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### Henry Wells Lawrence Memorial Lectures, Number 3

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HENRY WELLS LAWRENCE MEMORIAL LECTURES, VOLUME III

LIBERALISM AS A FORCE IN HISTORY:  
LECTURES ON ASPECTS OF THE LIBERAL TRADITION

BY

PAUL WALLACE GATES  
HELEN MAUD CAM  
HAJO HOLBORN

*Edited by*

CHESTER McA. DESTLER

NEW LONDON, CONNECTICUT  
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## I.

### INTRODUCTION

The Henry Wells Lawrence Lectureship is a memorial to Professor Henry Wells Lawrence, Chairman of the Department of History and Government at Connecticut College from 1920 to 1942. It was founded and endowed by his former students, colleagues, and friends so as to make it possible "to bring to the campus annually a scholar in the broad field of history who will present his subject in the spirit of the liberal tradition to which Dr. Lawrence was devoted."

The present volume contains the seventh, eighth, and ninth lectures delivered under this foundation. The fifth, by Professor Perry Miller of Harvard University, discussed the contributions made by Jonathan Edwards to the development of social criticism as an aspect of the religio-millennial thought of the "Great Awakening." Professor Conyers Read of the University of Pennsylvania delivered the sixth lecture upon the subject, "Problems of Present-Day Britain." In this he analyzes in their historic setting the continuing problems of the nation which was the mother of liberalism in the western world, perplexities that have some prospect of projecting themselves into the future. These two lectures are not included in this volume.

The contributors discuss varied phases of the liberal tradition in the history of the Atlantic world.

Professor Hajo Holborn of Yale University presented the seventh lecture on October 21, 1950, when he discussed "The Reasons for the Failure of the Paris Peace Settlement." Essentially comparative, projecting the program and problems of the Paris peace-makers against the historic situation of 1919 and the achievements of the Congress of Vienna of 1814-15, this essay analyzes problems of European reconstruction and world organization with which liberals of this century must continue to grapple. The significance of the participation of the United States in the peace-making of 1919 is developed in the light of both American security in the Atlantic community and European circumstances while Woodrow Wilson's program is reappraised.

The eighth lecture was delivered by Professor Paul Wallace Gates, Chairman of the History Department and Professor of American History of Cornell University on November 11, 1951. His subject was, "From Individualism to Collectivism in American Land Policy." This essay is a highly original study of the evolution of thought and policy in a field that has been intimately related to the origins and rise of the American democracy. The shift from individualism to collectivism is analyzed in the light not only of ideas but also of



indigenous, practical problems and objectives. The importance of this trend for traditional individualist liberalism and for the present day is stressed.

Professor Helen Maud Cam, Zemurray Professor of History at Radcliffe College, Harvard University, delivered the ninth lecture on October 28, 1952. Her subject was, "Representative Institutions in England and Europe in the Fifteenth Century in Relation to Later Developments." This essay presents a broad and penetrating analysis of constitutional government as it emerged in England during the era of the Renaissance. This is compared with developments that doomed representative institutions on the Continent to innocuous desuetude. At the same time, fundamental aspects of constitutionalism of continuing importance are developed with a view to their pertinence to the Tudor and Stuart eras, the period of Whig dominance under the Hanoverians, and the twentieth century.

When read together with the first and second volumes of the Series it can be seen that the Lawrence Lectures provide a continuing forum for the analysis and discussion of the liberal tradition in the light of historical experience. The relevance of the essays in the present volume to important themes of current historical research will be apparent to scholars in their several fields. Laymen interested in the history of liberalism and its contributions to an intelligent understanding of the mid-twentieth century will find here many a shrewd comment and appraisal of events, ideas, trends, and problems that are useful in confronting the problems of the age.

CHESTER MCARTHUR DESTLER, *Editor*  
*Chairman, Department of History*

## II.

### THE REASONS FOR THE FAILURE OF THE PARIS PEACE SETTLEMENT

BY HAJO HOLBORN

The historical problem of this discussion has overshadowed the lives of all living people. The year 1919 was the high watermark of democracy in world history. Not even 1945 can be compared to that year, since in 1945 the democratic nations shared their victory with the Soviet Union and the major spoils of victory went to the latter. In 1919 no autocratic nor authoritarian power could obstruct the peace settlement. Still, "the war to make the world safe for democracy," a phrase first coined by H. G. Wells in August 1914 to describe World War I, brought forth before long the age of the dictators. "The war to end war," as World War I was often termed, turned out to be a harbinger of growing disaster.

It is understandable that the failure of the peace settlement of 1919 caused a revolution of popular sentiment against collective action in international affairs, which had a most unfortunate effect upon the course of events leading up to World War II. On the other hand, the statesmen of World War II took pains to avoid the repetition of what they considered to have been the blunders of their predecessors of twenty-five years ago while at the same time trying to realize some of their lofty ideals. The endeavor to find an objective historical interpretation of the Paris peace settlement of 1919 is not a study of issues belonging to a past age. In analyzing them we must reflect to a large extent on our own political attitudes and objectives, and we may hope to gain a better understanding of the requirements for constructive action in our own day.

The only peace settlement comparable in scope to that of 1919 was the peace of Vienna of 1815. Nineteenth century historians heaped nothing but condemnation on Castlereagh, Metternich, Czar Alexander, and Talleyrand for their failure to anticipate the forces of liberalism, nationalism, and industrialism which were to gain ascendancy in the course of the century. Woodrow Wilson was completely under the influence of this criticism and sternly insisted that no "odor of the Vienna settlement" should come into the discussion of Paris, "not even by reference."

It was true that the Vienna peacemakers did not have a foreknowledge of the future. What they sensed of the potential future strength of liberalism and nationalism filled them with apprehension rather than sympathy. But the peacemakers of Vienna had a clear grasp of what had held the old Europe together before the wars of the French Revolution and Napoleon disrupted it. They had

a common faith in the balance of power as the regulative principle of the comity of European states. Long before the Congress of Vienna convened each diplomatic and military action of the five major powers had been undertaken with a view to the restoration of the European balance of power.

When in December 1812 Czar Alexander ordered the Russian army to cross the western frontier of Russia in the pursuit of Napoleon's decimated forces he made it clear to the world that Russia would not rest satisfied with driving foreign invaders from Russian soil but would continue the war to the destruction of any continental empire greater than her own. When Austria joined the alliance in the late summer of 1812 she was already afraid that a collapse of Napoleon's empire might open the way to Russia's predominance on the continent. All through the war Austria used the greatest circumspection and every device of diplomatic maneuver to preserve the historic France, since Metternich believed that France was needed in the councils of the great European powers. The entire military and diplomatic strategy of the Allied campaigns was carefully molded in accordance with the ultimate political aims of Austria, Britain, and Russia to restore a European equilibrium. Before the conclusion of hostilities the Allies had entered among themselves into political agreements which clearly adumbrated the restoration of the European balance system. Grave conflicts divided the Congress of Vienna, but the preparation of a peace settlement through well-directed wartime policies and the unity on basic principles among the statesmen carried the Congress to its success.

The achievements of the Vienna Congress were impressive. For a century no general European war comparable to the thirty-odd years of belligerency and upheaval after 1792 recurred. Moreover, for forty years after 1815 no war was fought between any of the great European powers. Thereafter between 1854 and 1870 wars between two or more major European states took place in short succession, and it should be mentioned that the Franco-Prussian war of 1870-71 was the bloodiest war ever fought till that time. Again between the Russo-Turkish war of 1877-78 and the Tripolitanian and Balkan wars of 1911-12 no European war of major proportions occurred. It would be deceptive to ascribe the course of the history of the whole nineteenth century to the Congress of Vienna, but the decisions of this congress must have contained a large amount of political wisdom. The political map of Europe which the Congress of Vienna drew was not very substantially changed for a century. It is also noteworthy that at least some of these changes, for example the creation of a neutral Belgium, were attained by peaceful negotiations among the big powers.

