element of tradition in civic education, with the conservation of established values, and on the other hand, the element of adaptation and change in social and political affairs in such a manner that a more flexible type of citizen may emerge, with a higher survival value than the wooden and inflexible type.[39]

The Totalitarian Challenge. It is to be hoped that the present assault upon democratic institutions will give to youth in the democratic countries the incentive to fight for ideals which has recently characterized civic training in the totalitarian states. In Italy, Fascism has promised a revival of the glories of ancient Rome. In Germany, the Führer preaches the gospel of a dominant Germanic race controlling Europe and perhaps the world. Even in Japan the subjects of the Emperor are told that the descendants of the Sun Goddess are destined to bring light to Asia.

What has democracy in turn to offer to its votaries? The promise of the recognition of the worth of the individual. The promise of the liberation of the human spirit. Today it is the problem of the democratic countries to make this goal more attractive to the citizen than the false Utopias promised by the dictators.

ADULT EDUCATION FOR CITIZENSHIP

If citizenship training is to create an alert and articulate electorate, one that will fulfill the democratic ideal of active participation in government, there must be some means of instructing the voters and those who influence them in the fundamentals which underly public problems. This education must be so thorough that the citizen may be skilled in detecting the difference between objective information and the propaganda of competing groups and classes. If education cannot accomplish this and if the voter, given a scientific analysis of the specific question, cannot apply his knowledge and form an opinion of his own, then really democratic government

38. *Op. cit.*, pp. 1–5, 310–18. 39. Merriam, *op. cit.*, p. 356.

must remain an unattainable ideal. That this desideratum is possible is the stubborn belief of those who oppose totalitarian government and who have faith in the workability of democracy.

The United States Government and Adult Education. One of the great hopes of democracy today is adult education. This includes instruction given not only to those citizens who have had little formal education, but also to the high school and college graduates. The emphasis laid upon adult education in the United States since the coming of the great depression is evidenced by the increasing activity of the federal and local governments in this field. The public forums sponsored by the United States Office of Education and the Extension Service of the Department of Agriculture are examples in point.

Early in the 1930's, Dr. J. W. Studebaker, Superintendent of Schools in Des Moines, Iowa, using a grant made by one of the private educational foundations, experimented with a number of public forums held in the schools of Des Moines. Discussions on such subjects as "Why I Oppose (or Support) the New Deal," "What is Civilization Doing to Us?" and "Fascism in the United States is not Inevitable" were led by Senators Louis Murphy and L. J. Dickinson of Iowa and Albert E. Wiggam, and Lewis Browne.[40]

After his appointment as United States Commissioner of Education by President Franklin D. Roosevelt, Dr. Studebaker was able to expand the forum idea to national proportions. Today forums are held throughout the country, conducted under various auspices, including that of the Works Progress Administration.

The Carnegie Endowment and Other Agencies. So keen has been the appreciation of the value of adult education as an agency for bringing about satisfactory adjustments of social conflict within the United States and for ultimately removing the causes of international friction that the Carnegie Endowment for International Peace has in recent years established a field service as one of the activities of its Division of Intercourse and Education.

This work was begun in 1935 following the International Conference held at Chatham House, London, which arrived at the conclusion that an international solution of economic problems might prove a means of attaining world peace. The Carnegie Endowment works in conjunction with the United States Department of Agriculture, the League of Nations Association, and such varied organizations as Library Associations, Rotary Institutes, service clubs, churches, and philanthropic and propagandist

40. "Des Moines Public Forums" (program issued by the Board of Directors, Des Moines Public Schools, Nov., 1934).

groups. Since much of this work is carried on in the farming sections of the country, the Department of Agriculture has taken a special interest in it, and the Carnegie staff has co-operated closely with organizations such as the American Farm Bureau Federation, Rural Young People, 4-H Clubs, and others. The promotion of conferences for the training of leaders for discussion groups in various parts of the country has been a vital part of the program.[41]

Public forums upon controversial subjects must have capable leaders, and both sides of a question must be presented. If there is an attempt at indoctrination or coercion, the primary end of the forum is not served.

Dr. Drummond Jones, senior social scientist in the Division of Program Study and Discussion of the Bureau of Agricultural Economics of the United States Department of Agriculture in elucidating the function of the discussion group as a democratic agency, says:

> In the first place, it gives importance to planning as a democratic instrument. When men think they begin to plan, to propose solutions, to test new ideas. In essence, democracy is planning; men and women do not prefer chaos or anarchy. As our forefathers planned a political state, so their descendants may plan their economy, their society, and their world. Above all, through discussion, planning becomes the right of the people themselves—they depend upon no one person to plan for them.
>
> Secondly, the usefulness of informational material—new facts—is given its rightful place in such groups; it is a tool rather than an end in itself. Instead of trying to listen to information indiscriminately dispensed, members of a discussion group first decide upon the type of information they need to solve their problems. This is in keeping with the purpose of informational material; a discussion group avoids the wastefulness of unplanned fact-giving.[42]

One of the criticisms frequently made of public forums is that they draw the support of the radical element rather than that of the conservative element. The disinclination of the reactionary and conservative elements of the country to adopt a critical attitude toward current problems is one of the weaknesses of democracy. Just as in the case of the present European war, the democratic powers, interested in maintaining the status quo, have been less aggressive and alert than the totalitarian powers, so in a given country the discontented elements are likely to be more alert, ingenious, and vociferous in seeking to bring about social and political change.

Adult Civic Education in Sweden. In the period before the second World War the Scandinavian countries had made great strides in adult education.

41. Nicholas Murray Butler, Director, Carnegie Endowment for International Peace, Division of Intercourse and Education, *Annual Report for 1939* (New York, 1940), pp. 12–18.

42. "Can We The People Solve Our Problems?" in *Handbook for Discussion Leaders* (New York: Carnegie Endowment for International Peace, Division of Intercourse and Education, 1940), pp. 91 ff.

The example of Sweden is typical. With the extension of political democracy during the last half of the nineteenth century the Swedish people felt the need of education in order to fit themselves for civic duties. Following the advice of the Liberal, Adolf Hedin, that to avoid democracy's dangers the people should have greater knowledge of economics and history, the Swedish people established a thoroughgoing system of folk schools, lecture institutes, study circles, and other adult education organizations. Many of these were direct creations of the labor movement, while the co-operatives, with their system of direct or indirect representation, afford training in democratic government.

The following list indicates the diversity of subjects selected for study by the adult education organizations: state and local administration, economics, current social and political questions, the liquor problem, philosophy and psychology, cultural and general history, tax legislation, agricultural co-operation, peace questions and international affairs, the history of the labor movement and socialism. By means of the consumer co-operative study circles, what might be called a co-operative civil service conducts a popularly controlled business worth hundreds of millions of kronor.[43]

The New England Town Meeting. An indigenous American institution the successful functioning of which presupposes an informed citizenry is the New England town meeting. The reverse of democratic when first organized in colonial times, for then only the church members or property owners participated, with the expansion of the suffrage it became an example of direct democracy. Today half of New England's population obey the ordinances drawn up in annual gatherings in the more than thirteen hundred incorporated areas which still use this form.

In New England the town meeting has forced citizens to acquaint themselves with civic problems. For weeks before the meeting the questions which have been outlined in the warrant by which the meeting is called have been discussed in the villages, at Grange gatherings, and elsewhere. Whether the matter be a contract for new paving or the expenditure for Fourth of July fireworks, all business of the township is aired in an assembly in which all citizens have a right to express their opinions and an equal vote.

Blandford, in the foothills of the Berkshires, with two hundred and forty-five registered voters, might be considered the typical New England town. In such a community a controversial question would bring out as many as one hundred and thirty-two voters.

43. Ragnar Lund, "Adult Education in Sweden." *The Annals of the American Academy of Social and Political Science,* vol. 197 (May, 1938), pp. 235–41. See also Mauritz Bonow, "The Consumer Co-operative Movement in Sweden," *op. cit.,* pp. 171–84.

At the beginning of the two-day meeting the assemblage elects a Moderator, a Town Clerk, and the Selectmen or steering committee, which in the larger towns is replaced by a Finance Board. Although in theory the Selectmen are the servants of the town, since those elected are often the natural leaders of the community, there is room for political engineering, we are told, even in these democratic assemblies.[44]

The "Town Meeting of the Air" and other radio public discussion forums have been suggested by the New England town-meeting procedure. The Roosevelt Administration in the United States in its attempts to solve the agricultural problem has sponsored a species of agricultural co-operative which might be compared with the New England town meeting. In four thousand of these county production control associations in the West and South farmer members meet to discuss crop-control quotas and related subjects in organizations the basis of which is economic rather than political. Each member abides by the vote of the majority in limiting his production.

Other Groups Which Instruct the Voter. The complexity of the problems upon which voters in a democracy must make their decision has given rise in recent years to many civic organizations such as municipal leagues and research bureaus, citizens' associations, and tax-payers' and consumers' groups which attempt to analyze current situations, pass upon the qualifications of candidates, evaluate issues, and otherwise shape public opinion before elections. Although some of these undoubtedly represent group, class, or minority interests, they are all adjuncts of democracy, and stand in strong contrast to the State-controlled propaganda agencies of totalitarian countries.

CIVIC EDUCATION IN WARTIME

The outbreak of war in Europe in September, 1939, marked the beginning of a period during which we may expect increased conservatism in civic education in the democratic countries. Even if the United States should remain neutral until the end of the war, liberalism in education will encounter many obstacles. Should the United States enter the conflict, it can be expected that the maintenance of tradition will be insisted upon by the great majority of the population, whether that tradition be good or bad. This is unfortunate from the point of view of those who advocate change, but it is one of the prices that Americans must pay for the failure of mankind to eliminate war as an agency for the adjustment of conflicting claims of nations or peoples to political and economic power, or ideological dominance.

44. L. H. Robbins, "Town-Meeting Time Is Here Once More," *The New York Times*, Oct. 23, 1934.

There is no question about the seriousness of the present situation because of the fierce conflict between the competing ideas of the democracies, with their championship of the worth of the individual on one hand, and on the other hand the insistence of the totalitarian states that government must be by an elite and that the welfare of the state is of primary concern.[45] The "Fifth Column" and "Trojan horse" tactics of the Germans in European countries and the alleged menace to Latin American countries of totalitarian ambitions may unfortunately render suspect even unquestionably sincere criticisms of the existing order from individuals who have only the welfare of their own countries at heart.

To maintain a nice balance between the exigencies of American defense and the need for legitimate social change and readjustment will be a task that democracy in the United States and other homes of liberalism will have to face. This will be both a task and a challenge for democratic statesmanship.

Even though the democracies are forced to wage war in an endeavor to exterminate forces the leaders of which have decried democracy and its irreplaceable values, citizens of the United States and other democratic lands should not lose sight of the progress made in the years following 1918 in the direction of an international order from which aggressive war would be eliminated. Nor should they lose sight of the efforts toward a better distribution of income by Western governments in the attempt to solve the baffling economic and social problems raised by the industrialization of modern society.

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45. Hamilton Fish Armstrong, *We or They* (New York: Macmillan, 1937), especially chap. II.

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CHAPTER TWELVE

Leaders and Followers

THE QUEST FOR LEADERSHIP

THE phenomenon of leaders and followers is as old as social and political organization. The very existence of society by necessity leads to a stratification dividing the group into chieftain and tribe, sovereign and subjects, leader and masses, dictator and followers. That people must live together, that they are innately different, and that environments vary are basic causes for such a division. One may not accept Pareto's far-reaching analysis, according to which social change is nothing but a "circulation of the elite"—that is, a substitution of one oligarchy for another; but all recent sociological interpretations have agreed on the oligarchical character of political organizations.

The Leader in the Perspective of History. The study of the leader and his followers offers a natural and convenient approach to politics. It deals with "human nature in politics," thus dramatizing highly technical phenomena of modern government. It has won additional impetus in our day because of the appearance in the political arena of the spectacular leadership type of modern dictators. The exciting rise of unknown soldiers from darkness to world position invites an interpretation of politics in terms of personalities—an interpretation indeed most welcome to a mechanized age longing for color and glamour in the drab of its daily grind. It is no mere accident that the two schools of thought concerning the interpretation of history which flourished especially in the aftermath of the first World War, the "debunking" school and the "heroic" school, center around personalities. A "devil theory of history" blames everything on the villain, thus relieving the betrayed masses of any responsibility. "Hero worship," on the other hand, pins all its hope upon the rise of the liberator who will lead a suffering society to a better morrow.[1]

1. Modern psychological methods certainly helped to give depth to this picture. There is, for instance, a whole literature explaining contemporary dictatorship in terms of abnormal psychology: masterful biographical studies, like Heiden's "Hitler"; comprehensive pictures of the whole circle of post-War leaders by shrewd observers, like John Gunther; and ingenious psychological analyses, like H. D. Lasswell's contributions. Studies of this kind often reveal the roots of personal motivations. Specific experiences of an early childhood—isolation, loneliness, and so forth—make a deep impression on a sensitive personality.

It should be realized, however, that such illuminating details about personalities, if they are not used so skillfully as they have been used by the authors mentioned above, may lead to

Democratic and Dictatorial Leadership. In a way, such an interpretation is a return to Treitschke's and Carlyle's "It is men who make history" and a reaction against an economic interpretation of history which had made leaders nothing but functionaries of the driving socio-economic forces in history. Just as this theoretical controversy over character and personality in history, and individuality in society, represented an unreal simplification of social phenomena, so is the unfortunate separation labeling political organizations as leaderless democracies and programless dictatorships far from the reality of existing tensions. Only a period ripe for dictatorship could invent the idea of a leaderless democracy. True, such a simplification somehow represents the extremes of, and, one might say, the elements of danger in, the two systems. Democratic leadership is often in peril of being suffocated by program and organization. On the other hand, dictatorship often tends toward uncontrolled personal autocracy. Yet the real life of democracy and dictatorship moves on between these two extremes. Therefore, we must thoroughly understand the two types of political systems.

The essence of modern dictatorship may not be explained simply by the need for leadership. In fact, the rise of modern dictatorship is no mere accident due to a few dynamic personalities in contemporary affairs. There have been dynamic leaders and potential dictators at all times. The rise and acceptance of modern dictators is the result of social circumstances which are connected with two historical premises: the ascendancy of modern mass democracy and the breakdown of institutions. Modern democracies have to answer the problem of leadership in mass democracy if they want to meet the challenge of dictatorships. Modern dictatorships, as autocratic as they may be, have to fulfill the social needs of security and material welfare for the mass following if they expect any degree of permanence. Since both of these things are true, these rival systems in contemporary politics really belong to the same historical era. What distinguishes the different types of leader-follower relationship in these two political forms is, however, the institutional and conceptual framework in which this relationship is placed. Selection, character, and function of political leaders varies according to the structure of the existing political order. This social conditioning of modern leadership therefore serves as the key to an understanding of the difference between democratic and dictatorial leadership in our day.

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unsound psycho-analytical notions. For instance, the German Empire did not break down because William II had a short left arm and for this reason an inferiority complex which had to be compensated for by glamour. Neither can post-War dictators be explained in terms of the Oedipus complex. Even liberal democratic leaders, like Masaryk, had mothers whom they adored; not only dictators like Mussolini, Kemal Pasha, Hitler, and—since the re-discovery of the family in Russia—even Stalin.

POLITICAL SYSTEMS AND LEADERSHIP

The type of leader prevalent in a political system is always defined within the framework of its institutional set-up. The difference between the British Prime Minister and the National Socialist Führer cannot be resolved into a personality pattern of two different men with different temper and different experiences. These divergent types of leadership above all reflect on the varying political orders which they represent and which they themselves may even have created. Certainly historical experiences, national characteristics, and to some extent personality factors are most important in creating or preserving specific political systems. One may say that a type of leadership such as Hitler represents would be utterly unacceptable to the British people, should they choose to accept dictatorial rule. Even a comparison of the rule of Mussolini and that of Hitler indicates an extraordinary degree of differentiation in Fascism itself.

Despite multifarious variations in time and space, there are always two main types of political leadership, institutional and personal—which correspond roughly to the contrasting political systems, democracy and dictatorship.

INSTITUTIONAL OR DEMOCRATIC LEADERSHIP

Democratic leaders always remain representatives of institutions and not substitutes for them, as the rising dictatorships claim to be.

The British Prime Minister. Stanley Baldwin rose to political preeminence in his historical Carlton Club speech of 1922, which smashed Lloyd George's war coalition. Baldwin said of the Prime Minister, "A dynamic force is a very terrible thing. It may crush you, but it is not necessarily right." This speech was a declaration of war against Lloyd George, the demagogue, by Baldwin, the defender of institutional politics. It was the good fortune of this very same British statesman that he found the climax of his political career in what was generally considered a masterful handling of the monarchical crisis of 1936. It epitomized the institutional character of British statesmanship.

The structure of democratic leadership is also visible in the personality features of democratic leaders. The long gallery of Prime Ministers from Walpole down to Churchill illustrates this. Again, Baldwin is an outstanding example of this species. He is, above all, the plain man. His inevitable pipe is his visible bond of union with the little man. Sir Austin Chamberlain was frequently described as the most English Englishman of England, and what was said of Herriot, that he was "an average Frenchman, a stronger dose, but the same mixture," holds true also of the average

party leader in a democracy who tends to be, as Bagehot said, "an uncommon man of common opinions." The same description might apply to Stresemann, who even had a type of face and figure very common in Central Germany. He was always praised for his ability to meet his adversaries halfway. Balance of mind, distaste for violence of expression, a faculty for spreading conciliation on all sides—these are the characteristics of the democratic leader.[2]

There is, as a matter of fact, also a demagogical element in every modern democratic government. Its mass character makes this necessary. It would be an over-simplification, therefore, to identify demagoguery and dictatorship. However, the pre-eminent elements of leadership in a democracy are institutional. This fact leads, of course, to variety in democratic leadership according to different institutional structures. The unlike character of the British Prime Minister, the former French President of the Council, and the American President is only a reflection of the different institutional setups of these democratic governments.

The pre-eminence of the British Premier is attested to by his extraordinary function in British politics: he is majority leader in Parliament, leader of the ruling party in the country, chairman of the Cabinet, and his office is the main channel of communication between the people and the Crown. The fact that he must perform these institutional functions, of course, must be taken into account in the selection of a Premier. Especially in recent decades, it has become an unwritten law that he should be a member of the House of Commons. Within the two-party system the leader of the majority party, successful in the elections, almost automatically becomes the embodiment of the highest political power. Strict party discipline and the right of dissolution guarantee the Premier a strong lead in the Parliament. No statute settles his position as Chairman of the Cabinet. Officially speaking, he is regarded as *primus inter pares* (first among equals). Actually he is the "keystone of the Cabinet arch." He can call for the resignation of any of his colleagues. Recent development of the British Cabinet system has even led to emphasis on an inner cabinet which makes the crucial decisions, especially in time of crisis. Such a trend, however, does not mean that the British Prime Minister has lost his chief quality, "the gift for getting difficult people to work together." Collective responsibility in the British Cabinet system creates the necessity for teamwork. These

2. An illuminating analysis of the common qualities of political leaders has been given in various studies of Charles E. Merriam; see esp. his *Political Power* (New York: McGraw-Hill, 1934) and Merriam and Gosnell, *The American Party System*, 3rd ed. (New York: Macmillan, 1940); for a comparative and concrete description, cf. Merriam's *Four American Party Leaders* (New York: Macmillan, 1926).

institutional limits of the British Prime Minister certainly do not preclude variations in the importance of individual premiers according to their personalities. An incapable Prime Minister has, not infrequently, ruined his conventional position. The actual power of a Peel, Gladstone, or Disraeli might easily outgrow the institutional framework. The Prime Minister's close contact with the Crown might give him additional strength.

Certainly a time of crisis offers new possibilities for a Prime Minister. This holds true especially for a premier in a war cabinet. In wartime the position of democratic leadership has to be raised anew. No doubt it would be illogical—though we may often be tempted to do so—to believe that the very fact of the necessary concentration of power and decision in the hands of a war premier will inevitably lead to dictatorial government. It would be just as misleading as to regard the political evolution of the last forty years showing a new emphasis on a strong executive power as an irreversible process toward dictatorship. To strike a new balance between executive and legislative power is indeed one of the most important problems with which modern democracies are confronted. However, a balanced relation cannot be established by short cuts of a dictatorial character. The tendency toward strong executive power is certainly emphasized in the emergency of war. Different qualifications are needed for leadership in war and in peace. Lloyd George paraphrased the qualities of a war minister in the following way:

> He must be able not only to give rousing and vigorous leadership to the nation; he must also have vision, imagination and initiative. He must show untiring assiduity, must exercise constant over-sight and supervision of every sphere of war activity, must possess driving force to energize this activity, must be in continuous consultation with experts, official and unofficial, as to the best means of utilizing the resources of the country in conjunction with allies for the achievement of victory. If to this can be added a flare for conducting a great fight, then you have an ideal war minister.

It is no mere accident that such an analysis perfectly fitted Mr. Lloyd George himself and showed at the same time the shortcomings of his predecessor, Asquith. The great qualifications of Asquith as a minister in peacetime made him a miscast in time of war. His combination of "patience, caution, and sound selective judgment" could certainly not meet the emergencies of war in which decisions have to be made with unusual speed and precision, when delay and compromise cease to be virtues.[3]

3. Cf. R. MacGregor Dawson, "The Cabinet Minister and Administration; Asquith, Lloyd George, Curzon," *Political Science Quarterly*, vol. LV (Sept., 1940), pp. 348–77.

A similar change in command was necessitated in the second World War—the shift from Neville Chamberlain to Winston Churchill as premier. Not only was Churchill not compromised by the failures of an appeasement policy, but he also showed all the specific qualifications of leadership necessary in wartime, such as resoluteness and courage, ability to organize,

The extraordinary position in power and prestige of his position, even in peacetime, makes the British Prime Minister the most influential prototype of institutional leadership. It is the happy combination of institutional tradition and individual initiative, of control and vigor, of representation and responsibility, which can find its personification in Great Britain's highest office.[4]

The French Premier. The position of the French President of the Council of Ministers was quite different from that of the British Premier because of the multiple party system in the Third Republic of France.[5] There was certainly no majority leader of the English type. The task of the French Premier was not so much to keep the nation behind his majority in Parliament as to maintain a working majority in the Chamber of Representatives and some measure of accord between Cabinet members of more than half a dozen parties. Skillful conciliation was, therefore, the first qualification for the office. Even a Prime Minister who is the unchallenged leader of the predominant party in the coalition, as were Herriot and Blum, has to use persuasion as his chief weapon. He certainly cannot whip together an ob-

willingness to assume risks, self-confidence and the ability to create trust, and even the "peculiar power of drawing from misfortune itself the means of future success." One may even venture to say that Churchill would be impossible as a Prime Minister in peacetime. The new Churchill cabinet undoubtedly marked the end of an era. The government of the mid-Victorian businessmen was finished. Churchill could be called almost pre-Victorian As a critic once said, "He has brought back the arrogance and splendor of Elizabethan language. He has recovered the spirit of those rough vibrant days when men of affairs were buccaneers at heart, but poets in their leisure time, and fierce implacable patriots always." Perhaps in the mixture of British and American blood which flows through his veins lies the clue to his tempestuous career and meteoric temperament. A descendant of John Churchill, First Duke of Marlborough, he inherited and represented institutional traditions and a full share of "bulldog British tenacity." From his mother, the former Jennie Jerome of New York, he may have received his bold daring, his boyhood rebellion against authority, and his independence of mind. Great as he is as an orator and writer, even in this capacity he shows the qualities of a soldier. Since early youth, adventurous war was the chief factor in his life. Today he is a sober elderly statesman, yet a fighter just the same. In this life and death struggle going on in modern society in which respect for human individuality and the preservation of European traditions are at stake, in which a new balance has to be struck between individuality and institutional tradition, it is not the cynic who can revitalize the concepts of democracy, worn thin, but the courageous and self-asserting fighter. It seems to be no mere accident that in order to find such a man, Great Britain had to recall a time when England was young, Old Merry England.

4. Cf. W. Ivor Jennings, *Cabinet Government* (London: Cambridge University Press, 1937), and H. J. Laski, *Parliamentary Government in England* (New York: Viking, 1938).

5. This analysis relates, of course, to the Third Republic before its breakdown in the summer of 1940. Whatever may be the future of the French government, it is not definite even in outline today. The fight between the predominant factions at Vichy (the Monarchists, the Fascists and others) is completely overshadowed by the actual dominance of the Nazi overlords. Though the political structure of the Third Republic may thus be "history,"—with no hope for recovery—a summary of this past image of democratic government may be justified, if only for reasons of presenting a typology of democratic leadership.

Cf. R. Valeur, "French Government and Politics," in R. L. Buell (ed.), *Democratic Governments in Europe* (New York: Nelson, 1939); W. R. Sharp, *The Government of the French Republic* (New York: Van Nostrand, 1938); R. K. Gooch, "The Government and Politics of France," in *Governments of Continental Europe* (New York: Macmillan, 1940); and E. A. Vizetelly, *Republican France: Her Presidents, Statesmen, and Policy* (London, 1924).

stinate Parliament with the threat of dissolution—a power which the British Prime Minister possesses and which is largely responsible for the greater stability of the British government. Indeed, since 1870 England has had only one-fifth the number of Cabinets which the Third Republic had. The fact that this very high rate of casualty was not more detrimental to the French political system may be attributed largely to the Civil Service. Guarantor of continuity in governmental policies in the midst of constant reshuffling of cabinets, it is the real executive power in France.

But this very fact discloses the enervating task which confronts a French Premier. His primary function—to serve as the connecting link between the legislative power and the executive power—puts him "between hammer and anvil, between his two deadly enemies, Parliament and the bureaucracy." To be called upon perpetually to restore the balance between hostile agencies is a great test of ingenuity and skill in statesmanship. The numerous "stop-gap ministries" of second-rate politicians should not obscure the fact that the French Republic has had great Ministers who have succeeded in striking such a balance and winning a leader's prestige. It is also interesting to note that this country of suspicious individualists has often been willing to bow during a national emergency even to "authoritative leadership."[6]

The American President. A different type of institutional leadership and, no doubt, the hardest to describe in scope and character is represented by the American President. His constitutional power and prerogatives are

6. It is certainly too early to make any definite evaluation of the elements which finally led to the amazing breakdown of the Third Republic. Certainly no single cause could have been responsible for such an upheaval. French military unpreparedness and German *Blitzkrieg* techniques, weak morale of the ruling classes, and treacherous Fifth Column activities (though often overstated), partisan strife among leading personalities, and intrigues in controlling circles have been blamed for the disaster All those divergent elements can no doubt serve as a part explanation of the debacle. Only incidentally, however, do they touch upon the structural problems of democratic leadership as presented in this essay. It would be most significant in this connection to analyze the characters of Daladier and Reynaud and their position during the last year. The few facts known today in regard to the wartime Daladier already indicate that his leadership seemed to show most tragic flaws. Jules Romains in his *Seven Mysteries of Europe* gives a vivid picture of the first War Premier. ". . . Daladier now really had full dictatorial powers. He held three portfolios himself. The other ministers took his orders . . . but his effectiveness was handicapped first by certain deficiencies of character. He had given away to certain paralyzing inclinations: a tendency to sink into interminable meditation and endless indecision. But he had a worse handicap, he was a dictator hampered by a democratic conscience. That must be said, for it is all to his honor. He could not find sufficient strength to shatter the resistance that surrounded him, arising from the routine of the democratic machine, nor to fight indolence, inertia and criminal compromise. He could not find that strength because he was always stopped by the scruples of a free man afraid to use free men as mere tools. . . . Unfortunately this had not prevented him from contracting almost unconsciously many of the vices of dictators—suspicion of others, a taste for solitude, the fixed notion that he was always right and knew everything, a rising aversion for strong independent characters. . . .

See also the significant study by André Maurois, *Tragedy in France* (New York: Harper, 1940).

ample as compared with those of British and French political leadership. He is the national leader, the head of the Cabinet, director of administration. He has an extensive power of appointment. He can exercise a wide influence on congressional legislation, and he is a legislator in his own right. Especially in the field of foreign and military affairs, he is much more than a mere executive. To the public he is the personification of the American Government. In fact, the whole American system is largely influenced by the president's office. The major parties have often been described as "loose leagues to capture the presidency." The maintenance of the two-party system is in large measure due to orientation to this situation.

Yet the very fact that the concentration of power and responsibility in the presidential office is so great seems to have invited a number of checks upon actual authority of the president. The presidential selection itself effects in a way the curtailing of his power. Men of outstanding authority in the Senate are never chosen. A candidate may not be selected, as French presidents were, because he is weak, but he had better not show much self-willed resolution before election. Very soon after he enters the White House the principle of separation of powers makes itself felt, thus restoring a delicate, though hardly definable balance. Not infrequently the second Congress of an administration contains a majority politically adverse to the President in either one or both of its houses. Further, the party which brought him into office and which looks at the President as "chief patronage-dispenser" will be most influential in all his decisions, including appointments officially left to his discretion. "The President is not only the leader of his party; he is in a very real sense its prisoner."[7]

All of which does not mean that the President cannot exert a tremendous influence on public opinion, especially when he proves to have the "capacity to get along with people." But even in foreign affairs—a much-talked-about domain of presidential power—it may be doubted whether an American President, even if he dared to sign a Munich Pact as the British Premier did, could have "got away with it."

Much will depend, it is true, on the President as a personality. He may take a narrow view of his prerogatives or he may take a wide view of his functions; yet when a President's actions and achievements are viewed in historical perspective, they seem to result much less from personal whims and reflect very much the "spirit of the times" and the "state of the country."[8] The American President's leadership, colorful and personal as it

7. P. H. Odegard and E. A. Helms, *American Politics* (New York: Harper, 1934 or 9), p. 134.

8. Cf. Charles A. Beard, *American Government and Politics* (New York: Macmillan, 1938), chap. 7, "The Office of President," pp. 144–75.

"The President must never be ahead of his time. He achieves the maximum unity by moving

often appears to be, does not fall into any dictatorial patterns. But American institutions can still make themselves felt sufficiently in this spacious continent of great riches. They hold the President as their representative, just as other countries define the position of their institutional leaders.

PERSONAL OR DICTATORIAL LEADERSHIP

In contrast to institutional leadership in its British, French, and American versions is personal leadership of the dictatorial type. In it, too, there are variations due to national traditions, historical circumstances, and personality features; but all modern dictators are characterized by specific elements of leadership. In the first place, they are anti-institutional. As a matter of fact, their very rise is the expression of a crisis in the history of institutions: the breakdown of a fixed social order, of basic religious concepts, and of old, established agencies. When the validity of an economic system becomes questionable, when a social code is shattered, when religious ties are loosened, people look for new authorities, for substitutes.

Dictatorships as Substitutes for Institutions. The cry for a leader is the result of the weakening or the nonexistence of political institutions, of a ruling class, and of an accepted code of values. Wherever these institutions and their governing elements are strong enough not only to preserve but also to adjust a society in its evolutionary development, the danger of personal dictatorship does not arise. Dictatorships are substitutes for institutions in times of transition. Here, if anywhere, lies the justification for this new personal rule. It may fill a gap between two social orders. This was the historical function of the absolute monarchy which helped to develop modern capitalism, yet the new dictatorships are distinguished from the earlier absolutism by their other historical element: their origin in an age of mass democracy. They are popular dictatorships. Avowedly, they exemplify the antithesis of democracy, but at bottom they are democratized. They are post-democratic dictatorships, and for this reason they have developed a specific type of leadership.

The Modern Dictator. The modern dictator has to be a leader of the people who rises from the dark as an "unknown soldier." This is supposed

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to objectives that are expected as well as desired. And in so moving it is important that he should always retain the common touch without ever being controlled by it. The nature of the office requires a man who is marching with his times and is not remote from them."—Harold J. Laski, *The American Presidency* (New York: Harper, 1940), pp. 36–7.

The presidential campaign of 1940 and the critical international situation in an extraordinary way focused public interest on the American presidency. Among numerous recent studies made in addition to Laski's *The American Presidency*, mention should be made of Pendleton Herring, *Presidential Leadership* (New York: Farrar & Rinehart, 1940) and E. S. Corwin, *The President: Office and Powers* (New York: New York University Press, 1940).

to be symbolic of the democratic nature of leadership: You yourself may become the leader—tomorrow. In fact, you address in the leader the masses whose humble son he is and continues to be. He is "the cottage-bred man." He lives the simple man's life and understands it. He is proud of having been poor. He harps upon the hardships he has experienced. He never risks losing his class ties with the people. An extensive propaganda machine daily proves that he still belongs to the people. He is so genial. He plays with children. He chats with the plain man. He takes simple breakfasts in the fields with the peasant folk. Puritan simplicity, or at least the appearance of it, is the motto of the modern dictator's standard of life.

The demagogue's way of rising to power is most democratic, too. He rises as an orator. The few exceptions to this rule in modern times were militant leaders like Pilsudski and Ataturk; but even those generals could speak and kept some kind of democratic kinship. They were officers not estranged from the people. They were commanders of a people's army defending the masses against the privileged. They were rebels themselves, living the lives of soldiers.

Militant Character of Dictatorial Leadership. The militant element is paramount in modern dictatorial leadership, even if it is created by civilian party leaders. In fact, the idea of the modern totalitarian state was born in the last World War, which became a totalitarian war. In wartime all opposition and discussion must cease. Personal liberty no longer exists. In fact the best argument for this sort of repression is the country's real or presumed danger from abroad. War is a dictatorship's beginning, its demand, its test. Therefore modern dictatorship focuses all its energy on building up a military machine and a fighting spirit. This militaristic mind permeates demagogical leadership today. Scarcely any modern demagogue wears civilian clothes in public. It becomes his shibboleth. He who does not wear a uniform, as, for instance, the last Austrian chancellor, Schuschnigg, did not, is not a genuine one-hundred-per-cent dictator.

A constant state of war is the natural climate of totalitarian dictatorship. This is just as true in internal politics. Here the claim to power is based on the necessary destruction of the arch enemy of the nation or of the classes, and after power is won the permanent revolution has to go on. This dynamic element in modern dictatorial leadership is one of the chief attractions for its followers. At the beginning of the new credo stands the formula, *action instead of program*. Now people join a movement not because they believe in its program but because they trust the leader who promises them heroic action. Now they cheer the leader who prides himself on having no program for tomorrow when he will decide the people's fate.

It is true that the new actors on the scene seemingly follow traditional rules by asking, at least afterwards, for a legalization of the acts which broke the laws. But they do not restore institutions; they only undermine them. They devaluate them in the eyes of their old supporters who do not care any longer for the revival of broken laws and institutions. Because these new leaders do not act ex officio, they are not representatives of institutions; they are their substitute. The demagogical leader does not stand for a positive program, but only for himself.

The Leadership Principle. Another element which characterizes modern demagogical rule is the leadership principle, its most dangerous element—because "power corrupts; absolute power corrupts absolutely," in the words of Lord Acton. It is characteristic of the leader that he is not responsible to those below him, but only to those above him, and therefore finally responsible to a supreme Führer or Duce who is responsible to no man but to "God and the nation."

The unchallenged position of the supreme leader is somewhat symbolized in his aloofness and distance from the people. In spite of the democratic pretense of the demagogue, he has no friends, no equals. He must abstain from the comfort of intimacy. He trusts nobody. He is lost to the world. That is the price he has to pay for being a superhuman leader. He is so big, so strong, so lonely. Mussolini never misses making this point when he meets his former journalistic colleagues, especially when he can arouse the pity of American ace women publicists. The dictator is usually an unsociable individualist by nature. As the leader, he cultivates this aloofness as a weapon of defense. He knows men and he knows it is dangerous to be too close to them.

This remoteness from the people strictly adhered to by all dictators leads to an important question: Is this leader the representative of his people or a stranger to them? Almost all modern dictators and demagogues who claim to be the self-expression and exclusive representation of their nation were either born outside of the country in which they live or along its frontiers. Napoleon, Pilsudski, Ataturk, Stalin, Hitler, Hess, and Alfred Rosenberg are examples. Frequently they do not belong to the most representative national group of their people, and often their most receptive years are spent outside of the country which has raised them to leadership. This may account for the intense and often exaggerated nationalism of the modern demagogue. He grew up in an atmosphere of defense of something which was too obvious, too much a taken-for-granted matter for the average citizen who grows up in his fatherland. At the same time, the fact that he is

different from his countrymen in this respect gives him a specific appeal. He is different and therefore he may even lead to new expressions of nationalism, to a new heaven.

Yet, he needs the masses at least as much as the masses need him. Hitler in the early days of his rise to party leadership called himself "the drummer" of the N.S.D.A.P., and even today he claims, "I am nothing but a flint which strikes the spark out of the German nation." Thus the masses are the focus of his activities; he has to win them and he does so by means of demagogical propaganda and the creation of new institutions. This very complex task in post-democratic dictatorships can only be fulfilled by the creation of a new machine. Here the importance of the lieutenants in modern dictatorship become obvious. Their real significance may be better realized if we contrast them with the masters of the machine in democratic nations. It is this second layer of leadership which brings out the specific problems of mass control in modern democracies and dictatorships.

BOSSES *VS.* LIEUTENANTS

The Number Two men in politics share a similar fate in democracies and dictatorships. They are overshadowed by their supreme leaders and often unknown to the uninitiated outside world. While the chief actors are always in the limelight of the political scene, there is actually not much known about the sub-leaders, their character, their function, and their achievements. Yet the bosses in democracies and the lieutenants in dictatorships reflect the daily life of the political systems. They illustrate their structural characteristics, they do the actual work, they guarantee the survival of the established government. They are the power behind the throne, the driving force of modern rule, the backbone of its institutions. Indeed, they are usually more typical of the national characteristics and traditions of government than the chief rulers are. It is this fact which makes it so difficult to attempt any generalizations on the second layer of political leadership. It is largely defined by historical circumstance, social structure, and the political tradition of the nations. Again the basic difference between democracy and dictatorship finds its expression in variant types of selection and function in leadership. Yet it is amazing to find that the two systems have many features in common. Their differences become, very often, differences only in degree.

The Bureaucratic Component. These lieutenants of the dictatorships stand above all for the political organization. This bureaucratic component is typical of the development of the modern mass party in which the machine

plays an outstanding part.[9] Bureaucratization of leadership has rightly been attacked by great social critics like Georges Sorel, but it is a definite fact on which the success or failure of a political movement depends. The main strength of the American party boss lies in the fact that he commands an organization. The primary function of the political lieutenant in a dictatorship is to make the party machine run. Not only is the party machine all-powerful in the daily life of the decentralized democratic party of the American system, but it is also most influential in the development of the modern dictatorship.

This is indeed one of the many contradictions of the dictatorial party. Created as an anti-party, largely founded on a well-justified anti-machine sentiment, it now develops an even larger apparatus, thus tremendously increasing the crisis elements of the modern party system. Still the development of political functionaries is certainly not exclusively the expression of postwar dictatorial governments. It seems an almost unavoidable outcome of political organization in a mass democracy. What, however, makes the position of the dictatorial functionary paramount is the totalitarian character of the dictatorial party, which integrates all human activities with its politics. This totalitarianism not only guarantees the partisans' organization from the cradle to the grave and exercises comprehensive control over the nation as a whole, but it also attempts to stabilize or normalize dictatorial rule. Modern revolutions have at least succeeded in achieving complete bureaucratization which permeates the whole of life in the dictatorship.

The Feudal Component. There is a second element typical of the dictatorial organization of lieutenants—the feudal component. The political lieutenants are vassals-in-chief of the overlord. This relationship is symbolized by the oath to the leader taken by his adherents. Sovereignty does not rest with the people, as it does in a democracy, but with the dictator alone. The political lieutenant therefore is his delegate, subject to his confidence and always acting in the name of the supreme leader. The feudal aspect of the organization of political lieutenants is made further obvious by the fact that they seek patronage from their leader just as the vassals-in-chief sought

9. This bureaucratization, however, is more than an internal party concern. It essentially affects national government and politics. In dictatorships, it brings to a breaking point the dualism between party and state—a discrepancy which is usually "solved" by the party's infiltration into and absorption of the "neutral" state bureaucracy.

A no less vital conflict presents itself in the American democracy in the separation of the public responsibility of elective officials and the political power of unofficial politicians, a dualism which is a rough parallel of the division of a group into amateurs and professionals. "The predominance of the unofficial, professional party politician" has been defined as the chief danger element in American politics. Such a peril will be especially felt in a nation which is so lacking in a traditional ruling class of political amateurs.

Cf. E. E. Schattschneider's forthcoming study on *Political Parties and the Monopoly of Power.*

it from their overlords. Certainly there are elements of this kind of feudal relationship visible in democratic organization too, especially in the patronage of the American party system.[10] However, "there never has been, and probably never will be, a national boss in the United States." [11] In fact, the power of the bosses is often checked, and not seldom broken, by federal investigations. The "boss rule" of present-day dictators is unchecked. Their feudal empire even produces a new type of political agent on the national scene: the personal confidant of the leader.[12]

The daily-shifting personal relations with the supreme leader are of paramount importance for the actual power of his lieutenants. An evaluation of the policy predominant in the dictatorial system at a specific period largely depends on this very fact. Who has the leader's ear today? Even social charmers and mystery women may play their part in this turn to the Camarilla policy of uncontrollable court intrigues. At the same time the sway of the overlord often depends on his power to balance the competing factions of his feudal empire. The fees for services rendered are the prestige and the political power distributed among the sub-leaders.

The fact that there are vassals-in-chief especially illustrates the fact that modern dictatorial rule cannot be simplified to fit one social formula, attractive as this might be for effective political propaganda. All these men with connections and experience in industry and labor, in the army, and in foreign affairs contribute in their specific way to the power of the supreme leader. They expect spoils after the final victory, but as vassals they are satellites who derive their power from the supreme leader alone. This factor illustrates the leadership principle in dictatorial party organization which, different from its democratic counterpart, is organized from above.

The Democratic Element. However, a third feature of dictatorial leader-

10. "The most striking single identifying quality of the division leaders (and the majority of the ward leaders, too), is loyalty. These men are loyal to their leaders just as their leaders are in turn loyal to their own leaders and the organization. It is personal rather than civic loyalty. . . ."—J. T. Salter, *Boss Rule*, p. 36.

11. W. B. Munro, *Personality in Politics* (New York: Macmillan, 1924), p. 45.

12. Confidence can be won in different ways. It may derive from the fact that these lieutenants were comrades of early and trying conspiracies (the leaders of the 1905 revolution in Russia, the quadrumvirs of the March on Rome, the comrades in arms of Hitler's Beer Hall *Putsch* in 1923, and the like). Or the lieutenants may be the guarantors of their leader's safety. Their names seldom appear in the newspapers, but they often wield more power than the other much-photographed lieutenants. They are always near the leader, close to his life and usually close to his heart. They are the only people, if any, who call him by his first name. The master of the secret police fills the office of guardian for the entire country. This makes a Heinrich Himmler, the head of the Gestapo, and an Arturo Bocchini, his Italian equivalent, so indispensable to the system.

There is a third group of confidants whose close contact with the leader is largely due to the personal loyalty of the Fuhrer to men who were his superiors in the past. This loyalty is especially visible in German National Socialism; the rise of a non-party man such as Wiedemann to a key position in Nazi Germany is a typical example.

ship seems to introduce, as has already been mentioned, a democratic element. Modern dictatorship by its very definition is a challenge to democracy, but it nevertheless becomes permeated by the democratic spirit. It also utilizes the working machinery of democratic institutions in its "legal" seizure of power. Even after the totalitarian dictatorship is established its absolute rule is veiled with a sham democracy. The pretense of elections, the dictatorial party itself, and an extensive propaganda machine serve to bridge the distance between government and the people. To organize an "ennobled democracy" becomes the crucial task of the demagogical experts.

In spite of the pronounced social stratification in the dictator's hierarchy, a democratic atmosphere of comradeship has to prevail. The supreme leader himself sets the tone for that and the sub-leaders sustain it. Of course, it is of the very essence of the system that there are insiders and outsiders. Dictatorship is democracy for the insiders alone. Brutal and merciless as the lieutenants usually are toward their enemies, strutting as the gods of vengeance, they had better not play the boss within the circle of their associates. In this respect the Number Two men in dictatorships, as well as the supreme leaders, have to be men of the people. The noble-born is suspect, useful as he may be for propaganda purposes before the seizure of power. Only seldom does he reach a commanding position. The leaders of the postwar revolutions spring from modest background.

The Lieutenant vs. the Ambassador of the People. What makes this popular strain in dictatorial leadership somewhat open to suspicion, however, is the fact that it is so obviously organized. Yet the essential difference between the dictatorial lieutenant and the sub-leader in democracies becomes manifest when the fourth element of modern dictatorship is considered, that is, the militant component, perhaps its most important factor. As modern dictatorship is belligerent, so is an essential group of its leadership, which balances—and often over balances the bureaucratic component. The one serves as a stabilizing element, the other as a dynamic force of the system. While the bureaucrats function as dams against the second revolution, checking and purging the "perennial revolutionaries," the militia unites the fighters who break the dams when the hour arrives.

Constant state of war is the natural climate of totalitarian dictatorship. The Holy War of the creed makes every partisan a militant fighter. No compromises are possible with the political opponent, no coalitions, no barters, all of which are basic factors in the politician's life in a democracy and yardsticks of his ability. Exemplary fighting spirit, relentless militant discipline and unconditional obedience to the supreme leader are the virtues of the dictator's henchmen. The sub-leaders are above all *lieutenants*. In the

Führerstaat civic democracy is superseded by the militant hierarchy of the army. The citizens become political soldiers, since the nation's life is a constant battle. Superordination and subordination are the characteristic features of such a military organization, which serves to impress countries with military traditions. It seems to be the simplest way to arrive at some kind of a democratic mass organization, but it is far from the concept of democracy of the Western World.

In democracies the Number Two men are not only the bosses of the party machine, but also the "ambassadors of the people." They serve, above all, as the human link between the individual voter and the body politic. The supreme quality of the bosses is their skill in the *management of men*. They are the masters of particular situations, not of principles. True, their power depends not only on this personal element; they are the people who are ready to do the work. They start their political career with bell-ringing. They are above all vote-getters and masters of the organization, but they try to produce an atmosphere of intimacy. Ostensibly, their first interest is the individual. "The rights of society as a whole are of little or no concern to the average division leader. Only an individual can cry out in pain, and only an individual can vote." [13]

Conversely, the human equation is almost completely blotted out for the political lieutenant. He has essentially no interest in the individual's well-being, but only in the preservation of the leader's rule. Above all, he has to be responsible to the dictator, not popular with the masses.

And while the demagogical Führer, rising as the substitute for institutions, stands for himself and the democratic leader always remains the representative of institutions, in this second layer of political leadership we see this situation in reverse: The political lieutenant stands for the impersonal organization; the politician is the ambassador of the people. This reversal is not an accident; it characterizes the basic difference in the concept of the masses in democracy and in dictatorship.

THE FOLLOWERS

The very term "the followers" seems to assign a completely passive role to the leader's adherents. Yet the real character and function of the followers are most accurately described by the definition usually given for the masses in specific movements. The word *masses* is an even more elastic epithet than *leader*. Devoid of precise scientific connotation, it is often used with a moral undercurrent—"the canaille," "the great unwashed," "the rebellious masses," "the eager masses," and so forth.

13. J. T. Salter, *Boss Rule* (New York: McGraw-Hill, 1935), p. 65; also his "The Politician and the Voter," *The American Political Scene* (New York: Harper, 1938), edited by E. B. Logan.

Just as any other social notion, the abstract concept of the masses wins color only against a concrete historical background and thus differs in character in different historical periods. Before the French Revolution it designated the heterogeneous elements excluded from the privileges and prerequisites of the *ancien régime*. Post-revolutionary democracy identified the masses with "the people." A people one and indivisible became indispensable to modern democratic nationalism and a reality in an open American society. The rise of modern industrialism and urbanization, however, soon created a new differentiation and caste-like immobility in society.[14]

The Phenomenon of the Mass. The great change society was undergoing in the latter part of the nineteenth century also found expression in a renewed interest of social sciences in the phenomenon of the masses. Under the impact of modern urbanization and revolutionary episodes in nineteenth-century European capitals, Le Bon and his school emphasized the irrational behaviour of the masses. This most influential school of modern crowd psychology embarked upon a somewhat confusing tendency to identify the masses with the highly emotionalized and unstable character of the mob, thus stigmatizing mass action as devoid of individual self-control. This identification certainly simplified the much more complex interplay between rational and irrational elements of modern mass reaction. Only recently the attempt has been made to differentiate between distinct types of masses.[15] Such differentiation is especially necessary in an evaluation of mass participation in modern political movements. It represents a counterpart to the contrasting types of their leaders.

Variation in Types of Masses. Basic variations will be found in the mass following of different social layers of a given population. Rural groups will vary from urban masses. Scattered crowds react differently from congre-

14. Now the industrial proletariat stood for the masses. Representatives of the danger elements of a middle-class order in the eyes of the protagonists of "property and culture," they were regarded as standard-bearers of a future society according to a class-conscious socialism. Different from the rational executors of an inevitable self-developing society assigned to the proletarian masses by Marxian theory, other social revolutionaries such as Georges Sorel and his followers tried to innoculate the industrial and urban proletariat with an irrational mass elan. In less industrialized countries, such as Czarist Russia, the Narodniki of young upper class idealists pinned all their hopes on the unawakened agrarian masses as a potentially revolutionary force.

15. See especially the works of a number of German sociologists, such as Th. Geiger, *Die Masse und Ihre Aktion* (Stuttgart: Enke, 1926); W. Vleugels, *Die Masse* (Leipzig, 1930); H. De Man, *Massen und Führer* (Potsdam: Protte, 1932). Cf. also W. McDougall, *The Group Mind* (New York: Putnam, 1920) and G. Wallas, *Human Nature in Politics* (London: Constable, 1916).

An indispensable source of material in German literature on the leader-follower relationship in general is Max Weber's *Wirtschaft und Gesellschaft*, especially pt. III, "Typen Der Herrschaft" (Tübingen: Mohr, 1922), pp. 603–817.

A most significant analysis of the modern dictatorial regimes as an institutionalization of "amorphous masses" will be found in the posthumous study of Emil Lederer's *State of the Masses* (New York: Norton, 1940).

gated mobs. It will be decisive whether political action is confronted with a latent or with an aroused mass. Different social classes invite a variety of stimuli and reactions. Political movements find an uneven appeal in various social strata. The rational theory of Marxian socialism presupposed the sobering and socializing experiences of a generation trained in factory discipline and living by the concepts of a now popularized rationalism. It is this concept of the *rational masses* which, justified or not, led the rising trade unions and socialistic organizers. It defined their approach to the masses, the images they presented, the propaganda technique they applied. Their complete failure in reaching the suddenly rising group of salaried employees and of the unemployed (the two crises strata of modern society) is not due only to a lack of leadership. The irrational politics of new dynamic national movements found a first foothold in these groups, harassed by uncertainty, looking for a new faith and security.

Especially the white-collar group rebelled against a rationalized machine age (as they understood it) which left no hope for future advancement and independence, which made replacements a daily routine of mechanized labor devices, which emptied work and life. And this happened to middle classes which during their own lifetime had a richer and fuller share in society. Now the dispossessed often fled at night into a dream world of movie glamour which had to repay them for what they missed in the daytime. In politics, also, it was the irrational movement which attracted them, promising a miraculous future to defeat the great trivialities of their life. Those new masses throwing their fate into politics were, above all, *irrational* in their reaction.

Variation in Attitudes toward the Mass. The faith in a rational mass of followers swayed by reason and progressively educated in rational standards was a foundation of early democratic thinking and has remained so in spite of obvious setbacks suffered by the ideal of a rational order in world politics today. Democratic institutions stand and fall with the idea of open discussion before a reasonable public.[16]

The recognition of the masses as responsible participants in politics by necessity limits the sphere of independent leadership in a democracy, already restricted by its institutional character. On the other hand, the very opposite attitude toward their followers has been presented by dictatorial leaders. To cite Mussolini:

> When I feel that mass in my hands, as it yields, or when I mix with it there, it almost crushes me. Then I feel but a lump of that mass, and yet there remains

16. More recently, however, have liberals such as Ortega y Gasset, in *The Revolt of the Masses* (New York: Norton, 1932), and Salvadore de Madariage, in *Anarchy or Hierarchy?* (New York: 1937), expressed their doubt of the rationality of the masses.

in me something of hostility, like the distaste that the poet feels against the matter on which he is working. Does not the sculptor sometimes break the marble in ire because it does not take, under his hands, exactly the shape which it had in his first vision?

It is not accidental that some of the most powerful modern dictators have shown throughout all their life a strong leaning toward an artistic career. In the most critical days before the outbreak of the second World War Hitler remarked to the British ambassador to Germany that if his "last" demand in regard to Poland should be fulfilled, he would return to the dreams of his early childhood, to the life of an artist. His concept of the masses is not different from Mussolini's. "Like a woman," he says,

whose psychic feeling is influenced less by abstract reasoning than by an undefinable sentimental longing for complementary strength, who will submit to the strong man rather than dominate the weakling, thus the masses love the ruler rather than the suppliant, and inwardly they are far more satisfied by a doctrine which tolerates no rival than by the grant of liberal freedom; they often feel at a loss what to do with it and even easily feel themselves deserted.[17]

Such statements reveal the human difference between dictatorship and democracy.[18] They represent two different ideas of mankind. Goebbels says, "The ordinary man hates nothing more than two-sidedness, to be called upon to consider this as well as that." Such a philosophy appeals to masses harassed by uncertainties and insecurities. Life becomes clear and simple again under the orders of a dictator. Everything is decided by him and people only have to follow. All disquieting criticism dies down according to the classical formula of the servant of the Prophet before the Library of Alexandria, "If those books agree with the Koran, they are unnecessary; if they disagree, they are pernicious."

In a democracy, however, there persists an absolute unwillingness to give up the search for truth and the freedom of choice in the knowledge of good and evil.

In spite of such basic difference between the two philosophies, even dictatorships cannot simply accept the *ancien régime's* postulate of the passive masses which have to take orders. In fact, in postdemocratic autocracies the masses play a dominant part.

The different views on the mass following are not alone a philosophical concern of divergent political systems. They also find their concrete expression in the respective party organizations, in the techniques of propaganda promotion, and the creation of symbols.

17. *Mein Kampf* (Reynal and Hitchcock edition), p. 56.

18. For an excellent discussion of the "assumptions" of the doctrines of democracy and dictatorship, cf. Charles E. Merriam, *The New Democracy and the New Despotism* (New York: McGraw-Hill, 1939).

Political Parties and the Mass. Parties represent the backbone, if not the center, of modern democratic government, which, at least in theory, is built upon a mass foundation. Parties run, or better, control, the government of a representative democracy. They select the democratic leaders. They connect government and the predominant trends of public opinion. "They bring order out of the chaos of a multitude of voters" (Lord Bryce). They are brokers of ideas, clarifying, systematizing, and expounding the party's doctrine. They are representatives of social interest groups bridging the distance between the individual and the great community. In the competitive scheme of at least a two-party system they maximize the voter's education and sharpen his free choice. The co-existence of a real competitor is essential to an effective democratic party system which presupposes that the final compromise will reflect the reasonable decision of a free electorate.

From its very beginning the dictatorial party has not recognized any other party. Before the seizure of power, it represents the vanguard of the future state. It is the future state *in nuce*. After the successful revolution, the party in the monolithic state becomes, above all, the nucleus and training school for the ruling elite. The standards of this selective process are set even in theory from above by the dictatorial leadership alone. The same is true in the case of the party's disciplinary and educational activity, which is its second important function. The creation of national discipline guaranteed by a military hierarchy, a close knit organization and a totalitarian control extending even to the oncoming generation, shows the position of subordination of the mass following. Yet even in a dictatorship an essential function of the party remains the maintenance of communication between state and society. This task is the more important as the "voice of the people" is stifled by dictatorial control.

Propaganda and the Mass. The importance of the masses in modern dictatorship, as indicated above, reveals itself in the elaborate propaganda technique developed for winning and directing these masses. Like any other technique, it can be taught. Ministries of propaganda and enlightenment collect and sift the rules and devices for such a little Machiavellian catechism. Only a few basic principles can be mentioned here. These methods are not at all new and untried. They are largely based upon general principles of advertising. Often they are taken from American commercial propaganda, revamped and systematized for use in politics. Among these are the firmly established principles of modern publicity, *simplification* and *repetition*. The intelligentsia is not important. The average man is, because he holds the balance of power. Totalitarian political argumentation has to be brought down to the level of the marginal customer of political ideas.

Dictatorships stand for "equality," equality of the sort which the often-told story of the Tyrant of Corinth reveals. One day he asked the Tyrant of Miletus to give him some advice concerning the art of government. The tyrant of Miletus vouchsafed no answer, but proceeded to strike off the ears of corn which had over-topped their fellows. Equality is best stabilized at the *tabula rasa* level, at the point of illiteracy. A stratified society cannot be handled so well. Its traditions have to be destroyed. In this respect Soviet Russia is in a unique position. Her people started to learn to read under the New Regime. They may begin with the right, that is, the "communistic spelling."

Besides these general principles of repetition and simplification, there are more specific techniques of demagogical propaganda, such as the personification of politics, the irrational appeal which has been systematized to almost a law of the psychological situation, the preponderance of the spoken word as compared with the printed word, and finally the exclusion of counter-propaganda.

Democracies have been hesitant in accepting, and very clumsy in applying, propagandistic schemes, which have been proved so essential in modern mass organization. Partly responsible for such hesitancy is the belief in a *laissez faire* of free competitive ideas, leading to an almost automatic final harmony of the body politic, and partly the democracies' adherence to the concept of a rational following which cannot and shall not be directed by an organized public opinion from above. It may also be added that as long as democratic institutions were not endangered they did not need to be propagandized. The challenge of dictatorship, however, especially after its obvious success in numerous countries, awakened in democracies the necessity for a defense against it. Thus democracies have recently adopted the idea of active propaganda promotion, yet it is still too early to ascertain in which respect this democratic propaganda technique is essentially different from its dictatorial counterpart and how far it will outgrow a defense stage and develop constructive symbols of a dynamic democratic society.

SYMBOLS OF LEADERSHIP [19]

Symbols again seem to be more prevalent in dictatorial systems than in democracies, at least at first glance. Yet the very existence of institutions

19. For a more detailed treatment see H. D. Lasswell, *World Politics and Personal Insecurity* (New York: McGraw-Hill, 1935); A. N. Whitehead, *Symbolism, Its Meaning and Effect* (Cambridge: Harvard University Press, 1928); C. E. Merriam, *The Making of Citizens* (Chicago: Chicago University Press, 1931); J. Ginsburg, "National Symbolism," chap 17 in P. Kosok, *Modern Germany* (Chicago: University of Chicago Press, 1933).

symbolizes and guarantees the stability of a prevailing value pattern.[20] They may be frozen symbols. They may become meaningless from daily use and only their being challenged may awaken their dormant vitality. It is human nature to perceive above all the symbol that challenges, just as opposition to an existing order is the beginning of party organization. Therefore revolutions, with the rigid and extensive change which they initiate in the composition and vocabulary of the ruling class, seem to be laden with symbols. They appeal to the imagination of an aroused public which is shaken in its automatic acceptance of traditional patterns.

Necessity for Symbolism in Dictatorship. To the personal leaders the creation of symbols becomes a vital necessity. They serve as a substitute for institutions on which the representative leaders can always fall back. Symbols of identification (the party emblem, the flag, uniforms, the anthem) represent to the early revolutionary fighter the promise that they will be turned into successful symbols of demand and that they already bear the mark of future institutions. On the other hand, when they are finally accepted as the new state's mores, they may lose their aggressive significance; they may even become emblems of safety, behind which the taciturn adversary hides for self-protection. And new symbols of an underground opposition may appeal to daring fighters.

The renewed predominance of symbols in our day, however, is not only the storm sign of a period of transition whose revolutionary cycle is indicated by such a succession of symbols. It also reflects on specific characteristics of present-day dynamic dictatorships. The mystical elevation of the god-sent leader to an almost god-like position is as much an essential of dictatorship's existence as is the active participation of the people. These masses, as we have said above, are conceived by modern demagogues as essentially irrational. To such childlike masses symbols appealing to the emotions become a need. Their use is highly effective when democracies, following a concept of the rational masses, fall short of an emotional appeal.

Sensitivity of the Masses to Symbols. In time of stress, especially, emotional behaviour of the masses can be easily excited; their naturally prevalent inhibitions can be broken down; and all the fickleness, hysteria, and sadism of an unstable crowd can be brought to the fore. All-embracing modern agencies of mass communication, manipulated by a well co-ordi-

20. In fact, symbolic leadership, such as the institution of the monarchy, causes the envy of many dynamic dictatorships. Such symbols are priceless. They stand outside the heated party controversy and serve as a neutralizing factor. If they do not exist, the dictatorial system which has "neither pride of ancestory nor hope for posterity" may try to create them. The elevation of a Hindenburg in Nazi Germany to such symbolic leadership, or the position of Admiral Horthy in Hungary, characterized the need of such stabilizing symbols.

nated propaganda machine, can weld such restless masses into a powerful weapon, and with unifying symbols before them, can send them on the march. Bound in an active mass, every follower will be reassured by the fact that others are responding just as he has responded.

Mass meetings guarantee an irrational psychological effect by the simple fact of number. Thus a multitude will be psychologically prepared by a whole set of rites and specific symbols to become a unified mass. Military bands, flags, parades, and the constant repetition of such rites intensify the partisan feelings of individuals almost to the point of religious fervor. These well-staged mass meetings are not a fight over concrete issues in open discussion; they become a matter of self-representation of the leader alone. Discussion and opposition are excluded. Only the believers or those who want to be converted are welcome. This is the totalitarian scheme of dictatorial symbols.

Marching especially becomes a value in itself. These men of unrest cannot rejoice in themselves, cannot stand still, cannot wait. They are deeply moved and fully absorbed by the mere consciousness of being on the march, and for people on the march symbols are the substitute for institutions. These symbols stand for the extreme dynamics of demagogical dictatorships. The dynamic driving force is crystallized in the quasi-religious myth of a revolutionary world mission (the revival of a Roman Empire, the proletarian world revolution, the Third Reich's new world order).

This dynamic turn is even reflected in a new and violent language. Militant expressions become fashionable. Political fighting leagues take the place of political parties. Instead of a new orientation, "military cadres" are unrolled. The new militant vocabulary now prevalent, not alone in dictatorships, is the most expressive symbol of the rule of dynamic leadership.

TRAINING AND SUCCESSION IN LEADERSHIP

The different concepts of leaders and followers become finally manifest in the *training and the process of selecting* future political leaders under various systems. Again there is a basic difference apparent between democracies and dictatorships. Institutional channels are the main avenues of approach for future democratic leaders. They are selected through open competition, especially in the national parliament, and not seldom because they have had successful careers in municipal government.[21] Such a rise to political importance presupposes and develops specific qualities in the future leaders, qualities which, in turn, characterize their future rule.

21. W. R. Sharp, *The Government of the French Republic* (New York: Van Nostrand, 1938), pp. 68–72.

Training and Apprenticeship of Democratic Leaders. In fact, the selective function of the parliaments is one of their most important tasks. On their success or failure in accomplishing this task depends the very existence of democratic government. The severe apprenticeship the political aspirant has to undergo in the open forum of parliament tests his availability for ministerial functions. Long before he achieves his first departmental appointment, he has to prove his mettle before a most critical audience.[22] He has to show his capacity for effective statement, for framing legislation, for mastery in parliamentary debate, for teamwork, co-operation, and successful compromise. He has to be acceptable to the House and thereby to the country. A government whose leaders are not subject to such criticism may pick its members at will. "Any fool," as Napoleon said, "can govern in a state of siege."

Great statesmen look back at a long parliamentary career before they take the driver's seat in parliamentary government. It has been often rightly remarked that the rapid change of membership in the United States House of Representatives is one of the main reasons why it has been outstripped in power by the Senate.

The time element is also partly responsible for the uneven chances of members of different social groups to have successful political careers. Great Britain's young aristocrats, who grow up in a political atmosphere, train for politics (at Eton and Harrow, Oxford and Cambridge) and enter a political profession at a very early age are at an advantage as compared with businessmen and trade union leaders. This holds true even today when the earlier privileges of aristocratic background and schooling are not any longer prerequisite for a political career in Great Britain.[23]

LAW AND TEACHING AS BACKGROUNDS FOR LEADERSHIP. Specific professions will serve as a better opening for a successful political career. The prevalent tradition that the man who knows the law can also make the law gives the lawyer a predominant position in the parliaments all over the world. Half

22. The rise to responsible position in democratic government goes through recognized channels of long trial, and even for an aspirant to become "ministrable," long training in local government, in parliamentary successes, and in committee achievements is necessary. This career certainly does not attract "young men in a hurry." This fact is of extreme importance, not only for older leaders, of which there are a remarkably large number in Western democracies, but also for an evaluation of the "young generation in politics." Their reaction against parliamentarism is largely due to this phenomenon of slow rise. They will always be ready therefore to follow any short cut to power. They become the champions of extraparliamentarian movements. (See S. Neumann, "The Conflict of Generations," *Vital Speeches*, Aug. 1, 1939.)

23. On this process of selection in democracies see H. J. Laski, "The British Cabinet, 1801–1924," Fabian Tract No. 223; J. G. Heinberg, "The Personnel of French Cabinets, 1871–1930." *Am. Pol. Sci. Rev.*, XXV (May, 1931), 389–96; and a supplementary study, "The Personnel Structure of French Cabinets," *ibid.*, XXXIII (Aug., 1939), 257–79. Also see Jules Véran, *Comment on Devient Deputé, Senateur, Ministre*, Paris editions (Bassard, 1924). Cf. also A. J. Jones, *The Education of Youth for Leadership* (New York: McGraw-Hill, 1938).

of the members of the American House of Representatives have had legal training. The same was true of the French parliament under the Third Republic. From Gambetta down to Poincaré and Briand the lawyer was a preferred type in French public life. The honored position enjoyed by the advocate and notary in French society reflected at the same time the high esteem which law commands in a nation that believes in reason and justice, in institutions and codification.

It is most significant that the teaching profession was second only to the law as a leadership reservoir for French politics. That her leaders represent the great cultural traditions, and that they already have, if possible, made some contribution of their own to these traditions seemed almost to be a prerequisite for statesmanship in Republican France. Herriot, Tardieu, Leon Blum, Daladier—to mention only a few contemporaries—have done so. In a nation where generals regarded it as their highest glory to be elected members of the *Académie Française,* an education is a necessary entrance ticket to public position. The extremely democratic educational system of the Third Republic, however, hindered the rise of an exclusive class of "property and culture." The sifting process of competitive examinations throughout the whole educational hierarchy made the ascendancy of the able underprivileged possible. In fact, one may accept the statement of a shrewd observer of the French political scene just past that

> To succeed in French political life, one must be borne humble, have lived studiously, entered by the door on the left (Clemenceau, Millerand, Viviani, Pierre Laval), do at least one administrative job well, take quiet note of the weaknesses of one's colleagues, but without ever speaking one's thoughts aloud, and then wait for the tide (J. Philip).

POLITICAL AGENCIES AND THE CHOICE OF LEADERS. Such examples already hint at the variations in the selection of leaders due to national ideals and educational standards. Not less significant for such a selection are structural differences of the political agencies, especially of the political parties. The decentralized party system of the United States gives the local and state boss a predominant hand in making national leaders. Any attempt, such as the recent one on the part of Franklin D. Roosevelt, to purge senatorial candidates, if successful, would break the power of the bosses. Even the chairman of the party cannot successfully interfere in their feudal domain.[24] Like the British king, he may have "the right to be consulted, the right to encourage, the right to warn" (Bagehot), and if he is a shrewd politician this power may carry enough weight, especially if he can make use of

24. For a more elucidative description of the specific situation in recent Southern campaigns see J. B. Shannon, "Presidential Politics in the South, 1938," *The Journal of Politics,* I (1939), pp. 146–170 and 278–300.

national spoils. Yet the selection of political leaders will be primarily decided not by the responsible political officeholder, but by the irresponsible local boss. This largely accounts for the enormous waste of personnel in American politics.

AMERICAN LEADERS: FROM PRESIDENT TO BOSS. There is, in fact, no career leading to the most important political position, the American Presidency, as the frequent selection of a "dark horse" significantly indicates. This does not mean, however, that the candidates finally selected do not carry specific qualities which make them "available" for the highest political office. Certain prerequisites for being elected President might be stated. Protestantism appears to be one. Geographic considerations also enter the picture. No Southerner has been selected since the Civil War. The "Solid South" was never so doubtful for the Democratic vote as to invite such a nomination. Since 1860 the successful Democratic candidates have come from the East, while the Republicans, sure of the support of Eastern conservatives, looked to the Middle West for presidential aspirants. Though no career leads to the White House, the legal profession and—until recently—military service seem to be the favorites. Governorship, especially of a populous and strategic state (such as New York), has proved an excellent stepping stone. The combination of a successful political contest and some public administrative experience seem to offer an effective appeal to voters. So does a name long known in politics, or favorable criticism of a candidate's conduct in a recent dramatic incident (if possible, not outspokenly political in character). Though the saga of birth in a log cabin, groomed since Lincoln's day, has in time somewhat faded, it is still convenient to have been born on a farm, or at least to have worked on one[25] as a boy, or to be "a home-made gentleman, born in a ramshackle old three-story place. . . ." The political physiognomy of a presidential candidate should not be too definite (in order not to make enemies), but he must have a human side (even if one has to be manufactured) and a good personality which can be sold to the American people. Above all, he must not be highbrow. His family life should be beyond reproach. Game-hunting and trout-fishing are suitable activities for a candidate. They demonstrate his vigor and healthy outdoor life. Publicity build-up will collect these enhancing features of the "presidential timber" after the "king makers" (a president in office not running for re-election, some editors, politicians, and so on) have picked the candidate for the country's highest office.

Not much consideration is given to the qualifications of the Vice-Presi-

25. For discussion of the campaign tactics and personality patterns in the presidential elections of 1940, which were unorthodox in many respects in both camps, see Peter H. Odegard, *Prologue to November 1940* (New York: Harper, 1940).

dent. His position is usually not considered one of very great importance. He must, however, fulfill two requirements: He should not come from the same geographical district as the presidential candidate and, if possible, he should represent a different wing of the party.

It is even harder to make generally valid statements on the training of the "American bosses." Their rise may be called almost a process of natural selection. Politics in the United States is an open profession recruited from all ranks; but it is a profession. Success at it demands a man's whole life and his readiness for service at any time. That is one reason why people who have a civil profession at stake are hesitant about entering the political arena. A man may go into politics because he desires to obtain some public office or to exert some influence and power, or simply because he likes the game. The political boss is usually a self-made man, often from humble origin and recent immigrant stock, and he is not seldom a social failure. The city boss especially, somewhat different from the more respectable state boss, usually begins his study of human psychology in the streets of a large city as newspaper seller, in the saloons as a waiter, or in similar pursuits. In such daily contact, he acquires skill in the management of men, the supreme quality of the successful boss. He possesses a superabundance of physical energy and resourcefulness. He establishes his party position by hard work. If he gets the command of the active voters in a precinct, it gives him control to distribute spoils. He is then on his way to political power.

Selection and Training of Dictatorial Leaders. Training for leadership is very different under the personal rule of modern dictators. Selection certainly depends to a large extent on the personal choice of the leader, especially in the higher brackets of the political hierarchy. Favoritism plays an important part in such selection. Even nonparty members may enter the leading council of modern autocracies. In spite of this significant personal element, it is, however, characteristic of modern dictatorships that they have an almost rationalized and quasi-institutional scheme for training their successors and their administrators in the precepts of their dynamic rule.[26]

The main channel through which the selection of leaders is made is not the parliament and certainly not open competition. Selection is basically made through the party machine. Being a "charter member" of the party is equivalent to tenure in a democratic parliament. In a way this method of choosing leaders also brings out specific qualities in them. For instance, the old guard of the first hour proved to the leader to be ardent fighters and

26. See I. A. Rowan-Robinson, "The Training of the Nazi Leaders of the Future," *International Affairs* (London), Mar.–Apr., 1938, pp. 233–250, and H. L. Childs, *The Nazi Primer* (New York: Harper, 1938); also E. Y. Hartshorne, *German Universities and National Socialism* (Cambridge: Harvard University Press, 1937).

trustworthy confidants. However, such important qualities in members may not be sufficient after the seizure of power. Indeed it may even be necessary to purge the "comrades of early and trying conspiracies."

VARIETY IN TYPES OF LEADERSHIP. The composite structure of modern dictatorship in its all-embracing power requires varied types of leaders—demagogical, bureaucratic, militant, and feudal. The party machine has to put forth the necessary leader material, a task seemingly simplified by the non-existence of any opposition. Some thoughtful dictators, however, have realized the very weakness of this selective process, which is the lack of any testing competition. (The attempt, such as Ataturk's, to create artificially an official opposition is doomed to failure in a dictatorship.) Yet, even the closed party system of modern dictatorship is not completely free from competition. In fact, it represents a hidden multiple-party system, thus defining selection through victorious factions. Here again the personal element of leadership selection enters. The faction nearest to the leader's ear has the best chance for command of the key positions. Such a process accounts for the unpredictability of leadership career and for the waste of personnel in modern dictatorships.

POLITICAL CONTROL AND THE RISING GENERATION. One important feature of modern dictatorship is its extension of monopolistic control over the body politic to the oncoming generation. The acceptance of an individual into the ruling party and the allotment to him of a share in its power and prestige are left to the whim of the party. The specific culture patterns of the ruling dictatorship will decide on the selective principles. Thus, the first maxim of the new leader schools of national socialism is: bodily strength and skill and, above all, militant virtues. Training of the will and the development of courage, Hitler has declared to be the ultimate aim of all education. "The land of poets and thinkers" is now taught to regard such an epithet as a sign of national decay.

The training of future leaders through state-controlled youth movement and a completely co-ordinated educational system are a bid for the perpetuation of the personal rule after the leader's death. It is certainly too early to draw any definite conclusion as to whether modern dictatorships will succeed where their classical forerunners failed. Two preconditions for successful perpetuation of the dictatorial system seem to be indispensable: the establishment of a well-functioning party machine and the destruction or absorption of traditional institutions. Success or failure will depend largely on the degree of internal consolidation of the system. If the shots aimed at Lenin in August, 1918, had killed him, the Soviet Regime would probably have collapsed. When he died in January, 1924, an integrated system of

power had grown up, and after the short interim of the historical struggle between Stalin and Trotsky the master of the party machine emerged as the final victor.

THE DICTATORS OF TOMORROW. One may even go so far as to make a few generalizations in regard to some characteristics which the dictator's successor is likely to have. One may venture to say that not the glamour boys of the revolution—not Trotsky, Farinacci, or Goebbels types—have the best chance to succeed the leader; it is, above all, the unostentatious master of the machine who will be in line for succession. Mussolini's Italy, somewhat different from the other dictatorships in this respect, seems to have returned to the Roman principle of adoption.

That he have the reputation of being the middle-of-the-road man will probably be the second qualification for succession to dictatorship. This may mean, as it did in the case of Stalin, that an aspirant must know how to play off one wing against the other cleverly. The choice may finally fall on a man who is not too conspicuous, for a prominent individual is more likely to have made enemies and to be envied than one who is not prominent —which disturbs the slow accumulation of power which is the technique of the dictator. And if these are possibly to be the three main characteristics of the heir to Caesar's mantle, they may be taken to indicate what the character of his rule will be. If the rule of his successor is ever established, it certainly will be different from that of the founder of dictatorship. Though it will be carried on in his name and with the help of the generation born under the established regime, it may liquidate the remnants of the revolutionary generation. If this new type of dictator rule carries through successfully, dynamic leadership may thus become institutionalized and merge in type with representative leadership, which event would close a revolutionary cycle or make way for the challenge of a new dynamic leadership.

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SECTION III

Political Techniques and Procedures

CHAPTER THIRTEEN

Parliamentary Government

THE purpose of modern parliaments is aptly expressed in the statement that "what concerns all should be approved by all."[1] These were the words of Edward I of England when in 1295 he summoned the clergy to his "great parliament." By reason of the large size of medieval as well as modern countries this consent of the governed could no longer be obtained by means of a popular assembly. At the time when the parliamentary principle was unknown[2] Aristotle had said that the size of a democratic state is bounded by the limits of a crowd which one herald can dominate with his voice. If democracy was to be given a chance in states covering a large territory, the principle of government based upon elective assemblies had to be adopted.

THE EARLY PARLIAMENTS

The assemblies which were the immediate predecessors of modern parliament were, however, not constituted with a view to obtaining the consent of all the governed. The medieval princes endeavored to obtain the consent of those who had political influence. These were the highest ranking nobility, the clerical hierarchy, and the elected representatives of the lesser nobles, of the lower ranking clergy, and of the burgesses. Each of these estates considered itself a separate entity rather than an organ of the country as a whole, although historical circumstances sometimes brought about combined assemblies of several estates.[3] The number of groups meeting separately narrowed down to four in Sweden. In France and in Spain there developed a division into three, the nobility, the clergy, and the bourgeoisie. In England there were only two, because the clergy refused to attend parliament.[4] Scotland seems to be the only country in which the estates met as a unit.

1. Quoted from Canon Law but originally embodied in the *Corpus Juris Civilis*. See J. Redlich, *The Procedure of the House of Commons* (London: Arnold Constable, 1908), I, 6.

2. There was, however, a prehistoric precedent in the councils of the Iroquois tribes and of their Confederacy. See L. H. Morgan, *Primitive Society* (New York: Holt, 1877), p. 117.

3. See R. Luce, *Legislative Assemblies* (Boston: Houghton Mifflin, 1924), pp. 3–4.

4. Such refusal might indicate that those concerned prized a certain degree of independence from the state higher than participation in the state; it might also be attributed to the fact that the financial burden of sending representatives to parliament and providing for them appeared too onerous. In England a law of 1323 determined that a knight of the shire was

Their Tasks. The immediate task of these parliaments was to give their consent to taxation. The King was unrestricted only in the income which he derived from his own lands, from judicial fees and fines, and the incidents of feudal tenure. He could expect additional income as a matter of right only for three contingencies: an imminent war, the knighting of his eldest son, and the marriage of his eldest daughter. If taxes were to be levied for other purposes the consent of the people, expressed in parliament, was required. It was natural that parliaments tried to use the power which the right to grant or refuse taxes vested in them in order to obtain privileges for themselves. Thus they acquired a second function: They submitted to the King the "wishes and grievances of the people." A powerful parliament could turn this privilege into an opportunity to criticize the entire government of the country. A third function was later added, namely, that parliaments must give their consent to all legislation. This function, which is now so important that we employ the term "legislative body" synonymously with the term "parliament," was of little significance in the beginning. During the Middle Ages all laws were supposed to have existed from time immemorial, and they derived much of their authority from their alleged age. Those social and economic changes which required large-scale readjustments by way of legislation began only during the fifteenth and sixteenth centuries, and even then such changes were so slow that the amount of legislation required to cope with them was for a long time almost negligible.

Their Strength and Weakness. The parliaments of the Middle Ages and of the first centuries of modern times did not derive their strength from their own constitutions. They were strong if and when the King was weak. The kings were weak when they needed money, and they needed money to pursue wars and to take care of the debts resulting therefrom. For these reasons English parliament was strong at the end of the thirteenth, and throughout much of the fourteenth century. Then, however, its power receded. It was very weak under Henry VIII, who through the Reformation had obtained control of the property formerly held by the church, and who also had become the head of the English clergy. Parliament revived somewhat under Elizabeth, led a vigorous war against the King under the Stuarts, and finally triumphed when in 1689 it put a new dynasty upon the throne.[5] England is, however, the only large country in which the original parliament has been successful in the end.

to get four shillings a day, including the journey to and from London, and a borough member two shillings a day. The distaste for taxation induced many cities to strive to avoid sending representatives, and for the same reason many a freeholder had little use for a right to vote which was accompanied by a share in the expense of keeping a representative.

5. For the development of the power of parliament after 1689 see W. Hasbach, *Die parlamentarische Kabinettsregierung* (Stuttgart: Deutsche Verlagsanstalt, 1919), pp. 42–133.