But it should be added at once that the important cases of peaceful change in nineteenth century history were few in number. The balance of power principle introduced some order and some feeling of unity into a divided Europe, but it was not an absolute means for the insurance of peaceful procedures. Events proved it to be at best of assistance in staving off a general Euro-

pean war, but not wars as such. And as the century drew on wars grew ever more disruptive. With the industrialization of certain continental states like Germany and with the vast increase in the destructive power of modern armies the European balance of power lost much of its effectiveness. But the statesmen of Vienna themselves had already known that the balance of power by itself could not guarantee peace in all circumstances. They had attempted to build a concert of Europe which was to guard the political and social order of the world. Yet the sound concept of a united European action was frustrated by the social bias of the statesmen of the Holy Alliance. They understood social order in strictly conservative or reactionary terms as the preservation of absolute monarchy and the privileges of nobility. It was impossible to suppress the modern capitalistic development and the concomitant liberal and national movements. The concert of Europe broke down after seven years, largely because Britain, far advanced in her own political and social development, was unwilling to tolerate intervention in the affairs of others by a group of reactionary states.

If we compare the Paris to the Vienna settlement it is obvious that some of the fundamental elements which made for unity and mutual understanding among the peacemakers of Vienna were lacking in 1919. The wars of 1812-1815 had a common aim, namely the defeat of Napoleon's attempt at uniting the European continent under his dictatorial power and the restoration of the old European state system. The war of 1914-1918 did not have such a single common denominator. Of course, the immediate war aim, the destruction of Germany's overweening power, was generally shared by all the Allies, but there was no clarity about the type of Europe the Allies wanted to re-erect. There were ideas to replace the old balance of power system by the rule of law supported by a League of Nations, and the realization of national self-determination was usually considered the most important preparatory step in this direction. But the actual policies were not in line with these high aspirations. The exigencies of war drove the European statesmen to rely even more extensively upon the balance of power. Two distinctions have to be drawn at this point, the first concerning the general character of World War I and the other with regard to the balance of power in Europe.

In a strict sense the war that started in August, 1914, was not a *world* war but a European war. The British originally called it the "Great War." Although the frictions among European nations had been greatly aggravated by the competition for colonial possessions and profits in the forty years prior to 1914, the war was caused by European issues. It was true that Britain enjoyed from the outset the support of her world-wide empire and that Japan very soon began the conquest of the German colonies in the Far East. Still, the war of 1914 was, and remained till 1917, basically a European war, and everybody expected that its great decisions would be the result of the military efforts of the major European powers.

Each of the two camps of states, the Triple Entente and the Central Powers, believed itself to be capable not only of balancing but also of outbalancing each other on the battlefields. France, Britain, and Russia felt confident that they could overwhelm Germany and Austria-Hungary if not in the early beginning certainly at a time when the British blockade became fully effective and Russia could throw her millions into the fray. Germany on her part planned to use the time gained by the slow mobilization of Russia to administer a knock-out blow to France and then turn around toward the East to stem the Russian tide. But the calculations of the European statesmen and generals of all these nations proved wrong. The Germans did not conquer France. The battle of the Marne brought the German advance to a standstill without giving the Allies the strategic initiative. In spite of the unprecedented slaughter of millions, a strategic stalemate ensued for practically four years at the western front.

Events at the eastern front made it impossible for Britain and France to derive full advantage from the alliance with Russia and vice versa. Russia had millions of soldiers but not the industries to arm them nor the transportation to move vast armies and their supplies. If Churchill's scheme to seize the Turkish Straits in 1915 had been successful, the East-West alliance might have become powerful enough to crush Germany. But Germany sitting athwart the communication lines between Russia and her western allies could choose where to take the offensive. Russia in her isolation succumbed to the German onslaught. The whole political and social organization of the old Russia broke into smithereens. In the spring of 1918 Germany could marshal superior forces which would have defeated the British and French armies if American troops had not been available for their relief and support.

After the great disappointment of the fighting in the early months of the war the Allies had gone around shopping for additional allies who would help them to tip the balance against Germany. Dire military necessity seemed to make the concessions inevitable which the Allies made in order to bring Italy and Rumania into the war. The secret treaties sacrificed liberal principles on the altar of Mars and nationalistic power politics. It is frightening to visualize what Europe would have looked like if the European allies, including Russia, had been victorious over the central powers without the intervention of the United States. No doubt this would have been still much preferable to the dictates which Ludendorff would have imposed in case of a German victory. His Russian treaties of Brest-Litovsk and the Rumanian treaty of Bucharest were clear examples of his ultimate aims. But if the European Allies had made the peace, a Europe would have come into being on very shaky grounds as a result of the secret treaties.

The secret treaties did not restore the European balance of power. As a matter of fact, the European war of 1914-1917 proved that the European political system that originated in 1494 and grew to maturity in the 18th century

was drawing to its death. The great European war was finally decided by the intervention of the United States, and with the entrance of the United States in the war it definitely became a *world* war.

The war of 1914 threatened to destroy the Atlantic order on which American security had rested during the 19th century. If the Allies had been defeated the United States would have had to face on the eastern shores of the Atlantic a practically united continent which could even draw on the resources of Eurasia. And this huge accumulation of power would have been in the hands of a state which in the quarrels over the international law of the sea gave America a foretaste of its dictatorial manners. The United States had good reasons for associating herself with the Allies at a time when, owing to the impending Russian collapse, their fortunes were falling. The American people, unhappily, often lost sight of these cogent reasons and viewed the American participation in the war entirely in the light of a crusade for freedom and democracy. This popular emotion should not be unduly condemned or ridiculed. It was historically understandable that Americans, once they were challenged to build a better international order, would rely on those principles which for the first time in world history had made democracy a success on a continent-wide basis.

No other political document could have offered as much guidance for the establishment of a peaceful international society as did the American constitution, and Woodrow Wilson ably and eloquently projected the American political tradition into a liberal international faith. The weakness of Wilson's international program lay in the generality of many of its tenets and also in conflicts among them. The principle of national self-determination, for example, was not everywhere applicable; in certain cases it conflicted with other Wilsonian principles like that of access to the sea for landlocked states. But the lack of absolute logical unity and adaptability to concrete issues could have been improved once the program was actually translated into action at the peace conference.

More serious was Wilson's stubborn belief that his abstract ideals could blot out certain realities of political power. He was profoundly convinced that his international program, as embodied in the Fourteen Points and additional speeches, expressed the longings of the common man all over the globe. This assumption was not altogether fallacious. The appeal of the Wilsonian ideas during World War I was great, and they contributed in a decisive manner to the breakdown of enemy resistance. Moreover, in spite of the disappointments of the Paris settlement they became a powerful ferment of political thought and action. In some respects one could wish that American policy in World War II had hewn closer to the Wilsonian line, though it is undoubtedly true that the greater tactical skill of Roosevelt made possible the final realization of some of the Wilsonian ideals like the United Nations.

The main criticism that can be levied against Wilson, the statesman, should not be directed against his program as such, but rather against his misunder-

standing of the relationship between ideas and power in history. Wilson thought that the proclamation of the new international ideals would rally the common men everywhere to their support. In this sense he could say that only he and not Clemenceau, Lloyd George, and others represented the people. The major test of Wilson's assumption came when he appealed over the head of the Italian government to the Italian people for a modification of Italy's demands for expansion and aroused a violent nationalistic reaction. The sovereign nation state was in full bloom and not likely to wither away under the impact of Wilson's ideals. In democratic terms Lloyd George, Clemenceau, and Orlando represented their peoples better than Wilson did. They had parliamentary majorities behind them, while Wilson had lost control of Congress in the November elections, and it was doubtful what future American opposition his treaty might have to face. In retrospect it could be argued that Wilson would have done better to rest his case before the American Senate and electorate not exclusively on idealistic grounds but also on the American interest in the preservation of the balance of power which the Allied victory had created. His one-sided emphasis on world improvement gave many Americans the impression that Wilson had attended in Paris not to American needs but to esoteric objectives.

If the League was to come into being its roots had to be planted deeply in the soil of national security interests. Such policy required the frank recognition of the balance of power which Wilson rejected. In practice he could not help to make all sorts of concessions to the balance of power, but they were usually wrapped up in the language of some general principle. It would have been better to call a spade a spade instead of getting lost in what hostile critics could label double-talk. Naturally, after all her losses France would not accept a peace settlement that would allow Germany to renew the war before long. But there was no reason to represent the stringent German disarmament as the first step in world disarmament, which, in article 8 of the League Covenant, was designed to take place in forms very different from the disarmament section of the Versailles Treaty. The high Wilsonian principles suffered greatly by being used for the justification of actions which were inevitable and necessary decisions about power relationships. Thereby they lost much of their radiance which would have made them steady beacons in the evolution of a collective system.

Abused ideas have a tremendous aptitude for vengeance. To give a recent example: At the first three power conference of World War II, the Moscow Conference of 1943, the wartime alliance of the United States, Britain, and Russia was described as the alliance of "democratic" against totalitarian nations. I am not a pronounced critic of our wartime dealings with the Soviet Union, but I think that the slighting of ideas is not only intellectually unpardonable but also bound to produce, as it happened in this case, considerable

damage through confusion. With regard to the Paris treaties their weak and contradictory moral basis made people in later years unwilling to enforce them.

Winston Churchill and Lloyd George have stated their opinions on the peace settlement of Paris. Both do not think that the peace makers of Paris should be blamed for the ultimate failure of the peace settlement. Both think that the statesmen of the inter-war period were responsible for the deterioration of international affairs which ushered in World War II. Lloyd George criticizes chiefly the lack of magnanimity in the revision of the peace treaties, and it should be mentioned that Lloyd George had been in favor of revising the draft treaty of Versailles in May and June of 1919.

Churchill seems to agree with Lloyd George on these points, but he accuses the statesman of the inter-war period of negligence, because they squandered the powers which the peace settlement had deposited in them. No doubt the military superiority of Britain and France was safely established by the peace settlement. It has often been asserted, particularly during World War II, that the disarmament provisions of Versailles were faulty and permitted the Germans to rearm secretly. The Germans violated, indeed, the disarmament articles of the Versailles Treaty even before 1933. But modern war mobilization requires the total use of manpower and all industries. These measures were taken only by Hitler, and though they were taken quite openly Britain and France failed to intervene. Churchill is quite right in condemning British and French leaders for conceding freedom of armaments to Germany before her grievances had been allayed. He goes as far as to call the second World War "the unnecessary war."

Churchill's judgment on the statesmen of the inter-war period is correct and nobody is better qualified to pronounce it than the man who was one of the very few people aware of the approaching catastrophe when not only Britain but also the world slept. But it does not offer an explanation of the historical forces which made possible the policies conducted by these statesmen with the assent of their nations. In my opinion, one of the main reasons must be found in the disregard of the realities of power which the peace conference of Paris initiated and in the indiscriminate use of high principles. When the League failed to gain strength and ultimately broke down as an instrument of international policy, there was not even as much balance of power left as had existed in 1914.

Wilson had proclaimed as early as January, 1917, that after the war there should be no "new balance of power" but a "community of power," yet the peace conference achieved neither. A community of power without balance of power would require universality and a spirit of cooperation founded on common ideals. But Russia was left outside the pale. I do not wish to suggest that a solution of the Russian problem would have been simple or even possible in 1919. The French were stubbornly opposed to any diplomatic dealings with the



Bolshevists. They advocated intervention without, however, being able to indicate the military means with which to stage a successful intervention. Winston Churchill, then British secretary of war, actively worked for intervention, but in the review of his actions in his memoirs of World War I he doubted himself whether the White-Russian elements deserved Allied support.

Lloyd George was a non-interventionist as was Woodrow Wilson. Lloyd George considered that Allied intervention in Russia would be as self-defeating as foreign intervention in the French Revolution had been more than a century ago. He wanted to make diplomatic contacts with the Soviets. But in the end nothing decisive was done in any direction.

When Lloyd George resumed his appeal for peaceful relations with the Soviet Union at the Conference of Genoa in 1922 it was already too late. Russia and Germany, the two chief opponents of the Paris settlements, came together and concluded the treaty of Rapallo. When Germany joined the League of Nations in 1926 she was exempted from League obligations in case the new League decided on sanctions against Russia and in a new treaty the Russo-German cooperation begun at Rapallo was further extended.

From a historical point of view it is impossible to say what should have been done about the problem of Russia in 1919. But obviously the fundamental significance of the issue was gravely underrated, and none of the serious consequences of defaulting on it were foreseen. Probably it was inevitable in all circumstances that Moscow would set herself up as the world center opposing the rule of liberal-democratic principles, but these pretenses had to be fought by other than mere political weapons which we shall discuss a bit later. Russo-German collaboration after 1919 proceeded, however, less on the basis of ideological unity than of power politics. The chief supporters of the Russian orientation in Germany were the parties of the right and of the army, the *Reichswehr*. It goes without saying that the Communist party was, of course supporting Russo-German collaboration and even more than that, the complete subordination of German policy under Moscow, but the German Communist party never exercised an influence on the official conduct of German foreign policy.

But the political collaboration between Germany and the Soviet Union placed at once the states along the eastern fringe of Europe, Finland, the Baltic states, and Poland, in a precarious position. That they had gained independence from Russia in 1918 was due to the feats of the German arms in World War I and in addition to the subsequent collapse of Germany and Austria-Hungary as well as the alienation between the western powers and Russia, which was altogether one of the most amazing changes of the historical scene that ever happened in history. The French contributed at least to the preservation of the independence of the north-eastern European states by the mission of General Weygand to Warsaw at the time of the Russo-Polish war of 1920-21. His

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advice helped to stall the Russian onslaught. But not even the greatest strategic genius could have changed the great military disequilibrium that developed in eastern Europe after 1921. Whatever might happen in the end on a world-wide plane, these small states were bound to suffer once the eastern great powers recovered.

This applied also to the south-eastern European states, usually called the succession states to the Habsburg empire, though Rumania and Yugoslavia and also Poland derived only a part of their possessions from the Habsburgs. To conceive of Czechoslovakia, Yugoslavia, Rumania, and Poland as a replacement of France's pre-World War I ally Russia, was rather injudicious. At best the worth of these states could have been measured by the services which the Habsburg empire had given to Germany during World War I, and they had not been too strong. The distribution of national sovereignty among a larger group of national states in this area was not likely to improve their military strength. As a matter of fact, with the exception of Czechoslovakia and possibly Poland these states were between 1919 and 1939 a liability to the western powers rather than an addition of strength. It should be remembered that the French had poured billions into Russia before 1914 to turn her into an effective military ally. They were unable to repeat this, since the loss of their loans to Russia had made the French rentier fearful of foreign investments. But without them these states, with the exception of Czechoslovakia, could never be strong military allies nor could they become democratic. Practically all of them soon turned into semi-authoritarian states.

This leads us to another fundamental misreading of the new trends by the peacemakers of Paris. They were unprepared to face the impact of modern war on society. Broadly speaking, the wars of earlier times had been wars of armies—armies of restricted, if expanding, numbers limited in their technological equipment. But World War I had assumed a new and revolutionary character. Formerly the production of arms ceased when war broke out, but after 1916 industrial mobilization became as gigantic as the military levies. In other words, after 1916 World War I turned into the first modern total war changing, and in many instances revolutionizing, social habits and attitudes. The impact of this event was greatest in Russia, which tried but did not succeed in a total mobilization, and in Germany, which did succeed in achieving a rather complete government-directed war economy, the first planned economy, as a result of the Allied blockade and the demands of the front line.

Nobody in Paris recognized that total war could only be cured by total diplomacy. Frontier regulations would not suffice to guarantee peace. Apart from political issues diplomacy would have to deal with economic, social, and ideological ones. The appearance of total war shocked many people, but most of them comforted themselves with the hope that there would be a restoration of the "normal" structure of societies and "normal" attitudes of their members.

This was probably the major reason that the statesmen of the period thought that a diplomatic peace would settle a war which actually had become a sort of world revolution.