One reason for the failure of the estates parliaments in other countries was that they were bound to be stronger in negation than in affirmation. It was easy to refuse the King's demands, but it was hard to agree upon a positive policy to be substituted for that of the King. It was difficult to promote harmony among the estates because they deliberated separately and no provision for co-ordination existed. Also, they were extremely selfish; in England, where the power of parliament was greatest, the nobility which dominated it managed to destroy the yeomanry altogether and to secure the peasants' lands for themselves. The peasants fared best in countries like France, where the King was more powerful. It can be seen, therefore, that parliaments were not a progressive force. Furthermore, the estates often refused to act for the country as a whole; they insisted upon their independence, and no matter how eager they were to claim rights they were reluctant to assume duties.[6] Their influence developed into a mere disintegrating force if it became supreme, as it did in Poland and in the German Empire. England was a conspicuous exception to this rule, but this may have been largely due to the fact that for England her "insular position replaced a constitution."

Their Decline. The inherent deficiencies of these parliaments had much to do with the gradual decline of their power in the course of the seventeenth century, and the substitution of so-called "absolutism"[7] for a government bound to obtain parliamentary consent.

Meanwhile forces of a social and economic character were at work[8] which made it inevitable that in the long run one after another of the old rulerships collapsed and had to be replaced by governments based upon the consent of the governed. In the new set-up parliaments were once more called upon to play a pivotal part. It is easy to see that from a functional point of view these new parliaments were entirely different from the old ones. The old ones had been characterized by the dualism between King and parliament. Among other things, this made it unnecessary for parliaments to be capable of positive action. They submitted to the King the wishes and grievances of their constituents and decided whether or not they were willing to follow his initiative in the matters of taxation and new legislation. It was the task of the King to provide for a government and

6. F. Hartung, *Deutsche Verfassungsgeschichte vom 15 Jarhundert bis zur Gegenwart* (Leipzig: B. G. Teubner, 1914), pp. 50 ff.

7. This "absolutism" was by no means free from restrictions. Corporate liberties were retained here and there and, in addition, even where the royal power was unlimited it did not have the instruments of self-realization with which the modern bureaucracy and the modern army and police force have provided the governments of the present time.

8. See F. A. Hermens, *Demokratie und Kapitalismus, Ein Versuch zur Soziologie der Staatsformen* (Munich: Duncker and Humblot, 1931), pp. 150 ff.

therewith for an organ which could act for the country as a whole. The essence of the success of modern parliaments may be ascribed to the breaking down of the old dualism;[9] the Kings had to abdicate or to accept governments formed in harmony with parliamentary wishes. The inevitable consequences of this fact have not always been emphasized; it will be useful, therefore, to draw attention to their more important aspects.

First, after the old royal government had been abolished a new one had to be substituted for it. Democracy—the word is derived from the Greek words *dēmos,* which means "the people," and *kratein,* which means "to rule"—needs a government as much as any other form of political organization. Otherwise it would degenerate into anarchy, and since anarchy is not a workable state of society dictatorship would follow. The reason why the difference between democracy and anarchy has not always been realized is, as Herman Finer has put it, that democracy originated as "a doctrine of protest."[10] Naturally mere protest could not suffice after the old governments, against which it was directed, had been overthrown. The positive element in the democratic movement had to separate itself from the negative element, although this process was difficult in practice (witness the years preceding the establishment of the Federal Constitution in the United States), and is not even now perfected so far as theory is concerned.

If the first requisite is that democracy must have a government, the second is that parliaments cannot be governments themselves; they must act as *intermediate* organs of government. A parliament when unorganized and therefore leaderless is nothing but a large crowd. It exhibits all the drawbacks of popular assemblies for which the democratic city-state paid so dearly both in antiquity and during the Middle Ages. Such bodies are under the influence of the "psychology of crowds."[11] As a result, they may act rashly and irresponsibly as did the parliaments of the French Revolution.[12] Even the English House of Commons, which is now so widely praised for its moderation, at one time deliberated in great detail about how most effectively to torture a defenseless prisoner.[13] In addition to acting rashly an unorganized parliament may act inconsistently, or it may act either too

9. It would seem to the present writer that this change in function had the result that the term "representation" may be applied to modern parliaments only if we change its meaning, and that in order to avoid misunderstandings it would be better not to use it any longer. (See F. A. Hermens, "Political Science and Proportional Representation," *Social Science,* Jan., 1940.)

10. Herman Finer, *The Theory and Practice of Modern Government* (New York: Dial Press, 1934), pp. 52–3.

11. See G. Le Bon, *The Crowd, A Study of the Popular Mind* (New York: Macmillan, 1897).

12. *Ibid.,* pp. 206 ff.

13. See C. H. McIlwain, *Constitutionalism and the Changing World* (New York: Macmillan, 1939), pp. 187 ff.

slowly or not at all. If the task of governing modern democratic countries should be left to their parliaments as such, the results might be as negative and as disastrous as they were in some of the estates parliaments mentioned above.

PARLIAMENTS AND THE FORMATION OF GOVERNMENTS

Provision for a government above a parliament may be made in two ways. First, the formation of a government may be left to the parliament itself, as is the case in England, the English Dominions, and all other countries which, besides the United States, may be called democratic at the present time. Second, provision for an executive may be made independently from parliament, as is the case in the United States. The functions of parliaments are fundamentally different in the two cases.[14]

Under the parliamentary system properly so-called the first task of a modern parliament is to constitute a government and delegate to that government those functions which the parliament by its very nature is not able to exercise.[15] Success or failure of a parliament will depend upon the accomplishment of this task. It is obvious that an unorganized parliament would not be able to solve the problem of giving itself a master.

Role of Political Parties in the Formation of Governments. However, modern parliaments are, to a greater or lesser degree, organized by political parties, and the formation of governments depends upon the action of party leaders.[16]

There are three different circumstances under which parties may be called upon to solve the problem of the formation of governments[17]: In the case of the first there exist only two large parties, one of which obtains a majority of all the seats in parliament. In this case much of the task of forming a government devolves upon the people. By giving a majority to one party, the voters decide that this party is to form a government, and usually the name of the party leader who is to carry out this mandate is known beforehand. Under this arrangement, of course, government is no longer "parlia-

14. We omit Switzerland where an executive government is elected by parliament, its members usually being reelected for life. They are not supposed to resign if one of their measures is defeated in parliament.

15. As Walter Bagehot put it, ". . . the principle of Parliament is obedience to leaders. Change your leader if you will, take another if you will, but obey No. 1 while you serve No. 1, and obey No. 2 when you have gone over to No. 2. The penalty of not doing so is the penalty of impotence. It is not that you will not be able to do any good, but you will not be able to do anything at all."—*English Constitution,* ed. The World's Classics (London: Oxford University Press, 1933), p. 125.

16. We ignore in this connection the part usually played by the head of the State, be he King or elected President, in the formation of governments. On this subject see R. Redslob, *Le Régime parlementaire* (Paris: Marcel Girard, 1924), pp. 5–9.

17. For further details see F. A. Hermens, *Demokratie und Wahlrecht* (Paderborn: Ferdinand Schöningh, 1933), pp. 20–34.

mentary"; parliament is subordinated to the electorate, and therefore fits organically into the general framework of democratic institutions. England and the English Dominions are cases in point.

Under the second arrangement there is a system of three or more parties, none of which has a majority. The result is that coalitions are formed by parties which combined have (if possible) a majority. Such combinations may change during the lifetime of a parliament, and the people do not exercise the immediate check upon the nature of their government which a two-party system gives them.[18] Governments were formed in this way in Belgium, the Netherlands, and the Scandinavian countries.

The third possibility is that parties are but little organized in the country and, since the strength and cohesion of any party organization is derived from the organization of the rank and file of the voters[19] parliamentary groups will have but little cohesion and consistency. This case, the classical example of which was France,[20] of the Third Republic, shows parliaments at work in a way which in the past appeared as an ideal to many a theoretical observer: Power is actually vested in individual members of parliament rather than in organized groups or in the government. The result is what we might expect from an unorganized assembly—cabinets are frequently overthrown by changing combinations, their average duration is less than nine months, and their authority is weak.

Provision for Leaders. The formation of governments implies not only that the government machinery is set up, but also that the proper personnel is provided for the operation of this machinery. The essential qualifications of a political elite can be best understood if we look at their functions, which are innovation, integration, and limitation. Successful innovation cannot be expected from the bureaucracy which, as it has been put, "will care more for routine than for results."[21] Nor will the members of the civil service be able to provide for the integration of all government functions; being

18. It makes considerable difference, however, whether the majority system or Proportional Representation is applied. Under a majority system, related parties combine in order to win the election, and as a rule they co-operate in parliament as they did in the electorate. Under Proportional Representation parties do not combine in the elections; as a result they are afterwards free to form any combination they wish, and are often unable to form any combination at all.

19. When in 1877 Joseph Chamberlain addressed a convention of liberal delegates in Birmingham, who were about to set up the national organization of the Liberal party, he said: "Our association will be founded upon the belief that the Liberals in the country are more united than their leaders."—A. Lowell, *The Government of England* (New York: Macmillan, 1919), I, 516.

20. Before the adoption of Proportional Representation in Italy in 1919 the conditions in the Italian Chamber of Deputies were similar to those in France.

21. Bagehot, *op. cit.*, p. 171. For some modern tendencies (which, however, would seem to modify the old distinctions in detail rather than to abolish them) see C. J. Friedrich, "Public Policy and the Nature of Administrative Responsibility," in *Public Policy*, ed. by C. J. Friedrich and Edward S. Mason (Cambridge: Harvard University Press, 1940), pp. 3 ff.

specialists, they will be concerned with the peculiar aspects of their own activities to the extent of almost overlooking all others. Finally, they often lose sight of the need for a limitation of government activities; they are so convinced of the beneficial character of their actions that they would like to have them extended beyond the range within which they are serviceable.

The process of *s*election by which a democracy obtains its political leaders is, of course, in the first place, one of popular *e*lection. Parliaments provide, however, for a very useful second test. In a popular election the mere "showman" and "orator" may be successful, but if he enters the halls of a parliament he will soon be deflated. If members of parliament are to recognize someone as their leader, he will have to show his superiority in handling matters which may be technical as well as delicate, and which must always be handled in the presence of an opposition which will exploit any sign of weakness or failure. Those who survive this test may well be expected to be the best material for political leadership which a democracy can develop.

Under a two-party system a parliament may be counted upon to discharge its selecting functions comparatively well. The English House of Commons, in particular, has been praised for its efficiency in this respect.[22] Under a multi-party system some difficulties develop; the distrust of each other among the parties which form a majority may cause them to make it hard for their best men to rise to positions of real leadership. In a parliament such as the French Chamber of Deputies was, brilliant leadership is possible because there are many opportunities for individuals to distinguish themselves. On the other hand, little chance is given to these persons to lead their colleagues in constructive work over a sufficient period of time; also the mere orator of the type of Louis Marin and Franklin Bouillon obtains a chance to make his influence felt in a way which on the whole is not beneficial.

While the Congress of the United States has no function at all in providing the mechanism for executive government, it does share in the task of developing a political elite. Leadership is required in the legislative work of the Senate and the House of Representatives, and men who have been leaders in these bodies have often risen to national prominence when they might not otherwise have done so. This leadership material is, however, only rarely used for the positions in the executive government. Members of the House of Representatives have scant chance of being nominated for President; Senators are better off, but are less "available" than are governors of "pivotal" states. Positions in the cabinet are usually not attractive to

22. Bagehot, *op. cit.*, pp. 178–9 and *passim;* S. Low, *The Governance of England* (London: T. Fisher Unwin, 1915), pp. 95 ff.; H. J. Laski, *Parliamentary Government in England* (New York: Viking, 1938), pp. 187, 189–90, and *passim.*

members of Congress. They are rarely inclined to give up their seats to become mere subordinates of the President. But former congressmen have been outstanding cabinet members; for instance, in the administrations of F. D. Roosevelt, Mr. Cordell Hull, a former Senator, has undoubtedly been the cabinet member with the greatest authority.

POLITICAL CONTROL

If the first function of parliaments—constitution of governments—is confined to those countries which have a parliamentary system of government, the second function—control of the executive—is common to all. We may distinguish between control of the government and control of the administration.

The Two-Party System. In the control of the government the parliaments in countries with the parliamentary system possess the legal handle of being able to put the cabinet into a minority and thereby force it to resign. Under a two-party system a government, because it possesses a majority, is safe from defeat as long as it is sure of its followers. The government is nevertheless continuously under fire from the opposition. The leaders of the opposition know that ordinarily they are not able to influence the votes of the members of the majority party; in the last resort their arguments are calculated to influence the electorate. More specifically, the attempt is made to influence the "balancing vote"—that is, those voters who turn from one party to the other according to the issues of the day and who, although they are a small minority, actually decide which party is to obtain a majority in the next elections. Ordinarily this balancing vote is extremely sensitive. It does not take much to shake it loose from one party and start it drifting to the other.

The government is conscious of this fact; and if it should waver in its responsiveness to public opinion, many of the majority members in parliament would try to correct this trend. They are the deputies who have been elected by a small margin and who on their trips into their constituencies inform themselves about changes in the attitude of the electorate. If these members of the majority become restive, and if they observe that the opposition makes more impression in the country than does the government, they will bring pressure to bear upon their leaders. Their grumblings will be heard in the lobbies and in clubhouses rather than in the meeting rooms of parliament, but the government whips—who not only transmit the orders of the government to the individual member but also take the latter's complaints to the government—will impress upon the cabinet the difficulty of gaining parliamentary consent for its actions. If at all possible, the ministry

will modify its policy to meet its opponents halfway, and it may have to do penance in a drastic manner, as Mr. Baldwin did in 1935 when he sacrificed Sir Samuel Hoare to the opposition aroused by the Hoare-Laval plan. If ordinarily such open conflicts are avoided, it is because of the rule of "anticipated reactions"[23]: Governments study public opinion thoroughly and try to follow it as closely as possible.[24] In this process parliamentary debate proves to be an essential cog in the machine of popular control of government. Parliamentary debate provides much information which otherwise would not be forthcoming; the government has to explain and defend its policies in great detail and the opposition will see to it that no important point is overlooked. These debates also help to crystallize public opinion. Public opinion, to be effective, needs to be clear and unequivocal. Parliamentary debate puts into the limelight a few salient points upon which the attention of the voters can be easily concentrated.

The Multiple-Party System. Conditions are somewhat different under a multiple-party system and in a largely unorganized parliament. Under a multiple-party system a government may be dislodged from power by a vote taken in parliament, and without the necessity of appeal to the people. However, parties have a tendency under these conditions to substitute themselves for parliament; decisions made in their separate meetings are more important than open debate in parliament. As soon as one party whose support is essential to the government withdraws, the government resigns. Almost the opposite would happen in France when political groups were unable to determine the outcome of a vote. In this case the Chamber would make its decision, and this decision would be largely determined in the course of the debate. It is doubtful, however, whether this was an effective means of control.[25] The Chamber could easily punish a minister whom it disliked, but it could not thereby make sure that his successor would adopt the policy which the Chamber favored. The successor might have the best of intentions but as a rule he would not have sufficient power.

The Separation of Powers. Political control of the executive by the legislature must assume indirect methods under a system of separation of powers which knows of no ministerial responsibility. The Congress of the United States makes extensive use of the typical devices of administrative control, which will be dealt with later in this chapter, even if the criticism is directed against the policy of the President and the cabinet rather than against ad-

23. C. J. Friedrich, *Constitutional Government and Politics* (New York: Harper, 1937), pp. 16–19.

24. Concerning the whole problem of parliamentary control of the government under a two-party system see I. Jennings, *Parliament* (New York: Macmillan, 1940), pp. 119 ff., 152 ff.

25. See R. de Jouvenel, *La République des camarades* (Paris: Bernard Grasset, 1914), p. 89.

ministrative organs. Control can furthermore be exercised by legislation, and may venture deeply into such fields as foreign policy, which by their nature are repulsive to legislative regulation. Lastly, there remains, of course, the weapon of impeachment. The impeachment mechanism has primarily a historical significance; the English House of Commons used this weapon at a time when ministerial responsibility was not yet clearly established.[26] Since in the United States ministerial responsibility does not exist, it is not unnatural that the power of impeachment has been retained. Since accusation by a majority of the House of Representatives and condemnation by two-thirds of the Senate are required, impeachment has not played any significant part in the history of the country. As Woodrow Wilson says: "Indeed, judging by our past experiences, impeachment can be said to be little more than an empty menace. The House of Representatives is a tardy grand jury, and the Senate an uncertain court."[27] On the other hand, it is not infrequent that a member of the House of Representatives demands impeachment of some administrative official, though usually such a demand seems to be made more for the sake of publicity than for the sake of serious action.

ADMINISTRATIVE CONTROL

Administrative control is closely related to political control, and under the parliamentary system of government every department has a minister at its head who has to assume parliamentary responsibility for the administrative officers under him. This responsibility is supposed to induce him to exercise strict supervision of his underlings. It is essential, however, that if and when this preventive control fails to work parliament be at hand with repressive measures. A bureaucracy is always tempted to use the power entrusted to it improperly; the high standards set up by the modern civil service have improved conditions considerably but have not made them perfect and will never succeed in doing so. The vigilance of parliamentary bodies is as important a requisite as ever, particularly since the activities of the administration have been so greatly extended. Also, parliaments are ideally suited to the fulfillment of this task; they see with hundreds of eyes, and these eyes are sharpened by partisan controversy and by the desire of

26. The last impeachment in England occurred in 1805. As Jennings puts it: "Impeachment in the seventeenth and early eighteenth centuries was a means for 'liquidating' opponents. The ballot boxes are now available for political opponents and the criminal courts for criminals" (*op. cit.*, p. 381).

27. *Congressional Government* (Boston: Houghton Mifflin, 1925), p. 276.

Wilson would favor the ministerial responsibility of the parliamentary system of government to impeachment as a more businesslike procedure. Says he: "A merchant would not think it fair, even if it were lawful, to shoot a clerk who could not learn the business. Dismissal is quite as effective for his purposes, and more merciful to the clerk" (*loc. cit.*).

individuals to gain distinction. Ordinarily, the initiative in the task of administrative control, as of political control, will be taken by the opposition. But when administrative abuses or blunders have been charged a government will rarely be inclined to make the matter a partisan issue, and even more rarely be able to do so even if it wishes. In addition, as Walter Bagehot remarked,[28] public opinion will readily respond to parliamentary action on such subjects, and the pressure on the administration will soon be so great that at least the facts will become known, and in most cases redress will be given if it is at all practical to do so.

In England. Most parliaments can pride themselves on having done good work in the matter of administrative control. In England the method of questions is the one most frequently used in order to redress (and thereby in the future prevent) "those petty injustices which are so commonly associated with bureaucracies."[29] A question may, however, easily lead to a thoroughgoing investigation of the practices of the administrative agency which has come under fire,[30] and such an investigation will be remembered by that agency for years to come.

In France. In France the task of administrative control was, under the Third Republic, more urgent, obviously because political control was so much overdone as to be largely inefficient. Every generation seemed to have a major scandal of the Panama and Stavisky type, and some members of parliaments were themselves nearly always as much involved as the administrative departments were. Yet, much of the information which we possess on such cases would not be available were it not for the vigilance of parliamentary control. Also, the preventive effects of such control are remarkable. Let us quote André Siegfried, who is by no means uncritical of the shortcomings of French politics:

> I was attached for some time to one of our chief administrative departments. Usually we did our share of work conscientiously in a quiet atmosphere of daily routine, but there were days when one hardly recognized the place—the director had nerves, the letter piles seemed to pile up hectically on the tables, and the typists all had their teeth on edge. There was a question to be asked in the House by a deputy . . . and everyone jumped except the porters! This intervention of the deputy serves thus as a spur to keep the horse panting, even when it is not in use.[31]

In the United States. In the United States the intensity of administrative

28. *Op. cit.*, p. 161. 29. Jennings, *op. cit.*, p. 94.

30. See Jennings, *op. cit.*, pp. 95–6, on a case in which the charge was made that the police had used "third degree" methods. Jennings adds: ". . . on such issues party divisions are forgotten, and members give chase at the mere scent of injustice like greyhounds after a hare."

31. A. Siegfried, *France, A Study in Nationality* (New Haven: Yale University Press, 1930), p. 108.

control tends to make up for the absence of political control. The activities of the administration are closely scrutinized by Congressional committees, in particular during the discussion of the budget; laws governing administration are made as detailed as possible; and if all this is of no avail, the weapon of congressional investigation (either by standing committees or committees appointed *ad hoc*[32]) is used drastically. Some of these committees might have been more unanimously applauded if their procedure had been free from arbitrariness, but on the other hand almost all of them have provided valuable information. That a parliamentary committee may succeed where all other agencies have failed was shown by the investigation of the Teapot Dome scandal through the Senate Committee on Public Lands, in the course of which Senator Walsh did an amount of work which no public official would have done in order to ferret out the truth.

LEGISLATION

The task of legislation ranks third among the functions of a modern parliament, the formation and control of the government being the first and second functions. Not that legislation is infrequent; new laws began to multiply in the first half of the nineteenth century and have since that time further increased to such an extent that the calendar of every parliament is now clogged with legislative projects.

Parliaments Too Large for Direct Legislation. Yet, because of their structural inability to fulfill their legislative function, parliaments have lost much of the power in matters of legislation which written constitutions attribute to them. As John Stuart Mill expressed it more than two generations ago: ". . . it is equally true, though only of late and slowly beginning to be realized, that a large assembly is as little fitted for the direct business of legislation as for that of administration."[33]

In the first place, the innovations which a law (properly so-called) will introduce should be closely related to the experience gained by those who executed the law which it has been devised to replace. This cannot be accomplished unless the civil servants who are charged with the execution of the old regulations are given a share in the framing of the new ones.[34] In the second place, laws must be completely integrated, and they must fit into the general framework of a government's policies. Unorganized assemblies have proved themselves either incapable of providing for such consistent

32. On the general subject of investigations see M. Nelson McGeary, *The Developments of Congressional Investigative Power* (New York: Columbia University Press, 1940).

33. *Considerations on Representative Government* (New York: Harper, 1862), p. 109.

34. As John Stuart Mill put it: "It is true that a great statesman is he who knows when to depart from traditions, as well as to adhere to them; but it is a great mistake to suppose that he will do this better for being ignorant of the traditions" (*op. cit.*, p. 104).

legislation or unable to do so with dispatch.[35] In the third place, no law is good unless it is properly drafted. Since litigation will develop it is necessary that the provisions of a new law be so clear that the courts will find it easy to make the new law work in the sense intended by its authors. Obviously, such a task involves many technicalities that are beyond the capabilities of a large assembly. In countries with a parliamentary system of government the problem of legislation has been solved by giving the cabinet leadership in this matter as in others.

Legislative Procedure in England. Conditions are simple in countries with a two-party system, such as England, where, within reasonable limits, a government is sure of its parliamentary majority. The spade work for most new laws is done by the permanent officials of the various government departments. These civil servants must, however, work in connection with the minister, who represents the political element. Laws which embody the feature of innovation to a degree greater than normal may be submitted to the scrutiny of Royal Commissions of Inquiry[36] which are comprised of experts representing all sides of an issue, and which will try to find as wide a basis for agreement as possible. In this case the government will attempt to include the major recommendations of the committee in its bill. The drafting of the bill is left to a special agency,[37] and every legislative project has to be sponsored by the government as a whole before it can proceed on its way to parliament.

In the two houses of parliament the government commands most of the time set aside for legislative purposes[38] and may take all of the time if the

35. Walter Bagehot compares the workings of an unorganized parliamentary assembly with those of the "quarter sessions" in English counties to which the government entrusted the duty of combating the cattle plague: ". . . the scene in most 'shire halls' was unsatisfactory. There was the greatest difficulty in getting, not only a right decision, but *any* decision. I saw one myself which went thus. The chairman proposed a very complex resolution, in which there was much which everyone liked, and much which everyone disliked, though, of course, the favourite parts of some were the objectionable parts to others. This resolution got, so to say, wedged in the meeting; everybody suggested amendments; one amendment was carried which none were satisfied with, and so the matter stood over" (*op. cit.*, p. 123).

The American House of Representatives during the first Congress under Madison's administration provided an illustration of what a parliament may do when deprived of proper leadership. The House was endeavoring to reduce military expenditures, and a resolution to this effect was adopted by a vote of sixty to thirty-one. Resolutions were then offered to carry out the details, "but no sooner did the House go into committee [of the Whole] than the members astonished themselves by striking out each section in succession. Gunboats, frigates, navy yards, and marines each managed to obtain a majority against reduction."—Henry Adams, *History of the United States*, V, 204, here quoted from W. E. Binkley, *The Powers of the President* (New York: Doubleday, Doran, 1937), p. 55.

36. For the details, and in particular for modern trends, see H. McDowell Clokie and J. M. Robinson, *Royal Commissions of Inquiry, The Significance of Investigation in British Politics* (Stanford: Stanford University Press, 1937).

37. Jennings, *op. cit.*, pp. 220 ff.

38. Concerning "private members' bills" see Jennings, *op. cit.*, pp. 348 ff., and A. P. Herbert, *The Ayes Have It* (New York: Doubleday, Doran, 1938), pp. 68 ff.

situation seems to warrant it. Government control over parliament does not mean that parliament will act as a "rubber stamp." The pressure brought to bear upon the government in the course of debate may induce it to accept amendments, or even to withdraw a bill entirely.[39] Also, it must be borne in mind that before a bill is introduced the government investigates carefully to determine whether it will be acceptable to its majority and to the public at large.

Bearing in mind the existence of these safeguards of both preventive and repressive parliamentary control, we may say that legislative leadership of the government over parliament, as practiced in England, has two advantages which no other system possesses. First, the public interest can be rather effectively defended against the activities of pressure groups. No private interest can secure the passage of an important bill without either the approval or the toleration of the government, and the government is strong enough to hold most lobbyists (although the term is unknown in England) at arm's length.[40] Second, quick action is possible in case of need even if it requires changes of legislation. Since the government has a majority in the House of Commons it may even assume responsibility for the temporary suspension of an Act; if necessary, parliament is sure to pass a bill of indemnity.[41]

Legislation in Multiple-Party Systems. Legislation in parliaments with a multiple-party system depends upon the efficiency of the bargaining between the majority parties, upon whom the government depends for every step it takes. If the parties constituting the majority are not too numerous, and if their opinions are not too far removed from one another, the path of legislation will be fairly clear. However, if the number of parties which combine for a coalition is too large and the parties too heterogeneous, or if the coalition fails to command a majority, legislation is very hard to enact and the point may be reached where the government has to resort to wholesale legislation by decree. Italy, Germany, and Austria under Proportional Representation have been cases in point; Belgium was so later; conditions were only a degree better in the Netherlands; they had, in the 1930's, been fairly good in the Scandinavian countries.

Legislative Procedure in Republican France. Particularly in matters of

39. For recent examples see Jennings, *op. cit.*, p. 230.

40. For the details see Jennings, *op. cit.*, pp. 170–90; E. J. Laski, *Parliamentary Government in England* (New York: Viking, 1938), pp. 187–8; H. Finer, *The Theory and Practice of Modern Government* (New York: Dial Press, 1934), pp. 482–4.

41. An example is provided by the government's authorizing the Bank of England to issue notes in addition to the amount provided for under the Peel Act. This happened in 1847, 1857, and 1866, and in every case a serious monetary panic was averted. See H. D. MacLeod, *The Theory and Practice of Banking*, vol. II (London: Longmans, Green, Reader and Dyer, 1866), pp. 139, 153, 158–9.

legislation, France with her largely unorganized parliament (considering again the period between 1870 and 1940) afforded an example of how a parliament fares if constituted in a way which to so many theorists still appears ideal. All the inconveniences of legislation by assembly develop. Robert de Jouvenel exaggerates but little when he says:

> Everyone proposes an amendment and votes more often than not for those of his colleagues to make sure that his own amendment be adopted in return. . . . A law is no longer a law. It consists of three hundred amendments, ten decrees, and three regulations of public order.[42]

Such laws were badly drafted; the *Conseil d'État* might manage to make them workable by interpretation, but it might also happen that the bureaucracy had to interpret them in its own way and thus escaped proper political control. The process of legislation was ordinarily very slow, and laws were on the statute books which had been out of date for more than a generation. Occasionally a government had authority enough to make the Chamber (and the Senate) work, as happened under Poincaré (1926–1928) and under the first cabinet of Léon Blum (1936–37). Such reform periods were short; they were the result of popular pressure, and for that reason laws which were badly in need of thorough parliamentary scrutiny would often be passed in a hurry. On the other hand, it happened repeatedly after the World War that the government was given the power to legislate by decree. Under these circumstances parliament abdicated in favor of the bureaucracy of the departments rather than in favor of those who were in command of a popular movement.

Legislative Procedure in the United States. In the United States the function of legislation, apart from the negative element of the veto power, is assigned to Congress. Presidential initiative in regard to legislation is possible inasmuch as "he shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient." The President confines himself to the general outlines of a proposed legislative change, and relies upon friends of the administration in the Senate and the House of Representatives to introduce a formal bill.[43] Congressmen are aided in their tasks by the legislative drafting bureau attached to the Library of Congress. Often enough, of course, ready bills have been provided for them by the various government departments, or by pressure groups, or by private persons interested in a particular subject. To what extent Congress itself determines legis-

42. Robert de Jouvenel, *op. cit.*, pp 87–9.

43. Exceptions were provided by the Supreme Court Bill of 1937, and by Lincoln's Message to the 37th Congress suggesting compensated emancipation. See also E. S. Corwin, *The President, Office and Powers* (New York: New York University Press), 1940, p. 278.

lation, and to what extent it follows administrative leadership, depends upon circumstances. The President has always the power of giving (or withholding) patronage, and may exercise minor means of pressure by inviting (or not inviting) a Congressman (and his wife!) to the White House. In their race with Congress for influence on legislation most Presidents have trailed behind, and it might be argued that in some cases legislation urged by the administration has been unduly delayed.[44] Other Presidents have reversed this trend, and the record for presidential influence over legislation was established in the first administration of Franklin D. Roosevelt. The "Emergency Banking Bill" was passed in the record time of eight hours, and since only one copy was available, "The House proceeded to consider the measure, pretending that a folded newspaper was the copy which it did not possess."[45] The point has been made that some of the laws passed under presidential pressure at that time were passed without proper discussion.[46] Presidential domination of Congress suffered a setback, however, with the rejection of the Supreme Court Reorganization Bill. In general, it may be asked whether it is easy, under a system of separation of powers, to find a middle way between "rubber stamp" government and "Congressional Government." It must be remarked, on the other hand, that when Congress assumes the function of legislation as much in fact as it has in theory it is better equipped to discharge it than was the French Chamber. The party organization may not always be as strong in Congress as it is in the country, but it is nowadays effective enough to facilitate the legislative work of Congress (in particular of the House of Representatives) to a considerable extent.

Summary Statement. In summarizing the views on parliaments and legislation we may say that whereas unorganized assemblies are not well able to discharge the task of legislation properly, all laws should, nevertheless, be submitted to their scrutiny. They all constitute, as has been said with reference to the American Congress, "a good sound jury,"[47] which is well qualified either to accept or reject a law or a certain provision of it. This is the only way in which we can make sure that a law will be reasonably good (which, in particular, means that it be free from bureaucratic oddities), and at the same time reasonably democratic.

44. For example, the measures with which the Hoover administration attempted to combat the banking crisis in 1931 and 1932. Cf. F. A. Hermens, *Der Staat und die Weltwirtschaftskrise* (Vienna: Oesterreichisches Wirtschaftsverlag, 1936), pp. 95–6, 107–8.

45. Turner Catledge, "Greasing the Ways for the President's Bills," *The New York Times Magazine*, Feb. 28, 1937.

46. For discussion of the undistributed profits tax law see A. G. Buehler, *The Undistributed Profits Tax* (New York: McGraw-Hill, 1937), p. 31. For the Securities and Exchange Act of 1934 see F. M. Friedman, Letter to the Editor of *The New York Times*, June 2, 1940.

47. Senator Taft in T. V. Smith and Robert A. Taft, *Foundations of Democracy, A Series of Debates* (New York: Knopf, 1939), p. 57.

THE STRUCTURE OF PARLIAMENTS

Modern parliaments have been reviewed from the point of view of their functions, so let us now add a few remarks about their internal organization and their procedure.

Parliamentary Committees. The most important element in the parliamentary structure are committees. Committees may be formed for specific purposes, in which case their function is both universal and uncontroversial, or they may be permanent bodies, specialized according to subjects. In the latter case their functions are somewhat less general, and a great deal more controversial.

Those who object to the system of permanent commissions point to conditions as they exist in England. The House of Commons has no permanent committees of the type prevailing in other countries.[48] The four standing committees are not specialized; they are designated by letters, and their composition changes according to the nature of the bills assigned to them. These committees are a substitute for the House sitting as Committee of the Whole. The government has a majority in them just as it does in the whole House, although party control is a little less severe than in the House as a whole. The fact that there is government control of the committees as well as of the House is obviously the reason why committee power is so little developed in England. In a sense, the government is "the joint committee of the houses,"[49] and can claim that specialized parliamentary committees would duplicate its work and interfere with its functions.

POWER OF COMMITTEES. In all other countries, however, government control of parliament is weaker and, as a result, the power of committees is greater. Committees are very important in countries with a multiple-party system, for it is in the committee rooms that the bargaining among the parties naturally takes place. Specialized committees were no less important in France,[50] and in the United States one observer[51] has seen in them the most important part of the government structure of the country.

FUNCTION OF COMMITTEES. Parliamentary committees have the function of giving the average member of a parliament the chance for self-expression, which in most cases he is not likely to have in meetings of the house as a whole. In addition, they try to facilitate the work of parliaments both in the control of government and administration, and of legislation. Further-

48. For details see Jennings, *op. cit.*, pp. 264 ff.

49. L. Lowell, *Greater European Governments* (Cambridge: Harvard University Press, 1918), p. 37. See also L. Lowell, *The Government of England* (New York: Macmillan, 1919), II, 264 ff.

50. See J. Barthélemy, *Essai sur le Travail Parlementaire et le Système des Commissions* (Paris: Librairie Delagrave, 1934).

51. Woodrow Wilson, *op. cit.*

more, their universal acceptance would seem to be a prima facie argument in favor of their inevitability.[52]

Those who disapprove of permanent committees will point out first that their specialized character will induce them to overlook the interrelation of all political activities. They will further contend that a committee may abuse its power. In France committees often constituted themselves as overseers of that government department with whose work they were concerned, with the result that the authority of the minister in question was greatly undermined. Also, in exercising the function of administrative control a committee may interfere with administrative details, and develop favorites in the respective departments who will then refuse to recognize the authority of their nominal superiors in the department.

In legislative matters a committee, instead of assisting in the formation of what is apparently a parliamentary majority, may try to substitute its own will for the will of parliament. It may refuse to report on a bill with the intention of "pigeonholing" it, or it may delay[53] its report for the purpose of influencing public opinion against the bill, as was charged in the case of the Treaty of Versailles.[54] Last but not least committee meetings are often secret. This destroys the advantages of public parliamentary debate (which in addition to everything else provides a good spectacle), and the people eventually get the impression that their government has been subjected to a "commissionalization," [55] which takes away from the voter the knowledge of the reasons why important decisions are made, and the opportunity to influence them.

It is hard to arrive at a final conclusion concerning the work of parliamentary committees. It seems true enough that the trend toward extensive use of committees is universal; yet this trend is not irresistible in every respect. We should investigate in each case whether a new extension of committee power is needed. If this appears doubtful it would be wise to avoid it and to lay more stress upon the work of the parliament as a whole. In particular, the question arises whether city councils, if their membership

52. Barthélemy, *op. cit.*, pp. 9–25. For a reasoned defense of the committee system see Friedrich, *Constitutional Government and Politics, loc. cit.*, pp. 395 ff. A rather critical view has been expressed by James Bryce, *The American Commonwealth,* 3rd ed. (New York: Macmillan, 1901), I, 154–64.

53. To some extent such delay is the natural concomitant of the committee system. For the first session of the 76th Congress "The Committees had reported practically no legislation of any importance by the end of the first month of the session, though some appropriation measures had been reported." (Floyd M. Riddick, "First Session of the Seventy-sixth Congress," *American Political Science Review,* Dec., 1939, p. 1022.)

54. Stult Holt, *Treaties Defeated by the Senate* (Baltimore: Johns Hopkins Press, 1933), pp. 281 ff.

55. W. Hellpach, *Politische Prognose für Deutschland* (Berlin: Verlag Fischer, 1928), pp. 151 ff.

is as small as it usually is in the case of elections at large, need any committees at all. (For example, no committees exist in the city council of Hamilton, Ohio. Local observers attribute much of the success of the reform government in their city to this fact.)

The Speaker. Next in importance to committees in the structure of parliaments is the office of the Speaker. The term "Speaker" is nowadays a misnomer; the man who holds this office is no longer expected to do much in the way of speaking—any more than talking is the primary reason for the existence of modern parliaments,[56] or that they are "legislative bodies" in the old sense of the word. As a rule the task of the speaker is now that of an impartial chairman.

IN THE HOUSE OF COMMONS. The English House of Commons has gone farthest in recognizing the Speaker as such; once elected, he is retained—irrespective of a change in government—as long as he wishes to serve, and his seat is not opposed in his constituency.[57] Such procedure greatly increases his dignity and authority, and thereby the dignity and authority of the body over which he presides. Other parliaments have oscillated between selecting the speaker on the basis of his personal qualifications and treating his office as a political plum.

IN THE FRENCH CHAMBER. This oscillation was typical of the French Chamber, which for a number of years re-elected as its President the deputy Bouisson, who piloted its deliberations rather efficiently through the stormy waters into which they entered so often. Most of Bouisson's predecessors and successors were men who secured their jobs for partisan considerations, and their authority was as limited as was their ability.

IN THE AMERICAN HOUSE OF REPRESENTATIVES. The American House of Representatives has made its Speaker into a political figure without parallel; he is one of the most influential men in the country. This development may be due to the system of separation of powers, which necessitated giving someone an opportunity to provide for the co-ordination of effort for which the constitution itself made no provision.[58]

THE RULES OF PARLIAMENT

A few words on the rules of modern parliament. These rules have the purpose of enabling parliamentary assemblies to discharge their two essential functions, deliberation and decision. The purpose of deliberation is to

56. As it has been put: "The rules of parliamentary procedure have one chief purpose, to prevent people talking too much."—A. P. Herbert, *op. cit.*, p. 43.

57. For recent exceptions see Jennings, *op. cit.*, pp. 58–9.

58. For the present day aspects of the Speakership see Friedrich, *Constitutional Government and Politics*, pp. 376–9, and the literature quoted *ibid.*, p. 555.

afford adequate opportunity for expression to those who may not approve of a proposal. The need for a decision is obvious; discussion must end sometime and a vote be taken. The two requirements appear to be mutually contradictory. Yet, if both the majority and the minority are willing to operate the parliamentary institutions of their country in the proper spirit, a satisfactory compromise can be reached. An example of such agreement is furnished by the English House of Commons, where in most cases arrangements can be made between the whips of the government and those of the opposition which permit the business of the house to be transacted in a manner not seriously objected to by the opposition. Behind such agreement there is, of course, the recognition of the fact that the majority is the majority and that it must have its way. This implies that rules have been laid down which make it possible to overcome attempts to frustrate the will of the majority. Opposition may degenerate into obstruction;[59] and successful obstruction may lead to parliamentary paralysis.

In England. The English House of Commons knows of three major devices to cope with the danger of obstruction: First, there is the "closure," which, if voted by a majority of the House (provided that the motion has been allowed by the Speaker), puts the subject of current deliberation to a vote without further debate. Second, there is the "guillotine," which sets a time limit for the disposal of a bill; when that limit has been reached additional debate is excluded and a vote is taken. Third, there is the "kangaroo," which allows the Speaker to disregard amendments which he considers dilatory. This array of weapons has proved sufficient in England; parliaments in other countries have adopted devices which in many ways are similar, but they have for the most part been less successful in applying them.

In Continental Europe. In continental Europe the efficiency as well as the dignity of parliaments has since the World War been gravely threatened by parties of the Communist and Fascist type and temperament, which in a number of cases have resorted to large-scale physical abuse. Experience has shown that little can be done by parliamentary rules to correct such evils, and that the best plan is to make it difficult for those who do not come to a parliament for the purpose of common deliberation to come there at all.

In the United States. Liberty of debate reaches its peak in the United States Senate, which has been called "the greatest deliberative body in the

59. Obstruction was defined by Gladstone as "the disposition either of the minority, or of individuals, to resist the prevailing will of the House otherwise than by argument." (Quoted from the article "Parliament," *The Encyclopaedia Britannica,* 14th ed., XVII, 322.)

world." Ordinarily the individual Senator is allowed to speak as long as he wishes; it is only since 1917 that an attempt at "filibuster" [60] can be broken by a two-thirds majority vote of those present, and this ordinarily means that a considerable part of the minority must agree with the majority about the desirability of this mild form of "closure." The large amount of freedom left to Senators is in the first place to be explained by their small number; in a body as large as the House of Representatives such a procedure would be unworkable. In the second place, Senators have been elected by a majority of the voters in an entire state; they must therefore have passed the test of moderation, which the majority system imposes upon all candidates wherever it applies,[61] in a more stringent form than is required of candidates for election to other parliamentary bodies. As a result, they can ordinarily be expected to avail themselves of their rights with a certain sense of responsibility.

DEMAND FOR LONGER DURATION OF PARLIAMENTS

In the past there was a tendency to hold elections rather frequently, and annual parliaments have long been a popular demand. This attitude was the result of distrust of members elected to parliamentary bodies, a distrust which has also been manifested by propagation of such institutions as initiative, referendum, and recall.[62] At the present time this distrust seems to be giving way to recognition of the fact that both parliaments and governments need to remain in office a certain length of time if they are to be able to work constructively and not devote most of their energies to propaganda for re-election. Also, of course, modern means of communication have made it easy to exercise control over members of parliamentary bodies between elections. Therefore, the trend is now to extend the duration of parliaments to something like four years; in countries with the parliamentary system of government this term may be shortened by a dissolution.

THE TREND TOWARD TWO CHAMBERS

If short parliaments are demanded by those who regard themselves as "ultrademocrats," a bicameral system is advocated by those who are somewhat distrustful of democracy. If we think it necessary to divide the representatives of the popular will into two chambers, or to limit the force of

60. For details, see Luce, *op. cit.*, pp. 283 ff., and F. L. Burdette, *Filibustering in the Senate* (Princeton: Princeton University Press, 1940).

61. See F. A. Hermens, "The Trojan Horse of Democracy," *Social Research*, November, 1938, pp. 379–81.

62. For the traditional view of American government, which is opposed to all measures of "direct" democracy, see W. H. Taft, *Representative Government in the United States* (New York: New York University Press, 1921).

the popular will by adopting one chamber of a non-elective type, we are reluctant to yield to what from a logical point of view would seem to be the natural course for a democracy to follow. Also, if power is divided between two different bodies, it is harder to fix responsibility than if only one body has to legislate.

By and large it would appear that bicameralism is due more to the forces of traditionalism than to an analysis of parliamentary functions from the modern point of view. Two chambers have always existed in England since the days of the estates parliaments, which conceived of a country as a collection of groups rather than as a unit. Bicameralism of a similar type was found expedient in countries where the political forces of the past (the nobility in the main) thought it necessary to retain control of one house since they had to forego control of the other.

Those reasons all belong more to the past than to the present. Secondary considerations, however, can be advanced in favor of bicameralism at the present time. For example, it seems appropriate in a federal state for one parliament to be elected by the nation at large and another by each individual state itself, though this does not necessarily mean that both parliaments must be *popularly* elected. Also, it may be said that under a parliamentary system of government a first chamber provides an additional reservoir for the selection of cabinet members. At the same time it may afford an opportunity for older members of the popularly elected chamber to retire to the other chamber to give younger men a chance, and yet remain available as "elder statesmen." And, finally, since it may be argued that nowadays popularly elected parliaments offer little opportunity for debate of general principles, being too heavily laden with the technical tasks assigned to them, such an opportunity may be provided by a first chamber. All of these arguments are quite plausible. Since they are of a secondary nature, they would seem to require that first chambers should neither be popularly elected (at any rate not directly) nor have the same power as second chambers. Under such an arrangement, we could enjoy the fundamental advantages of unicameralism and avail ourselves of such secondary services as an additional chamber would be able to render.[63]

CONCLUSIONS

In this chapter an attempt has been made to show that modern parliaments have three functions: the constitution of the government, the control

63. For a defense of bicameralism see Luce, *op. cit.*, pp. 24 ff. So far as State legislatures are concerned, the weight of the argument would seem to incline toward unicameralism pure and simple. See J. P. Senning, *The One House Legislature* (New York: McGraw-Hill, 1937); also, "One House, Two Sessions," *National Municipal Review*, Dec., 1939.

of both government and administration, and participation in the process of legislation. It has been emphasized that parliaments can discharge these duties only if they keep within what John Stuart Mill called their "proper functions." Finally, the internal structure of parliaments has been briefly analyzed so that we might ascertain what type of structure makes for most efficient parliaments.

Today more than ever the question arises whether parliaments will survive the series of crises into which European politics have been plunged since the World War. To many observers—most of whom are so concerned with contemporary considerations that they lose their historical perspective—it appears that parliaments have already lost their fight for existence, and that the time is not far distant when they will succumb even in those countries where they are still so powerful at present.

It is well to remember that ridicule of parliamentary assemblies is as old as are parliaments themselves. More than three generations ago Camillo Cavour, who was in large measure responsible for the unification of Italy, answered his critics in words which bear remembering. One day a member of the Italian parliament, desirous of flattering him, said:

Ah! Your task would be easier under an absolutist government.

Cavour vigorously replied:

You forget that under an absolutist government I would not have wanted to be a minister, and in addition I could not have become one. I am what I am because I have the opportunity of being a constitutional minister. . . . Parliamentary government has its inconveniences, as other governments do, but it is still the best. I may get impatient with certain types of opposition and may reject them spiritedly; but, when I think it over, I congratulate myself that I have to combat them, because they force me to explain my ideas better, and to double my efforts to convince public opinion. An absolutist minister commands; a constitutional minister has to persuade in order to be obeyed. Believe me, the worst chamber is still preferable to the best anti-chamber.[64]

The history of the three generations which have passed since Cavour has confirmed his opinions; and the history of the three generations to come may well do the same. To be sure, modern dictators, freed from parliamentary control, have abandoned the cautious way in which Cavour proceeded, and they can claim successes in the line of territorial conquest[65]

64. Here quoted from J. Barthélemy, *La Crise de la démocratie contemporaine* (Paris: Librairie du Recueil Sirey, 1931), p. 221.

65. The question will be asked, and quite rightly, why democratic countries have not acted in time to prevent this. Reference is made in particular to the policy which Mr. Neville Chamberlain initiated soon after he became Prime Minister. This policy was contrary to an express pledge given by him and his colleagues in the elections of 1935; also, if there was any sound reason for such a policy he failed to give it, and in March, 1939, when Prague was occupied, he himself had to admit that the assumptions upon which he based his actions were untenable.

about which democratic statesmen do not even dream. The question, of course, is: How long will it last? May not the absence of proper checks some time lead to a step which will prove the downfall of the dictators? This has always happened in the past; it may not be different in the future. Also, there are naturally many who have little use for conquests such as Mussolini achieved in Ethiopia and Albania, and Hitler in Austria, Czechoslovakia, and Poland. What is territorial gain when bought at the price of moral degradation?

Last but not least, a heavy price has been paid at home for the annexation of new territory. Before Hitler conquered Austria and Czechoslovakia he had made slaves of his own people. All fundamental liberties were denied inside his "pagan empire." Furthermore, they had been surrendered not only to the one supreme dictator (who for many has an appeal which his party does not possess), but to the hundreds and thousands of little dictators on a provincial and local level. Every one of these sub-leaders feels the urge to demonstrate his superiority by some type of petty persecution, which may be inspired by personal as well as political motives.

Nor is power all these men want. Corruption has been rampant in non-democratic governments in the past, and is even more so in the present. (Such corruption as exists in democratic countries is widely publicized and therefore more generally known, but not even remotely comparable.) At times, when the dictator at the top institutes a purge of some of the dictators at the bottom, the veil is lifted and the public is informed how public funds were handled. This is the exception, however. Often enough the dictator himself does not know the extent to which his underlings escape his control. The universal darkness, which has followed the light thrown by

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The question why Mr. Chamberlain was able to do this resolves into the question of why parliamentary control could not check him. As mentioned above, control, to be serious, must be initiated by the opposition. The opposition must try to influence the independent vote, direct or indirect pressure on the part of which must actually check the government. At present "His Majesty's opposition" is not able to make a successful appeal to the independent voter. The Labor party, ever since 1931, has been unable to attract voters outside of its ranks to any considerable extent. One of its leaders promised the people "a first-rate financial panic" upon Labor's return to power, and the members of the English Middle Classes, as well as nearly one-half of the workers, do not appreciate an economic policy which would lead to such results. At the same time many of these voters have been very critical of Mr. Chamberlain's foreign policy. They could do nothing about it, however, as long as the alternative was a Labor government whose economic policy appeared to be unacceptable. Also, of course, any strong foreign policy must be based upon sound economic conditions at home; if the production of arms and munitions is as disrupted as it was in France after a year of Popular Front government, resistance to aggression becomes difficult. As long as parties such as the English Labor party (and the French Socialist party) fail to realize such elementary facts, they cannot function as an effective opposition, and the governments in their countries will be without proper control. (For further remarks on this subject see the present author's review of Laski's *Parliamentary Government in England* in *The Review of Politics*, Oct., 1939, pp. 487–90.)

parliamentary debate and investigation, encompasses the government as much as it encompasses the people.

Who are the men who constitute this government? Do they not form a clique, a faction within the ruling party which in some manner has fought its way into the confidence of the leader, after having eliminated—often physically "liquidated"—their competitors? There are many people in the totalitarian countries who are aware of this and who, even if a comparatively short time ago they were opposed to parliamentary democracy, now wholeheartedly agree that "the worst chamber is still preferable to the best anti-chamber." [66]

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66. A striking example was provided by the German industrialist, Fritz Thyssen, who had heavily subsidized the Nazi movement during its struggle for power, and who later was so violently opposed to Hitler's policies that he sacrificed all of his property and left the country. In a letter to Hitler, he said: "Your new policy, Mr. Hitler, is driving Germany into an abyss and the German nation into perdition. . . . Give back to the Reich a free Parliament, give back to the German nation freedom of conscience, freedom of thought and freedom of speech" (*Life,* Apr. 29, 1940, p. 98).

CHAPTER FOURTEEN

Elections: The Theory and Practice

IN THIS chapter we are concerned chiefly with the electoral methods used in the democracies. We are interested in analyzing the conditions associated with the use of electoral, parliamentary, and dictatorial practices.

The word "democracy" is a symbol which has come to have many different meanings. In some countries it is a term which enjoys great prestige and in others it is regarded as synonymous with corruption, inefficiency, national humiliation, and a despised form of government. Any definition of democracy must necessarily be arbitrary. The term "political democracy" is usually applied to a government in which the majority of qualified citizens rule through their duly-elected representatives.[1]

The legal right of suffrage is a peculiar personal right which is distinguished from the personal rights of pure individual law because it has a specifically social character. Like matters concerning the "general welfare" in American constitutional law, the right to vote is more than the freely-used appurtenance of the individual. As a result of the spread of this theory in recent years many social regulations have been imposed on the casting of the ballot, although no regulation of choice in voting is consistent with the theory. Compulsory voting is one method of binding the individual right to vote with the State's right to demand from its members that they participate in the process of elections.

THREE THEORIES OF SUFFRAGE

It is first necessary, then, to define who are the qualified citizens. Suffrage is the right or act of voting on some measure or candidate for office. Widely different views have been expressed as to the legal nature of suffrage, but these may be summarized under the following three headings: individualistic, collectivist, and dualistic.[2]

1. James Bryce in his *Modern Democracies* (New York: Macmillan, 1921), Vol. I, p. 22, defines democracy as a "government in which the will of the majority of qualified citizens rules, taking the qualified citizens to constitute the great bulk of the inhabitants, say roughly, at least three-fourths, so that the physical force of the citizens coincides (broadly speaking) with their voting power." This definition is not capable of actual application since it ignores age, sex, and other qualifications. If Bryce had put the words "adult male" before the word "inhabitants" then it could apply to such a country as France.

2. W. J. Shepard in his article, "Suffrage," *Encyclopaedia of the Social Sciences*, XIV, 447–50, lists five basic conceptions. These are: first, the theory that the suffrage is an attribute

1. *Individualistic.* According to the individualistic interpretation, suffrage may be regarded as an individual right to be used as it pleases the person, and not as it pleases what may be called the "group desire." The origin of the right is in the integrity of the individual person. This right may be inherent, a natural right attaching to the man of nature who is "master of his soul," or it may be looked upon as a property right attached to a particular economic status.

The view of suffrage as a property right was characteristic of the highly stratified society of the feudal regime. Suffrage was then generally a privilege which was connected with the ownership of land or with some special skill or income group. In the United States the taxpaying qualifications and in Great Britain the business premises vote are remnants of this theory of the suffrage.[3] The enfranchisement of the propertyless classes during the past one hundred years has brought with it far-reaching changes in party alignments, political campaign techniques, and legislative policies.[4] It was the other individualistic (natural right) view which was a powerful influence in bringing about the broadening of the franchise. According to the natural right theory of the suffrage every adult citizen should have the right to vote, and the ballot of one voter should have the same weight as that of every other voter. This theory has been recently espoused by such men as Esmein.[5]

2. *Collectivist.* The second or collectivist theory of suffrage views the franchise not as a right but as a function which is performed in the interest of the community. But the common interest is a vague concept which is hardly capable of precise definition. From the logical standpoint it is almost impossible to distinguish it from the totalitarian view of the state under which suffrage ceases to have any meaning since there are no choices to be exercised at the polls.

How easily one can tend from the individualistic view to the collectivistic view of suffrage is evidenced by the use to which the writings of Rousseau have been put. Rousseau believed in natural rights in his theory of human

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of citizenship; second, the theory that suffrage is a vested privilege; third, the theory that the suffrage is an abstract right founded on natural law; fourth, the theory that voting is a function of government; and fifth, the ethical theory. The threefold classification presented above appears to me to be more logical and complete than Shepard's. A discussion of European theories is given in Karl Braunias, *Das Parlamentarische Wahlrecht* (Berlin: Walter de Gruyter, 1932), vol. II, chap. I.

3. Chief Justice Holt, in the case of *Ashby* v. *White* (1703) said: "The election of knights belongs to freeholders of the counties, and is an original right vested in and inseparable from the freehold, and can no more be severed from their freehold, than the freehold itself can be taken away." For a discussion of the business premises vote today, see the present author's *Why Europe Votes* (Chicago: University of Chicago Press, 1930), pp. 17, 143, 146, 149.

4. Braunias, *op. cit.*, I, 7.

5. Esmein, *Eléments du droit constitutionnel* (Paris: A. Jenin, 1914).

nature. To vote was one of the prerogatives of the natural man. He believed that all are born equal, that all have equal voice in directing the course of the state, but that the "general will" has the right to coerce the individual will in any respect, and the door is left open for the totalitarian idea to enter.

Nowadays, the Fascist and Communist countries apply the collectivist theory in its extreme form. Man has no natural right to vote, for man is part of the organic state. Any legal rights he may possess are granted by the state wherein all sovereign power resides. The vote is a gift which may be regulated, altered, or denied in accordance with what is expedient to the nation at any moment. The state is the same as the ruling class, and this elite defines what the "common interest" is. In Russia, the ballot is regulated according to what is known as "revolutionary expediency." Since the state "guarantees" all rights, there is no need for special individual rights. The vote in Fascist countries is bandied about at the will of the elite. Plebiscites are held when it is certain that they will amount only to a demonstration of support, a chorus of affirmations to a *fait accompli*. The story is the same in Italy, Germany, or Brazil. The ruler decides when the vote is justified, under what conditions it should be held, and what the proper results should be, to the last percentage point.

There is no doubt that there is a great deal of truth in the collectivist theory which is not possessed by the natural-law theories. It is generally admitted today that there is little meaning in saying that the right to vote is attached to the individual by nature. If so, it must be admitted that the right has almost always been in abeyance. There has been no consistently-held view as to what groups should possess the suffrage. To Chancellor Kent property holders were the men with a natural right to participate in government. To Rousseau it was every man. Against both of these theories it may be said that whoever controls the governmental machinery and the laws will control the privileges of the franchise, and that, furthermore, only through conscientious participation in elections by qualified persons will the right to vote mean anything. It is in this important sense that the collectivist theory is true.

But already we are shading off into the dualistic theory of the suffrage which seeks to avoid the *reductio ad absurdum* which besets the other two theories.

3. *Dualistic*. The dualistic view of suffrage attempts to combine the individualistic and the collectivistic points of view. Each voter must be considered in relation to the whole electorate, and the body politic must be viewed with reference to the individuals which compose it. Jellinek and Kelsen emphasize the view that the voter casts his ballot in the name of the state

for the state.[6] In the language of the modern French jurists, the suffrage is at the same time an individual right and a social function.[7]

AGENCIES FOR DETERMINING GOVERNMENTAL POLICIES

There are three main agencies that may be employed to determine governmental policies. What the government will undertake may be decided by the electorate (defined either in a broad or a narrow sense), by a representative assembly chosen in a popular fashion, or by a single individual or clique.

The Electorate. The electorate, or the body of qualified voters, may make decisions itself in a general assembly or in a proposition election. The method of general popular assembly was one of the first employed and it is still used in parts of Switzerland and the United States. Only persons who are present may take part in these assemblies or town meetings. This device is successful only in small communities where the population is homogeneous, interests are simple, respect for tradition is strong, and leadership is able. It is clear that in a modern state of vast territorial expanse and highly varied population these conditions do not hold. The device of the popular assembly therefore has limited application.[8]

On the other hand, the methods of direct legislation, the initiative, and the referendum, are adapted to large-scale political organizations. In this system specific questions are submitted to the voters in their several polling places. The individual voter accepts or rejects a given proposition and the fate of the measure depends upon the total sum of such responses. While the provisions for the use of the initiative and referendum in the United States apply to states and localities only, the task of the electorate in deciding upon propositions may be quite considerable in any one year.[9]

The Elected Assembly. The representative system is a second system by which policies may be determined. The voters, instead of making decisions themselves, elect others to assume the tasks of government. Not only have popular assemblies been unable to cope with the complexities of modern governments, but it is clear that the device of direct legislation cannot be used to decide more than a few fundamental questions. The voters then elect lawmakers and executives who will act for them.

6. Georg Jellinek, *Allgemeine Staatslehre* (Berlin: O Häring, 1900); Hans Kelsen, *Hauptproblem der Staatsrechtslehre* (Tubingen, 1911), p. 670.

7. Leon Duguit, *Manuel de droit constitutionnel* (Paris: Fontemoing & Cie, 1907), p. 91; M. Hauriou, *Précis de droit constitutionnel* (Paris: L. Tenin, 1929), p. 566.

8. Robert C. Brooks, *Civic Training in Switzerland* (Chicago: University of Chicago Press, 1930); John F. Sly, *Town Government in Massachusetts* (Cambridge, Harvard University Press, 1930).

9. H. F. Gosnell and Margaret J. Schmidt, "Popular Law Making in the United States, 1924–36," New York State Constitutional Convention Committee, *Problems Relating to Legislative Organizations and Powers,* VII (1938), 314–35.

The Individual or Clique. A third type of policy-determining agency rejects completely the idea of popular participation. A despot or an oligarchy obtains power by trickery, by seniority, by superior organization of physical force, by bribery, or by a combination of these and other methods. Once the individual or the clique has obtained that power, there are no elections in which the people can vote him out of office. In other words, policy-determining agencies may be democratic or dictatorial.

FACTORS DETERMINING THE USE OF ELECTORAL DEVICES

What are the conditions associated with the successful employment of electoral and parliamentary devices?

Means of Communication. While the electorate was first used as an agency for determining policies in countries which were in the handicraft stage of industry, it was soon tried out in the countries which were going through the Industrial Revolution. England and the United States became increasingly democratic and capitalistic at the same time. In these countries bourgeois democracy was regarded as the political counterpart of an economic system of free competition. Technological changes made it possible to operate representative institutions on a large scale. The postal road system, the steamboat, the telegraph, the telephone, the modern printing press, the radio, and the airplane have made it possible for candidates to carry their messages to the voters over vast expanses of territory. The public-school system enabled the newly-enfranchised masses to use these devices for electoral purposes.

Delaisi, Cambo, and others have pointed out that where communication has not been developed, where illiteracy rates are high, and where there are relatively few large cities, policies are not formulated by the masses.[10] The voters cannot read political literature, and they are less able to protect themselves. In no part of the world are these conditions favorable to the use of elections.

The Press. Democracy means much more than the proportion of qualified citizens who may vote. It means a system in which there are certain constitutional guarantees of freedom which cannot be arbitrarily abrogated by the executive. It implies freedom of association, freedom of expression, and freedom of choice. These requirements for the formulation of policies are vigorously rejected by present-day Fascists.

The vaunted freedom of the press in capitalistic-bourgeois countries has been the subject of much derision by the anti-democrats. Fascists and Com-

10. Francis Delaisi, *Les deux Europes* (Paris: Payot, 1929); F. Cambo, *Les Dictatures* (Paris: F. Alcan, 1930); E. Heimann, *Communism, Fascism or Democracy* (New York: W. W. Norton and Co., Inc., 1938).

munists alike have asked the question, "What is the meaning of the freedom of the press if poorer groups have no opportunity to publish newspapers of their own?" As Spengler puts it, "One can make use of constitutional rights only when one has money."[11] It is clear that one of the problems in the study of policy agencies by political scientists is the analysis of the role of the press. In a democratic country what is the relationship of the press to voting behavior; what are the conditions which control the formation of new journalistic enterprises? The author has studied this problem in the city of Chicago, where it was determined by certain statistical devices that the press did have some influence in encouraging independent voting.[12] However, it was impossible to determine whether the press actually forms attitudes toward the economic system. The correlation between the circulation of conservative newspapers and conservative voting habits was close, but it could not be ascertained whether the press was following the wishes of its readers or influencing them.

Are people conservative in politics because they read day after day newspapers which reflect a conservative point of view, or do people whose economic status and early conditioning made them conservative read conservative newspapers because they like them? There is no ready answer to this dilemma and it is likely that both conditions are present to a degree.

The Radio and the Newsreel. Recent growth of new methods of mass communication and publicity probably counteract the force of the press. The radio and the newsreel are mass-impression agencies which afford opportunities for counter-propaganda against the hostile press. The freedom with which opposing political parties may procure radio time is in happy contrast to the limited accessibility of the newspapers. The comparison here causes one to wonder whether some limitations of the press, of the sort that limit the radio, might bring better results in the democratic process than an abused *laissez-faire* policy.

THE ILLUSION OF FREE CANDIDACY

The critics of the electorate as a policy-determining agency also claim that the so-called freedom of candidacy is illusory. Candidates do not spring from nowhere. They have to be publicized, and their potential supporters have to be dragged to the polls. The management of a successful election campaign in a democracy requires volunteers, money, or political job-hold-

11. Oswald Spengler, *The Decline of the West,* trans. by C. F. Atkinson (New York: Knopf, 1926–1929), Vol. II, p. 462; George Seldes, *You Can't Print That* (New York: Payson & Clarke, 1929).

12. H. F. Gosnell, *Machine Politics: Chicago Model* (Chicago: University of Chicago Press, 1937). Net regression and multiple factor analysis were used to isolate the factor of press influence.

ers. A wealthy man is free to choose his candidates within certain limits, but a poor man must look to candidates put up by party organizations or by other organized groups. A number of recent studies of party organization in the United States mention the helplessness of the average citizen as far as his freedom of choice is concerned. Salter and Kurtzman have written discussions of party organization in Philadelphia, Peel has described Tammany Hall, and some materials have been collected on the status of the situation in Chicago.[13]

The man who feels strongly his duty to participate in the functions of government and who decides to run for local office is literally hamstrung by the requirements, both legal and nonlegal, in many jurisdictions. For example, if a person in Chicago or some other large city decided that the misgovernment of his ward was unbearable, and that he would organize a group of substantial citizens to aid in electing him to the office of ward committeeman, he would have to contend with almost insurmountable odds. Ward committeemen are difficult to beat because practically all the elective officeholders are under obligation to them. Most of them have worked themselves up from "ward-heelers" over many years and know their territory intimately. Boundary lines of wards have been gerrymandered to suit the incumbent committeemen and aldermen. A very small per cent of voters participate in elections for local ward offices, and those that vote are predominantly the organized minority that backs the boss. Finally, control over the selection of officials, the judges and clerks of elections, is to some extent in the hands of the ward committeemen. It is little wonder that out of a total of five hundred ward contests in Chicago between 1928 and 1936 only thirteen sitting committeemen were defeated.

LAWS FOR REGULATING CANDIDACY

So great has been the interest in nominating methods in the United States that elaborate laws have been enacted regulating every step of the process. These laws have attempted to restore to the electorate the function of choosing party nominees. In an attempt to lessen the power of the party bosses, the legislators have tried partisan and nonpartisan, open and closed, preference and run-off primaries, and pre-primary conventions.[14] It was

13. J. T. Salter, *Boss Rule: Portraits in City Politics* (New York: McGraw-Hill, 1935); D. H. Kurtzman, *Methods of Controlling Votes in Philadelphia* (Philadelphia: Privately published, 1935); R. V. Peel, *The Political Clubs of New York City* (New York: Putnam, 1935); H. F. Gosnell, *Machine Politics: Chicago Model* (Chicago: University of Chicago Press, 1937).

14. C. E. Merriam and L. Overacker, *Primary Elections* (Chicago: University of Chicago Press, 1928); L. Overacker, "Nominations," in E. Logan (ed.), *American Political Scene* (New York: Harper, 1938); and C. E. Merriam and H. F. Gosnell, *American Party System* (New York: Macmillan, 1940).

first hoped that the complete regulation of the party primary would eliminate the abuses of boss and machine rule. Then an attempt was made to take the party element out of elections altogether by abolishing party designations, and the so-called nonpartisan primary and election were instituted. In some states which used the direct primary an attempt was made to increase the power of the independent voter by making the primary open, *i.e.*, by leaving the voter free to choose which party ballot he wished on primary day without any special test of party allegiance such as was required under the closed primary system. Finally, in order to make sure that a boss-controlled minority would not dominate the nominating process, various devices such as preference voting and run-off primaries were used. Under the preference system the voter was given an opportunity to express his first, second, and other choices. If no candidate received a majority of first choices, then the other choices of the voters might be counted. Under the run-off system there was a second primary in case no candidate received a majority on the first balloting. These innovations have not done away with the necessity for party leadership, but they have furnished independent groups with weapons which could be used to chastise the party organizers when the rank and file were aroused.

THE ELECTORAL PENDULUM AND ECONOMIC CONDITIONS

The system of popular participation in governmental decisions is closely related to economic conditions. A number of political scientists have been interested in what they call the law of the electoral pendulum. Comparatively little has been done to analyze the amplitude and rhythm of political cycles. Sir Richard Martin discussed the swing of the pendulum in British politics in 1906.[15] He was interested merely in the shift of popular votes from one of the two British major parties to the other.

Its Swing in Postwar Crises. In recent times the pendulum has swung much more violently, particularly in those countries which have gone through a series of postwar crises. The swing in Germany has lifted that country out of the democratic class. Democracy thrives in those countries which have enjoyed, in addition to adequate defenses, a relatively high standard of living even at the lowest points of the business cycle. In spite of a permanent depression in certain industries, the people of Great Britain have been relatively prosperous. However, it should be noted that the so-called national government of Great Britain departed from some of the democratic traditions of that country in meeting the financial crisis of

15. Cited in P. S. Florence, *The Statistical Method in Economics and Political Science* (New York: Harcourt, Brace, 1929), p. 114; George Young, *The Pendulum of Progress* (London: Oxford University Press, 1931).

1931.[16] In the United States, the powers of the President were greatly augmented in the early days of the New Deal administration when the banking crisis required immediate and effective action. In Germany the system of popular elections might have survived if a way had appeared to save the economic structure of the Reich. During the time that Germany could borrow funds to keep her industries going, the anti-democratic sentiment made comparatively little headway.[17]

Germany, it has been stated by some, was starved into Nazism. The slowness of the relief aid in 1919, which resulted in many deaths because of starvation, the heavy burden of debts and the dislocation of the inflation, the chronic unemployment, and the crushing effects of the Great Depression upon living standards and morale, were too much for the youthful democracy. The reaction came against the government that happened to be in power. It is significant that the National Socialist Party, more than any other, was dependent for increased popular support upon an increase in material insecurity among the population.

Its Swing in the Depression. The world-wide depression has called for new methods of policy formulation, since it has encouraged economic nationalism. National economic autarchy requires governmental interference with business. Governmental activity of this kind exercised over a large territory requires centralized machinery unfettered by the influence of private interests. Democracy does not furnish such a system, since it depends upon the compromising of conflicting interests.

COMBATING THE THREAT TO THE DEMOCRATIC SYSTEM

Popular institutions are used by countries whose international position is relatively secure. No country has been more fortunate in this respect than the United States. On the other hand, Italy and Germany have been dissatisfied with their world positions. The failure of the League of Nations to correct the inequalities of the Versailles Treaty during the Twenties and the attitude of the Allies toward Germany's demands for arms equality perpetuated the German sense of injury. If the United States should suffer a disastrous military defeat, would the country still be democratic? War undermines democratic institutions. Democracy and militarism do not mix. They are two fundamentally different systems. Militarism calls for strict obedience to all orders issued from above. During a war democratic institutions are suspended in order to increase military efficiency. The general staff of the United States army has prepared a series of bills abridging constitu-

16. H. J. Laski, *The Crisis and the Constitution· 1931 and After* (London, 1932).

17. For German election statistics during the Weimar regime, see *Statistisches Jahrbuch für das Deutsche Reich.*

tional liberties and setting up a military dictatorship which will be pressed upon Congress should the United States be involved in a war.

Need for Like-mindedness of Citizens. Citizens who wish to take part in determining policies must develop a civic sense and a rational like-mindedness. Without a general consensus of opinion favorable to democratic methods, the democratic system is impossible. Where a considerable minority is found which is hostile to democratic techniques, it is impossible to make this form of government work. The democratic Weimar regime in Germany was doomed when a majority of the German voters indicated that they were opposed to democratic methods.[18] In Germany the Nazi party used the constitutional rights of free speech which they enjoyed under the Republican regime to destroy the Republican regime itself. The German people lost hope in the electoral process as a means of solving their problems. The elections produced deadlocks, intolerant groups on the right and intolerant groups on the left, and vacillating policies. Street fighting between rival party groups was common, party headquarters were demolished by hostile groups, and political meetings were broken up by violent methods. The German people were unable to compromise. Hitler furnished a ready-made formula which attracted the multitudes. Trust in him and his party would put an end to class strife and internal bickerings. By means of force, trickery, propaganda, and economic pressures Hitler has secured unity in Germany; opposition groups have been suppressed.

The succession of economic and political crises in recent years has greatly increased the number of attacks on the theory that the masses can decide what the government should do. Majority rule, it is said, means the rule by the ignorant, the indifferent, the venal, the emotional, and the incompetent who lack the technical knowledge necessary to run modern governments and who are suspicious of those who have that knowledge.

The Possibilities of Compulsory Voting. Many years ago E. L. Godkin pointed out that one of the unforeseen tendencies of democracy was the indifference of large numbers of eligible voters. In the absence of such pressures as compulsory voting, from fifteen to fifty per cent of the qualified voters may stay at home on election day. Various studies have shown that these nonvoters tend to be inferior to the voters, in education, economic status, and in knowledge of government, but nevertheless their co-operation in the democratic process is theoretically desirable.[19] The nonvoters have

18. In 1932, both the Nazis and the Communists were opposed to the Weimar regime. After the 1932 elections the parties which supported the republic were in a minority.

19. C. E. Merriam and H. F. Gosnell, *Non-Voting: Causes and Methods of Control* (Chicago: University of Chicago Press, 1924); H. F. Gosnell, *Getting Out the Vote* (Chicago: University of Chicago Press, 1927), and *Why Europe Votes* (Chicago: University of Chicago Press, 1930); H. Tingsten, *Political Behavior* (London: P. S. King and Son, 1937); E. Bock, *Wahlstatistik*

interests which need governmental protection and it is essential to the democratic process that they be brought to realize how they may safeguard those interests by electoral action.

The device of compulsory voting has certain advantages, since it makes nonvoting less easy and emphasizes the importance of every voter's making up his mind how he shall vote. Furthermore, compulsory voting lessens the power of the party machine because it puts the party out of power on a more even footing with the party which enjoys the spoils and prestige of office. In the United States the political jobholders are the greatest get-out-the-vote force at work on election day. A party out of power has a hard time getting its supporters to vote. Under compulsory voting, opposition parties would not be under this disadvantage, and the government party would have to rely more upon performance than upon mere organization.[20]

Measures to Abolish Corruption. It is also charged that democracy means inefficiency and corruption. Policies are not determined by the voters, it is claimed. They are bought. The political machines are manned by jobholders, regional and occupational groups are won over by special favors and bounties, and the whole system is held together by the cohesive power of public plunder. The President can furnish legislative leadership only by the liberal use of his patronage power. It is contended that this situation is in part the result of the disparity between economic and political power. In theory the rich man and the poor man each have one vote, but in practice the rich man, if he is so disposed, can vastly increase his political power by buying votes, party organizers, newspaper support, and public officials.[21]

In order to lessen the power of money in elections, detailed laws have been passed which aim to secure secrecy of the ballot, the elimination of nonqualified electors, the honesty of the count, the prevention of bribery of voters, the checking of intimidation of voters, and the reduction of the amount of money which may be used for electoral purposes. Registration laws, Australian ballot laws, voting machine laws, and corrupt practices acts have been designed to improve various aspects of the voting process.

(Halle: A. Krumm-Heller, 1919); C. H. Titus, *Voting Behavior in the United States* (Berkeley: University of California Press, 1935); J. K. Pollock, *Voting Behavior: A Case Study* (Ann Arbor: University of Michigan Press, 1939).

20. The author has discussed this point more fully in Merriam and Gosnell, *American Party System* (New York: Macmillan, 1940 edition). See also I. W. Stratton, "American Citizenship and Australian Election Methods," *National Municipal Review*, XX (1931), 90–94.

21. V. O. Key, "Techniques of Political Graft in the United States" (University of Chicago Doctoral Dissertation, 1934); G. L. Hostetter and T. Q. Beesley, *It's a Racket!* (Chicago: Les Quin, 1929); W. B. and J. B. Northrop, *The Insolence of Office* (New York: Putnam, 1932); Commission of Inquiry on Public Service Personnel, *Better Government Personnel* (New York: Whittlesey House, 1935).

Registration laws are aimed to prevent repeating and personation, ballot laws are designed to safeguard the secrecy of vote and the honesty of the count, and corrupt practices acts purport to reduce the power of money in elections. The political corruptionists match their wits with the lawmakers. It is especially difficult to draft laws which will eliminate or reduce the power of direct or indirect bribery. Publicity regarding campaign funds, the prohibition of certain types of contributions and of certain classes of expenditures, and the limitation of the total amount of money that may be spent have all been tried, but none of these has given complete satisfaction. While these measures have not automatically purified election methods, they have made election manipulation much more difficult and more precarious.[22]

There is sufficient evidence to show that political corruption is not inevitable under a democracy. In Great Britain, Switzerland, and certain jurisdictions in the United States efficient and well-run governments are to be found. Many American cities and states have demonstrated the possibility of working a democratic system without spoils. Civic-minded groups have arisen which refuse to follow the rule that to the victor belong the spoils. Volunteers have come forward to assume the heavy task of running election campaigns. Increased civic pride has been their reward.[23]

WHAT THE BALLOT IS SUPPOSED TO AFFORD

Selection of the Best State Servants. If it is the subject of criticism, there are also positive claims made for the electorate as a policy agency. An election may be regarded as a means for selecting those best suited to exercise the powers of the state. While the voters may make mistakes and are misled sometimes by demagogues and crooks, in the long run it is claimed that they possess sufficient common sense to detect fraud and sham. Since candidates run on platforms or declarations of policy, the acceptance of one set of candidates and the rejection of other sets is a rough indication of what the government will do. An election at least shows what the voters will stand and what they will not tolerate. In England no great constitutional question is ever decided without calling a general election first.

22. L. Overacker, *Money in Elections* (New York: Macmillan, 1932); J. P. Harris, *Registration of Voters in the United States* (Washington, D. C.: Brookings Institution, 1929), and *Election Administration in the United States* (Washington, D. C.: Brookings Institution, 1934); J. K. Pollock, *Money and Politics Abroad* (New York: Knopf, 1932); Ferdinand Lundberg, *America's 60 Families* (New York: Vanguard Press, 1937).

23. C. P. Taft, *City Management: The Cincinnati Experiment* (New York: Farrar & Rinehart, 1933); D. Hoan, *City Government: The Record of the Milwaukee Experiment* (New York: Harcourt, Brace, 1936); L. Lipson, *The American Governor: From Figurehead to Leader* (Chicago: University of Chicago Press, 1939).

Right Decisions Made Under the Right Circumstances. According to Graham Wallas an election should be looked upon as a process by which right decisions are made under right conditions rather than as a mechanical expedient by which decisions already formed are ascertained.[24] He held that an election should therefore approximate a jury trial. This would mean that the evidence presented to the voters should be very carefully sifted. Instead of placing emphasis upon the freedom of the press, great stress should be put upon honest, fair, and complete reporting of such information as the voter needs to make intelligent choices. It is clear that these conditions are not found in any existing democratic country. In the United States, especially, an impossible burden has been placed upon the voter. The huge blanket ballot with hundreds of names and numerous propositions on it cannot be marked by the average voter in a discriminating fashion. Multiplying the number of elective offices merely results in turning the government over to the party machines which have control over the nomination and election of candidates. Political scientists in the United States have urged for many years the adoption of the short ballot. Interest has likewise been shown in understanding political propaganda and in improving governmental reporting. The theory is that a sophisticated electorate will respond more readily to rational appeals than an unsophisticated one.

Settlement of Social Disputes without Violence. Voting has been hailed as a means of deciding social disputes without violence. One author has called the democratic process the institutionalization of revolution.[25] While occasionally in the United States the balloting has been accompanied by violence, in general it has been a peaceful process.

The skeptic may ask how serious a social conflict can be settled by the counting of heads. The election of 1860 in the United States did not decide the conflict between the cotton kingdom and the rising industrial north. The hold of the democratic symbols on the minds of the Southerners was far weaker than that of the symbols of the slavocracy, States' rights, and nullification.

After the Civil War it was still impossible in the Southern States to solve the problem of race relations by referring it to the electorate. The dogma of white supremacy was apparently more powerful than the ideal of universal suffrage. It may be said that when one racial or nationalistic group lives side by side with another of different social status, the dominant

24. *Human Nature in Politics* (New York: Knopf, 1921), p. 21.

25. George Mead cited in C W. Morris, *Pragmatism and the Crisis of Democracy* (Chicago: University of Chicago Press, 1934), p. 20. See also Walter Lippmann, *The Phantom Public* (New York: Harcourt, Brace, 1925), p. 58.

group tries to institutionalize its alleged superiority by political means. One of the essential conditions of policy determination by voters is the existence of a constitutional consensus. This is not found where a considerable portion of the population is easily distinguishable by color of skin and is held to be culturally inferior. During the reconstruction period immediately following the Civil War the Negroes were permitted to vote under the protection of the federal troops. However, when these troops were taken away the Negroes were deprived of the franchise by political devices which resembled the Fascist techniques now employed in Europe.