The peace treaties contained arrangements for political frontiers and some rather sketchy provisions for the military defense of the new order, but little beyond that. After the drafting and signing of the peace treaties public opinion in all Allied countries relapsed and demanded to go back to normalcy. This could mean, as it did in the case of the United States, almost complete withdrawal from world politics. But as a sentiment it influenced even the European nations which remained active in the diplomatic field. The desire to have only a minimum of international organization in political, economic, and social affairs was noticeable everywhere. But peacemaking after a protracted total war could no longer be conducted in the forms of the traditional diplomatic conferences. It called for an extension of diplomatic activity into new fields.

Wilson was not unaware of the deep changes in the character of international relations. He knew that the individual, from whom in modern politics the sanctioning force for any order must come, would not place his full faith in a collective system if it did not prove its worth in the economic and social fields as well. The peace conference tackled a number of social problems, but most of them were of a general humanitarian character and not of crucial significance in the social and economic life of the world.

What would have been needed most was the restoration of a liberal world economy, but in this respect the peace conference failed completely. In the third of the Fourteen Points Wilson had demanded economic freedom, but this point had run into strong domestic opposition, and Wilson resigned himself to the situation. He was also not in a position to discuss at Paris a settlement of inter-Allied war debts, which aggravated the problem of German reparations. It is clear that the expectation of future German reparation payments which the French and British entertained at Paris in 1919 were fantastic, as John Maynard Keynes, who resigned from the British delegation, rightly predicted. But nobody would have set any exact figure of reparations or other big-scale international payments like the inter-Allied debts unless he knew something about the future of international trade. If the peacemakers had taken steps toward the expansion of international commerce, greater sums might have been transferred than actually were between 1919 and 1932.

But nothing was undertaken to reestablish systematically the foundations of the free world economy of the nineteenth century, and even less was done to expand world production and world trade. With the demand for extravagant reparations and an unrealistic inter-Allied debt settlement the balance of international payments was entirely upset. From 1924 to 1931 American private loans enabled Germany to pay reparations, which then were used by the receiver states partly or, as in the case of Britain, altogether for the payment of Ameri-

can war debts. Winston Churchill has rightly called this system "insane." But the situation from 1919 to 1924 was worse and helped to breed all the anti-democratic forces of the right and left which after the great economic crisis of the early thirties were to undo the work of the peacemakers of 1919.

I am not contending that modern totalitarianism is only the outgrowth of economic tribulations. It appeared in the inter-war period only in countries with a strong tradition of autocracy. The anti-democratic forces were powerful in Germany, and it was to be expected that they would make a bid for return to internal and external power. The unsettled state of eastern and southeastern Europe gave them hope that the tables could be turned against the World War I allies, whose political cooperation after 1920 became strained or non-existent. There were also some sound German grievances, though fewer than were played up by German nationalistic propaganda, which enabled the German nationalists to keep German resentment against the peace settlement alive.

But there existed in Germany in the twenties also a strong feeling against war and a majority opinion that a revision of the Versailles Treaty should be sought only by peaceful means. If earlier concessions had been made to these movements, and if on the other hand the stability of eastern and southeastern Europe had been strengthened, history might have taken a different course. But the international economic policies of the inter-war period finally turned central and eastern Europe into the anti-liberal camp.

At the beginning of our discussion we compared the peace conferences of Vienna and Paris. The truth is that they cannot be compared. Vienna was the settlement of twenty-odd years of war in which the revolutionary forces had been able to modify but not overthrow the old order. In contrast the Paris Peace Conference was a first attempt to deal with the radically new situation which had manifested itself only in the course of World War I. Most people refused to recognize that World War I had brought about revolutionary changes in world politics and thought of the War as an unhappy event which would not exclude the return to normalcy or, to put it differently, to the pre-War conditions. Actually World War I created not only *one* world but also the absolute necessity for dealing with political issues in terms of *total* diplomacy.

The second World War has driven home these points again apart from creating new problems. Still, after thirty-five years of international turmoil we have not reached a safe haven. No prediction can be made when we shall do so. But one thing we can say with confidence: All the sacrifices our soldiers make to establish a rule of law in this world will be in vain if we do not succeed in understanding the historic forces of our age, which will be judged by future generations according to our own achievements and failures.

### III.

## FROM INDIVIDUALISM TO COLLECTIVISM IN AMERICAN LAND POLICY

BY PAUL WALLACE GATES

In the course of the nineteenth century liberalism in America went through profound changes, its early attitudes and meanings being taken over by elements thoroughly conservative in character and its early supporters moving to policies that were quite the reverse of their previous position. In the early years of the century liberalism connoted equality of man, freedom of conscience, of speech, personal liberty, individualism. It also meant *laissez faire* policies on the part of the state, the removal of existing restrictions, class privileges, controls, prohibitions and monopolies.

Following the Civil War these concepts, which we associate with the Jeffersonian tradition, were assimilated by the rapidly emerging business interests and made to serve their purposes as protection against the new liberalism which was demanding the policing of the corporations, trust busting, even government ownership. By the twentieth century Jefferson and the earlier concepts of liberalism had been taken into camp by the defenders of business ethics who regarded themselves as carrying on the true liberal tradition.<sup>1</sup> On the other hand a combination of western agrarians, labor leaders, middle class humanitarians and other critics of social institutions, having thrown off their fear of the state, of big government, of the arbitrary bureaucrat were pushing for ever increasing intervention by government in the affairs of the people. Whatever their labels, the defenders of business were primarily concerned with freedom of opportunity unhampered by government restrictions and aided wherever possible by government subsidies while the reformers, progressives or new liberals breathed the humanitarian spirit of Jefferson but advocated realistic and forward looking government action to achieve a better life for the people. The democratic individualism of the nineteenth century was being replaced by the democratic collectivism of the twentieth century.

The history of American land policy reflects this transformation in ideology. What was regarded as liberalism in land policy at the beginning of the nineteenth century was unacceptable to the liberals of 1900 and the restrictions, public ownership, and controlled use and development which the latter advocated would not have found favor with the earlier generation of liberals. It is

<sup>1</sup> This "capture" of the democratic tradition by the advocates of *laissez faire* and later supporters of "free enterprise" is lucidly described by Robert Green McCloskey in *American Conservatism and the Age of Enterprise* (Cambridge, 1951).

the object of this paper to trace the changes in the concept of liberalism in land policy and to show that they were the result, not of radical or socialistic theories imported as it were into the field of land policies, although these theories helped to bring about changes, but that fundamentally the new policies were the result of the hard practical experience of the American people.

The objectives of colonial land policies were twofold: those pursued by the mother country and those pursued by influential individuals. Imperial policies as they were finally perfected were intended to permit a slow controlled advance westward and to treat the land as a permanent source of revenue under the quit rent system for the support of the colonial governments. These policies were wiped out by the Revolution. Meantime, prominent and influential individuals in the colonial period had attempted to establish for themselves great baronies over which they might rule, but the abundance of land, the individualism and spirit of independence of the common people, and the comparative ease of squatting upon land without title made their path difficult. Confiscation, abolition of primogeniture and entail and of other relics of medieval tenure, the emergence of a more democratic electorate, the low price and free grant policies of the states after the Revolution shattered their hopes. Nevertheless, the well born, the wealthy, the aggressive and ambitious did not give up trying to establish large estates.

The new national land system, created to administer the public domain ceded by the states and later acquired from other countries, was framed in an era when liberal principles were not held in high repute. The old imperial policy of using the public land as a source of revenue became the basic principle of the new land system, and the settlement of the west and the welfare of the settlers were subordinated to it. So long as the revenue concept dominated our national land policies the various regulations adopted to develop that revenue as easily and as quickly as possible gave purchasers of large tracts advantages over the small buyer that for years enabled capitalist groups to act as middlemen in selling land and exacting profits from settlers. To begin with, half the land was to be sold in blocks of 5,120 acres and the other half in the alternate townships was to be divided into 640 acre sections and sold, the minimum price being \$2 an acre. Credit was eventually extended but it only helped the capitalist to acquire more land. No restrictions of any kind were placed on the amount of land individuals or groups could buy from the government. Since the units of sale were much too large for him the pioneer settler was virtually denied an opportunity to acquire public lands and was obliged to go to the middleman who could purchase large tracts and retail them out in small pieces.

In the second, fourth, and sixth decades of the nineteenth century occurred periods of great inflation produced by extravagant public spending on internal improvements with borrowed funds, unsound banking practices, including large

emissions of wildcat and shinplaster currency, unusually high commodity prices—cotton in 1818 and wheat in the fifties—war conditions abroad and proliferation of railroad companies at home. Since almost unlimited credit was available for anyone of influence and property, land values were rising rapidly and there developed a scramble for public lands that reached its greatest excitement in Alabama in 1818, Michigan, Indiana, Illinois, and Mississippi in 1835-1836, and Illinois, Wisconsin, Iowa and Missouri in the fifties. By a conservative estimate it appears that 5,000,000 acres in the second decade, 25,000,000 in the thirties and 40,000,000 in the fifties were bought by land companies and individual capitalists that thus came to control whole townships and large parts of counties.<sup>2</sup>

Some of this speculative ownership was not firm or stable. During the periods of depression that soon followed each era of inflation many land holders were frozen out by increasing tax and interest costs which they were unable to bear, but others, who had not so overextended, managed to carry their investment for many years in the hope of receiving their anticipated profits. There was thus established in all the better parts of the middle west and Gulf states absentee ownership which contributed nothing to develop either the lands or the communities in which they were located. The owners only waited for the increase in value which settlers on neighboring tracts would create by the labor they performed in making improvements and constructing roads, churches, and schools. By withholding their land from development the speculators retarded growth, kept out settlers who could not pay their price, and gave to areas containing a goodly part of absentee owned land the reputation of being speculators' deserts.

The secondary distribution of wild or unimproved land by these speculators and their resident agents was the biggest business on the frontier. Much of the capital was provided by the east but not infrequently the principal beneficiary was the local agent in Chillicothe, Vincennes, Kaskaskia, Chocchuma, Tuscaloosa or Chariton who paid the taxes, rented to tenants, made sales and collections and bought and sold on their own account. Many years later, in 1860, Horace Greeley, commenting on the exactions of the middle men who anticipated settlers' needs and resold to them at high prices on credit with usurious interest, estimated that for every dollar paid into the public treasury for lands two and a half or three dollars had gone to the land dealers.<sup>3</sup>

<sup>2</sup> For material on speculative purchases see Paul W. Gates "Southern Investments in Northern Lands Before the Civil War," *Journal of Southern History*, V (May, 1939), 155-185; "Land Policy and Tenancy in the Prairie States," *Journal of Economic History*, I (May, 1941), 60-82; "The Role of the Land Speculator in Western Development," *Pennsylvania Magazine of History and Biography* (July, 1942), pages 314-333; and "Land Policy and Tenancy in the Prairie Counties of Indiana," *Indiana Magazine of History*, XXXV (March, 1939), 1-26.

<sup>3</sup> *New York Semi-Weekly Tribune*, January 31, 1860.



Not all this land that was bought by easterners in large quantities was acquired for mere speculation. A considerable number of easterners like Henry L. Ellsworth of Connecticut, Daniel Webster, James Wadsworth of the Genesee Valley of New York, planned to establish large estates operated by tenants in the midst of whom they would live as country gentry. Ellsworth and others like him moved to their holdings and devoted their energies to improving, developing and settling them, not always with success, however.<sup>4</sup>

Far the larger part of the 70,000,000 acres acquired in extensive holdings was bought for the expected rise in land values by speculators who had no intention of investing anything more than the cost of the land and management. The intrusion of these speculators between the government and the actual settlers in the primary disposition of its lands won increasing disapproval, both in the west and in the east. Westerners without capital but anxious to own land contemplated with bitterness the extensive tracts owned by absentees who contributed nothing to their development, but insisted on withholding them from sale and use until they would bring a profitable return. In their dislike of absentee owners the westerners took pleasure in stealing their timber, pasturing livestock on their grass, and assessing their land at high valuations. Since the distribution of the public lands in their midst was a government matter, they turned to politics for relief from the unwanted speculator. They petitioned Congress, the president, the General Land Office, to grant them the right of preemption which would enable them to get in ahead of the speculator, then to postpone the land sales which would put off the day when they had either to pay for their claims or see them purchased by speculators at the auction, to reduce the price of land, and finally and most important, to grant land without cost to actual settlers. They formed claim or squatter associations to intimidate by mass threat possible buyers of their improved claims. Western representatives and senators took up their pleas and pressed them with increasing vigor in Congress.

It was not only at the speculator with his large holdings that western resentment was directed but increasingly the government was being charged with profiting from the labor of the pioneer in augmenting or creating land values. Long before Henry George shook the foundations of the citadel erected by the industrial barons on the twin doctrines of *laissez faire* and Social Darwinism by calling for the single tax the west had reached the pragmatic view that unimproved land on the frontier had no value. Only through the coming of the settlers who cleared, fenced and broke the land, erected their homes and laid out roads and established schools, churches and local government was

<sup>4</sup> For Ellsworth, one of the largest buyers of western land but who ultimately failed in his goal to establish a great and long lasting estate, see Paul Wallace Gates, "Land Policy and Tenancy in the Prairie Counties of Indiana," *Indiana Magazine of History*, XXXV (March, 1939), 6 ff. The most successful and largest farming estate in America that was acquired from the United States and developed through tenants, that of William Scully, is described in the same author's *Frontier Landlords and Pioneer Tenants* (Ithaca, 1945), pp. 34-63.

value given to land. The government, thought the west, like speculators, gained the unearned increment by charging a high price which came out of the sweat and toil of the pioneers.<sup>5</sup> For his boldness in striking into new and previously untouched territory, his willingness to undergo great hardships and to deprive his family of the amenities of a well established society, he should be rewarded, not penalized, by being permitted to enjoy the full benefits of his action in developing new communities. He should be given the land, not sold it at high prices.

In the east the organizers of the struggling labor parties took up the cry of land reform in the hope of providing an outlet for the unemployed and a program economically attractive to them. The intellectual leader who framed the reform demands and worked out their philosophical justification was George Henry Evans, borrowing from Thomas Skidmore. As editor of radical weeklies, as lecturer, pamphleteer and leader in trade union activities, Evans drew attention to the land question as a major issue of the day. He maintained that the use and ownership of land was a natural right as land provided the basis of living. To guarantee that right, the public domain should be distributed freely in small tracts to its users. The right of alienation should not accompany the right of use, argued Evans, for only by preventing the sale on mortgage of homesteads and denying the right of inheritance could land be prevented from accumulating in the hands of a few.<sup>6</sup>

Here then is a combination of western pragmatic reasoning and eastern philosophical support for land reform. Horace Greeley, never one to spurn radical ideas, took over the reform program of Evans and documented it lavishly by accounts in the *New York Tribune* of his experiences and observations gathered on his trips through the west. Contemporaries were shown the harshness of frontier life among settlers who were desperately seeking to make farms for themselves on lands for which they had had to pay outrageously high prices if they had bought from speculators or for which, whether acquired from previous owners or from the government they had used funds borrowed at usury rates that ran as high as 120 and 150% a year.<sup>7</sup>

The reformers' cry for a liberal land policy that would prevent land monopoly and permit the pioneer, the farm maker on the frontier to acquire ownership of his land without having to pay for the increased value his and neighborhood improvements gave to it gained support in high places. In Con-

<sup>5</sup> Henry C. Carey, an influential political economist, held this same view which he expounded in *The Past, The Present and the Future* (Philadelphia, 1848), pp. 60-61. As a widely read man his views may have contributed to the support for free land policies that was shown by eastern congressmen.

<sup>6</sup> Helene S. Zahler, *Eastern Workingmen and National Land Policy* (New York, 1941), 19 ff.; Joseph Dorfman, *The Economic Mind in American Civilization, II* (New York, 1946), 684-85.