Protection of the Voter Against Oppression. The ballot is also regarded as a means of protecting the voter against oppression. It is assumed that in the long run the voter will act to promote his own best interests. Studies of voting behavior show that while many electors vote in accordance with party habit there are others who follow economic considerations.[26]

Conformance of Citizens to Government. Finally we may regard the vote as a means of securing conformance to the dictates of the government. It is assumed that the people should be loyal to a government of their own making. In practice, however, it is clear that authority cannot be exercised by a sovereign of several million heads. It has been necessary to invent complicated systems of representation. Mathematical schemes have been devised for securing proportional representation without at the same time destroying the voter's freedom of action. These are aimed to win the confidence of the largest possible number of voters.[27]

The electoral process is on trial in the modern world. Should governmental policies be formulated by democratic or dictatorial methods? How can we combine technical skill, popular control, and political authority without sacrificing any of these elements? The future of democracy depends upon the reconciling of freedom with the need for efficiency and *esprit de corps.*

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26. The author is making studies of voting behavior in typical American states. See also his *Machine Politics.*

27. H. F. Gosnell, "Proportional Representation," in *Encyclopaedia of the Social Sciences;* G. H. Hallett and C. G. Hoag, *Proportional Representation—The Key to Democracy* (Washington, D. C.: National Home Library, 1937). For a critical view of proportional representation, see F. A. Hermens, "The Trojan Horse of Democracy," *Social Research,* V (November, 1938), 379–423.

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CHAPTER FIFTEEN

Representation in Government

FOLLOWING an examination of forms and types of government as well as various instruments of politics, our next concern is the actual functioning of democratic government. In brief, what are the means at the disposal of citizens in a democracy which can be used by them for the control and management of their government? Fundamentally these consist of public opinion, pressure groups, the political party, legislative bodies, and the instruments of direct control over both public policy and public officials. These constitute the dynamics of any government which claims to be representative of the people.

PUBLIC OPINION

Some years ago Lord Bryce called attention to the fact that the American system of democracy is a government of public opinion and that the voters, through the exercise of the right of self-determination, are the real rulers of the country.[1] In recent years this concept of government by public opinion has been revived. By some students of the subject public opinion is considered to be something apart from the opinions of individuals, and is looked upon as a composite of individual opinions which determines the solution of public problems.[2] Not only is it difficult to define public opinion with any degree of exactness, but some students of the subject doubt if there is such a thing as the public,[3] and are skeptical of the concept of a group mind.[4] It has been argued that there is no mind but that of the individual and so there is no public opinion other than the sum of the opinions of the many. If this approach is taken to the subject, public opinion as a force in the democratic processes can be measured only by discovering how people vote, why they vote, and by ascertaining their general attitudes on public questions.

On the other hand, public opinion may be looked upon as the composite opinion of the many, and to discover it, it is necessary, then, to find out what the majority think, or at least what they say they think. Further-

1. James Bryce, *The American Commonwealth*, pt. I, ch. 1, and pt. IV.
2. This point of view is expressed by William McDougall, in *The Group Mind*.
3. See Walter Lippmann, *The Phantom Public*.
4. See Fred Allport, *The Group Fallacy in Relation to Social Service*.

more, it is necessary to inquire how citizens get their opinions and attitudes on public questions. Since it is too much to expect these attitudes to be generated spontaneously within the individual, it must be assumed that they are formulated as a result of outside forces, economic and social. The individual in a democracy is subject to all sorts of influences which sway him in one direction and then another. He is still an individual, since the same influences which sway one person in one direction may have exactly the opposite effect on another. In either case the ideas and opinions of individuals are largely the result of environmental conditions, among which the following may be mentioned: family life, community traditions and conditions, educational experiences, the press, books, radio, movies, advertising, campaign speeches, and so on. Out of these undoubtedly come the ideas and attitudes which the individual citizen adopts as his own.

If we accept the proposition that public opinion is the aggregate of individual opinion and that individual opinions on many questions are influenced by environmental conditions, then we may assume that public opinion can be manufactured. The politician has long since learned this elementary lesson. It is not a new thought, however. Plato in his *Republic* pointed out how by censorship and allegories people could be brought to believe what their rulers wanted them to believe.

Propaganda and Public Opinion. In modern times propaganda seems to be the chief factor in the process of manufacturing public opinion. Propaganda has been defined as "the spreading of ideas which we want people to believe regardless of whether they are true or not."[5] Under a totalitarian system of government the instruments of propaganda are in the hands of the state, censorship may be complete, and whatever public opinion is expressed is the opinion of the rulers of the state. In a democracy, however, where press and speech are free, every group, and for that matter every individual, is at liberty to engage in propaganda. Propaganda then becomes one of the chief concerns in the formulation of public opinion. Of course, there are those of us who resist propaganda if we know it to be such. Presumably the more intelligent are more resistant to propaganda, but no one is absolutely free from its influence. Propaganda in the hands of many groups often causes changes in public opinion. It may be that with the increase in influence of one group and the decline in influence of another, public opinion may change with surprising rapidity. In any case, public opinion is not a self-generating force in any community, but it can be created by groups of all kinds. We may say, therefore, that prevailing opinion largely determines the main lines of public policy.

5. William Anderson, *American Government* (New York: Holt, 1938), p. 398.

Formulation and Expression of Public Opinion. It is a difficult matter to determine exactly how public opinion is formulated and effectively expressed. Often its formulation comes about through expression and re-expression of ideas. The mere fact that certain ideas are repeated has a definite effect upon the formulation of public opinion. We may raise the question, then, "What are the chief factors through which public opinion is expressed and what are the instruments in its formulation?" Among these chief means of expression are the newspapers and the radio. Of course there are others, such as straw votes,[6] statements of lobbyists, petitions of organizations, resolutions adopted in mass meetings, letters and telegrams to officials, letters to newspapers, and the cinema. But on the whole the public is more conscious of the effect of the newspaper and the radio. These may be instruments of formulation as well as instruments of expression. Again the two somewhat dovetail.

The newspaper through its editorials as well as in its news columns may promote a certain public policy. Then through constant emphasis of this policy it may be a potent force in selling such an idea or a set of ideas to a considerable number of people, or in strengthening support for a known policy. The newspaper assists in the formulation of public opinion and at the same time reflects it. Certainly in any event it is a powerful factor in the expression of public opinion, even though there may be some doubt as to its all-important influence in the formulation.

The radio occupies a position similar to that of the newspaper. There is a major difference, however, on most questions of public concern. In most cases, with the exception of legally excluded types of materials, radio facilities are open to all who have the ability to purchase them, and thus the radio, more than the newspaper, is an instrument at the disposal of any group. As such it may either assist in the formulation of opinion or the expression of it. Both the newspaper and the radio present conflicting opinions. From these divergent points of view presented by both, the public must choose.

PRESSURE GROUPS

Whether the newspaper or the radio is looked upon and used as an instrument of formulation or expression of opinion, neither is able alone to produce effective action. Some group, either well-organized or loosely organ-

6. In recent years straw votes have come to be an interesting phenomenon of political life. They may be looked upon as important considerations in the formulation as well as in the expression of public opinion. Such polls as that conducted by the National Institute of Public Opinion, under the direction of Dr. George Gallup, undoubtedly have a powerful influence upon the public as well as upon legislation. If these polls are to assume such importance, it is doubly necessary that they represent a fair cross-section of public opinion.

ized, must follow through before public opinion is translated into action. From this point of view the newspaper and the radio may be designated as negative instruments of public opinion.[7] Positive action must come through the work of special interest or pressure groups, which of themselves are not always able to translate public opinion into action.

Pressure Groups and Political Parties. A pressure group may be defined as a voluntary body of individuals organized to promote the special interests of its members by peaceful means, by persuasion, by agitation, by pressure, and even by bribery. Usually the activities of such a group are confined to a single public policy or a single line of endeavor. They are usually rather narrowly circumscribed.[8] Also these pressure groups are not interested in capturing the control of the machinery of government. Rather, they seek the adoption of a certain policy favorable to the special interest of their members. In this regard, the pressure group differs from the political party in two significant respects: (1) the pressure group is interested in policies, the party in candidates; and, (2) the pressure group concentrates on one or on a small group of issues, while the party advocates in general terms a large number of policies. The party is a conglomerate of opinion, while the pressure group is a concentration of opinion.

In order to produce effective results in the American system of government it is necessary that these pressure groups be assisted by active political party action, or at least by party acquiescence. Thus the chief instruments by which public opinion is translated into public policy are the pressure groups and the political parties, both of which are influenced by the newspaper, the radio, and other mediums of expression.

In a direct democracy the pressure group and the political party could operate directly upon the citizens of that democracy. In a representative government, however, they must focus their attention upon the legislature, which is made up of representatives elected by the people. Without some sort of organized effort which is furnished by the group or the political party, public opinion is not focused definitely, and so affords very little guidance for the representatives of the people. This means that if the process of government is to be truly representative, pressure groups and parties must take on some of the aspects of representation. Since both are loosely knit, voluntary, and often spasmodic organizations, representation and representative attitudes cannot be guaranteed. If the republican principle is to

7. The same general conclusions may be reached regarding such instruments of opinion as straw votes and polls of opinion on public questions.

8. See E. P. Herring, *Group Representation Before Congress* (Washington: Brookings Institution, 1929); and K. G. Crawford, *The Pressure Boys* (New York: Messner, 1939). For a good analysis of the work of one of these groups in both the national and state governments, see P. Odegard, *Pressure Politics; The Story of the Anti-Saloon League* (New York: Harper, 1928).

be part of the entire policy-determining process, both legislative and pre-legislative, there must be different groups and different parties working toward the determination of public policy. This is the core of the pre-policy determining process in a representative government. There may be as many groups as there are different phases of opinion. Each, of course, brings its full force to operate upon the official representatives of the people. The minute differences of opinion expressed by the different groups are likely to be more articulate through the pressure group than through the party. This situation is true chiefly because the pressure group merely seeks adoption of a policy, while the party seeks this, plus the actual control of the machinery of government.

Pressure Groups in Places Other than the United States. The pressure group as such is an instrument of representative government peculiar to states in which are found the two-party system of government. As a matter of fact, there appears to be little excuse or justification for the existence of the pressure group in states with multi-party systems. In these states, a pressure group can easily become a political party, seeking and obtaining representation in legislative bodies. Under such circumstances there may be a pressure or special interest group, but that group is a part of the official legislature, and is not merely an appendage to the legislative organization. The pressure exerted by these groups becomes pressure from the inside, and not from without. For this reason, in this discussion the pressure group has been considered chiefly as a factor in representative government in the United States and in Great Britain.

The Pressure Group and the Lobby. In public thinking the pressure group is often considered to be identical with the lobby. It must be admitted that both the pressure group and the lobby are interested in influencing legislation and public policy, but the pressure group may not resort to the usual lobby techniques. The lobby is a pressure group which works solely within or about the framework of government, concentrating its effort chiefly upon the legislature while the latter is in session. The pressure group, however, is interested both in the legislature and in public opinion, believing that public opinion, if it can be educated, informed, or propagandized, will demand that the legislature take certain action. The lobby is present at the legislative session, attempting to see to it that the legislature takes that action. Of course, the same organization may be a lobby and at the same time a pressure group, but in order to be a lobby it must attempt to influence legislation. The pressure group, even though its purpose is to influence the determination of policy, does this not through the legislature directly, but through the instrumentalities of public opinion.

Types of Pressure Groups. Pressure groups and lobbies, even though they differ in many respects, permit of the same general classification. Both attempt to influence the determination of policy, and both attempt to formulate public opinion. Even though the latter is a subordinate consideration with the lobby and a primary consideration with the pressure group, the general objectives of the two institutions are fundamentally the same. Pressure groups and lobbies alike may be classified according to the personal interests of their members. From this point of view some are selfish and some unselfish. Likewise, they may be classified on the basis of their public interests. From this point of view, there are the economic, religious, reform, civic, and patriotic types. Some seek financial rewards for their efforts, some seek to improve society generally, and some seek to uphold the traditions of constitutional government. Organizations of manufacturers, bankers, farmers, laborers, employees of railroads or chambers of commerce, and the like constitute the chief economic groups which attempt to exert pressure on the formulation of public policy. Some of these are the best organized of all pressure groups.[9] On the other hand, there are several religious groups which are quite active in the state as well as in the national government.[10] Some of these use lobby techniques in promoting their ideas and actually register and lobby before legislative bodies.[11] Then there are the reform groups interested in promoting better government. In the national government the National Civil Service Reform League is an example of this type of pressure group. For the most part these groups are unselfish in their motives and are simply interested in reform. They may or may not lobby before legislatures but they nevertheless play an important part in formulating and expressing public opinion. There are also certain pressure groups which are motivated by civic and patriotic interests. An illustration of this type of organization is the Daughters of the American Revolution. There are many others in this class that operate locally. In one sense the American Legion and its auxiliary branches might be classed as this type of organization. Of course it is a lobby but it is also a pressure group. In any event its expressed objective centers around the core of patriotism. Some, however, have been inclined to classify the American Legion as an economic group, with the economic concern of the members as its first consideration and

9. Typical of such organizations are the United States Chamber of Commerce, the American Bankers Association, the Liberty League, the American Federation of Labor, the Congress of Industrial Organizations, the National Manufacturers Association, the National Distillers Association, the various railroad and utility interests, and many others which are motivated by economic conditions in promoting public policy.

10. Among these groups are the Federal Council of the Churches of Christ of America, the National Catholic League, and the B'nai B'rith.

11. The importance and influence of some of these groups is described in E. P. Herring, *Group Representation Before Congress.*

patriotism as its second. Probably it is more correct to view the American Legion as both an economic group and a patriotic group.

Organization of Pressure Groups. In some cases these groups, regardless of type, are elaborately organized. In other cases the organization is relatively informal. Ordinarily, to make an effective appeal to both the legislature and the public generally, it is necessary to perfect some more or less elaborate organization and appear to be supported by large numbers of influential persons. For this reason pressure groups often list a large number of officers on their letterheads. It is considered good technique to include names of as many prominent persons as possible. Many allow their names to be used without contributing financially or otherwise. In other words, the large list of honorary officers and committeemen found on the letterheads of pressure groups may be nothing more than "window dressing." Undoubtedly these outward trappings have their effect on the public generally and upon the legislature. The real work, however, is not done by those who lend their names to promote the organization. It is done by the men and women of the professional office staff. Since the group desires to influence both the public and the legislature it must have at its disposal a considerable store of knowledge and information and be able to present this most effectively. In order to do this, it must engage in research. It must conduct campaigns of education or propaganda and perhaps resort to active lobbying before the legislature. The research workers and public relations counsels have come to be the important factors in the work of pressure groups. These persons must be well trained and have the ability to present effectively facts which support the ideas of the group. Public relations counsels are superior salesmen whose task it is to sell the ideas of the group to the public and to the lawmakers, and to influence the administrative and judicial arms of the government.

Methods of Operation. If pressure groups are well financed, ordinarily their operations are rather widespread and intensive. Often they employ every known technique and process of education in promoting their particular objectives. They use the newspapers and the radio, present petitions and resolutions at mass meetings, send letters and telegrams to public officials,[12] visit these officials, and seldom miss an opportunity to speak before any group which might afford them notice and publicity favorable to their program.

In their use of the newspapers these groups sometimes run paid adver-

12. A striking example of this technique was exhibited in the activities of the group headed by a prominent New York publisher who in 1937 and 1938 opposed the attempt to reorganize the national administration and as a result sent or directed the sending of thousands of telegrams to Congressmen.

tisements, although this has not proved very effective. In other cases they publish their own "house organ." The greatest difficulty with this scheme is, of course, that the "house organ," on its face, is known to all as a publication of the interested group. Since many newspapers reserve space for "letters to the editor" the members of these interest groups take frequent advantage of this facility. If they can secure favorable mention in the editorial columns, their cause is fostered. Such propaganda, if it may be called that, is not the most effective means of publicity.

Some of these interest groups have sufficient financial support and business connections to make effective use of the radio, a selling device of considerable importance in American life. Probably more important, so far as definite and immediate action is concerned, are the contacts these groups maintain with political parties. They take every opportunity to present their views to party leaders and candidates for public office. On the whole, they use persuasion, tact, and any other device at their disposal to get party leaders and candidates committed to their programs. Often they attempt to exact from these public men promises to promote their special interests.

Reasons for Pressure Groups. But why do these pressure groups organize? In reality they are interest groups or special interest groups. Individuals have many different interests. Likewise these groups have different interests, and they divide primarily on the basis of their interests. It should be stated that these divisions are often overlapping and complex. Some are interested in local problems, some in state problems, and some are concerned with national and international questions.

The effectiveness of the pressure group in American political life is difficult to measure and evaluate. Undoubtedly many significant public policies can be mentioned which, to some extent, were originally policies of pressure groups in the national government or the state and local units. Among these we may name proportional representation, prohibition, recent advances of the merit system, social security legislation, and health legislation. On all levels of government, pressure groups have furnished the motivation for the adoption of many programs, some worth while and some of doubtful validity.

The pressure group in its American form is a direct product of American conditions. What is accomplished in other countries, especially in Europe, by the partial dissolution of interests in parties and legislatures is accomplished in the United States almost exclusively by two bodies—the pressure group and the party. Before tracing the development of representative processes through their logical steps, the question may be raised as to the desirability of the constant use of this opinion-forming and -reflecting agency. As long as the pressure group attempts to influence public opinion

favorable to its program and resorts to no undercover methods, no controls have been, or should be, placed upon it. It is only when the pressure group becomes a lobby and resorts to questionable lobby methods that any type of control is suggested. As long as our legislative bodies are made up of representatives elected on the basis of population or even from geographical areas, and the American governmental system of economy remains as it is, there will be pressure groups attempting to influence the formulation of public opinion and the actions of legislatures. The pressure group as well as the lobby is inevitable in and about the legislature as long as it is not directly represented in the legislature. The pressure group is simply a means whereby people make effective use of their right of petition.

POLITICAL PARTIES

While pressure groups may attempt to mold public opinion favorable to their purposes and exert pressure upon legislative bodies to adopt their policies, little can be accomplished by the action of a single group. Because of the existence of so many and such varied groups, public opinion is likely to be confused and inarticulate. Also, legislation as a result of individual pressure groups may become aimless. The pressure group calls attention to the alleged necessity for adopting certain policies, but it is unable alone to secure the adoption of them. In a representative government it becomes necessary for the groups to align themselves with the political party and look to the party as the immediate agency by which policies are adopted. The pressure group may attempt to persuade the party to adopt its program as a part of the party's program. Other groups may likewise seek the aid of the party. In any event, it is the part of political wisdom to rely upon the truism that "in union there is strength." There is another reason why such interest groups find it necessary to align themselves with the political party. Parties seek to control the machinery of government while the groups aim merely to sell their ideas to the party and to the legislature. In order that these ideas may be given consideration the machinery of government must be favorable to the points of view held by the groups. The party then becomes the most immediate means of translating public opinion, especially as crystallized in pressure groups, into action. In a very real sense, public policy in the United States is the result of party action. Representative government, in modern times at least, is very largely party government. Legislation is party action or opinion crystallized into action.

In considering the importance of the party in the processes of representative government pertinent questions may be raised concerning the reason for the party, the development of parties in a democracy, and the future of the political party in the democratic processes.

Reasons for the Party. Why is the political party organized? This question is partially answered in the foregoing discussion, but there is even a more practical reason for the existence of the party than that pressure groups are necessary to secure collective action. In a democracy representative government means that a legislature composed of the people's representatives exercises ultimate control of policy and policy execution as well. The constitutional requirement of a majority in both elections and in legislatures is a compelling force behind the organization of political parties. The people individually or collectively, as well as the would-be leaders and candidates for public office, seek an association with others who have similar ideas and purposes and find it necessary to act in concert as a means of securing action. The result is the political party.

Definition of Party. A party may be defined as a voluntary group of persons who broadly agree upon either general principles of government or upon their application.[13] Often the chief element which holds a group together is an agreement upon the mere application of certain of these principles rather than upon the principles themselves. The dominant factor involved in such application is concerned primarily with the persons who control the government.

Burke many years ago said a party is "a body of men united for the purpose of promoting by their joint endeavors the public interest, upon some principle on which they are all agreed." On the other hand a more realistic German observer says that a party is "a battle-fellowship established in the form of a permanent organization to obtain power over the state to realize political aims."[14] This realistic definition has been accepted by a considerable number of American students of government. On the basis of this concept of the party many persons raise questions as to the differences between the two major parties in the United States. Many are unable to point to any significant or outstanding difference in matters of general policy, and conclude that the aim of both major parties is to secure control of the machinery of government, policy to the contrary notwithstanding. Thus the average person thinks of a party as a group of people seeking control of the machinery of government. Pressure groups, however, recognizing this chief objective of the party, seek to use it to further their own programs of action.

Early Attitude toward the Party in the United States.[14a] Apparently the political party was not anticipated as a factor in American political life when

13. H. Finer, *The Theory and Practice of Modern Government* (New York: Dial Press, 1934), p. 244.

14. Triepel, *Staatsverfassung und politische Parteien* (1930); quoted in Finer, *op. cit.*, p. 244.

14*a*. Adapted from R. Phillips, *American Government and Its Problems* (Boston: Houghton Mifflin, 1937), pp. 467–8.

the Constitution was drafted. That important document made no mention of the party, and apparently its makers ruled the party out, or else they would have foreseen the circumstances which led to the change in the electoral process brought about by the Twelfth Amendment.[15] The Constitution makers, ostrich-like, simply hid their heads in the sand, unwilling to admit the existence of factions and cliques. If Washington was unmindful of the political party at the beginning of his administration, his eight years of experience as chief executive impressed him with the great "spirit of party." In his "Farewell Address" he warned of this spirit when he said: "The common and continual mischiefs of the party are sufficient to make it the interest and duty of a wise people to discourage and restrain it." Other early American leaders held this same general distrust of the party. Franklin called it "a social distemper." Jefferson assailed the party when he said: "If I could not go to heaven but with the party I would not get there at all."[16] These objections, however, did not prevent nor apparently retard the developments of parties in the United States.

After the fathers of the Constitution resigned themselves to the inevitable, parties became one of the dominant factors in American political life, reaching a precocious growth by the time of Jackson. Shortly after the Civil War there was somewhat of a reversion to the early antagonism to the party. Probably the reason for this is to be found in the demoralization of post-war parties. For a time economic progress was so much greater than political progress. This situation gave rise to "the boss" and other sinister influences which not only destroyed confidence in local and state governments, but which reached dangerously near the presidency itself. Many so-called reformers urged the abolition of the political party and numerous fantastic schemes were suggested for driving it from the political life of the nation. Of course nothing of the sort was done nor could be done. Man is a gregarious animal and thinks and acts in terms of groups. In a democracy where freedom of expression is recognized and government is controlled by popular legislatures, the party is inevitable.

The Two-Party System. Democracy in the United States has from the beginning been committed to the two-party system. The two-party system has prevailed in England for a much longer period of time. On the other hand, Continental European countries have used the multi-party system of government. From one point of view the two-party system indicates political stability. From another, it demonstrates a lack of well-defined attitudes on

15. It is difficult to understand the attitude of the Founding Fathers in the matter of parties. Practically all of them had had experience in Colonial government, and political parties had played some role in Colonial affairs.

16. *Writings* (Ford ed.), V, 75.

matters of public policy. In any event, Continental European political parties may be likened to pressure groups in the United States. In England and the United States the political party is something entirely different. In a state with a multi-party system the only possible form of government is a coalition of these parties. Possibly the requirement in the American constitutional system for majority control has meant the strengthening, if not the actual establishment, of the two-party system in the United States. Coalition government would be unworkable in such a system. In France, on the other hand, a party is simply a relatively small group advocating a limited number of issues, while in England and the United States the party, in order to gain the support of the many, must not commit itself too definitely but rather must advocate issues in a very general way in order to attract as many adherents as possible and to alienate as few as possible. This means that European parties put the emphasis on minute issues, while American, and to a considerable extent English, parties emphasize the control of the machinery of government. Again, in the United States where there is such a wide diversity of interests plus the constitutional requirement of a majority vote in elections and legislatures, it is possible to co-operate only on general terms.

The two-party system because of existing conditions and by tradition is especially adaptable to American political life. Moreover, no successful attempts have been made to depart from it. Of course, there have been many minor parties but they were short-lived. There has been but one minor party which has been able to capture control of the national government. That was the Republican Party in 1860. Of course, when this minor party captured control of government it ceased to be a minor party. Since that date it has become one of the major political parties in the United States, electing all but three presidents since 1860. The minor party serves a useful purpose in acting as a balance wheel and guide for major party action, but so far as control of government is concerned conditions in the United States lend themselves to the continuation of two-party rule.

Differences in American Parties. What distinguishes one party from another in the United States? Some have pointed out there are no major differences except that one is in and the other is out. This absence of major differences has not always been the case. The Republican Party began as one of the most radical of parties, even advocating the destruction of private property (the freeing of slaves), without compensation. Of course, time and power are tempering influences. On the other hand, the Democratic Party has not always been the progressive group. It has reverted frequently to conservative ideas. In many instances this degree of conservatism and pro-

gressivism is about all that can be pointed to as distinguishing the one party from the other. At present the Republican Party is generally looked upon as conservative while the Democratic Party is considered liberal in American life. Neither party has always been consistent in its point of view. Each changes from one point of view to the other frequently.

If the two-party system is to be retained, there cannot be too definite a cleavage between the major parties. Policies must be expressed in very general terms so that different interpretations of the same point may be made by different groups. On the other hand, policies must be expressed sufficiently definitely to attract groups to their support. In spite of occasional change of fronts there appears to be a thread of continuity running through the entire history of American political parties.

Development of Parties in the United States. In the beginning of party life in the United States, the Federalist Party was the party of the wealthier classes while the Jeffersonian Republican Party, like its present-day Democratic counterpart, was looked upon as the poor man's party. Thus one has tended to be liberal and the other conservative. The party of the wealthy is likely to be a conservative one. The party which makes an especial appeal to the discontented, the poor, and the dissatisfied, is likely to be liberal. The thread of continuity running through the development of parties coincides with this general pattern.

The Federalist Party in the beginning was a party which believed in a strong national government. The Jeffersonian Republican Party, on the other hand, emphasized States' rights and local control. The important variations on these points constitute another thread of continuity in the history of parties.

The Jeffersonian Republicans became the strict constructionists while the Federalists and their successors continued to pay homage to a more liberal construction of the Constitution. If there is any difference of policy between the major parties today probably the matter of constitutional interpretation represents that difference. On this matter, however, the New Deal Democratic Party and the Hoover-Landon Republican Party have somewhat changed fronts on the views held by their predecessors.[17] It should be said, however, that generally the party of the "ins" believes in more power in the hands of the government, and the party of the "outs," desiring to get in, is forced to adopt the opposite point of view.

Services of the Party. Some cynics would claim that the political party performs no vital service in a democracy. This contention could hardly be

17. For a history of the Democratic Party written from a partisan point of view, see F. R. Kent, *The Democratic Party: A History* (New York: Century, 1928); a comparison history of the Republican Party in W. S. Meyers, *The Republican Party: A History* (1928).

sustained, however, even though the nature of party functions may not permit of scientific analysis. In any event, the more important of the so-called party functions may be stated as follows[18]:

1. The making of nominations for public office.
2. The co-ordination of the branches and departments of government.
3. The bringing together of the diverse elements that compose American society.
4. Imparting the competitive principle to governmental activities.
5. The accepting of responsibility for the success or failure of public services.
6. Defining public issues, educating the electorate upon them, and bringing out the vote when these issues are at stake.

These functions of the party undoubtedly paint the brighter side of the picture of public life. There is another side of the picture, however, which is not to be painted in such bright hues. Many have accused the party of becoming an end in itself, of rendering mere lip service to its high objectives, and becoming consumed with the selfish desire for office so that it can feed its members upon the spoils thereof. In other words, the party can be criticized for seeking control of the machinery of government without adequately meeting its other objectives. Undoubtedly, some of these charges are true, but this does not mean that the party does not serve a useful purpose in American democracy. The party is necessary if the ideas of the individual citizen or the pressure group are to be crystallized and translated into action. The party simply furnishes the medium of expression which is necessary to bring about effective political action. In other words, the most important function of the political party is to organize public opinion and to make it effective in legislation and in the execution of public policy. Without party the attitudes of different groups would become nothing more than a confused babble of tongues. The party, then, does make public opinion effective.

THE LEGISLATURE IN REPRESENTATIVE GOVERNMENT

The party must, of course, have an area within which to perform this major function. Effective action is not possible through the party alone. The party must control the machinery of government, and especially the legislative branch, in order to make its action positive and its effects felt.[19] Thus

18. This is the classification of party functions given by R. Phillips in his *American Government and Its Problems* (Boston: Houghton Mifflin, 1937), pp. 472–4.

19. Traditionally, the legislature is looked upon as the policy-forming agency of modern democratic government. There is a great deal of truth, however, in the contention that the chief executive today is actually the policy-forming, or rather policy-declaring, agency and the legislature merely the confirming or rejecting body.

the representative process may be traced from public opinion to the pressure group to the party and ultimately to the legislative body. The co-ordination of all of these is necessary if the process of representative government is to be effective. Therefore our next concern is the role of the legislature in representative government.

Role of Legislature in Representative Government. If pressure groups perform the function of marshaling public opinion, and the party is instrumental in crystallizing it, the legislature is the instrument by which this articulate opinion is translated into public policy. The legislature becomes, then, the first *official* agency in the representative process. The work of the pressure group and of the party is ineffective unless the legislature is properly organized and able to operate so efficiently that this opinion results in public action. These observations raise the further question as to what should be the attributes of a legislative body in order that it may fulfill the task expected of it. It has been pointed out that a good legislature should not be unduly hampered by constitutional restrictions; its size and structure should not be such as to complicate the law-making process; and it should be reasonably representative. The first and second of these points are discussed in another chapter. Our concern is only the matter of representation in legislative bodies.

Representative Character of Legislatures. Every good legislature in a democracy is representative. The elements of representation which enter into legislative activity are political factors, economic conditions, social, religious, racial, geographical, and intellectual conditions. In the United States race, religion, and intellectual attainment have been eliminated as official elements of representation. We disregard race, religion, and intellectual attainment in the selection of public officials. Democracy demands that these factors shall not be considered in government since their consideration would violate the traditional principles of freedom and equality. In certain European countries, Russia, for example, economic, or rather occupational, factors are recognized in representation.[20] In other countries we find the representation of religious groups. The Party of the Center in France, for example, is an illustration of the recognition of religion as a factor in representation. In England, certain social factors are considered and representa-

20. The theory of Guild Socialism provides for the representation of economic and occupational interests in legislatures. It points out that these interests are present in the legislature in any event, and that the base of representation might be broadened to admit them officially. Guild Socialism would broaden the base by establishing two democratic agencies—one economic and one political. The Guild Socialist believes that industry, the Church, education, and other essential activities should each have its own organization and control its own affairs, and that the state should interfere only as a last resort. Some of the followers of this ideology would allow separate representation of each interest or faction within the state, and thus broaden the representative base by introducing economic and occupational interests.

tion allowed upon such a basis. If the House of Lords is looked upon as an integral part of the legislative structure in England, certainly matters of social prestige and attainment enter into the picture of representative government. In England, also, certain geographic factors influence representation. The existence of the rotten borough is evidence of this fact.[21] In the United States representation is fundamentally political but is conditioned to some extent by geographical and population factors. Thus in the United States representatives are elected from districts composed of a certain number of people, and the representative in each district is the choice of the majority of the voters of the district. As such, he is elected on a strict party basis in most jurisdictions.[22]

Political-Population-Area Representation. This method of selecting delegates to a legislative body is significant from two points of view. In the first place, so long as political factors receive primary consideration and the principle of majority rule is adhered to, then the representative from a district represents the majority faction to the complete exclusion of the minority group. This situation accounts for the charge that American legislatures are not representative of the various currents of political opinion in the community.

This alleged defect in legislation has been the compelling reason for the numerous efforts which have been made in the United States and elsewhere to introduce a system of *proportional representation* so that all currents of political opinion will be represented in the legislature in proportion to their voting strength.[23] In several European states delegates are selected to the legislative bodies on the basis of proportional representation. This was true in Germany under the Weimar Constitution and in several other continental European states including Belgium, Holland, and Switzerland, as well as certain jurisdictions in Scandinavia.

In brief, there are two major systems of proportional representation. One is known as the list system and the other as the Hare system.[24] The Hare system has been used with some degree of success in the United States. Its greatest shortcoming, however, is seen in its complexity. It violates one of

21. The rotten borough provides representation of a certain area regardless of the people who might live in it.

22. An interesting exception to this practice is seen in Nebraska, where members of the one-house legislature are elected on a non-partisan ballot.

23. Some years ago a national organization known as the Proportional Representation League was formed in the United States to promote this legislative reform. It has had some success in bringing about the adoption of proportional representation in a few cities, but the mere fact that its adoption is limited indicates that the American idea of representation does not coincide with the concept of proportional representation as sponsored by this organization.

24. For a complete discussion of the systems of Proportional Representation, see C. C. Hoag and G. H. Hallett, *Proportional Representation* (New York: Macmillan, 1929).

the major principles of any successful electoral system—simplicity. The list system, which is the prevailing type in continental Europe, provides for the election of candidates from a list of nominees from all the parties represented in the various electoral districts.

The second significant aspect of selecting delegates on a geographical and political basis is seen in the fact that it means the use of a "nose-counting" basis of representation. This plan is based on the democratic ideology that all men are of equal count and should be represented equally in a legislative assembly and that every citizen should have the same representation as every other. This democratic ideal of representation has not been carried out completely in any democratic system and possibly cannot be attained fully. In the United States, for example, where extreme provincialism prevails, the people have been unwilling to eliminate states and local units in order to obtain this type of democratic representation and to satisfy an abstract ideal. Thus the basis of representation in the United States is a combination of numbers and geography.

This mixture of population and area as a basis of representation is seen in every legislative assembly in the country, from Congress to the lowest unit. In Congress, each state, regardless of size, has two senators in the upper house. The lower house theoretically represents numbers. In the states, almost without exception, the representatives of rural areas outnumber those from urban areas, and this situation exists in spite of the fact that in many states urban populations outnumber the people in rural areas. The conflict between urban and rural elements in a legislature is always a serious problem and one which almost defies solution.[25]

The City Council. What has been said of representation in legislative bodies may be applied generally to all types of legislatures, including city councils and county boards. The city council in the United States is a miniature legislature empowered to enact ordinances for the government of the city. City councils, regardless of size, are intended as representative bodies. In attaining the objective of representation in such legislative agencies, American cities use one of two methods; either the councilmen are selected by wards or at large. The ward system is a "federal" plan adapted to the city. The selection of councilmen at large is predicated upon the theory that the city is an economic unit and the problems of no particular section should be considered separate and apart from the problems of the city as a

25. When the states were rural, naturally all, or a great majority, of the representatives came from the rural areas. They were jealous and somewhat suspicious of giving urban areas, as they developed, their share of representation, and, once these rural representatives were in the political saddle, they saw to it in every rearrangement of districts that the rural people should continue to dominate.

whole. In either case, the principle of representation is present, but in many city councils less emphasis is placed upon the role played by political parties than in state legislatures and in Congress. Many cities elect their councilmen on non-partisan ballots with the idea that the problems of the city are not matters for national party determination. Representation is a factor in the city council—the representation of areas, groups, and interests, but not of political parties.

The County Board. The county board as found in most states of the American union is the only legislative body in the rural governmental unit. In the strictest sense of the word it cannot be called a legislature. It issues orders and administers the affairs of the county. Undoubtedly representation is a consideration in the selection of members of this rural governmental body. In general the representative principle is applied in the selection of the members of the board (1) from the county at large or (2) from civil subdivisions of the county. In the first case the organization of the board follows the original Pennsylvania model, while in the latter case the New York model is followed. The basis for representation in the county is the same as that in the state, namely, a political-population-area basis. County board members are selected as nominees of political parties either representing the county at large or certain subdivisions within it. Often in the selection of members of county boards some of the same problems arise as arise in the selection of representatives in states. Especially is this true if a city of considerable size is located within the county. In that event, the conflict between rural and urban elements constitutes a serious problem and one which, as is true in many states, affords no easy solution.

It will be observed that the political-area-population basis of representation excludes representation of economic and social interests as such.[26] This explains the existence of lobbies and such interest groups in every legislature. The lobby has been well called the third party of the legislature and undoubtedly it will continue to exist as long as representation is on the basis of political alignments, population, and geography.

QUALITIES OF LEGISLATORS

The democratic plan of representation does not take into account any factors of intellectual attainment on the part of representatives. Democracy does not desire that the stream rise higher than its source.

Intellectual Characteristics of Legislators. As a matter of fact, the average level of intellectual ability of most legislators is above that of their constitu-

26. Often these interests succeed in getting their representatives in a legislature in spite of their official neglect. The various "lobbies" in Congress are examples of this restriction.

ents, but this is true in spite of the attitude of representatives and not because of it. The American people feel that their representatives should be on the same general level as themselves economically, socially, and intellectually. Then the only feasible method of raising the level of intellectual ability on the part of legislators appears to be the raising of the level of the public generally. This, indeed, is a challenge to modern education.

Personal Qualifications. Aside from the fact that he fulfills certain legal requirements, what kind of person represents us in the legislature? What type person do we want representing us? Government being what it is, the representative must first of all be a politician. Herman Finer, in his *Theory and Practice of Modern Government,* has said that "the politician is . . . as near as any single term can signify him, a broker. His business is to apply the power resident in his constituency to convert desires into statutes and administrative action by alloying them with the possible."

There is another essential qualification of a representative. We expect him to be a "good fellow." He should be popular with other members of the legislature, both friends and opponents. There is a practical reason for this requirement. Concessions are granted on this ground, and the popular representative can be expected to get more for his constituents than one who has difficulty in "getting along" with his colleagues. This fact is especially significant when it is remembered that legislation is largely a process of compromise.

Naturally we expect our representative to have some appreciation of the problems facing the legislature, but he need not be an expert in any of them. He should have a reputation for fair dealing. He should be a good debater, and possess sound judgment. It will be observed that definite knowledge of the subjects dealt with in legislation is not required of representatives. Knowledge of this type is distinctly a subordinate requirement.[27] It is generally believed that a representative can get all the information he wants and needs from the newspapers, the radio, and other sources. Experts and investigating committees are always ready to supply this need. Even after the necessary reports and investigations are made available only the most serious-minded members of a representative body take the time or trouble to inform themselves about them. In fact, as pointed out in an authoritative study some few years ago, at least one-half of the members in an average legislature are unable to master the lengthy and complicated reports. There are always "experts" either in or out of the legislature who can tell the legislator what the reports contain, and often a simple explanation is all

27. Certainly the legislator need not be a scholar. Scholarship may be a definite hindrance and embarrassment. The public demands a man of action, not of meditation. All sorts of sources of information and misinformation are available to the legislator.

the representative wants. In this connection it should be remembered that the legislators are not creators of policy. They are merely part of the group in the party whose objective is reasonably well-known. Responsibility for policy and the initiative necessary to determine it are not expected of the representative. They are the concern of the party, the pressure groups, and the public generally.

Is Legislative Caliber on the Decline? The representative character of a legislative body cannot be disposed of without some attention to the economic, occupational, and social qualifications of legislators as well as the legal requirements concerning these representatives. Who are our representatives? Much has been said of the decline in the caliber of legislators in the United States in recent years. Congressmen, state legislators, and local councilmen today are considered to be inferior to those of fifty or a hundred years ago. Are these representatives actually less honest and less able than formerly? Of course, there is no scientific method of measuring legislators and comparing the past with the present.

De Tocqueville, over one hundred years ago, made the following remark concerning Congressmen:

> On entering the House of Representatives at Washington one is struck by the vulgar demeanor of that great assembly. The eye frequently does not discover a man of celebrity within its walls. Its members are almost all obscure individuals whose names present no association to the mind: they are mostly village lawyers, men in trade, or even persons belonging to the lower classes in society.[28]

This charge has a strangely modern note. It should be stated, however, that even the most critical today would not accuse Congressmen of decadence in light of this statement. Indeed, it would be difficult if not totally impossible to prove that present-day members of Congress are inferior to those of a hundred years ago. Our impression of the exceptional ability and achievements of our representatives of the past is largely the product of those of our history books which have played up a few outstanding personalities and neglected the large number of such representatives. Also, our attitude today is influenced somewhat by the fact that more of these representatives are brought before the bar of public observation and examination. The radio and the newspaper have been largely responsible for this public attention focused on our elected representatives. We have come to look upon them as human beings, just like the average man. In other words, this tendency to humanize legislators is evidence that the people think of legislators as representatives. In rare cases are these representatives any better or any worse than the average citizen they represent. In some cases rather con-

28. *Democracy in America*, I, 213.

clusive evidence could be mustered to show that state legislators, for the most part, are men of somewhat higher intelligence and attainment than their constituents.

But what kind of men and women do we find in our legislative bodies? Are they actually representative of their constituents? At one time in the United States the typical legislator was required by law to be a person of substantial wealth and position. With the acceptance of the democratic ideology in government, however, these qualifications were swept away. Only three qualifications are generally required by law today; they have to do with age, residence and citizenship.[29]

The Legislator's Discretion. After representatives are chosen and sent to the legislature a further inquiry might be made as to just how representative of their constituents they are and should be. The question has been raised as to whether a representative should use his own initiative or seek instruction from his constituents in deciding what attitude to adopt toward suggested legislation. In other words, does the representative have no freedom of action after he is elected? In republican France and in Pre-Hitler Germany representatives were considered free to act upon their own initiative after they became members of the legislative assembly. In the United States, a representative is apparently bound by the wishes of his constituents. Of course, there is no legal method of forcing him to do as his constituents wish, but the representative knows that if he wants to return to the legislature he must consider himself a representative of the people.

Professions and Occupations of Legislators. The personal characteristics of legislators are among the things which shed some light upon the representative character of legislative assemblies. In 1924 an analysis was made of the professions of parliamentarians in Great Britain, France, Germany, and the United States. In the first place, only a small proportion of these in any of the countries studied could be expected to have a comprehensive opinion, and make a useful contribution to general policy. On any important matter coming before the legislative bodies, the great proportion of members are bound to be silent or take things on trust, else they display utter ignorance of affairs. In the second place, there appeared to be at least one spokesman for every aspect of national life. In the third place, all of the legislative bodies contained large numbers of professional politicians, and especially politicians who were trained and experienced in the law. In the British House of Commons 20.8 per cent of the 615 members were lawyers. At the same time only .1 per cent of the population were lawyers.

29. An examination of the provisions of the national and state constitutions will reveal the detailed requirements on these points.

In the French Chamber of Deputies 27 per cent were lawyers, with only .2 per cent of the population following the same profession. In the United States House of Representatives 59.3 per cent of the members were lawyers, while only .3 per cent of the population were practicing attorneys.[30] In the Senate at this time 62.5 per cent of the members were lawyers. Why, then, are there so many lawyers in our legislative bodies? The answer is partially found in the tradition that those who know the law should make the law. The explanation also has been given that there are many who have been trained in the law, but who find it difficult to earn a living in it, and thus drift into politics for this purpose as well as to acquire a certain amount of prestige. In the state legislatures, lawyers do not ordinarily constitute such a predominant proportion of the membership. In Ohio in 1919, of the 124 members of the lower house 33 were lawyers and 32 were farmers. In Pennsylvania in 1935, of the 208 members of the House 36 were lawyers, 23 were merchants, and 16 were farmers.[31] In rural states, farmers often predominate in the legislature. In Kentucky in 1930, for example, of the 100 members of the House, 33 were reported to be farmers and 18 to be lawyers.[32]

On the whole, then, while legislation in a democracy may be reasonably representative of the social and economic interests of the people, it is not entirely representative of the varied currents of political feeling in the community nor of occupational or economic groups. In many respects the representative character of the legislature is far from the ideal pointed to by democratic writers and looked upon by many as necessary in the democratic process of government.

REPRESENTATION IN EXECUTIVE AND JUDICIAL AGENCIES

The representative character of democracy is not confined solely to the legislative branch of government, but is frequently found in both the other parts of the governmental trinity. In cabinet or parliamentary systems, especially those with well developed civil service practices, the problem is not

30. H. Finer, *The Theory and Practice of Modern Government*, pp. 390–1.

31. W. B. Graves, *American State Government* (Boston: Heath, 1936), pp. 180–1.

32. J. C. Jones, "The Make-up of a State Legislature," *American Political Science Review*, vol. XXV (Feb., 1931), pp. 116–17. The remainder of the group consisted of 8 merchants, 5 physicians, 3 newspapermen, 3 realtors, 3 insurance men, and one or two of each of the following: contractor, banker, farmer-railroad engineman, automobile dealer, farmer-timber dealer, miller-barber, barber-farmer, and railroad brakeman. Thus, the farmer element made up about 40% of the entire membership, with the lawyers accounting for 20%. The so-called "business man" was not well-represented, the proportion being less than 15%. Of the professions other than law, there was almost no representation, unless newspapermen be classified as professional men. However, the 25% outside the two classes referred to seem to be made up of a fair cross-section of society, with about all of the common occupations and professions represented.

particularly acute, since all power rests ultimately with the legislature. In these systems adequate representation in the all-powerful branch of government—the legislature—apparently suffices. In a presidential system of government, such as that of the United States, and even in the government of the state and local units, the requirement of representation finds expression not only in the policy-determining branch of government, but also in the executive and judicial agencies. After all, in such a governmental system if democracy is to have its fullest meaning for the great mass of people, both the executive and judicial branches, as well as the legislature, must give some attention to the popular demand for representation. At least this has been the practical philosophy of the conscious or unconscious followers of Andrew Jackson and his interpretation of democracy.

Selection of Judges. In the selection of judges to the federal, state, and local courts, some attention has been given the matter of representation. Public opinion and practical politics demand that the judges of the United States Supreme Court come from as many different sections of the country as possible. No president would dare appoint too many of the justices from one section or one state. In the event of a vacancy in the court, caused by the death, resignation, or retirement of any member of that august body, an attempt is usually made to name a successor from the same section of the country which furnished the former member. Recently, upon the death of Justice Butler, a Middle Westerner, the President appointed to the vacancy Justice Murphy, another Middle Westerner. Upon the retirement of Justice Brandeis, an Easterner, Justice Frankfurter, another Easterner, succeeded to his seat on the bench. In further recognition of the principle of representation, each member of the Supreme Court is named as the nominal supervisor of a certain district. In many of the states, the constitution and the laws require that judges be selected from districts within the state, even though they serve the entire state after they assume their place on the bench. American democracy apparently demands that the judges represent certain areas or sections of the state.

Even though these officials determine no public policy, the feeling prevails that judicial administration is better safeguarded if placed in the hands of "representatives" of the people. This practice may not square with any accepted principle of representation, or even of government itself, and many observers may oppose it, but the average American citizen continues to think of his judge as a representative of the people.

Selection of Executive and Administrative Officers. In the executive and administrative agencies of government in the United States there is even a greater popular insistence upon representation than in the judiciary. This

principle has been applied in the selection of civil servants from the beginning. President Washington gave some attention to the matter and every chief executive since his time has respected the principle. The civil service laws of the national government have always recognized representation as a factor in the selection of administrative personnel. The present law provides for an apportioned service, which means that certain allotments of personnel are made for each state, and if a certain state has not reached its quota, that state is given first consideration in the event of a vacancy. The same situation prevails in the appointment of members of certain boards and commissions, both in the national and in the state and local governments. Some of these boards and commissions are bi-partisan in composition, in which event they have party as well as area representation.

The representative principle permeates the American system of government in all its branches, territorially and functionally. Often representation is thought of as a factor to be found only in the legislative branch, but even a cursory examination of the other branches of the government reveals the fact that it is likewise a consideration in these also. American democracy insists upon being representative in all its parts.

REMEDIES FOR DEFECTS IN REPRESENTATION

It is true that voters are legally sovereign and free to determine public policy. On the other hand, legislative assemblies are guided by all sorts of advisers and impelled by motives often foreign to the welfare of the electorate. The real representative character of legislative assemblies is often outweighed by the foreign elements. The question may be raised as to how these impediments of legislation can be prevented and how the apparently inherent defects can be remedied. On the whole, three suggestions might be made. First, the representative base might be broadened. Second, the evils of party bias in legislation might be eliminated. And third, a plan might be provided permitting the electorate to supplement and, if necessary, replace representative assemblies by direct legislation when in the opinion of the public these assemblies cease to be representative. The second of these suggestions has already been discussed in connection with proportional representation, which is designed to afford representation to all currents of political opinion and not merely to the legislative group or party. The other two need further examination.

Broadening the Representative Base. The representative base found in the majority of legislative assemblies is largely a matter of party alignments, population, and geography. Economic and social factors count only as they are intertwined with the party, population groups, and geographical areas

A broadening of the base of representation would demand that some attention be given to certain social and economic factors. It has been alleged that the central fallacy in the doctrine of representative government is the belief that representation of one person's will by another's is impossible.[33] Party issues, it is alleged, are superficial, empty, and too extensive. In such a system there cannot be a real community of feeling or will. Although people may live in the same community and have the same party affiliation, they naturally have different interests. Under a system of representation based upon party allegiance, population, and territorial constituencies, there can be little unity in matters of policy determination. In most departments of government there are committees and councils which are either composed of experts and representatives of interested organizations or which call upon these experts and representatives frequently. Thus we actually use, informally or unofficially, of course, the representatives of such interests. The questions might be raised as to whether or not their use officially is not justified. Some persons are convinced that no system of government, whether it be a democratic or a Fascist regime, could exist without formal or informal acknowledgment of the existence of these forces in representation.

The Initiative, the Referendum, and the Recall. In the United States little serious attention is given to such elaborate and theoretical attempts to solve the alleged defects of representative government. Rather the democratic background of America has led to the third suggestion made above. When representative assemblies cease to be representative, American democracy has turned in many instances to a form of direct democracy and established in the state and local units plans for the initiative, the referendum, and the recall. The initiative and the referendum are applied to legislation. The recall is applied either to the legislature, the executive, or the judicial branch. Because of many factors, including constitutional restrictions and party tyranny, the people have somewhat lost confidence in legislative bodies. Consequently in numerous instances they have decided to take the law-making function into their own hands. The initiative and the referendum appear to be a means whereby people can determine policy and make laws without the intervention of the legislature.

The initiative is a means whereby the voters themselves enact, or at least take the first step in enacting, measures which the legislature will not consider or has not seen fit to consider. The referendum, on the other hand, is a means whereby the voters may defeat a measure which has been proposed by the legislature. The initiative is positive, while the referendum is negative. The procedure in regard to both differs in the several states, but there

33. H. Finer, *The Theory and Practice of Modern Government*, p. 565.

are certain general practices which are common in all the states. Both have their beginning through the circulation of a petition requiring the signature of a certain number or percentage of the voters. In the case of the initiative, this puts the question directly before the people. In the case of the referendum, it has the effect of taking the proposed measure from the legislature and bringing it directly before the people. By means of the recall, initiated by the circulation of a petition, an official may be removed from office by a vote of the people before his term of office expires. Thus the initiative and the referendum may be used as direct substitutes for the representative process, and the recall becomes a means whereby the people hold their elected officials to constant accountability for their actions.[34]

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34. For a more detailed explanation of these means of direct legislation, see J. S. Young, J. W. Manning and J. I. Arnold, *The Government of the American People* (Boston: Heath, 1940), pp. 106–11; A. L. Lowell, *Public Opinion and Popular Government* (New York: Longmans, Green, 1913); R. C. Brooks, *The Government and Politics of Switzerland* (New York: World Book, 1918); A. J. Lein and M. Fainsod, *The American People and Their Government;* R. C. Brooks, *Political Parties and Electoral Problems,* 3rd ed. (New York: Harper, 1933), chap. 17; E. M. Bacon and M. Wyman, *Direct Elections and Law-Making by Popular Vote;* C. A. Beard and B. E. Shultz, *Documents on the State-Wide Initiative, Referendum, and Recall;* J. D. Barnett, *The Operation of the Initiative, Referendum and Recall in Oregon.*

CHAPTER SIXTEEN

Constitutions and Fundamental Laws

DEFINITIONS OF "CONSTITUTION"

IN THE generic sense of the term, a constitution is the basis of a government. It has, and can have, no other function. The term is derived from the Latin *constituere,* meaning "to establish." As every political society must have a basis, a constitution merely denotes and delineates the area of agreement, from and out of which the formal political organization issued. A constitution is, therefore, not a dynamic, creative instrument—it is only the signification of such dynamism and such creation. Like a contract, a constitution merely signifies the exact provisions of agreement.

From the first, men have persisted in trying to isolate and define the concept "constitution." The following definitions fall intrinsically into four general categories.

1. *Philosophical.* Though by no means the most numerous, the definitions of this classification go to the very core of the concept.[1] "Constitution," wrote Sir George Lewis, "signifies the arrangement and distribution of the sovereign powers in the community, or the form of government."[2] By these words, a constitution merely attests to the animus of the community in its collective character. It depends not one whit upon law or history of ideology, but only upon the action of a group of living people making provision for the creation and exercise of a common power—sovereignty. Others have viewed this phenomenon in similar fashion.[3]

2. *Legal.* Definitions in this category are, for the most part, composed by

1. Viscount Bolingbroke emphasizes the philosophic character of a constitution by defining it as "that assemblage of laws, institutions, and customs . . . according to which *the community hath agreed to be governed.*" Quoted in E. McC. Sait, *Political Institutions: A Preface* (New York: Appleton-Century, 1938), p. 312.

2. *Remarks on the Use and Abuse of Some Political Terms,* rev. ed. (Oxford: Clarendon Press, 1898), p. 20.

3. "The system of fundamental political institutions is the Constitution," says Herman Finer, in his *The Theory and Practice of Modern Government,* 2 vols. (New York: Lincoln MacVeagh, 1932), I, 181.

These "fundamental institutions" may be restricted to a single ruler (despot) or they may be spread over the many mechanisms that now feature the more advanced democratic constitutions. The important fact is that they are the product of the sovereign power.

"The fundamental political institutions are also a system in relation to their social environment. Every constitution is the product of the material and spiritual circumstances of its time. . . . There is always an institutional lag in the State; it takes time . . . for institutions to overtake the necessity for them." *Ibid.,* 182.

lawyers or legal scholars. They speak of the constitution as "the fundamental law of the state,"[4] the "body of those written or unwritten fundamental laws,"[5] or "that fundamental law or body of laws, written or unwritten. . . ."[6] "The idea of a fundamental law," wrote President Theodore D. Woolsey, "is perhaps that one which will form the leading part of a definition of a constitution."[7]

Behind this assumption that a constitution is a law, or a body of laws, moves the traditional doctrine of natural law. Man is by nature a political animal, and his nature made imperative his co-operation with others of his kind in the formation of political society. So, constitution is only a discovered principle of the law of nature. If the Creator had not intended constitutions to appear in the world, he would not have created men who could not refrain from forming them.

3. *Historical.* "Nothing," declared Hannis Taylor,

> . . . is more remarkable in the history of the English Constitution than the persistent continuity of its development, through which all of the change and innovations demanded by the wants of a great and growing nationality have been gradually brought about without any open break with the past.[8]

Sir Henry Maine makes the distinction between historical and *a priori* constitutions, declaring that the former are more permanent.[9] The former is a hardy perennial, inured to the political climate of the State, while the latter, bred by book and by formula, is acclimated only to the artificial environment of a steam-heated conservatory. Emphasizing historical influence, Professor W. B. Munro refers to the British constitution as the product of an accretion that was almost imperceptible in its continuous course.[10] The

4. Judge Thomas M. Cooley, *Constitutional Limitations,* 7th ed. (Boston: Little, Brown, 1890), p. 4.

5. Sir James McIntosh, *Law of Nature and of Nations,* p. 65, quoted in J. W. Garner, *Introduction to Political Science* (New York: American Book Co., 1910), p. 376.

6. James Q. Dealey, *The State and Government* (New York: Appleton, 1921), pp. 128–9.

7. *Political Science,* 2 vols. (New York: Scribner, 1900), I, 285 ff.

8. *The Origin and Growth of the English Constitution* (Boston: Houghton Mifflin, 1904), pt. 2, p. 321.

9. *Popular Government* (London: John Murray, 1918), pp. 174–5. He wrote: "Nor has any historical Constitution had the ludicrous fate of the Constitution of December 1799 [France], which came from the hands of Siéyès a marvel of balanced powers, and became by a single transposition the charter of pure despotism. All this, however, is extremely intelligible, if human nature has always a very limited capacity, as in general it has very slight taste, for adjusting itself to new conditions. . . . A community with a new *a priori* political constitution is at best in the disagreeable position of a British traveller whom a hospitable Chinese entertainer has constrained to eat a dinner with chopsticks." Maine defined an *a priori* constitution as one "founded on speculative assumptions remote from experience" (p. 172). To Condorcet, the making of a constitution was essentially a problem in deductive logic. See William A. Dunning, *Political Theories from Rousseau to Spencer* (New York: Macmillan, 1920), p. 106.

10. *The Governments of Europe,* 3rd ed. (New York: Macmillan, 1938), p. 17. In elaboration, Professor Munro points out that the British system is a strange amalgam of statutes, charters, court decisions, precedents, usages, and conventions.

disparate parts of that constitution, remarked Emile Boutmy, are to be found "just where the wave of history had deposited them."[11]

4. *Ideological.* Composers of definitions within this category view constitutions as the signification of creation, as well as the technique for perpetuating some particular form of government, and especially of democracy. Written constitutions and popular sovereignty arose simultaneously in many parts of the West. It is not strange, therefore, that orthodox democrats should view a constitution as the chosen instrument of the true political religion.

"A constitution," writes Charles Borgeaud, "is a fundamental law according to which the government of the state is organized and agreeable to which the relations of individuals or moral persons to the community are determined."[12] Other writers insist upon the restrictive features of constitutions, especially in regard to individual rights.[13] This desire to achieve protection from governmental tyranny is a common feature of many definitions. Concerning this restrictive feature of some constitutions, Walton Hamilton writes: "Constitutionalism is the name given to the trust which men repose in the power of words engrossed on parchment to keep a government in order."[14]

COMMON CHARACTERISTICS OF CONSTITUTIONS

In the foregoing definitions, which are only a few of the many that exist in the great body of political literature, there appear, either stated or implied, two common features. They are the indispensability and the fundamental

11. *Studies in Constitutional Law,* trans. by E. M. Dicey (London: Macmillan, 1891), p. 6.

12. "The Origin of Written Constitutions," *Political Science Quarterly,* VII, 613.

13. The number of these is legion, following hard upon the example set by Thomas Paine and Francis Lieber in America and Siéyès and Condorcet in France. Upon this point, a leading French constitutional scholar wrote: *"La forme de l'Etat, la forme du gouvernement, la reconnaissance et la garantie des droits individuels, tels sont les objets naturels et nécessaires du droit constitutionnel"* (The form of the state, the form of the government, recognition and guarantee of individual rights, these are the natural and necessary subjects of constitutional law).—Present author's translation from A. Esmein, *Eléments du droit constitutionnel,* 3rd ed. (Paris: Larose, 1903), p. 24.

Francis Lieber wrote: "Constitutions are the assemblage of those publicly acknowledged principles which are deemed fundamental to the government of the people. They refer either to the relation in which the citizen stands to the state at large, and, consequently, to the government, or to the proper delineation of the various spheres of authority. They may be collected, written, and may have been pronounced at a certain date, such as the Constitution of the United States; or the fundamental principles may be scattered, in acknowledged usages and precedents in various charters, privileges, bills of rights, laws, decisions of courts, agreements between contending or otherwise different parties, etc., such as the constitution of Great Britain is."—*Political Ethics,* 2nd ed. (2 vols., Philadelphia: Lippincott, 1875, ed. by T. D. Woolsey), I, 336.

To Condorcet a constitution should be "based solely on the principles of reason and justice, should assure to the citizens the most complete enjoyment of their rights . . . [and] leave intact both the sovereignty of the people, the equality among the citizens and the exercise of natural liberty." *Oeuvres* (12 vols., Paris: F. Didot frères, 1847–9), XII, 335.

14. "Constitutionalism," *Encyclopaedia of the Social Sciences,* II, 255.

character of constitutions. Other factors may be emphasized in this or that definition, but these two are common to all.

Indispensability. Strictly speaking, no government may exist without a constitution, as no building may exist without a foundation. In some instances, constitutions may be difficult to isolate and describe, but that fact is no sound argument against their existence. A constitution may represent the pronouncement of a single person, a despot, in which his subjects acquiesce and, in the rendering of "habitual obedience," as John Austin put it, agree tacitly to a constitution of despotism. Or a cabal of leaders may announce the organization of a government, and if that announcement is accepted by the people, either tacitly or positively, it is the constitution.[15] At the other end of this acceptance criterion, in extremely democratic states, constitutions are approved positively in national elections. The fact and not the form of the acceptance or approval is the important thing.

Fundamental Character. A constitution contains only the fundamental points of agreement relative to the nature of the government and of law to be instituted in the State. Yet no two constitutions are ever the same. Some will include particular limitations upon governmental authority as does that of the United States; others leave the protection of citizens to the conscience of the government. The differences are not those relative to fundamental institutions. All provide for the orderly exercise of the sovereign will, for the organization of a magistracy and a judiciary, and for the basis of the ownership of property.

Some authorities regard a constitution as a limitation upon governmental power. Accurate as this may appear in the light of historical process, it is nevertheless a description of *constitutionalism* (protection of citizen's rights) rather than of *constitutionism* (creation of government). *A constitution is indispensable evidence of a delegation of power.* Constitutional government, as Professor Friedrich accurately observes, is a "technique of establishing and maintaining effective restraints on political and governmental action."[16] It became one of the prevailing political doctrines of the nineteenth century. Constitutionalism is not constitutionism! It is only a part of it. Under the former, the presence of individual rights is a test of genuineness. Under the latter, such rights may or may not exist.

As constitutions have developed in the past two centuries, individual rights have been recognized. But that innovation is no denial of the delegation of power. It merely means that the sovereign has ceased, in degree, to grant unshackled power to government. Yet the grant of only a fraction of the

15. As with the doges of Venice in the early fourteenth century. See S. H. Allen, *The Evolution of Governments and Laws* (Princeton: University Press, 1916), p. 373.

16. *Constitutional Government and Politics* (New York: Harper, 1937), p. 101.

totality of possible power makes it no less a grant than if the whole were delegated. The confusion which exists in the minds of many legalists is that the government, a tangible agency, is viewed as the sovereign which is felt but never seen. When the government is understood to be the mere agent of the sovereign power, the confusion as to the character of the government's authority is easily understood. And though the historical trend has been to achieve "effective regularized restraint," the result derives from the more circumspect definition of power by the sovereign, as is evidenced in the constitution.

RELATION OF CONSTITUTIONS TO STATES, GOVERNMENTS, AND LAWS

In the field of political science, there unfortunately exists a general confusion as to the exact meaning of essential terminology. The foregoing definitions are living proof of that disagreement. For instance, some will maintain that a constitution creates a state. But this is no more possible than for a child to create its father. The State springs from the constitution. A group of unorganized individuals is not a state. Only when those individuals agree upon the future implementation of certain principles for the envisaged collectivity does the state come into being. Before the constitution comes into being you have only people, land, and the potentiality for collective organization; after the constitution goes into operation, you have the citizenry, the territorial jurisdiction of the government, the state, the government, and the potentiality for future amendment of the constitution.

Many have defined constitutions as fundamental law, but a law sets up a standard of behavior, either public or private, for a body politic. As a constitution is the medium through which and by which a body politic is organized, it is idle to contend that a constitution is law,[17] unless one seeks to return to teleological concepts of politics. A constitution is merely the instrumentality from which the authority for law is derived. Therefore, law cannot technically exist until there is a sanction for it, and the sanction can come only after the creation of a sovereign. The constitution signifies the

17. R. M McIver escapes from this dilemma by alluding to the constitution as higher law, "the law which governs the state." See his *The Modern State* (London: Oxford University Press, 1928), p. 250. But such definition merely adds to the confusion of the relation between the constitution and the law. It is reminiscent of the *lex aeterna*, the *lex naturalis*, and the human law of Saint Thomas.

An example of gross misunderstanding of the real nature of sovereignty, government, and law is to be found in Frank Exline, *Politics* (New York: E. P. Dutton, 1922), pp. 14, 15: "The sovereignty of kings and governments has ceased, but the sovereignty of the law survives and is acknowledged by the peoples concerned, after the 'sovereign persons' of 'supreme power' by whose command it was supposed to exist have lost their sovereignty and supremacy, and while the peoples concerned are proceeding with the construction of new governments, in obedience to the natural law which impels them to do so."

creation of the legal sovereign. And law is only the command of the sovereign, proclaimed by the government as the agent of the sovereign.

By this reasoning, politically unorganized men are antecedent to the constitution, the constitution is antecedent to the state and the government, all three are antecedent to law, and the government is antecedent to administration. Thus when a policeman arrests a man on the street for breach of the peace, he acts under the authority devised in that long chain of political engineering.

The French, especially, distinguished between constitutions, organic laws, and ordinary legislation. Employed to create political institutions, organic laws are regarded as more permanent than ordinary legislation and less permanent than constitutional amendments. They fill that intermediary stage, wherein the government and not the sovereign enounces its will. The distinction is scarcely important, in a discussion of constitutions, except that many organic laws are regarded as bonafide parts of the constitution.

A supreme example of this confusion exists in regard to Japan. The oldest state in the world operates under a constitution in which the Emperor enounces the will of the sovereign. In 1889, Emperor Meiji "promulgated a written constitution" for the government of the state, yet that document reserved all right of amendment to the emperor.[18] Despite the contentions of the Japanese scholars,[19] it is difficult to see how the emperor, whose will was law, could create fundamental rules for his own being and, in that sense, re-create himself. Thus, the Japanese Constitution cannot reasonably be interpreted as meaning what the English translation appears to mean: "The Emperor is the head of the Empire, combining in Himself the rights of sovereignty, *and exercise* [sic.] *them according to the provisions of the present constitution.*"[20] What is to prevent the emperor's promulgation of an entirely different "constitution"? Nothing! The mistake is in assuming that the emperor is sovereign. The people that acquiesces in the emperor's rule is the sovereign, and the emperor is the government operating under an unwritten constitution of despotism. The so-called "constitution" of Japan is only an organic law.[21]

18. On the same date, the emperor proclaimed other organic laws relating to succession to the throne, the House of Peers, the law of the two houses of the Diet, the House of Representatives, and finances. See Kenneth Colegrove, "The Japanese Constitution," *American Political Science Review*, XXXI, 1027–49 (December, 1939). The late Howard McBain characterized these so-called constitutions as "octroyed" or "granted" constitutions. See his "Constitutions," *Encyclopaedia of the Social Sciences*, II, 261.

19. *Commentaries on the Constitution of the Empire of Japan* (2nd ed., 1906), quoted in Colegrove, *op. cit.*

20. N. Matsunami, *The Constitution of Japan* (Tokyo: Maruzen, 1930), p. 133.

21. Other examples of organic laws might well include The British North America Act (1867), under which Canada is governed, and the Commonwealth of Australia Act (1900), under which the Australian federalism operates.

CLASSIFICATION OF CONSTITUTIONS

Aristotle's Analysis. Political constitutions have been classified from various viewpoints. Among the oldest classifications is that of Aristotle, which distinguished among polities on the basis of the number of persons participating in the determination of public policy. Thus, there were the governments of the one (monarchy and tyranny), of the few (aristocracy and oligarchy), and of the many (polity and democracy). Because they provided for the creation of these different types of governments, constitutions were said to be monarchical, or aristocratic, or democratic. Any profound alteration in the number of people exercising the political power was regarded as signifying a change in the constitution.[22] Thus Aristotle formulated his cycle of governments, which was also a cycle of constitutions, as we now define the "constitution."

Written and Unwritten Constitution.[23] Up until the close of the eighteenth century, the form of constitutions followed a general pattern. They were all unwritten, dispersed, or historical in character. The Constitution of the United States[24] ushered in a new era, the era of written constitutions. Though by no means revolutionary in context, this document was a distinct innovation in the history of constitutionism.[25] This memorable experiment sought, in a single document, to provide the basis for an entire government and to set definite limits to governmental authority.[26]

22. *Politics of Aristotle,* trans. by B. Jowett (2 vols., Oxford: Clarendon Press, 1885), bks. III and IV.

23. Francis Lieber offered another classification, similar in general to the written-unwritten one. He remarked, ". . . it is evident that the essential distinction of constitutions . . . is not whether they are written or unwritten, which is incidental, but whether they are *enacted* or *cumulative.*" See his *On Civil Liberty and Self Government,* 3rd ed. (Philadelphia: Lippincott, edited by T. D. Woolsey, 1901), pp. 162 ff. He considers constitutions only from the viewpoint of origin. Thus the constitutions of England and Rome differed essentially from that of the United States, in that the former accumulated and the latter was enacted *in toto.*

Professor Lieber's *enacted* constitution is not synonymous with Dicey's *a priori* category, for Dicey referred especially to the applicability of a reasoned constitution in an alien situation, such as the adoption of a model constitution by a people whose precedents were antithetical to the successful operation of it. Thus, many American scholars have deprecated the alacrity with which the Latin American republics imported the Constitution of the United States and attempted to implement it among people with little or no background for democratic procedures, and, especially, with little kidney for minority acquiescence in the decisions of the majority.

24. As distinguished from the American constitution, which is both written and unwritten, the Constitution of the United States is the written document that was formulated at Philadelphia in 1787, adopted, put into operation in 1789, and amended twenty-one times in the subsequent one hundred and fifty years. See Herbert W. Horwill, *The Usages of the American Constitution* (Oxford: Oxford University Press, 1925), pp. 16, 17.

25. This term is used so as not to imply constitutionalism, which infers popular control of governmental policy and a high degree of protection for individuals against the caprice of the government.

26. "The writing down of the fundamental law, beyond peradventure and against misunderstanding, is an important political invention. It offers exact and enduring language as a test for official conduct at the risk of imposing outworn standards upon current activities." See Walton Hamilton, "Constitutionalism," *Encyclopaedia of the Social Sciences,* II, 255.

The revolutionary periods in Europe and America produced hundreds of constitutions modeled upon that of the United States. From 1791 to 1875, France produced no fewer than seven constitutions. The South American republics followed the form, though not the spirit of the United States prototype. Those of Switzerland (1848), Sardinia-Piedmont [Italy] (1848), Germany (1867, 1871, and 1919), Russia ([1918], 1924, 1936),[27] Poland (1921, 1935), and Czechoslovakia (1920) are only a few of the outstanding written constitutions of the past one hundred and fifty years.

Most important of the national states that have consistently clung to the unwritten constitution is Great Britain. There are citizens of that country who like to recount the story of the young American who asked at the desk of the British Museum for a copy of the British constitution. The British constitution does not exist in tangible form. Thomas Paine once remarked that the British had no constitution.[28] But the great works of Dicey, Taylor, Anson, and Ridges are living proof that this is not literally true. The British constitution, writes A. L. Lowell,

> is to be found in the statutes, in customs which are enforced and developed by the courts and form a part of the Common Law, and in customs strictly so called which have no legal validity whatever and cannot be enforced at law. These last are very appropriately called by Professor Dicey the conventions of the constitutions.[29]

The British system is a historically evolved system, with a few documents serving as pegs upon which to hang customs and usages.[30] "At the end of the Revolution of 1688," says Hannis Taylor,

> the written code had reached its completion; at that time the Great Charter, the Petition of Right, the Bill of Rights, and the Act of Settlement, when taken together, defined the prerogatives of the crown, the privileges of parliament, and the rights of the subject with about as much precision as an American constitution now defines the relative rights and duties of the governors and the governed.[31]

Inaccuracy of the Written-Unwritten Distinction. The distinction between written and unwritten constitutions is not by any means an accurate one, for no modern constitution is wholly written nor wholly unwritten. In the

27. See Anna Louise Strong, *The New Soviet Constitution* (New York: Henry Holt, 1937).

28. *The Life and Works of Thomas Paine,* edited by W. M. Van der Weyde (10 vols., New Rochelle: Thomas Paine National Historical Association, 1925), VI, 75 and 76.

29. *The Government of England,* rev. ed. (2 vols., New York: Macmillan, 1919), I, 9.

30. "Our constitution is . . . a somewhat rambling structure, and, like a house which many successive owners have altered just so far as suited their immediate wants or the fashion of the time, it bears the marks of many hands, and is convenient rather than symmetrical." See M. L. Gwyer, *Anson's the Law and Custom of the Constitution,* 5th ed. (3 vols., Oxford: Clarendon Press, 1922), I, 1.

31. *The Origin and Growth of the English Constitution* (Boston: Houghton Mifflin, 1904), pt. II, pp. 437, 438.

far-off past, before the practice of inscribing laws originated, it was certainly possible to have a completely unwritten constitution.[32]

Let us look at the British Constitution. Parts of it, including the Great Charter (1215), the Petition of Right (1628), and the Bill of Rights (1688), are written documents as tangible as the Soviet Constitution of 1936. But those three documents are not, by any means, the British Constitution nor even a major portion of it. The ministry, the cabinet, the prime minister, ministerial responsibility, "confidence" of the House of Commons in the Government, the king-in-council relations, and the rule on dissolution of Parliament are important phases of the Constitution that are found only in the customs of the realm. The British Constitution is, in fact, both unwritten and written.

The French Constitution of 1875 is commonly classified as a written constitution, yet it comprises but three short constitutional "laws," expressed in fewer than fifteen hundred words. Though admittedly brief, the Constitution of the United States, almost a hundred years older, is four times as long. As a result of their genius for brevity, the French have had to rely upon conventions and customs to elaborate their written document. So, in a very real sense, a large part of that French Constitution existed outside of this document.

The Constitution of the United States, the written document, is not the American constitution. The former is but the nucleus of the latter. Several of our most important political institutions such as parties and cabinet, have no constitutional basis. They have become a part of the constitution through custom and precedent.

Since 1796, when General Washington voluntarily stepped aside, the noneligibility of a person to be three times elected President had been regarded as a fundamental principle of the unwritten constitution, but the recent re-election (1940) of President Franklin D. Roosevelt for a third term must be interpreted as having voided that principle.[33]

32. One of the staunchest advocates of obscurantism was the French Catholic reactionist, Joseph Marie de Maistre, who believed that a constitution is of divine origin and any attempt of mere man to construct one is damnable usurpation of God's authority. His contempt for written constitutions is revealed in four propositions which he formulated:

"I. The roots of political constitutions exist before all written laws.

"II. A constitutional law is only and can only be the development or the sanction of a preexisting unwritten law.

"III. That which is most essential, most intrinsically constitutional and really fundamental, is never written, nor can it be.

"IV. The weakness and fragility of a written constitution vary directly as the number of its articles." *Essai sur le principe generateur des constitutions politiques* (1814); quoted in Wm. A. Dunning, *Political Theories from Rousseau to Spencer* (New York: Macmillan, 1920), p. 192, and Borgeaud, *Adoption and Amendment of Constitutions*, trans. C. D. Hazen (New York: Macmillan, 1895), pp. 36, 37.

33. Upon the importance of these unwritten conventions, C. G. Tiedeman writes: "The Federal Constitution contains only a declaration of the fundamental and most general prin-

Flexible and Inflexible Constitutions. The differences between flexible and inflexible constitutions are decidedly relative, for there never was a completely inflexible one nor a completely flexible one.[34] Were there completely inflexible constitutions, only revolution could solve serious political questions in states where they existed; were there completely flexible ones, institutions in states where they existed would scarcely have a continuous fundamental character. The important factor is that a constitution should be sufficiently permanent to withstand the immediate demands of controversial issues, and sufficiently elastic to permit change after the citizenry has come to a reasoned and final decision in favor of the proposed alteration. As a veteran scholar once said, "A constitution should be a road and not a gate!" It should be the instrument under which a people solves its difficulties not too easily, not too early, but solves them nevertheless without the evils attendant upon civil strife.

Great Britain's is a flexible constitution, though constitutions of states like republican France and Germany, which permitted amendment of written constitutions by formal legislative action, ought also to be so classified. The necessity for popular approval, with unusual majorities, makes for relative inflexibility.

THE EXTENSION OF CONSTITUTIONALISM

The attempt to provide "regularized restraint" upon officers is the essence of constitutional government. All written and some unwritten constitutions seek to achieve this orderly limitation upon governmental power and officer discretion.[35] As it emerged in the seventeenth and eighteenth centuries, democracy emphasized this constitutional desideratum. The integrity of the individual citizen was enhanced to the degree that he was protected from governmental caprice.

In general, constitutional restraint has come from three distinct doctrines:

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ciples of constitutional law, while the real living constitutional law—that which the people are made to feel around and about them, controlling the exercise of power by government and protecting the minority from the tyranny of the majority—the flesh and blood of the Constitution, instead of its skeleton, is here, as elsewhere, unwritten; not to be found in the instrument promulgated by a constitutional convention, but in the decisions of the courts and acts of the legislature, which are published and enacted in the enforcement of the written constitution." Quoted in Horwill, *op. cit.*, p. 23.

34. James Bryce defined a flexible constitution as one "capable at any moment of being bent or turned, expanded or contracted." See his *American Commonwealth*, 3rd ed. (2 vols., New York: Macmillan, 1893), I, 360. A rigid constitution, wrote Bryce, is "one which cannot be bent or twisted by the action of the legislature, but stands stiff and solid, opposing a stubborn resistance to the attacks of any majority who may desire to transgress or evade its provisions."

35. For general treatments on constitutional government, see Carl J. Friedrich, *Constitutional Government and Politics* (New York: Harper, 1937), pp. xvi, 591; Woodrow Wilson, *Constitutional Government in the United States* (New York: Columbia University Press, 1911), pp. vii, 236; J. Allen Smith, *The Growth and Decadence of Constitutional Government* (New York: Holt, 1930), pp. xvii, 300.

(1) division and dispersion of governmental power both geographically and functionally, as in the United States;[36] (2) limitation of unitary government by strict constitutional provisions, as in republican France;[37] and (3) reliance upon ministerial responsibility to a popularly-elected parliamentary body, as in Great Britain.[38] Some constitutional systems may employ two of these techniques, as Switzerland does and France did.

The extension of mechanics for constitutional government has been achieved by emulation and by force. The essentially verbatim importation of the United States Constitution by the Latin-American republics in the early part of the nineteenth century was voluntary upon their part.[39] However well-intentioned, the importation failed to secure citizen protection in those states in the same degree that the Constitution does in the United States. Transplanted constitutions may not thrive in the strange political soil of the importing states. For instance, despite the United States Constitution's strict curbs upon presidential powers, the Latin-American presidents soon became despotic in their administrations. In many cases, constitutions which declared presidents ineligible for re-election were amended by presidential decree to remove the disqualification. Other equally arbitrary violations reduced the constitutions to the status of property of the parties in power. If the public support of the constitution is inferior to that of a political party or of an ambitious leader, the constitution will not serve to protect citizens from the caprice of that party or that leader.

The finest example of the geographic extension of constitutional government by armed force lies in the conquest of Europe by Napoleon from 1799 to 1804. From republics, the French conqueror converted most of these satellite states into subservient monarchies, but each existed under the authority of a written constitution.[40] "The story of Bonapartist constitutionalism," says an erudite English scholar,

> was very much the same everywhere. Republics one and indivisible on the model of 1795 were succeeded by republics dependent and variable on the model of 1799, and these in turn gave place to monarchies consanguineous and subservient on the model of 1802–4.[41]

36. See Chapter 7.
37. See Chapter 9.
38. See Chapter 14.
39. For Latin American constitutions, see José Ignacio Rodriquez, *American Constitutions* (2 vols., Washington: Government Printing Office, 1906) and B. Mirkine-Guetzevitch, *Les constitution des nations Americaines* (Paris: Delagrave, 1932). Some of these constitutions are to be found in Walter F. Dodd, *Modern Constitutions* (2 vols., Chicago: Chicago University Press, 1908).
40. For a succinct discussion of the Napoleonic crusade for constitutional government, see John A. Hawgood, *Modern Constitutions since 1787* (New York: Van Nostrand, 1939), chap. VI.
41. *Ibid.*, p. 81.

The doctrine of ministerial responsibility—developed by Great Britain in the eighteenth century—became the cardinal feature of many European constitutions after the fall of Napoleon in 1815. France, Belgium, Italy, Germany, and, later, the Balkan states adopted constitutions that, in degree, placed the executive under the nominal control of the parliamentary authority. Yet, as with the Latin-American importation of the United States dispersed-power model, some of these new converts to ministerial responsibility, without the long experience of the Anglo-Saxon people in popular traditions, found it impossible to force resignation of governments which had failed to receive the "confidence" of parliament.

Following the first World War, the succession[42] and re-created states[43] adopted constitutions that featured both the strong unitarism of the Napoleonic constitutionalism and the principle of ministerial responsibility of the British model. But in governmental functioning, many of these states, because of the increasingly intolerant demands of emergent nationalism, were unable to extend protection to individual citizens or organized minorities or to implement the principle of ministerial responsibility.

ESSENTIAL FEATURES OF WRITTEN CONSTITUTIONS

Though no two written constitutions are ever identical, there are certain provisions that are common to most of them.

Bill of Rights. Since the rise of constitutionalism, the protection of individuals against possible governmental tyranny—by such guarantees as freedom of speech, press, assembly, and religious belief, and prohibition against deprivation of "life, liberty, or property without due process of law"—has found its place in most written constitutions. The "Fathers" of the Constitution of the United States neglected to include such guarantees. There is evidence that the framers believed that these rights would be secured, without specific guarantees, by the constitutional system provided. However, popular clamor, no doubt accelerated by the momentous struggle for liberty then raging in France, fruited in the addition of the first ten amendments in 1791. The first eight of these amendments comprise the national bill of rights.

The bill of rights of the American state constitutions were practically completed by the end of the Jacksonian era. And though they are still undergoing general revision in constitutional conventions, the constitutions of some states retain this section unchanged, after the lapse of more than a hundred years. However, the constitutions that were framed during the era of Populist revolt placed greater emphasis upon this essential feature.

42. Austria, Hungary, Jugo-Slavia, Czechoslovakia, Poland, Lithuania, Latvia, Esthonia, and Finland.

43. Rumania, Bulgaria, Turkey, Greece, and Germany.

The most elaborate enumeration of rights—covered in fifty-seven articles —was inscribed by liberty-hungry Germans in the Weimar Constitution of 1919. The necessity for using over thirty-five hundred words to say what is said in one-tenth that number in many other written constitutions derived primarily from the absence in Germany of historical court precedents on protection of individuals against governmental caprice.

The latest experiment in alteration of the usual pattern appears in the new Russian constitution. Sixteen articles present the rights that are deemed essential to a socialist society, the most noteworthy of which are "the right to work," "the right to rest," "the right to material security in old age and also in case of sickness or loss of capacity to work," and "the right to education." Though public policy in some capitalist states may well have inferred that these rights exist, they had not, with the exception of that relating to education, found their way into written constitutions.

Framework of Government. The primary purpose of a constitution is to delegate sovereign authority for the creation of a government. The form of that government will be determined by the provisions relating to the legislative, the executive, and the judicial functions. Each of these three departments is usually treated in a separate article. The powers of each are outlined in specific provisions, together with the terms, tenure, manner of selection, and qualifications of officers. In the earlier written constitutions more attention was given to the framework of government than to any other subject.

Administrative Organization. Since the middle of the nineteenth century, when governmental intervention became an accepted doctrine of democratic government, constitutions have steadily increased in length. Authority was granted for the creation of many administrative agencies, such as public service corporations, boards of education, workmen's compensation commissions, and departments of labor and industry. No doubt, these could generally have been achieved through the enactment of organic laws, but the popular distrust of legislatures and existing constitutional impediments demanded their inclusion in constitutions. Such policy led to confusion regarding the distinction between constitutions and laws or statutes. As a result, many American State constitutions, for instance, present materials that are to be found only in the statute books of other states. As a good example of this cluttering the constitution with statuory matter, the Louisiana constitution sets forth, in detail, the procedure that shall be followed by the administrative agency regulating public service corporations.

Amendment. Though usually very briefly, in comparison to the other features, most constitutions make provision for their future amendment or

revision. They furnish a method for reasonable and peaceable change. As this subject is discussed below in connection with the development of constitutions, no more need be said here.

DEVELOPMENT OF CONSTITUTIONS

Informal Growth. Constitutions must grow, according to Lord Brougham,

> if they are of any value; they have roots, they ripen, they endure. . . . Those that are fashioned [*a priori*] resemble painted sticks, planted in the ground, as I have seen in other countries what are called trees of liberty. They strike no root, bear no fruit, swiftly decay, and ere long perish.[44]

This observation may indeed be true, but it offers no formula for the growth of constitutions. The political convictions of a people are the roots of constitutional development. Therefore, those states with unwritten constitutions will extend them without being aware of it, for constitutions are fundamental rules upon which there is preponderant agreement. The rights of Englishmen were already in existence before King John was pulled up short at Runnymede.[45] James Otis and other patriots emphasized their pre-existing and inalienable rights as Englishmen in opposing what they regarded as Parliament's unconstitutional use of authority.[46] Thus, these accretions to unwritten constitutions are generally unnoticed until some attempt is made to deny them, after which history leaves a written document as evidence. But it is the evidence of an already existing constitution and not of a new one.

On the other hand, as we have pointed out, states which live under written constitutions are not free from this development of fundamental institutions through usage and custom. In the United States, the political party system became an accepted part of our constitution through the necessity for canalizing political opinions in an effective manner. One can only speculate as to the collective behavior if the government should seek to abolish parties on the grounds that they are not authorized in the written constitution. King John, Charles I, and George III would indeed be regarded as tyrants of pygmy stature in comparison to the leader who would

44. *Works* (11 vols., London: Griffin, 1855–1861), XI, xxi; J. W. Garner, *Introduction to Political Science* (New York: American Book Co., 1910), p. 402.

45. Strictly speaking, the Magna Charta is not a primary part of the British constitution. It is only the tangible evidence of the refusal of Englishmen to permit continued violation of their constitution in 1215. The same may be said of the Bill of Rights and other documents of that constitution. "The Bill of Rights (1688), after reciting the various ways in which James II had infringed upon the liberties of the subject," declared against such infringements in the future. See E. W. Ridges, *Constitutional Law in England* (London: Stevens & Sons, 1905), p. 8.

46. James Otis asserted that "our ancestors, as British subjects, and we their descendants, as British subjects, were entitled to all these rights by the British constitution. . . ." [Speech on Writs of Assistance]

seek to perpetrate such "unconstitutional" extirpation of a primary part of the American constitution.[47]

Legislative Elaboration. Much has been written of the extension of the constitution by legislative authority. Yet, strictly speaking legislatures do not actually extend the constitution, except as they may usurp power which is not delegated to them. In that case, they are performing the function of constituent assemblies, which function is permitted in many of the world's states. In the United States, judicial review is utilized to prevent this legislative usurpation of power. The enactment of proper statutes under the constitution should not be viewed as developing the constitution. Statutes which in effect extend the constitution would never, unless they should arise in an antagonistic case, come to a court for its decision. The extension would be achieved by popular consent. Also, the failure of the legislature to regulate human behavior in a field in which the constitution gives it authority is not a reasonable argument against its future authority to do so.

Judicial Interpretation. Strictly speaking, even in the United States, the judiciary is not an instrument for extending the constitution, even though it may truly be said to develop the constitutional law of the National State. The courts simply apply the law to the constitution. They may consent to strictly new regulations, but such act does not extend the constitution. At best, it is only the more elaborate definition of constitutional power. Many scholars have assumed that, by judicial approval, the constitutional power of Congress to regulate interstate commerce has been enlarged. It is true that new objects of such commerce have been regulated by act of Congress or by rule of the Interstate Commerce Commission, yet the grant of power of 1789, as set forth in the written constitution, has not been altered in the slightest since that date.

The number of concrete subjects coming under congressional regulation is no evidence of constitutional extension. For instance, the interstate transportation of persons and goods by railroads and other common carriers is, under the Constitution, clearly within the regulatory authority of Congress, and if there had been railroads in 1790, that power could have been exercised. Telegraph, telephone, and radio messages come within this interstate definition. The courts created neither the Constitution nor the radio; they merely declared that the sending of radio-electric waves, with their potentiality for crossing state boundaries, brought radio transmission within the constitutional authority of Congress. The power to regulate has no relation

47. Charles Beard observes that "the most complete revolution in our political system has not been brought about by amendments or by statutes but by the customs of political parties in operating the machinery of government." *American Government and Politics,* 2nd ed. (New York: Macmillan, 1914), p. 72.

to the degree to which it is exercised. The latter depends upon the conscience of the regulatory body. If the authority be clearly granted, the regulatory body has full discretion as to how far it may exercise it for the public welfare. Discretion in the exercise of power should not be confused with authority for the exercise of power.

Formal Amendment. Most written constitutions contain specific provisions relative to amendment procedure. Alteration or even replacement of constitutions is thereby possible without the perils and irritation of recurrent political crisis.[48] Seven American state constitutions of the Revolutionary period, experiments at best, contained no such provisions.[49] Any change in the written text of these constitutions was accomplished by revolution, peaceful though it may have been. The constitution makers of that era were imbued with the universal premises of the natural rights philosophy and they doubtless believed it possible to construct a constitution that would continue through the ages without the necessity for change. Their first concern was to protect the citizen from governmental tyranny. Thereafter, these stalwart "free" citizens, through the condition of equal status, would lift themselves and the state by the fulcrum of personal energy and resourcefulness. A constitution was, therefore, only a ladder by which the face of the cliff might be negotiated.

Two methods of formal amendment are practiced among the states of the world. One is by definitive action of the legislative assembly; the other is by popular approval of the voting citizenry.

AMENDMENT BY LEGISLATIVE ACTION. Amendment of constitutions is, of course, the product of the exercise of constituent power or sovereignty. Constituent power should always be distinguished from legislative (law-making) power, in that the former creates the latter. We must not lapse into the confusion of implying that the creature may uncreate the creator. In pre-Hitler France, for instance, this distinction between constituent and legislative powers lay in the place and the form of assembly. To amend the constitution, the members of the senate and of the chamber of deputies met in

48. Condorcet viewed provision for amendment as equal in importance to the grant of constitutional power. The demand for change waged a continuous struggle against stability. "The right to change the system of government, he declared, was the most important guarantee of progress, otherwise mankind would be 'condemned to eternal infancy' . . . future generations would become the victims of the errors of their predecessors or of changing conditions. Therefore, methods of amending a constitution were as important as the systems of government which were already established." See J. S. Shapiro, *Condorcet and the Rise of Liberalism in France* (New York: Harcourt, Brace, 1934), pp. 126, 127.

49. New York (1777), Virginia (1776), North Carolina, South Carolina (1776), Pennsylvania (1790), New Jersey (1776), New Hampshire (1776). See J. Q. Dealey, *Growth of American State Constitutions* (Boston: Ginn & Co., 1915), ch. 3.

joint session in the famous hall of Versailles. Sitting there, and as a single body, the French legislators were clothed with constituent power.[50] They had no such power while sitting in Paris. Several European states, as well as four early American states, have followed this practice without requiring removal to a special meeting place.[51]

The German constitution of 1919 provided that the National Assembly could by a two-thirds vote amend the constitution, but the National Council (upper chamber) might force submission of the proposal to a national referendum.[52] Thus, there was in Germany an admixture of the legislative and popular-election methods. However, this Weimar Constitution was promulgated by the convention which drafted it, which means that its authority was constituent. When Adolf Hitler came to power, he purged the Reichstag of many members objectionable to him and his Nazi program. Thereafter, he proceeded to secure from the remaining members authority to rule by decree. As we write, the status of the German constitution is very much in doubt. Purged of many constitutionally elected members, the Reichstag which voted the *plenitudo potestatis* can scarcely be regarded as the constitutional German Reichstag. Being without authority, it could not delegate authority to Hitler. Therefore, we must assume that, through the acquiescence of the German people in the rule of the Hitler regime, the Weimar Constitution was overthrown and a new unwritten one substituted for it.

Other constitutions, such as Norway formerly had,[53] require that no amendment shall be added except after being approved by two successive sessions of the diet or legislative houses. Some American state constitutions impose the restriction that constitutional conventions may not be called except under the above condition. In Belgium, the former national legislature, after three times approving a proposal to amend, with intervals of fifteen days each between the second and first, and the third and second approvals, was legally dissolved and new elections were proclaimed. The new legislature could thereafter effect the proposed amendment. The intent behind these restrictions is, of course, to prevent too hasty decision.

50. When a proposal to amend the constitution was presented, each chamber had to approve a joint session to decide the question. Thus, either house might prevent amendment by refusing to vote for a joint session.

51. Four early American state constitutions—Georgia (1777), Maryland (1776), Delaware (1776), and South Carolina (1778)—vested the amendment power in the legislature. The Maryland constitution endured for seventy-five years without revision. See J. Q. Dealey, *op. cit.*, p. 33.

52. René Brunet, *The New German Constitution* (New York: Knopf, 1923), p. 314.

53. Borgeaud, *Adoption and Amendment of Constitutions*, trans. by C. D. Hazen (New York: Macmillan, 1895), pp. 100–2.

AMENDMENT BY POPULAR AND SEMI-POPULAR RATIFICATION. The procedure for proposing constitutional alterations is not overly important. The Japanese permit only the emperor to offer amendments to their so-called constitution. From this quintessence of exclusiveness, the methodology extends, in the most advanced democratic states, to the opposite extreme—to private citizens! In Japan, this privilege is the monopoly of the government; in Oregon the lowliest citizen may exercise it. The popular initiative method functions through the securing of voter signatures upon petitions. This technique is employed in Switzerland[54] and in thirteen states of the American federalism.[55]

AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES. Popular ratification may not be employed in the amendment of the Constitution of the United States. State legislatures, sitting as constituent assemblies, or constituent delegate conventions may ratify amendments, but there is no legal manner in which proposed amendments may be submitted directly to the voters of the several States. Article V provides two methods of proposing amendments—in Congress and in a national constitutional convention brought into being through Congress, upon the call of two-thirds of the states. The Constitution itself was proposed in a convention, but none of the twenty-one amendments (1789–1940) has derived from such source.[56] All have originated in Congress.

Two methods for ratifying proposed changes are also provided in the same article—by approval in the legislatures of three-fourths of the States and by approval in three-fourths of the States by ratification conventions called for that purpose. The first twenty amendments were ratified by state legislatures, sitting as constituent bodies. The twenty-first amendment was ratified by thirty-six conventions. No other methods of ratification may be used.[57]

AMENDMENT OF AMERICAN STATE CONSTITUTIONS. Three general methods for proposing amendments are practiced among the American states, though only a few use all three. Amendments may be proposed (1) by the legisla-

54. *Ibid.*, chap. 4; Raymond Leslie Buell and others, *Democratic Governments in Europe* (New York: Nelson, 1935), pp. 581–3; R. C. Brooks, *Government and Politics of Switzerland* (New York: World Book Co., 1918), chap. 14.

55. The requisite percentage of voter signatures varies from 8% to 15%. See Brooke Graves, *American State Government* (Boston: Heath, 1936), p. 66, and Austin F. Macdonald, *American State Government and Administration*, rev. ed. (New York: Crowell, 1940), pp. 76, 77.

56. The amendments proposed from 1789 to 1889 are to be found in H. V. Ames, "The Proposed Amendments to the Constitution of the United States During the First Century of its History," *Annual Report of the American Historical Association* (Washington, 1896), II. From 1789 to 1929, some 1,370 proposals to amend were formally presented to one or the other house of Congress. See M. A. Musmanno, "Proposed Amendments to the Constitution," 70th Congress, 2nd Session, House Doc. No. 551 (1929).

57. *Dillon* v. *Gloss*, 256 U. S. 368.

ture, (2) by a constitutional convention created for that specific purpose, and (3) by popular initiative. The first and third methods are used for partial revision, for the addition of fugitive amendments.[58] The constitutional-convention technique is employed for original creation or for wholesale and general revision.[59]

Each of the state constitutions, except that of Delaware,[60] requires that amendments must be adopted in popular referendum elections. Legislative proposals may be submitted in special or general elections,[61] depending upon the will of the governor. The recommendations of constitutional conventions are submitted in special elections.[62] Initiative proposals are submitted either in special or general elections. Some state constitutions require that such proposals shall not be legally ratified unless they receive, individually, an absolute majority of all votes in the election, which means that if a citizen fails to vote on a proposed amendment in reality he votes against it. This is called the *silent vote*. The requirement is intended to prevent the amendment of the constitution by an insignificant fraction of the state's citizenry.[63]

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58. The partial revision rule may be abused through the initiative, as the proposals are automatically submitted to the voters after they have been checked for sufficiency of signatures and accuracy of title. Thus, if the citizens so willed it, the initiative might be employed to effect a wholesale revision.

59. All states have used constitutional conventions at one time or another. A territory seeking admission into the federalism as a state must, under the congressional enabling act passed with a view to permitting such entrance, elect the members of a convention to draft a proposed constitution.

60. Approval by two successive legislatures is sufficient for amendment of the Delaware constitution.

61. In general elections, candidates for party nominations or political office are elected. Special elections are called for a specific purpose, e.g., to fill a vacancy or to submit a constitutional amendment or an ordinary law.

62. The convention may decide how the proposed constitution shall be submitted—as a whole, as individual articles, or as a combination of these two, placing the controversial provisions on the ballot as separate proposals for adoption or rejection without endangering the adoption of the remainder of the proposed constitution.

63. In Oklahoma, for instance, since 1907 one measure in four has been defeated by the silent vote. See Ewing and others, *An Introduction to the Government of Oklahoma* (Norman: School of Citizenship and Public Affairs, 1939), p. 28.

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CHAPTER SEVENTEEN

The Interpretation of the Law

WHAT IS LAW?

POLITICAL society rests upon the assumptions that the welfare of members of the community is identical and that the common welfare is best served by the conformance of all people to a pattern which molds human conduct. "Law" is a name applied to uniform principles which are acknowledged to be the rules of human conduct. "Law" measures the behavior of persons, in all of its social aspects, by one standard which is fixed and known. There are several kinds of laws. There are moral laws, which have to do with the individual's motives and impulses, and social laws, which find expression in common habits, usage, custom, and tradition. Both of these types of law find their sanction in or derive their authority for enforcement from public opinion. Political laws, on the other hand, are framed by the state and are enforced by agents of the state. Penalties for violations of political law likewise are imposed by the state.

One group of political philosophers denies that this type of law is always deliberately and entirely "framed by the state," maintaining that custom and tradition are also responsible for political laws. Still others insist that political law is at least partially derived from "natural law"—a reservoir of fundamental principles of justice binding between man and man, such as the right of every man to the fruits of his own labor, of which no other person can rightfully deprive him. It is certain that custom and tradition were the earliest source of law and that the pressure of public opinion and "natural law" continue to be important factors in determining what shall be "law"; but the conclusion of Professor R. G. Gettell that they "do not become law, in the political sense, until they are sanctioned by the state" commends itself to those of us who desire to understand and appreciate the realities in practical politics. His theory can be clearly illustrated by the social custom or habit of veering to the right when one meets another person on the street. Disregard of this custom may cause inconvenience or result in accident, and ordinarily no damages could be collected in court by the person who turned to the left and thus violated the social custom; it would probably be ruled that he had failed to exercise intelligent and reasonable care in walking. However, when the social habit acquires sufficient im-

portance to demand legislative endorsement, a "law" emerges which, for instance, may *require* persons driving vehicles to turn to the right when they meet vehicles moving in the opposite direction, and impose penalties for infractions. Law is made and administered by man, not by Nature or Heaven. It is "the command of an authorized public organ acting within the sphere of its legal competence and in the method legally prescribed."[1]

KINDS OF LAW

In every state there exists some sort of constitution, whether it be written or unwritten, or a combination of these two. To the extent that the constitution is written, definite and tangible provision is made for the machinery of government, and the powers of government are described and possibly also limited in a "bill of rights" which enumerates the "natural and inalienable rights" of citizens and residents of the country.

Constitutional Law. However, "constitutional law" comprises a large body of unwritten law. Precedents, governmental habits and customs, and procedures which conform to, or actually give substance to, the "spirit of the constitution" weigh heavily in any appraisal of its meaning. In the words of John Marshall, Chief Justice of the Supreme Court of the United States in 1819:

> A constitution, to contain an accurate detail of all the subdivisions of which its great powers will admit, and of all the means by which they may be carried into execution, would partake of the prolixity of a legal code, and could scarcely be embraced by the human mind,[2]

which is merely to say that powers which government should have in order to function properly may be implied and added to those powers which are expressly conferred upon it. Government in either its expressed or implied function also possesses power which is implicit in the mere fact of its existence, and which it may exercise without demonstrating its justification.

In the United States, where the federal system of government operates with enumerated powers granted by the Constitution to the National Government, the interpretation of inherent powers of government is questioned because of the efforts of the Federal Government to control business activities allegedly beyond its range of enumerated, expressed, or implied powers. A recent ruling of the Supreme Court differentiated thus between the Federal Government's powers in domestic and foreign affairs:

> The broad statement that the Federal government can exercise no powers except those specifically enumerated in the Constitution and such implied powers as are necessary and proper to carry into effect the enumerated powers is cate-

1. Gettell, *Political Science* (Boston: Ginn, 1933), pp. 160–2.
2. *McCulloch* v. *Maryland*, 4 Wheaton 316, 1819.

gorically true only in respect of our internal affairs. . . . The investment of . . . powers of external sovereignty did not depend upon the affirmative grants of the Constitution.[3]

In unitary governments this distinction would not arise and inherent powers would not be challenged on this issue of "constitutional law" which is "the law that governs the state."[4]

Statute Law. Other kinds of law by means of which the state governs its people are statute law, common law, rules of equity, and administrative law. "Statute law" is definitively formulated and promulgated by acknowledged agencies of the state. Usually we think of it as emanating from legislatures constituted for that primary purpose. In countries which follow the democratic form of government the executive department plays a subordinate part in the legislative process; in more absolute governments, whether labeled Fascist, Nazi, Soviet, or totalitarian, the lead is taken by the executive and the legislature is relegated to the role of supine acquiescence. The issuance of decrees, edicts, and fiats without even nominal legislative concurrence is in the province of statute law and is to be distinguished from administrative law.

Common Law. "Common law," as we in the United States know it, originated in medieval England when the royal judges on circuit tried to ascertain prevailing custom in a locality in order to decide cases in accordance with that custom. And so originated jury trials in which persons presumably familiar with the facts of the case and acquainted with the reliability of witnesses were called into service. In effect the habits of the community came to have official sanction which slowly crystallized into a form of "law." Whenever a case arose involving circumstances similar to those of an earlier one, the judges were inclined to follow the precedent established by the previous case, unless that decision was believed to be incorrect or conditions had so changed as to render it no longer reasonably applicable. Thus, there was considerable flexibility in the matter of law until ultimately even the common law fell into certain moulds and became inflexible and at times unfair or socially undesirable.

Judges then resorted to "equity," which afforded relief when none could be had at law. Injunction proceedings come within this classification, and are resorted to to prevent actions which might be injurious to persons or property instead of awaiting the uncertain and frequently tardy outcome of suits at law. Now we find that equity, like common law, has become somewhat congealed, with consequent occasional distortion of justice.

3. *United States* v. *Curtiss-Wright Export Corporation,* 299 U. S. 304, 1936.
4. R. M. MacIver, *The Modern State* (Oxford University Press, 1928), p. 250.

Administrative Law. "Administrative law" consists of rules and regulations drafted and promulgated by executive and administrative agencies of government under the authorization of constitutional and statute law. The complexities of modern governmental functions and services make it increasingly difficult for legislative bodies to insert into statutes detailed provisions which must be made adaptable to changing circumstances or conditions. The Federal Emergency Banking Relief Act of March 9, 1933, designed "To Provide Relief in the Existing National Emergency in Banking and for other Purposes," empowered the President to regulate transactions in credit, currency, gold and silver, and foreign exchange. Thereunder Executive Order No. 6558 was issued January 15, 1934, to

> . . . prescribe . . . regulations for receiving gold on consignment for sale . . . [to] the United States mints and assay offices. . . . The Secretary of the Treasury is hereby authorized and empowered to issue such regulations as he may deem necessary to carry out the purposes of this Executive order.[5]

THE RULE OF LAW

Not only must the supremacy of law be acknowledged *in* government but observance of law *by* government is essential for the preservation of the rights of persons in their contact with government. Public officers who are charged with the enforcement of law must be required to obey the law which they so zealously enforce upon others. It is somewhat disconcerting and disillusioning to attempt to square the Declaration of the Rights of Man and Citizen of August 26, 1789 with the excesses committed in the name of *Liberté, égalité, fraternité,* or Adolf Hitler's professions of deep concern for the rights of minorities—specifically German minorities in Poland and Czechoslovakia—with the treatment accorded Polish and Czech minorities in Greater Germany. Also, it must be clearly realized that the adoption of a written constitution is, in itself, insufficient to maintain a rule of law. The history of Venezuela, and of several other Latin-American states, discloses that

> . . . force had come to be recognized as the only means by which power was secured and held, and revolution was not only the sole remedy for bad government, but the one means by which a change of officials could be effected.[6]

When the United States Government confiscated the Arlington estate of General Robert E. Lee for default of taxes, officers of the Government so discriminated against the Lee heirs as to prevent their bidding against the

5. R. K. Gooch, *Manual of Government in the United States* (New York: Van Nostrand Co., 1939), pp. 487–8.

6. D. G. Munro, *The Five Republics of Central America* (New York: Oxford University Press, 1918), p. 187.

Government in the sale of the property. After the Government had thus acquired "legal" possession of the property, a portion of it was transformed into the Arlington National Cemetery, but financial compensation was awarded to the heirs with Supreme Court condemnation of the public officials who had connived at the transaction: "No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government . . . are the creatures of the law, and are bound to obey it."[7]

Hobbes' Theory. One caustic school of political theory adheres to Hobbes' philosophy that the sovereign will of a state is nothing more, nor less, than the will of some real person or persons who happen to be in positions of authority. That person or group, therefore, is invested with supreme power and actually is unrestrained by any human law. It is controlled only by its own reason. Justice becomes identical with the interests of that part of the whole people which constitutes the governing body of the state, and the members of which have somewhat the same status as preferred stockholders in a corporation. In a capitalistic state, a rule of law would reflect the interests of the wealthy. There are people who would place the United States under Republican Party administrations in this category. A militaristic state such as Japan identifies the rule of law with the demands of a powerful army and navy. The rule of law, in other words, means the reign of persons who are able to say what the law is or shall be, and who secure for themselves immunity from its severity.

If this realistic concept of law and justice is accurate, we are being hoodwinked in our naive belief that law is a body of commands expressing the will of the whole people and applying equally to all. The more ardent advocates of popular government will decline to be depressed by the substantial foundation which does exist for pessimism. They will, on the other hand, find comfort in the belief that it is neither inevitable nor necessary for all government to descend to the level of serving the self-interest of unsocial groups. They have confidence in the ultimate ability of the people of a state to achieve and maintain a government which is free from domination of privilege. Any of us who has observed the flouting of "No Parking" admonitions by intrenched-in-privilege owners of automobiles left beside the very post on which the sign is displayed must be aware of the challenge therein presented. We may well wonder if what is law to some should not be law to others.

Executive Selection of Laws for Enforcement. Another element in the rule of law is executive or administrative discretion in the selection of those laws

7. *United States* v. *Lee,* 106 U. S. 196, 1882.

which are enforced. At any given time in the practice of government a considerable number of laws are allowed to lie dormant, usually because of the social philosophy of the executive, lack of adequate funds or staff, multiplicity of legislation, unenforceable sumptuary prohibitions, or unwillingness on the part of those in office to incur the political disfavor which might accompany strict enforcement. During the administration of Governor Earle in Pennsylvania (1934–38) the State Police were not only prevented from enforcing laws protecting private anthracite coal property from "bootleg" mining operations by which unemployed miners openly took thousands of tons of coal from deposits which they did not own, but they were discouraged from zealous preservation of public order by the transfer of commanding officers who performed their duty in that respect on the occasion of the Berkshire Knitting Mill strike at Reading. In Michigan Governor Murphy, with the encouragement of the President of the United States, refused to take action against labor tactics which seriously injured the automobile industry in Flint. Governors of other States chose to curry favor with politically powerful labor groups which openly violated laws designed to protect property, notably by "sitdown strikes." The Apex Hosiery Company brought suit for Sherman Act triple damages against Branch 1 of the American Federation of Hosiery Workers for injury to its plant in Philadelphia. Federal Judge Kirkpatrick's charge to the jury was: "There is no dispute that the sitdown was illegal and criminal, in violation of the laws of Pennsylvania, and no one could ever say a sitdown strike was legal." April 3, 1939, $237,310.85 damages was awarded, which automatically tripled to $711,932.55 under the law. This award was set aside by the Third United States Circuit Court, November 30, 1939, on the ground that the Sherman and Clayton Anti-Trust Acts had been wrongly applied against the union, but Judge Biggs declared that the testimony disclosed

> . . . the existence of the sitdown strike in its most aggravated and illegal form. . . . Judicial condemnation of such tactics cannot be too severe. . . . We entertain no doubt that the . . . [union] should be compelled in the appropriate forum to answer in damages. . . . The . . . [company] must seek relief in the courts of Pennsylvania.

The law does not lose its character through failure of enforcement, however. And a law remains a law whether we deem it just or not. The vigor and enthusiasm with which laws are executed, therefore, depend upon the Executive's sympathy with them, his interpretation of them, and his judgment as to the political wisdom of literally taking care "that the laws be faithfully executed." Furthermore, juries may refuse to convict, if the enforcement runs strongly counter to local sentiment. In some instances rigor-

ous application of unpopular legislation is resorted to in order to marshal sufficient public opinion to demand repeal. When the Executive decides to revive or speed-up lagging compliance with law he may issue verbal or written orders to that effect, as did President Wilson on July 21, 1914 in his letter to Attorney-General McReynolds (subsequently Associate Justice of the United States Supreme Court):

> I . . . request and direct that a proceeding in equity be filed, seeking the dissolution of unlawful monopoly of transportation facilities in New England now sought to be maintained by the New York, New Haven & Hartford Railroad Co., and that the criminal aspects of the case be laid before a grand jury.[8]

In extreme cases force may be requisitioned, as when President Cleveland in 1894 despatched Federal troops to Chicago "upon the demand of the post office department that obstruction of the mails should be removed, and upon the representations of the judicial officers of the United States that the process of the Federal courts could not be executed through the ordinary means."[9]

It is essential that complete liberty of action be restrained if we wish to construct an orderly political society, but it is equally important that basic human rights be protected from suppression or extinction. Professor Holcombe has written succinctly: "Perfect justice is an ideal, and how nearly just the law may be in particular cases will always remain a matter of opinion."[10] Although one of the major objectives sought in the framing of written constitutions is the protection of individual rights against intrusion by autocratic or domineering government, we must bear in mind constantly that, in reality, the state cannot be curbed; it "stands above the constitution and can amend it in any way or to any extent."[11]

NEED FOR DEFINING TERMS

It is today a commonplace to hear a platform speaker or a debater declare that "definition of terms" is a necessary preliminary to the clear understanding of whatever he is about to discuss. In other words, a mutual understanding of the meanings of words and phrases which are used must be established for the benefit of the audience or the opposing debater. The significance of the Briand-Kellogg Pact of Paris, August 27, 1928, is lost if, in the reading of Article I, one imagines that when "the high contracting

8. *United States Senate Document #555*, 63rd Congress, 2nd Session, p. 3.
9. H. S. Commager, *Documents of American History* (New York: Crofts, 1934), Document #334.
10. A. N. Holcombe, *The Foundations of the Modern Commonwealth* (New York: Harper, 1923), p. 462.
11. J. M. Mathews, *The American Constitutional System* (New York: McGraw-Hill, 1932), p. 8.

parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy . . ."[12] they forever relinquish that weapon as a means of effectuating their objectives. It is probable that no Great Power would have committed itself to so far-reaching a self-denial, as is manifested in French Ambassador Claudel's Note to Secretary of State Kellogg, March 31, 1928, in which the French Government stated its understanding of the meaning of the word "war": "My Government . . . gathers . . . the assurance that the renunciation of war . . . would not deprive the signatories of the right of legitimate defense."[13] Secretary Kellogg confirmed that interpretation in an Armistice Day address, November 11, 1928:

> It seemed to me incomprehensible that any nation should believe that a country should be deprived of its legitimate right of self-defense. No nation would sign a treaty . . . denying it the right to defend itself if attacked by any other country. . . . This was a right inherent in every sovereign state.[14]

The pages of history are crowded with wars of self-defense; within the memory of readers of these lines Japan defended herself from China, Italy resisted attack by Ethiopia, Germany felt obliged to resort to force to repel English and French aggression, and Russia imagined herself threatened by Finland.

INTERPRETATION OF CONSTITUTIONAL LAW

Definition of terms is no less important in domestic governmental affairs than in international relations. In the Constitution of the United States we find the expressions "direct taxes," "commerce . . . among the several States," "coin money," "raise and support armies," "full faith and credit," "privileges and immunities of citizens," and "due process of law." What do these terms mean? A tax on receipt of a gift of money directly from the giver has been held to be indirect.[15] Likewise, a tax on the inheritance of property directly from the estate of a deceased person is not direct, but indirect.[16] "Commerce" has been broadly defined as not limited "to traffic, to buying and selling, or the interchange of commodities. . . . It is something more; it is intercourse."[17] The term to "coin money" was first applied to the process of stamping pieces of metal to make coins[18] and then came to be applied

12. W. L. Godshall, *American Foreign Policy* (Ann Arbor: Edwards, 1937), Document #386.
13. *Ibid.*, Document #385.
14. *Ibid.*, Document #387.
15. *Bromley* v. *McCaughn*, 280 U. S. 124, 1929.
16. *Scholey* v. *Rue*, 23 Wallace 331, 1874.
17. *Gibbons* v. *Ogden*, 9 Wheaton. 1, 1824.
18. *Hepburn* v. *Griswold*, 8 Wallace 603, 1870.

also to the issuance of paper currency, under the constitutional authority "to coin money, to borrow money, and to raise and support armies."[19] States in the American Union extend "full faith and credit . . . to the public acts, records, and judicial proceedings of every other State" in the recognition of marriages but not of divorces,[20] creating a most confusing situation for the parties most intimately concerned. The "privileges and immunities of citizens" require identification and enumeration by some competent authority, as considerable doubt may arise concerning such questions as hunting rights, access to courts, engaging in business, holding property, and subjection to obnoxious discriminations. "Due process of law" may mean different things to different people. In the United States it has come to mean the right to a fair hearing before a properly constituted tribunal and freedom from arbitrary, unreasonable governmental acts.[21] Persons facing punishment under unusual forms of indictment, less than unanimous petit jury verdict, and penetrating charges to the jury by judges take refuge in protests of persecution through violation of "due process of law"; business enterprises claim redress for loss of property in the form of confiscatory rates for service imposed by government or for other restrictions upon the free use of facilities and possessions.

More abstract concepts such as "establish justice" and "promote the general welfare," found in the Preamble to the Constitution of the United States, present equal if not greater difficulties of definition, and it must be apparent that one cannot find satisfactory interpretations of these terms in dictionaries. One rational device has been to endeavor to determine what the framers of the Constitution in 1787 intended these terms to mean, but we have no complete records of what transpired in Philadelphia on that memorable occasion. Meetings and conferences were not reported in minutes. James Madison and a few other delegates kept notes for their own convenience; but there are many gaps in the scanty records handed down to us. As is also true in most meetings attended by people today, only a few persons expressed themselves on most issues and on none of them did all of those present speak. On the other hand, we have clear evidence of sharp differences of opinion among certain members of the Convention as disclosed in the attitudes of members of the Cabinet of President Washington when Secretary of the Treasury Hamilton in 1791 proposed the establishment of a national bank. Hamilton maintained that "it is unquestionably incident to sovereign power to erect corporations" and that "the degree in

19. *Julliard* v. *Greenman*, 110 U. S. 421, 1884.
20. *Haddock* v. *Haddock*, 201 U. S. 562, 1906.
21. J. T. Young, *The New American Government and Its Work*, 3rd ed. (New York: Macmillan, 1933), pp. 705–12.

which a measure is necessary can never be a test of the legal right to adopt it." In his opinion "a bank has a natural relation to the power of collecting taxes, to that of regulating trade, to that of providing for the common defense."[22] Thomas Jefferson, now (1791) Secretary of State, opposed the project as beyond the intention of the Founding Fathers, writing:

> The incorporation of a bank . . . [has] not, in my opinion, been delegated to the United States by the Constitution. . . . The very power now proposed . . . was rejected . . . by the Convention. . . . The Constitution allows only the means which are "necessary," not those which are merely "convenient," for effecting the enumerated powers.[23]

If we cannot determine the intention of the framers, why not seek the views of the State conventions which ratified the Constitution? Although literally hundreds of delegates were in attendance, we have practically no record of their remarks or thoughts, and there seems to have been little if any discussion of the precise meaning of the ambiguous and vague words and phrases with which we are here concerned.

Next, let us consider the will of the people in this matter! Prior to the War of 1812 voting was closely restricted to male freeholders in all of the States. In New York, for example, the Governor and state senators were elected by males "worth at least $250 in freehold estate, over and above all debts charged thereon" and Assemblymen were "chosen by freeholders, possessing a freehold of the value of $50, or by persons renting a tenement of the yearly value of $5, and who have been rated and actually paid taxes to the state."[24] Throughout the States of 1789 all of the women and about seventy per cent of the adult men were disfranchised and had no part in the election of delegates to the conventions which ratified the Constitution. To what extent can we peruse the intention of the people concerning the meaning of its perplexing clauses? And, in the case of amendments we should have to probe the will and the desires both of Congress and of State legislatures on each occasion.

INTERPRETATION OF STATUTORY LAW

Likewise, uncertainties arise concerning the meaning of other forms of law as well as constitutional law. Legislatures at times succumb to pressures of lobbying and other groups and seek to dilute the effects by resorting to ambiguous terminology. In 1925 Congress passed the Hoch-Smith Farm Relief Resolution, directing the Interstate Commerce Commission to pro-

22. H. S. Commager, *op. cit.*, Document #93.
23. *Ibid.*, Document #94.
24. *Ibid.*, Document #124.

vide lower railroad freight rates for farm products: "In view of the existing depression in agriculture, the Commission is directed to effect with the least practicable delay such lawful changes in the rate structure of the country as will promote the freedom of movement by common carriers of the products of agriculture affected by that depression, including livestock, at the lowest possible lawful rates compatible with the maintenance of adequate transportation service." [25] When the Commission attempted to interpret and carry out this resolution, it was instructed that, while the law "should not be lightly disregarded," if farmers were given reduced rates which necessitated increased rates to other shippers (in order to afford the railroads adequate income), such action would "give rise to a serious question respecting the constitutional validity of the paragraph of which they are a part." [26] In other words, to obey the mandate of Congress is to risk violating the Constitution of the United States.

The Sherman Anti-Trust Act of 1890 is probably the most renowned example of confusing statement: "Every contract, or combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce among the several states or with foreign nations, is hereby declared to be illegal." [27] Does "every" mean what it says? After twenty years of conjecture, it was established that "the provision necessarily called for the exercise of judgment which required that some standard should be resorted to for the purpose of determining whether the prohibitions contained in the statute had or had not in any given case been violated. . . . Thus . . . it follows that it was intended that the standard of reason which had been applied at the common law and in this country in dealing with subjects of the character embraced by the statute, was intended to be the measure used. . . ." [28]

Occasionally laws are absurd on their face, defying any attempt to transform them. For example, there have been laws, in the interests of public safety, to reduce the frequency of railroad collisions at track intersections by obliging trains approaching on either track from any direction to stop and to await the passing of the other train before proceeding; and to forestall the appalling catastrophes of rear-end collisions by leaving off the rear car of each train. According to another law, public health was to be solicitously safeguarded by annual spraying of the walls, floors, and furnishings of hotels and inns. There have also been proposals that the dangers

25. J. T. Young, *op. cit.*, p. 183.
26. *Ann Arbor Railroad et al.* v. *United States*, 281 U. S. 658, 1930.
27. W. B. Munro, *The Government of the United States*, 4th ed. (New York: Macmillan Co., 1936), p. 436.
28. *Standard Oil Company of New Jersey et al.* v. *United States*, 221 U. S. 1, 1911.

of highway travel might be lessened by the enforcement of law requiring all objects moving upon the roads at night to carry red lights, and that the Christian way of life should be encouraged by placing the Ten Commandments upon the statute books.

PRESERVATION OF LIBERTY

Another important reason for the interpretation of law is the safeguarding of human liberty, which is one thing in the abstract and another thing in application. Whatever the constitutional or statutory guarantees, it is necessary that they be implemented by men who are confronted with the decision as to whether community or social expediency shall prevail over individual liberty. Among these guarantees are protection from ex post facto laws, bills of attainder, double jeopardy, self-incrimination, excessive concealed accusations, quartering of troops, unreasonable searches and seizures, and "deprivation of life, liberty and property without due process of law." These terms must be translated into practical meaning by someone, and it is imperative that they be clearly and consistently defined. Failure so to define them or to establish and support free institutions for their preservation may result in their loss at the hands of autocratic or dictatorial governments, as has transpired in Fascist Italy, Nazi Germany, and Soviet Russia. The price of laxity in vigilance to safeguard these guarantees may be false arrests, illegal searches and seizures, confiscation of property without compensation, deportations and forced migrations, "third degrees" administered callously and freely by police officers, oppressive quarantines by health officers or political agents, forced appearances in demonstrations with artificial enthusiasm, and compulsory attendance at personal and radio appearances of "leaders."

POPULAR INTERPRETATION OF LAW

Having considered the nature of law and the need for fixing some standards of its meaning, we now turn to examine the methods by which that meaning is established. The same words have different connotations to different people, or to the same people when those words are applied to different circumstances. The New York State Vehicle and Traffic Law of 1929 provides in Section 56 that "every person operating a motor vehicle upon a public highway shall drive such vehicle in a careful and prudent manner and at a rate of speed so as not to endanger the property of another or the life or limb of any person." To some this might mean driving within a fixed maximum speed under all circumstances, such as the Pennsylvania

limit of fifty miles per hour. To others, "careful and prudent" operation of an automobile might mean driving at whatever speed one can attain without accident. Still others might feel that to be a "careful and prudent" driver one must take into consideration the character of the highway, the volume of traffic, the number of intersections, the time of day, the condition of his automobile, and his own proficiency in driving. Variation in any one or several of these circumstances would affect materially a person's opinion as to the care with which a given vehicle is driven. And opinions on such things change from time to time. In government there is similar change of attitudes. Public opinion is likely to be reflected by political parties which become important interpreters of constitutional and statute law. One party may favor strict or narrow construction or exposition, or its attitude toward a particular question may change substantially, as did that of the Democratic Party in the United States toward States' rights and centralized government in the past decade. Hence, a constitution or a statute may mean different things at different times, depending upon shifts in public opinion.

Popular interpretation of law arises to some extent from habits of doing things in certain ways. For example, when political parties appeared in the United States the method of electing the President was directly affected through the suppression of the independence of the electoral college. The Cabinet of the President is a consequence of the habit of successive Presidents in soliciting the collective advice of the heads of the executive departments. And within the Cabinet the Secretary of Labor must be chosen from persons endorsed by the labor interests, while the Secretary of the Navy may never be an admiral. The committee system in Congress, a most important feature of our legislative procedure, enjoys no mention in the Constitution, but arose from the necessity for more searching examination of proposed bills than could be made by cumbersome and vociferous assemblies. In European countries elections are generally held on Sunday, whereas in the United States elections are habitually held on Tuesday.

Conversely, one can find instances in which custom has impeded or completely obstructed practices which a constitutional law permits. In the United States a "Representative . . . shall . . . be an inhabitant of that State in which he shall be chosen," with no further residence requirements imposed by the Constitution, but precedent demands that such Representative live, or at least maintain a legal domicile, in the Congressional District. Candidates for party nominations for President and Vice-President must be drawn from different States, indeed from different sections of the country, because of the exigencies of practical politics which bow in deference to regional "appreciation" of such "recognition." Similar political insistence

upon "recognition" is reflected in the civil service legislation which prorates appointments under the merit system among the States in proportion to their population. Such demands subordinate the public interest to political expediency, which is a characteristic element in democracy. Another "unwritten law" is the customary resignation of Ambassadors and Ministers in the United States Foreign Service upon the change of Administration in Washington. "Time and habit are at least as necessary to fix the true character of governments as of other human institutions."[29]

LEGISLATIVE INTERPRETATION OF LAW

Election of members of Congress by the people may, and should, be an indication of popular opinion toward pending or existing law and its meaning. Dissatisfaction with the performance of the National Labor Relations Board and with the manner in which that Board construed its powers under the Wagner National Labor Relations Act of 1935 will be manifested in electoral support of candidates for Congress pledged to revise the law, just as public pressure upon Congress forestalled the passage of President Franklin D. Roosevelt's bill to reorganize the United States Supreme Court in 1937. The legislature finds it both desirable and necessary to interpret constitutional law at every turn, to which fact countless thousands of laws offer silent testimony—such laws as those which deal with the regulation of succession to the Presidency, the government of territories and dependencies, the court system and procedure, and the "corrupt practices" acts, which prescribe rules for the expenditure of funds for nomination and election to public office.

EXECUTIVE AND ADMINISTRATIVE INTERPRETATION OF LAW

The Constitution of the United States provides that the Executive "shall take care that the laws be faithfully executed"; analogous provisions are written into constitutions generally. Large discretion arises from one's understanding of the meaning of "faithfully," embracing concepts of power and authority on one hand and of duty and obligation on the other. We have already noted the dilemmas which confront executive officials in the exercise of their discretionary powers in the enforcement of law, and certain aspects of those perplexities recur here. Legislation of necessity leaves many details for executive or administrative determination. "The real problem is to assure that they will be exercised with care and with due regard to the

29. F. A. Ogg and P. O. Ray, *Introduction to American Government* (New York: Appleton-Century, 1938), p. 67.

rights of individuals, and that there will be effective checks and controls over them to protect public and individual rights."[30]

From day to day governmental agencies issue many rules and rulings, intimately affecting personal and property rights of both citizens and aliens. From some of their actions no appeal is possible, as when the Veterans' Administration rejects a claim for compensation for disability. Although some infrequent mistakes are made, the public interest would not be well served by allowing all disgruntled persons to retard the work of the courts over a period of years. The Chinese concept of "The Golden Mean" well expresses the principle of government that, lacking ability to achieve perfect justice, we should strive for a middle ground or "mean" upon which we can agree in the common interest. It would be well to establish some central agency which would co-ordinate rulings and regulations which otherwise might conflict and which might draft a code of terms and meanings for the convenience and guidance of bureaus and boards seeking to promulgate actions on a uniform basis. Conceivably the Department of Justice might undertake this useful function, inasmuch as the Attorney General is the principal law officer of the Government.

Constitutional and statute law, which are the usual bases for executive ordinances and regulations, ought to be well-phrased so that their meaning will be crystal-clear. The National Industrial Recovery Act of 1933, Section 9c, authorized the President "to prohibit the transportation in interstate and foreign commerce of petroleum and the products thereof produced or withdrawn from storage in excess of the amount permitted . . . by any State." In accordance therewith President Roosevelt issued an Executive Order, August 28, 1933, instructing Secretary of the Interior Ickes to effect a code for the regulation of the oil industry. Although the intent of Congress was "brief and unambiguous," and the execution of that intent by the Executive was definite, the program failed because the act

> . . . establishes no criterion to govern the President's course. It does not require any finding by the President as a condition of his action . . . [and] gives to the President an unlimited authority to determine the policy and to lay down the prohibition, or not to lay it down, as he may see fit. . . . The Congress manifestly is not permitted to abdicate, or to transfer to others the essential legislative functions with which it is . . . vested.[31]

Thereupon Congress directly forbade such shipments of oil, and authorized the President to suspend the restriction if the supply of oil proved insufficient to meet the demand. Again the President issued executive orders to effectuate the policy which was now clearly enunciated.

30. W. Anderson, *American Government* (New York: Holt, 1938), p. 661.
31. *Panama Refining Company* v. *Ryan*, 293 U. S. 388, 1935.

In his sphere, the President of the United States by his decrees, orders, and actions gives meaning to the Constitution. Many of his findings are "political" in character . . . for example, a declaration of foreign policy. Others are discretionary and these, too . . . must be left to his judgment.[32]

The Federal Register. Another problem has been that it is difficult to find out the content of administrative law in the United States. In 1936 this need was met by the United States Government in the daily publication of the *Federal Register,* which contains executive orders and proclamations, departmental rules and regulations, and notices of hearings. Some of these ordinances are concerned with procedures of governmental agencies, such as the factors to be taken into account in the valuation of property by the Treasury Department for tax purposes. It is in this publication that the Department of the Interior makes known the rules which tourists must obey in the national parks; and that the steps for procuring a passport for foreign travel are enumerated by the Department of State. Other laws and rules affecting citizens in the exercise of some fundamental rights, such as the right to hold public office, are published in the *Register.*

President Grant initiated the series of orders which denied to Federal officeholders the right to hold concurrent State or municipal office. Before 1936 there was no source to which one could turn for either a day-by-day or a compiled account of the status of administrative law in the United States. The situation was complicated by the passage in 1918 of the Overman Act, which authorized the President, as a win-the-war measure, to

. . . utilize, co-ordinate, or consolidate any executive or administrative commissions, bureaus, agencies, offices, or officers now existing by law, to transfer any duties or powers from one . . . to another, to transfer the personnel . . . together with the whole or any part of the records and public property belonging thereto.[33]

In this conspicuous instance the President actually could alter an act of Congress which had established a bureau. Had some one challenged the Overman Act in order to reconcile it with the Constitution, some absorbing questions of interpretation would have been presented. In the United States such questions are handled by the regular courts, about which more will be said later.

State Administrative Courts. The state must provide some recourse for citizens who may become involved in disputes which arise between them and public agencies. Officials do make mistakes. They at times may be negligent or through malice may do injury to the persons or property of citizens. Special administrative courts are established in Italy and in other countries of Continental Europe, which may appeal to such tribunals as the

32. C. A. Beard, *American Government and Politics* (New York: Macmillan Co., 1939), p. 41.
33. W. Anderson, *op. cit.,* p. 646.

Council of State in Italy. In Germany, however, there are special tribunals for each of several types of cases: railway, social insurance, military administration. Japan has followed the more general European system. It has been observed that citizens receive at least a different, if not a better, type of protection from governmental abuses in countries where special administrative courts prevail. When American citizens suffer abusive language or actual physical injury at the hands of "peace officers" they have but little redress, as is well known by all who have been harangued by traffic police. It is legally possible, of course, to bring suit against a traffic officer for slander, false arrest, or assault and battery; but in such cases our courts are reluctant both to impair the morale of the police force and to award damages. Similar suits brought, for example, by French citizens usually result in material as well as moral satisfaction for the plaintiff, in which instance government squarely faces its responsibility for its acts and makes reparation as a regular feature of administrative law.

THE INTERPRETATION OF TREATIES

Inasmuch as the United States Constitution in Article VI, Section 2, asserts that "all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land," along with "this Constitution, and the laws of the United States which shall be made in pursuance thereof," we must include international compacts in our consideration of interpretation of law. Early in our history (July 18, 1793) Secretary of State Jefferson, upon the request of President Washington, sought the assistance of the Supreme Court in determining the meaning of "treaties between the US. & France," to which the Court replied that the "power given by the Constitution to the President, of calling the heads of departments for opinions" was expressly conferred and that the judiciary would refrain from overstepping "the lines of separation drawn by the Constitution between the three departments of the government."[34] The entire treaty-making power is vested in the Federal Executive and "a treaty that operates of itself without the aid of legislation is equivalent to an act of Congress."[35] In international law a treaty is more a promise than an achievement, and in England its enforcement depends upon supplementary action by Parliament.[36] When a treaty in England conflicts with an act of Parliament the latter prevails, but in the United States "if the two are inconsistent, the one last in date will control the other, provided always

34. W. L. Godshall, *op. cit.*, Appendix B.
35. *Chew Heong* v. *United States*, 112 U. S. 540, 1884.
36. *Walker* v. *Baird*, A. C. 691, 1892.

that the stipulation of the treaty on the subject is self-executing."[37] An act of Congress may supersede a treaty and a treaty may supersede an act of Congress. It is the province of the United States judiciary to determine, whenever actual cases arise, which law shall prevail, precisely as in the contest between other kinds of law, but in other countries different rules may apply.

THE JUDICIARY AND LAW

At various points in this chapter it has been apparent that some ultimate authority has existed behind and above the agencies of government thus far described as being concerned with the interpretation of law. Of the vast number of "laws" of all types which are in operation at any given moment, the great majority have stood unchallenged. However, when a legislature or some other law-making authority enacts a law which is suspected of being inconsistent with a written constitution the following ruling applies:

> The constitution is either a superior paramount law . . . or it is on a level with ordinary legislative acts. . . . Certainly all those who have framed written constitutions contemplate them as forming the fundamental and paramount law of the nation, and consequently the theory of every such government must be that an act of the legislature repugnant to the Constitution is void. . . . It is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases must of necessity expound and interpret that rule. If two laws conflict with each other, the courts must decide on the operation of each.[38]

In the United States, therefore, we are devoted to the principle that of the available departments of government the judiciary is the only one temperamentally and professionally adapted to the task of expounding and applying law. This is a realistic application of the generally recognized function of the judge to interpret and apply the law in a particular case. Just as law requires elucidation and enforcement in suits between individuals, it needs exposition and direction when individuals are confronted with the superior power of a state when that state is attempting to perform some questionable act. Many years ago courts in England declined to enforce local laws when those laws were found to contravene the common law or national statute law, on the ground that persons could not be required by government to obey a law which was incompatible with a higher, more fundamental law.

A distinction will be observed between English and United States practice in the susceptibility of statute law to invalidation. With our written constitution, we cannot permit any other than constitutional law to prevail; which

37. *Whitney* v. *Robertson*, 124 U. S. 190, 1888.
38. *Marbury* v. *Madison*, 1 Cranch 137, 1803.

is to say that all other law is considered subordinate and consequently inferior law which must give way whenever it is held to be incompatible with the higher law. Article I, Section 3, of the Constitution declares that "Representatives and direct taxes shall be apportioned among the several States . . . according to their respective numbers." The Wilson Tariff Act of 1894 included provision for an income tax which was not "apportioned" according to population because of the manifest unfairness of requiring a State having ten per cent of the population of the United States, regardless of their collective wealth, to pay ten per cent of the total tax, thus favoring a state with a smaller population made up of wealthy persons. Instead, the tax was levied in proportion to wealth, as it should be. Objection was raised by some potential contributors to the national treasury and was sustained:

> The Constitution prohibits any direct tax unless in proportion to numbers as ascertained by the census. . . . We are not here concerned with the question whether an income tax be or be not desirable. . . . Questions of that character belong to the controversies of political parties. . . . Our province is to determine whether this income tax on the revenue from property does or does not belong to the class of direct taxes. If it does, it is, being unapportioned, in violation of the Constitution, and we must so declare. . . . We adhere to the opinion already announced, that, taxes on real estate being indisputably direct taxes, taxes on the rents or income of real estate are equally direct taxes . . . and that taxes on personal property, or on the income of personal property, are likewise direct taxes. . . . The tax imposed by . . . the act of 1890 . . . being a direct tax . . . is, therefore, unconstitutional and void.[39]

The Constitution was, accordingly, amended in 1913 to authorize this form of direct taxation with apportionment.

In England, and in most other countries which conduct their governments on the parliamentary or cabinet principle, all legislative acts rank with, not below, constitutional law. Disparity between statute and constitutional law is resolved in the same manner as inconsistency between two or more statute laws: the latest takes precedence and negates the earlier. There is no higher law with which legislative acts can be compared or with which they can conflict in a unitary or centralized form of government. But the Privy Council in England continues to set aside acts of colonial legislatures which conflict with the fundamental colonial law,[40] and the courts of the British colonies exercise "judicial review."[41]

Among the Latin-American countries in which this function of the

39. *Pollock* v. *Farmers' Loan and Trust Company*, 158 U. S. 601, 1894.

40. *Attorney Bank of Alberta* v. *Attorney General for Canada*, A. C. 363, 1915.

41. *Australian Boot Trade Employees' Federation* v. *Whybrow*, 10 Commonwealth Law Reports 267, 1910; *Cleminson* v. *Mayor of West Harbour*, 13 New Zealand Law Reports 695, 1895; *Municipality of Worcester* v. *Colonial Government*, 24 S. C., Cape of Good Hope 67, 1907; *Howard* v. *The Attorney General*, Transvaal Reports, High Court, 164, 1909.

judiciary is specifically operative are Argentina, Bolivia, Colombia, Cuba, Mexico, and Venezuela. In a federal or decentralized government, of course, the national law may be declared by the constitution to be "the supreme law of the land." The 1936 Constitution of the Union of Soviet Socialist Republics, Article 20, is specific on this point: "In the event of a law of a Union republic differing from an All-Union law, the All-Union law prevails." When courts are obliged to enforce such mandates in the form of decisions it is important to avoid misrepresentation of the action as "vetoing" or "nullifying" legislation. Those terms connote a legislative or executive procedure, and therefore create a misconception of the actual position of the court, which is concerned only with the determination of what the law is and with invalidation of acts which presume to be law and are found not to be law.

There are many critics of this extension of the judicial function to the scrutinizing of the work of the legislative and executive co-ordinate branches of government. Judicial review of legislation is branded as both an unwarranted invasion of the legislative province and as factual "judicial supremacy" which is undemocratic and a distortion of the judicial function. A leading exponent of this viewpoint has written:

> The policy-forming organ of the people . . . is . . . Congress, not the Supreme Court. The high repository of discretion is Congress, not the courts. . . . It is most exceptional when any constitution borrows from us judicial supremacy. . . . Countries like Switzerland which have imitated our federal system are careful to prohibit any such power as our courts have assumed. . . . If a member of Congress misinterprets the constitution, the people within two years may refuse to reelect him. If a justice misinterprets the constitution, he is irremovable. . . . This assumption of legislative power by the courts detracts from the dignity of . . . legislatures. . . . The people lose the sense of responsibility in the choice of members, and the members lose the sense of responsibility in the character of their legislation. Besides, when a law has been enacted, the people do not know sometimes for years whether the courts will sustain it or not. The uncertainty is ruinous to the efficient enforcement of law.[42]

President Jackson forcefully declared himself in his veto of the bill to recharter the Second Bank of the United States on July 10, 1832:

> The opinion of the Supreme Court . . . ought not to control the co-ordinate authorities of this Government. The Congress, the Executive, and the Court must each for itself be guided by its own opinion of the Constitution. Each public officer who takes an oath to support the Constitution swears that he will support it as he understands it, and not as it is understood by others. . . . The opinion of the judges has no more authority over Congress than the opinion of Congress has over the judges, and on that point the President is independent of both.[43]

42. C. H. Maxson, *Citizenship* (New York: Oxford University Press, 1930), pp. 307–9.
43. H. S. Commager, *op. cit.*, Document #147.

We also have juridical support for this view in the opinion of Chief Justice Gibson of the Pennsylvania Supreme Court, who held that it is not for a court to decide such a political question as whether a State law violates the State constitution: "The fault is imputable to the legislature, and on it the responsibility exclusively rests."[44]

JUDICIAL ORGANIZATION

Although details of structure vary from one state to another, a hierarchy of courts is found in each, following the same general pattern.

Courts of Original Jurisdiction. On the first or lowest of the three usual levels are courts of original jurisdiction, where most cases are first tried. Witnesses are heard and evidence is taken, and from this evidence a jury determines the facts and a single judge imposes a sentence in accordance with law. In federal governments needless duplication and confusion may prevail, as in the United States, through maintenance of both national and State courts on this level. There is likely to be consequent miscarriage or default of justice through technical questions of jurisdiction, as we have observed in the case of the Apex Hosiery Company, which suffered litigation expenses and other losses by bringing suit in a District Court of the United States only to be informed by a Circuit Court of Appeals that the Hosiery Workers Union "should be compelled in the appropriate forum to answer in damages" and that the company "must seek relief in the courts of Pennsylvania." Australia and Canada, both with federal governments like our own, utilize State and provincial "courts of first instance" for federal litigation on that level. Sometimes, as in England, these "lower courts" are split into criminal and civil divisions, but generally one court has jurisdiction over both types of cases.

Summary Tribunals. Outside the regular court system but intimately associated with it we usually find less formal summary tribunals which try minor criminal cases and also cases which involve civil complaints. These may be called "courts" and are presided over by magistrates, aldermen, recorders, and justices of the peace, whose decisions are subject to appeal to the above-described district, county, or ordinary courts of original jurisdiction. Special courts are provided for administering estates and adjudicating juvenile cases.

Intermediate Courts of Appeal. The second usual level of tribunals comprises intermediate courts of appeal, with no original jurisdiction. They are designed to intercept the flood of cases which are adjudged in lower courts in a manner unsatisfactory to one of the parties and to dispose of as many

44. *Eakin* v. *Raub*, 12 Sergeant and Rawle 330, 1825.

of them as possible. In these courts judges, without juries, generally sit *en banc* and decide cases by majority opinion. In the United States the number of justices ranges from three to six, according to the amount of judicial business in the region. Names by which these courts are known are Circuit Court, Superior Court, High Court of Justice (in England), or Court of Appeals.

The Supreme Court. At the apex of the pyramid stands the Supreme Court, which may also be known as a Court of Cassation (in republican France and in Italy) or a High Court of State (in Germany). In New York State a peculiar situation exists in that the Supreme Court is an intermediate court, above which is the Court of Appeals. English practice provides for recourse on points of law to the "law lords" in the House of Lords; in Italy final appeal may be made to the Council of State in certain instances; this was also true in France.

In Russia the judiciary is regarded as an arm of the administrative branch of government; this was also true of France. Soviet courts are expected to defend the established social order against all hostile groups and persons. The lowest courts are known as People's Courts, judges of which, according to Article 109 of the Constitution of 1936 are "elected by secret ballot for a period of three years by citizens of the district, on the basis of universal, direct and equal suffrage." Candidates must be qualified voters and have rendered service either in workers' and peasants' organizations or in the judiciary itself.

> Territorial and provincial courts, courts of the autonomous provinces, and district courts are elected by territorial, provincial, or district Soviets of toilers' deputies or by Soviets of toilers' deputies of the autonomous provinces for a period of five years.[45]

These regional courts serve as courts of cassation for cases first heard in the People's Courts, and, in addition, enjoy original jurisdiction over counter-revolutionary activities, economic sabotage, and crimes, whether they are committed by officials in the performance of their duties or by ordinary persons against one another. The members of supreme courts of the Soviet Union republics and of the autonomous republics are elected by the respective Supreme Councils of those areas for five-year terms. The highest judicial organ is the Supreme Court of the U. S. S. R., "elected by the Supreme Council of the U. S. S. R. for a period of five years."[46] This means that it is responsible to the Supreme Council which is "the supreme organ of state power of the U. S. S. R."[47] The strong political flavor of the system is

45. W. E. Rappard, *et al.*, *Source Book on European Governments* (New York: Van Nostrand, 1937), V, 124.
46. *Ibid.*, V, 123.
47. *Ibid.*, V, 112.

easily apparent, accounting for the facility with which numerous spectacular "trials" have been conducted for the purposes of purging the Party of dangerous "counter-revolutionary" elements. Trial by jury is non-existent in Russia and the judges are likely, if not certain, to be loyal supporters of the regime.

JUDICIAL QUALIFICATIONS AND TENURE

On the face of it, Russian and United States judges may display similar lack of fitness: they must both render devoted and intensive service to a political party, without necessarily demonstrating judicial temperament or aptitude. Numerous examples of appointments and elections during the past decade confirm this weakness. Where judges must seek the support of party "machines" in order to be nominated and elected, and keep an eye upon eventual re-election, it is but natural for them to be lenient, or superficial in their perception of irregularities, so that their "administration of justice" will be approved by those who may be in a position to help keep them in office.

On the other hand, election affords the people an opportunity to replace incompetent or corrupt occupants of the bench—if the people are aware of that incompetence or corruption and if the people are sufficiently aroused thereby. Appointment by the Executive commends itself on the basis of opportunity for careful selection, even if that opportunity is not always seized, and is generally the method of procuring judges in Europe and for the United States Federal Courts. In Germany and Japan specific university or law-school study is prerequisite, followed by a rigorous examination, a period of apprenticeship, and another searching examination. The ensuing appointment of a person to a minor position, such as that of deputy or subordinate judge, launches him in a profession held in high repute, and in which he may achieve independence and permanence of status, although these may be somewhat jeopardized by the rise of dictatorial government. Definite legal qualifications are imposed in Italy, also.

English judges are always promoted from the ranks of successful barristers with court-room experience, which is rare on the Continent and in Japan where of 2043 judges and procurators (prosecuting attorneys) who were officiating in 1928 only 133 had actually practised law. A barrister pleads in court the cases which have been prepared by solicitors, who are sometimes looked upon as of somewhat inferior calibre. Each group of English lawyers undergoes a period of probation in one of the four Inns of Court for barristers—Gray's Inn, Lincoln's Inn, Inner Temple, and Middle Temple—or in the Law Society for solicitors. The Prime Minister chooses the "law

lords" in the House of Lords and the Lord Chancellor, the Lord Chief Justice, and the Master of the Rolls; other judgeships are filled by the Lord Chancellor. All are for terms of good behavior, with no retiring age, but seldom are English judges appointed at so young an age as they are in Continental Europe. Inevitably considerations similar to those in the United States influence the appointment of officials, as they do in any country where party politics is the life-blood of government. Those who are "favorably" known and considered "available," including "law officers of the crown, or other successful barristers who are political supporters of the government in the . . . Commons"[48] claim prior consideration.

TRENDS IN THE INTERPRETATION OF LAW

> The citizen is interested not only in getting prompt and economical justice, but also in the quality of the judicial service he receives. This depends upon . . . (a) the position of the courts with respect to their independence and freedom from political and other pressures, (b) the technical ability and learning of the judge, and (c) his social vision and his grasp of the problems of justice as distinguished from law.[49]

As we have seen through the reading of this chapter, judicial decision came to be the highest authority as to the precise meaning of law; it has become the duty and responsibility of the judge to analyze and, if necessary, to define the law. Rigid legal principles must be adapted to changing social needs and desires, for which purpose the judge must be vested with large discretionary power. The alternative would be a "frozen" legal structure which would snap under pressure. A former President of the United States and subsequently Chief Justice of the United States Supreme Court wrote: "The practical impossibility of making laws that are universally applicable to every case has thrown upon the Courts the duty of supplying the deficiency. . . . It is better to have judge-made law than no law at all. Indeed the curative and lubricating effect of this kind of law is what has made our popular governmental machinery work so smoothly and well."[50]

Important influences upon the opinions of the judges are the arguments of counsel retained by plaintiffs and defendants. The reading of many of the decisions handed down in significant cases will disclose the extent to which those decisions were modeled after the reasoning of attorneys pleading before the court. George Wharton Pepper effectively declaimed in his protest against the Agricultural Adjustment Administration: "I believe I am standing here today to plead the cause of the America I have loved; and I pray Almighty God that not in my time may 'the land of the regi-

48. R. L. Buell *et al.*, *Democratic Governments in Europe* (New York: Nelson, 1937), p. 83.
49. W. Anderson, *op. cit.*, p. 837.
50. W. H. Taft, *Popular Government* (New Haven: Yale University Press, 1913), pp. 224–5.

mented' be accepted as a worthy substitute for 'the land of the free'."[51] The Court spared him the anguish of living in "the land of the regimented" by declaring: "If the act before us is a proper exercise of the federal taxing power, evidently the regulation of all industry throughout the United States may be accomplished by similar exercises of the same power."[52] The first Guffey "Soft Coal" Act, however, was invalidated despite an appeal by Assistant Attorney-General Dickinson:

> The issues, in a certain sense, are momentous, far more momentous than the provisions of this particular act. . . . We believe that the fathers, in setting up the Constitution under which we live, were wise enough to see that the perpetuation of that Constitution depended upon its supplying an instrument of government sufficiently strong to deal by law with the great issues of national destiny that come before it.[52]

The quality of the bar is, accordingly, a factor which should not be overlooked in any appraisal of agencies for expounding the law. In countries where the bar plays a prominent part in judicial proceedings and where judges are drawn from the ranks of practising attorneys it is highly desirable that the training of aspirant lawyers should embrace more than casual study of the "social sciences," notably political science, economics, and sociology. If "social vision" is accepted as one of the attributes of a judge, he must have an opportunity to develop a social outlook before his mind becomes too closely absorbed with legalities. The Supreme Court of the United States recently has undergone a change in philosophy with the injection of more "liberal" minds by deliberate presidential intention, so that a tax policy which contemplated "the expropriation of money from one group for the benefit of another"[53] was rejected in 1936 but in 1937 "when money is spent to promote the general welfare" the Social Security program was upheld.[54] In the final analysis and in the long run the interpretation of law by the courts runs close to both the public desire and the public interest.

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51. *United States* v. *Butler,* 297 U. S. 1, 1936.
52. H. A. Steiner, *Significant Supreme Court Decisions,* 1934–1937 (New York: Wiley, 1937), p. 6.
53. *United States* v. *Butler.*
54. *Helvering et al.* v. *Davis,* 301 U. S. 619, 1937.

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CHAPTER EIGHTEEN

The Execution of Laws

THE executive is the oldest and was at first the chief—if not the only—agency of government. Under a system of absolutism the king, who ruled under the theory of divine right, made the laws, enforced them, and decided such judicial questions as arose with regard to them. He imposed the taxes, decided questions of military service and protection, and any other public questions that might present themselves. The story of the rise of popular government is the story of the rise of representative assemblies to make the laws, of an independent judiciary to interpret them, and of the establishment of checks and controls upon the power of the executive. The story is one of the rise of the common man from slavery and serfdom to the position of freeman, with certain guaranteed rights, including the right under a universal suffrage to have something to say about the policies of his government.

Modern executives are of many types, depending on the history and governmental tradition of the country and the size of the governmental unit. In countries where the parliamentary system prevails, there is usually a premier (as in France before the fall of the Third Republic) or a prime minister (as in England). This officer is chosen by and is responsible to the parliament and holds office so long and only so long as he can continue to command the support of a majority of the parliament. In England, the king still continues to be the theoretical head of the state, while in France there was and in Switzerland there is an elected president. All of the twenty-one American republics have a president, more or less popularly elected. Most of them, including the United States, function under a Presidential-Congressional form of government rather than a parliamentary form. Under our system of the separation of powers and of checks and balances, the President is neither elected by nor directly responsible to the elected representative body. In the smaller units, we have governors of states and mayors or city managers of municipalities.

Regardless of the form or type of executive organization, the purpose or function of the executive power is much the same. The term "executive" usually signifies an official who is charged with supreme responsibility for administration. In the United States, however, the executive almost always

occupies an intermediate position between the policy-determining organ and the administration itself. He is the chief administrator, but he is also a very important figure in political determination. With the exception of communities in which the manager form has been adopted, there has in fact been an increasing tendency to emphasize the importance of the chief executive's responsibility in matters of political leadership.

The executive office has in modern times gone through a series of significant changes, which may be illustrated by reference to American experience. In the Colonial Period, the inhabitants suffered many abuses—some real, some largely imagined—at the hands of the Crown and of the Royal Governors. When they undertook to establish a government of their own, they naturally sought to prevent a recurrence of these abuses. Thus the powers of the President were limited, as were those of the governors of the states. In local government the same condition existed. As the principle of the responsibility of the executive became more firmly established, as the possibility of serious abuses of executive power diminished, and as the growing complexity of the problems of government seemed to require a leadership lacking if not impossible under the old system, the executive began to emerge as a great popular leader. And with his change of position came a significant enlargement of his powers.

THE NATIONAL EXECUTIVE AND THE LEGISLATURE

The position of the executive as chief law-maker has undergone a kind of cyclical development. Under absolutism, the king made the laws and proclaimed them by an edict of the Crown. In England, as the power of Parliament grew, this power was gradually wrested from him, until it is now commonly believed that serious consequences might follow if the King were to attempt to exercise his theoretical right to veto an important measure. Instead of proclaiming the laws, he was forced to secure the consent of Parliament. Then Parliament took over the function of framing the laws, leaving a veto power to the Crown. Even that—for practical purposes—ceased to exist long ago. With the growth of a responsible ministry, the power of proposal passed to it, with the understanding that the ministry would resign if it found itself unable to command a majority on any important measure. Although in England, the Crown remains as a symbol of the unity of the Empire, leadership in the law-making function has passed completely from the King, who was theoretically irresponsible, to the Ministry, which is actually responsible.

Executive Leadership. Leadership in a legislative body is indispensable, if anything is to be accomplished. Such bodies are rarely able, for a variety

of reasons, to supply adequate leadership from among their own members. At the same time, legislators are normally intensely jealous of their prerogatives. When it became evident that they could lean heavily upon the leadership of the executive without too great danger to those prerogatives, they began to follow the President, the governor, or the mayor.

American Presidents in the last half century may be classified on the basis of their attainments in leadership in two groups:

GROUP I	GROUP II
McKinley	Cleveland
Taft	Roosevelt (T. R.)
Harding	Wilson
Coolidge	Roosevelt (F. D. R.)
Hoover	

In the first group, we have the names of Presidents who were either unable or unwilling to lead. Mr. Taft had a deep personal conviction that the President had no Constitutional right to seek to influence the Congress, and that the separation of powers was necessary and wise. Mr. Harding was elected on a platform of "return to normalcy" and a pledge that there would be no further attempt at "personal government." Vigorous leadership usually involves treading on someone's toes, and Mr. Coolidge throughout a lifetime in politics had never shown any disposition to do anything of the sort.

On the other hand, Cleveland, Wilson, and both Roosevelts are commonly regarded as outstanding executives because they seldom hesitated to use those extra-Constitutional powers which attach to the office of the Presidency. The Constitution gives to the President the power (1) to present an annual message on the state of the Union; (2) to veto bills; (3) to call special sessions; and (4) to adjourn the Congress when the two houses are unable to agree on a date of adjournment. Under present day conditions, only two of these powers are really important—the message power and the veto power, although the latter is purely negative in character. Much the same type of analysis might be made of the leadership qualities of men who have held the office of state governor, and of the powers pertaining to that office.

Most important of these powers, perhaps, is the power of the executive to convey messages to the legislative branch. Presidents Washington and Adams delivered their messages in person. Jefferson, being a poor public speaker and, unlike many others so afflicted, realizing the fact himself, sent his messages in writing. This practice was continued by succeeding Presidents for more than a hundred years, until the administration of Woodrow Wilson. Mr. Wilson enjoyed public appearances and had rare gifts as a

public speaker. With a few exceptions in the decade of the Twenties, Presidential messages have since been delivered orally, and in person. More important than the regular messages required by the Constitution are the numerous special messages sent to the legislative body by the executive from time to time, dealing with a particular problem then under consideration. (In recent years, in both state and nation, these messages have, because of their timeliness, been most effective.)

Extra-Constitutional Powers of the Executive. The extra-Constitutional powers of the executive are positive. Under these, strong Presidents and governors not only outline a legislative program, but they actively and aggressively seek its enactment. By conferences with members, they seek to keep their bills moving. By conferences with the press, they seek to develop a favorable public opinion. By withholding patronage, and by its judicious use, by direct appeals to the people, by threats to call extra sessions if the measures which they sponsor are not enacted, by threats to use the veto power, and by many other means, they seek to get their program translated into law.[1]

There is a great difference in the manner in which different executives use these extra-Constitutional powers. Much depends upon the character and personal idiosyncrasies of the individual executive. Some lead; others drive. Some denounce the legislature for its shortcomings, sometimes in bitter and intemperate language; others, who have the gift of handling men around the conference table, call in the leaders of both parties and seek to develop a compromise acceptable to all. The latter is probably the most effective method, but there are many who feel that the techniques of legislative leadership ought to rest on something more substantial than the personality of the executive who happens to be in office.

The Law of the Pendulum in Politics. It is one of the curious characteristics of American politics that the public choice oscillates with an almost pendulum-like regularity between weak and strong executives.[2] When a weak executive is in office, the people yearn for a strong leader. When a strong executive is in office, they grow weary of heated discussion and debate and yearn for more quiet times.

The truth of the matter is that the members of the legislature are quite ill-prepared, as compared with the executive, to draft a legislative program or to determine the details of its contents. Most modern legislative subjects are highly technical and complicated; no one member can be well informed on more than a few of them, nor can he adequately study the bills relating to

1. See W. Brooke Graves, *Readings in Public Opinion* (New York: Appleton, 1928), chap. 29.

2. William B. Munro, *Invisible Government* (New York: Macmillan, 1928), chap. 3.

more than a limited number of subjects. The chief executive, on the other hand, is so situated that he has a kind of panoramic view of the whole government. He and his subordinates are responsible for the enforcement of the law, and hence are in a better position than anyone else to know the strength and weakness of existing legislative provisions, and to make constructive suggestions for the elimination of the latter.[3]

It thus appears that the cyclical development of legislative power of the executive has run its course. The successful executive now commonly proposes new measures and presses their adoption. His place in history is determined largely by the extent to which he succeeds. The legislature renders a valuable service in weighing his proposals, often preventing the adoption of measures that might not be acceptable to the public; yet we still operate on the assumption that the legislature itself makes the laws. Actually an increasing percentage of laws are drawn by or under the direction of the executive branch, and ratified, with or without modification, by the legislative branch.

GOVERNORS, MAYORS, AND MINOR LOCAL EXECUTIVES

The American political system provides for some kind of an executive officer in each separate governmental unit at each level of government. Thus one finds governors of states, mayors or city managers in municipalities, sheriffs in counties, burgesses in towns, as well as other types of minor local executives. It is proposed at this point to consider briefly the characteristics of some of these officers.

Governors. With one exception (New Jersey), governors of states serve for terms of either two or four years. All are popularly elected. Practice on tenure of office is about evenly divided, although the tendency seems to be in the direction of the longer term. Re-eligibility is unlimited in the case of the shorter term but is usually limited in the case of the longer. Much of what has been said about the character of the Presidential office applies with equal force to the governorship, which serves as a training school for most Presidents and presidential candidates. In recent years, the governor has come to be an important popular leader. Like most American executives, he is expected not only to do a presentable job as chief administrator, but to devote much time and effort to public appearances at dedications and other ceremonial occasions. He must at least appear to be greatly interested in the common problems of everyday people. He should have a flare for publicity, and no effort should be spared by his staff in getting his name

3. See O. Douglas Weeks, "Legislative Power Versus Delegated Power," *Georgetown Law Journal*, Jan., 1937, pp. 314–35; an "Initiation of Legislation by Administrative Agencies," *Brooklyn Law Review*, Jan., 1940, pp. 117–31.

before the public, in any possible favorable way, at all times and on all occasions.

One of the most difficult problems here, as in the national field, is that of the relations of the executive with the legislature. About 1930, the Governor of Wisconsin set up an executive council to provide a liaison device between the two branches of the government. More recently, the legislative council has been developed and used very effectively in Kansas and other states. These councils consist chiefly if not wholly of members of the legislature, who in the intervals between sessions study the problems of the state with a view to preparing a legislative program for consideration at the next session. The more efficiently the councils function, the easier it is for the executive to discharge his responsibility of leadership in legislation.

The Municipal Executive. In the last fifty years, the office of municipal executive has gone through greater and more far-reaching changes than have occurred in other comparable fields. The original weak mayor and council plan, patterned after the structure of the Federal Government, eventually gave way to other forms of municipal government—the commission form, the strong mayor and council form, and finally the city manager form. The last represents an attempt to divorce ceremonial duties from those relating to the actual business management of the city. The mayor is a political leader, politically selected; the manager is a professional person, chosen on the basis of competence, experience, and general fitness. There are two jobs to be done, but normally they cannot be properly done by the same person.