<sup>7</sup> Roy M. Robbins, "Horace Greeley: Land Reform and Unemployment, 1837-1862," *Agricultural History, VII* (January, 1933), 18 ff.

gress Thomas Hart Benton, Andrew Johnson, George W. Julian and others took up the issue, arguing for general preemption, reduction in price, free lands, and restrictions on speculative purchasing. Andrew Jackson was the first and in effect the only president who advocated drastic reform of government land policy so that the public domain would be reserved for actual settlers. In his annual message on the state of the Union in December, 1832, he stated his belief that it was the labor of the "adventurous and hardy population of the West" which "gives real value to the land." He urged abandonment of the sales policy with its high minimum price and the substitution of a policy of charging actual settlers a fee just sufficient to cover the cost of survey and management.<sup>8</sup> No legislation followed his recommendation and in 1836 Jackson returned to the fray, this time with positive action.

The country, particularly the west, was caught up in a frenzy of land speculation in which government sales had skyrocketed from an average of 2,000,000 to 4,000,000 acres a year to 20,000,000 in 1836. In 1835 and 1836 alone probably 22,000,000 to 25,000,000 acres were purchased for speculation.<sup>9</sup> Himself a speculator in public lands in the past Andrew Jackson knew full well the dangers from such large scale monopolization by a few hundred or thousand speculators. In June, 1836, he issued his famous Specie Circular that by requiring the payment of gold or silver instead of bank notes for public lands effectively halted the wild orgy of land speculation.<sup>10</sup> The Circular, Jackson said later, had "measurably cut off the means of speculation and retarded its progress in monopolizing the most valuable of the public lands. It had tended to save the new states from a nonresident proprietorship, one of the greatest obstacles to the advancement of a new country and the prosperity of an old one. It has tended to keep open the public lands for entry by emigrants at Government prices instead of their being compelled to purchase of speculators at double or triple prices."<sup>11</sup>

<sup>8</sup> James D. Richardson, *Messages and Papers of the Presidents, II* (1904), 601.

<sup>9</sup> My estimate is based on analysis of the sales for early years together with those of 1835 and 1836. Although I have worked through all the land entry books for this period I have not made a detailed investigation to determine the actual amount of land bought by non-settlers. Thomas Ewing, Senator from Ohio, estimated that about 20,000,000 acres were purchased by speculators in 1835 and 1836. Apparently he thought of speculative purchasing as including only those large tracts bought by men of wealth or by land companies. For Ewing's estimates see *Congressional Globe*, 24 Cong., 2 Sess., Appendix, p. 289.

<sup>10</sup> For the Circular which was actually issued by Levi Woodbury, Secretary of the Treasury, see *American State Papers, Public Lands, VIII*, 910.

<sup>11</sup> Annual Message to Congress, December 5, 1836, in Richardson, III, 249-50. The House of Representatives had previously provided for an investigation of the amount of borrowing by members of Congress and other government officials from deposit banks for speculation in public lands. A comprehensive investigation might have been salutary for there is plenty of evidence of prominent members of Congress buying public lands in large quantities but the efforts of the House Committee to secure evidence were fruitless. *Congressional Globe*, 24 Cong., 1 Sess., pp. 609-10, July 2, 1836; *House Reports*, 24 Cong., 1 Sess., No. 846, pp. 1-6.

Jackson's vigorous championship of land reform was followed by a strong effort in Congress to halt speculative purchasing and "limit sales to settlers or cultivators" or, as Robert J. Walker, Senator from Mississippi put it, "to arrest monopolies of the public lands." With prophetic insight Walker predicted that the accumulation of land by capitalists for speculation would "introduce into the new states, the system of landlord and tenant, by which the occupant will not be the owner of the soil he cultivates, but the tributary of some absentee landlord, who will, in the shape of an annual rent, reap nearly all the profits of the labor of the cultivator." A measure to limit sales to actual settlers was fiercely opposed by eastern conservatives who continued to look upon the public lands as a national treasure which should provide income for the government and thereby reduce the need for taxes. Nothing should be permitted to interfere with the free flow of sales and of resultant income. To these opponents of land reform the Walker-Jackson plan was radical, levelling, and democratic. It would make ownership for the poor and landless too easy, would drain off the laborers from the older areas and reduce land values there, and would accelerate the growth of the west unduly and thereby upset the political balance of power. Against the reform measure was employed every possible parliamentary maneuver and delaying tactic but almost solid western support carried it through the Senate. In the House, where western influence was weaker, it was defeated.<sup>12</sup> Not for years was another effort to be made to bar speculators from purchasing public lands.

The land reformers welcomed the Specie Circular as a blow to the development of land monopoly but felt let down by Congress which failed to act upon Jackson's request for protection against speculative purchases. Was not the government the greatest land monopolist and land speculator and a profiteer from the labor of frontiersmen whose painful advances westward gave value to the public lands? Did not a truly liberal land policy call for the abandonment of the revenue concept and the adoption of a free homestead plan and the rapid transfer of the public domain to private hands? Step by step the country inched nearer these goals, although the revenue concept, while it ceased to be predominant, was never to be completely abandoned. In 1841 the Preemption Law gave settlers the right to move upon and improve surveyed public land from which they might with good luck make the necessary funds to purchase it without competitive bidding for \$1.25 an acre. Only 160 acres could be acquired in this way. In 1847-55 Congress gave enlisted men in the Mexican War and veterans of all previous wars who had not been rewarded with land bounties warrants entitling them to 160 acres of the public lands. These warrants were virtually land office money but they were issued in such quantities—altogether

<sup>12</sup> Walker's telling speech in behalf of land reform, of January 14, 1837, is in *Congressional Globe*, 24 Cong., 2 Sess., Appendix, pp. 167-170. The measure was under consideration from December, 1836 through March, 1837, and can be followed in the *Congressional Globe*, 24 Cong., 2 Sess., *passim*.

they covered more than 61,000,000 acres—that they sold at prices ranging from 50 cents to \$1.10 per acre. Most entries were made with the warrants since they were available everywhere at quoted rates and the effect of their issue was to reduce the cost of public land. In 1854 the Graduation Act reduced the price of land not newly brought into market from \$1.25 an acre in proportion to the length of time it had been subject to sale, the lower limit being 12½¢. Only 320 acres could be acquired legally by any individual under this measure. Finally, in 1862, after a bitter struggle with the south, free homesteads of 160 acres were offered to anyone who would settle upon and improve government land.

Greeley's agitation and western yearning for free grants had convinced the Republicans that the issue could win many votes and it did. During the next decades their stand upon the homestead issue paid the party political dividends. What were then frontier states like Wisconsin, Minnesota, Kansas, Iowa, and later Nebraska were so angered by Democratic President Buchanan's veto of a homestead bill and by the insistence of his administration on forcing lands on the market in the depression days of 1858-1860 as a means of raising revenue to balance the budget, thereby forcing thousands of impoverished settlers to purchase their claims with money borrowed of loan sharks, that they turned to the Republican Party with majorities that surpassed the support it had anywhere else.<sup>13</sup>

The philosophy behind the Homestead Act of 1862 was not the natural rights argument of Evans and the land reformers. Few could regard Wade or Chandler or Pomeroy or Morrill as radicals. Yet they pushed to adoption a measure that was comparable to the capitalization and distribution of the national forests, parks, dams, generating plants, mineral reserves and gold in Fort Knox of today. The free grant policy was based on the assumption that the cost of farm making, of pioneering on the prairies and plains was so great that few people could succeed in the process if they had to buy the land from the government. The Republicans seem to have come to the view that land itself had no value; that what value it had when made into farms was to be attributed to the labors of the farm maker. To this extent, at least, the land reformers' views prevailed. But the Republicans threw aside all other aspects of Evans' and Greeley's reforms. There were no restrictions on the alienation of homesteads after the title had passed, no limitations on the amount of land that could be acquired from the government, no repeal of the cash sale law with the right of unrestricted purchase of public lands, no withdrawal of lands from unlimited purchase, no steps taken to confiscate large holdings except the punitive measures directed against the Rebels, no safeguards to prevent accumulation of new estates.