The Executive in Other Local Units. Other types of local executives have already been mentioned. Of these the sheriff is by all odds the oldest, his office having been established in the English county many hundreds of years ago. In this country the sheriff has since early colonial times continued to be the chief law-enforcing county officer in every state in the Union where the county form of government exists. It is his duty to protect life and property, to maintain peace and order, and to take charge when domestic violence exists or is threatened. In a very few counties where the institutions of county government have been reorganized, the office of county manager has been established. This is in line with the development of municipal government and with the clearly defined need in the counties for some better and more adequate provision for the exercise of executive power.

In the smaller local units, there are to be found the burgesses in towns, the constables, squires, coroners (who function on a county basis), and many others. The character of these offices reflects the universal distrust of executive power so widely prevalent in the country at the time our governmental institutions were established.

PRINCIPLES OF ADMINISTRATIVE ORGANIZATION

The organization of the executive branch of the government varies greatly from nation to nation, from state to state, yet certain principles governing such organization are generally recognized. The functions which the government performs should be classified according to type, and a limited number of separate departments established, one for each major type. The number should not be so large that the organization becomes unwieldy, nor so small that unrelated services must be administered within a single department. From the point of view of effective administrative organization, one extreme is quite as objectionable as the other. With the passage of time, some functions may diminish in importance or disappear, while new ones will be added or existing ones expanded. There is no ideal or static form of administrative organization which can be used effectively at all times or in all places. There are, however, certain essential functions for the performance of which all governments are responsible, and for which any plan of administrative organization must provide.

Types of Administrative Services. Administrative services are of three types: line, auxiliary, and staff. The line services include those which affect the people directly, such as activities of a regulatory character and those which furnish service or information to citizens. The control of plant and animal diseases, the enforcement of food and drug regulations, blue-sky laws, public utility laws, and laws requiring the examination and licensure of practitioners of learned professions and technical trades are all examples of regulatory services. Activities of the service type, called by some writers primary services, include the farm-marketing service, those phases of the plant and animal industry service which aid producers in getting a larger output at a minimum investment, public-health service, free library programs, vocational and adult education programs, and the like.

The auxiliary services are concerned with the performance of the routine activities of government—the collection and disbursement and the custody and budgeting of revenues and the supervision of their expenditure; the purchase and maintenance of property, supplies, and equipment; and the hiring and dismissing, the promotion and the retirement of personnel. These services are of little direct or practical value to the people, and yet it would be impossible for the line services of government to function if these auxiliary services were not regularly and efficiently maintained. These were in the main, the original offices of general government.

The staff services have been defined as the research and planning arm of the executive branch of the government. These functions differ from the auxiliary services in that the latter are operating agencies, concerned with

the maintenance of the existing organization, but not with major substantive policies. The staff agency is a non-operating agency, concerned with thinking, research, and advisory work, and with the revision of organization as new needs may arise. It is concerned with the formulation of major policies. The need for such service is great, but until recently little had been done toward developing it in American jurisdictions.

Certain types of services, such as the legal work of the government and most types of fiscal supervision and control, can be centralized at the Capitol. But line services cannot be effectively administered except through convenient field offices and representatives who can contact citizens who are in need of the type of service they have to offer. An employment service would be completely useless unless there were offices in the industrial centers where positions are likely to be available, and where there are men and women who need employment.

Federal Organization and Reorganization. Most administrative structures are like Topsy—they just grew. As one function after another is undertaken by government, a new agency is created to discharge it. Thus one administrative agency is piled upon another, without much regard for those already established. The result is overlapping, duplication, and waste. For decade after decade, this process continued in the Federal government. Since 1913, when the Department of Commerce and the Department of Labor were established as separate agencies, there have been ten executive departments,[4] the heads of which serve as members of the President's Cabinet. In addition, there developed a large number of independent administrative boards or commissions, like the Interstate Commerce Commission, the Federal Trade Commission, the Federal Power Commission, the Federal Communications Commission, and many others. Finally, the situation was still further complicated in the Thirties by the multitude of new agencies established during the Roosevelt Administration. While many of these were at first regarded as emergency agencies, and therefore temporary, they followed the well-established pattern of governmental agencies by becoming permanent, in a number of instances being designated as "administrations." Thus a situation which had been the subject of much concern for nearly half a century became critical.

Since 1887, Congressional committees had carried on periodic investigations of the Federal administrative structure. Report after report was written and filed, but still no action was taken. In the Presidential campaign of 1928, the Democratic nominee, fresh from a successful reorganiza-

4. These are, in the order of their establishment: State, Treasury, War, Justice, Navy, Post Office, Interior, Agriculture, Commerce, and Labor. The following trick word has been coined from the initial letters: St. Wanpiac/l.

tion of the state government of New York, sought to make the reorganization of the administrative machinery of the Federal government an issue of the campaign, but without much success. During his term as President, Mr. Hoover sought from Congress the authorization to make certain changes in the Federal structure, but was refused. Sometime later, a similar authority was granted to Mr. Roosevelt, and some beneficial changes were made. The President appointed his Committee on Administrative Management, consisting of three nationally recognized authorities in the field, to study the situation and make recommendations. The report was published, and in a special message to the Congress the President asked for the legislation necessary to carry out the recommendations of the Committee. It was at this point that a tremendous controversy arose over the passage of the Reorganization Bill. While the opposition was based largely upon ignorance and partisanship, the final passage of the bill put the administration forces in Congress to a severe test. Under the terms of this legislation, the President has submitted for the approval of the Congress a number of specific recommendations for the consolidation and rearrangement of Federal agencies.[5]

State Government Organization and Reorganization. For years the administrative structure of the state governments had developed in the haphazard manner already described. Most of the older offices were created by the Constitution; their heads were chosen by popular election and were entirely free from any administrative control by the governor. There were in addition in each state a multitude of independent, un-co-ordinated, and overlapping boards and commissions. Although administrative reorganization had been discussed in Oregon and elsewhere for a decade, it was not until 1917 that, under the able leadership of Frank O. Lowden, then Governor of Illinois, legislation was adopted putting the principles of reorganization into operation. Since that date, approximately half of the states have adopted reorganization codes, and all of the states have been more or less influenced by the movement. The primary purpose of the plan has been to place the governor in fact, as well as in theory, in such a position of authority as to make possible proper administrative and financial supervision of all of the agencies of the state government. While some objections to the plan have been raised, it is unquestionably true that it has accom-

5. See President's Committee on Administrative Management, *Report With Special Studies* (Washington: Government Printing Office, 1937). The studies for the so-called Byrd Committee of the United States Senate, which opposed the plan, were made by the staff of the Brookings Institution and were published as Senate Committee documents. The progress of the work of reorganization may be traced in the articles by Lawrence F. Schmeckebier appearing from time to time in the *American Political Science Review.*

plished a great deal for the improvement of state administrative organization and procedure.[6]

PRINCIPLES OF TERRITORIAL ADMINISTRATION

The problem of administrative areas is the problem of establishing and adjusting the territorial boundaries of political sub-divisions, zones, and districts to the requirements of administration. Generally speaking, this has been done in two ways. From the earliest times, the settlement of new territory has been promptly followed by the setting up of various types of local government areas—counties, cities, towns, township, villages, boroughs, and a multiplicity of special-purpose districts in the interest of education, health, highways, irrigation, sanitation, water, and so forth. The number of these has grown until it is almost impossible to count them. The most reliable computations vary from 175,000 to 183,000.[7] These local units are separate and enjoy some degree of political independence. Each has certain governmental machinery, and each is authorized by law to administer specified governmental functions within its own borders.

District Organization. The second major type of territorial administration is found in the areas, districts, regions, or zones set up by the central government or by co-operation of two or more smaller units, for the performance of administrative functions for which the central unit itself is too large and the smaller units too small. These inter-level units vary greatly in size, and commonly serve a single administrative purpose. They possess no governmental powers, serving rather to further administrative convenience and efficiency than as units of political organization. Therefore, their boundaries are often established without much regard for already-established political boundaries. Professor White truthfully observes that the number of these purely administrative districts which underlie the established units of government "is entirely unknown, but it is certainly great."

The determination of the number, size, and boundaries of these districts depends upon a variety of considerations—legal, historical, geographical, political, and financial factors, density of population, the nature of the service to be rendered. Since the requirements for one type of service differ widely from those of another, and since there has been no central co-ordinating influence or agency, the result has been a multiplicity of districts, and an almost chaotic overlapping and duplication within the nation, and

6. The best work on this subject is by A. E. Buck, *The Reorganization of State Governments in the United States* (New York: Columbia University Press, 1938); see also W. Brooke Graves, *American State Government*, rev. ed. (Boston: Heath, 1941), chap. XII.

7. See William Anderson, *The Units of Government in the United States* (Chicago: Public Administration Service, 1934). Anderson gives the lower figure, the United States Bureau of the Census the larger.

within individual states. This is attributable to shifts in population, to the change from a predominately agricultural to an industrial society, and to the inability of the existing governmental structure to successfully discharge the responsibilities imposed upon it by the widespread demand of the people for more and better service from government.

Not only has an extensive development of district administration been necessary in the United States, but such other devices as regionalism and interjurisdictional co-operation have been resorted to. Regionalism may be imposed upon an area by the central government, as in the case of the Tennessee Valley Authority; it may develop on a purely voluntary basis, as in the case of the Interstate Commission on the Delaware River Basin (commonly known as Incodel), and other interstate river commissions; or it may develop in a metropolitan area, in an effort to overcome the chaos resulting from the existence of a multiplicity of overlapping units.[8]

Intergovernmental Relations. The inter-jurisdictional relationships may be Federal-state, interstate, Federal-local, or state-local in character. Space does not permit more than the briefest mention of the many problems which these interrelationships present. Many of the relationships are of relatively recent origin; all of them are important, and are likely to become more so. Federal-state relations developed in many fields under the grant-in-aid system between 1912 and 1933; since that date, the growth of this system and the development of the agricultural, crime control, public works, relief, and social security programs have added greatly to the significance of these relations. Just as the states have found themselves in need of the aid of the Federal Government in many fields, so likewise they have discovered that in other fields they cannot function effectively without regard for their neighbors. Under the leadership of the Council of State Governments there have developed state commissions on interstate co-operation and national bodies composed of state officials and laymen to cope with interstate problems in crime, taxation, and welfare. For some purposes where speedy action seemed necessary, the Federal Government has short-circuited the states and dealt directly with the cities. Meanwhile, some states have taken over entirely functions formerly regarded as local, and all of the states have extended their supervision and control over local finance and many other activities of local government. There has, in fact, been a transfer of power and responsibility from the smaller units to the larger ones all along the

8. In Chicago in 1933, there were 1,642 units of local government in the metropolitan region, of which twenty-seven were within the borders of the city proper, 419 were in Cook County, and 1,487 in other parts of Illinois. Comparable conditions exist in many other large cities. See Charles E. Merriam, Spencer D. Parratt and Albert Lepawsky, *The Government of the Metropolitan Region of Chicago* (Chicago: University of Chicago Press, 1933).

line, from local units to the states, or from the states to regions or to the Federal Government; and there is now in existence a considerable sentiment for the complete elimination of many units of local government that are too small in area or population or too poor economically to render efficient governmental service.[9]

ADMINISTRATIVE LAW

One of the most significant developments in modern government has been the sudden and tremendous growth of administrative law. In earlier times, when the responsibilities of government were fewer in number and less intricate in character, it was possible for the law-making body to provide in the text of the statutes for most of the contingencies that were likely to arise in the process of their enforcement. It was gradually discovered that this procedure caused the inclusion of too much detailed matter in the acts, and prevented that degree of elasticity or flexibility which is necessary for good law enforcement. Consequently, this detailed legislation gave way to present-day outline legislation, in which the legislature seeks to prescribe a general rule, to lay down a principle in accordance with which a given matter shall be handled. The enforcing officer, department, board, or other agency then proceeds to supplement the act by rules and regulations which are issued with the force of law. Thus the executive officer supplies those details formerly fixed by legislative action.

While there is much to be said for this procedure, it is not without defects or critics. It is claimed that the rules are frequently changed without proper notice, that they are not given proper publicity, that not all administrators are wise or just, and that too much power is placed in the hands of a single individual. It is certainly true that there is a huge quantity of such administrative legislation, and that it lacks uniformity in many places where uniformity would be advantageous. While the statutes are conveniently accessible to all, much of this material is difficult to procure. Here is a problem in the field of law enforcement which deserves far greater attention than has thus far been accorded it.

Administrative law has been further developed by the device of the quasi-administrative, quasi-judicial board or commission. Where there are numerous questions of policy to be decided in connection with enforcement activities or where the duties are of a semi-judicial nature, such boards have

9. For an excellent brief discussion of these problems, see Leonard D. White, *Introduction to the Study of Public Administration*, rev. ed. (New York: Macmillan, 1939), chap. XII; for a more detailed treatment, W. Brooke Graves (editor), *Intergovernmental Relations in the United States, Annals of the American Academy of Political and Social Science*, Jan., 1940, entire volume, including an extensive bibliography.

been widely used. It is felt that they combine the safeguard of the judgment of a group of experienced men with adequate provision for effective enforcement work, for which work an executive secretary is commonly employed. Cases in point are the regulation of security sales, the determination of the rates to be charged by and service requirements to be imposed upon public utilities, and the settlement of controversial cases arising under workmen's compensation laws. These boards may not only issue orders, rules, and regulations, but may by their published decisions build up a body of highly specialized administrative law, each board in its respective field of operation.

CONTROLS OVER ADMINISTRATION

To the uninformed the administration of the law appears to be a very simple thing; the existence of a statute and of an officer charged with its enforcement is all that seems necessary. To either the practical administrator or the student of government many complicating factors are at once apparent. Each of these imposes, to a certain extent, controls upon the administrator. The statute may not be well drawn; its meaning may be obscure or uncertain; or if the purpose is clear, the extent of the administrator's powers under it may not be. These doubts may have to be clarified by judicial interpretation. If the administrator is indiscreet in the enforcement policies which he adopts, he may find himself shorn of powers which the act actually confers upon him. But possible judicial controls are not the only ones of which he must take account.

As an administrative officer he is a member of an administration to whose head he is responsible and with whom he must work in some reasonable degree of harmony—if he wishes to retain his position. He is not necessarily of a weak and truckling disposition if in the course of enforcing the law he takes account of the aims and policies of the administration of which he is a part. Political considerations may also influence his course. Party organizations do not always bestow their greatest rewards upon those who display the most vigor and courage in their work.

Most important to an administrator is, in the long run, the control of public opinion. There are many laws on the statute books which the majority of the people do not want to have enforced—laws, in fact, against the enforcement of which they would rebel. It is no answer to say that such legislation should be repealed; far more laws are repealed by disregard and neglect than are ever repealed by formal legislative action. Even if a law is a sound one which ought to be enforced, it is dangerous to proceed with its enforcement farther and faster than will be acceptable to public opinion.

An administrative officer may have a legal right to use drastic methods of enforcement, but the use of such methods may, as a matter of policy, be most unwise.

Finally, there is the possibility of control by the legislature. Unless the officer derives his powers from the constitution, they are conferred upon him by act of the legislature. What the legislature has conferred it can modify or take away. Even if it does not choose to adopt such a policy, it still has control of the public purse. There is no more certain or effective way to control administration than to curtail or withhold funds necessary for law enforcement. Add to all these controls the influence of powerful and well-organized pressure groups, and it is quite obvious that an enforcement officer is far from being a free agent in the determination of policy.

THE POSITION OF THE EXECUTIVE

The executive in our time is everywhere in a position of tremendous power. In those countries where a system of dictatorship has been established, the executive is supreme and free from the controls found in democratic states. In the democracies, conditions have steadily enhanced the power and the prestige of the executive. In the United States, for instance, the Founding Fathers never intended that the President should ever exercise the tremendous powers that are his today. The governors of the states have risen from powerless and inconspicuous positions to places of great responsibility and to the status of popular leaders. In the cities, we have been struggling for a generation to introduce the element of responsible leadership, and in the counties it is commonly said that this is the greatest single need.

A powerful executive is truly indispensable to the modern state. Such a concept is quite in harmony with democratic government as long as there exists the element of responsibility, and as long as it is accepted in practice that no executive shall serve except for limited stated periods, and then only as a result either of popular election or of popular approval otherwise indicated.

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CHAPTER NINETEEN

Bureaucracy

THE TERMINOLOGY OF CONTEMPT

THE linguist has reason to despise the word *bureaucracy* as a hideous example of teaming up French with Greek. The editorial writer is apt to prize it as a loaded term sure to stir up our atavistic resentment of officialdom. John Doe, gritting his teeth over an inquisitorial government blank, may curse the sinister hand of "bureaucracy." And yet, translated with naive optimism, the word has an entirely inoffensive meaning—"desk government." In social ranking, the man at the desk is by no means an outcast. In the advertisements of the *Saturday Evening Post,* we greet him as the confidence-inspiring gray-head at the helm of our railroads, banks, and industrial plants; or as the hotel manager, bristling with eagerness to make us comfortable; or as the amiable wizard of insurance mathematics. But while we book as national assets the intricate and far-flung hierarchies of General Motors, Standard Oil, or United States Steel, we have been inclined to view government as a liability, reserving the term *bureaucracy* for the permanent personnel of our public services.

"Desk government" no doubt is a phrase without horror. It suggests contemplation and planning, direction and co-ordination, predictability of performance, and regularity of conduct. It alludes to the function of the mind, a function fully recognized in our era of specialization. It even carries the connotation of knowledge and wisdom. Certainly, twentieth-century government must be imaginative and informed, capable of interpreting social data, effective in designing long-term programs—in short, it must be intellectually resourceful. If it is a bureaucracy in this sense then it has achieved the highest distinction. Needless to say, such a distinction is not implied, and it is easy to see why it is not.

The *liberté* preached by the French Revolution destroyed the established property system founded on feudal control of landownership—landownership qualified by a tradition of public service, military and civilian. Individual freedom was to no small extent freedom of economic pursuits. Though it took a different point of departure, the American development produced the same results. Rationalism, technology, and industrialization supplied the new freedom with tremendous potentialities, without safely

incorporating the ascending *haute bourgeoisie* into the government pattern. In its general direction, the early capitalist evolution turned its back toward the polity and poured its energies into private enterprise, while the unrestricted accumulation of wealth eventually challenged the equalitarian basis of liberty itself.

It is this setting that gave rise to the doctrine of government nonintervention in the affairs of business. The period of industrial expansion, with its frequent moments of revelry and intoxication, was able to sustain society in spite of its fundamental contradictions. As the pace slowed down, the dilemma became obvious. An integrated and essentially stable economic order is forced to acknowledge the need for both equilibrium and mass support, particularly the support of the working population. Hence the pressure for government regulation of the economy and for social security legislation. The old doctrine, however, is not yet dead. Its counterattack is of a dual nature. Government is denounced as corrupt and ineffectual, unable to offer guidance through competent economic policy. The increasing prestige of the emerging administrative service, on the other hand, is met with the cry of "bureaucracy."

THE DANGER OF "RED TAPE"

No modern bureaucracy has so completely lost its sense of reality as to make an attempt at setting itself up as the master of the people. In our day, the public service combines so many specialized cadres that it does not represent a socially homogeneous mass governed by identical attitudes toward political issues. Inevitably, there are marked discrepancies of background and outlook among the executive personnel and the rank and file, among the administrators and the technicians, among social workers and tax officials. It is true the uniting effects of a common service ideology should not be underestimated, but such ideology is bound to center on the subordination of personal preference to public policy. The ranking permanent officer is likely to have the ear of his political superior. Yet it should not be forgotten that the professional ethics of the career man render him indisposed toward assuming political responsibility or engaging in political obstruction. Sidney Webb's public testimony, summarizing the first cabinet venture of the British Labour Party, is revealing. His comment:

> I and my colleagues have had the experience of coming as new people to offices which might legitimately have presumptions and traditions against us, and I am sure I am speaking for all my colleagues when I say that we have nothing to complain of in regard to the loyalty, fidelity and zeal with which we found ourselves assisted during our short period of office.[1]

1. See also Leonard D. White's gloss in L. D. White, C. H. Bland, W. R. Sharp, and F. Morstein Marx, *Civil Service Abroad* (New York, 1935), pp. 44 ff.

Much more serious than the fanciful notion of officialdom plotting to enslave the people are other factors incidental to administrative organization itself. These, in fact, we encounter in any sizable enterprise, public or private, although we seem to condone them far more readily outside the government service. Nor do we warm to the assumption that redress is as persistently sought within the area of professionalized public administration as it is taken for granted in the sphere of industrial management. "Red tape" is made of many threads. Regardless of his rank, the official anchored in his specific functions is prone to develop an unwholesome preoccupation with what is going on under his nose. Instead of looking upon government activities in their totality, his eyes focus on a small sector. The ultimate ends of his doings must often appear remote, minimized by his concern with means. Accountability, looming large, makes him yearn for cover. Strict observation of the rituals of formality becomes a technique of self-protection. The varied pattern of life furnishes him but well-labeled "cases" which he industriously twists into the office routine. No "case" claims more of his heart than any other, except the one to be filed away.

Ruler in his miniature kingdom, the official reduces those with whom he has to deal to inferiority. In his contacts with the public, the weight of his experience more often overwhelms people than wins him friends. Professional solidarity and the fear of reprisals make him reticent to speak or act even if a blunder occurs that can be traced to an uncongenial colleague. But while century-old proprieties stand in the way of tearing down the curtain between stage and audience, stark drama would be present should Senior Clerk Jones discover that a matter falling in his jurisdiction had failed to cross his desk. Jealous defense of what the individual official is fond of calling "his" may well split up the departmental cosmism into a loose federation of tiny principalities. In this sense, but in this sense only, the bureaucrat has a stake in the system.

As a consequence, organizational allegiance is constantly in danger of being misdirected into the smallest working unit. And departmentalism can flourish. To the permanent staffs in the Department of Commerce, any proposal coming from the Department of Labor may appear soaked in radicalism and provocatively unsound as well. Even within a department, bureau may stand against bureau, division against division, section against section. The French administrative pattern affords impressive evidence, although for years considerable thought has been devoted to overcoming this weakness. The cry of "right or wrong—my division" has often been an admission of wrong. Jurisdictional squabbles are likely to assume the proportions of crusades. Meanwhile the wheels of administration stand still.

To be sure, such occupational vices can be checked. A well-developed system of staff conferences, bringing together at regular intervals groups of officials from the different levels of administration, greatly contributes to a fuller understanding of government policy as a whole.[2] In-service training schemes, apart from their value as a method of instruction in the solution of administrative problems, aid in the promotion of a more comprehensive point of view. Advisory citizens committees, attached to the various central and field establishments, may effect a fruitful mergence of official orientation and public sentiment. Antidote aside, the occupational vices to be counteracted spring to a large degree from real virtues. Not infrequently "red tape" stands for firm insistence on statutory principle, equality before the law, orderly procedure, and careful weighing of all relevant facts. Without these, "bureaucracy" would indeed run wild; it would cease to be answerable in the processes of representative government; it would no longer be the dependable service agency maintained by and for the people.

THE "PRUSSIAN FORMULA"

In his *Ruling Class,* Gaetano Mosca, one of our chief diagnosticians of modern government, undertook to show that contemporary Western statehood conforms universally to the bureaucratic type. It is worth mentioning that this classic, presented originally as *Elementi di Scienza Politica,* made its first appearance before the past century had come to a close. In Mosca's broad classification, the bureaucratic state, in contrast with its feudal precursor, reflects both more highly developed hierarchical control and greater specialization of governmental tasks, which are discharged by salaried officeholders. In his own words,

> Specialization in the various political functions and co-operation and reciprocal control between bureaucratic and elective elements are two of the outstanding characteristics of the modern representative state. These traits make it possible to regard that state as the most complex and delicate type of political organization that has so far been seen in world history.[3]

But Mosca does not fall into the unrealistic error of regarding the bureaucracy as the ruling body. Functional specialization tends by its very nature toward the "mixed government," in which he discerns the safest guaranty of constitutionalism. The democratic features of popular election, dominant in the legislative branch, should find their counterpoise in the aristocratic aspects of merit selection for the permanent services, administrative, judi-

2. Cf. F. Morstein Marx, "Bureaucracy and Consultation," *Review of Politics,* vol. I (1939), pp. 84 ff.

3. *The Ruling Class* (New York: McGraw-Hill, 1939), p. 389.

cial, and military—*aristoi* in the true sense, as "the best."[4] Here we encounter, in a novel setting, the old idea of checks and balances, adapted to present-day conditions. In fact, Mosca places emphasis on the oft-neglected corollary by emphasizing the need for constructive co-operation between the bureaucratic and elective bodies, both central and local. This, undoubtedly, is the key problem of twentieth-century government.

While writing his *Elementi,* Mosca did not simply rely on speculation. The bureaucratic state was already in full bloom. He could ponder the work of Richelieu and Colbert in France, and of Prussia's "enlightened monarchy" in the seventeenth and eighteenth centuries. Brandenburg's Great Elector constructed the early public service as an instrument of centralized control to meet the pretensions of the nobility and the urban patriciate. In this battle for domestic hegemony, he had no alternative to recruiting his administrative personnel from the great mass of the unprivileged. Under his grandson, King Frederick William I of Prussia (1713–1740), the new machinery of public management obtained its rational systematization. The career service was almost exclusively a commoner's domain, while noblemen and "dumbbells," as the King used to say, could try their hands at

4. We may remind ourselves of Thomas Jefferson's ideal of "culling from every condition of our people the natural aristocracy of talents and virtue, and of preparing it by education, at the public expense, for the care of the public concerns" (letter to Joseph C. Cabell, dated January 5, 1815). Almost exactly a century before Jefferson wrote these lines, King Frederick William I of Prussia had begun to give consistent application to the merit principle by "searching far and wide" for men of "insight and intelligence" (*"von Verstand und guten Kop"*) in recruiting his higher governmental personnel, regardless of low social station of the candidates. This motivation, as in the case of Jefferson, translated itself in the active interest displayed by Prussia's "enlightened monarchy" in the promotion of institutions of higher learning. Jefferson apparently never realized how closely his own thought paralleled Plato's scheme of selection for guardian service. Although he had read Plato, he saw in him merely "one of the race of genuine sophists" and a "foggy mind" (letter to John Adams, dated July 5, 1814).

It is also interesting to notice that Jefferson, in his Virginia Public Education Bill (Section 42), unwittingly followed the procedure outlined by Confucius in *Li Chi.* Jefferson's plan envisaged a regularized transfer of pupils "of the most sound and promising understanding and character" from one level of instruction to the next higher, beginning with the "ward schools" (projected as county subdivisions) and ending with the university. Confucius in the same way linked the lowest level of education, the village schools, with intermediate training centers and the Imperial Academy as the apex (*Li Chi,* Bk. XVI).

Of the graduates of the Imperial Academy he says this: "An educated man, familiar both with the appropriate steps toward the attainment of learning and the standards of sound discrimination, is capable of insight. Having acquired insight he can indeed be a teacher. When he can be a teacher, he is qualified for high government office. Being qualified for high government office he is able to be the ruler. Hence it is from the teacher that one learns to be a ruler, and the choice of a teacher must be considered of greatest importance. As it is said in the Record, the three kings and the four dynasties were what they were by their teachers" (Bk. XVI, 16. The translation given here differs somewhat from that by James Legge).

How far Greek political thought, in particular Plato's, was affected by Confucian ideas is to my knowledge still a matter of conjecture. For our purpose, it is of greater significance to observe how persistently different minds and different ages have gravitated toward the same practical conclusions in the utilization of higher learning for public service. There is compelling reason for restoring the Jeffersonian premise in our civil service recruitment practices.

judicial business. In a sense, therefore, the bureaucracy became the people's branch of government, reducing the ruler, in the phrase of Frederick the Great, to the place of the state's "first servant."

An elaborate body of rules and regulations, largely the product of Frederick William's administrative mind, outlined the duties of the public personnel on the different levels of administration, ministerial, provincial, and municipal. Effective supervision extended throughout the whole setup, insuring a remarkable degree of functional integration and uniformity of official behavior. A Prussian career administrator succinctly summarized the experience at the end of the century (1798) in these words: "The conviction alone that an exact control takes place causes activity, order and observance of the law in the disposal of the official business."[5]

The techniques of superintendence then current reveal the extent to which the subjective conceptions of the individual officeholder as to the means and ends of administrative power had been replaced by objective standards. Our witness mentions three devices for controlling government officials.[6] There was local inspection, involving also the ferreting out of such grievances as had not been presented in the form of complaints against the responsible official. In addition, the higher authority, once a year, asked for a copy of the general register of all administrative transactions, and after studying it called for a number of files selected at random for thorough examination. Finally, the statistical breakdown of official activities, checked by the inspectorate against the records kept in each unit of administration, offered information on which to appraise performance. All three methods of control suggest not only an advanced stage of administrative organization but also the prevalence of criteria of accountability specific enough to supply direction. The functionary was no longer the sovereign judge of public propriety. He was merely the agent of the government, obliged to "observe the law in the disposal of the official business." What to do and how to do it—for a reply he had to look to his instructions, and only as a last resort to the postulates of his administrative conscience.

The spirit of frugality and the sense of duty, typical of the "Prussian formula," would have been pointless without the compulsion of hard necessity. Brandenburg, the "Holy Roman Empire's Sandbox," provided an environment where official self-exertion, public economy, and prudent management had a deep appeal. There was no leeway for carefree squandering. This factor found expression also in the elaboration of the recruitment

5. K. F. Wiesiger, *Beantwortung der Frage: Wie können Magistratspersonen in mittleren und kleinen Städten den grössten Nutzen stiften?* (Zerbst, 1798), p. 24.

6. *Ibid.*, pp. 24–25.

system. It reflected a firm determination to conscript ability. Significantly, the Royal Decrees of 1722 and 1748 concerned themselves with little but the ranking personnel: those whose decisions would be of crucial importance for the working of the entire machinery; whose capacity for leadership would weld the organization into a cohesive unit; and who would set the standard of conduct for their subordinates. Frederick William I, eager to increase the productivity of his realm and to improve the living conditions of the population, clamored for administrators able to move mountains. His drive set a tradition, and formal prescriptions evolved in its wake. Candidates were expected to have at their disposal all the knowledge universities could offer in the fields of agriculture, forestry, manufacturing, and administrative science (then known as cameralism). Thus armed, they were welcomed into the probationary service, during which they had to attach themselves for a number of years to one or the other provincial administration. The latter had to certify the aspirant's readiness for the final examination, which was held in Berlin before a group of ministerial officers. Those surviving the rigid selection tests could count on a permanent appointment.

THE GROWTH OF THE CAREER IDEA

Roughly speaking, the principles discussed above have remained the same on the European Continent. Today, it is true, the emphasis in the university curriculum is on "jurisprudence" rather than on economics and management. But the courses in "jurisprudence" stress public law more than does the curriculum in the law schools of this country, and they include important phases of political science and public economy.[7] In addition, separate training schemes have been formulated for the rank and file of the government service. One decisive point should be stressed. Apart from occasional exceptions, the higher administrative career is being reached directly from the universities through the medium of the probationary service, not through intermediate clerical positions. Thus there is a constant influx of young people at the top of the administrative hierarchy, people representative of current intellectual trends, "open minds" whose ideological convictions ripen in the service of their countries. The dynamic type, eager to seek responsibility, is not repelled by the prospect of years of subordinate clerical labor. The bureaucracy is not permitted to "age," and the rising generation of administrators, groomed in public institutions of higher learning, is able to look forward to a professional career that compares favorably with other careers.

7. Cf. C. J. Friedrich, "The Continental Tradition of Training Administrators in Law and Jurisprudence," *Journal of Modern History*, vol. 11 (1939), pp. 129 ff.

The British Civil Service, considerably younger than the German but distinguished by a record of achievement, arose, like its Continental counterpart, in response to pressing conditions. Toward the middle of the nineteenth century, India presented the gravest Empire problem. A committee was brought together under the chairmanship of Macaulay, the historian, to inquire into methods of recruitment for service in the East India Company. The committee report, written in 1853, laid out a selection scheme that up to this day has governed the entrance requirements for what is now called the "administrative class." To quote the report:

> Ought the examination be confined to those branches of knowledge to which it is desirable that English gentlemen who mean to remain at home should pay some attention?—or ought it to extend to branches of knowledge which are useful to a servant of the East India Company, but useless, or almost useless, to a person whose life is to be passed in Europe?
>
> Our opinion is that the examination ought to be confined to those branches of knowledge to which it is desirable that English gentlemen who mean to remain at home should pay some attention. . . .
>
> Nor do we think that we should render any service to India by inducing her future rulers to neglect, in their earlier years, European literature and science, for studies especially Indian. We believe that men who have been engaged, up to one or two and twenty, in studies which have no immediate connection with the business of any profession, and of which the effect is merely to open, to invigorate, and to enrich the mind, will generally be found, in the business of every profession, superior to men who have, at eighteen or nineteen, devoted themselves to the special studies of their calling.[8]

Having successfully met the practical test in India, this principle was in 1870 applied to the home services. Industrialization and its crucial problems made thoughtless nepotism a national menace. It is true there was no dearth of dire predictions to the effect that the party system would not survive the loss of patronage. Fortunately, few of the influential leaders of Britain's political class lent their ears to such narrow-minded counsel. John Stuart Mill declared that

> open competition would be one of the great public improvements, the adoption of which would form an epoch in history. The knowledge that the Government would bestow its gifts according to merit and not according to favor would be a moral revolution in the lowest classes.[9]

Without detracting from his general observation, we may add, however, that for many years thereafter the highest permanent posts fell almost automatically to the graduates of Oxford and Cambridge. Only recently have other universities secured part of their legitimate share. As a result, the social

8. A convenient collection of pertinent documents is L. D. White (ed.), *The Civil Service in the Modern State* (Chicago: University of Chicago Press, 1930).

9. For a good discussion of the controversy see K. B. Smellie, *A Hundred Years of English Government* (New York: Macmillan, 1937), pp. 108 ff.

tradition of the "administrative class" is more distinct than is the case on the Continent. Moreover, the total of positions in the "administrative class" does not exceed thirteen hundred, while the personnel of Germany's higher administrative service, to cite only one other example, runs into more than twenty times this figure, including the ranking municipal posts,[10] which in England, strangely, are virtually denied the "university man."

Considering requirements in foreign countries, one may say that in the United States we have pursued the course of least resistance. The Pendleton Act of 1883, which created the Federal Civil Service, confined itself to placing selection for certain groups of subordinate offices on a competitive basis. The key grades, below department heads, were viewed as taboo; no one, in fact, seriously proposed to surrender them to the merit rule. On this point more than fifty years have brought no fundamental change, although both major parties have lately gone on record as recommending the "upward extension" of the civil service. In addition, the emphasis of the Pendleton Act on "practical" examinations has militated against the conception of a public service career; most of our civil service tests aim to determine the specific qualifications of the persons who take them for specific duties, thus severely limiting the opportunities for systematic advancement into broader responsibilities. Finally, civil service commissions, federal, state, and municipal, have in the past directed most of their energies toward "keeping the service out of politics." Though a worthy objective, its pursuit has diverted attention from the positive objectives of personnel administration: the development of talent and the promotion of morale, team work, and group co-operation.

In the absence of effective public support of the career idea, it is truly amazing that the American public service has reached its present stature. Hundreds of thousands of public employees are now included in the merit system. In our federal administration, the number of employees in various branches of the civil service has increased from less than fifteen thousand in 1883 to nearly six hundred and twenty-five thousand in 1939—about as steady a growth as it has had in England. In Washington, even most of the bureau chiefs are career men, having risen from the ranks. There are today experienced personnel officers in all of the federal departments. Tentatively, the United States Civil Service has begun to design entrance examinations addressed primarily to our academic youth. These are hopeful signs —signs which seem to suggest that American democracy is waking up to the fact that representative government owes its citizens a duty of social

10. See the present writer's chapter in William Anderson (ed.), *Local Government in Europe* (New York: Appleton-Century, 1939), pp. 266 ff.

efficiency. Indeed, a responsible and responsive bureaucracy alone is capable of translating the idea of popular sovereignty into tangible services for the common man, thus helping to build a community that canalizes its productive energies for the benefit of the great mass of its members.

HIERARCHY AND DISCIPLINE

No organization can be without its center of command. Co-operation without direction is attainable only within small groups where each worker can fit himself easily into a simple labor pattern. Practically all large-scale organizations are constructed hierarchically; that is, in terms of chains of superior-subordinate relationships connecting the apex of the pyramid with its very base. Hierarchy, in its undistorted form, does not, however, merely aim at a controlled interlocking of individual efforts for the achievement of broader purposes. Though presupposing a core of supreme responsibility and binding decision, hierarchy relieves the center of control by delegation of authority to subordinates who thereby become superiors to still lower subordinates. This downward allocation of authority can be repeated over and over to suit the size and the functions of the organization. Hence hierarchy, in itself, does not reduce the personnel of the organization to mere robots; rather, it attempts to provide stable leadership for every single team unit and simultaneously to group each team in a co-operative relationship with all others, a relationship accessible to the overall directions of the central authority.[11] It follows that the test of hierarchical efficiency is the scaling down of responsibility so as to place every subleader in a position to supply alert guidance for his team in harmony with centrally defined policy.

Speaking generally, a fully professionalized service can meet this test more easily than a patronage bureaucracy. In the former, the executive group of top officials is able to operate on the assumption that the lower ranks are adequately equipped, through training and tradition, to evolve solutions for problems arising in their areas. As yet, however, since professionalization is still the exception for the higher posts, this rule of experience is more often honored in the breach than by observance in the relationships between our central departments, federal and state, and their respective field services. If the central authority insists upon the final say even in routine matters, the result is an organizational cramp that may lame the entire administration. Delays occur, initiative is weakened, and demoralization sets in. Hierarchy

11. Cf. L. Gulick and L. Urwick (eds.), *Papers on the Science of Administration* (New York: Institute of Public Administration, 1937).

becomes a burden rather than a design for concerted endeavor. Redress is predicated on the overdue construction of a real administrative career.

Hierarchy also affords opportunities for combining related services in one and the same department, thus securing sensible co-ordination. How deeply such organizational issues affect the individual citizen both as taxpayer and client is well illustrated in the following paragraphs taken from the report of the Pennsylvania Committee on Public Assistance and Relief:

> The continued separation of any one of [the public assistance] services from others is not only illogical; it is an invitation to wasteful duplication of effort, conflict of purpose and multiplication of cost. Each service, if independently administered, must maintain its own offices, its own executive leadership, its own supervisory force, its own research staff, its own recording and accounting facilities, its own store of supplies and equipment, its own library and educational activities, its own field force operating throughout the whole area of its jurisdiction. Conference and prompt co-operation on common problems are delayed and discouraged. Unity of viewpoint and policy in dealing with different aspects of the same problem are partially nullified. Neither official nor public recognition of the size and scope of the problem as it is, an indivisible whole, is readily developed; the facts of dependency are nowhere faced in their entirety.
>
> Most important of all, the individual in need of help may be confused and harried. He must either know the precise scope of the program of each independent agency, or he must travel from one to the other until he stumbles upon the source of help that suits his own circumstances. . . . In not a single county of the State have we discovered, among present independent public agencies, the type of co-operation that regularly and routinely serves to assure prompt consideration of the needs of an individual whose application has been rejected by one agency, perhaps on technical grounds, but whose need of some sort of help is fairly evident.[12]

This example, chosen at random, is apposite to the entire range of public administration. Let us keep in mind, however, that official attitudes are not molded solely through hierarchical organization. Control is effective only where compliance with accepted standards of administrative conduct can safely be presumed. Ideological factors play an important role in conditioning the public servant toward his task. He should view it as a "mission," as the inflexible mandate to secure the priority of the public interest, as a continual reminder of his essential "neutrality" toward special interests. To this end, he must submit to certain restrictions of his civic freedom, particularly in his political activities. Such restraints are usually stipulated in the rules of Civil Service Commissions or in statutes typified by the two so-called Hatch Acts passed in 1939 and 1940. In the concise language of the civil service legislation recently adopted in Michigan:

> Every state employee shall fulfill conscientiously, according to the Constitution and the laws, the duties of the office conferred upon him, and shall prove

12. *A Modern Public Assistance Program for Pennsylvania* (Philadelphia, 1936), p. 32.

himself in his behavior inside and outside the office worthy of the esteem which his profession requires. In his official activity, the state employee shall pursue the common good, and not only be impartial but so act as not to endanger his impartiality nor give occasion for distrust of his impartiality.[13]

THE POLITICS OF ADMINISTRATION

No believer in democracy should permit himself the inconsistency of indifference toward the operative aspects of representative government. Obviously, these involve today a far broader sector of community life than they did in the earlier stages of our constitutional history. No other nation has seen more sprawling growth and more rapid change during the past five generations. A breakdown of our administrative machinery might well have fateful consequences, quite apart from the organizational demands of national defense. Too much of the substance of democracy, as it bears upon the man in the street, would be at stake. Too much of it is intimately bound up with the administrative competency of our governmental system.

Under the circumstances, one of the vital necessities is to create within the public service a corps of broadly trained administrators, men of social grasp and intellectual vigor, capable of seeking out the best methods of transforming legislative policy into administrative operations. Their task would be primarily organizational and managerial: to supply the ignition effect within the hierarchy, to outline the objectives of administrative action, to define responsibilities, to exercise general supervision and control, and to inspire group co-operation by providing administrative leadership. They would also be able to render aid in the formulation of policies. Their special knowledge and experience, their first-hand observation of weaknesses and gaps in the laws, their familiarity with the social and economic problems bearing upon their branch of administration—these would make them well-qualified advisers and planners for the chief executive and the legislative assembly. The administrators should be clearly distinguished from the technicians. The former will have to correlate and co-ordinate the latter—the scientists, engineers, physicians, lawyers, and statisticians. Instead of being himself the master of a specialized skill, the administrator must seek his function in exploring and mapping avenues of advance and combining the skills of the technicians in interrelated projects. His is the anticipation of social trends, the maintenance of the administrative momentum, and the adaptation of his department to the given framework of general policy.

Does this mean that the bureaucracy, by its very contribution to the political process, would secure virtual immunity from popular control? The

13. Act of 1937, Section 23. A subsequent change in party control has unfortunately jeopardized many of the gains of the 1937 legislation.

British example leaves little ground for anxiety. Moreover, we cannot overlook the answerability of public agencies before the courts, although much room is left for improvement. Judicial review of administrative action in the United States has probably been too haphazard and sporadic to present a concrete yardstick of official responsibility. Continental Europe has offered a different picture. In republican France, for instance, the tribunals of administrative justice, with the judicial section of the Council of State as the court of last resort, developed through decades a truly comprehensive body of legal rules governing the exercise of administrative power, national and local.[14] While never codified, the French system of administrative law, judge-made like the common law, was taught as a basic discipline in the curriculum of juridical studies. Its principles were familiar to the personnel of the higher career service. The latter element, on the other hand, was also prominent in the composition of the administrative courts. Thus the bench, as far as administrative litigation was concerned, was capable of informed judgment as to the practical aspects of public management. Judicial review of administrative decisions, as a result, was realistic and thorough. The Council of State ranked high as a defender of civil rights. This author found the attitude of the citizen well summarized in the comment of a small restaurateur in one of the Paris suburbs, who had some trouble with the authorities over his license. When it was facetiously suggested that in such a quarrel he would have a fairer hearing before the ordinary court, the restaurateur exclaimed with an expression of horror, "But what of my liberties?"

As to the United States, those who timidly shrink from a realistic appraisal of bureaucracy as a constructive force in our society or who consider an administrative career service either unattainable or somehow "un-American" may well ponder the conclusions reached in 1935 by the Commission of Inquiry on Public Service Personnel:

> The nature of the [proposed] program for transforming the work of government to a career basis, while of the most far-reaching importance in the development of American national, state, and local government, is none the less relatively simple, easy to understand and execute, and thoroughly practical. The program fits the American constitutional and governmental systems. It requires no type of structural change which we have not already tried out in practical experience. On the contrary, it grows directly out of our American social and economic system. It does not rest on wealth or status, but on the American doctrine of equal opportunity. The program is tied in with our edu-

14. Cf. Stefan Riesenfeld, "The French System of Administrative Justice: A Model for American Law?" *Boston University Law Review*, XVIII (1938), 48 ff., 400 ff., 715 ff.; F. Morstein Marx, "Comparative Administrative Law: A Note on Review of Discretion," *University of Pennsylvania Law Review*, LXXXVII (1939), 954 ff., and "Comparative Administrative Law: Economic Improvisation by Public Authorities," *ibid.*, LXXXVIII (1940), 425 ff.

cational system, drawing young men and women from the existing schools, colleges, and professional and technical institutions. It recognizes the fundamental differences in individuals and the characteristics of our human material, as analyzed by science and experience. It is impartial, it is nonpartisan, and it is nonpolitical. It follows the lead of successful private business by making the most of science, technology, specialization, and the division of labor. It is designed to furnish the best available personnel to carry on the work of government, whatever the governmental program may be. It is thus an American program for American government.[15]

This statement is not just another pious appeal for reform. It signifies the end of an era—the era marked by popular apathy toward questions of public management and toward the vulgarity of machine politics. The doctrine of government noninterference kept our political system disinclined to venture into the field of social policy. In the absence of public welfare organization, the urban destitute and the army of immigrants were permitted to fall prey to the selfish care of city bosses. Secure master of "the vote," the boss was thereby placed in a strong bargaining position toward those groups representative of the seamy side of business and hence in need of "protection." The hard lesson of the 1930's forced government into the area of social security and public assistance. With the increasing professionalization of our new social services, economic adversity no longer compels any one to surrender the freedom of his ballot as the price of relief. To all potential beneficiaries of unemployment and old age insurance, government has become a vital social guaranty. And to redeem its statutory promises, government cannot afford to lag behind the operative standards of private enterprise at its best. On the other side, more and more among the farsighted of our business leaders come to appreciate the tangible advantages of regulatory measures aimed at destructive, unfair, or unsound practices, for in such regulation they are discovering both a safeguard of stability and a protection of investment. Here too, the only legitimate issue revolves around the spirit and the technical competence of enforcement. Both the service and regulatory needs of industrial society clamor for the merit bureaucracy of tomorrow, the dependable instrument of the "mass state," free from the illicit constrictions of party but fully responsive to the government in power as the lawful agent of the people.

Laissez faire demobilized government. Our century calls for a remobilization. The underlying factors are so compelling that the old ruse of apologizing for patronage and political buccaneering in the name of freedom has ceased to work. Totalitarianism is playing the devil's advocate for us, and the people are coming to grips with the distinction between the national

15. *Better Government Personnel* (New York: McGraw-Hill, 1935), pp. 83–4.

interest and that of the politicos. Abruptly we have found ourselves up to our shoulders in the effort to strengthen the ramparts of our national existence. It is an effort that will absorb our energies for years and that is bound to push us far in the direction of overhauling our entire governmental machinery. During the first World War, one of the associates of Woodrow Wilson observed to his satisfaction:

> Since the people by their mood command and compel efficiency, the most efficient people will at last (as recent events show) get at the concrete jobs, in spite of anybody's preferences or philosophy. And this seems at last to be taking place. What we have suffered and shall suffer is not failure but delays and delays and bunglings. But they've got to end by the sheer pressure of the people's earnestness.[16]

We are rapidly moving toward this point again, though in a more orderly fashion, in no small measure, because of the availability within the governmental organization of career talent such as William H. McReynolds, now a potent figure in the National Defense Advisory Commission. There is a precious chance today of transposing the motive power in our quest of preparedness to a broader planning for peacetime needs. Without the continued drafting of outstanding competence into our administrative system, democracy will not be able to cope effectively with the hazards of the industrial age.

TRENDS IN PUBLIC MANAGEMENT

The tasks of contemporary government are so manifold, technical, and complex that the amateur has inevitably lost ground to the expert. Officialdom is one of the foremost characteristics of Mosca's bureaucratic state. The only choice left is that between a patronage bureaucracy, incompetent, hapless, and partisan, and a merit bureaucracy, resourceful, responsible, and devoted to the public interest. If we view the past fifty years as a whole, it is clear that we have already chosen. The merit principle has gained steadily, more by sheer necessity than by popular demand, but certainly with public acquiescence. The same period has witnessed the emergence of government from dormancy. Time was when a case could be made for government as a passive reserve force, content to play the role of the "night watchman." We know today that society cannot be sustained without government's far-flung service and regulatory functions. To plan and co-ordinate these is largely a responsibility of the legislative bodies, but it is the relatively inconspicuous and day-by-day regularity of administration and enforcement on which the ordinary citizen depends, even if he is not quite aware of it.

16. Burton J. Hendrick, *The Life and Letters of Walter H. Page* (Garden City: Doubleday, Doran, 1923), II, 390.

Thus the bureaucracy is a vital part of our entire political order, and its importance is likely to increase.

Within the bureaucracy, we observe a striking growth of professionalism, in both office qualifications and group attitudes. The remarkable rise of professional associations of public personnel, national, state, and local, offers a good index. These associations—such as the Civil Service Assembly, the International City Managers' Association and the National Federation of Federal Employees—have substantially contributed to the progress of the career idea by stressing professional standards and the need for constructive personnel administration. The spread of in-service training and the emphasis on professional ethics must also be laid largely to their pioneering. As a result, the government service is no longer far from the point where we can achieve a systematic division of labor between legislative responsibility for the general line of policy and administrative responsibility for the concrete workings of the governmental apparatus.

Such a division of labor, of course, must be embedded in a broader cooperative relationship between the representative elements and the permanent public service. Administrative officers, particularly in the highest grades, are in a position to render authoritative counsel on all questions that relate to the cardinal problem of the administrative feasibility of different policy alternatives. With the relevant facts at their command, they can also exert a rationalizing and synthesizing influence in the realm of policy formulation. How much this *expertise* meets a real demand in our day can be gathered from the attention paid to merit standards by the totalitarian regimes, despite their zest for men "strong in faith." There are many sincere believers in democracy who thoughtlessly take for granted the greater efficiency of totalitarianism. They would do well to explore more fully the obvious opportunities we have for the improvement of democracy's administrative system.

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SECTION IV

Regulation and Service

CHAPTER TWENTY

The Economics of Public Policy

THIS section of the book takes account of government in its relationship to business, in its relationship to the extension of services to the people by public and private institutions, and in its relationship to the use of the resources of the country. These relationships include, among others, the regulation of economic conditions,[1] the actual participation of the government in economic affairs, and economic activities which are inspired by the government. Economic activity is essentially simple, since it consists of the activities of man as he produces his living. The economic point of view, therefore, is realistic and provides a good point of departure for the student who is beginning a study of government regulation and service.

As an introduction to such a study it is well for the student to examine a few examples of government action for the purpose of discovering why government becomes involved in economic activities. Likewise, it is of interest to notice whether the results of government action are the same as the results hoped for when the action was instituted. Another point of interest lies in discovering whether or not the government has seen fit to continue courses of action when once they have been inaugurated, and if certain courses of action have been discontinued, to discover if the reason for the discontinuance was the failure to attain the objective which the government had in mind in the beginning. To enable the reader to obtain a comprehensive view of government action, we have chosen examples which are different from those presented in the next chapters. The order of treatment is chronological, to enable the student to observe whether or not the fundamental reasons for the establishment of public policy, inclusive of later changes and modifications, have been conditioned by the steady progress in the industrial and economic development of our country.[2]

One field of government action which will yield some insight into these matters is that of the money system and the banks. From the very beginning of our nation's existence the Federal Government has been interested and active in shaping or inspiring the monetary policy of the nation.

1. Economic conditions are those under which goods and services are produced and consumed.

2. This for the most part has been upward in trend. For more detailed treatment, see F. E. Croxton and D. J. Cowden, *Applied General Statistics* (New York: Prentice-Hall, 1939), pp. 364–7.

THE FIRST AND SECOND BANKS OF THE UNITED STATES

In the early history of our country we find as examples of government action the establishment of two economic institutions which served their purposes in a competent manner. These institutions were not continued, however.

The First Bank. In 1791 the First Bank of the United States was chartered by Congress. This institution came into being largely as the result of the recommendations of Alexander Hamilton.

ITS PURPOSE AND SUCCESS. The purpose of the bank was to aid in the concentration of the capital resources of the country for production, to serve the government as a fiscal agent, and to establish a satisfactory system of bank notes. In all these efforts the First Bank of the United States was successful. It extended loans to the commercial interests of the country; it accepted deposits from the United States Government, and paid out public funds on the order of the treasurer of the United States. It acted as a regulator of the currency and established standards of commercial behavior and forced them on the state banks.

OPPOSITION OF THE STATE BANKS. In fact, the First Bank of the United States was so successful that it incurred the enmity and opposition of several groups. The state banks exerted tremendous pressure to prevent the renewal of its charter, which was to expire in 1811. The reason for their hostility to the national bank was a selfish one. The state banks wished to secure the government deposits for themselves. They wished to be free from the indirect regulation of their own bank notes, and they wished, further, to be free of the competition in the general field of banking which was offered by this formidable institution. As a result, when the charter expired in 1811, it was not renewed by Congress although the disappearance of this institution was in no way the result of its failure to attain the ends for which it had been established.

The failure of Congress to renew the charter of the First Bank of the United States was really the cause of the organization of a similar institution in 1816. The first bank had ceased to function in 1811, and as a result the banking system of the country passed into the hands of the state banks. These banks were small, were not subject to the restrictions under which the national institution had operated, and were, in general, not very well managed. This was the situation when the country became involved in a second war with Great Britain. the War of 1812. The demands of the war period, both civil and governmental, put such a heavy strain upon the resources of the state banks that specie payments were suspended throughout the country. Notes of the state banks circulated at a discount of ten to thirty

per cent, and to make matters worse, the Federal Government was forced to default its interest upon the public debt. This was due to the fact that the government funds were tied up in the state banks which had suspended specie payments.

The Second Bank. Because of the financial distress which followed the suspension of specie payments by the banks and by the government, the Secretary of the Treasury recommended that a national bank be organized. After encountering some opposition in Congress and after being once vetoed by the President, the bill finally became a law and the charter of the Second Bank of the United States was authorized. The purposes for which the second bank was organized were practically the same as those for the establishment of the first bank, namely, to provide for the concentration of capital for productive purposes, to provide a fiscal agent for the government, and to establish a satisfactory bank-note or paper-money situation. The bank itself was much the same in its organization as the first bank except that it had three and a half times as much capital stock as the first and that foreign stockholders were not allowed to vote on the policies or management of the institution.

This bank was not so successful from the very beginning as its predecessor had been. In the first two years of its existence its stock subscriptions were subject to speculative abuses which brought the institution to the verge of ruin. One of the branches was mulcted of more than a million dollars; and only the fact that the Federal Government was maintaining a deposit of several million dollars enabled the institution to remain open. A new president, additional funds borrowed in Europe, and a sound banking policy put the shaky institution upon a firm footing; and by 1829 the bank was not only solvent but had become an integral part of the business organization of the country. Here again was an institution performing its allotted functions in a satisfactory manner. It made funds available to the business interests. It performed the function of a government depository satisfactorily. It maintained specie payment upon its own bank notes. It maintained what amounted to the same thing upon deposited funds by paying off depositors, if not in specie, then in notes of other banks which themselves paid in specie.

As in the case of the first bank the second performed its functions well. Like the first it drew the fire of the state banks which did not want to maintain a good bank note system but preferred to enjoy the profits which accrued to them by reason of the circulation of their depreciated bank notes. In addition it was the object of political attack. The bank officials were accused of political activities in opposition to President Jackson. Jackson's party was opposed in principle to all forms of privilege and monopoly; and

there was no question as to the monopolistic nature of the institution. When the charter expired in 1836 it was not renewed, and the public funds were removed from the bank's possession.[3] And so a second institution, created by the government for specific purposes—despite the fact that it fulfilled those purposes adequately—was allowed to disappear from the economic activities of the country by the government which had originally created it.

THE SILVER CONTROVERSY IN THE UNITED STATES

In an attempt to establish a satisfactory monetary system the country was placed upon a bimetallic standard in 1792, but this enactment overvalued silver. As a result the silver coins drove the gold coins out of circulation. In turn the silver coins were themselves driven out of circulation by bank notes which were circulating in large numbers, but at discounted values. The resultant relative scarcity of coins led to a popular demand for a change in the monetary standard. This was accomplished in 1834 but the new law which continued the bimetallic standard overvalued gold. The result was the disappearance of silver dollars and silver half dollars from circulation, and by the year 1851 a scarcity of small change was noticeable. This led to the coinage of one-dollar, two-and-a-half-dollar, and three-dollar gold pieces and to other expedients designed to provide a fractional currency. In 1853 the weight of fractional silver coins was reduced for the purpose of keeping them in circulation; and the monetary system was in a fairly satisfactory condition with gold coins in circulation and also adequate fractional coins. This situation existed until specie payments were suspended in 1861.

Between the suspension of specie payments and their resumption in 1879 another monetary law was passed, and from the year of its enactment and from its unpopularity it became known as the "crime of '73."[4] This law ended the free coinage of silver and placed our country upon a gold standard. It was only a matter of months before this legislation of 1873 was denounced in Congress and the epithet mentioned above applied to it. There appeared on the scene at Washington a group of people advocating the remonetization of silver, which, included the owners and operators of silver mines, and the inflationists.

3. For a more detailed description of the activities of the First and Second Banks of the United States see: Horace White, *Money and Banking*, new ed. (New York: Ginn, 1935), chap. XIX, pp. 404–31; J. T. Holdsworth, *The First Bank of the United States*, University of Pennsylvania thesis, published as Senate Document No. 571, 61st Congress, 2nd Session, 1911; B. A. Konkle, *Thomas Willing and the First American Financial System* (Philadelphia: University of Pennsylvania Press, 1937); R. C. H. Catterall, *The Second Bank of the United States* (Chicago: University of Chicago Press, 1903).

4. For a more comprehensive discussion of bimetallism in the United States see: E. W. Kemmerer, *Money* (New York: Macmillan, 1935), chap. XIV, pp. 319–58.

The Bland-Allison Silver Purchase Act. Partly as a result of efforts to forestall the placing of silver back upon a free coinage basis the Bland-Allison Silver Purchase Act was passed in 1878 over presidential veto. This law was designed to satisfy the demands of the groups mentioned above that something be done for silver. It provided for the purchase of between two and four million dollars worth of silver bullion each month. It provided further that this was to be coined into silver dollars and paid out as legal tender by the treasury. It provided that the holders of these silver dollars could receive silver certificates for them in denominations of ten dollars, if desirable. Finally, the law provided for calling international monetary conferences to investigate the desirability of a return to a bimetallic standard.

Immediately after the law went into force the Secretary of the Treasury began the required purchases of silver, but held them down to the minimum requirement of the law. The new money did not circulate freely because of its bulk and the inconvenience of carrying it. The result was that, in the first year of the operation of this law, the government assumed a loss of more than twenty million dollars which was the difference between the amount of money paid out for silver bullion and the amount of the new silver dollars that the treasury was able to put into circulation. It happened that the government receipts in 1879 were high enough to absorb the loss. Crop increases and the increase of business activity over the next four years increased the demand for money to such an extent that the increased coinage was absorbed during those years. In addition to these factors, in 1885, the Secretary of the Treasury stopped the issue of greenbacks smaller than five dollars in denomination, and in the following year Congress authorized the issue of silver certificates in the denominations of one, two, and five dollars to take their place in the money system. The government, between 1882 and 1890, redeemed bonds which carried the privilege of circulation and consequently their redemption removed millions of dollars in bank notes from circulation. This shrinkage in the circulating media of the country provided another place into which the new silver dollars and silver certificates could flow without dislocating the money system.

Despite the fact that critics of this monetary policy of silver purchase and coinage had been predicting disaster, the natural increase in trade and the reduction in the amount of other kinds of money outstanding had absorbed the new money to such an extent that no ill effects were felt by the country. The critics of the silver purchase policy were somewhat discredited in the eyes of the public.

Sherman Silver Purchase Act. In 1890 the Bland-Allison Act was repealed

and its place was taken by the Sherman Silver Purchase Act which was basically the same as the Bland-Allison Act except that it required the purchase of approximately twice as much silver bullion each month and each year. Immediately following the passage of the Sherman Act gold began to leave the country owing to the fact that this new money in circulation, coupled with increases in government spending, had exercised an inflationary influence which sent our price level up. This, of course, fostered purchases in the foreign countries, and the gold was exported for that purpose. The gold exports continued after a brief pause in 1892 and reached such a point that the United States Treasury, which was maintaining a hundred-million-dollar gold reserve for the redemption of the greenbacks, in accordance with provisions enacted in 1882, found that this reserve was below the legal requirement.

In 1893 the value of silver dropped fifteen cents an ounce and a run on the banks of the country immediately followed. Between five and six hundred banks closed as a result. The panic of 1893 grew out of the two silver-purchase acts and also resulted from deficiencies in the revenues of the Federal Government. It was feared throughout the country that these deficiencies would result in the government's use of the gold reserve, which had been established to support the value of the greenbacks, for the purpose of meeting its current expenses. This possibility made our people think that there might be a change in the standard of value, and that the country might be forced to adopt a bimetallic standard or a silver standard.

President Cleveland called a special session of Congress to repeal the Sherman Silver Purchase Act which he blamed for the serious business condition into which the country had drifted. Despite the fact that the session was called for the purpose of repealing the law, it was only with the utmost difficulty and after four months that the President was able to secure the repeal of the law.[5]

Effects of Silver Purchase Acts. Here we have government action which was designed to benefit the silver interests. It is undoubtedly true that an actual benefit resulted to these interests between the dates of the passage of the Bland-Allison Act in 1878 and the repeal of the Sherman Act in 1893. But these laws resulted also in the creation of an unhealthy and unnecessary growth in our money system. This condition did not become

5. A much more comprehensive treatment of the various aspects of the silver controversy is available in the following works: Neil Carothers, *Fractional Money* (New York: Wiley, 1930); D. H. Leavens, *Silver Money* (Bloomington, Ind.: Principia Press, 1939); H. C. Baird, *The Silver Dollar* (Philadelphia: H. C. Baird, 1883); H. W. Craven, *Errors of Populism* (Seattle: Lowman and Hanford, 1896); T. Dickieson, *Plain Words about Silver Money* (New York: Engineering Press, 1892); F. W. Taussig, *The Silver Situation in the United States* (New York: Putnam, 1900).

apparent until the silver-purchase laws had been in effect for a period of about twelve years. The reason for this was that the natural growth of the country with consequent increases in business was sufficient to offset the ill effects of the creation of the new type of money. Further, the fact that the adverse effects of the silver policy did not become apparent immediately may be attributed also to administrative action, which had the effect of partial nullification of the interest of the groups interested in the legislation. The policy of purchase and coinage of silver was partially responsible for the panic of 1893. This fact was recognized by the President, but it was only after a long and difficult session of Congress that he was able to obtain the repeal of the mischief-making law on account of the opposition of the silverites who benefited directly from its continuance.

This kind of government action differs from the situation in respect to the First Bank of the United States and the Second Bank of the United States inasmuch as it was not the result of a desirable type of legislation as their establishment had been. However, it was repealed only with the greatest difficulty and in the face of sharp opposition.

REGULATION OF RAILROAD TRANSPORTATION

The railroads have been subjected to regulation by the Federal Government for such a long period of years that regulation is taken as a matter of course today. However, in its early period the purpose of this regulation was entirely different from its present purpose. The purpose of the original law was to place the railroads upon a highly competitive basis. The present philosophy of railroad regulation recognizes the necessity for, and in fact provides for, the promotion of co-operative activity by the same roads.

State Regulation. The railroads of the country had developed rapidly from their establishment in the 1830's to a position of economic importance by 1870. At this time the roads came under fire of the agricultural interests in what were known as Granger Laws. These laws, passed by various state legislatures of the agricultural regions, attempted to establish just and reasonable rates for the purpose of correcting the abuses of high rates and preventing discrimination in the rates charged for freight and passenger traffic. These laws were ineffective and were rendered even more so by the decision of the United States Supreme Court in 1886 in the case of the Wabash Railroad in which it was held that the state was not authorized to regulate any part of an interstate commerce situation.

At about the same time two reports had been presented to Congress resulting from investigations of transportation conditions in the country. These reports, known as the Windom Report and the Cullom Report,

respectively, called attention to the fact that railroad rates were high and that railroads made discriminations between places and persons in the rates charged to shippers.

Federal Regulation. As a result of the breakdown of state attempts to regulate the roads and as a result of the aforementioned reports, the Interstate Commerce Act was passed by Congress in 1887. This law provided for just and reasonable charges, prohibited discrimination in rates charges, and prohibited pooling, which was a practice whereby roads avoided competitive action between themselves and arranged for co-operative activity. Also, the Interstate Commerce Commission was created for the administration of this law.

COMPETITIVE BASIS. The purpose of this act as originally written in 1887 was to place transportation upon a competitive basis. This purpose was emphasized by the Elkins Act of 1903, which was directed again at the matter of discrimination, and by the Expediting Act of the same year, which was designed to speed cases rising from the Interstate Commerce Commission Act through the federal courts. In 1906 the Hepburn Act extended the authority of the commission to cover other phases of transportation, such as pipe lines, express operations, and sleeping-car companies. In 1910 the Mann-Elkins Act gave to the commission additional authority over the railroad rates and established a special commerce court in which the railroad cases were to be heard.[6]

By the time the United States entered the first World War in 1917, the railroads had been forced and shaped into a pattern of transportation which was highly competitive in nature. The necessity for an integrated system of transportation for the nation at war made it necessary for the Federal Government to take over and operate the railroads on a unitary basis during the period of hostilities. After the Armistice the roads continued under the operation of the government until 1920.

CO-OPERATIVE BASIS. In that year there was passed the Transportation Act of 1920. It provided for the return of the roads to their original owners and also made striking modifications in the original act of 1887. One such modification was the provision for consolidation of the various transportation companies. Another innovation dealt with the matter of rates. The law provided for rates that would give a fair return upon the value of the railroad property, and this fair return was set at five and one-half to six per cent. Any earnings beyond this point were to be recaptured or taken over by the Interstate Commerce Commission and were to be used for the strengthening and rehabilitation, of the other railroads which were in a

6. This court was discontinued after a short period of time.

weaker position. The constitutionality of the recapture clause was upheld by the United States Supreme Court. The point of interest here lies in the change of the attitude of the government toward the matter of competitive activity between the carriers.

The Transportation Act of 1920 operated in a successful manner, and between 1920 and 1929 the railroads established themselves upon a solid financial footing. However, difficulties began to be encountered and came to a crisis in 1929. These difficulties were partly caused by the heavy fixed charges and partly by a decreased volume of business resulting from competition of motorized vehicles, and some were part of the general depression picture. The roads asked for an increase in rates which was justified by the fair-rate provision of the Act of 1920. However, these requests were denied by the Interstate Commerce Commission. As a result the stage was set for further legislative changes in the regulated status of the railroads.

The Federal Government enacted a law known as the Transportation Act of 1933 which shifted the emphasis from a rate structure designed to provide a rate that would be sufficiently high to attract capital, to the transportation system (a fair rate). The idea of the new law with reference to rates is that they should be just and reasonable, designed to protect the interest of the public and to enable the roads to perform the transportation service adequate for the needs of the country. Further, the law is interested in avoidance and elimination of duplication of facilities and other wasteful features of railroad operation.[7]

In general, it can be said that the point which our legislators had in mind in drafting the first regulatory policy for the railroads was to place this important field of industry upon a competitive basis. This philosophy of transportation regulation was in effect from 1887 until the period of the first World War. The experience of the country during its participation in the war led to a realization of the need of a co-operative and co-ordinated transportation system rather than one established upon a highly competitive basis.

The law of 1920 was designed to provide such an integrated system and the purpose of the law of 1933 was similar. The difference between the 1920 point of view and that of 1933 lay in the attitude toward rates. In

7. Students who desire to read further on the topic of railroad regulation are referred to: R. L. Purdy, "The Regulation of Transportation Rates," *The Annals of the American Academy*, CLXXXVII (Sept., 1936), 57–67; R. MacVeagh, *The Transportation Act, 1920* (New York: Holt, 1923); D. P. Locklin, *Railroad Regulation Since 1920* (New York: A. W. Shaw, 1928); L. C. Marshall, *The Changed Scene in Industry and Transportation* (New York: Bureau of Publications, Teachers College, Columbia University, 1933); J. B. Smith, *Some Phases of Fair Value and Interstate Rates* (Baton Rouge: Louisiana State University Press, 1931); *Railway Traffic Organization Report*, Section of Transportation Service, Office of Federal Coordinator of Transportation (Washington, 1935); A. T. Hadley, *Principles and Methods of Rate Regulation* (New Haven: Yale University Press, 1927).

1920 Congress was interested in a rate structure which would attract capital to the field of transportation. By 1933 Congress had become more interested in an adequate transportation system for the country than on return on invested capital in this field. In the 1880's the emphasis was upon just and reasonable rates. At present the emphasis is likewise upon just and reasonable rates, but the attitude of the legislators has shifted from a consideration of competition as being desirable to a realization of the necessity for an integrated transportation system.

GOVERNMENT REGULATION OF MONOPOLY

In the field of general industry, as well as in railroad transportation, the government has seen fit to regulate monopolistic practices. Monopoly is not a new idea, nor is it confined to this country. It is a matter of record in the earliest mention of business transactions hundreds of years in the past, and it has been practiced in the European countries as well as in our own. As we have seen, state laws known as Granger Laws were passed in the 1880's to curtail the monopolistic actions of the railroads. State laws have been passed at later dates for the purpose of regulating the rates charged by gas, electricity, and water companies. The necessity for such laws lay in the inherently monopolistic nature of these services.

The same tendency has been noticeable with reference to the control of monopoly in the general field of business. It is true, as is pointed out in a later chapter, that the theory of laissez-faire has permeated our economic and governmental philosophy to a considerable extent and still exists, but despite this doctrine of laissez-faire, monopoly has always been viewed with suspicion in this country. In addition to the general dislike for monopoly it has been attacked as being injurious to society by reason of its control over the natural resources of the country, by its methods of competition which have sometimes been deemed unfair,[8] and by such practices as overcapitalization which tend to victimize the general investing public.

Sherman Anti-Trust Act. In 1890 the distrust and the antagonism of the people had reached such a point that Congress enacted the Sherman Anti-trust Act to place the regulation of monopolistic business activity on a federal basis, rather than leave it in the hands of the states, where, as in the case of the control of the railroads, it had not been particularly effective. The Sherman Act stated that contracts, combinations, or conspiracies in restraint of trade were illegal, that persons who attempted monopolistic activity were to be deemed guilty of misdemeanor; and it provided for

8. Unfair competition is competition in which the most efficient producer does not get his share of the business.

fines and imprisonment for persons guilty of its violation, and made provision also for parties injured by monopolistic activity to collect heavy damages.

RESTRAINT OF TRADE INTERPRETATION. For a period of perhaps ten years after the passage of the Sherman Act it was not particularly effective in preventing or breaking up monopolies. However, in 1904 there was handed down by the United States Supreme Court a decision holding that competing railroads which merged to avoid competition came within the prohibitions of the law just as industrial combinations in restraint of trade did.[9] In 1911 the court ordered the Standard Oil Company to be dissolved and broken up into smaller competing units. In the same year the American Tobacco Company, which had attained a dominant position in its field through a process of consolidation, was dissolved by order of the United States Supreme Court.

RULE OF REASON INTERPRETATION. In the oil and tobacco cases the court had established the rule of reason. This meant that some actions in restraint of trade could be considered as reasonable and that, as a result, public policy would demand that there be a deeper and more significant reason for ordering the dissolution of a large industrial combination than the mere fact that it be a combination in restraint of trade. This idea was definitely illustrated by the decision of the court in the case of the United States Steel Corporation. The steel corporation had been charged with the violation of the Sherman Anti-trust Act, and after a long period of litigation the United States Supreme Court held that its dissolution was not necessary, nor could it be justified solely on the basis of the tremendous size of the corporation itself. This idea of the rule of reason had been present in the dismissal in 1921 of the case against the American Can Company, and it had been apparent in the dissolution decision handed down against the Corn Products Refining Company as early as 1916.[10] However, in 1940 the Supreme Court departed radically from the rule of

9. *Northern Securities Co.* v. *U. S.*, 193 U. S. 197.

10. For a discussion of court interpretation of the antitrust laws, see: L. H. Haney, *Business Organization and Combination*, 3rd ed. (New York: Macmillan, 1934), chap. XXVI, pp. 475–509; W. H. Taft, *The Anti-Trust Act and the Supreme Court* (New York: Harper, 1914).

For students who wish to read further on the topic of antitrust policy in general the followlowing recommendations are made: J. G. Hervey, ed., "The Anti-Trust Laws of the United States," *The Annals of the American Academy*, Jan., 1930, vol. 147; E. D. Durand, *The Trust Problem* (Cambridge: Harvard University Press, 1915); J. D. Clark, *The Federal Trust Policy* (Baltimore: Johns Hopkins Press, 1931); C. W. Dunn, *The Federal Anti-Trust Law* (New York: Columbia University Press, 1930); G. C. Henderson, *The Federal Trade Commission* (New Haven: Yale University Press, 1924); B. A. Javits, *Business and the Public Interest* (New York: Macmillan, 1932); A. Levene and G. J. Feldman, *Does Trade Need Anti-Trust Laws?* (New York: R. Long and R. R. Smith, 1931); H. R. Seager and C. A. Gulick, *Trust and Corporation Problems* (New York: Harper, 1929); D. M. Keezer and S. May, *The Public Control of Business* (New York: Harper, 1930).

reason interpretation, when it handed down a decision that the law prohibits any combination which attempts to modify price structures even though the resulting prices are reasonable. This decision disposed of the so-called Madison cases in which several oil companies and individuals were convicted in 1937 of conspiring to raise and maintain gasoline prices in the Middle West.

Here we have a situation in which the policy of the government toward economic activity has moved in a circle and is now back at the starting point, namely, with the original idea of the Sherman Act, that *every* contract, combination, and conspiracy in restraint of trade is illegal. This, despite the fact that, in the years which intervened between 1890 and 1940, the court had established the rule of reason in its interpretation of the desirability of dissolving large monopolistic industrial units.

REGULATION OF COMPETITIVE INDUSTRY

In contrast to the efforts which the government has exerted in preventing business firms of a monopolistic nature from curtailing supply and thus raising prices to an unduly high level, is the governmental effort to regulate and control competitive business. The latter problem or economic difficulty, for which a solution is needed, is basically different. While the monopolist controls and can curtail the supply, the competitive business firm does not and cannot curtail; in fact, every time the wheels of such a business turn over the result is an increase in the supply.

Causes of Business Prosperity. This was the fundamental reason for our difficulties from 1929 to 1932. For the most part the excessive supplies of goods and products which our factories and farms were putting on the market in those days were accounted for by the first World War. The production of industry and of the land had fallen in Europe as a result of the calling of millions of men into military service and of the devastation or occupation of industrial and agricultural areas by the armies. At the same time the belligerent nations were making heavy purchases of materials, munitions, and food stuffs for the support of their armed forces. European military purchasing agents were in this country buying millions of dollars worth of products ranging all the way from wheat to high explosives and barbed wire. There was an abnormal military demand for products exerted by all nations in addition to the normal civilian demand.[11]

This induced our industrialists and agriculturalists to establish more and

11. Although patriotic sentiment kept the civilian population from buying any more goods for consumption or production purposes than was absolutely necessary, nevertheless there was a military and civilian demand where previously there had been only the normal demand exercised by the civilian population.

larger factories and farms by borrowing capital to take advantage of the European orders which were pouring into the country. When our own nation cast in its lot with the Allied Powers, still another source of demand was added to the already abnormal pressure on our markets. In this case it came from our own government, which was equipping an expeditionary force for service in Europe, that eventually amounted to some two million men, and about the same number in cantonments in this country. Prices rose to high levels, and it was only reasonable for American farmers to put previously unprofitable acres into cultivation and for American industry to expand to limits that would have been unjustified under ordinary circumstances. It was a relatively easy matter to expand business units and to increase the number of acres under cultivation when such bright prospects of profits attracted the capital necessary for such expansion.

Cause of Business Depression. However, in November, 1918 the war ended, and at a very rapid pace the abnormal military demand for products slackened and dropped away. Then our situation revealed itself as that of a nation geared to a very high level of production but with an insufficient number of customers to take and use the products which were available by reason of our expanded productivity.

In agriculture difficulties were experienced immediately; in industry the difficulties were deferred for about ten years by reason of the development of such devices as installment selling schemes and other marketing practices designed to increase the immediate purchasing power.

Agricultural Relief. To repeat, this maladjustment between productive capacity and purchasing power was first encountered in agriculture, and here we find the first use of a word which is still popular today, namely, "relief." The farmers demanded relief, and the government tried to give it to them. Government administrators attempted to keep agricultural prices high by legislation designed to enable government agencies to buy up and export agricultural surplus, and thus to keep too much of the supply off the market.

AGRICULTURAL ADJUSTMENT ACTS. On the other hand, attempts were made as early as the Wilson administration to lower the farmers' cost of production by enabling the farmer to borrow on more favorable terms. However, agricultural prices continued to fall, and farms were lost by the thousands through foreclosure sales. As soon as the Roosevelt administration was established in 1932, it turned its attention to the farm problem with the idea that the solution lay in reduced production; and the original Agricultural Adjustment Act was passed in 1933 for that and other purposes. It attempted to bolster farm prices to the point where the farmers would regain the pre-

war purchasing power over the products which they bought, and so restore agricultural prosperity. This law was declared unconstitutional by the United States Supreme Court in 1936 because it established federal authority over matters which were properly in the hands of the states. Two years later the administration enacted a second farm bill which is known as the Agricultural Adjustment Act of 1938 and which is primarily designed to raise the price of farm products by the establishment of marketing quotas; in other words by curtailing the supply of farm products.

Industrial Relief. Industry did not feel the need of relief measures until a period of about ten years after the close of the first World War.[12] The Roosevelt administration enacted the National Industrial Recovery Act in 1933, and among other features it contained a provision designed to curtail the supply of petroleum (an industry suffering from overproduction). This curtailment of supply was justified on the ground of conservation of the natural resources but was held to be invalid by the United States Supreme Court. As a result, the Department of the Interior established a Petroleum Conservation Division in 1936 for the purpose of co-operating with industrial groups or with state authorities interested in the passage of petroleum conservation laws, or in other words, in curtailing the supply.

GUFFEY ACTS. In 1935 the Guffey-Snyder Act was passed by Congress for the control of another competitive and overproduced industry, namely, bituminous coal. It included a provision for a code of fair competition by which prices could be fixed at levels desirable to producers, consumers, and workers. In other words, this provision was designed partially to offset the depressing effect on prices of the chronic conditions of overproduction in the industry. This law was declared unconstitutional in the next year, but it was followed by the Guffey-Vinson Act of 1937 which contained some of the same principles for establishing prices as the Guffey-Snyder Act. It is of interest

12. For a brief, but well organized, discussion of farm relief and industrial recovery legislation, see: L. P. Ayres, *The Economics of Recovery* (New York: Macmillan, 1934), chaps. VI and VII, pp. 75–108.

Readers who wish for a more detailed treatment of the regulation of competitive industry are referred to: L. C. Marshall, *The Changed Scene in Industry and Transportation* (New York: Bureau of Publications, Teachers College, Columbia University, 1933); C. L. Dearing, P. T. Homan, L. L. Lorwin, and L. S. Lyons, *The A B C of the N R A* (Washington: Brookings Institution, 1934); A. B. Adams, *Our Economic Revolution* (Norman: University of Oklahoma Press, 1933); M. F. Gallagher, *Government Rules Industry* (New York: Oxford University Press, 1934); E. Stein, C. Raushenbush, and L. MacDonald, *Labor and the New Deal* (New York: Crofts, 1934); S. N. Whitney, *Trade Associations and Industrial Control* (New York: Central Book Company, 1934); Agricultural Adjustment Administration, *The Agricultural Adjustment Act and its Administration* (Washington: United States Government Printing Office, 1934); H. Frease, *The Judicial Aftermath of a Political Paradox* (Philadelphia: Winston, 1935); K. Brewster, *Taxation Under the A.A.A.* (New York: Baker, Voorhis, 1934); Agricultural Adjustment Administration, *Agricultural Adjustment 1937–1938* (Washington: United States Superintendent of Documents, 1939); "1940 A. A. A. Farm Program," *Commercial and Financial Chronicle*, July 22, 1939, CXXXIX, 500.

to recall that in the heyday of the N.R.A. and the original AAA it was unofficially proposed to fix the prices of industrial products in much the same way that the prices of agricultural products were being established.

In conclusion, it should be remembered that the efforts of the government to regulate competitive industry provide for the curtailment of supply with the objective of a rise in prices. On the other hand, the government action in regulating monopolistic industry is designed to prevent the curtailment of supply and with it to prevent an undue rise in the price of the product.

THE FEDERAL DEPOSIT INSURANCE CORPORATION

One of the most recent economic institutions established by the government is the Federal Deposit Insurance Corporation. The ideas underlying this institution reach far back into the history of banks and banking in the United States. As early as 1829 the State of New York established a safety-fund system whereby newly chartered banks were required to pay into a fund one per cent of their capital each year until each bank had contributed an aggregate of three per cent of its entire capital. This fund was to be used for the payment of debts of banks, members of the New York Safety Fund System, which failed.

While this fund was designed primarily to protect the holders of bank notes, it displayed considerable similarity to the deposit-insurance feature of the Federal Deposit Insurance Corporation. This idea of the creation of a fund from which the creditors of failed banks could be paid was used as a basis of deposit insurance schemes by many of the Western States over a period which began with the panic of 1907 and ended with the repeal of all such schemes in the early 1920's.

Need for Deposit Guarantee Legislation. The banking system in the United States had been weakened by the abnormal conditions of the first World War, and this weakened condition began to manifest itself in a wave of bank failures which spread over the country in an alarming manner. In the period 1921 to 1930, inclusive, there was recorded a total of 6,171 such failures.[18] These failures were most disastrous in the Middle-Western States and the failures were responsible for repeated efforts to secure the adoption of deposit-guarantee features by the Federal Government.

Opposition to Legislation. Action on such a plan was continuously opposed by the banking interests. Opposition was based upon two main objections: First, the bankers felt that deposit insurance removed the re-

13. H. P. Willis and J. M. Chapman, *The Banking Situation* (New York: Columbia University Press, 1934), p. 7, and C. D. Bremer, *American Bank Failures* (New York: Columbia University Press, 1935).

straint exerted upon bankers by their traditional individual responsibility to their depositors. Second, it was the idea of conservative bankers that they, the bankers who needed no insurance of deposits, were assessed to protect the depositors of banks whose management was less effective. In addition, it was thought that the capital stock and surplus of the banks, together with the prevailing double liability of stockholders furnished substantial protection to the depositors. The wave of bank failures, however, and the attendant distress resulted in a wide demand for a change in the banking system which would include more protection for depositors.

Establishment of Legislation. In 1933, following the bank holiday, a temporary provision was made for such protection. After operating under this temporary plan of federal deposit insurance for two years, the Federal Deposit Insurance Corporation was established upon a permanent basis in 1935, with the chief purpose of insuring the deposits of all banks which were entitled to the benefit of the insurance under the law. Its major functions are: to pay the depositors of insured banks which have been closed; to act as receiver for suspended National Banks, and for suspended state banks, when requested by state authorities; and to prevent unsound banking practices from taking place.

The funds of the corporation are derived from three sources: First, stock subscriptions by the Federal Treasury. Second, stock subscriptions by the Federal Reserve Banks. Third, funds secured from the issue of debentures or other obligations. As in the case of the original safety fund system, the corporation creates a reserve by means of an annual assessment. The annual assessment is at the rate of one-twelfth of one per cent of the average deposits, less authorized deductions, of each insured bank.

ELIGIBILITY OF BANKS. All banks which are members of the Federal Reserve System are insured. Any bank not a member of the Federal Reserve System may become insured after an examination and upon the approval of the Board of Directors of the Corporation. The insurance of a bank not a member of the Federal Reserve System is based upon its financial history, its condition, its capital structure, its earning prospects, its management, and the convenience and needs of its community. Banks not members of the Federal Reserve System may terminate their insurance at any time but the existing deposits continue to be insured for two years.

POWERS OVER THE INSURED BANKS. The Corporation has wide powers over the insured banks, including the termination of the insured status of a bank for cause, approval of mergers and consolidations, the regulation of advertising which describes the insurance feature, the regulation of interest paid on deposits by insured banks not members of the Federal Reserve

System; and it also requires that insured banks protect themselves against burglary, defalcation, and other insurable losses.

Deposit insurance extends to deposits of every kind with no distinction whatsoever. When a bank closes, the Corporation assumes liability for its insured deposits, and the depositors are paid by the Corporation as soon as their claims have been presented and proved. Of more than fifteen thousand banks in the United States, the Corporation insures the deposits of almost fourteen thousand. It has assumed receivership of one hundred and seventy-five insured banks and has aided in the merger of seventy-seven insolvent insured banks with solvent insured banks.[14]

Results of Legislation. The activities of the Corporation have strengthened the banking system as a whole and have aided in the restoration of confidence in the banks. The question of deposit insurance is still subject to a certain amount of controversy, but on the whole, it is accepted as desirable and satisfactory by the general public and even by many of the bankers who were first opposed to it in principle. It is interesting to remember in connection with the corporation, that its purpose and functions, which are now accepted as desirable, were adopted only under the pressure of an extreme financial emergency.

CONCLUSION

As a result of these and other observations of government action, which could not be made a part of so brief a chapter, it is necessary to conclude that there is no consistency in government policy dealing with matters of an economic nature. In the first place, attention has been called to practices which have been contradictory. This is illustrated by the Agricultural Adjustment Acts with their provisions for the curtailment of the supply of products and the Sherman Anti-trust Act which was passed to stop the curtailment of supply and to penalize those who did curtail supply.

Elsewhere, inconsistency in the administration of one single regulative activity is apparent. This is illustrated by the intent of the legislators to give regulatory power to the Interstate Commerce Commission and by the actions of the courts in admitting new evidence when it was presented by the

14. R. B. Westerfield devotes a chapter to a discussion of insurance of bank deposits in his *Money, Credit and Banking* (New York: Ronald Press, 1938).

However, students who wish for additional reading of a more technical nature are referred to: *Federal Deposit Insurance Corporation, An Analysis* (Washington: Finance Department, Chamber of Commerce of the United States, 1934); "F.D.I.C. Preliminary Statement of Assets and Liabilities of Insured Commercial Banks" (*Commercial and Financial Chronicle*, Apr., 1939), CXLVIII, 1882; "F.D.I.C. Report on 7,307 Insured State Banks Not Members of the Federal Reserve System" (*Commercial and Financial Chronicle*, May 6, 1939), CXLVIII, 2672; R. A. Hust, "Federal Deposit Insurance and Some of Its Constitutional Aspects" (*George Washington Law Review*, Mar., 1929), VII, 595–630; *Annual Report for the Year Ending December 31, 1938* (Washington: United States Federal Deposit Insurance Corporation).

railroads and in refusing to base their decisions upon the findings of the Commission.

Also, there is noticeable the reversal of policies. Illustrative of this point is the situation of the Second Bank of the United States which, in 1816, was authorized to perform certain functions. These functions were competently performed, but, nevertheless, the bank's charter was allowed to lapse in 1836.

Not only is there noticeable reversal of policy but even double reversal of policy. For example, antitrust legislation was enacted to maintain competition. Industries which adopted codes of fair competition under the banner of the National Recovery Administration were exempt from the provisions of the antitrust laws. Today antitrust activity is again designed to enforce competition as exemplified by the Madison oil cases.

Further, considerable difficulty has at times been encountered in attempts to remedy ill-advised programs of economic activity. This is illustrated by the fact that a special session of Congress, called by President Cleveland for the express purpose of repealing the Sherman Silver Purchase Act required four months for the accomplishment of that task. Also, desirable policies have sometimes been adopted only after the most severe pressure imaginable has been exerted in their behalf. This is illustrated by the reluctant adoption of a policy of guaranteed bank deposits.

Government policy frequently does not reflect well-considered ideas based upon broad and fundamental knowledge so much as reactions to urgent and immediate demands. This point was emphasized by Jacob Viner in his presidential address delivered before the American Economic Association in 1939. He stated that officials and legislators, in determining their actions, consider not only the result of these actions upon that part of the public which feels their true impact, but also consider the effect of these actions upon their own associates and the public in general. Viner stated further that, as a result, government administrators look for immediate solutions to problems and are forced to submit to the desires of groups which are able to exert enough pressure to obtain the desired ends, whether or not those ends are wholly for the public good.[15]

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15. Jacob Viner, "The Short View and the Long in Economic Policy," *The American Economic Review,* Mar., 1940, XXX, 1–15.

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CHAPTER TWENTY-ONE

Government and Business

THE CONTROVERSY OVER GOVERNMENT CONTROL OF BUSINESS

ONE of the most controversial issues in the United States during the past few years has been that of government control of business. The struggle between those who have favored and those who have opposed the New Deal has been waged to a great extent over this issue. In many of the controversies between these two groups, the issue has been quite clearly discernible, as in the contest over the enactment by Congress of the Public Utility Holding Act, or the passage of the Securities and Exchange Act regulating the stock market. In many cases, however, the opponents have waged their battle on issues in which the struggle over government control of business has been less apparent. The effort to prevent enlargement of the Supreme Court of the United States, the attempt to preserve states' rights, and the struggle to protect personal liberty have been in great part merely camouflaged attempts to prevent more extensive control of our economic system.

Although the question of government and its relationship to business has occupied a prominent place during the past seventy-five years in the United States, the economic crisis of the past few years has raised the question to one of paramount importance. As a result of this crisis, much criticism has been heaped upon the economic and political institutions of this country. Persons have contended that there are fundamental defects and weaknesses. Many claim that unless we make certain alterations, other depressions will follow, until our entire structure collapses. According to these critics one of the greatest weaknesses of our economic system is lack of planning. Violent fluctuations in prices, overproduction, unnecessary duplication, extravagance, and poverty are evidences of this lack.

Scores of schemes have been advanced for social and economic planning. In these, the functions of the state vary greatly. The most radical of the schemes would subject the lives of all persons to careful supervision and guidance by the state. Others propose price control, limitation of production, or a more equitable distribution of wealth. Some advocate repeal of regulatory legislation so that business associations or corporate groups may plan production and control prices without fear of prosecution. For the most

part, all of these plans are but variations or manifestations of fundamental theories concerning the functions of the state. So far as the relationship of government to business is concerned these theories may be classified as (1) *laissez-faire,* (2) government regulation, and (3) government ownership and operation.

LAISSEZ-FAIRE

The term *laissez-faire* comes from the French and broadly translated means "let alone." This theory has found wide acceptance not only in the political and economic thought but in the governmental action of both the United States and England during the past hundred and fifty years. Even today it is the dominant political philosophy of an influential part of our population, particularly certain leaders of industry and members of the legal profession. Briefly, it stands for the divorcement of government from business, glorifies individual initiative, and strenuously objects to government regulation or government ownership and operation of business enterprises.

According to advocates of laissez-faire, business should be permitted to develop unhampered by governmental interference. The government should not enact child-labor laws, minimum-wage laws, or social-security legislation. The government should not regulate the rates and services of public utilities, and under no circumstances should it own and operate business enterprises. Advocates of laissez-faire believe that such legislation interferes with the normal healthy growth of commerce and industry.[1]

Under the influence of laissez-faire during the nineteenth century industries grew, prospered, and escaped regulation. In the United States, large corporations secured monopolistic control. Promoters of railroads granted rebates to favored customers and manipulated securities in order to enrich themselves.

Laissez-faire may be justifiable in an agricultural or pioneering community wherein each individual or each family lives largely unto itself, produces and consumes most of its products, and wants little more from the state than protection. As society has become more complex and individuals more interdependent, laissez-faire has been forced to give way philosophically and practically to something which more nearly fits the needs of our modern industrial society. One should not imagine, however, that it is dead. Many times during the past few years, distinguished industrialists, lawyers, judges, and political leaders have praised its principles.

Is it possible to solve any of our economic difficulties under this system? To a certain extent, it is possible. Industries even though unregulated might co-operate, and if they had monopolistic control could avoid some of the

1. "Law: Its Origin, Growth, and Function," by James C. Carter, Lecture XIII.

follies of overproduction. They could control prices and eliminate wasteful and unfair methods of competition. In other words, through trade agreements they could engage in a kind of self-regulation. But self-regulation by industrial groups has certain great disadvantages. In the first place, it usually aims at securing a maximum profit rather than at satisfying the needs of society. In the second place, it generally seeks to eliminate only those practices which are injurious to the trade and not those which are detrimental to consumers.

GOVERNMENT REGULATION OF BUSINESS

If, as seems obvious, laissez-faire is not suited to the needs of our highly industrialized society and cannot solve satisfactorily the many difficult problems with which we are confronted, more extensive governmental interference in our economic life is inevitable. Many persons contend that we should retain private ownership and private operation of business enterprises but should impose government regulation or control in the interest of the public. There are several methods which may be used to effect this control, only two of which will be discussed. One of these is direct control through statute and the other is regulation by administrative agencies.

Direct Control through Statute. Long before the development of any extensive administrative machinery, direct control of business existed. Under this method, the legislature prescribed rules of conduct and private parties or prosecuting attorneys sued in court for violation of these rules. Many illustrations of this method of control can be found in the United States, especially during the early period of regulation. For example, at one time West Virginia fixed by statute a passenger fare of two cents a mile for railroads transporting persons between points within the state. Similarly, the legislature of North Dakota fixed maximum intrastate rates for the transportation of coal in carload lots. The Sherman Anti-trust Law is another illustration of direct control through statute. This statute declares that monopoly and restraint of trade are illegal but leaves the enforcement to the Attorney General or private parties who may bring suit in court against persons who have violated its provisions.

Direct control through statute has not been a great success. For one thing, it is difficult to amend or alter statutory provisions as fast as conditions change. Furthermore, the initiative for enforcement often rests with private parties who may sue in court if individuals or corporations fail to obey the statutory prescription. The average person often finds it cheaper and easier to allow a business to violate the law rather than to resort to court procedure to obtain enforcement.

Control through Administrative Agencies. The growing complexity of the problems of the control of business and the increase in the number of businesses or phases of businesses which have required control have made it very difficult for legislative bodies to control business directly by statute. Legislative bodies have sought to overcome this difficulty by creating commissions or other administrative agents and imposing upon them certain powers and duties of regulation. Such agencies have been given not only administrative powers and duties but in many cases have been endowed with extensive quasi-legislative and quasi-judicial powers and duties.

FEDERAL. One finds many illustrations of the regulation of business through administrative agencies by both the Federal Government and the states. Among the more important of the federal agencies which regulate business are the Interstate Commerce Commission, the Federal Trade Commission, The Federal Communications Commission, the Securities and Exchange Administration, and the Civil Aeronautics Authority. The first four of these will be discussed briefly to illustrate the way in which and the extent to which the Federal Government has regulated business.

Interstate Commerce Commission. The oldest of the above-mentioned regulatory agencies and the one which exercises the most extensive authority is the Interstate Commerce Commission, which regulates the railroads and the bus and truck lines operating in interstate commerce. The Interstate Commerce Act of 1887 created the Interstate Commerce Commission and endowed it with certain regulatory powers over the railroads.[2] The powers of the commission were increased by several amendments of which the most important were the Hepburn Act of 1906 and the Transportation Act of 1920.

The regulation of the railroads represents an attempt to remedy prevalent abuses which arose under a system of laissez-faire.[3] The middle and latter part of the nineteenth century and to some extent the early part of the twentieth century were periods of frenzied railroad development. Railroad expansion was rapid and often accompanied by great abuses and scandals. Irresponsible financial manipulation, overcapitalization, rebating and unfair discrimination, and unregulated monopoly with its attendant evils brought the inevitable public reaction and resulted in stringent regulatory measures under the above-mentioned acts.

From their entry into service until their abandonment, carriers by rail are subject to governmental control. No railroad can commence construction or operation, or extend an existing line without securing from the Inter-

2. U. S. Code, Title 49, Secs. 1, 2, 3, 4, 5, 20, and 20a.
3. Mathew Josephson, *The Robber Barons* (New York: Harcourt, Brace).

state Commerce Commission a permit known as a *certificate of convenience and necessity*. Likewise no railroad may abandon a line without securing the consent of the Interstate Commerce Commission. If two or more railroads wish to consolidate or if one railroad wishes to purchase the stock of another, consent must be secured from the Interstate Commerce Commission. The Interstate Commerce Commission is given the power to fix maximum, minimum, and even absolute rates for railroads. Likewise, the commission may prescribe the forms of accounts, may require reports, and may have access to the records and books of all railroads. No railroad may issue stocks or bonds without securing the permission of the commission. Railroads are forbidden to issue passes to persons other than a small group specified by the Interstate Commerce Act. Likewise railroads are forbidden to give rebates to shippers, or to discriminate in rates or services against a particular customer or locality.

During the past few years the Federal Government has taken a different attitude toward the railroads from that which it assumed during the early part of this century and the latter part of the nineteenth century. This earlier period was characterized by hostility toward the railroads and a desire to place them under stringent regulation. However, the financial condition of many of the railroads during the past decade has raised the question of whether or not the carriers can continue to perform their functions adequately. As a result, instead of seeking to control more stringently, the government has sought to extend aid. Through the Reconstruction Finance Corporation, which was established in 1932, the United States has loaned millions of dollars to the railroads.[4] The large debt which some of these carriers owe to the Federal Government and their precarious financial condition has led many persons to believe that the only solution is government ownership and operation.

In addition to regulation of the railroads the Interstate Commerce Commission has since 1935 had the power to regulate motor-truck and bus services which operate between states. Here, as in the case of the railroads, the Interstate Commerce Commission regulates rates, seeks to prevent discrimination, issues certificates of convenience and necessity, controls consolidation and the issuance of stocks and bonds of persons engaged in motor transportation.[5]

Federal Trade Commission. In 1914, Congress created the Federal Trade Commission and imposed upon it the task of preventing unfair methods of competition among businesses which were engaged in interstate commerce.

4. Annual Report of the Interstate Commerce Commission, 1938, p. 57.
5. Public Act No. 255, 74th Congress, approved Aug. 9, 1935.

The creation of the Federal Trade Commission and the conferring upon it of the power to prevent unfair methods of competition represents an interesting attempt to retain the competitive system but to purge it of some of its worst practices. However, the Federal Trade Commission Act does not specify what is meant by the term "unfair methods of competition" or indicate in any way what practices are prohibited. It has been necessary for the commission and the courts to determine through a series of cases what practices are unfair and hence illegal under this act.[6]

One of the most common of these practices is *misbranding*. This practice has been widespread and has assumed a great variety of forms. One of the most common of these has been misrepresentation of the quality of goods which are being offered for sale. Another has been misrepresentation of the place of manufacture of certain products. For example, matches made in Japan have been represented as made in Sweden because of the enviable reputation which Swedish matches had acquired. In some cases, companies engaged in renovating and rebuilding typewriters have represented their products as new. In other cases, certain companies have marked their prices up, and then down, to give their customers the impression that the goods were being offered at a tremendous sacrifice.

Another very prevalent practice which the Federal Trade Commission has tried to prohibit as an unfair method of competition has been that of *passing off* goods as the goods of a rival firm with an enviable reputation. Sometimes companies have imitated the appearance of products of other manufacturers by placing goods in similar packages, and sometimes they have attempted to operate under trade names or to use trade-marks very closely resembling those of well-known firms.

Another practice which has caused the commission some concern and which the commission has tried to prevent is known as *commercial bribery*. It consists of paying the employees of customers in order to induce them to purchase goods. The unfairness of the practice is obvious. Employers purchase not because of superiority of the products but because their employees who have the responsibility of making the purchases have been bribed.

Likewise, the practice of *commercial espionage* which consists of using spies or detectives to discover the volume of business, the names of customers, and other trade secrets of a competitor has been condemned by the Federal Trade Commission as an unfair method of competition. Under certain circumstances *price-cutting*, or selling merchandise below cost, is regarded as an unfair method of competition. Many other practices have

6. See G. C. Henderson, *The Federal Trade Commission* (New Haven: Yale University Press, 1924), chaps. I–V.

been condemned from time to time by the commission as unfair, such as the making of false statements about competitors, using merchandising schemes that are based on lot or chance, or engaging in trade boycotts.

In seeking to prevent unfair methods of competition, the Federal Trade Commission uses one of two types of procedure, its *regular* procedure or that of the *trade practice conference*.[7]

The *regular* procedure of the Federal Trade Commission is used chiefly against individuals or corporations who are using unfair methods of competition. Any person who is being injured by such practices may file an application with the Federal Trade Commission. No formality is required in making the application except that it must be made in writing, must be signed by the applicant, and must contain a short, simple statement of the facts. After proper consideration, the commission may decide that the application should be dismissed or it may decide that there is sufficient evidence to warrant the issuance of a complaint against the accused person. After a hearing, the commission may dismiss the complaint or it may issue an order for the accused to cease and desist. The action of the commission in issuing an order to cease and desist may be reviewed in a federal court.

The *trade practice conference* is a comparatively recent development. On the initiative of some trade or industrial group the Federal Trade Commission will call a conference which in turn will draw up and propose for the approval of the commission a list of practices which the industry regards as unfair methods of competition.

This latter type of procedure has two distinct advantages over the regular procedure. In the first place, instead of striking at one or two unfair practices it generally seeks to eliminate a large number. In the second place, the regular procedure may result in an order to cease and desist against only one person, but in the case of a trade practice conference an entire trade group may be ordered to refrain from certain unfair methods of competition.

Federal Communications Commission. Another of the important regulatory agencies of the Federal Government is the Federal Communications Commission. The situation which immediately preceded the enactment of the Federal Radio Act of 1927 has sometimes been described as one in which "anarchy reigned in the ether." In 1927, Congress established the Federal Radio Commission, the name of which was later changed to the Federal Communications Commission. This commission was endowed with certain important powers to regulate the new and rapidly-developing radio industry.[8]

7. Annual Report of the Federal Trade Commission, 1936, pp. 43–6, 97–101.
8. U. S. Code, Title 47, Secs. 151–154 and 303–315.

At present, no one may build or operate a station without securing from the commission a license which is issued only after a finding that public interest, convenience, and necessity will be served by the granting of a license. The commission has the power to establish a broadcast band and allot positions to stations to operate on frequencies within the broadcast band. The commission has also been given authority to designate the hours during which and power on which stations may operate. It has the power to regulate not only radio-broadcasting but also other radio communication which is carried on in frequencies above and below the broadcast band. In fact, a large part of the time of the commission has been devoted to controlling stations engaged in radio communication of types other than broadcasting, such as police, amateur, airplane, ship, television, and others.

Securities and Exchange Commission. One of the recent regulatory commissions created by Congress is the Securities and Exchange Commission which has three important tasks—the approval of the issuance of new stocks and bonds, the regulation of security (stock and bond) exchanges, and the regulation of public-utility holding companies.

During the nineteenth and early part of the twentieth century the regulation of securities was not a problem of much importance. The number of stocks and bonds in existence was relatively small. Besides, they were owned by a comparatively small group of people. In the period which followed the first World War, the number of corporations increased and the public commenced to buy stocks and bonds extensively. Promoters, realizing the increased interest, issued large quantities of stocks and bonds. Unfortunately many issues were fraudulent and others highly speculative. Not only were there undesirable practices in the issuance of stocks and bonds but also in their sale on the various stock markets. A stock market is a place for the purchase and sale by the public of a certain kind of property. Transactions and prices should reflect as nearly as possible the value of stocks and bonds which are listed on these exchanges. Unfortunately, many times prices were the result of artificial manipulation designed to enrich a small group of promoters. Fictitious or artificial purchases and sales were sometimes arranged in order to lead the public to believe that there was great interest in some particular stock and that its price was rising. During the stock market boom of 1929, a number of so-called *pools* were formed to concentrate on certain stocks and through manipulation to make large profits. Such pools were often formed for the purpose of acquiring blocks of securities later to be unloaded at a profit.

In 1933, Congress passed the Federal Securities Act.[9] This act requires that

9. U. S. Code, Title 15, Secs. 77c–77k.

new issues of stocks and bonds must be registered with the Securities and Exchange Commission. The act also requires that important information must be filed with the Commission concerning the business, capitalization of the company which issues the stocks or bonds, and certain matters which might be of interest to investors. The Federal Securities Act has been referred to sometimes as a "truth-in-securities" act, and this statement properly describes the purpose and extent of this law. The act is not intended to assure the investor that the stocks and bonds which are registered will be a good investment but merely to provide him with important and accurate information which will enable him to draw his own conclusions.

In 1934, Congress enacted the Securities Exchange Act which regulated the various stock markets throughout the United States.[10] All stock exchanges must be registered and all securities traded on these exchanges must be registered with the Securities and Exchange Commission. The act also contains some provisions which are designed to curb excessive speculation and others which are intended to prohibit the manipulation of security prices by pools and individuals who wish to enrich themselves at the expense of the investing public. The act contains some drastic provisions for enforcement. For violation of the act or the rules or regulations made thereunder, the commission may suspend or revoke the registration of any exchange, any security, or any officer or member of such exchange.

In 1935, Congress passed the Public Utility Holding Act. This act required public utility holding companies to register with the Securities and Exchange Commission. It also gave the commission the power to reorganize and simplify the holding-company system.

STATE. Although the tendency during the past few years has been toward a more extensive control of business by the Federal Government, much of the regulation of business is still performed by the various states.

Public Utilities. For example, public utilities, such as electric, gas, water, cold storage, and telephone systems are extensively regulated by the states. The regulation, of course, varies from state to state but in the main is similar to that which is imposed by the Federal Government upon the railroads. A public utility must secure from the Public Service Commission a certificate of convenience and necessity, which is granted only if the public is in need of the service which the promoters intend to offer.

In many states, public utilities must also obtain a franchise from city authorities to use streets and thoroughfares. Public utilities must not discriminate and must give adequate service. If they fail in either of these obligations, the commission may issue orders requiring them to fulfill their

10. U. S. Code, Title 15, Secs. 78d–78m.

obligations. Commissions may control the consolidation of utilities and the issuance of stocks and bonds. According to statutory provisions in most states, rates of public utilities must be just and reasonable. The courts have held that public utilities are entitled to a fair return upon the value of their property and the rates must be set so as to yield this return. Commissions have spent much time trying to find the valuation of public utilities in order to fix a proper level of rates. The task has been made especially difficult because utilities have resorted to both federal and state courts to set aside commission orders whenever they have objected to the valuation or the way in which rates have been fixed by public service commissions.[11]

Insurance. A field of business over which the states exercise exclusive control is that of *insurance*. Before 1905, there was little in the way of drastic or important regulation of insurance by the state. The famous Armstrong investigation of insurance companies conducted by the State of New York in 1905 revealed many abuses and undesirable practices on the part of directors and officers of some of the large insurance companies. Large salaries and excessive compensation to officers, manipulation of funds, bribing of state officials, fictitious assets, and excessive litigation over the payment of claims to insured persons were revealed in the investigation which was conducted by Charles Evans Hughes. The result was a demand for and the enactment of more stringent legislation in New York and other states.

In some respects there is a similarity between the regulation of insurance companies and that of public utilities. In both cases, the state controls the entry into service. In the case of public utilities, the license is in the form of a certificate of convenience and necessity limiting the number of enterprises which may serve a given area; whereas in the case of insurance companies the license is a certificate of a company's fitness (usually financial reliability) to engage in the business of insurance. On the other hand, one finds special kinds of regulation applicable only to insurance. Requirements for the deposit of securities, standardization of policy forms, and control of investments have no equivalents in state control of public utilities.[12]

Factors in the Success of Government Control. It is impossible to make sweeping assertions as to the success or failure of regulation by the states or by the Federal Government. Some of it is much too recent to pass judgment thereon. The success or failure of regulation depends upon many factors. One of the most important of these is the existence of a *competent* and *honest governmental agency*. Another is the extent to which the regu-

11. G. L. Wilson, J. M. Herring, and R. B. Eutsler, *Public Utility Regulation* (New York: McGraw-Hill, 1938), chaps. I–X.

12. Edwin Wilhite Patterson, *The Insurance Commissioner in the United States* (Cambridge, Mass.: Yale University Press, 1927), chaps. II–IV.

lated parties co-operate. If they are hostile, the task is extremely difficult; but if they are willing, it is greatly simplified. The *attitude of the public* is another important factor. Strong public opinion in favor of a law can materially assist the regulatory agent. The *attitude of the courts* has much to do with the success or failure of a scheme of control. If a court is unsympathetic toward a particular kind of control or meticulously literal in its interpretation of a statute, it can cripple, in fact almost nullify, the efforts of a regulative agent. An excellent illustration is to be found in the efforts of the Federal Trade Commission to administer the laws which Congress entrusted to its enforcement. During the early years of its existence, the federal courts on one occasion after another overruled decisions of the commission until they almost paralyzed its efforts to stamp out certain practices.

Furthermore, *a regulatory scheme to be effective should not be delayed until the evils of laissez-faire have reached great magnitude.* An excellent illustration of this is to be found in the case of the railroads. Railroad-building and railroad-financing for a long period of time were subject to no restrictions. The practices followed by the carriers during that period have undoubtedly been the cause of some of their subsequent financial difficulties. Furthermore, *a regulative scheme cannot be effective unless it is comprehensive.* Similar industries should be subject to the same kind of control. Again the railroads furnish an illustration. In the past few years other methods of transportation, the bus, the truck, the airplane, and the private automobile, have developed. The problem of effective railroad regulation is inextricably bound up with the problem of control of other types of carriers. Yet the Federal Government until recently imposed almost no restrictions on these carriers. Finally, governmental regulations which are imposed should not be so stringent as to stifle completely private initiative.

It is a grave question whether or not a political system such as that which we have in the United States is well-suited to effective regulation. Fascist Italy is likely to achieve it more readily than the United States with its doctrine of judicial review, its theory of division of powers between the federal government and the states, and its doctrine of private rights.

GOVERNMENT OWNERSHIP AND OPERATION OF BUSINESS

The difficulties of securing effective governmental control of business and the fact that such control has not solved many of the economic difficulties with which the United States has been confronted has led many persons to advocate government ownership and operation of business enterprises.

Government ownership and operation of business enterprises has not been as common in the United States as in many countries. Australia and New

Zealand have experimented quite extensively with this plan. Many European countries have for a long time had government ownership and operation of certain businesses, notably, post offices, railways, telephone and telegraph systems, and various other public utilities. Although there has been somewhat less government ownership in this country than in most other places, there are several conspicuous illustrations of business enterprises which are owned and operated by the federal, the state, and the municipal governments in this country.

The United States Postal System. Undoubtedly the outstanding illustration of a government-owned-and-operated enterprise in the United States is that of the postal system.[13] The clause of the Constitution of the United States which declares that Congress shall have the power to establish post offices and post roads has given to the Federal Government the authority to undertake its largest business, the postal system. Although the Post Office had its beginnings in 1789, during the early period of its existence it performed few of the functions which are now regarded as an indispensable part of its service. The registration of mail was not inaugurated until 1855, urban free delivery was first offered in 1863, the money-order system was commenced in 1864, rural free delivery was begun in 1896, the postal-savings system was instituted in 1911, the parcel post was commenced in 1913, and airmail service was started in 1918.

As has been previously stated, the Post Office is the largest business enterprise, not only of the Federal Government but also of the state and local governments in the United States. In 1939, there were more than three hundred thousand employees in the Postal Service.

Inasmuch as the Post Office has been used by both proponents and opponents of government ownership to prove their contentions, an effort will be made to present briefly some of its commendable and some of its objectionable features.

UNDESIRABLE FEATURES OF GOVERNMENT OWNERSHIP. On the debit side is the constantly-recurring deficit. Another feature of the system which is not above criticism is that post-office buildings are often far more elaborate and costly than is necessary for the adequate performance of postal functions. Moreover, whether or not a particular locality obtains a post office does not always depend upon the needs of the community but upon the influence and prestige of a congressman. Furthermore, patrons find there is formality and red tape which ordinarily does not exist in private enterprise.

With regard to the postal deficit, one should note certain extenu-

13. Postal Laws and Regulations, 1932.

ating circumstances. In the first place, the government is not in the business of carrying mail to make a profit. The postal service cannot be judged by the same standards as those applied to private business enterprises. It reaches the most remote regions of the United States and its possessions. Many postal routes and stations are obviously unremunerative. If they were part of a private business or even a public utility, the operators would withdraw the facilities. In the second place, a large part of the postal deficit is due to the deliberate subsidies which swell the deficit greatly. Numerous labor, agricultural, fraternal, scientific, religious, and even educational societies are given very low rates for the transportation of their publications. Furthermore, the franking privilege enjoyed by Congressmen and the various departments of the Federal Government which enables them to send mail without charge increases greatly the postal deficit. To these items should be added certain sums paid by the government to airplane and steamship companies for the carriage of mail. In order to encourage these types of transportation, the Federal Government has paid them what amount to subsidies in the form of high rates.

DESIRABLE FEATURES. On the other hand, the services of the Post Office extend to every corner of the United States and are offered to the people at remarkably low rates. In addition, the Federal Government treats its employees well. Retirement provisions, compensation for injuries, sick leaves, and very good pay in lower ranks are among the commendable features. The Post Office performs its gigantic task with rapidity, accuracy, and very few losses to its patrons in spite of the fact that it handles daily an enormous quantity of mail.

Government Corporations. In addition, to the postal system the Federal Government operates a number of other business enterprises. Unlike the post office most of these businesses are operated not by regular administrative bureaus or divisions but by government corporations. The corporate form of organization has advantages which make it more efficient and more adaptable to the operation of business enterprises than the ordinary administrative bureau or division.

PANAMA RAILROAD CORPORATION. One of the first of these corporations was the Panama Railroad Corporation created in 1904. The United States purchased the Panama Railroad at the time it bought the Panama Canal and has operated this railroad as a government enterprise since that date. Financially the railroad has been a success. It has consistently earned a profit even during the depression. The Panama Railroad Corporation operates some other businesses which are somewhat related to its railroad activities,

such as harbor and terminal facilities, ship-coaling stations, and a steamship line.[14]

INLAND WATERWAYS CORPORATION. Another of the corporations is the Inland Waterways Corporation, which had its beginnings during the first World War. This corporation has a fleet of ships and barges which transport freight on the Mississippi River and certain of its tributaries, and on the Warrior River and connecting waterways between Birmingham, Mobile, and New Orleans. The purpose of the Federal Government in establishing and operating this corporation is to develop a form of transportation which would not be especially attractive to private capital. Obviously inland water transportation is of interest to only a limited group of shippers, namely those for whom the time element is no factor. Water transportation is inexpensive and enables certain classes of shippers to move their commodities at lower rates than those rates which are charged for transportation by trucks or railroads. The Inland Waterways Corporation has shipped rock, coal, flour, sugar, grain, and other bulky commodities.[15]

RECONSTRUCTION FINANCE CORPORATION. One of the largest and the best known of the Federal Government corporations is the Reconstruction Finance Corporation. Essentially this is a large government-owned-and-operated banking enterprise. It was organized to lend money to business at a time when banks were unable to lend money in sufficient quantities to maintain the needs of our capitalistic system. This corporation may lend money to banks, insurance companies, railroads, and to industrial and commercial businesses.

FEDERAL DEPOSIT INSURANCE CORPORATION. Another of the recently-created federal corporations is the Federal Deposit Insurance Corporation. This corporation was established in 1933, after the "bank holiday," in order to protect depositors of closed banks. It is essentially a government-owned-and-operated insurance enterprise. The corporation has a fund which it uses to insure the deposits in all member banks. The corporation insures small accounts for one hundred per cent and large accounts for fifty per cent. If a bank closes because of its inability to meet the demands of its depositors, the Federal Deposit Insurance Corporation acts as receiver. The corporation then organizes a new bank to assume the insured deposit liabilities of the closed banks, to receive new deposits, and to perform temporarily certain other banking functions. The corporation attempts either to sell the stock of the new bank or to dispose of its liabilities and assets to another bank. If this cannot be done within two years the bank is liquidated.

14. Marshall E. Dimock, *Government-Operated Enterprises in the Canal Zone.*
15. Marshall E. Dimock, "Developing America's Waterways."

TENNESSEE VALLEY AUTHORITY. Another large business enterprise which is owned and operated by the Federal Government is the Tennessee Valley Authority, which was created in 1933 to maintain and operate properties owned by the United States at Muscle Shoals and to develop the resources of the Tennessee Valley. In establishing this business enterprise Congress has again used the corporate form of organization. As a corporation the Tennessee Valley Authority possesses the powers which are usually conferred upon government corporations. It has the power to sue and be sued, make contracts, hold property, and exercise such other powers as are necessary to carry out its purposes under the act. Although the average person thinks of the Tennessee Valley Authority primarily as a power project, its scope is far broader than the mere production of electricity. In its general aspect, it is a large-scale attempt to improve the standard of living for an entire section of the United States by conserving and utilizing the natural resources of that area. However, the best known of its projects and the one which is of most interest to those who are concerned with the problem of government and business is that of the production and transmission of electricity. The act states that the Tennessee Valley Authority may construct dams, reservoirs, power houses, and transmission lines. It may produce and distribute electricity. It may sell the power thus produced to states, counties, municipalities, corporations, and individuals. The completion of several dams and power plants has given to the Tennessee Valley Authority considerable capacity for generating electricity. The Authority has entered into contracts with several governmental units and industrial corporations to supply them with electric power.[16]

One of the greatest drawbacks to government ownership and operation of business has been the prevalence of politics and the spoils system in public enterprises. Government businesses have often been greatly handicapped because they have been unable to adopt some of the more advanced personnel policies. If a government enterprise is free from politics and has developed a sound personnel system, one of the important objections to government ownership disappears. Fortunately, Congress has seen fit to take the Tennessee Valley Authority out of politics and give it an opportunity to develop its personnel system without political considerations. The act states that in the appointment of officials and in the selection and promotion of employees no political test or qualification shall be given consideration, but that all such appointments and promotions shall be made on the basis of merit and efficiency. The Tennessee Valley Authority has set up and operated its own personnel policies. It is not an exaggeration to say that it has

16. Annual Report of the Tennessee Valley Authority, 1937, pp. 17–22.

adopted some of the most enlightened and advanced personnel policies of any governmental agency. In fact, its personnel policy compares favorably with some of the best in private industry.

State Ownership and Operation of Business. The ownership and operation of business enterprises by the various state governments has not been as common as the ownership and operation of business enterprises by either the Federal Government or the municipal governments. However, a few isolated illustrations can be found of state-owned-and-operated businesses. From time to time, the states have engaged in the business of banking. In most cases, these banking enterprises were undertaken during the latter part of the eighteenth century or the beginning of the nineteenth century. Probably the most extensive program of state government ownership and operation was that undertaken by North Dakota after the first World War. A system of state ware-houses, elevators, banks, flour mills, and factories was established by that state. However, this elaborate plan was subsequently abandoned. Today, one finds only a few illustrations of state-owned-and-operated businesses, such as state liquor stores, state insurance funds, and state housing enterprises.

Municipal Public Utilities. Municipal ownership and operation of business enterprises is much more common than state ownership and operation. The prevalence of municipal business enterprises is due chiefly to the large number of municipally-owned-and-operated utilities of various types.

The average person hardly realizes the extent to which municipalities in the United States own and operate public utilities. It is true, of course, that the extent varies considerably with the type of utility. In the case of water plants, publicly-owned systems considerably outnumber those which are privately owned. Only two large cities, Indianapolis and Birmingham, are served by privately-owned water companies.

The number of electric utilities which are owned by municipalities is surprisingly large. In 1932, there were more than eighteen hundred scattered throughout the United States. It is true that most of these are in relatively small towns and cities, but at least three large municipalities, Seattle, Cleveland, and Los Angeles, have municipally-owned-and-operated electric utilities. The Seattle plant was started at the beginning of the twentieth century. It has a record which compares favorably with that of any privately-owned-and-operated electric plant in the United States. It has a good administrative organization and its rates compare favorably with those of privately-owned plants.[17] The City of Pasadena in California operates another of the successful publicly-owned electric plants. The Pasadena plant

17. Annual Report of the Department of Lighting of the City of Seattle, 1937.

is alleged to have made profits amounting to as much as seven hundred thousand dollars in one year.[18] Cleveland has been in the electric utility business since 1906, when the city took in a village which had a publicly-owned plant. Cleveland has increased the size and capacity of its plant since that date. The Cleveland plant, however, does not have a monopoly but must compete with privately-owned utilities. Los Angeles is the largest city in the United States which owns and operates its own electric plant. The rates of the Los Angeles plant are low and compare favorably with those in other cities which are served by privately-owned utilities.[19]

Municipal ownership of street railways, or municipal ownership of systems for the production and distribution of gas are not as common as privately-owned companies operating these two types of utilities. Seattle, San Francisco, and Detroit own their own street railway systems. Omaha, Cleveland, and Indianapolis have municipally-owned-and-operated gas systems.

The Future of Government Ownership and Operation. If one attempts to look at the question of government ownership and operation without prejudice one can see both advantages and disadvantages. However, too much weight should not be given to the academic arguments for and against government ownership and operation. Whether or not one approves, it is possible that government ownership and operation either on a limited or even on an extensive scale may supplant our system of private ownership and operation. Certain things seem to point in that direction. One of these is the growth and concentration of industry. As businesses become larger, the necessity for regulation, in the interest of the public, increases. At the same time the difficulties of regulation seem to increase. For one thing the growth of a business increases its financial power and enables it to frustrate efforts at control. In self-defense, the government may be forced to take over a business or to enter the field as a competitor in order to protect the public. Furthermore, the condition of some essential industries may force the government into ownership and operation. If, for example, important industries, such as the railroads or the coal-mining industry, cannot be operated so as to give a profit to the owners and adequate wages to the workers, the government, in the interest of the public, may be forced to take them over and operate them.

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CHAPTER TWENTY-TWO

Social Services: Public and Private

IN THIS period of ideological conflict, with the dictators branding the democratic form of government outworn and the democracies counterattacking with the charge that totalitarianism is a return to barbarism, it might be supposed that there would be no common meeting ground of governments. However, irrespective of their political philosophies, almost all governments are currently emphasizing the role of the state in the field of the social services. Of course the details of the programs vary from country to country, and in certain cases there seem to be differences in basic aims. But whether one observes the United States, England, Germany, Russia, or Japan it is difficult to ignore the efforts being made to improve public health, to add to individual security, to furnish recreational facilities, and to maintain a system of public education.

CURRENT EMPHASIS ON THE SOCIAL SERVICES

The emphasis on public social-service programs is one of the most significant characteristics of the time in which we are living. Not all of the activity is of recent origin, however, for governments have attempted to provide general police protection and at least a measure of public education for a comparatively long time. Moreover, some governments—Germany and England, for example—have given attention to old-age pensions and to other security projects for several decades.[1] However, it is only within the last generation that there has developed the almost universal opinion that governments, large and small, democratic and dictatorial, owe it to their citizens to assume a large measure of responsibility for providing extensive social services.

DEFINITION OF "SOCIAL SERVICES"

There is some disagreement among both theorists and administrators as to exactly what activities may be considered social services.[2] There are those who consider the control of private business and the conduct of such govern-

1. See John D. Millett, *The Unemployment Assistance Board* (London: Allen and Unwin, 1940), chap. 1.

2. A recent discussion of this problem is included in Marietta Stevenson, *Public Welfare Administration* (New York: Macmillan, 1938), pp. 91–2.

ment projects as the Tennessee Valley Authority to be social services; and indeed they do have social consequences. On the other hand, there are those who think that the maintenance of law and order does not fall in that category—to these people such a function is inherent in government and not to be classified as a special service. Too broad a definition of the social services would not be satisfactory for the purpose of this discussion, and consequently several activities which some people consider to be social services have been discussed in other chapters. On the other hand, too narrow a definition would scarcely be more acceptable, for it would necessitate a complex treatment of the subject, which is out of place in a general survey of politics. A reasonably satisfactory definition would include safety, health, security, recreation, and education as services to be administered directly or regulated indirectly by the government.

PUBLIC SAFETY

At a comparatively early stage of their existence human beings learned that it was not satisfactory to permit every individual to do as he pleased; for when everyone did as he pleased, the strong man took what he wanted from his weaker neighbors, and the rank and file were at the mercy of the few. The clan was organized to provide protection against enemies[3] for the individual as well as for the group. As states developed, they assumed among their principal responsibilities the duty of providing safety for their citizens as individuals as well as the duty of providing protection for the nation against external aggression.

Simple Character of Early Activities. Despite the fact that governments have been charged with providing safety for the person and property of their citizens for many centuries, it is only comparatively recently that they have placed internal protection on a professional basis. Public opinion long demanded of the government only the most obvious kind of protection and left individuals free to carry on their business transactions more or less as they wished, irrespective of the human suffering that might result from fraudulent or ruthless acts. Prior to the early nineteenth century citizens were expected to share the burden of patrolling the streets at night to safeguard their communities against criminals, although they might hire substitutes to do this for them. But at best the service was poor, and in general it was scarcely safe to be on the streets after dusk.[4]

The English House of Commons maintains today a custom which sug-

3. For an interesting and nontechnical discussion of this point, see Robert H. Lowie, *Are We Civilized?* (New York: Harcourt, Brace, 1929), chap. 15.

4. For a vivid description of the dangers to be encountered, see Lord Macaulay, *The History of England* (6 vols., London: Macmillan and Co., 1913), I, 337–64.

gests the dangers of these times. At the close of an evening session attendants of the House go about the corridors crying out: "Who goes home? Who goes home?" This custom dates from the time not so far distant when the House of Commons had to provide guards to escort its members at night, lest they be set upon by robbers. It was not until a little over a century ago that England took steps to put her police force on a professional basis, and other countries have established similar agencies even more recently.

Modern Police Departments. In contrast to the chaotic situation which existed scarcely more than a century ago, all governments now maintain professional police forces. These consist of large numbers of persons who are employed on a full-time basis either by the central government, as in Italy and Japan, or by cities, counties, states, and the federal government, as in the United States. A single force may constitute a veritable army even if it is not one on a national basis—New York City alone employs almost twenty thousand persons in its police department.[5] Ordinarily these forces are organized on a semi-military if not a military basis; in the United States they are semi-military, while in the totalitarian states they are usually almost, if not entirely, military in character.

From the simple structure of the nineteenth century, police forces have developed into highly complex organizations, which may penetrate into almost every phase of human activity. In addition to the policeman on the beat, who is now scarcely to be recognized because of his automobile and his radio, there are homicide squads, traffic divisions, pickpocket sections, dope bureaus, detectives, and many other special and technical subdivisions in a large police department. Moreover, numerous persons are employed to carry on the administrative work at police headquarters.[6]

Not only have police forces become much more elaborate in their organization, but they now attempt to serve the people in fields that were scarcely dreamed of a few years ago. Besides protecting citizens against robbers and murderers they now are active in providing safety from traffic hazards, in regulating amusements, in stamping out rackets, in inspecting buildings, in dealing with gambling and prostitution, and in looking after many other similar matters.[7]

Protection Against Fire. In addition to police departments governments

5. See Harold Zink, *Government of Cities in the United States* (New York: Macmillan, 1939), p. 25.

6. A very good treatment of the complex character of modern police administration has been prepared by the Institute for Training in Municipal Administration under the title *Municipal Police Administration* (Chicago, 1938).

7. For a more detailed discussion of the wide scope of police activity the reader is referred to A. Vollmer, *The Police and Modern Society* (Berkeley: University of California Press, 1936).

are now maintaining agencies to protect the citizen and his property against the ravages of fire. In rural areas these provisions may be simple or even nonexistent, but in urban sections almost every government now pays considerable attention to fire fighting and fire prevention.

Great progress has been made during recent years in motorizing fire departments and in using chemicals instead of water in extinguishing fires.[8]

Importance of Crime and Fire Prevention. In the United States, the emphasis has, until recently, been placed on fighting crime and fire rather than on trying to prevent them. In European countries much more has been done in the matter of prevention, with the result that crimes are fewer and fire losses are much lower in those countries than they are in the United States. For example, in cities in the United States there are approximately sixty murders annually per million inhabitants, while in England, where the punishment of crime is more certain, there are about three. The per-capita fire loss per year in England has recently been one dollar, whereas it has been more than two dollars in the United States.[9] By careful inspection and by laws making inhabitants of buildings in which fires break out personally liable—even subject to prison sentences—where negligence enters in, Germany has had an annual per-capita fire loss approximately one-tenth of that of the United States. However, the United States, along with its pride in having the finest fire-fighting equipment in the world, is now giving more attention to fire prevention.[10]

Street Lighting. In cities it has long been the custom to provide some type of street illumination at night—if no more than flares and oil lamps—to assist both pedestrians and drivers of vehicles. There is little danger that the former will be attacked by criminals when streets are adequately lighted, and the latter may operate their automobiles with less danger of accident. One city has recently reduced its accident rate forty-six per cent by installing more adequate street lights.[11]

Perversion of Safety Agencies. While in general much has been accomplished recently in adding to the safety of citizens, it should be noted that in certain cases police agencies have been used to terrorize the people. Germany and Russia have special police charged with taking away rather than adding to the safety of the residents of those countries. The efforts of the Cheka and the Ogpu in the U.S.S.R. have brought death to thousands of innocent people and untold misery to countless thousands of others who

8. For an up-to-date discussion of this topic, see Harold Zink, *op. cit.*, chap. 28.
9. Whitaker's *Almanac, 1939*, pp. 670, 1077.
10. See National Board of Fire Underwriters, *Suggested Fire Prevention Ordinances* (New York, 1930).
11. For an account of this experiment, see R. E. Simpson, "46 Per Cent Fewer Accidents on Hartford's Relighted Streets," *American City*, LIII (Oct., 1938), p. 55.

were suspected of being opposed to the political ideas of Lenin and Stalin. The Gestapo in Germany may have caused less actual bloodshed, but it has sent thousands to concentration camps and in general has imposed severe suffering upon Jews, believers in democratic ideas, and those who support world peace and freedom of thought. Needless to say, such organizations represent a perversion of the public forces of law and order.[12]

PUBLIC HEALTH

Although there is considerable variation in the amount of attention paid by governments to public health, all, with a very few exceptions, now give the public-health movement more than nominal support. Moreover, in many countries, including the United States, there are prospects of even more elaborate programs in the near future as a result of the public attention which is being focused on the problem. Even as it is, the achievements in reducing the infant-mortality rate, in controlling such pestilences as yellow fever, typhus, and smallpox, and consequently in extending the average length of life expectancy are impressive.

Vital Statistics. One of the basic activities of a public official engaged in public-health work is the collection of vital statistics; until it provides itself with the necessary statistics, it is difficult, if not impossible, for a government to ascertain what public-health needs are.[13] Almost all civilized countries now make some effort to require births to be registered, deaths and their causes to be reported, and the outbreak of certain diseases, such as smallpox, typhoid fever, and diphtheria, to be called to the attention of the health officers. Unfortunately the laws on the subject are not always so far-reaching as they might be; nor are they always observed by physicians and public officials. The result is that although it is ordinarily possible to compare birth and death rates with a fair degree of accuracy, it is still frequently impossible to ascertain details concerning the causes of many deaths. It should be apparent that the government must have the latter information if it is to formulate an adequate public-health program. The difficulty is that physicians hesitate to report that deaths have resulted from such diseases as syphilis because of the public feeling toward social diseases, and consequently they give heart and other common ailments as the causes of many deaths.

Quarantine. Much of the early effort in the public-health field was directed at combating disease after it had attained serious proportions. Even now health departments must spend considerable time and money quarantining cases of contagious disease and locating the source of such infections as

12. See V. V. Tchernavin, *I Speak for the Silent; Prisoners of the Soviet* (London: Allen and Unwin, 1937).
13. See G. C. Whipple, *Vital Statistics* (New York: Wiley, 1923).

typhoid fever. This phase of public-health activity is still important, although in too many cases it is neglected by health authorities. Thus despite the laws which provide that persons with measles, chicken pox, mumps, and other more or less common diseases shall be quarantined during the period in which they are menaces to public health, a great many health officers make little or no effort to enforce these regulations. Consequently in many communities diseases of this kind reach epidemic proportions every year, affecting the hearing, the eyesight, and other faculties of susceptible victims.

Prevention of Disease. Public-health activity is now being directed increasingly toward teaching the public how to treat and to prevent the spread of disease; and this is distinctly wise, for as the proverb says: "An ounce of prevention is worth a pound of cure." Instead of waiting for typhoid-fever epidemics to break out—and it may be added that this was a regular occurrence a few years ago—health departments now draft programs which aim toward the removal of the sources of infection. Water supplies are checked at regular intervals and water is subjected to treatment when it is found to constitute a menace to health. The milk supply, which is a serious potential source of typhoid and similar infections, is no longer ignored by the health officials.[14] Dairies are inspected to ascertain their general cleanliness; cows are given tuberculin and other tests; and people who handle milk are examined to ascertain whether or not they are carriers of disease. Finally, in many places all milk which is intended for sale, with the exception of a carefully-produced certified product, must be pasteurized. In addition to the attention which they give to water and milk, public-health departments examine foodstuffs and drugs to see that they are fit for human use.

Emphasis on Physical Fitness. Closely related to the prevention programs of public-health departments is the increasing interest in developing strong physiques. The importance of physical fitness is being stressed particularly in children's clinics. More and more adequate work is being undertaken in the physical examination of school children, which is aimed at checking tubercular infection and seeing that proper attention is paid to bad teeth, eyes, and tonsils, and to unhealthy conditions of other parts of the body that may cause trouble if not attended to. Health weeks, with their special programs, bulletins, posters, and radio broadcasts, are designed to focus the attention of the rank and file of citizens on the importance of good health.

Some governments are almost making a fetish of the cry for strong bodies. One cannot read *Mein Kampf* or observe the Hitler Youth in action with-

14. For additional discussion, see American Municipal Association, *Milk Control: Governmental Regulation of the Dairy Industry in the United States* (Chicago, 1937).

out realizing how far the Nazis have gone in their attempts to develop fine physiques.[15] Nevertheless, there is evidence that the elaborate program of the Nazis has been carried to such extremes that it has caused widespread deterioration in health rather than improvement.[16]

Public Hospitals. In the field of institutionalized health governments maintain hospitals of many varieties. Some of these care for general cases, especially when patients cannot pay for hospital facilities; others are highly specialized. Tubercular sanitoria operated by public agencies are among the most common of the specialized hospitals. Governments are also assisting in the treatment of mental ailments by establishing psychopathic hospitals, although most public agencies in this field are probably concerned with confining patients in asylums rather than with seeing that they have treatment in hospitals.

Miscellaneous Health Activities. Finally, there are several miscellaneous public activities which bear on health. One of these is the regulation of tenement housing. This includes setting the minimum number of cubic feet of air or the minimum number of square feet of window space which must be provided for each occupant of a tenement house. Inside windowless rooms may be prohibited. Factories may be inspected by health officers to see that there are proper safety devices, toilet facilities, ventilation, and other provisions that relate to health and physical well-being.[17]

SOCIAL SECURITY

As early as 1833, Great Britain made a beginning in the social-security field by setting up a voluntary system of old-age annuities. More than half a century later, in 1889, Germany established a compulsory plan which looked toward the financial solvency of the aged. These two countries have consequently won for themselves reputations as pioneers in the field, but they have been followed by many other countries, until there are at present something like twenty-five which are reasonably active in this work.[18]

It is to be expected that there should be wide variation in the scope of the various social-security programs, to say nothing of their detailed provisions. However, two major problems have received the most widespread attention: old-age pensions and unemployment allowances. In addition, emergency

15. See unexpurgated edition (New York: Reynal and Hitchcock), vol. II, chap. 2.

16. A German doctor has analyzed large numbers of official health reports and arrived at this conclusion. The observations of Dr. Martin Gumpert are summarized in a book entitled, *Heil Hunger! Health Under Hitler* (New York: Alliance, 1940).

17. Much additional information on these and other subjects related to public health may be found in *Social Work Year Book*, published biennially by the Russell Sage Foundation, New York.

18. See article by J. Douglas Brown, "Old Age Insurance," *ibid.*, 1937, pp. 309–14; and Metropolitan Life Insurance Co., *Social Insurance Legislation* (New York, 1932).

relief has assumed large proportions, especially during the years since 1930, while workmen's compensation, health insurance, and aid to the blind, dependent children, and cripples have been minor projects.

Inasmuch as there is so much divergence in the provisions for social security among the many countries which now maintain public social-security programs, it seems wise to devote the limited space available to a brief discussion of the provisions which have been adopted in the United States. It is only fair to admit that the United States was slow in entering upon this undertaking—it was not until 1935 that progress was made on a large scale—but much has been achieved in a brief space of time.

Old-Age Assistance and Annuities. During most of its national life the United States has had an unusually small percentage of inhabitants beyond the age of sixty-five years, but by the fourth decade of the present century the situation had begun to change radically.[19] This fact, together with the economic depression, focused attention on the necessity of making provision for the support of the aged. Instead of concentrating effort on a single plan, the government decided to give public support to two projects: old-age pensions and old-age annuities.

State Pension Schemes. For some years before the Federal Government entered the social-security field, several states had made some attempt to provide modest pensions for their needy aged. Various pressures induced the Federal Government to join the state governments in this project, with the result that by 1940 some fifty programs were operating with greater or less success.[20] In November, 1939, 1,907,642 needy persons were receiving grants without any contribution on their part. The Federal Government maintains the right to supervise the administration of the state systems because of the fifty-per-cent share of the cost which it assumes in the case of those pensions not exceeding $40 per month. However, it permits the states leeway in setting the schedules, the minimum age, and in deciding other details. In 1939 payments generally ranged from $15 to $45 per month; but in nine states the average payment was less than $10; and Arkansas was at the bottom of the list, with an average payment of only $6.01. The majority of states fixed sixty-five years as the minimum age for recipients, and the average pension in 1939 approximated $25 per month.

Annuities for Employees. More important from a long-range standpoint than the schemes for assisting the needy aged is the system of annuities for

19. The number of persons over sixty-five rose from 2.7 to 4.7 per cent of the total population from 1860 to 1920. In 1940 it was 6.3 per cent. It has been estimated that by 2000 the number will be 12.7 per cent of the population.

20. For additional information relating to these plans, see the Committee on Economic Security's *Social Security in America* (Washington: Government Printing Office, 1937), pp. 155–66, 217–21.

employees which is gradually beginning to function; by 1940 more than thirty-eight million persons were covered by its provisions. In contrast to the variation among the old-age assistance plans, this program is uniform throughout the country. Employees and employers are required to share in the payments to the Federal Treasury which started at 2 per cent of wages or salaries in 1937 and are scheduled to increase to 6 per cent by 1949. On the basis of these contributions insured persons begin to draw annuities at the age of sixty-five years, the payments received by each person not to exceed $85 per month. These payments are made as a matter of right and without regard to the financial status of the recipient.[21]

Unemployment Compensation. Along with the two types of provisions for the aged there have been set up in the United States fifty-one systems of unemployment compensation, which are jointly administered by the states and the Federal Government.[22] Approximately 27,500,000 persons are covered by the various plans, which vary considerably, especially in detail.[23] Payroll taxes averaging 2.7 per cent are paid by employers and deposited in the Federal Treasury—it may be added that in all but seven of the states employers are expected to shoulder the entire financial burden involved without recourse to aid from employees. Those persons attached to the industries covered by the act must show previous employment ranging from thirteen to twenty-six weeks before they can qualify for benefits. An unemployed person must wait for a period of time which varies from two to six weeks, depending upon the state, before he receives compensation. Although certain states permit as much as 60 per cent of normal earnings to be paid in compensation, most states set the scale at 50 per cent, with a maximum payment of $15 per week and a minimum of about $5 per week. The duration of benefit payments is by no means uniform in the fifty-one systems, varying from 8⅔ to 20 weeks, but the average is 16 weeks.[24]

The Problem of Relief. In the United States the old-age pension and unemployment-compensation programs have been so recently established that their benefits have not touched the majority of the needy. Even in countries such as Germany, where similar projects have been operating for

21. See *ibid.*, pp. 197–216, 222–26, for additional details. Also consult Paul H. Douglas, *Social Security in the United States* (New York: McGraw-Hill, 1939).

22. *Ibid.*

23. During January, 1940, a weekly average of 877,000 persons received unemployment payments to the amount of $40,952,500. This represented an increase of 34 per cent over December, 1939.

24. For more detailed treatments of unemployment insurance in various countries that have been active in the field, see C. A. Kulp, *Social Insurance Co-ordination; An Analysis of German and British Organization* (New York: Social Science Research Council, 1939); United States Committee on Economic Security, *Social Security in America* (Washington: Government Printing Office, 1937), pp. 17–54; and J. B. Holt, *Under the Swastika* (Chapel Hill: University of North Carolina Press, 1937).

many years and there are numerous beneficiaries, there are large numbers of persons requiring public assistance of an emergency character. Germany has been paying the equivalent of about a billion and a half dollars per year in insurance benefits as well as something like $160,000,000 to persons who need assistance in winter.

Few problems during recent years have been more difficult to handle than public assistance. Because of the scope of the undertaking, it has proved unwieldy to administer. With virtually every country the victim of economic depression of almost cataclysmic proportions, millions of people have been faced with dire want through little or no fault of their own. Irrespective of their desires, governments everywhere have been forced to take some cognizance of the situation and to make more or less adequate provisions for relieving the pressure. Public programs have varied a great deal in detail, but they have generally been known either as "work-relief" or "direct home-relief" programs.[25]

Work relief is based on the principle that mere financial assistance for the so-called unemployed but employable individual is only one aspect of the problem; that in addition there is the necessity of maintaining the morale of this individual by providing him with some sort of a job. The federal relief program in the United States has recently adhered to this principle, although in 1933–34 the government assumed some responsibility for direct home relief.[26] Work relief has been distinctly more costly than direct relief despite the fact that theoretically this ought not be true, since both types should provide for the same economic needs. Such a system makes it necessary to devise projects of a public character which can make use of large numbers of unskilled or semi-skilled persons. Unless the jobs provided by such projects seem to those who hold them to be useful, there is much question as to whether or not they create the morale which is basic in this form of relief.[27]

Many of the W.P.A. projects in the United States have been of such a character that the labor involved seemed of the "made" variety, and consequently there is grave doubt whether or not the additional expenditure for administration, extra clothing, and transportation can be justified. However, other projects have been of genuine social value, providing jobs for those

25. For an illuminating article which surveys the situation in the United States, see Donald S. Howard's "But People Must Eat," *Atlantic Monthly*, CLXV (Feb., 1940), pp. 193–202.

26. In October, 1939, 1,801,656 persons were on W.P.A. projects and 65,219 persons assigned to other federal agencies were on W.P.A. payrolls. There were 288,182 enrolled in the Civilian Conservation Corps, while the National Youth Administration had 354,496 students and 237,788 other youths on its rolls.

27. Sir William Beveridge, the well-known Englishman, as long ago as 1905 described similar work relief in Great Britain as something which "degrades the name of work and disregards the principles of relief."

who needed them, and at the same time doing constructive work of various kinds in numerous communities.

Direct Relief. Direct assistance requires no labor from recipients, and is based on the principle of absolute need. The United States supplements its work-relief program with various schemes of direct relief which are operated by states, counties, cities, and townships.[28] Unfortunately there is little or no uniformity of standards of assistance under the many systems that operate in the United States; monthly allowances may vary from less than five dollars to thirty or more dollars.[29] In many localities it is common knowledge that political or personal considerations play a part in determining whether or not assistance will be given. The money may be paid directly to the recipients—professional social workers usually favor such a practice—or assistance may be given in the form of orders for groceries, which have to be used at designated stores—sometimes those of political favorites.

The determining factor in dividing the needy in the United States into the work-relief and direct-relief categories is "employability." The W.P.A. furnishes jobs to a portion of those who enjoy such health and mentality that they can presumably be absorbed by private industry at some future time. Direct relief is given to those who cannot qualify for work relief because of illness, age, or other incapacities, including W.P.A. quota limits.[30]

Relief a Temporary or a Permanent Problem? Although there was a disposition a few years ago to consider relief as an emergency problem which would disappear when normal economic conditions returned, realistic observers now find it impossible to hold such a view. The shift in popular psychology which makes relief a public rather than a private function enters into the picture—the private share of relief in the United States dropped from a relative place of about one-fourth in 1929 to something like one per cent in 1939.[31] Nevertheless, many governmental units in the United States still treat relief as a temporary problem and finance it in large measure by borrowing.

28. In October, 1939, there were 1,633,250 cases (not persons) on this type of relief.

29. New York and California average more than thirty dollars per month for each recipient, but in ten states the average sum is less than $10. In December, 1938, Mississippi gave only $2.73 per month. The average monthly allowance in forty-three reporting states amounted to $23.45 in September, 1939. These sums are for families averaging three or four persons.

30. Strangely enough some states in the United States refuse direct relief to employables even if W.P.A. quotas do not permit assistance to these persons. In 1939, eight states gave no aid to such unfortunates, and six other states gave practically none.

31. Of course, it must be remembered that much of this drop was relative. In 1929, public agencies spent a mere fraction of what they spent in 1939. In 116 urban areas private relief accounted for one per cent of all relief in September, 1939. In August, 1939, the private share was .8 per cent, and in September, 1939, it was .6 per cent. See *Social Security Bulletin*, vol. II, No. 12 (Dec., 1939), p. 19.

RECREATION

Governments have not entered the recreation field to anything like the extent that they have entered the health and security fields; but, nevertheless, considerable attention is being given to several aspects of the recreation problem. Moreover, governments take a fairly active hand in regulating private commercial recreational enterprises, especially through the censorship of motion pictures and the theatre.

Cities have maintained parks of various types for many years, while national governments are increasingly dedicating large areas of forest and mountain lands to recreational use. During the period of the nineteen-thirties the Federal Government in the United States became interested in supervised recreational programs and gave great impetus to this movement by providing personnel, equipment, and money to local governments. As a result activity in this field more than doubled within a few years, and numerous communities large and small found themselves with reasonably adequate recreational programs, especially during summer months.[32]

Some governments have given notable support to operatic and theatrical undertakings. European governments have subsidized state opera houses and state theatres for years, but outside of Latin America there has been little government aid of these activities in the western hemisphere.[33] However, in the nineteen-thirties the United States set up federal theatre projects in large cities, which in several instances made definite contributions and attracted favorable attention. Nevertheless, support was largely, if not entirely, withdrawn in 1939, and the various groups for the most part found it necessary to dissolve. Perhaps the most ambitious program in this field is to be found in Russia, where an elaborate public system of theatres and theatrical schools culminates each year with a national festival in Moscow.

PUBLIC EDUCATION

Public education has been recognized as a responsibility of governments for many years, but there has been a wide difference of opinion as to how far and in what direction such obligation extended.

In the United States. In the United States it is generally agreed that education from the kindergarten through the university and the professional school is largely the province of the state, although parochial and private schools are of course also permitted to operate. Attendance at school is ordinarily compulsory up to the ages of fourteen to eighteen years, depend-

32. A convenient source of additional information is W. W. Pangburn, "Recreation to the Fore in American Cities," *National Municipal Review*, XXVII (Sept., 1938), 465.

33. Certain cities, such as St. Louis and Cincinnati, give a measure of public assistance to summer light opera.

ing upon the state, and there is much encouragement given to those who wish to continue the educational process through college and even professional school. Although increasing attention is being paid to the need for vocational training and the training of the individual of retarded development, in general there is little or no attempt to restrict the rank and file to institutions of a purely practical type and to reserve the universities for the favored few.[34]

The average citizen of the United States is so well-acquainted with our educational institutions and their methods that no more need be said about them here.

Education in Other Countries. Most of the countries of the world follow a somewhat different policy in their public educational systems, for there is a feeling that the type of education should be fitted to the individual and to the social structure. With the great mass of people necessarily headed toward the trades and clerical occupations, to most governments there seems little reason to educate the rank and file beyond common school. Furthermore, the curriculum in these schools is made very practical so that students will be adequately prepared for life in the world after they are out of school.

Thus Germany has her people's schools and her trade schools for the majority and gymnasia and universities for the few. The French school system under the Third Republic was theoretically more democratic in that there was not the early separation of the few from the many that characterizes the German system, but stiff examinations weeded out the majority before they reached the *lycée* stage and only a comparative handful survived as far as the university. Even in England education beyond the elementary level is reserved for the few—there are fewer than a quarter of a million pupils over fourteen years of age in publicly-supported schools and only approximately one hundred thousand who pay no fees for their high-school training. Something like five million English children end their formal education at the age of fourteen years.

The Problem of Political Indoctrination. In the totalitarian countries there has been a very close integration of schools and political ideology during recent years, until there is some question whether public education has not become political indoctrination. History has been rewritten and is taught to create a certain national psychology; courses in national ideals and political programs bulk large; and freedom of thought is frowned upon. It is too early to judge the total results of such development. However, in so far as the universities are concerned, it is almost impossible to escape pessimism,

34. A great deal of up-to-date information relating to public schools in the United States is included in Nelson B. Henry and J. G. Kerwin, *Schools and City Government* (Chicago: University of Chicago Press, 1938).

for as Professor Pollock observes, "The fate of the German universities is a melancholy subject to write about."[35]

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35. J. K. Pollock, *The Government of Greater Germany* (New York: D. Van Nostrand, 1938), p. 169.

CHAPTER TWENTY-THREE

Resources and Planning

INFLUENCE OF ECONOMIC SYSTEMS ON POLITICAL INSTITUTIONS

IN MANY respects the characteristics of the economic systems of various nations form a mold which shapes the political institutions of the country. This has been particularly true in the years since the first World War. The controlled economies of Germany and Italy and the planned economy of the Soviet Union have been established since 1914. Furthermore, nearly every industrialized nation has called upon its government to perform functions and to solve problems which in previous years were left unsolved or left largely to private initiative. The result has been a world-wide increase in the amount and kinds of economic controls exercised by governments, and an immense increase in the amount of *collective economic action* as distinguished from the economic action of individuals.

Rise of Laissez-faire System. Such participation by governments in the operation of economic systems is not new. The *laissez-faire* systems of modern capitalism grew out of the mercantilist systems which preceded it. In fact, early modern capitalists found it necessary to break the outworn rules and regulations of mercantilistic governments before they were free to develop private enterprise. As the mercantilist systems were broken down, a century of laissez-faire was inaugurated. In this theory the famous argument of Adam Smith was that if private individuals, freed from the arbitrary restraints of incompetent governments, were left to promote their own self-interest, they would be led, as if by an "invisible hand," to promote the interest of society. Under this philosophy that government was best which governed least. In the instance of the Federal government of the United States, a limit to its powers was deliberately set. Furthermore, lest the government still should have powers which could be used to oppress the rights of individuals, the powers of government were checked and balanced. Thus the legislative, executive, and judicial powers were planned as restraints upon the arbitrary action of a single branch.

During the nineteenth and early twentieth centuries the reign of laissez-faire appeared to carry its own justification in its accomplishments. While the distribution of wealth and income showed gross inequalities, it could be argued that, in the industrialized nations of the western world, the bene-

fits of the industrial revolution had been realized in the generally higher standards of living and comfort and in the new manufactured products which had been brought into wide use. The laissez-faire systems have come to be called capitalist because of the economic institutions which were employed to produce and distribute income. These were private property, freedom of enterprise, freedom of occupational and consumptible choice, and the profit or gain motive, combined with a method of income distribution in accordance with productivity and bargaining ability. The regulating force was to be the automatic operation of competition. Since its influence was expected to press prices to costs of production, in the long run consumers would receive fair prices. Producers would be protected because prices, when forced too low, cause a curtailment of supplies, and a resulting rise in price would remedy the defect. The fear and danger of financial loss would combine to force efficiency. Competition among producers was to lead, by way of the better mousetrap, to improvement of products. In this situation, government was to be largely passive. If monopoly reared its head, it was to be attacked in the public interest. Or, if an industry proved itself to be a natural monopoly of organization, such as telephone services or electrical power production, it was to be declared a public utility with its prices and services regulated by public authority. Otherwise, except for criminal behavior, private enterprise was to be left free.

Trend Toward Collective Economic Action. If the system of laissez-faire formed a matrix for a political form of government with limited powers and a minimum of responsibilities in the past, the experiences and problems of the last generation have changed the picture. Since 1914 governments, which were developed on the "the least is best" principle, have been required to act to solve problems. In order to accomplish required ends, it has been necessary for them to have more adequate powers. Since the majority of the problems which have been pressed upon governments have been economic, the characteristics of governments have necessarily been formed more and more by the economic world. This is true of the countries which retain democratic forms such as England, France and the United States.

In two other nations, Germany and Italy, governments established since the first World War have brought the private enterprise economy under so much control that freedom of enterprise can scarcely be said to exist, although private property in producers' goods still exists. Furthermore, these economies are directed toward a *national purpose* which is chosen by the government. Such economies can be distinguished from the relatively free capitalist economies by the term *controlled capitalism*. In the Soviet Union, government action has established a socialized economic system in which the

national resources and capital are owned by the nation in the name of the workers. Furthermore, the right of free enterprise has been abolished except for self-employment. The result is that the government finds it necessary to plan production so that the Soviet Union represents a *planned socialized economy* as distinguished from the free and controlled capitalist economies.

As illustrations of these three types of economic systems, a description of the economy of the Soviet Union will be presented first, to be followed by a description of the German economy under the National Socialist State, and finally, the United States as an illustration of a relatively free, but changing, capitalism will be given. Before this can be done, however, it is necessary to describe certain fundamental economic principles and problems which are common to all the economies and to show how political and economic powers are interrelated.

BASIC FEATURES AND PROBLEMS OF AN ECONOMIC SYSTEM

It is a feature of all economic systems which have existed in the past and those which exist at present that the "economic problem" has been a scarcity of goods to satisfy unlimited human wants. Between the extremes of an ascetic society which seeks to deny rather than achieve want satisfaction, and one which shows such remarkable improvements in productive capacity as to make goods too abundant to be called "scarce," it can be stated that economic scarcity will always be with us. In fact, the term "economic" carries the meaning of scarcity. This is another way of saying that, as long as there exist inadequate supplies of goods to satisfy wants, *economic systems* to conserve limited means of production and to satisfy wants will continue to be in order. This puts to one side dreams of Utopias where the problems of scarcity could disappear. Such Utopias may be stimulating hopes but are unlikely to become practical realities. On the other hand, one of the fundamental expectations of modern "economic man" is economic progress. He expects that standards of living will be raised over periods of time; and, if this does not come true, reactions in the form of more or less severe economic and social movements can be predicted. In fact, it is this belief in the possibility of progress in the present economic world which underlies the tremendous economic upheavals which have occurred since the first World War.[1] These are the economic pressures which have had their influences upon the characteristics and activities of governments. In the name of economic progress revolutions have been fostered, and those governments which have not been unseated have been modified by the popular pressures for economic progress.

1. For the role of the idea of progress in making the modern mind, see J. B. Bury, *The Idea of Progress*, 1st ed. (New York: Macmillan, 1920).

ECONOMIC PRINCIPLES AND ECONOMIC SYSTEMS

If it is granted that strong influences tend to bring about changes in economic systems, what are the limitations upon such changes? There appear to be certain economic principles which would apply in any type of existing or proposed economy and which would act as limitations. Economic systems should be operated in accordance *with* such principles rather than *against* them. If the principles are partially violated, costs of production will be increased by inefficiency. Should the principles be violated in the extreme an economic breakdown can result.

If the objectives of an economic system are to use scarce agents of production conservatively, in order to produce and distribute an adequate national income efficiently, the economic principles upon which the system is to be operated become clear:

1. *Scarcity.* Since land, labor, and capital will be scarce, the income which can be produced will be scarce, that is, prices will necessarily be set upon most goods because they are *economic* goods and not *free* goods.

2. *Price System.* Since the goods will be scarce and prices will be set upon them, the prices must operate to exchange goods from those who make them to those who wish them. Such prices must remunerate the maker and yet be fair to the consumer. Furthermore, such prices must be set with some reference to supply and demand (unless goods are rationed); otherwise, if prices are set too high; not all of the supply will be purchased, or, if set too low, the prices will be bid up by the rush to purchase bargains.

3. *Equilibrium.* To say that prices must be set with some reference to supply and demand is to imply that the economic system must be kept in *equilibrium.* A balance must be reached not only between supply and demand but also between agricultural and manufactured goods and capital and consumers' goods. Failure to establish such an equilibrium will jam the free exchange of products and lead to difficulty.

4. *Distribution of Income.* Some satisfactory methods of deciding who is to receive the goods produced must be adopted. Those who receive incomes must be convinced that there is a reasonable amount of justice in the system, otherwise there will be discontent, if not revolutionary impulses.

5. *Incentives.* In the distribution of income a set of satisfactory incentives must be provided, because it is necessary to call forth the daily efforts of millions of persons. Whether such incentives are appeals to personal gain or the social benefit, or a mixture of both, depends upon many practical factors.

6. *Risk.* Since production is risky, the risks must be borne by some divi-

sion of the economic system. Whether the risk of loss is concentrated upon specialized risk-takers or upon workers depends upon the type of economy.

ECONOMIC INSTITUTIONS OF OWNERSHIP AND CONTROL

If the above economic characteristics would be common to all types of economies, the *institutions* of ownership and control of the economy can be varied in many different ways. The primary function of economic institutions is to allocate the powers of making decisions concerning the organization of production, exchange, and consumption. Historically, the human race has experimented with a wide variety of institutions. Primitive societies have been organized as patriarchates and matriarchates. Anthropologists have described many other types.[2] In modern times kings have exercised various economic powers. Under modern capitalism decision-making powers are vested primarily in those who own or control property. This follows from the fact that rights of private property include the right of use and disposal of such property. In the United States such rights are exercised by some ten million business enterprisers (including some seven million farmers).

But since capitalism includes a considerable freedom of bargaining, property-owners are not the only ones invested with economic power. Consumers can refuse to buy if prices are unsatisfactory, and labor may refuse to work if wages, hours, and conditions of work do not meet with its approval. This is another way of saying that consumers can exercise economic power by withholding demand and that laborers can exercise economic power by withdrawing supply.

It should be noted that economic institutions under capitalism are subject to change. As previously noted, government regulation has replaced competition in "natural monopolies." Progressive taxation of incomes and inheritances have invaded rights of disposal of property. The development of the great corporation has separated ownership from management and raised questions concerning the time-honored maxim that the property-owner could best manage his property because he had the greatest self-interest in it and knew the most about it.[3]

THE PLANNED SOCIALIZED ECONOMY OF THE SOVIET UNION

Among the types of economic systems existing today, the economy of the Soviet Union is the only one which has been created on the basis of a pre-

2. See, for example, the recent book by M. J. Herskovitz, *The Economic Life of Primitive Peoples* (New York: Knopf, 1940).

3. See A. A. Berle and Gardiner Means, *The Modern Corporation and Private Property* (New York: Macmillan, 1933).

determined plan. The author of the Socialist movement for the revolutionary overthrow of capitalist systems and the establishment of socialized systems was, of course, Karl Marx. The Communist Manifesto, written by Marx and Friedrich Engels in 1848, laid down the outlines and propounded the philosophy for the proletarian revolution. This was later expanded into a systematic treatise as "Capital." In order to understand the economy of the Soviet Union it is first necessary to understand Marxian principles of economics. For this reason the basic theories of Marx will be reviewed.

Marxian Theories. Marx maintained that throughout all history there had been a conflict between opposing forces which he called "thesis" and "antithesis." The resultant of this conflict was a new "synthesis." In the economic sphere, he saw a conflict in modern capitalism between those who owned the producers' goods, the *bourgeoisie,* and those who work for wages, the *proletariat.* Since their interests were antithetical, there would result a class conflict or class war between the upper and lower class. The development of this warfare was inevitable because the course of history was mainly determined by economic forces.

Overthrow of Capitalism. Capitalism was regarded as a phase of history which would pass because it would break down through its own inconsistencies. However, it would be necessary that the overthrow of the property-holders be accomplished by the working class because ruling classes do not give up economic and political power voluntarily. Once the revolution had arrived, the capitalists would be "liquidated" and a single class of society would come into being. In this new society since the land and capital would be socially owned by the workers, private incomes from property would disappear.