<sup>13</sup> Paul W. Gates, "The Struggle for Land and the 'Irrepressible Conflict'", *Political Science Quarterly*, LXVI (June, 1951), 248-71.

But free land to the landless was scarcely the great gift that apologists for the homestead measure maintained. A major limitation upon its effectiveness was that at the very time it was adopted Congress was engaged in giving well over 100,000,000 acres of the public lands to projected or prospective railroads to aid in their construction. Also Congress continued the practice of granting to the states on their admission into the Union from six to sixteen per cent of their total area to aid in establishing and endowing common schools, universities, asylums, hospitals and penitentiaries. Both railroads and states were expected to sell their land at the highest price it would bring and at the minimum of \$3 to \$10 an acre. Such prices brought it about that much of the land was withheld from market and development for years and was ultimately sold on long term credit which was close to rent. The states thus found themselves dealing with the unpleasant task of collecting from numerous debtors or renting their land. The railroads when they ran into difficulty with their numerous land purchasers over collections were only too glad to shift the debt to local banks which were not quite so vulnerable politically.

Both railroads and states assured, by virtue of the withdrawal of the lands from market for a time until they were in demand at the price they sought, that neighboring settlers through the work they did in farm making, road construction, payment of taxes for the establishment of schools and other government services created a good share of the value these lands acquired. In continuing the donation plan until the admission of Arizona and New Mexico in 1911 Congress not only withdrew 170,000,000 acres from access to homesteaders but assured the continuation of the revenue policy over this large area and contributed to the development of tenancy. Liberal eastern thought and western agrarianism had won a victory over the reactionary forces that wished to retain all the public lands as a major source of revenue, but it was only a partial victory and the campaign for reform in the American pattern continued.<sup>14</sup>

During and immediately after the Civil War the Radical Reconstructionists who were neither radical nor in the proper sense reconstructionists, but on the contrary concerned to further the growth of big business, for a time joined with land reformers in supporting a truly radical program of land reform. The reason for this queer partnership was the hatred entertained by the Wade, Chandler, Morrill, Trumbull group of "Radicals" for the southern planters who had dominated national politics for so long and who were held responsible for the War. To strike at them the "Radicals" proposed to confiscate their plantations and other land holdings and to divide them among the freedmen. Confiscation measures were written into law which, if tolerated by the courts and vigorously enforced might have brought about a revolution in land ownership in the south. This same group put through Congress the Southern

<sup>14</sup> Paul W. Gates, "The Homestead Law in an Incongruous Land System," *American Historical Review*, XLI (July, 1936), 652 ff.

Homestead Act of 1866 restricting the transfer of public lands to private ownership. Under this measure public land in Alabama, Arkansas, Florida, Louisiana and Mississippi could be acquired by homesteaders only and until 1868 in units no larger than 80 acres. True, there was no restriction on alienability but with that exception the radical views of Evans seem to have prevailed for the southern states.

Little benefit came to tenants or land seekers in the south from the confiscation acts or the Southern Homestead Act. The former were not vigorously enforced, little land was recovered and no supplementary legislation was enacted which would have assured its redistribution on a democratic basis. The 47,726,851 acres in the five southern states which were withdrawn from speculative purchasing seem to have been heavily timbered land that would require much capital to improve and for whose principal resources there was but slight demand in the ten years in which the Southern Homestead Act was in operation. The repeal of the act in 1876 ended this venture.<sup>15</sup>

By 1870 the west was repenting of the liberality of the land grants it had advocated and of the ease with which large individuals and corporate purchases could be made from the government. All over the newly developing frontier communities were signs that the land system was not working well from the point of view of the poor immigrant searching for land. Large railroad, state and private holdings were kept out of cultivation and use for years because of the insistence on holding them for high prices. Settlers buying from these holders almost invariably had difficulty in meeting their payments and at the same time buying farm machinery, livestock, constructing their homes, fencing the land and making other necessary improvements. Mortgage indebtedness was extensive, the interest rates were high, and foreclosures common, especially in periods of poor crops or low prices. Tenancy was appearing everywhere in the corn belt and wheat belt, half the farms in some counties being owned by absentees drawing their rents. Although the statistics of tenancy were not to be collected by the Census Bureau until 1880 no observer could be ignorant of its extent.

It was at this time that Henry George let loose his first blast against the government land system and the means it provided for the accumulation of large estates in the hands of the wealthy. His *Our Land and Land Policy* was no dull esoteric discussion of rent, capital and labor but was a flaming indictment and by all odds the best contemporary survey of the effect of the Federal land system in the distribution of ownership. Railroad land grants were denounced as "reckless prodigality," "land grabbers" were called the curse of the country, the story of the Mexican land claims in California were described as "a history of greed, of perjury, of corruption, of spoilation and high-handed

<sup>15</sup> Paul W. Gates, "Federal Land Policy in the South, 1866-1888," *Journal of Southern History*, VI (August, 1941), 303-30.

robbery, for which it will be difficult to find a parallel." The land system was declared to enable "speculators to rob settlers." "Was there ever national blunder so great—ever national crime so tremendous as our in dealing with our land?" George asked.<sup>16</sup> His indictment was exaggerated, small ownerships were being established, all farmers in the newer areas were not suffering in the clutches of the money monster. George's critique contained much truth; more important, it challenged attention, and contributed mightily to the demand for reform.

For the remainder of the century the land reformers, in harmony with the growing anti-monopoly movement in the west, tried to prevent Congress from making additional grants of land to railroads, to secure the forfeiture of unearned land grants to require the railroads to sell their lands at current market values, rather than to continue withholding them for high prices, to prohibit the accumulation of public land by aliens and to require the breakup of large estates held by them, to end the cash sale law of 1820 which permitted unrestricted purchasing of "offered" land, and to introduce into the General Land Office and the courts a more "settler minded" attitude and to eliminate therefrom the influence of railroad and mining companies and cattle and timber barons.

The reformers, still a combination of eastern laborers and western agrarians, put a halt to further land grants in 1871. Between 1867 and 1894 their pressure led to the forfeiture of 34,530,183 acres previously given railroads but which were unearned. They forced the land grant railroads to speed up their advertising and sales policy to hasten the transfer of their holdings into private hands where they would be taxable. In 1916 they were responsible for the recovery of nearly 3,000,000 acres long since given the Oregon and California Railroad but not sold, as the grant provided, for \$2.50 an acre. Pressure by the reformers also galvanized the General Land Office into action which should have been taken much earlier to restore to entry lands withdrawn to permit the railroads to make their selections. At least 31,000,000 acres were thus restored to entry.<sup>17</sup> State after state and the Federal Government placed restrictions on the right of aliens to acquire and hold lands. Finally, in 1891, the cash sale law was repealed, thereby ending the right of unlimited purchase of "offered" lands. To make the General Land Office more "settler minded" was less easy to achieve. In the Cleveland administration there was a definite change of

<sup>16</sup> George's pamphlet, whose full title was *Our Land and Land Policy, National and State*, was published in San Francisco in 1871. I have used the more accessible reprint under the title *Our Land and Land Policy* (New York, 1901), pp. 21, 39 and 89.

<sup>17</sup> David Maldwyn Ellis has told the story of the fight for the forfeiture of unearned grants and for the retrocession of the Oregon and California lands in two admirable articles: "The Forfeiture of Railroad Land Grants, 1867-1894," *Mississippi Valley Historical Review*, XXXIII (June, 1946), 27-60, and "The Oregon and California Railroad Land Grant, 1866-1945," *Pacific Northwest Quarterly* XXXIX (October, 1948), 253-83. See also John B. Rae, "Commissioner Sparks and the Railroad Land Grants," *Mississippi Valley Historical Review*, XXV (September, 1938), 211-30.



attitude but it was soon offset by later appointments. Outwardly, at least, the officers deemed it essential to express concern about settler interests and to ask Congress for reform in the laws.