Establishment of Communism. Ultimately, a complete communism would be established in which income would be "produced in accordance with ability, and consumed in accordance with need." This would be possible because individuals would be socially minded and interested in the social welfare rather than in their own selfish interest. It was argued that this would be more easily achieved under a communistic economy because economic goods would be more abundant than under capitalistic control; therefore conflict over their distribution would diminish if not disappear.

Dictatorship of Proletariat. This form of new and perfect economic society would not spring into being full blown. A considerable period of time would be required before a working class which had been denied privileges could be trained to exercise their new powers and responsibilities. During this transitional period the power would be held by the more advanced elements of the proletariat who would establish the dictatorship of the

proletariat. It would become the duty of the dictatorship to establish the new socialized society. This is the stage in which the Soviet Union is to be found today.

Labor Theory of Value. One other of Marx's theories is of prime importance in understanding the economy of the Soviet Union. This is the labor theory of value. This theory, which attempts to explain how prices are determined, was developed by the economists who preceded Marx—notably Adam Smith and David Ricardo. According to Marx, labor creates all value. Furthermore, the values of commodities depend upon the amount of "socially necessary" labor which it takes to make them. Since labor creates all value, labor is exploited whenever it is paid less than the full value of its product. This is what the capitalist is said to do by paying the laborer less than he produces and taking the difference as a surplus value. In the socialist economy it is argued that the workers would receive the whole value of the product and economic equality would thus be achieved.

Control of Economic and Political Powers. In capitalist economies property is privately owned. In the Soviet Union a series of decrees in 1918 and 1919 socialized the ownership and control of land and capital, banking and foreign trade. Since that time collectivization has been applied to agriculture. Titles to property (except in consumers goods in the hands of consumers) are held by the state presumably in the interest of, to quote the Soviet Constitution of 1936, "the whole people." Since incomes from sources other than work are negligible, this means that the titles are held by the state for the workers. The former owning classes have been liquidated; and there is presumed to be a single class of workers.[4] It should be added that the political powers in the Soviet Union, whether it is held that they are derived from the free consent of the governed or simply held by the "dictatorship," are used to control the economic powers.[5] Such powers are highly concentrated by means of the limited membership of the Communist Party and the illegality of any other political party.

The Natural and Human Resources. The territory under the control of the Soviet Union covers one-sixth of the land surface of the world. Included in this territory are a variety of climates extending from arctic to subtropical. An abundance of fertile land is available for the support of the 160,000,000 people who live in the Soviet Union. On this land all the basic foods required for man can be grown, and most of the basic raw materials

4. How nearly a single class society has been achieved is a subject of considerable dispute.

5. A striking illustration of this was evident during the New Economic Policy which was established in 1921 and which was in force until the first Five Year Plan was begun in 1928. The N. E. P. was necessary because of the breakdown of War Communism. In essence it involved the turning of the control of production from the state to private enterprise, but keeping the political powers in the hands of the Communist Party.

can be produced. A modern industrial system depends upon coal, oil, iron, chemicals, and fibres. Of no one of these essentials does the Soviet Union have a lack. Proved oil reserves amount to 4,600,000,000 tons while estimated reserves amount to nearly twice this figure. Known coal reserves are calculated at 1,654,000,000,000 tons—a supply sufficient for generations to come even if the rate of consumption is increased rapidly. Reserves of iron ore, manganese, copper, chromite, aluminum, and potassium salts are all to be found in abundance and of sufficiently high quality to invite development. Since these resources were undeveloped until recent years, the form of economic organization by which development is expected to be brought about is unusually significant.

The Five Year Plans. The "economic problem" of the Soviet Union arises from a shortage of goods in the face of an abundance of resources. Until after 1929 the economy was primarily agricultural and, except for a few centers, not industrialized. If industrialization is a characteristic of modern economics, Russia was the most backward major country in Europe. The problem was, therefore, to bring about a rapid industrialization which would utilize the vast resources of man power and raw materials. To this end the First Five Year Plan provided for a production of about fifty per cent of the national income in capital goods. While this meant that consumers' goods for the immediate satisfaction of wants were scarce and that, therefore, the general population was required to live at a very low standard, a substantial degree of industrialization was achieved. The Second and Third Five Year Plans have continued the program of industrialization although providing for an increasing supply of consumers' goods. In 1934 and 1935 this supply was sufficient to abolish rationing of such essentials as bread, flour, meat, fish, sugar, fats, oils, and potatoes.

Economic Planning. The instrument by which the Soviet Union seeks to develop its economic system is social economic planning. As has previously been pointed out, the government of the Soviet Union possesses both exclusive political and economic powers. In addition to this it has the complete control of land and capital facilities, and the making and execution of economic decisions—since no private interest is allowed to withhold supply.

THE GOSPLAN. Economic planning is done at the top by the State Planning Commission (known as the Gosplan.) The Commission is closely connected with the government since it is a subsidiary of the Council of People's Commissars—the executive cabinet. The Commission has seventy members and a staff of over one thousand persons composed largely of technical experts. Plans are made on the basis of technical and scientific advice for which the Commission resorts to other scientific agencies as well as to its own research

staff. The Commission is organized in two divisions, one of which draws up the specific plans for the various industries, while the other acts to balance the various plans and to check on the degree to which they are being fulfilled after they have been put into operation.

THE PLANNING COMMISSIONS. Obviously, it would be impossible for a central agency, located in Moscow, to activate so large an economic system by simply making plans and giving orders. Accordingly, there are many planning agencies which are subsidiary to the Gosplan. These are of two types: one organized along industrial lines, and the other organized by geographic areas. As illustration of the first type there is a planning division attached to each factory, farm, mine, store, etc. As illustration of the geographic type, each republic, region, province, and city has its planning Commission. It is easy to see the necessity for these different types of planning agencies. Suppose the central plan decides to expand a given factory or to establish new factories in a given city. The planning agency for the particular industry designated would be concerned, and since new housing would probably be necessary, the city planning Commission would also be concerned.

It should be noted that the various planning agencies are not expected to work at cross purposes but, instead, to supplement and complement each other. A planning agency for new electric power resources, for example, would necessarily work with the agencies which plan the new factories that will utilize the power. Furthermore, in the development of the Five Year Plans, general objectives are first formulated, and a tentative plan is developed for criticism. The plan is broken into a series of one-year plans and subdivided according to industries and specific plants or units within industries. The details of the plan are then subjected to criticism by the various agencies that will be expected to carry out the performance which the plan proposes. The plans are returned to the State Planning Commission which, after revisions, formulates the final plan. The Five Year Plan is formally adopted by the Communist Party and the All-Union Party Congress. The final step is the ordering of the execution of the plan by the various units and the supervision of its performance.

There has been much dispute as to the relative degrees of fulfillment of the First and Second Plans. Soviet officials have stated that the First Plan was completed in four and one-quarter years, and that it was 96.4 per cent fulfilled.[6] The Second Plan was declared to have been completed on schedule.

It has been noted that the economic system of the Soviet Union differs from that of the capitalist primarily because land and capital are socially

6. *Handbook of the Soviet Union*, pp. 67–8.

instead of privately owned, and the decision-making powers are held socially (at present governmentally) rather than by private individuals. It should be noted further that several devices of the capitalist orders are also used in the Soviet Union to secure efficiency. One of these is the *contract.* Contracts calling for delivery at set prices are thus made between industries using the products of another. Thus, a cotton mill would make a contract to purchase a quantity of cotton from cotton producers at certain prices and to sell the mill's product to users at another price. In the fixing of such prices the Planning Commission intervenes; but it is clear that the price spread between cost of raw material and selling price must cover the costs of production. If costs exceed this margin, a loss results. Accordingly each industry or plant is operated to show a profit, and this margin becomes a test of efficiency. It is important to note, however, that, if profits are made, they do not go to private owners. They may be used to subsidize another plant or industry, returned in part to the workers in recreational, health, or educational improvements, or taken in part as a tax.

Achievements of Soviet Planned Economy. Without regard to the possible question of whether the Soviet system of government and economy is to be preferred to existing arrangements in any other nation, a number of statements can be made concerning the achievements and failures of the economic, political, and cultural experiment in the Soviet Union. For one thing it is clear that the economic system of the Soviet Union represents the most highly developed form of large scale collectivism which has so far been achieved. The planned economy of the Soviet Union represents a departure from free private enterprise which calls to question the former opinion of students of economics that planning on any large scale would be a task so stupendous that it would defy human capacity to comprehend. The result was widely held to be so great a lack of equilibrium that a breakdown would follow. The demonstration in the Soviet Union has placed a planned economy among the existing types of economic systems in practical operation.

Other achievements may be placed to the credit of this economy. Industrialization and the exploitation of natural resources have been advanced with considerable rapidity. Whether this would have been accomplished as rapidly if free private enterprise had been adopted in Russia after 1917 is a bootless question, since it is not capable of proof or disproof. In agriculture, it is noteworthy that scientific methods have replaced an agricultural system which was primitive in its methods and feudal in its organization. Further, while living standards between nations are seldom comparable, it would appear that, although standards in the Soviet Union are very low

in comparison with advanced capitalist countries, they have not deteriorated from 1913 levels in Tsarist Russia. It is probable that such standards increased or were stable at the time when living standards were declining in most other countries as a result of the depression following 1929.[7]

THE CONTROLLED CAPITALIST ECONOMY OF NATIONAL SOCIALIST GERMANY

Since the National Socialist movement in Germany sought political power against the Socialists and Communists, its position was one of opposition to the socialization of the German economic system. For their purposes, the National Socialists promised to protect private property and "save Germany from Bolshevism." While this was an obvious political appeal to property owners and conservatives for support, its significance is increased by consideration of the Marxian theory that the proletarian revolt would be most likely to occur in the most highly developed capitalistic countries. Germany's high degree of industrialization, and the existence of a large, propertyless wage-earning class, appeared to support this contention. To Marxian thinkers, therefore, the National Socialists were the last-ditch defenders of a doomed capitalist system. The state, which was, according to this view, a product of class antagonism, and also the instrument of the capitalist class to hold the economic and political power, became the defender of an "outworn" type of economic system.

Interpretation of National Socialism. The history of events in Germany, since 1933, however, does not justify this interpretation of National Socialism as the "protector" of capitalism. This is because the present German State recognizes no rights of individuals as being equal to those of the state. Likewise, no group or class can exercise rights which may interfere with the objectives of the state. This is a factor that deserves emphasis because of the extremes to which it has been carried. The German state has become a mystical entity which commands obedience and denies rights. The trend of authority is downward and responsibility upward.

Political Nature of German Reich. Since the German Reich represents one of the most extreme examples of the concentration of economic and political power, and since these powers are used to direct the German economy, it is important that some understanding of the political nature of the German Reich be obtained. At present, political power is held by the National Socialist Party (the only legal party) which in turn controls the government. Legislative, executive, and judicial powers are vested in the Cabinet. This

7. In recent years living standards in the Soviet Union may have been under pressure because of the devotion of economic resources to the production of war materials. See the reference to the German economy below.

was accomplished by the passage of a simple act, called the Enabling Act, on March 24, 1933. Later, on January 30, 1934, the Law for the New Structure of the Reich, abolished the State legislatures and transferred the rights of the States to the Reich. By these two measures the "monolithic state" of the National Socialists was created. Abolition of voluntary trade unions and of other associations soon followed. Likewise, the Bill of Rights of the Constitution became ineffective. Power is now completely concentrated in the Chancellor and his Cabinet and is exercised through appointed officials in accordance with the "leader principle." But what is the relation between this concentration of political power and the controlled German economy? What have been the economic problems of the German economy, what has the government done about them, and what have been the results?

Basic Economic Problems of the German Economy. Germany's economic problems derive from the fact that a population of sixty-six million (before recent additions to population and territory) lived on an area only a little larger than the State of California. Germany is a highly industrialized country which needs to import a majority of the essential raw materials for its machines. These would include timber, cotton, wool, hides, rubber, and petroleum. Coal is present in abundance, but such minerals as iron ore, tin, nickel, lead, zinc, copper and bauxite (for aluminum) must come from abroad. Before the drive for self-efficiency, Germany imported large amounts of such staple foods as wheat and corn, butter and eggs, bacon, lard, fresh vegetables, and fish. These amounted to about one-seventh of the total food supply. In addition, the importation of feed crops was necessary for the domestic meat and dairy industry. If such feed crops were included, it would raise the percentage of food imported to about one-quarter of the total supply.

Economic problems were further accentuated by the fact that Germany had entered the first World War as a creditor and had emerged as a debtor. While the Reparations of $32,000,000,000 were never paid, since Germany borrowed more funds abroad during the 1920's than the amounts paid on the Reparations account, they were an impediment to normal trade relations. During the post-war years imports and exports never reached the 1913 level. The world-wide depression which followed 1929 added further to difficulties by reducing imports and exports to less than one-half of the 1929 figure. Difficulties in obtaining raw materials reached a climax shortly after the National Socialists came to power. Gold began to flow out of Germany in payment of adverse trade balances. Government supervision of imports and exports was introduced; so permission was required to import or export merchandise for private business. Germany, with memories of the great

inflation of 1923–24, was nominally on the gold basis. In fact, however, gold reserves approached 1 per cent of the paper money in circulation. A series of paper marks were used to finance transactions in international trade. These were sold at various prices from the official par of 40 cents. Tourist marks, for example, were available at about half the par value and were to be used for travel in Germany.

The Four Year Plans. Since the National Socialists in their election campaigns had promised "jobs" and "recovery," they set about, early in 1933, to stimulate a recovery of business enterprise. The federal budget was unbalanced by the creation of a large short-term public debt, and the money was used for "making work" on a large scale.[8] On the basis of a scheme similar to that of Works Progress Administration in the United States, local and state governments drew up work projects for the re-employment of the unemployed. The result of this pump-priming was a recovery of production and employment. Under the First Four Year Plan the national income increased from 46.5 billion marks in 1933 to 63.1 billions in 1936. Unemployment dropped from a figure of six million to about one million.

The Second Four Year Plan overlapped the First Four Year Plan and had a different objective. This was to convert the economic system to a self-sufficient war economy. Beginning in 1935 public works expenditures were replaced by armaments for the development of military power. Since Germany was certain to be blockaded in event of war, every effort was made to achieve self-sufficiency. Agricultural production was stimulated to increase domestic sources of food, imports were rationed with preference given to necessary war materials, and an intensive effort to develop substitutes was begun. The development of the Second Plan was in progress at the beginning of the Second World War in September 1939.

Organization of the German Economy. It is clear from the foregoing description of the German economy that the general direction and goal of the economic system is determined by the government. To achieve the objective of a war economy, every private, class, and individual interest is subordinated. Strikes and lockouts were forbidden early in the National Socialist regime. Trade associations and labor unions were abolished or included in the new Labor Front. Wages were held at the 1932 level and, in 1934, a decree was issued against the raising of retail prices.

THE FIVE ESTATES. To enforce these vast new controls and to direct the economy, new organizations were created in nearly every division of economic life. Chief among the new organizations were five "Estates" cover-

8. It is to be noted that the government of the Second Reich had followed a policy of financial conservatism by increasing taxes during the depression and making strenuous efforts to balance budgets.

ing the major branches of the economy. These were: The Agricultural Estate; The Estate of Industry and Trade; The Labor Front; The Estate of Handicrafts; and the Transport Organization. Membership in the appropriate organization was made compulsory. The Agricultural Estate is the agency through which the program of self-sufficiency is carried out. It attempts to increase production, reduce costs of marketing, raise the level of agricultural prices, and administer the program of hereditary farm ownership by "racially pure" German families. The Estate of Industry and Trade includes every employer, including corporations and governments. In the membership manufacturers and retailers are in the majority. Through this vast organization the policies of government are carried out throughout manufacturing industry and trade. The Labor Front, as mentioned previously, includes all labor *and* employers. It is the substitute for the former trade associations among business men, and trade unions among workers. The purpose of the Labor Front is to develop national solidarity by identifying the interest of employer and employee. It is noteworthy that, through the Labor Front, the National Socialist Party is in control of labor. The Labor Front developed the "Strength Through Joy" movement which encourages sports and inexpensive vacations for workers. The Estate of Handicrafts is necessary because of the importance of handicraft industry in Germany. Little is known at present of its program or functions. The Transport Organization includes all transportation services—ocean, land, rail, motor, etc. Its duty appears to be that of increasing the efficiency of transportation by unifying all services.

Summary of Trends. In the foregoing description of the German economy under National Socialism, it is obvious that vast departures have been made from the free enterprise-private property type of modern capitalism. While property is still privately owned in Germany, the rights of individuals to the free disposal of such property have been severely limited and impaired. Furthermore, freedom of consumers' and workers' choice is also strictly limited: the first, by production of war goods instead of consumers' goods; the second, by the regimentation of labor and assignment to occupations. It is to be noted that the German economy is not a planned socialized economy but a controlled capitalism. However, it should also be noted that, in the same sense that the economy of the Soviet Union is organized and directed toward a previously chosen goal, the economy of Germany is likewise directed toward a goal. In each economy the role of politics and government becomes predominant, and economics serves the State.

There is good evidence that National Socialism in Germany has taken a road which leads ultimately toward a socialized economy rather than back to

free private capitalism. Evidence of this is to be found in the very high percentage of total production (46 per cent in 1938) which is accounted for by public expenditure, the unbalanced budget which, if continued, may lead ultimately to repudiation of debt or inflation. In either instance private property rights may be expected to be under heavy pressure from the state. In so far as the needs of the state are superior to those of any individual, group, or class, the plea of necessity can be used to invade further individual titles to private property in the same manner that individual rights to liberty of action were attacked and destroyed. These tendencies will be accelerated by the Second World War.[9]

THE ECONOMY OF THE UNITED STATES

To the student the economic system of the United States offers a striking contrast to the economies of the Soviet Union and of Germany. This is because economic problems in the United States revolve around surpluses instead of scarcities. In agriculture, for example, the present problem is to restrain unexportable crop surpluses from coming into existence. Excess productive capacity also exists in most manufacturing industries. In the unemployed numbering from eight to ten million, there exists a labor reserve which, if put to productive work, is capable of adding many billions to the national income.

Resources. Nearly all the basic raw materials are to be found within the borders of the country, and these are, for the most part, in a developed form. Only rubber, tin, manganese and a few other materials need to be imported. These great resources are utilized with a relatively high degree of manufacturing efficiency as compared with other countries. The result is that the United States maintains its population at a higher standard of living than any other major industrialized country.[10]

Economic Institutions. In further contrast to economic systems discussed above are the economic institutions through which the economy of the United States operates. Along with civil and political rights of individuals, the economic institutions of free enterprise and private property predominate, and in comparison with most other countries are subject to a minimum of interference from government. In fact, it is not too much to say that American enterprise is subject to fewer restrictions than private enter-

9. It is to be noted that similar tendencies occur in other warring countries. In Great Britain, capital and labor were brought under control of the government by Act of Parliament in May, 1940.

10. Not included in this high standard of living are the twenty-three per cent of the population living at the public assistance level. This in itself is a commentary on the economy. See *Fortune*, Feb., 1940.

prise is in any other highly developed economy. This is true in spite of the extensive regulations which have been created since 1929. The problems which were generated by the depression following that year required an increased amount of *collective economic action* because of the insufficiency of individual efforts to solve the problems created by falling prices, banking and business failures, unemployment, etc. Furthermore, these problems have been national and international in scope and were, thus, beyond the capacities of local and state governments to solve. Many of the changes brought about under the leadership of the "New Deal" have, therefore, had their origins in economic rather than political forces.

Federal Government Remedies. Federal government efforts to improve the working of the economy of the United States have covered a wide range. In 1934, in order to ease the burden of fixed debt, an inflationary program was adopted to raise the price level. At the same time a restrictive program was applied to agriculture to raise the prices of the farmers' goods toward a level which would achieve a better balance between the prices paid by the farmer for manufactured goods and the prices which he received for his crops. Confronted by a demoralization in private finance, public credit was used to make loans to banks, insurance companies, railroads, and home and farm owners. The Reconstruction Finance Corporation through its activities has become the largest financial corporation in the country. Since public attention was attracted to stocks and securities by the collapse in their values, the insurance and sale of securities was brought under regulation through the Securities and Exchange Commission.

Federal Government Experiments. In other fields of regulation there have been new departures which have been not so much connected with economic necessity as with specific enthusiasms of the "New Deal." Under this head would come the short-lived experience with the control of industry through the National Industrial Recovery Act. Experience under this Act indicated that the rapid introduction of extensive regulation over business was fraught with difficulties, although it was most successful in the large scale industries such as steel where legalized price controls had long been desired. At the present time (1940) a determined enforcement of competition through the Sherman and Clayton Anti-Trust Acts has been started by the Department of Justice. The general tendency is to restore competitive practices in business where price-fixing or other agreements to restrain trade are used. It should be noted that this effort goes to the other extreme from the N. R. A. which would have developed cartels in various industries with powers to control prices and output. As a matter of interest, it can be noted that this

was the trend in Germany for a long period before that economy was brought under National Socialist control. The Wagner Labor Act is another example of regulatory legislation which is the result of a specific point of view rather than economic necessity. This Act guarantees rights of collective bargaining to workers in organizations of their own choice. In thus fostering the development of organized labor a new trend has been taken. Similarly, the Wages and Hours Act, which sets minimum wages and maximum hours of work is a new form of Federal regulation.[11]

Federal Social Legislation. There is general agreement that some of the most significant and permanent features of the "New Deal" are to be found in the social legislation. The new legislation dealing with old age dependency, unemployment compensation, public assistance (relief), and child welfare have operated to increase the amount of security of the people of the United States. This legislation introduces no untried innovations since European countries have had long experience with this type of legislation. It should be noted, however, that this is another instance of collective economic action replacing individual economic action. Furthermore, from the economic point of view the payment of incomes to persons in need involves a considerable re-distribution of the national income. The full effects of such re-distribution have yet to be felt because many of the new Federal expenditures, which have been financed from the sale of government bonds, are reflected in the unbalanced budget.

ECONOMIC PLANNING IN THE UNITED STATES

The foregoing description of recent changes in the relation between government and business in the United States has left out of account certain types of economic planning which deserve consideration. In a very broad sense, economic planning in the United States can be said to have begun with Alexander Hamilton's *Report on Manufactures* which was issued in 1790. In arguing for the industrialization of the United States, so that natural resources could be utilized, there was, in essence, a plan for a future type of economic system. Similarly, the Homestead Acts of the 19th century planned the use of individual initiative to settle and develop agricultural land.

However, the term *economic planning,* as used in modern, highly developed economies, means "shaping of all economic activities into 'group-defined spheres of action which are rationally mapped out and fitted, as

11. It is to be remembered that the above legislation applies only to goods which enter into interstate commerce, since the Federal Government does not have power to regulate goods produced and sold within a given state.

parts of a mosaic, into a coordinate whole, for the purpose of achieving certain rationally conceived and socially comprehensive goals.' "[12]

Experiments in Federal Economic Planning. If the above definition be accepted as correct, there are under way in the United States sufficiently well developed plans, rationally conceived and directed toward socially comprehensive goals, to justify the statement that economic planning is being undertaken. Previous experience in economic planning of this type in the United States came during the first World War when it was necessary to direct raw materials and man power into the channels necessary to provide war materials for a new army. The "socially comprehensive goal" was the winning of a war. However, at the conclusion of the war planning was discontinued. President Harding's slogan of "back to normalcy" meant the return to laissez-faire. When the optimism of the 1920's was punctured by the world wide depression following 1929, attention was again attracted to the possibility of solving problems through a national economic planning. While the experience under the National Industrial Recovery Act had some elements of economic planning, it was aimed at bringing back a recovery, and a return to a modified laissez-faire economy. More significant was the establishment of a National Planning Board as a part of the Public Works Administration in 1933. This Board presented a final report on the possibilities of developing the agencies which would be necessary if national economic planning were undertaken.[13]

National Resources Planning Board. In 1934 the National Planning Board was succeeded by the National Resources Committee. This in turn became the National Resources Planning Board on July 1, 1939, which is functioning at present. Under these various agencies, studies of our national resources and needs have been carried on and published information has been made available. Such information covers the resources and needs and the use of land, water, energy and population.

State and Community Planning Boards. State and local communities have been encouraged to set up their own planning agencies. Regional studies have been made where economic regions cross state lines. At the present time, a majority of the States have created planning agencies, and in turn, many local communities, cities, towns, villages and counties have established their own planning boards. For example, in the State of New York in 1939, Planning Boards existed in thirty-one of the sixty cities in the state,

12. See W. N. Loucks and J. W. Hoot, *Comparative Economic Systems* (New York: Harper, 1938), pp. 322–23. See also, W. N. Loucks, *Annals of the American Academy of Political and Social Science,* July, 1932, p. 114.

13. National Planning Board, *Final Report, 1933–34* (Government Printing Office: Washington, 1934).

in seventy-five of the five hundred fifty-five villages and in fifty of the nine hundred thirty-two towns.[14]

Most of the work which has been accomplished by these various agencies has been of a preliminary and fact finding nature. The chief results have been plans for the conservation of natural resources and the reduction of waste in production. However, it is probable that a basis is being laid at present for a rationally conceived and socially comprehensive national planning in the future. It should be noted that the conceptions of planning differ from those held in the Soviet Union and in Germany because they assume the protection of private property rights and individual liberties. One major object of the planning is the "union of technical knowledge with public decision"[15] and the avoidance of the concentration of economic or political power in the control of the national economy. These statements are emphasized by the fact that planning agencies mentioned above usually have only advisory powers, and that they do not presume the total planning of production and consumption by a central authority, as in the Soviet Union, or in the direction of the whole economy as in National Socialistic Germany.

However, it may be expected that national economic planning will be accelerated by the recent decision of the United States to prepare rapidly for military defense. As was demonstrated during the first World War, economic planning is essential for efficiency in military defense matters, and it is highly probable that the ground work in planning accomplished by the agencies mentioned above will prove invaluable in providing for the national defense. Whether or not the economy of the United States will approach the type of central and coordinated planning which is typical of the Soviet Union and Germany is a question which the success or failure of free enterprise in the face of national need will determine.

Summary and Interpretation of U. S. Planned Economy. In the face of extraordinary changes which have been made in the economic systems of the Soviet Union and Germany, the economy of the United States has weathered a severe economic depression without radical changes. A number of reforms and legislative experiments have been undertaken, but there are reasonable doubts concerning the permanence of much of the new legislation in its present form. In a period of rapid economic change it is necessary that adjustments be made to meet the change in conditions of economic life. That many of the changes are from forms of individual to collective eco-

14. See "Local Planning and Zoning Powers and Procedures in the State of New York" (Albany: Division of State Planning, 1939), p. 15. For planning by states and regions see National Resources Committee, *Progress Report* (Washington: June, 1939). For the earlier reports see National Resources Board *Report*, Dec. 1, 1934.

15. National Resources Committee, *Progress Report*, June, 1939, p. 1.

nomic action, is a result of the breadth and difficulty of the problems which are presented. Many problems of the economy of the United States remain unsolved. Chief among these is unemployment and the resulting failure to produce a national income as large as productive capacity warrants. Likewise, the deficits in the budget of the Federal government have resulted in a mounting debt. Ultimately public expenditures must be paid for by means of taxes or debt repudiation or inflation will follow. This problem will be further accentuated if the United States converts much of its productive capacity into national defense needs thereby developing the characteristics of a war economy. If this does not occur, other significant trends may appear. Is it possible, for example, that a social-economic goal, aiming at the production of a hundred billion annual income and utilizing productive facilities more completely, may become a new frontier of economic advance? And could such a goal be achieved without the loss of civil and economic liberties? While these appear to be very broad questions, in the light of radical changes which have occurred in other economic systems in recent years, they deserve consideration for the future.

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SECTION V

The Future of Politics

CHAPTER TWENTY-FOUR

Trends in Local Government

ONLY the ignorant confuse size with significance. Nevertheless we must admit that it takes a man with imagination to appreciate fully the fact that the multiplication of small things can often exceed the sum of the great. Imagination of this type is especially needed in governmental matters. Events in the national and international field have occupied our attention far too much. Yet the much less spectacular activities of local units of government year in and year out have played a comparable role in molding the lives of human beings. The activities of state and local school boards have built our educational system. The thousands of precinct captains wield a power greater than that of the national party committee. The peculiar urban culture developed in a hundred cities may be more truly a picture of the origins of literature, art, music, and politics than any alleged "national spirit." So he who would understand the main springs of government and politics may often find that study of the minor constituent units of a nation will throw unexpected light on the subject. There is an intimate, a "grass roots" quality about local government, which clothes it with a realism all its own. The principles and practices of political behavior therein revealed give us no little assistance in the more difficult analysis of national and world organization and behavior.

Always our major difficulty in the study of these local units lies in the mass of detail to which a significant synthesis or interpretation must be given. It is all too easy in any such study to marshall vast quantities of information, as though information were an end in itself. Moreover, such detail quickly becomes dull, unless there runs through it some dominant theme which has captured the spirit or meaning of it all.

The system of local government of any nation is in part a product of peculiarities in the nation's culture and historical development. The frontier pioneer psychology in the United States, the tradition of a governing class in England, the dominance of Prussia in Germany, the soviet form of organization in Russia, are conspicuous examples of these more or less unique historical factors. Over and above these peculiar cultural factors, organization and operation are profoundly influenced by certain major technological and economic trends or forces, which transcend national

boundaries and are shared in common by all industrialized nations. The central theme of this chapter is that *contemporary local government systems are to be interpreted as evidencing an interplay or even a conflict between these cultural and historical peculiarities and the world forces of technology and economic organization.* Of these elements, the technological and economic are everywhere in the ascendant.

UNITS OF LOCAL GOVERNMENT

Trend Toward Larger Units. Technology and economics alike have conspired to demonstrate the logic of ever larger units of local government. Conversely, the tremendous increase in governmental functions which this entails has in itself brought an acute problem of manageability—so that a function has often been centralized for purposes of control only to be subdivided again for administrative convenience.

In this trend toward larger units, ease of transportation and of communication has played an important role. The telephone, the automobile, the airplane, the railroad have all enormously facilitated wider supervision and coordination and widened the radius for reaching a common meeting place. The technological obstacles to proper functioning of governing units at least as large as the American state are no longer important. A simultaneous and even more marked trend toward larger units is found in large-scale production and large-scale marketing. More and more, the significant aspects of business and industry are national rather than local, and the services to business and the controls of business must follow suit.

Technological Factors and the Size of Units. At the same time, a worldwide increase in governmental functions has made the accompanying technological factors speak with a divided voice as to the appropriate size of a governmental unit. The technology involved in the intervention of government in land use and water resources suggests the river basin as an appropriate unit. The congestion of the urban industrial centers would apparently guarantee the survival of municipal institutions. Whether or not the social problems created by this congestion, or the economic problems shared by the larger marketing area of which the congested city is the core will ultimately determine the boundaries of such a municipality is uncertain. The face-to-face contacts of the village or commune will naturally continue to result in modest organized effort in these minor areas. On the other hand, economic and technological forces alike are against the county and its foreign counterparts; and only its deep and well-nigh universal cultural roots would appear to give it continuing vitality, except as it may serve as

a not-too-convenient administrative agent locally to carry out purposes determined nationally.

Historical and Cultural Factors. Peculiar historical or cultural factors modify or hamper the workings of these technological and economic forces. The French department, for example, was deliberately designed to break up regional centrifugal tendencies. As an instrument for achieving this task it was a wholly artificial creation. Accidents of colonization account for the particular federal structure of Australia; dynastic considerations account for the amazing illogicality of the German states. The American county was a transplantation of an English medieval institution. The configuration of the Swiss mountains and valleys played an important role in the minutiae of Swiss governmental units. The locations of the parish churches covered England with a network of tiny local units of decaying significance. Each nation has many such peculiarities, which only one who understands its history can sense. The student of local government will be alert for these, but will continually ask for evidence of their contemporary usefulness.

Types of Units. The total number of local units in the civilized world is unknown, but it is fair to say that in the typical nation they average about a thousand to every million inhabitants. This includes all levels of units. A pattern is observable in this conglomeration.

If by a rough approximation the nations are divided into large and small, it is not surprising to find that many of the larger ones are themselves subdivided into states or regions of considerable magnitude. The originally federal nature of nations such as the United States, Australia, Canada, and Brazil does not make them distinguishable in actual operation from nations like the Soviet Union or Prussia or the Union of South Africa, which have unitary constitutions, but which subdivide their territory. In both groups the constituent unit, the state (or soviet republic) bends to the national will, chiefly under financial pressure. Nevertheless, it is significant that these large nations do have such intermediate state units. These units in their turn usually exercise control over the smaller units included within their borders.

Of all the galaxy of local units, there are three types which are well-nigh universal. The names may vary, but for practical purposes we shall call them the county, the city, and the commune.

THE COUNTY. The county varies more than either of the others. The French department, and the province of Italy and Holland and the prefecture of Japan, both of which were inspired by the French system, are counties whose primary purpose it is to serve as agents of the central government.

It was intended that the English county, following the reorganization of its government and functions in 1888, should enjoy considerably more local vitality; but here also in recent years it has become more and more an organ for carrying out the central will. The American county follows no consistent pattern. In the North it is not especially important, but in the South it is the operative unit of local government.

For the most part the counties in nations which owe their inspiration to France are larger and more populous than those of Anglo-Saxon origin. This lends additional weight to the suggestion that at least in the more sparsely populated areas of the United States and the British Dominions it would appear logical, in the light of the fundamental forces already mentioned, to merge a number of the counties into larger units, and to regard them more as administrative areas for state purposes than as centers of local action. The principal obstacles to this scheme, and in fact to almost any change in the boundaries of a governmental area, are inertia and the vested interests of existing officeholders and others who profit by the status quo.

THE CITY AND COMMUNE. For logical and genuine local vitality one should look to the city and the commune. No hard and fast line can be drawn between them. As a matter of fact, in France both alike are known as and governed as communes and are neither structurally nor legally distinguishable. However, such identity of structure and powers is the exception. England's plan of differentiating areas according to population is the more usual one. These areas are known as rural district, urban district, borough, and county borough, in ascending order. One may compare this list with Sweden's parishes (landskommuner); municipal districts (municipal samhällen) which, like American villages, also remain a part of their parish; towns (köpingar); and cities (städer). The existence almost everywhere of the organized urban and rural community is itself a proof that here is something really fundamental in the local government picture. In the United States we recognize this unit as the township—the small community with its countryside, where needs are relatively simple but nonetheless real; and the city, where congestion demands urban action and a large and diverse population offers opportunity for organizing urban advantages.

THE METROPOLIS. Almost nowhere does this pattern exist in the simplicity which we have seemed to imply it does. The variants are many, but only two need be mentioned as having a basis sufficiently fundamental to point toward an assured future. These are the metropolis and the region. Virtually every nation has singled out its great urban agglomerations for special treatment. While there is no common pattern of detail, usually there is an organized central core which is the city proper, and some form or other

of a wider authority or agency to plan for the suburban areas as well as for the city. Problems of transportation and engineering make this necessary. Sometimes, as in Paris, London, and New York, the central city is itself subdivided into boroughs or districts, each with a measure of local autonomy. The chief difficulty has been in all such instances to find sufficiently important functions to give political as well as administrative vitality to such subdivisions.

THE REGION. The region is a loose term for a unit which, when its central aim is economic, may not really be distinguishable from the greater metropolitan area. On the other hand, an organized region, such as our own Tennessee Valley Authority, is much more than a mere economic unit in the narrow sense of the word. It represents something partly economic, partly cultural, which has as its common denominator the planned development of an area considerably larger than the county. Special impetus has been given to the growth of regional units by reversion from the extremes of administrative centralization. In the United States, for example, regional offices are centers of genuine vitality in functions as diverse as social security, banking, and soil conservation. Area groupings differ widely, but regional consciousness as well as administrative convenience plays a part in drawing the boundaries. For the most part, the region is still in the blue-print stage, but we shall hear more of it if and when the world turns from the ways of war to the ways of peace.

INTERNAL ORGANIZATION OF LOCAL GOVERNMENTS

Its Complexity. Everywhere, and local government is no exception, the functions of government are becoming highly technical. The predominant role of the amateur is consequently and inevitably yielding to that of the expert. Paralleling this trend is the tremendous expansion in the channels and quantity of governmental activity. This expansion rests upon the political insistence of the populace as well as upon the very real needs for state intervention in the co-ordination and development of national life. It is probably a nonreversible trend. This gives substance to the theory that national governments have expanded their functions not only faster than, but also at the expense of the localities. Yet it is also true that local needs have likewise expanded with the advances in science and with the increase in political consciousness. Recreation, city planning, and airports are examples of the newer functions which have increased municipal responsibilities. Even those functions which used to be wholly local and which have recently been assumed by the nation, generally still have an important local aspect. Consequently the locality often retains a responsibility in them,

in its own right as well as in its capacity of agent of the central government. This multiplication of function demands co-ordination in a myriad ways, and co-ordination is almost everywhere recognized as best achieved by the strong, single-headed executive. This executive in his turn must develop an integrated staff and line organization in the most approved administrative fashion. Moreover, the growth of function brings growth of expense, and local units reflect in their internal organization the need for economy as well as the need for efficiency.

Finally, the locality, politically speaking, is made up of articulate human beings. Where it is a true community and not merely an arbitrary geographic area, there is no exception (even in dictator countries) to the presence of some vehicle of citizen participation in the governmental mechanism, if not to make this local opinion dominant, at least to make it influential. Yet in the localities, as in the nations, technology and its consequent complexity seem also inexorably to propel toward the executive as the political leader, rather than toward the council. The latter at the most becomes a jury or board of review; at the least it is but consultative or a propagandist agency designed to reflect the views of the local dictator.

Leadership and Citizen Participation. Historically, the two notes of leadership and citizen participation have struggled for adequate expression in local government framework. The former is emphasized in Germany, the United States, and Italy, and was in republican France. The latter is still the objective in England, the Soviet Union, and Switzerland. Neither note is wholly absent in any system; and many nations, Sweden for example, are complete hybrids in this regard. In most nations, rural local government leans more toward citizen participation—as, for example, in our American county; whereas urban government by virtue of its very complexity more frequently calls for centralized leadership. In so far as technology and urban migration are increasingly important factors in the situation, we may expect a continued increase in the use of the leadership principle.

EXPRESSION OF CITIZEN PARTICIPATION. Where citizen participation is emphasized, there are customarily town or community meetings in rural areas, and large councils with elaborate committee systems in urban areas. The local urban Soviets, for example, usually have memberships running into the hundreds; and each member is expected to serve on at least one committee. In the English counties and county boroughs, each administrative department is placed under the direction of a committee of amateurs—in some instances including members co-opted for the purpose as well as members of the elected council in general charge of the unit. "Local self-government" in the English sense of the term actually means not independence of legal

action or home rule, as it does in the United States, but widespread participation of lay citizens in administration. It is noteworthy that Switzerland, where jealousy of executive concentration and leadership is at its maximum, goes farther yet and uses the popular devices of the initiative and the referendum to supplement its cantonal and communal councils. Nor do these devices exhaust the channels of lay participation. Almost universally, boards of laymen are associated with the local management of schools, libraries, and welfare. Some of these are advisory, but others are vested with genuine power.

EXPRESSION OF THE LEADERSHIP PRINCIPLE. Similarly varied are the ways to give expression to the leadership or co-ordinating principle. In the United States, we elect a mayor or a governor for this purpose; and after long struggles with our belief in the primacy of legislatures, we have equipped these executives with reasonably ample powers to match their prestige. Among such added powers the formulation of the budget and increasing power of appointment have been the most effective in focusing legal responsibility where political responsibility already was popularly held to rest. Our culture time and again has refused to allow even our city managers to subordinate themselves to their councils, and has openly insisted upon their leadership. The extreme example is that of Germany, where in conformity with its Führerprinzip its local executive (Bürgermeister, or the like) has been made a little dictator. Italy has vested similar powers in her podesta and prefect. In between the American and the Fascist systems, and perhaps the most satisfactory of all, are the city governments of nations like Holland and Denmark and pre-Hitler Germany. In these nations the mayor (burgomaster) has been in every sense the community leader. Unlike the United States mayor he is a professional executive and unlike the American city manager he has security of tenure. Unlike his counterparts in contemporary Germany and Italy he has a popularly elected council which he must convince of the merits of his program.

LEGAL RELATIONSHIP OF EXECUTIVE AND LEGISLATURE. Closely related to this struggle between the two principles of leadership and popular participation is the legal relationship between executive and legislature. Variations are more or less what might be expected. In England the executives are departmental chiefs serving under the amateur committee of the local council. The town or county clerk performs a modest co-ordinating function behind the scenes. In Germany and Italy the executive is also the legislator (subject to central control), except as he may wish to modify his policy in the light of advice tendered him by his advisory council, the members of which to all intents and purposes he appoints. In French departments before the

fall of the Third Republic and in the "counties" in most nations which have copied the French system, the prefects are centrally appointed and must make their peace not only with the central government but also with locally elected councils. In the French communes, and in the communes and cities of almost all of the other nations except those otherwise designated, the executive is chosen by the legislature. This practice is so prevalent and so satisfactory in actual operation that it may be regarded as perhaps the normal phenomenon of relationship in local government. We in the United States are virtually alone in the independent election of so many of our executives. Historically, this custom dates in the states from the separately appointed Colonial governor and the theory of Montesquieu; and in the cities from their eventual imitation of the practice of the states and the nation. Executives in our counties are variously related to the legislative power. Some are plural and elected by the people, each for a separate function. In other instances, the county board also functions as executive. In still others, the board engages various department heads; and in rare instances it employs a county manager.

The trends in the administrative organization of local units are not materially different from those in national bureaucracies. Increasing concentration of direction, increasingly integrated use of line and staff framework, increasing emphasis upon competent personnel are all by-products of a technological age and represent no important differences between governmental units once a certain magnitude of operation is attained.

Variants in Internal Organization. Two variants in internal organization deserve passing mention. In most nations the capital city, because of its national character, is singled out for special treatment. Such treatment varies greatly. It may include borough organization (that is, it may have subordinate divisions with powers of their own—a product of size more than of status); it may (as in Washington and Rio de Janeiro) be under a commission directly responsible to the national government. London is organized as a county, but with many variations. Paris has, or had, two prefects centrally appointed, a large elected council, twenty districts each with its own machinery, and complicated relationships with surrounding areas.

Finally it should be mentioned that Italy (in the commune) and the Soviet Union make some use of the principle of functional representation in their local councils. In Italy the various syndical associations submit nominations to the communal council, and in Russia the election of the individual members of the local soviets is for the most part by occupational constituencies. In the blueprints for municipal government of the China of

Chiang Kai-shek reliance is placed upon such functional representation to give vitality to these local institutions.

Inter-Unit Relations. Before concluding our study of internal organization, it is necessary to call attention to certain aspects of inter-unit relationships.

Sometimes for historical reasons, but frequently because the functions of government are often better administered by varying the area, the problem of "layers of government" becomes serious. Three, four, or even five units of local government, all with different boundaries, will exercise jurisdiction in a given locality. Many of these are special districts created for but a single function, such as drainage or electric lighting. This multiplication of units undermines responsibility, confuses the electorate, and makes a co-ordinated program difficult. The best solution would appear to be the complete separation of at least the larger cities from any county jurisdiction. County objections to consequent loss of tax revenue and prestige present serious obstacles. This solution also leaves untouched the obvious need for inter-unit co-operation, especially in metropolitan areas and in common watersheds. For such situations there is no one solution. Sometimes a new agency is created; sometimes a federation of constituent agencies; sometimes the central government itself assumes complete responsibility.

LOCAL DISCRETION AND NATIONAL POLICY

Underlying Factors. In all of the industrialized nations, technology, economics, and patriotism have joined forces in bringing about a tremendous growth in the scope of national policy and national planning. The effect has been to sweep many of the policies of all local units into the national orbit. To some extent this has been closely connected with the shadow of militarism and war; to some extent it has involved peacetime programs of making a "land fit for heroes to live in." An even more fundamental factor can be found in the national scope of economic organization which has resulted in the nation's becoming the almost inevitable unit for intervention in the economic sphere. Technology for its part has contributed ease of communication and roundaboutness of production, and these have stimulated national handling of problems. Moreover, once a national department or bureau has been created in fields such as education, health, housing, highways, recreation, relief, or any other of the functions which at one time may have belonged to local governments, there sets in an administrative impatience with the slowness of local authorities in these areas, and with the long-drawn-out processes of persuasion. It is much more attractive to national bureaucrats to be able to launch a *national* program with local co-

operation purchased by liberal grants than it is to wait till the democratic forces of advice and discussion have brought about a satisfactory solution. Moreover, in functions normally national, the local units are frequently economical and efficient field agents for carrying out the national will.

The world-wide fiscal problems of the local units leave them with little or no defense against centralization, once public sentiment calls for an increase in government activity. The taxes which can be locally administered are not numerous, and many such taxes have been pre-empted by the central governments. While the real estate tax has been and is enormously productive, even in time of prosperity it was reaching its administrative limit in many localities—urban as well as rural. The depression made the problem of local revenues many times more acute. Frequently from ten to thirty per cent of all properties became tax delinquent. Furthermore, in the capitalist system there seems an inherent tendency for wealth, and consequently taxable capacity, to gravitate toward a few urban areas. This leaves a state like Mississippi or backward rural areas like parts of Sicily or depressed urban sections like England's Tyneside utterly unable without outside help to afford social and educational services which are up to modern standards. In such a situation, local and national voices alike demand subsidies, and with subsidies usually has gone a transfer of discretion from the locality to the nation.

Prevalence of Centralization. All these factors add up to the idea that the local unit is primarily but an agent of the nation, and not a political entity on its own. In Germany and Italy, the transition to this attitude is complete. Curiously, in France where centralization had originally been greater, there were a few moves in the other direction, but war has changed this. In Great Britain, the burdensome method of taxing rents (use and income) brought a financial crisis to the local authorities earlier than such crises occurred in nations like the United States, which based its revenues on ownership. Central grants and central control came to be all-pervading by 1920 in England. In the United States such extensions of control by the states over the localities and by the Federal Government over the states and localities have gained enormously during the depression through fiscal pressures, but the situation is not yet stabilized sufficiently to be appraised accurately. We do seem to have passed from a constitutional system of powers *divided* between the states and the Federal Government, to an operative system of *concurrent* jurisdiction and activities in all major functions of government. It is difficult to mention any traditionally state or local function with which our Federal Government does not now concern itself. Yet this concern has not usually superseded state and local action; it has been supplementary to

or concurrent with such action, but in one fashion or another it has often become paramount. Relief, social security, banking, agriculture, labor, utility regulation—even health, education, recreation, and highways—will serve as examples. Only Canada appears to have been able to extend central grants without conferring a corresponding measure of control.

The grant-in-aid is the most characteristic method of central control, but it is not the only method. Requirements of central approval for financial commitments, appointments of personnel, and ordinances are increasingly frequent. Legislative mandates of positive and restrictive character are increasing.

Attempts to Retain Local Discretion. There are still found, chiefly in the United States, the federal British Dominions, and Switzerland, certain constitutional devices for the preservation of state and local autonomy. Municipal home-rule clauses, presumably guaranteeing a measure of urban self-government, correspond locally to safeguards of states' rights written in federal constitutions. However, both state and local autonomy are seriously impaired by the aforesaid fiscal stringency. More hopeful in retaining local discretion is the traditional (pre-Nazi) German policy of allowing municipalities to undertake any function not specifically forbidden. This contrasts with the Anglo-Saxon policy of strict enumeration of the powers granted to similar local units.

There still remain wide areas of local discretion in most democracies and in Russia. Moreover, the extension of all government activity has included local activity; and the gains in this regard have gone far toward offsetting the losses of powers to the central authority. Nonetheless, the trend is more and more toward the subordination of the locality.

NATURE AND VITALITY OF LOCAL GOVERNANCE

Conflict of National and Local Interests. The fact of the matter is that the respective interests of the nation and the local unit are not self-defining. There is a local interest in each activity; there is likewise a national interest. Yet legally and financially the scales are weighted in favor of the national interest. The vitality of local public opinion must represent something very real if it is to survive.

The Nature of Local Interests. The pattern of this local opinion is complex. It is frequently difficult to discover clearly defined issues. Certain projects, such as better schools or better public health, now arouse only a taxpayer opposition. They are not exciting enough to be controversial in and of themselves. Moreover, the actual number of individuals that can be counted upon to participate openly in discussion of municipal affairs is not

as large as might be supposed. Especially when there is economic stress, almost the whole retail group, for example, fears to take sides publicly because of antagonizing possible customers. Where vested interests of banking or real estate are involved, the circle of timidity is further widened. Purely local interest is also surprisingly particularist; that is, such interest is in a street, a city contract for supplies, a building permit, an immunity, a housing project, a park, a new school building. There are few city-wide issues to stir men to decisive political activity. On the other hand, the world-wide rise of labor groups to political consciousness has injected an issue that is everywhere deeply felt, so much so that in most European nations where democracy still survives, this predominantly national issue ramifies into local politics as well.

PARTICULARISM AND THE PARTY MACHINE. A direct consequence of the aforementioned particularism is that in virtually every municipality there has grown up either a formal or informal machinery to give expression to the special interests of the various individuals concerned. The formal method is usually to elect a council by wards, or to have a "complaint bureau" if elections are at large. The informal method is through the party machine. In cities like Chicago or Berlin, the party precinct leader is the humanizer or the facilitator of this particularization of local governmental action. The price exacted for such services by the Democrats in Chicago, the Nazis in Berlin, the Republicans in Philadelphia is always the same—party loyalty. It is to the party, not to the formal city government, that the individual is encouraged to look. There are also penalties for active opposition. American city machines may raise the property assessments of the offender. The Nazis prescribe a dose of concentration camp.

The power of the political machine in American cities is also considerably strengthened by the heterogeneity of our population. This heterogeneity makes agreement on a really concrete platform difficult. It tends rather toward campaigns based on irrelevancies, such as national party labels or the number of jobs given to a particular group or race. The greatest success in ridding American cities of machine control has been in relatively homogeneous cities, where the city charter was simple and responsibility clear. However, the whole problem is enormously difficult, and there is no one solution.

REFORM. The pattern of public opinion in state and local affairs in the United States is unusual in the emphasis laid upon "reform." Elsewhere, at least in the more advanced nations, there have been certain underlying assumptions of integrity and efficiency on the part of the permanent civil service, which make accusations of partisanship, waste, and corruption singu-

larly inappropriate as campaign issues. Local campaigns in these nations are, it is true, often fought along national party lines, but this represents as much a dearth of real local controversy as it does any desire to use local government for partisan ends. Only rarely are appointments partisan—except in the Fascist nations—and shifts of power in the elections result in few if any changes in the administrators.

The opposite has been conspicuously true in the United States. The so-called "spoils system" was not unknown in certain of our states and localities even as early as the opening of the nineteenth century. The equalitarian philosophy personified by Andrew Jackson, plus the identification of democracy with rotation in office, plus the need for extra-legal devices to promote co-ordination under separation of powers, plus the preoccupation of the age with money-making, combined to fasten the self-seeking and often corrupt party machine and the spoils system upon most of our local units by 1850. These factors were aided by the moral letdown, the inflation, and the advent of predatory capitalism following the Civil War. Meanwhile, heterogeneity of population had added a further complicating factor.

Civil service reform is usually considered to have begun in the Eighties and municipal reform to have come to its articulate expression in the formation of the National Municipal League in 1894. Certainly from the latter date down to the present time the alternation of reform and machine control has characterized most of our local units. More recently the League has widened the scope of its interest to include county and state government. During all the years, through its annual conferences and especially through the *National Municipal Review,* which it sponsors, the league has played a leading role in formulating the best governmental practice.

Recent Emphasis on Skilled Administration. Of late more emphasis has been laid upon sound and skilled administration and rather less upon reform. This new emphasis has brought to the front a number of professional and research associations—the International City Managers' Association, the Civil Service Assembly, the Public Welfare Association, the Public Administration Clearing House, and many others. The necessities of technology thus appear to be rendering the old extravagant and inefficient and corrupt practices less and less tenable in a modern age; and in a sense they have been bringing about a more permanent, professionalized improvement than the reform waves usually were able to effect.

LOCAL SELF-GOVERNMENT AS A POLITICAL EDUCATOR

Historically, we in the United States have attached great importance to the role of local self-government as a political educator. In local self-govern-

ment the citizen has been able to see government not as something remote and mysterious but as something concrete and intimate. It has afforded him the opportunity to behave *responsibly*—that is to say, it has given him the opportunity to see the relationship between what he wanted and what was practicable, to see the consequences of his mistakes and to take pride in those achievements for which he has made sacrifices. Our local government is still a vital factor in this respect; but we too are caught in the same world trends which everywhere have undermined this role of local self-government and in many places have willfully abolished it altogether. If our local government is to become merely local administration, but the agent and tool of the central authority, how can it retain its vitality? When the once vigorous medieval guilds ceased to be autonomous and were used by the sovereign as local agents, they soon withered away. Will our towns and cities likewise lose their historic role as vital political educators? Are there alternatives in sight which can and will perform this function of responsible political activity? There are few questions so important for those statesmen to face who would preserve our democratic institutions.

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CHAPTER TWENTY-FIVE

International Law and International Relations

INTERNATIONAL LAW

MAN as a member of society finds himself surrounded by a mass of rules of conduct to which he conforms perforce. These rules may derive from custom or tradition. They may spring from religious, ethical, or moral concepts, or they may arise from the more practical daily needs and uses of business and social intercourse. Some will be of great weight or high sanction; others will be considered of little importance.

Law vs. Morals and Ethics. In connection with a great many of the rules of social conduct society has vested the individual with rights and has provided a means whereby redress could be had for the violation of these rights. That is, wrongs, or the violation of rights, have been recognized authoritatively and made punishable. Such societal rules, in connection with which rights have become vested, are said to have taken on the character and status of law. Historical jurisprudence presents the processes by which various social rules have been evolved, selected from the mass, and clothed with the sanction of law. While the means of determining and enforcing rules of law have differed widely with peoples in the past, in modern society this dual function is assumed by the state. Within the scope of its jurisdiction each state establishes the law and provides the means for its enforcement. So, in modern society, law has been conveniently and appropriately defined as rules of society which are enforceable in the courts. In this matter law differs from morals and ethics. The latter are also rules of society but are not enforceable in the courts.[1]

Municipal Law and International Law. Law may be broken up into internal law and external law. Internal or municipal law is more rigid and more strictly legal in its requirement of sanction and enforceability. Back of it stands the sovereign power of the state to compel compliance. International law, on the other hand, has no sovereign authority to compel its enforcement. In this important way it differs from municipal law, although the nations have been moving in the direction of an international authority and

1. See: C. D. Burns, *The Morality of Nations* (New York: Putnam, 1916); W. W. Willoughby, "The Legal Nature of International Law," *American Journal of International Law*, Apr., 1908; J. L. Brierly, *The Law of Nations* (Oxford: Clarendon Press, 1928).

the establishment of an international judiciary. Thus, international law has been defined as that body of principles and rules generally recognized as binding on the community of states. However, because there is a fundamental distinction between nations and states, as indicated elsewhere in this volume, strictly speaking, international law is really "inter-state" law, since nations have no standing in international law except as "states."

In addition to the enforcement authority, municipal and international law differ in two other important respects—persons or subjects under the law; and sources or origins.

Persons or subjects under municipal law include natural persons, artificial persons (corporations); subdivisions and agencies of the state. In addition to these, international law also treats the sovereign state as a subject. While popular opinion and some writers regard the sovereign state as about the sole subject of the action of international law, the individual, nevertheless, remains the chief subject of international as well as municipal law.

Of the three component parts or sources of international law, one, it has been seen, deals with the relations of state with state, and is therefore concerned with states as subjects. The remaining two component parts are more immediately concerned with the rights of individuals. In all three cases, however, it is the governments of the states which act as the machinery of enforcement. Because of this uniform governmental action in enforcing these different kinds of rights, it has been natural to confuse agency of enforcement with subjectivity, and to regard states alone as the subjects of all the rights which they protect. This is to take the half truth for the whole, and even in the case where a state is the subject, it will be found in the ultimate analysis that international law is always and necessarily concerned with the conduct of individuals. Fundamentally the law of nations is a law of individuals, enforced through the agency of the governments of the communities into which mankind is apportioned.[2]

Historical Background of International Law. The recognition of rights and obligations of states in their dealings with one another dates far back into the ancient world.[3] Treaties between the Egyptian Pharaohs and neighboring kings, recognizing mutual independence and equality and making provision for political refugees and immigrants, were negotiated as early as the fourteenth century B.C. David, Solomon, and other Hebrew kings entered into covenants with neighboring princes. About the fifth century B.C. the Indian Code of Manu forbade certain excesses of warfare. It made provision for non-combatants and the humane treatment of prisoners which was in striking contrast to the harsh cruelty of the times practiced by the Assyrians, Persians, and other Oriental states.

2. Ellery C. Stowell, *International Law* (New York: Holt, 1931), p. 8.
3. T. A. Walker, *History of the Law of Nations* (Cambridge: Cambridge University Press, 1899).

INFLUENCE OF THE GREEKS: HELLENIC LAW. Among the Greek city-states, however, there came about the first considerable recognition of the principles of inter-state comity and international law. The common racial, religious, and cultural foundation of these Grecian communities provided a sound basis for the development of a series of rules or customs known as the "laws of the Hellenes."

INFLUENCE OF ROMAN LAW. As an aspect of the Roman system of jurisprudence, there was developed a system of inter-tribal law, the *jus gentium,* which was applied by the Roman justices in settling disputes among foreigners and Romans. The *jus gentium* adapted the customs and usages of provincial law to the issues between the parties under its jurisdiction. The Roman *jus civilis* applied to citizens only.

Another special development of the Roman system was the *jus fetiale* and *jus bellicum* relating to peace and war. The *jus fetiale* prescribed the formalities attendant upon war and peace, while the *jus bellicum* related to the rights and duties arising in the conduct of war.

INFLUENCE OF THE CHURCH: CANON LAW. After the decline of the Roman Empire, there fell to the Christian church the important task of helping maintain law and order in a chaotic world. The great moral and spiritual influence wielded by the pope over princes and kings of the feudal and medieval eras was an important factor in the later establishment of the tenets of modern inter-state law. The concept of a universal order and morality was made potent, and a curb upon the sovereignty of princes was effected by the power of the Church of Rome through excommunication, interdict, release of vassals from allegiance to their lords, good offices and mediation, and the threat of deposition. An international sanction is further attested by the general observance of the Truce of God which was proclaimed by successive councils of the clergy during the tenth and eleventh centuries.

Further foundations for international law were laid with the development of canon law, the growth of commerce and the resulting *lex mercatoria,* the revival of the Roman civil law in the later medieval period, the restraints upon an unbounded local sovereignty imposed even by the shadowy Holy Roman Empire, and the philosophical interest in and discussion of the subject of law growing out of the Renaissance. The integration of local patrimonies into national states in France, Spain, and England had, by the close of the fifteenth century, expanded the earlier restricted concept of sovereignty and enhanced the doctrine of universality proclaimed by the Church. These and other forces helped to prepare early modern Europe

for the recognition of rules of the broadest social character which would be binding upon states. This formal recognition came with the Treaty of Westphalia in 1648 at the close of the disastrous Thirty Years' War.

DEVELOPMENT AFTER THE PEACE OF WESTPHALIA. Following the Peace of Westphalia, the development of international law moved particularly through usage and custom, with an ever increasing impetus. But the recognition of sovereignty then meant the sovereignty of absolute rulers who often found easy cause for aggression against their neighbors. In order to gain security these nations formed international alliances and the principle of the balance of power was firmly established. The Peace of Utrecht in 1713 made definite provision that the crowns of France and Spain should not rest upon the same sovereign. The period from 1713 to the Congress of Vienna in 1815 saw the admission of new members, Russia, Prussia, and the United States, to the family of nations; the settlement of title questions growing out of colonial rivalries; the assertion of neutral rights; and the Holy Alliance, with the Monroe Doctrine as its aftermath in 1823. The Declaration of St. Petersburg in 1868 restricted the use of explosive bullets; numerous other new rules were formulated during the latter half of the century. The Hague Conferences and other more recent developments will be discussed later.[4]

Sources of International Law. Sources of international law include: usage and custom, works of publicists, treaties and general international conventions, and decisions of national and international courts. In general, the various sources of International Law correspond to the origins of municipal law; but it may be noted that legislative enactment, the principal source of municipal law in modern jurisprudence, has no true or exact counterpart in International Law. Such corresponding enacted law would obviously require the action of the legislative arm of an international or world state.

CUSTOM AS LAW. "Custom," as defined by Westlake, "is that line of conduct which the society has consented to regard as obligatory."[5] This concept is also expressed in such phrases as "fixed custom" and "well-established custom." To achieve the status of law, usage or custom must be rather fully established, often over a considerable period of time. In this way customary law became an important part of early municipal law. Common elements of customary law found in different states have served to give publicists, jurists, and diplomats a substantial basis for the affirmation of general in-

4. For a more extended tracing of the historical development of international law see: Geoffrey Buttler and Simon Maccoby, *The Development of International Law* (London: Longmans, Green, 1938); Charles G. Fenwick, *International Law*, 2nd ed. (New York: Appleton-Century, 1934).

5. J. Westlake, *International Law* (1910), I: 14.

ternational rules derived from custom. Indeed, according to Fenwick: "It was the significant characteristic of the development of international law during the nineteenth century that jurists came to make usage and custom the starting-point in the determination of the law. . ."[6]

The application of customary law in international jurisprudence obviously involves the prior determination of what the law is. Thus the examination of evidence was necessary to ascertain the existence of particular customary rules in different states. This required evidence might be found in the works of publicists, historical documents, official correspondence, etc. By a process of selection and evaluation rules of evidence are evolved which become subsidiary to the law.

WORKS OF PUBLICISTS AND JURISTS. The writings of eminent jurists and authorities on international law have long been recognized as an important source of the law. To these may be added the proceedings of learned societies, and the utterances of statesmen who are to apply the law. Of the importance of the established writers, Chancellor Kent has stated:

> In cases where the principal jurists agree, the presumption will be very great in favor of the solidarity of their maxims; and no civilized nation that does not arrogantly set all ordinary law and justice at defiance will venture to disregard the uniform sense of the established writers on international law.[7]

TREATIES AND CONVENTIONS. Treaties and Conventions between nations have the binding force of law as between the contracting parties. To attain the generality associated with international law, such agreements should be multilateral, expressing the concurrence of many states or, at least, of the major powers. Moreover, to be credited with the character of international law, the particular subject matter of treaty provisions or covenants must express principles or rules of wide general application. Thus, ordinary commercial treaties, while they are binding as contractual obligations, are not regarded as international law proper.

NATIONAL AND INTERNATIONAL COURTS. The decisions of national courts constitute sources of international law only in so far as these decisions establish true international rules. While the national or municipal courts have no true international jurisdiction, they have greatly aided the development of international law by evolving and applying rules of a broad international character in issues which come before them, such as maritime, admiralty, and prize cases.

6. Charles G. Fenwick, *International Law*, 2nd ed. (New York: Appleton-Century, 1934), chap. IV. See also G. A. Fritch, *The Sources of Modern International Law* (Washington: Carnegie Endowment for International Peace, 1937); F. Pollock, "The Sources of International Law," *Columbia Law Review*, Dec., 1902.

7. Chancellor Kent, *Commentaries*, I: 18–19.

Within their scope of voluntary jurisdiction international courts of arbitration also evolve rules and interpretations which establish precedents for future decisions. These precedents do not have the firm respect attained in municipal law under the principle of *stare decisis,* but are, nevertheless, valuable sources for an evolving international code.[8]

The Content of International Law. The chief function of international law is to establish rights for states and their members in the international community, and to fix penalties and responsibilities for their violation. The most important of these basic rights were set forth in the Declaration of the Rights and Duties of Nations by the American Institute of International Law in 1916 as embodying for a state:

1. The right to exist and protect itself.
2. The right to sovereignty or independence.
3. Equality in the Family of Nations.
4. The right of territorial integrity.

SELF-PRESERVATION. The right of self-preservation is one of the essential and most fundamental of rights. It involves other incidental rights, such as self-defense, which are usually limited by the equal rights of other states. Often extra-territorial acts are resorted to, on the ground of urgent necessity. In 1807 England seized the Dutch fleet. In 1837 the American steamer, the *Caroline,* was seized by Canadian forces. England defended these acts on the basis of self-defense. The German government has claimed self-defense as justification for its recent occupation of Denmark, Norway, Holland, and Belgium. Obviously, just what constitutes self-defense becomes at times a very difficult question. Self-defense loses its legal quality when it violates the rights of others.

The right to exist—to increase national dominions, wealth, population, and power, by all innocent means—is generally recognized by nations but these rights are also modified by the corresponding rights of other states. The European doctrine of balance of power, for instance, has arisen from the conviction that to permit one state or group of states to become too powerful would result in endangering the existence or rights of others.

THE RIGHT OF INDEPENDENCE. The fundamental right of independence carries with it the right of jurisdiction over all persons and property within the state. The independent state is entitled to the exclusive power of legislation in respect to the personal rights and civil status of its citizens and in regard to real and personal property within its territory. The independent

8. Under the Statute of the Permanent Court of International Justice (Article 38) the sources of International Law are four categories, designated briefly as agreement, custom, reason, and authority.

state is under no legal obligation to regard foreign laws; however, they are often observed out of considerations of comity and utility.

The Status of Aliens. The status of aliens within a state may be determined by its municipal law. The aliens have no international right of entry to a foreign country. Congress legislated upon this issue in the Japanese Exclusion Act of 1924. It is within the power of any state to expel aliens. The question of extradition is not fully settled. Some writers hold that every state is obliged to refuse asylum; others hold that the extradition of fugitives is a matter of imperfect obligation. Many questions of this character are settled by treaties between the states concerned. Treaties of extradition were known in Ancient Egypt, China, Greece, and Rome. In modern times the majority of these treaties date from the nineteenth century.

Legislative and Judicial Independence. Along with its legislative independence, every sovereign state is also independent of every other in the exercise of its judicial power. Exceptions in respect to these municipal powers may be noted. By general usage and comity the sovereign of a state is exempt from the ordinary local jurisdiction of another state where he is travelling. Public vessels of a foreign state are exempt from local jurisdiction; and foreign ministers, consuls, and similar officials are also granted immunity.

THE DOCTRINE OF EQUALITY. In the theory of international law all sovereign states enjoy equality regardless of size, population, and power.[9] This principle was recognized in the Assembly of the League of Nations, each state having one vote.

The equality of states may be modified by usage and compact. Thus, certain states enjoy what are called "Royal Honors." These entitle a state to precedence in rank. Semi-sovereign states rank below sovereign states and below that state on which they are dependent.

Another expedient of ranking is that of the alphabetical (French) order. This was used at the Hague Conferences in seating and signing, and the plan was adopted by the League of Nations Conventions.

The principle of equality of nations authorized each nation to use its own language, but considerations of convenience and utility early brought the use of Latin. Then followed Castilian which, in the Age of Louis XIV, was replaced by French. This, by usage, has become the almost universal diplomatic language.

Equality further suggests equal dignity and involves respect for emblems,

9. See E. D. Dickinson, *The Equality of States in International Law* (Cambridge: Harvard University Press, 1920); J. Mattern, *Concepts of State, Sovereignty and International Law* (Baltimore: Johns Hopkins University Press, 1928).

planes, ships, or armed forces. Maritime ceremonial, salute to the flag or sails and so forth, is respected by all states.

TERRITORIAL RIGHTS OF STATES. A fully sovereign state has complete authority over its territory. One territory can normally belong to only a single state, but a state may exercise sovereign rights over leased or administered territory.

The state has as its property not only land, but lakes, rivers, and if maritime, the marginal sea, gulfs, bays, and straits. Title may arise by occupancy, accretion, conquest, cession, or prescription. The presumption of legal possession arises from the lapse of time.

The state's rights over property include the public domain, and the property of private individuals or corporate bodies within its territorial limits. The right of the state to its public property is absolute and excludes that of its own subjects. This paramount authority supports the principle of eminent domain.

Prescription, the legal presumption of title arising out of the lapse of time, has been questioned by writers on natural law. But the approved practice of nations shows that the uninterrupted possession of territory by one state excludes the claims of every other.

Adjudication may be regarded as a new means of acquiring territory. Such might be termed the action of the Allied Powers after the World War. Under this category may also be considered the Papal Bull of 1493 dividing the new world between Spain and Portugal.

THE SEA AS TERRITORY. The earlier view, favored by usage, was that the sea, like territory, was an object of possession by the states. Venice was the recognized mistress of the Adriatic, Genoa of the Ligurian Sea. Crotius in his Law of Peace and War admits the possibility of appropriating the waters immediately contiguous. The claim of sovereignty over the British seas held by the kings of England was supported by the writer Alborcius Gentilis in his *Advocatio Hispanica* which appeared in 1613 and by William Wellwood in *De Domino Maris* in the same year. The Bering Sea dispute raised the issue of jurisdiction over the open sea. As a result of the protests of the United States and Great Britain, Russia abandoned her claim to the Bering Sea waters in 1921.

The maritime territory of every state extends to the ports, harbors, mouths of rivers, bays, and adjacent parts of the sea enclosed by headlands belonging to the same state. Jurisdiction also extends a marine league from shore, which was originally the range of a cannon shot, now three miles. The United States has recently undertaken to modify this rule by proclaiming a three-hundred-mile marginal sea limit. Right of fishing in the waters ad-

jacent to the coast of any nation, within its territorial limits, belong exclusively to the subjects of the state.

The advancement of science and engineering has brought the international canal and with it further questions of international law. The rule here may be summed up in an analogy from municipal law, that is, canals affected with a public international interest should be open to the commerce of all nations on equal terms. The Panama and Suez canals, especially, come under this principle.

The Principle of Responsibility. Growth of governmental functions and increase of contacts between states raise the problem of responsibility for injuries of one state to other states or their nationals. Private law analogies are put forward to support the doctrine of responsibility by some writers, while others oppose this view.

Actual practice proves that states are generally held liable and that the liability is considered from the point of view of private law. Liability varies with the nature of the case. If the act is illegal under international law, the liability is regarded as complete. If the act is unauthorized by the state or committed without its authority, the liability is less certain.

LIABILITY LIMITED TO SUPREME POWER. In a federal state like the United States, only the central power can be held responsible, that is, the national state and not one of the sub-states like Illinois. And, regardless of the power of the federal state over its sub-sovereignties, the former is held responsible.

Negligent disregard of international duties makes a state liable. The United Kingdom was held negligent of neutrality laws in the Alabama Case. The Hague Conventions of 1907 provided for penalties in similar cases.

LIABILITY FOR ACTS OF CITIZENS. There is discrepancy in the theories which the major European powers apply with respect to liability for actions of private persons. One rule is applied as among themselves, another for weaker nations, especially Oriental. The doctrine of the United States as laid down by Daniel Webster, in respect to rioting at New Orleans and Key West, was that the United States owes foreigners only "such protection as is afforded to our own citizens." Argentine's Calvo Doctrine seeks to modify the older claims of states to the right of intervention for the purpose of correcting wrongs committed by subjects of another state. But the principal cases seem to establish the principle of a state's responsibility for lack of due diligence in furnishing the proper protection for foreigners.

The Settlement of International Disputes. It is impossible to distinguish in any absolute manner between legal and political disputes. Any attempt to define justiciable and non-justiciable questions is futile. Not all legal

matters can be suitably submitted for judicial settlement, and often the means which are applicable to settling political issues are also the best adapted to legal issues.

Negotiation is the primary method in which states do and should resolve their differences. No more important function than preserving peaceful relations can belong to diplomacy, although the effectiveness of this method of removing friction between states is seldom appreciated.

Good offices and mediation are appropriate when negotiations fail. Good offices seek to bring the opposing parties together while, in mediation, the mediator actually takes part in the negotiations. International treaties often have stipulations providing for mediation in the event of serious disputes between the contracting parties. An early example of this was the multipartite Treaty of Paris of 1856.

SETTLEMENT BY ARBITRATION. Many international differences have been settled by the method of international arbitration, in addition to negotiation, good offices, and mediation. From the middle of the nineteenth century states begin to show a tendency to enter into general arbitration treaties.

The Hague Peace Conferences of 1899 and 1907 both dealt with the subject of peaceful settlement. Both adopted important conventions which were agreed to by the Powers represented. The Permanent Court of Arbitration, which had been advocated by jurists and publicists for some time, was established after the first Hague Conference and further perfected in 1907.

THE "WORLD COURT." The Permanent Court of International Justice or "World Court" was established in accordance with the provisions of Article 14 of the Covenant of the League of Nations. It came into force on August 21, 1921 when the Statute (or constitution) of the Court had been ratified by a majority of the Members of the League. The Court consists of fifteen members elected for nine years by the Assembly of the Council of the League from a list of persons nominated by national groups.

The Court functions in the settlement of disputes of a legal rather than a political character. It is also authorized to give advisory opinions upon request of the League. The extent of the services of the Court may be indicated by the frequency of its sessions. It was in actual session an average of one hundred and forty-four days for each of the first seventeen years of its existence. During the year 1939—the most critical in its history—the Court continued its work in the regular way and was in session a total of one hundred and sixteen days.[10]

Although the "World Court" has continued to function, just what effect

10. For an excellent review of the Court's work, see: Manley O. Hudson, "The Eighteenth Year of the Permanent Court of International Justice," *American Journal of International Law*, Jan., 1940, pp. 1–22.

the present European conflict will have upon its status is unpredictable. Like the League, the Permanent Court of Arbitration and various other instruments for the furtherance of peaceful relations, its position has now become precarious.

The Law of War. A serious attempt was made through the League of Nations to establish an effective restraint upon the commencement of war.[11] The *de facto* dissolution of the League by European events of the past few years leaves the world without any such agency. But there still remain the earlier means of terminating differences. These are: intervention by a third state, exercising the right of retaliation, reprisals upon persons or things of the offending state, and pacific blockade. The latter can become a very effective means of coercion. But when issues are great and all methods of resolving differences fail, there is a resort to war.

THE FORMAL DECLARATION OF WAR. The right of making war, of reprisals, or vindictive retaliation belongs to the supreme power of the state. A substate such as Ohio does not possess this power. To legalize hostilities a formal declaration of war was once considered necessary.

> It is an old and well-established principle of international law that a state must not resort to forcible procedure against its opponent without giving due warning that hostilities are about to commence. A sudden attack by one state upon another, before negotiations looking to a settlement of the controversy have been undertaken and have reached the point where the redress demanded is apparently not to be granted, has been regarded from the earliest times as an act of international brigandage.[12]

But this rule of formal notice has been violated so often, particularly in the recent European conflicts, that it is no longer effective.[13] War between states now becomes war by its events, as does civil war, which is never declared.

Rules of international law respecting war cover numerous items relative to land, sea, and aerial hostilities, such as defining lawful combatants; providing for military occupation; blockade; privateers; visit and search; prescribing the treatment of prisoners; the use of planes; and the use of radio. Space does not permit a detailed discussion here of these and other items for which rules have been fully developed in international law. But as the subject is further pursued, the concept of rules of warfare will take on added meanings. They will be recognized as constructive forces working toward

11. Cf. Pennington Haile, "The League of Nations," Ch. 20, in F. J. Brown, Charles Hodges and J. S. Roucek, *Contemporary World Politics*, 2nd ed. (New York: Wiley, 1940), pp. 431–449.

12. Fenwick, *op. cit.*, p. 453.

13. "Once it (the State) is in danger of oppression or annihilation, the question of legality plays a subordinate role."—Hitler, *Mein Kampf*, p. 104.

the achievement of an ordered international society. And, while the laws of warfare are often violated, or even appear to be suspended in times of great stress, nevertheless, having their sanction in the general will, they emerge again with increased potency.

INTERNATIONAL RELATIONS

States as Independent Units. With the existence of some sixty states in the world, each recognized as a separate independent unit, the problem of their inter-relations becomes highly complex. Each state has its own interests to guard and its own peculiar problems to solve. These interests and problems grow out of many different factors among the more important of which are the racial, economic, geographic, technological, governmental, and cultural. These various factors become determinants of the security, prosperity, and welfare of the state, and in consequence serve as the foundations of national policy. Policy may be either internal or external. Internal or domestic policy will seldom involve the interests of other states, but the external or foreign policy of a nation may be of vital concern to other national groups. The external contacts of states comprise the field of international relations. The far-reaching implications of the doctrine of sovereignty and what some have called the myth of equality are of paramount consideration in the dealings of state with state and upon them national policies are founded which, growing into international relations, "are no more than the sum of the contacts between the national policies of these sovereign states."[14]

Race and International Relations. Historically the racial factor in inter-group or inter-state relations has been one of the most potent. Racial similarity has been a dynamic force building for solidarity and group integration, whereas racial difference has led to disunion and conflict. The break-up of ancient Oriental empires and the integration of modern local states into national states illustrate these inverse processes. After serving as the dominant force in nationalism,[15] race again is encountered in such larger roles as pan-Germanism and pan-Slavism. While the racial factor may not be so dominant, it is still forceful in the more current concepts of a *pax Americana, pax Germanica,*[16] or *pax Britannica.*

14. Frank H. Simonds and Brooks Emeny, *The Great Powers in World Politics* (New York: American Book, 1935), p. 21.

15. Race and nationality must be distinguished, the latter being the broader term. "Nationalism" includes such elements as language, tradition and custom, common religion, culture, and the like.

16. "The pacifist, humanitarian idea will perhaps be excellent when the man superior to all others (the German) shall first have so conquered and subjugated the world that he becomes its sole master."—Hitler, *Mein Kampf,* p. 315.

While the racial factor, within reasonable bounds, constitutes a sound consideration for national policy, it may be a disrupting and weakening influence if irrationally pursued toward fantastic limits.

The Role of Diplomacy. It is the role of statecraft and diplomacy to regulate and harmonize the factors that enter into foreign policy. The wisdom and skill with which this is done will be the measure of a nation's success in the achievement of peaceful change. If lasting benefits are to result, the objectives of national policy, much like the goals of the individual, must be set in accordance with all the facts. However, since national objectives are the product of the minds of certain political leaders, there is probability of error. There may be vaulting ambition which overleaps itself; there may even be a Don Quixotic charging of the windmills. History is so strewn with the wreckage of mistaken objectives that the citizen may safely ask where the objectives lead. Race, population, high birth rate may support a demand for more territory, whereas territory may not be the answer at all. New York State has the wide open spaces, and yet the folks live on Manhattan. Because land was causally related to the power of sustenance under an early agrarian economy, it is not necessarily true in this highly industrial era.

Political Geography. The geography of a state is of prime importance in determining policies affecting other states.[17] Such factors as area, location, topography, boundaries, and resources often give rise to problems which are to be met satisfactorily only by arrangements with other states. Location may be considered with regard to proximity to other states: whether inland or on the sea, whether near or distant from basic resources and industries, or whether surrounded by friendly or hostile neighbors. Thus location may be favorable or unfavorable for the achievement of prosperity and power, and in a transitional world, a location favored in one period of time may lose its advantages through developmental changes. Science and invention, industry and commerce, education and culture, all have their impact upon this geographical basis of national power. From Babylonia or Egypt to Greece, Rome, Genoa and Venice, Spain, France, Great Britain, and America are to be observed the processes of locational change. A "place in the sun" today may become one in the shadow tomorrow. In the swift stream of time it behooves the captain to guide well the ship of state.[18]

Boundaries and Barriers. The geographic factor of boundaries involves subsidiary factors of barriers, of bays, inlets, lakes, rivers, mountains, desert,

17. See James Fairgrieve, *Geography and World Power* (London: University of London Press, 1921). Also for an interesting but rather one-sided treatment, see Frank H. Simonds and Brooks Emeny, *op. cit.*, pp. 41–61.

18. The interpretation of international relations from the standpoint of political geography is by no means new; the first World War with its universal reorganization of state boundaries called special attention to the geographical problems of states. In Germany, in particular, this

or plain. Boundary questions furnish a cause for international disputes, treaties, provocation, and war. The United States has been extremely fortunate in having had very few boundary questions, none of a serious character. A friendly neighbor has answered our boundary problem on the north while the open sea has guarded our limits east and west. But what of Europe? There, boundary disputes have raged for centuries. Nice and Savoy, Triesto and Trentino, Alsace-Lorraine, Bessarabia and Dobruya, Silesia and the Corridor instance but a few of the numerous boundary problems faced by European states. States like Germany and the old Austria have had boundary problems on almost every side; France and Italy few; Great Britain and Spain have experienced virtually none. The nature of boundaries is involved in the problems of fortifications and defense, military and naval preparedness. But, as in the case of location, boundaries are also affected by sociological change. It is now claimed that the sea is no longer a barrier because of the development of aerial warfare. If this be true, the strategy of isolation may have to give way to a technic of insulation. It is with this new challenge that America is preparing to deal.

Resources: The "Haves" and "Have-nots." The factor of resources articulates not only with the geographic, but with the technological and economic factors as well.[19] From science and invention to machines and appliances, to resources and power, to production and distribution, to exchange and credit, to tariffs and trade pacts is one continuous chain which vitally affects the prosperity of states and is reflected in international policy and relations. From these factors arise the dogmas of self-sufficiency, the issues between the "haves" and "have-nots," or more happily, programs of cooperation, reciprocal exchange, and friendly intercourse. But the insatiable desire for the control of sources of raw materials, of basic and key industries, for dominance in trade, and superiority in credits is extremely slow in giving place to a spirit of mutuality; hence, a selfish world must still witness the daily needs of peoples being resolved into intense issues of national policy, and terminating in the destruction and chaos of war. Fundamentally, then, the international relations problem is not merely one of geography, economics, mechanics, or race; it is essentially psychological and cultural.

Cultural Forces in World Politics. The influence of intellectual, moral,

interest led to the development of a strong school of political geography which, in the service of the state, has become one of the pillars of the present German political geography (*Geo-Politics*). For a survey of the literature of this field, see J. S. Roucek, "World War II—A Survey of Recent Literature," *The Educational Forum*, May, 1940, IV, 469–70.

19. For a comparative study of resources see American Academy of Political and Social Science, "Raw Materials and Foodstuffs in the Commercial Policies of Nations," *The Annals*, Mar., 1924, CXII; I. Lippincott, *Economic Resources and Industries of the World* (New York: Appleton, 1929); E. W. Zimmermann, *World Resources and Industries* (New York: Harper, 1933).

and spiritual training in present-day national and international life can hardly be over-emphasized. It resolves itself into group opinion and readily becomes a basis for political action. At no time in the world's history has the culture factor been so potent, so transient, or fluid as at the present time. Thanks to the school, church, press, cinema, radio and other agencies the public mind has become extremely plastic and fertile. Public opinion develops rapidly, shifts its position with ease, and may often reverse itself before its former will can be made effective. From aggression to war, to *rapprochement,* to co-operation, to appeasement, to aggression, to war expresses the vicious international psychological cycle. In our international as well as national or municipal behavior, we reflect a present state of mind which is transitory. We scrap our navies today and rebuild them tomorrow. Conciliation and co-operation give way to aggression; disarmament to rearmament; appeasement to war; all of which evidences the primacy of the mental factor rather than the objective facts in the making of opinion. In other words, our mental world changes far more rapidly than the external world of reality. To achieve stability, world politics must be based upon realism.

Practically, thus, every state is faced with the problem of basing its foreign policy upon objective rather than subjective premises. And, when group opinion determines policy, the former must be shaped to conform to realism. Two general methods readily present themselves for shaping opinion in relation to facts. One is the easy way of strict control and censorship of agencies of information—speech and press—so endeared to autocratic powers. The other is the hard road of open channels of information and educational freedom. Democracies choose the latter method, but their inadequate provisions for functional education in the national policy field have left the job half done. For the citizen to meet this challenging need of sound judgment on national policy, there must be more provision for education on the subject, sponsored either by voluntary effort or by the public. And to keep education free, it must be kept pure at the source. This implies the elimination of false and malicious propaganda in whatever form it appears, and from whatever source. With these jobs done the public mind may be expected to arrive a step nearer the whole truth upon which its intellectual, moral, and spiritual judgments should be founded.[20]

With due consideration to the factors of race, economics, geography, or technology in international relations, it may be asserted that the cultural factor has today become of paramount importance in international politics.

20. Cf. Edward H. Carr, *The Twenty Years' Crisis* (London: Macmillan and Co., 1940), chap. 9, "Morality in International Politics."

The Struggle for Power. International politics has involved the struggle for power through all ages. In its essential character, then, "power politics" is not new. It simply appears in a new garb from time to time. "Politics unfolds its full meaning in any existing society only in the description and analysis of power relations as essential elements of the pattern of social behavior. In other words, politics embraces every social phenomenon characterized by the struggle of groups or individuals to gain or retain power or influence over others. Political relationships are, therefore, power relationships, actual or potential." It is even held that power in the fundamental concept in social sciences "in the same sense in which Energy is the fundamental concept in physics."[21] And power, like energy, has many forms such as wealth, armaments, civil authority, influence on opinion. Further, like energy, it passes readily from one form to another. Opinion may create military power which, in turn, may result in wealth that can control opinion. The facility of flow from one form of power to another is of vital importance in the concept of effective power.

Effective power is thus to be distinguished from dormant power. Or, expressed in other terms, political power is effective or not, depending upon how it is to be used. One form, the military, is most effective in war; the economic, in peace. So the struggle for power becomes not only a struggle for the various elements which comprise the total power but also one of transforming the elements into the most effective forms.

The more general forms of power are constantly being broken down and given new applications. The medieval armament was transformed with the advent of gunpowder; the submarine is a new adaptation of naval power; and land warfare is changed with the use of mechanized units. In like manner the technique of intrigue, propaganda, and "fifth column," in their present-day characters, are all definitely related to the general power of opinion. The interplay of the various techniques and specialized forces of power politics are, of course, constantly met in the realm of diplomacy.

> I remember his [Goering] saying to me on this occasion, "If England means to make war on Germany, no one knows what the ultimate end will be. But one thing is quite certain. Before the war is over there will be very few Czechs left alive and little of London left standing." He then proceeded to give me fairly accurate details of the numbers of modern anti-aircraft guns we possessed at the moment as well as the unpreparedness of England's air defenses generally. He also mentioned, as was doubtless true at the time, that the German Air Force was numerically superior to those of Britain, France, Belgium, and Czechoslovakia combined.[22]

21. Bertrand Russell, *Power: A New Social Analysis* (New York: Norton, 1938), p. 12.
22. Sir Nevile Henderson, *Failure of a Mission* (New York: G. P. Putnam's Sons, 1940), p. 156.

Since the numerous items making up total effective power are variables, the ultimate outcome of major conflicts are not often foreseeable. Much depends upon the skill of management, upon the marshalling and synchronizing of forces. Outcomes are generally highly speculative and at times the result of mere chance, which is one of the basic reasons for the abhorrence of war.

The Trend Toward World Security. The great mass of the world's population today are in quest of security—individual, national, regional, and world security. With the growth of cultural, social, economic, financial, and governmental interdependence, the planning of security in the total world area is being recognized as the major international problem. And the new concept of security embraces numerous entities such as race, religion, economics, capital, labor, resources, markets, armaments, alliances, law, culture, etc. In this respect the problem of world security follows closely the patterns of domestic or intra-state security. Provisions for the security of labor within the advanced states, for instance, have served as a prelude and pattern for the Constitution of the International Labor Organization. National courts are a prototype of the World Court, national legislative assemblies a precursor of the Assembly of the League of Nations. Securities are regulated within the state, then arises the notion of the internationalization of investment. Trade barriers shift from the local to the national sites and are refined in the direction of mutual benefit in reciprocal agreements. New agencies become international in scope, like science, like commerce, like industry.

Thus, whether voluntary or provisioned by government, security in the world area becomes a many-sided problem just as it is within the state. There is no single or simple determinant, no panacea. The problem is highly complicated and is pressing for solution. The great international public realizes these facts as never before. This is, indeed, the most hopeful sign upon the world horizon, a growing understanding of the need for and the means of building a world structure for order and security.

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CHAPTER TWENTY-SIX

Trends in Modern Politics

SCARCELY two decades have passed since Lord Bryce declared democracy to be universally accepted "as the normal and natural form of government."[1] What the author of the *American Commonwealth* regarded at the end of his long life as a modern development had already been prophesied by Alexis de Tocqueville before Bryce was born. This French historian and political philosopher, who is today classed as one of the most important thinkers of all time, characterized the whole modern political and social trend as the inevitable advance towards democracy.[2] He was afraid that democratic equality would destroy individual liberty, and he was also depressed, as John Stuart Mill was a generation later, by the fear that the despotism of a brutal majority rule might be a future threat to democracy. But this fear did not influence him to change his prophecy.

THE TREND TOWARDS MODERN DEMOCRACY

Before attempting to describe the trends in modern politics, we should discuss, at least summarily, the general character of the rising modern democracy and the ideas and forces by which it is dominated.

Universal Suffrage and Limitation of State Power. One thing we must remember at the outset. After the French Revolution every regime based on rule by a privileged group was in danger of being overthrown. The general, irreversible tendency was to increase the number of those citizens whose continuous and periodically expressed consent was necessary for the ruler to maintain his power. The struggle for universal suffrage seemed typical of this development. But the introduction of universal suffrage alone was not considered sufficient for the establishment of the ideal government. The rights of the government had to be more precisely controlled.[3] A

1. James Bryce, *Modern Democracies* (New York: Macmillan, 1921), 1924 ed., I, 4.

2. J. P. Mayer, *Alexis de Tocqueville* (New York: Viking, 1940). Mayer quotes Dilthey, who wrote that de Tocqueville "is . . . undoubtedly the most illustrious of all political analysts since Aristotle and Machiavelli" (p. xiv). Mayer's biographical essay has the special merit of offering numerous quotations from the works and letters of de Tocqueville.

3. Cf. W. Ivor Jennings, *Parliament* (Cambridge, England: University Press, 1939), p. 451: "Suspicion of governmental powers was a characteristic of the Constitution from the opening of the seventeenth century until the close of the nineteenth; and even with a Government which owes its authority only to a majority in Parliament based on a free demonstration of public opinion, it has not wholly disappeared."

government based upon popular consent and impersonally executing laws expressing the will of the people was regarded as the ideal.

That the old absolutist or aristocratic state did not recognize legal security and equality before the law was a current belief. The idea of a limited government was identified with the idea of a popular government[4]—the old confidence in religious or contractual limitations had given way to confidence in the will of the people, which would never permit abuse of power, especially if the exercise of this power was carefully organized, controlled, and defined.

This lack of confidence in a state whose rights were not limited was allied with the distrust of political systems which disregarded national and social rights. The democratic movement was opposed to nonnational or antinational monarchies, as, for instance, the Hapsburg Empire and its traditions. The democrats fought against bureaucracy and mistrusted generals, capitalists, and other powerful groups.

The Birth of Socialism. When this mistrust crystallized into a fundamental criticism of the existing order, then socialism was born. Political democracy alone seemed insufficient, if the legal right for everyone to make money could be used as the cloak for a new despotism. An economic order was demanded which would prevent the attainment of privileged positions by individuals and groups, and this order was identified with the regulation of economic affairs by society.

But though the threat of social revolution was feared throughout the whole nineteenth century, especially after 1848 and the Commune of Paris in 1871, a lasting attempt to realize socialism was made only in 1917, with the Bolshevist Revolution. Therefore, the contention that socialism and liberty are not compatible[5] remained a subject for theoretical argument but did not become a political factor based upon experience. Political tyrannies were certainly known—there was the example of Napoleon III—but not a despotism embracing and dominating the whole of life, including economic life, and imposing a public philosophy.

4. Cf. C. H. McIlwain, *Constitutionalism and the Changing World* (New York: Macmillan, 1939), "Sovereignty," pp. 42 ff. Here the author discusses the fact that the absolute king of France enjoyed a sovereign's power which was "internally" limited. The kings, he says, are "responsible to God whose ministers they are: whatever the plenitude of their power, they are bound to exercise it with equity and justice . . . it is clear that 'absolute' and regulated are terms not mutually exclusive." This kind of internal limitation is now believed to be insufficient. But does majority rule alone suffice to limit government? This is one of the important problems of modern democracy.

Cf. also the remarkable article of Eric Voegelin, "Extended Strategy," *The Journal of Politics*, May, 1940, pp. 195 ff., in which appears the statement "The democratic government which desires to keep the country substantially democratic is at a disadvantage because the western pattern of democracy has become formalized."

5. This assertion is basic for Dostoievski's critique of modern socialism which is especially developed in his novel, *The Possessed.*

Increase in Individual Liberties. The self-evident way in which democratic beliefs were accepted was also expressed in the optimistic or pessimistic evaluation of existing regimes. Those regimes which were opposed to the democratic development appeared to have taken a position against the trends of the time. If they would maintain their existence, then they would have to make concessions. Bismarck introduced universal suffrage for the Reichstag; and even the Czar was obliged to concede a constitution with a kind of popular representation.[6] The old-fashioned liberal who recognized only educated or propertied men as political citizens with full rights was replaced by the progressive liberal. This modern politician was not only in favor of universal suffrage but was also interested in the social welfare of the masses and sympathized more or less with the labor movement. That the state and its intervention in social affairs could undermine individual liberties appeared as impossible—at least as long as the existence of the state depended upon the consent of the masses.

Security and individual liberties, which had to be protected by the state, were believed not only to be compatible but to presuppose and condition each other. The possibility of a general dissolution of political and social unity was not grasped by the majority of the public, nor were the warnings of a number of writers taken seriously.[7] The rise of the masses to active participation in politics was regarded as a development which would not destroy the beneficent effects of a political liberalism but would permit everybody to enjoy them.

Limitation of the State by Society. That the state should have exact limitations was accepted as self-evident—as an undeniable fact. It was a fundamental belief that society which is a much larger entity than the state, should determine the state.[8] It was claimed that only in cases of emergency[9] should political order and society be identified, or should political authority regulate or even temporarily abolish general and individual liberties. Not the increase of political power, but the security and liberty of individuals and society was regarded as the aim of democracy.[10] The socialist criticism

6. Cf. Michael T. Florinsky, *Toward an Understanding of the U.S.S.R.* (New York: Macmillan, 1939), chap. 1, "Imperial Russia."

7. Cf. B. E. Lippincott, *Victorian Critics of Democracy* (Minneapolis: University of Minnesota Press, 1938), p. 245: "The anti-democratic and authoritarian ideas of the intellectuals failed to make any impression on their age; that is to say, the anti-democratic and authoritarian ideas of Carlyle and Ruskin failed to make any impression."

8. Cf. the interesting description of the two criteria of democracy in R. M. MacIver, *Leviathan and the People* (Baton Rouge: Louisiana State University Press, 1939), pp. 70 ff.: "Democracy puts into effect the distinction between the state and the community . . . democracy depends on free operation of conflicting opinions."

9. Cf. C. J. Friedrich and E. S. Mason, *Public Policy* (Cambridge: Harvard University Press, 1940), the study of F. M. Watkins, Constitutional Dictatorship, pp. 324 ff.

10. Cf. the writer's discussion of universal suffrage and individual rights, the combination of

of political democracy was that the masses did not enjoy security and that they were, therefore, not free.

The feeling that the state should be dominated by society was also expressed in the rejection of the theory that a man or a group is destined by nature or by privilege to rule. If there were a monarch, then he should be only a kind of neutral arbiter or national symbol without personal political will. The holding of office was always endangered by competition from several other groups, and it was necessary for an official to maintain his office without any possibility of suppressing the opposition. The existence of authority and the right of free discussion of the nature and limits of that authority were not regarded as incompatible. On the contrary, the fact that they existed together was supposed to be one of the guarantees that the liberties of citizens actually could limit political power. Even if exceptional measures were taken against some groups accused of being anti-national or anti-social, there remained the right to fight against them. Bismarck's *Kulturkampf* was destined to fight the influence of the Catholic Church on public life, but did not prevent the rise of a Catholic press and the growth of the Catholic Centre Party to defend the Catholic Church. In America Villard mentioned in his *Memoirs* how he was able to publicly oppose as illegal the anti-Red campaign of Attorney General Palmer.[11]

THE TREND TOWARD TOTALITARIANISM

Are the fundamental beliefs which circumscribe political institutions and methods as powerful today as they were in the the first years after 1918? At that time the World War of 1914 to 1918 and its consequences seemed to be of transitory importance. We have gradually come to know that they were not.

We observe at the present time a constantly spreading dissolution of the ideas and beliefs which were felt to be self-evident during the period of the trend towards democracy. Many things which were formerly not permitted are today accepted by those regimes which proclaim the democracies to be senile and corrupt, as not only permissible but as inevitable and expressive of positive forces.

Domination by a Single Group and a Single Leader. First of all, the belief in the intimate association between liberty and security has disappeared. Not the fight for liberty but the exterior order is what matters. One leading group and a single leader determine everything from above. It becomes

which characterizes modern democracy, "The Totalitarian State," *Proceedings* of the American Catholic Philosophical Association, XV (Washington, D. C., 1939), 51 ff.

11. Osward Garrison Villard, *Fighting Years, Memoirs of a Liberal Editor* (New York: Harcourt, Brace, 1939).

impossible to dislodge this group from its dominant position. Its domination extends over not only a particular phase of life but the whole life of the people under it. All existence shrinks into politics, and politics on its side shrinks into the power of one particular group and its leader.[12] That this group and its leaders are bound by doctrine is only an illusion. Actually, they interpret the doctrines they profess to suit themselves. Stalin says what Marxism is; Hitler defines Nazism; and Mussolini is the oracle of Fascism.

Whereas formerly power was only an instrument of security and the rule of law, laws are now respected only in so far as they are useful for the maintenance of the regime and its power. No longer is there any non-political or prepolitical realm; society itself is but an instrument of those holding the political power. They determine public opinion; they dictate the obligatory public philosophy or religion; they decide which kind of economic policy shall be permitted and which kind shall be forbidden. It does not matter essentially if they fail to subordinate the whole economic life to direct rule or bureaucratic control, since they believe that in certain cases private owners as managers are even more efficient than bureaucrats.[13]

The Russian, German, and Italian regimes have often been cited as indicating the trend toward totalitarianism. The basic structure of all such governments is similar[14]: the rights of the political power to intervene are without limits; there is a single party determining the totalitarian politics; there is an official doctrine or philosophy expressing and justifying the monopolistic position of the one party. The fact that their basic structures are identical does not mean, of course, that the totalitarian regimes all hold to the same historical presuppositions and are propelled by the same social forces. Italian Fascism, for example, led by considerations of power technique, avoids conflicts with the Church and emphasizes the power of the state more than the function of the party. The Third Reich is obliged to make concessions to bureaucratic and military traditions. The Soviet Union can abstain from emphasis on continuity and tradition, the recent attempts to glorify Stalin as a kind of Peter the Great of the twentieth century to the contrary. The Soviet Union, originated by the October Revolution, never claimed—as do the Nazi and Fascist revolutionist groups—to be the re-embodiment of the forces which formerly determined a sound national life and which were corrupted by certain modern developments and institutions.

The importance of the totalitarian regimes lies in the fact that they signify

12. Cf. Waldemar Gurian, *The Rise and Decline of Marxism* (London: Burns, Oates and Washbourn, 1938), the last chapter.

13. The attitude of the different totalitarian regimes toward property is analyzed in its essential features by Calvin B. Hoover, *Dictatorship and Democracies* (New York: Macmillan, 1937).

14. Cf. Waldemar Gurian, *The Future of Bolshevism* (New York: Sheed and Ward, 1936).

an open break with modern democratic beliefs, which were considered self-evident until the rise of totalitarianism and which determined the limits within which all political institutions had to exist and act. Power is no longer in the service of communities. The final aim of politics appears now to be the maximum intensification of the power of the dominant group.

This new trend is not altered by the fact that the dominant group characterizes itself as promoting universal interests. It professes universalism only in the hope of intensifying the concentration of its power.[15] The tendency of the modern democracies, on the other hand, is directed toward relegating power to the background as much as possible and toward protecting groups as well as individuals against the illegal use of power. The aim of the totalitarian regimes is to make groups and individuals as helpless as possible against the concentration of power in the hands of the totalitarian masters. And further: individuals and groups must become active helpers if this concentration and intensification of power is to be realized.

The process of rationalization which was typical of modern democracies had its origin in the assumption that all uses of power, all application of force, ought to be justified by the aim to promote the general good;[16] what constitutes this good should not be determined by the state as a means of intensifying its power. In other words, the democracies reasoned that power should be used to protect the rights of individuals and groups.

The rationalization typical of the totalitarian regimes, on the other hand, is a purely technical one. Their aim is to realize the maximum of power concentration for the dominant group, and to adapt the regime to existing conditions in order to accomplish this aim. The totalitarian regime is for pacifism only so long as the regime has not yet reached sufficient military strength to fight a war or to gain its ends with threats of war. The totalitarian regime is for the rule of law, because without legal security no modern administrative and economic organization can work. The bourgeois specialist is liquidated in the Soviet Union only if and when there are other specialists available to replace him. The Catholic Church is recognized because opposition to the traditional religion would hinder the success of totalitarian propaganda.

The Use of Violence. Not love of violence, but precisely calculated violence is characteristic of the totalitarian system. Periods of explosive use of violence are intermixed with periods in which order and security are emphasized.

15. Hitler is for world peace if this peace is identical with the world domination by the best group, the German people. Only then true order will be maintained. Cf. *Mein Kampf* (New York: Reynal & Hitchcock, 1939), p. 394.

16. Cf. A. Esmein and Henry Nezard, *Eléments de droit constitutionnel français et comparé*, 8th ed. (Paris: Recueil Sirey, 1927), vol. I, pp. 28 ff., in which they emphasize the fact that the law is promulgated not for a particular interest, but in "the general interest."

Not a continuously active terrorism, but a terrorism which works at intervals and by continuous threat of violence is typical of the totalitarian systems. The use of violence is only the secondary expression of the hunger for power. The primary aim of the totalitarian system is not the complete destruction of the adversary but the paralysis of all potential opponents. The use of violence at calculated intervals is intended to convince its victims of the limitlessness of the totalitarian dominant power. The mixture of rule by law and limitless arbitrary power, the combination of courts and terroristic institutions, is calculated to defeat every potential opposition within the regime. The opponent is attacked just when he believes that he can now enjoy a quiet life; and if he despairs of his chances of doing so, he is given a sudden reprieve and hope is reborn.

This combination of the rule of law and the rule of terrorism[17] is also very useful in dealing with non-totalitarian systems. The people living under these systems can always be misled by the intervals between displays of violence, in which the legal aspect of the regime is emphasized, and terroristic actions of the past are excused as unfortunate happenings that will surely never recur. Observers are impressed by the fact that Hitler does not at once dismiss all non-Nazi officials and more or less conservative generals, and that apparently the legal continuity of the state is not destroyed but carefully preserved. Is it not true, after all, they ask themselves, that normality and stability are the final aims after a more or less turbulent transitory period? Those who share this belief forget that the terms "stability" and "normality" may have meanings completely opposite to those generally associated with them. The normality realized by Mussolini was the totalitarian regime, but what the Aventin opposition meant by normality was the return to the old liberal parliamentarian system.[18]

The Use of Propaganda. The rationalization typical of the totalitarian system evaluates everything as a means for gaining power. This attitude is expressed not only in the coexistence of the rule of law and the rule of terrorism, but also in a particular kind of propaganda. There are two things which one notices about this propaganda: first, that it is monopolized by the totalitarian rulers, and second, that everything can be used as a means of spreading it. There are no departments of life which are independent of politics. Therefore, propaganda can exploit all institutions and situations. Men living in a totalitarian regime have to participate from childhood until

17. Cf. Ernst Fraenkel, *The Dual State, A Contribution to the Theory of Dictatorship* (New York: Oxford University Press, 1940), and Karl Loewenstein, *Hitler's Germany* (New York: Macmillan, 1939).

18. Cf. Luigi Sturzo, *Italy and Fascism* (London: Faber and Gwyer, 1926), chap. VIII, "Aventine and Reaction," pp. 187 ff., and H. A. Steiner, *Government in Fascist Italy* (New York: McGraw-Hill, 1938), p. 74.

death in one of the official associations, the Hitler Youth, the Ballila, the Communist Youth, or the SA. There are no associations which are not controlled or dominated by the ruling party. Both leisure time and working time are carefully controlled. Even the most apparently innocent and non-political hobby is embraced by the regime—whether it is a club of philatelists or of chess-players; it must be co-ordinated with the regime. The regime is particularly interested in the regulation of births, because it is anxious to have the right kind of population increase. It fosters those social relations which are least likely to arouse opposition to or to decrease interest in the performance of public duties.

Violence is employed to create or to threaten the creation of exceptional situations. Propaganda intended to increase totalitarian power pervades the daily life of people in totalitarian countries. It demonstrates that this power is working everywhere and without interruption, permeating and affecting everything continuously. The individual may become an active helper of the system, even if he does not realize what he is doing. Surely, the women deifying Hitler are useful for the regime. But more important are the apparently more critical-minded persons, who put their hope in the moderate Goering; or even those who condemn the Nazi system, but, dominated by propaganda, fear much more the threat of Communism, which is accepted as the single alternative to the Third Reich.

Omnipresent propaganda is capable of influencing not only conscious thoughts and actions but especially subconscious attitudes of people. Propaganda and carefully calculated violence are the techniques which are used to produce and maintain unity in the totalitarian systems; modern democracies attempt to produce this unity by allowing discussion and competition between different groups. And if unity is created in modern democracies by this technique, it is again threatened by the same forces which have produced it. These difficulties are unknown in the totalitarian systems. The maintenance of unity is only a purely technical problem—the ruling group has to act as a united body before the world, and its power has to be applied in such a manner that it will not encounter a stronger or more dangerous power. Plebiscite campaigns, waves of propaganda, and the sacrifice of unpopular subleaders as scapegoats all serve as technical aids in keeping the power mechanisms at work.

TOTALITARIAN REGIMES AND MODERN DEMOCRACIES

Only if the nature of the power technique of the totalitarian regimes is realized can we judge the chances of democracy at the present time. This

power technique assumes that modern democracy is no longer the self-evident ideal and model, which was recognized as such even by those to whose mentality and practice it surely did not correspond—they had to use modern democracy as a kind of evening dress without which nobody is accepted in the leading social circles.

Comparison of the Two Systems. The totalitarian regimes appear today to be alternatives to modern democracy at least. They are credited with aptitudes for solving difficulties which modern democracies cannot solve easily. On the one hand the totalitarian regimes seem, as in the case of Russian Bolshevism, to be the embodiment of socialism; on the other hand, they not only prevent the rise of a socialism opposed to property and tradition, but they are able at the same time to appease the masses opposed to the existing social order. Until the first years after the first World War, modern democracy, with its promise of individual liberties and full political rights, as well as of the social rights of the masses, seemed to be the aim of the whole modern development of society. Socialism disliked being considered an opponent of democracy, and this dislike was typically expressed in the polemics of Kautsky against Lenin and Trotsky.[19] But this attitude changed, especially after the stabilization of the Soviet regime and the victories of Mussolini and Hitler.

Modern democracy appears now to some to be an obsolete regime and takes somewhat the same place which it formerly assigned to non-democratic, absolutist regimes. On the other hand, the totalitarian systems are thought by others to be technically perfect, so that the traditional respect for democracy would seem now to live only in the claims of the totalitarian regimes that they themselves are the true democracies.

The unity of will of the people under totalitarianism is expressed, supposedly, in the persons of the Leader and his favorite henchmen, whereas in modern democracies the people are supposed to be unable to express their will at all. Their press, their parties, their parliaments, and like institutions are dominated, according to totalitarian propaganda, by more or less invisible secret powers, cliques of parasites, Jews, Masons, bankers, and similar corrupt and corrupting groups, and there is, therefore, no liberty of opinion in modern democracies. Totalitarians claim that the existence of individual liberties precludes the possibility of true liberty, which consists in the unity of the leader with the people, in the identity of the will of the

19. Cf. James L. Cate and Eugene N. Anderson, eds., *Medieval and Historiographical Essays in Honor of James Westfall Thompson* (Chicago: University of Chicago Press, 1938), the article by S. K. Padover, "Kautsky and the Materialistic Interpretation of History," pp. 447 ff.

leader with the will of the people.[20] It would be a mistake to underestimate the powerful drive of the trend toward totalitarianism. But this trend can develop only if people cease to think about and to talk about its dangers, and if the groups competing for the possession of power should become too few or two weak to combat it.

Evils and Weaknesses of Totalitarianism. This trend is based on the further assumption that the totalitarian system affords power-seeking politicians and job-seeking youth enormously greater opportunities than the democratic system does. Such opportunities can exist only if the democracies do not energetically resist anti-democratic movements, and if these movements find allies or supporters in influential traditional forces. These "influential forces" though they are not often willing to introduce a totalitarian regime may attempt to restore a "sound order" menaced by trade unions, interventions of the political power in business, and such things. But as the German and Italian experiences prove, the "conservative helpers" are usually overpowered or discarded by the totalitarian movement and its leaders. Thyssen had to leave Germany; since he dared to criticize Hitler's policies, his importance as a financial supporter of the party during critical days is forgotten. Where today are Hugenberg and the Stahlhelm? Where are the Italian National Catholics, who supported Mussolini? These tried to be masters, or at least influential forces, but in reality they played the role of a magician's helpless disciples; they were unable to direct the course of the stream, and this stream therefore destroyed not only their opponents but themselves as well.

The totalitarian movements profess themselves to be superior to all anti-liberal and antidemocratic moderate and conservative groups because they have a conscious relation to the masses, are able to manipulate mass feelings, and do not regard the masses as immature and incompetent. The dominant group, the party, is supposed to be open to everybody. This group has no social and traditional limits, and, in the opinion of the totalitarians, this lack of limits constitutes its superiority to groups more or less dominated by traditions—for instance, the body of German army officers. It seems to operate on the theory that those who rise from nothing can dare everything, especially after they acquire authority.

Will it be possible for the totalitarian systems to coexist with the democracies? The assumption could be made that the totalitarian systems would

20. Cf. Ernst R. Huber, *Verfassung* (Hamburg: Hanseatische Verlagsantalt, 1937), pp. 90 ff., the passage in which the National Socialist jurist asserts that the true will of the people is not necessarily expressed by the result of an election, whereas it is necessarily expressed by the will of the leader.

remain the affair of certain nations or certain geographical spaces. We could remember that nondemocratic regimes have continued to exist during the trend towards democracy. And we could make the generalization that after a radical and utopian period there always follows a period of more or less cynical cupidity for spoils. Therefore, we might ask ourselves if the world revolution or the revolution of nihilism, the desire for which is, according to Rauschning, the impelling force behind Hitler's actions, is not realized, could not a period of stabilization follow? Might we then not observe a slow return to institutions under which a real and not merely an apparent stabilization is possible? Is it true that the Stalinist Bureaucracy is becoming more and more national, and that the Goering type of leader, as he is seen by Sir Nevile Henderson, is replacing the incalculable, dreaming Hitler and his type?

In answer to these reflections it must be pointed out that the totalitarian regimes destroy all real stabilizing forces. The modern democracies assume a unity limiting all discussions and uses of power. It is the lack of just this unity which produces the totalitarian regimes. These regimes have proved again and again that they are able to act as a unit. The different groups in the modern democracies can conclude understandings and agreements—at least as long as the assumptions of the unity are not violated—as long as a particular group does not have the power to act for all the groups and to put its own welfare above the welfare of the whole democracy. But for the totalitarian systems compromises and understandings are possible only when preparation for combating a totalitarian foe makes armistice necessary. In the long run, the test of the strength of totalitarian states is their ability to destroy non-totalitarian states. They admit this openly in their public denunciations of the democracies as corrupt and outmoded regimes, which cannot resist the rising young peoples and their regimes. It does not matter whether this destruction is realized by open force or by the threat of force; whether it is managed by exterior attack or by interior dissolution.

Besides the direct type of domination in government there exists an indirect one, having many forms. A people accepts indirect domination if it is compelled to give up its position of leadership and to be content with a secondary place. Hegel has stated that only one people can express the spirit of one historical epoch. And the analogy would seem now to hold for a regime. How the totalitarian regime as world master is to be characterized—whether by its rise as a militaristic nationalism or by its origin as a utopian socialism—does not really matter. Therefore, it is not accidental that the attempt of the modern European democracies to play one type of

totalitarianism against the other did not work, and that the totalitarian systems were, on their side, able to weaken their opponents by skillfully using what appeared, on the surface, to be contradictions between themselves.

TOTALITARIANISM AND CHANGING SOCIETY

In order to describe comprehensively the totalitarian regimes, we may conclude with a few remarks about the forces and events from which they originated.

Marxist writers like to point out a connection between the rise of totalitarianism and the changes in capitalism. Originally, young, ascending capitalism was opposed to the absolutist or aristocratic state. It was in its interest to fight against privilege, for legal security, and for the rule of law. Now monopolistic capitalism is interested in using the power of the state as an instrument to keep the masses quiet and to avert their longing for a social revolution by a skillfully organized demagogic movement. The use of this strategy is sometimes thought to explain why the evolution of modern society did not produce socialism. The peaceful rise of socialism had to be checked by the application of totalitarian violence.[21]

But this theory does not explain the trend towards the totalitarian state in the Soviet Union. There the backwardness of Russia is offered as the explanation. Russia had had no liberal experiences and, therefore, a kind of Red absolutist and bureaucratic regime could arise.

Effects of the First World War. Much more concrete examples are afforded by conditions during and after the World War.[22] The war concerned not only the soldiers but also the civil population. One unified organization of the people and its whole life seemed ideal. Especially in Germany was the defeat of 1918 attributed to the lack of a totalitarian leadership. There existed besides the military chiefs a civil government, and this government had to take more or less into account the Reichstag and its parties. Hitler's claim to totalitarian leadership is based upon these war experiences. Whereas Hitler stresses the importance of influencing the masses, General Ludendorff had simply claimed for the military chief an absolute leadership in the totalitarian war.

In general, the War of 1914 to 1918 weakened the faith in peaceful methods, agreements, and discussions. It strengthened the belief in a tech-

21. The middle class does not accept proletarian socialism and prefers to support totalitarian movements against regimes which in a one-sided manner apparently favor the workers and which are under the influence of trade unions and similar institutions. Cf. Goetz Briefs, *The Proletariat* (New York: McGraw-Hill, 1937).

22. Cf. Hans Barth, "Reality and Ideology of the Totalitarian State," *Review of Politics*, July, 1939, I, 275–306.

nique of power organization aiming only at results and disregarding all moral and human consideration. And it demonstrated the importance of small, resolute elites, which had existed only in theory before that time.

Belief in the power of a relatively small, organized elite was then strengthened by the victory of Bolshevism. There, it seemed, was an impressive example of how an organized minority succeeded in organizing the masses and in holding power after successful mobilization.

Weakening of the Democracies. But we have to take into account also the weakening of the democracies as a contributing factor in the rise and success of totalitarianism. Several reasons for the decline of democracy are offered by students of government. England and France may no longer be looked to as political models. Democratic institutions apparently can no longer be counted on always to select the most able leaders. Their former ability to do so was often cited by its friends—the German sociologist Max Weber, for instance—as an argument for democracy. Slow action and indecision appear to be characteristic of modern democracies. The parties no longer seem to respond to real issues but appear as artificial groups fighting for some particular interest.[28]

The attractive force of democratic institutions is endangered on the one hand, by the Soviet Union, and on the other hand, by Fascist Italy and Nazi Germany. Proletarian and national myths arouse imaginations and stimulate activity. The democracies oppose the rise of totalitarianism, first, with feelings of superiority and later with a more or less strong decision to maintain peace at any price. The nationalistic myth is strengthened by the decreasing influence of the proletarian myth. This myth has grown old and exercises seductive power only on some groups and not on the whole population.

The Hope of Democracy. These facts notwithstanding, the spectator of the political struggles of our time ought not to forget that behind this weakness of the democracies there lives one of man's most admirable ideals. The man who believes that understanding and agreement are the last aims of all political life cannot comprehend the man who believes in struggle and the destruction of the adversary. What appears to the democratic ideology as barbarism appears to the totalitarian ideology as proof of youth and vitality. But it is necessary to maintain this youth with artificial means. At least that is the hope of those opponents of totalitarianism who abstain from bold actions fraught with tremendous risks. They believe optimistically that a lasting stability is impossible in a totalitarian regime and that a continual

23. Cf. Mortimer Adler, "Parties and the Common Good," *Review of Politics*, January, 1939, I, 51–83.

suppression of the will for freedom cannot be expected.[24] Therefore, they believe that the idea of a union between liberty and order will again become powerful, and will oppose the modern trend toward an order devoted to the service of one leader manipulating mass emotions.

CONCLUSION

The rejection of the totalitarian regimes by the democracies is, of course, not based exclusively on the moral antithesis which we have just mentioned. A swift survey of other criticisms of these regimes and a brief appraisal of democracy will conclude our discussion.

Objections to Totalitarianism. The claim that they are founded on violence and on a disregard for ethics and human rights is not the only accusation which is made of the totalitarian regimes; their democratic opponents claim that their technical superiority is only an apparent one. The objections to totalitarianism may be summarized as follows:

1. The totalitarian regime claims to realize political unity more perfectly than democracy because it has a definite ruling elite, which, unlike that of the old absolutist regime, is drawn from the masses. The answer generally made to this claim is that the existence of such elites is in the long run injurious to a real unity. Corruption spreads because there is no free public opinion and no opposition to criticize and temper the actual operation of government. The open quarrels which often take place among different parties are replaced by maneuvers behind the scene.[25] The dictator can maintain his position only by playing his henchmen and their followers against one another. For instance, Hitler uses Goering as a check on Goebbels and vice versa.

2. The apparently unshakeable exterior unity of totalitarian governments stimulates their leaders to embark on very dangerous ventures. The group around the leader and the composition of the whole ruling party constantly deteriorates. Unchecked power corrupts. The absence of efficient controls destroys the contact of the leader and of the leading group with the real situation. No open criticism is possible. Therefore, in the long run conspiracies which must be met by terrorist action are unavoidable. The lack of any limitations of power makes the problem of the succession of power very difficult. The succession to the leadership is itself the object of power competition.

24. Cf. MacIver, *loc. cit.* This author points out that in the long run totalitarian propaganda loses its efficiency and emphasizes the fact that "Dictatorship must make crisis permanent, lest the qualities of human nature that it suppresses should break through" (p. 47).

25. Cf. C. J. Friedrich, *Constitutional Government and Politics* (New York: Harper, 1937), p. 293: "The real difference is that the dirty laundry of popular regimes is washed in public, whereas under authoritarian rule it is washed behind the scenes or not at all."

3. The monopoly of propaganda by the elite and the rule of terrorism make it impossible to distinguish between real and compulsory consent. A complete lassitude is the consequence of artificially-produced enthusiasm.

4. The extraordinary increase of political power removes vitality from all groups in society. Even in the family nobody is secure against being denounced as politically unreliable and against the threat of the corresponding penalties. A barbarian simplification of social life is the result. To counteract this development the hope is expressed that this primitivism will be intolerable to peoples who have had the experience of liberty.

What the Two Systems Think of Each Other. The objections to the totalitarian regimes discussed above are rather technical and institutional. The basic opposition between modern democracies and totalitarian regimes can be more accurately ascertained by examining the views of each concerning the trends of the other.

The totalitarian regimes consider that the conflict between old and tired citizens, enjoying the fruits of their former conquests, and youth which has not yet exhausted its forces is the most important explanation of the political-social struggles in our time. Those who enjoy the results of their past actions are anxious to have peace at any price and have, in reality, no confidence in the ideals which they publicly profess. Their desire for peace and liberty is only an expression of their will to avoid serious and dangerous conflicts and of their fear to make decisions.[26] Their apparently optimistic belief that there is always the possibility of peaceful agreement is really the expression of a flat skepticism.[27] The totalitarian regimes oppose this tired and static skepticism by activistic and dynamic nihilism. They calculate that the technically perfect threat will never be met by resistance of equal force. The democracies either will not fight or will not help each other with sufficient forces. The totalitarians believe further that the domination of a brutal minority over the masses is more easily accomplished than the defense of a regime which believes that there are limits to the duplicity of a will devoted to the pursuit of power.[28]

The adherents of the democracies, on the contrary, believe that the rise of totalitarian regimes is only a more or less transitory phenomenon—that this rise was made possible by technical faults in democratic institutions—

26. Cf. Carl Schmitt, *Die geistesgeschichtlichen Grundlagen des Parlamentarismus* (München: Duncker und Humblot, 1923). Schmitt characterizes the parliamentary regimes of today as regimes by discussion which are unable to make decisions.

27. The democracies are accused of having no faith in the final victory of their cause. The expression of such a belief is the "myth" of G. Sorel—no victory is possible without violence and battles. See Georges Sorel, *Reflections on Violence* (New York: Viking, 1914). For excerpts from this work see Donald O. Wagner, *Social Reformers* (New York: Macmillan, 1937).

28. Cf. Herman Rauschning, *Revolution of Nihilism* (New York: Alliance, 1939), and the *Voice of Destruction* (New York: Putnam's, 1940).

for instance, by proportional representation, by the lack of real and vigorous opposition, and by pseudo-pacifism. Modern Machiavellianism is met by the thesis that it is not possible to fool all of the people all of the time. The belief predominates that in the long run reason is more powerful than mass hysteria. The pessimistic view of the masses is not accepted. The mass does not appear to the democracies to be a wild beast which one can tame by flattery and brutality; to them it is a being that eventually follows the voice of reason and realizes what is useful for everyone, not what is useful for a few rulers. Peaceful agreements appear to the democracies to be reasonable and therefore to create stability, whereas the absolute victory or domination of one group appears to them to be unreasonable, and therefore, as productive of short armistices and unstable situations. Leaders in totalitarian states are chosen to meet exceptional conditions, but only in the modern democracies can leaders come naturally and continuously to the fore. The totalitarian regimes are in a state of inflammation; the democratic regimes are in a state of health.

Outcome of the Struggle? Who will be victorious in the conflict between the totalitarian regimes and democracy? Will the enforced simplification become a reality? Only if we could know the future would we dare to answer this question. It cannot be answered merely by pointing out the superiority of the values basic in democracies. Superior civilizations disappear if they lack vital power and if their leaders are no longer able or willing to fight. A living lie—and that is the tragedy of human life—is more forceful than a dead truth. Liberty is not a self-evident fact, nor is it absolutely protected by political mechanisms. One must fight for it, regardless of risks and dangers. The man who risks nothing is threatened by the loss of everything. Not only political techniques but real moral values are of central importance in politics. Not just a democratic legalism but an intensification of the belief in liberty, in individual rights, and in the desirability of diverse social groups will pronounce the last word on the future of democracy.

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CHAPTER TWENTY-SEVEN

Politics and Education

POLITICS as we use the term here means the organization and operation of our government, and especially the many relationships which citizens have with their government. It embraces not only our constitutional organization in national, state, and local areas; it includes party organization and management. It also includes the services of all persons in government employment in any capacity. If citizens are to have a clear concept of their political institutions, they must have fairly clear notions about various systems of government. We in America today cannot afford to be uninformed concerning the various ideologies that are so successful in Russia, in Germany, in Italy, and in Japan. We should know more than we do about the government of Great Britian and of other so-called democracies.

NEW CONCEPTS OF EDUCATION

Education as we generally think of it is carried on in the schools. We recognize that education as a sociological phenomenon is more than formal education, since all experience educates. Controlled or formal institutional education has been devised in the effort to shorten the time and lessen the experiences necessary to give children a foundation for their future education. Each generation has more to learn and more to use than the preceding generation had. Thus society has developed formal educational systems which have three functions: (1) to preserve cultural heritage; (2) to train each generation to understand and appreciate the type of culture its forebears have achieved; and (3) to train each generation so that it may improve and modify this culture in terms of ever-changing conditions. Until recently, education was supposed to concern itself only with young people. During the past few years we have learned that people of all ages can learn about equally well. Adult education of a less formal nature than that given in the regular schools now has a real place in our society. It should be used more than it has been to help adjust our citizens to our political, economic, and cultural ideas and aspirations.[1]

1. Carl F. Huth, "The Outlook for University Extension Services." *The Outlook for Higher Education*, ed. by John Dale Russell (Chicago: University of Chicago Press, 1939), chap. XVI, p. 256: "We . . . believe that our political, social, and economic system cannot be made to operate successfully, our democratic society maintained, unless we have an informal and edu-

PURPOSES OF POLITICAL EDUCATION

The Political attitudes and ideas of our people are probably as important as any aspect of our social life. All phases of education should take this into account and provide training in the operation of our formal and informal political institutions. This training should be begun in the elementary school, where political attitudes, ideals, and patriotism can best be taught. It should be carried into the secondary schools, where the formal training may be expanded[2] and students may be taught about political institutions in preparation for their participation in political affairs. Here too, training should be provided for many of the government services in both civilian and defense fields. Institutions of higher learning such as colleges and universities can go farther than the secondary schools and can give instruction in comparative government, the finer aspects of statecraft, and the philosophy of politics, and can prepare students for the various government positions which require training in science and in social science. These institutions should definitely equip individuals for leadership in political life, whether it is in the community or in government service. We know we have gone beyond the stage in civilization where each citizen is trained and able to take any position in the government. We acknowledge that training and specialization are necessary for many positions.[3]

Our democratic training in politics has not been considered important until very recently. The assumption has been that politics is a field which trains by actual experience and that the schools can do very little to train for political activity or leadership. Likewise, political theory has been

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cated citizenry, that in the enjoyment of life and liberty and in the pursuit of happiness our people deserve all the aid they can be given. This is why education . . . has come to us to be well-nigh a religion."

2. R. E. Eckert and T. O. Marshall in *When Youth Leave School,* New York State Regents' Inquiry into the Character and Cost of Public Education Studies (New York: McGraw-Hill, 1938) state that young people do not appear to keep as adequately informed about public affairs as they should to be good citizens.

3. *Proceedings* of the Conference on American Self-Government held at Indiana University May 13 and 14, 1940 (mimeographed). A reporter's summary of Mr. S. Howard Evan's report follows:

"He re-emphasized President Dykstra's observations that many things were being done but that much more needed to be done. He suggested that perhaps the greatest weakness in citizenship efforts generally was their failure to effect a mobilization of the tremendous educational and civic resources which existed and which might be brought to bear on the basic problems of public affairs. He said that in the nation as a whole there were:

"A. Highly skilled and professionalized technicians capable of dealing with almost any specific problem of civic life;

"B. An existing mechanism of formal classroom education through which thirty million youths and additional millions of adults can study the problems of citizenship;

"C. Existing organizations such as men's and women's clubs, patriotic societies, fraternal orders, and the like through which a large percentage of the public is expressing an interest in civic affairs.

"Mr. Evans said that if these resources could be focused properly on community, city, state, or national problems, an increasingly effective attack could be made upon them."

abhorred because "practical" politicans and businessmen, not teachers, have been considered the only persons qualified to analyze political problems constructively.[4]

INCREASING NEED FOR POLITICAL EDUCATION

This thesis is undergoing a change under the impact of conditions in the world today. The growing complexity of our socio-economic life has resulted in great expansion of governmental agencies and functions and has also raised serious questions as to whether or not the democratic system can cope with modern conditions, especially in times of crisis.[5] It has been recognized only very recently that the government requires intensive training for many governmental positions. It is being realized to a lesser extent that training is also necessary for intelligent political activity. A little thinking should convince anyone that the average mind, without special training, cannot cope with the complexities of organized life and, therefore, that leaders must be educated and their advice followed as long as they are leading in the right direction. These leaders can help to preserve democracy only if they know what it is they are trying to preserve. They must be able to sense the realities of the day, to translate them into party or governmental policies, and to present the issues to the citizens of the nation in understandable language.[6] It would seem, therefore, that the survival of democracy depends upon its ability to provide leaders. If there are no well-trained leaders, then the quality of leadership deteriorates and democracy suffers. It does not seem inappropriate to suggest that these past months have seen proof of this in at least some of the European countries whose conquest by the totalitarian states has been effected both from without and from within.

Democracies appear to have been remiss in training enough of their citizens to hold office—at least enough to hold the most important government offices. They have also failed, in part, to train their citizens for party and informal political activity. Dr. J. C. Morrison, writing on "The Purposes of Education in American Democracy," quotes an article written from Czechoslovakia about a year before the Munich debacle:

> Democracy will never be imperiled by outside attacks. Democracy is always weakened from within. Only its own feebleness or complacency destroys it. . . .

4. E. S. Griffith, *The Impasse of Democracy* (New York: Harrison-Hilton, 1939), p. 380. The author traces current political ideologies to determine their trends. He attempts to find, through a scheme of national planning, a mechanism which will help to solve current problems.

5. Probably the basic studies in this field have been those of President Hoover's Research Committee on Social Trends, summarized in Chaps. 25–29 of *Recent Social Trends in the United States* (New York: McGraw-Hill, 1933).

6. Robert Littell in "The Schools Teach Practical Politics," *Readers Digest*, XXXI (July, 1937), 75–6, tells how public schools in Detroit, Des Moines, and Tulsa instruct students in civic affairs and follow through to participation in election campaigns.

Democracy dies from lack of dicipliñes, unwillingness to compromise group pressure, corruption, ursurpation of public power because the public is greedy or indifferent. It dies unless it draws life from every citizen. Denouncing dictators gets nowhere. The job of those who believe in the democratic process is to be positive, not negative, to build it up, expose and correct its mistakes, keep it alive.

Herein lies the crux of the problem confronting public Schools.

Dr. Morrison also says,

If democracy is to survive, if here in America we are to fulfill the visions of the founding fathers, then we must develop through the oncoming generation the spirit and the techniques of democracy.[7]

Need for Indoctrination. The time has come when it is necessary for our democracy to see that its citizens know much more about the theory and practice of democracy than they now know.[8] It is necessary for us to do some ideological indoctrination. In this respect, at least, the totalitarian states have proved their superiority in education to the democratic countries. Our political education should aim to teach our citizens the strong points and the weak points of democratic government.[9] It is also necessary for them to know the essential facts about the other types of government prevalent in the world today, and the types which have existed at other times. Each of these governments has its advantages and disadvantages. These should be studied and recognized. It is better for our people to get this information in schools and under impartial teachers than from small groups who are seeking to convince citizens that some type of government is superior to that which we have chosen. Since freedom of speech is necessary in a democracy, these groups will always exist, and the best way to meet their attacks is to see that our schools furnish information about government which is less

7. J. Cayce Morrison, "The Purposes of Education in American Democracy," *School and Society*, L (Nov. 4, 1939), 578, quoted from *The Purposes of Education in American Democracy* (Washington: Educational Policies Commission, 1938), p. 109.

8. John D. Lewis, "The Elements of Democracy," *The American Political Science Review*, XXXIV (June, 1940), 467–80.

9. The present crisis in world society has called forth large numbers of publications dealing with democracy. J. W. Hudson in *Why Democracy?* (New York: Appleton-Century, 1936), attempts a reconsideration of the basic concepts of this term and their significance in the light of present-day challenges, which he feels could be met satisfactorily under our present system of government. Similar questions have been searchingly examined from another point of view by Max Ascoli and Arthur Feiler in *Fascism for Whom?* (New York: Norton, 1938); Max Ascoli and Fritz Lehmann (eds.), *Political and Economic Democracy* (New York: Norton, 1937). Educators have not neglected the study of this basic issue. B. H. Dode, *Democracy as a Way of Life* (New York: Macmillan, 1937), re-examines the procedure of democracy and concludes that it can be perpetuated only through the consideration and active participation of the individual citizen. In a sense, the outstanding features of the outstanding conclusions in this field are summarized from the educational point of view in the Educational Policies Commission's *The Unique Function of Education in American Democracy* (Washington: National Education Association, 1937).

fraught with bias than that which the dissenters are usually able to give out.[10]

NEED FOR OBJECTIVE TEACHING

With all of the freedom that exists in America, our schools have been handicapped very frequently by groups and individuals which have made it difficult for well-balanced teachers in our colleges and universities to study objectively happenings in countries like Russia, Germany, Italy, and Japan.[11] The inclusion of courses in the ideologies and governments of these countries, or even the fact that such subjects have been discussed in classes, has often resulted in embarrassment to teachers and in public reprimand of both teachers and institutions.[12] This difficulty which has been encountered by colleges and universities has put even more restriction upon courses of study and upon teaching in high schools. This condition should be remedied. The truth should not be feared.

The above statement does not imply, however, that teachers should be entirely unrestrained. Instruction in politics and government should be impartial and should not be used to indoctrinate the students with the principles of any type of government but our own. A teacher who would do so would be departing from his function as a teacher, particularly in our public institutions.

WIDER ASPECTS OF CITIZENSHIP TRAINING

It has been an accepted concept in our country that education, such as is given in our elementary and high schools particularly, develops political ability and responsibility. We know that this is not true. Many people who have not attended school, or who have attended very little, and many people who are almost illiterate have shown great political capabilities. Nevertheless, we all recognize that our public-school system, aided by institutions supported by non-public funds, has raised the standard of citizenship in this country and thus made a great contribution to our nation which has helped our democracy to grow and to improve.

10. Thomas H. Briggs, "The Enemy Within," *School and Society*, Jan. 27, 1940, LI, 101, 103: "How can democracy defend itself against the subtle war that is being waged against it unless its people know what it is and what it implies? . . . . An even greater threat to democracy than the groups within our society who believe in a hostile ideology is the larger group who do not know what democracy is."

11. H. E. Wilson in a study of civic education in New York State secondary schools, *Education for Citizenship* (New York: McGraw-Hill, 1938), expresses the belief that present teaching is too routinized and too little adapted to differences in pupils and communities.

12. R. S. Lynd and Helen Lynd, *Middletown in Transition* (New York: Harcourt, Brace 1937), is a study of the extent to which conservative influences in "Middletown" control and shape the policies of the schools.

In order to improve our education we should not thin it out or let it trend too far toward the abstract and the cultural; we should not let it follow too far the present trend toward more and more vocational and professional training. We should educate for participation in our democratic political institutions, and give a more important place in our educational institutions to this training than it now occupies.

When our elementary schools were instituted it was thought that knowledge of "the three R's" would equip the people of this country to operate our democratic institutions. This has proved to be more true than we sometimes realize. Even so, we now know that reading is a much more complicated proposition than it was a few decades ago. With all of the newspapers, magazines, books, and formal and informal propaganda publications which are presented to the public each day, one must be a more judicious reader in order to get at the truth than he had to be when the Bible and a small library and a very occasional newspaper were all the reading matter available to most people. In like manner, a knowledge of how to add, subtract, multiply, and divide, and to do simple bookkeeping, while still necessary, does not equip the people of America to understand the deluge of charts and statistics which we are all expected to understand in order to judge correctly what is happening in our every-day lives and in our various forms of government from local to national. It is possible for the teacher of mathematics to do much more in the way of training for political activity and understanding in the high school than he is already doing.

POLITICAL EDUCATION AND DEMOCRATIC INSTITUTIONS

One can hardly be aware of the situation in the world today without realizing that the primary freedoms that we cherish are fast being lost to millions of people who have always enjoyed them. These freedoms which are the foundations of all democratic institutions and particularly of our own are freedom of the individual, freedom of speech, freedom of press, freedom of assembly, and freedom of worship according to the dictates of one's own conscience. The schools of this country at all levels should teach more about these foundations of democratic institutions.[13] History shows that if they are lost, that mankind finds the process of getting them back a very slow one.

In a democracy the individual counts for much more than he does in a monarchy or in a totalitarian state. Therefore he must be better informed,

13. Hans Elizas, "Liberalistic Education as the Cause of Fascism," *School and Society*, LI (Jan., 1940), 592–8.

better educated, and more able politically in order to make democratic institutions function better than, or even as well as, those of governments which are directed by an individual or by a small group. It may appear that monarchies and totalitarian governments are for the time being more efficient than democracies, but we in this country are of the firm conviction that with the passage of time, democracy is the more effective form of government both for the individual and for the group.

This fact, it seems, American democracy has failed to appreciate. We have not been sufficiently aware of the present trend in the world.[14] We have continued to operate our democracy carelessly and very frequently to the advantage of other nations rather than to our own. Too frequently the spoils system and the rights of a particular group have dominated and, to a certain extent, the general welfare has been overlooked. The great development of this country, our rapid growth, and our rich natural resources, have permitted us to make many mistakes and to disregard the fact that a democracy cannot survive without leaders.[15] Citizens need to participate in, to work to preserve, and, if necessary, to defend their democratic institutions. Other countries less fortunate than we have paid a very serious price for mistakes which have so far cost us little. We may not always be so fortunate. Proper education can help us to avoid mistakes.

The success of the totalitarian states, with all that it means in governmental organization and with the changing of economic policies, presents a challenge to all democracies and especially to ours. We must perfect our government and improve our institutions and be more capable individually; otherwise it is doubtful whether or not our institutions can meet the challenge, and we may lose much that was gained by our forefathers and which has slowly been built into American democracy. Improvement in humankind is slow, but democratic institutions are based upon the assumption that an individual is capable of acting not only in his own interest but in the interest of the group. It is recognized that acting in the interest of the group calls for self-denial, for great forbearance and understanding. The desire and the ability to do it can come only through education and from a patriotism that has many of the characteristics of religious zeal.[16]

14. K. C. Leebrick, *Re-educating Citizens in World Affairs*, chap. 34, in F. J. Brown, Charles Hodges, and J. S. Roucek, *Contemporary World Politics* (New York: Wiley, 1940), p. 780.

15. Ordway Tead, *New Adventures in Democracy* (New York: McGraw-Hill, 1939). Mr. Tead discusses the ways and means of making democracy more effective. He is largely concerned with the improvement of personnel, the aim of which is to provide the leadership so essential to democracy.

16. Wilred Parsons, *Which Way Democracy* (New York: Macmillan, 1939), p. 295. To Father Parsons the ultimate problem of the state is a religious one.

NEED FOR REORIENTATION OF THINKING

These past months have ended many illusions.[17] We need leadership and information about many things such as isolation, the Monroe Doctrine, dictatorship, the new economies, and totalitarian ideology. We need to know much more about internationalism and international law and its practice than we now know. The schools are equipped to undertake this training if we are willing to take the pains to alter our courses of study and to reapportion time and to re-orient the objectives of education in order to reach this goal.[18] Something will have to be dropped from the curriculum. Methods of teaching history will have to be changed. There will have to be additions and subtractions in almost every course in the curriculum. These changes will be slow unless there is informed leadership that makes them possible and unless public and private insistence is strong enough to put them through.

If we are courageous, and not too slow, our training in politics can accomplish its goal of preserving and improving our democracy.[19] In order to do this it is necessary not only to teach students about democratic institutions and ideals and objectives, but also to teach them about the functioning of democratic institutions; to call attention to their weaknesses with the hope that these may be improved. We cannot wrap the cloak of righteousness about ourselves and hope that it will turn away all evil. We must be realists and recognize the world as it is today and be ready to meet the challenge without sacrificing our democratic institutions. Unless we can solve our industrial problems, eliminate so far as is humanly possible the problems of relief and unemployment, and give men the opportunity to work, democracy probably cannot exist here or elsewhere. These problems need to be studied in our colleges in courses in economics, sociology, and political science. We need informed leadership. We have paid too much attention to theory and not enough to practice.

M. Jean Giraudoux, speaking before the American Club of Paris on February 22, 1940, after discussing the objectives of France spoke as follows:

> Such is our aim: a peace that will make an end of fallow land in France, will place our deserted countryside at the free disposal of our ex-soldier peasants, and will modernize our farmhouses; a peace that will withdraw from the worker

17. E. H. Carr, *The Twenty Years' Crisis* (New York: Macmillan, 1940) is a brilliant analysis of the inability of the dominant democracies to think realistically about international problems and points out how many of the postwar peace policies were based on pure illusions.

18. G. S. Counts, *The School Can Teach Democracy* (New York: Renal [Day], 1939), p. 32.

19. Charles E. Merriam, *The Making of Citizens* (Chicago: Chicago University Press, 1931), ought to be studied as an excellent introduction to the basic sociological elements in the civic training for nationalism in England, France, Germany, Switzerland, and Austria-Hungary.

none of the privileges he has won, that will protect him against the machine and, by providing him with modern dwellings and the means of living on an ampler scale, will give him elbow-room and breathing-space, a goodly share in the national estate. Our aim is to restore confidence to those who nowadays are inwardly resigning themselves to the abandonment of any, even the least, of the virtues of our race. To restore to our technicians every facility for invention and its practical application, to the greatest possible extent; to our school-teachers and professors the dignity of their all-essential calling; to our craftsmen the joys of craftsmanship and to our architects the utmost possibilities of architecture; to businessmen the zest and scope for large-scale ventures; to bankers boldness and the forward-looking mind—in a word, to restore to the creative spirit the control of one of the finest fields for its activity the world has known, and to maintain the standard of our workmanship and produce at its splendid best.[20]

These words seem strange at the present time with France under the control of another government, but nevertheless they give the object of that democracy and our object should not be far different from it.

A friend of many years' standing in a recent letter to the present author pointed out that whatever the past, the future is going to be different, and that we have to prepare to meet it. He wrote,

> Next week I have to deliver a commencement address. I am using for my topic:
>
> "Here's no meaning but of morning
> Naught of night but stars remaining."
>
> —C. Day Lewis
>
> It seems to me that if we try to find meaning in current events in terms of what we have hitherto known or believed we are going to find ourselves in utter confusion. We must realize that we are starting the morning of a different kind of day from what we have been used to, and if the events of the hour have any meaning at all, it is in terms of themselves. If we think in terms of this new chill, very strange morning, we may find new truth to which we can adjust ourselves.[21]

This is the problem that we must solve in our democracy through education and through correct political practice. Democracies can and must survive. We, in America, are dedicated to the task of making them survive. The lesson of history is that leaders pass but that peoples survive. No totalitarian leader has yet been able to dam up the stream of history completely. The democratic governments can survive and perfect themselves as their citizens are better able to understand and to operate democratic institutions. We in America have put our faith in Education and in Democracy.

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21. Personal letter from Dr. J. M. Baker to K. C. Leebrick, June, 1940.

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Glossary

FROM a long tentative list, the coauthors have chosen and defined the terms which they believe should be included in this glossary. Some authors feel that certain terms contained in the text cannot be explained adequately in a few words; others feel that in many instances instructors should explain unusual words and phrases; all agree that students should consult unabridged dictionaries and other reference works as often as possible. Since it has been necessary to limit the number of terms and the length of definitions, the aim has been to make the list represent, as nearly as possible, an authors' consensus.

—J.M.C.

AAA—the Agricultural Adjustment Administration, an agency of the Department of Agriculture which is responsible for the administration of legislation designed to raise farm income more nearly to the level of non-farm income, to conserve soil resources, and in general to protect the interests of producers and consumers of farm products.

adunata (Italian)—"popular assembly" or "gathering." The term designates the mobilization of the entire civilian population in Italy by the Fascist regime, in order to compel the masses to listen to announcements of the government, speeches of the Duce, and the like.

ancien régime—the former political and social system as distinguished from the modern; the political and social system existing in France before the Revolution of 1789.

autels de la patrie (French)—"altars of the fatherland"; places of worship within the frame of the officially secularized religion under the Jacobin control of the French people during the French Revolution.

Avanguardia, Avanguardisti (Italian)—"Advance Guard"; a Fascist youth organization in which boys from fourteen to eighteen years old are enrolled for military and civic training.

Balilla (Italian)—a Fascist youth organization, similar to the Avanguardia, for boys from eight to fourteen years old. The name is derived from the nickname of a juvenile Genoese hero.

Blitzkrieg (German)—"lightning war"; the doctrine of destroying the opponent by one or two annihilating blows.

BODY POLITIC—a group organized for government, now usually specifically a state; also, an organized society, as in a church.

CANON LAW—that considerable body of the total law which, in medieval times, was under the jurisdiction of the Church; specifically, a Canon is a law, or rule of doctrine or discipline, enacted by a council and confirmed by the pope or the sovereign.

Carbonari (Italian)—the most famous of Italian secret societies, which originated in Naples after 1815 and spread rapidly over Italy and other European States. The movement first aimed at the overthrow of the existing reactionary government and gradually embraced the idea of unity for all Italy. The Carbonari, inspired by Christian and humanitarian ideas, were organized along republican lines and borrowed from Masonic rituals. In their later development they were given to violence and other acts which endangered the authority of the state.

CAREER—a term used in diplomatic parlance to differentiate those diplomats appointed without respect to professional diplomatic training from those especially prepared for offices in the diplomatic and consular branches of the Foreign Service of the United States. (The phrase "a consul *of career*" is in common use.) In Chapter 19 the term is used in connection with the United States Civil Service.

caveat emptor (Latin)—"Let the purchaser beware"; a maxim implying a rule of English and American law that the purchaser buys at his own risk, except as to express warranties or those implied by law.

CHAUVINISM—in a strict sense, exaggerated nationalism; in a broader sense, exaggerated devotion to any cause. The term sprang from the name of N. Chauvin, an over-fervent adherent of Napoleon I.

Cheka (Russian)—the name (formed from the initial letters of the Russian words for "extraordinary commission") for the Russian secret and political police from 1917 to 1922. See Ogpu.

CIO (C.I.O.)—the Congress (formerly Committee) of Industrial Organization; a labor organization which came into being as the result of the impetus of the National Industrial Recovery Act of 1933. It represents a shift in emphasis from craft unionism (represented by the American Federation of Labor) to industrial unionism.

COMMUNE—the smallest administrative district in France, locally self-governed by a mayor and a municipal council; a similar district elsewhere; also, the inhabitants, or the government, of such a district.

COMMUNIST MANIFESTO—a concise statement of scientific socialism, issued in 1848 by Karl Marx and Frederich Engels and based on Marx's thesis that the history of society up until that time was fundamentally a history of the struggles between different classes of society. It has often been called the "Workers' Declaration of Independence."

COMMUNITY (Hitler Youth, Balilla, Communist Youth, SA)—see *Gemeinschaft.*

CONSTITUTIONAL CONSENSUS—the general agreement among the citizens of a given state to observe certain constitutional practices.

COSMION—a world in miniature.

COURT OF CASSATION—the highest court of appeal in France, constituted by the Council of State; hence, a court of similar nature in other countries.

CULTURE AREAS—a sociological term denoting a region within which are to be found practices, beliefs, and forms of social organization which are sufficiently distinctive to mark it off from other culture regions.

DECABRISTS—Russian organization after 1815, at first of humanitarian and educational character, with its members mostly from the upper classes, some from the army; later it became more revolutionary and directed its activity against Tsarist despotism; cruelly suppressed by Tsar Nicholas I in 1825—following the first unsuccessful effort to modify absolutism by revolutionary pressure.

DEPARTMENT, FRENCH—one of the ninety divisions (including Belfort) made for purposes of French local self-government and as a basis of representation in the national legislature, called the General Council. See prefect.

Deutschland über alles (German)—"Germany over all"; a German hymn, with words by Hoffmann von Fallersleben, adapted to a melody by Haydn. Generally considered to be Hitler's "motto."

DISCIPLINE—a branch of knowledge, as the term is used (most frequently) in this book.

élan (French)—ardor; eagerness for action.

ELITE (French, adopted into English)—in its usual sense, a select group or a select few; as used in this book, the term applies to the party members in the single-party authoritarian state who alone have shown their ability and fidelity in the cause of Communism, Fascism, or National Socialism.

en banc (French)—a law term, meaning in full court; used when all judges of a given court sit as a group instead of separately.

EQUILIBRIUM—a condition in which opposing (economic) forces are balanced.

ersatz (German)—"substitute"; the term used to describe artificial substitutes for foodstuffs and raw materials lacking in Germany. The word took on a derogatory connotation during the first World War.

EX CATHEDRA (Latin)—"from the throne or chair"; ordinarily used to mean speaking by virtue of authority.

expertise (French)—expert opinion; or, reference of a subject to, or its consideration by, experts.

FEDERALISM—a system of division of power between central and subordinate units of government; in a broader sociological sense, a division of activity between the central office and member units of any organization.

FÜHRER— -STAAT (German)—"Leader" —title assumed by Hitler. *Staat* is German for "state."

FUNCTIONALISTIC APPROACH—a new approach in social science and economics, in which are examined the actual operation of institutions (and not their forms, as formerly).

Gemeinschaft (German)—"community"; in the National Socialist State the term is often used of a specific type of community, such as a community of youths.

GESTAPO (German)—contraction of *Geheime Staatspolizei;* the name of the German secret political police, organized immediately after the rise

GESTAPO (*Continued*)
of Hitler in 1933 to deal with opponents of Nazism. See Cheka and Ogpu.

Giovani Italiane (Italian)—a patriotic organization for older Italian girls.

GRANT-IN-AID—a subsidy given by a central government to a state or local unit for a particular service, usually carrying with it a measure of supervision.

GUILD SOCIALISM—See Chapter 10, p. 222.

haute bourgeoisie (French)—the upper middle class of a population, especially its richer and more influential element.

HELLENIC LAW—rules of customary law developed and applied among the early Grecian communities.

HITLER YOUTH—compulsory organization for all young Germans from 14 to 21 years of age—a branch of the Nazi Party. Children from 10 to 14 are enrolled in a preparatory organization known as Young Folk.

HUMAN GEOGRAPHERS—those who study the effects of geographic situations upon the various aspects of human existence.

IDEOLOGY—a systematic scheme of ideas of government and society; originally, the term was applied to the sensationalism of the eighteenth-century philosopher Condillac, in whose philosophy ideas (mental patterns) were derived directly from sensations. The modern term stems from Karl Marx and means a systematic construction of logical and appealing ideas, based on "wishful thinking," which cannot be verified in terms of nonsocial reality and which yet appear "scientific" and empiric.

imperium et auctoritas (Latin)—"power to command" and "(jurisdictional) authority"; terms of Roman public law denoting the legal powers of the magistrates, their offices and functions; also used in a more general sense to denote the power and majesty of the state as reflected in its official institutions.

IMRO—Internal Macedonian Revolutionary Organization, founded in 1894 to liberate Macedonia from Turkey.

INITIATIVE (the)—the procedure or device by which legislation may be introduced or enacted directly by the people, as in the Swiss Confederation and in many States of the United States. A petition, signed by a required number of voters, must be filed. The initiative is used both to make new laws and to secure constitutional amendments. See referendum and recall.

in nuce—"in a nut-shell."

INTEGRATE—as used in Chapter 24, to associate together the elements in a unit of government or society in such a fashion that each contributes its maximum to a common objective.

IRREDENTISM—the principles and policies of a party, formed about 1878, for incorporating with Italy neighboring regions called *Italia irredenta* (unclaimed Italy).

"Italia unita e Roma capitale" (Italian)—"(There shall be) a united Italy and Rome (shall be) her capital city"; used as a slogan by the revolutionary movement of "Young Italy" prior to the unification of Italy and the elimination of the Papal secular state.

Kultur (German)—literally, culture; a distinctive national civilization; also,

national Messianism formulated by Fitche for Germany when that country was in the hands of Napoleon, according to which the Germans were bearers of the world's progress, of science, of *Kultur*. See Messianism.

Kulturkampf (German)—the struggle of Bismark against the new Catholic Party of the Center.

laissez-faire (French)—a phrase used in economics deprecating governmental interference intended to foster or to regulate labor, manufactures, and the like.

"La mission civilatrice" (French)—France's assumed "mission to civilize others."

LAYERS OF GOVERNMENT—a term applied to overlapping units of government. See Chapter 24, p. 511.

LEADERSHIP PRINCIPLE—the principle in government and administration whereby great responsibility is vested in one person. The term is applied mainly to the idea of the office and function of the Reichsführer (supreme leader of the Reich), which can be understood only in the light of the Nazi views concerning the nature of "the people."

Liberté, égalité, fraternité (French)—"Liberty, equality, fraternity"; the slogan and official maxim of the French Revolution.

lycée (French)—a French public secondary school which prepares for the university.

MACHIAVELLIANISM—Machiavelli's doctrine that a ruler may use any means, however unscrupulous, to maintain a strong central government; in a broader sense, the term means politics carried on without any regard for ethics or morals.

MESSIANISM—flight from reality by following a new form of leadership which promises to bring health, wealth, and happiness; promoted by a messiah who promises to deliver the faithful from whatever ails them.

MILITARY CADRES—framework of a regiment or other military unit, usually consisting of at least the commissioned and noncommissioned officers.

MINISTRABLES—as used in Chapter 13, the members of the French Senate and the Chamber of Deputies who were considered eligible for cabinet positions.

NATION—a group of people connected not by legal but by psychological or cultural ties based on such elements as history, community of language, race, religion, and customs. See nationality.

NATIONALITY—a distinct socio-ethnic group within the state and ordinarily constituting a minority of the total population; in international law, "nationality" is used in the sense of "citizenship." Nationality is essentially subjective; an active sentiment of unity based on diverse factors (political, geographical, physical, and social). "Nationality" and "nation" are still used synonymously. See nation.

N.R.A.—the National Recovery Administration, charged with the execution of the National Industrial Recovery Act of 1933, which gave the President control of industry.

OGPU—the current popular name for the Russian secret service. See Cheka.

PARTICULARISM—exclusive or special devotion to a particular interest, party,

PARTICULARISM (*Continued*)
sect, or the like; the theory or practice which leaves each state in a federation politically independent.

PHALANGISTS—the official Fascist Party in Spain, which gained control as the only legally permitted party after Franco's victory over the republican government in the Spanish Civil War of 1936–38.

PHYSIOCRAT—one of the followers of Quesnay, an eighteenth-century Frenchman, who founded a system of political and economic doctrines based on the supremacy of natural order.

Piccole Italiane (Italian)—Italian Fascist patriotic organization for younger girls.

plenitudo potestatis (Latin)—"completeness of power."

PLURAL EXECUTIVE—a term used when a number of individuals or boards take charge of different services in a governmental unit without a co-ordinator vested with authority.

PLURALISTIC THEORY—the doctrine that would destroy state sovereignty and place the power in the hands of groups within the state.

podesta—in Italy, any one of several public officers; under the Fascist government, the mayor or chief executive in any commune, except Rome and Naples, appointed for five years by royal decree.

POLITICAL DYNAMICS—politics viewed in a relativistic manner, with basic emphasis on the fact that change is inherent in the social order; the factors, human and material, which determine definite political action.

POLITY—the form or constitution of the government of a state, or, by extension, of any organization similarly administered; a politically organized community; a state.

PREDATORY CAPITALISM—the phrase refers to the "Public-be-damned" era, when our big business became particularly ruthless in its treatment of consumers and of its weaker rivals.

PREFECT—in ancient Rome, any of various high officials or magistrates at the head of a particular command, charge, or the like; also, the administrator of the French department. See department.

PRESSURES—political influences directed toward the attainment of certain ends.

PRIMACY OF LEGISLATURES—the idea that legislative action comes first in the political process.

PROLETARIAN—of, or pertaining to, the proletarians, the poorest and lowest class in a community or state; in the Marxian sense, one of the wage-earning class, especially one without capital.

Putsch—a petty rebellion or popular uprising; as, the Kapp *Putsch* in Germany in 1920.

PYRAMIDS OF POLITICAL POWER—a system whereby power is either diffused from above, from a chief, or is built upward from a broad base of consent. In either case, the levels of authority and responsibility are fixed.

RACISM—a word of Arabic origin (*ras*, "head" or "heading") brought to contemporary prominence by German Nazism. The Nazi theory makes "race" the basis of national policy and views everything from a racial angle.

RECALL—the right or procedure by which a public official may be removed from office before his term has expired, by vote of the people following the filing of a petition signed by a required number of

voters (usually about 25 per cent). See initiative and referendum.

REFERENDUM—the practice of referring measures proposed or passed upon by the legislative body to the body of voters for approval or rejection, as in the Swiss cantons and in various States and local governments in the United States; also, the right so to approve or reject laws, or the vote by which this is done. See initiative and recall.

REGIONAL CENTRIFUGAL TENDENCIES—certain regions (Brittany, Provence, etc.) have from time to time exhibited strong autonomous tendencies. The creation of the department was designed to weaken these and to stimulate nationalism. See department.

REGIONALISM—the doctrine or practice of subdividing or decentralizing a country into regions on a political, economic or other basis.

ROMAN PRINCIPLE OF ADOPTION—the principle by which persons adopted in the Republic of Rome passed completely over into the family and rank of the adopter.

ROTTEN BOROUGH—a territorial unit in which representation is excessively disproportionate to population.

RULE OF REASON—the idea or theory that some actions in restraint of trade may be reasonable.

SA—abbreviation of the German *Sturm-Abteilung* (Storm Troop), the army of the Nazi Party, organized in 1922.

SANCTIONS—measures designed to enforce fulfillment of international treaty obligations.

sansculotte (French)—literally, "without knee-breeches"; the term was applied originally to the ill-clad and ill-equipped members of the Revolutionary army after the outbreak of the Revolution in 1789; later applied to the ultra-radical sections of the Revolution. The *sansculotte* costume was proscribed after 1794.

SELF-DETERMINATION—President Woodrow Wilson's Fourteen Points and his later speeches during the first World War proposed this principle, which envisaged the substitution for the doctrine of balance of power a system by which the rights of individual peoples were proclaimed to be sacred.

SILENT VOTE—the vote of one who has no political affiliations and takes part in a campaign only to the extent of voting; more commonly, the tacit assent given to candidacies and measures by citizens who do not vote.

SOVEREIGNTY—the supreme power of the state.

SPECIE PAYMENT—payment in standard coin.

SPQR—abbreviation for the Latin *Senatus populusque Romanus*, "the Senate and the people of Rome." The official formula introducing legislative acts of Rome and acts of state authority. The later, more general application of the phrase denoted symbolically the majesty of the Roman state.

STATE (State)—a community of individuals occupying a determinate territory under an organized government, which exercises sovereignty over both the inhabitants and the territory, within limits set by international law. The legal nature of the "state" distinguishes it from the "nation." The term "State" is also applied to one of the 48 commonwealths of the United States. See Chapter 6.

STATE SOCIALISM—a socialistic system in which the state is the permanent and predominant factor.

SUB-STATE—a partially sovereign political unit in a federal system.

SYMBOL, POLITICAL—a political symbol is a material representation of a political concept. Patriotic symbols include flags, monuments to heroes, hymns, civic exercises, and the like; or, human acts which create or stimulate civic attitudes are political symbols.

SYNDICALISM—a combination of the doctrines of trade unionism with certain socialistic concepts, which aims to achieve control by means of direct action, such as the general strike; a doctrine which considers the state to be a useless entity; a revolutionary movement making the trade unions the basis of social revolution, as well as of society. See syndicat.

SYNDICAT—a productive and political unit in the syndicalist organization of the state. See Syndicalism.

tabular rasa (Latin)—"smooth tablet"; "clean slate."

TRADE PRACTICE CONFERENCE—a procedure used by the Federal Trade Commission to eliminate unfair methods of competition.

UNITARY GOVERNMENT—a system of government in which all power is concentrated in a central unit with no territorial division. See Chapter 9, p. 207.

U.S.R.R.—abbreviation for the Union of Socialist Soviet Republics.

Vaterland (German)—"Fatherland."

Vlast (Czech)—"Homeland" (Motherland, Fatherland).

vox populi, vox Dei (Latin)—"the voice of the people (is) the voice of God"; often shortened to *vox populi* and abbreviated *vox pop.*

WOOLSACK—the seat of the Lord Chancellor; a large cushion of wool, without arms or back, covered with red cloth.

W.P.A. (WPA)—abbreviation for Works Progress Administration, an American Federal Authority created under the New Deal in 1935, designed to provide employment for persons in need. Its projects are initiated by local public bodies, the WPA providing a portion of the funds.

WORLD COURT—the Permanent Court of International Justice, set up at The Hague, in accordance with Article 14 of the League of Nations Covenant.

YAMATO, THE RACE OF—Yamato was the ancient name of a portion of Japan, later applied to the whole empire; often used in poetry.

YELLOW-DOG CONTRACT—a contract of employment in which the worker agrees not to join a labor union, and which is usually terminated if he does join one.

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