These were notable victories which on the surface looked truly important. They came only after long agitation and continued hard work on the part of men such as George W. Julian, William S. Holman, Henry George, and Terrence V. Powderly. The Grangers, the Greenback Party, the Anti-Monopoly Party, the Populists, labor organizations and even the old line Republican and Democratic Parties all had a share in these reforms. But the reforms came late when much of the first rate land had passed into the hands of speculators and railroads, when the best of the redwood lands of California, the Douglas Fir land of Washington, and the long leaf pine land of the south were in the hands of the lumber barons, when the copper, iron, and oil bearing land were held by capitalistic combinations. Private ownership the west had favored and steps which hastened the transfer from government hands were continually being pushed by it.

Essentially the reform or liberal position on the land question thus far had been to make the public land system function in a democratic way by assuring the small man the right to acquire a piece of the national domain. Limitations were put in the Preemption, the Graduation, the Homestead Acts and their variations to make certain that only the small man could take advantage of them until the issue of the patent, but beyond that they had no effect. All such measures were therefore used by large interests acting through "dummy entry-men" to acquire lands they could not legally acquire otherwise. Timber land in Wisconsin, Minnesota, California, and Washington, grazing lands in Colorado, Wyoming, Arizona, and Idaho, wheat lands in Kansas, Nebraska, North and South Dakota passed into the hands of great lumber companies, cattle companies, and bonanza farm groups under laws that were designed to prevent large scale accumulation. The unwillingness of Congress to experiment with restrictions on alienation made inevitable the concentration of ownership which grieved western agrarians.

Evans, Greeley, George, and other radicals had failed to carry the mass of land reformers with them on the question of alienability. Americans found it easy to be radical or to favor reform when to do so did not impose any self limitation, but few were attracted to any idea that might restrict their right to accumulate property or to sell and gain the unearned increment.

With the larger and more valuable part of the public lands in private hands the reforms which were being adopted at this late time were both ineffective and to some extent unwise. Since the desirable size for land use units was increasing as population moved into the arid and semi-arid regions the 320 acre limitation on the amount of government land persons could acquire compelled either evasion and abuse of the laws to acquire adequately sized units or the

establishment of small grain farms in areas unsuited to cultivation. This pattern of evasion and abuse of the land laws and the establishment of small grain farms in areas better planned by nature for grazing carried well into the twentieth century. Not until 1934 were comprehensive and far reaching reforms initiated to produce a desirable and constructive plan of land use.

The preponderant, almost the universal view of Americans until near the end of the nineteenth century was that the government should get out of the land business as rapidly as possible by selling or giving to settlers, donating for worthy purposes and ceding the lands to the states which should in turn pass them swiftly into private hands. No matter how badly owners abused their holdings through reckless cultivation, destructive and wasteful cutting of the timber, prodigal and careless mining for coal and drilling for oil, few questioned their right to subject their property to any form of use or abuse. An extensive part of the fertile coastal plain and piedmont of the south and of the hill farming area of the northeast could be cultivated in such a way as to reduce the land to barren, gullied, and eroded tracts no longer able to produce crops, to support families and to carry their share of community costs but few denied the right of the owners to do as they wished with their property or, more fundamentally, questioned the system of land distribution that seemed to invite such practices. The shore line of the Atlantic, of bays and inlets, of inland lakes all near congested urban areas could be monopolized by a wealthy few and still there were few complaints. Rich landlords, speculators and corporations could buy unlimited amounts of land from the United States, or purchase from other owners who had acquired tracts from the state or federal government and keep their holdings from development for years, thereby blighting whole areas, delaying the introduction of schools and roads and doing immeasurable harm to neighboring residents. The right of private property seemed virtually unlimited, so far had American individualism gone.<sup>18</sup> *Our Landed Heritage*, to borrow Robbins' title, was expendable.<sup>19</sup>

Long before the Civil War agricultural authorities were expressing alarm at the destructive farm practices employed in the tobacco and cotton fields of the south and the wheat land of the north but their remedy was education through farmers' periodicals, societies, fairs, and the press. Undoubtedly education was helpful<sup>20</sup> but on the frontier where land was cheap and labor scarce, where capital to meet the costs of farm making had usually to be borrowed at high rates, where the most profitable cash crop had to be produced year in and year out there was no alternative. Soil mining continued from frontier to frontier but, unfortunately, it carried over into later periods when pioneer con-

<sup>18</sup> I should exclude from this generalization urban property which was subject to controls and restrictions.

<sup>19</sup> Roy M. Robbins, *Our Landed Heritage. The Public Domain, 1776-1936* (Princeton, 1942).

<sup>20</sup> Avery O. Craven, *Soil Exhaustion as a Factor in the Agricultural History of Virginia and Maryland* (Urbana, 1926).

ditions had passed. Landlordism and tenancy, absentee ownership, and the financial and economic ills into which agriculture fell in the late nineteenth century all contributed to the cropping of tobacco, cotton, corn, and wheat too steadily in areas to which they were adapted. Diminishing yields, the ravages of insects which the continued cultivation of one crop encouraged, and economic necessity forced changes and some improvements but in many areas the process of exhausting the soil continued. Not from agriculture, despite its ills, was to come the cry for a fundamental change in land use and ownership.<sup>21</sup>

The serious economic losses to the nation resulting from the abuse of the soil were subtle, slow and cumulative in their effects. The ravaging of our natural resources by the lumber industry was obvious to all. Large scale commercial lumbering at this time consisted of the cutting and removing of choice white pine in the easiest and cheapest ways possible without regard to protecting remaining trees like Norway, hemlock, spruce, and the hardwoods. Much good timber was destroyed in the cutting and much when cut was left in the woods to rot. The tops and branches when dry easily caught fire which, with right conditions, could easily destroy the standing timber. When lumbermen were finished with an area its natural beauty had been destroyed and the slash remained to menace surrounding timber and settlements. Persons seeking recreation in forested areas like the Adirondacks of New York, the Alleghanies of Pennsylvania, the White Mountains of New Hampshire watched with increasing dismay the encroachments of the lumbermen on the areas they loved. Early depletion of commercial timber in the more accessible areas forced lumbermen to move into the higher parts of the mountains, the upper reaches of the streams, into the areas where logs could not be floated cheaply to mill by water but had to be hauled on sleds or brought to the mill by expensive logging railroads. The increasing cost of lumber brought home to many people, especially in the older centers where the supply was being exhausted, the desirability of a more conservative and intelligent use of natural resources and the need for the adoption of reforestation policies. Lumbermen with their eye on the balance sheet were not sufficiently concerned to do anything at the time but an aroused public, working through forestry and science associations, called for a reorganization of our timberland disposal policy as a first step toward conservation and providing for future needs.<sup>22</sup>

<sup>21</sup> None of the major works on agrarian discontent in the late nineteenth century include any critical analysis of government land policies and the part they played in aggravating the farmers' problems. For the fierce resentment at large estates that led to the adoption of anti-alien landowning measures by the United States and a number of middle western states see Paul W. Gates, *Frontier Landlords and Pioneer Tenants*, 49-61.

<sup>22</sup> John Ise, *The United States Forest Policy* (New Haven, 1920), *passim*, is excellent for the beginning of the conservation movement. Richard G. Lillard, *The Great Forest* (New York, 1947), is useful for its account of the monopolistic practices of the lumbermen and the way they brought ruin to areas of superlative natural beauty. Cf. Agnes M. Larson, *History of the White Pine Industry in Minnesota* (Minneapolis, 1949).

Support for a new plan of land administration came not only from the lovers of wildlife, recreation interests, professional forestry people, and university professors but also from business men. Builders, contractors, real estate agents, even lumbermen and dealers in stumpage were concerned. We know, for example, that one of the largest dealers in timber lands and stumpage in Wisconsin was an ardent supporter of the conservation movement.<sup>23</sup> Those diverse interests center their attention upon two principal proposals: (1) that the government retain control of its timber land and sell only under careful restrictions the stumpage, that is the right to cut, and not the land; (2) that the government should not only carefully supervise cutting on the forest reserves but should provide for the regeneration of cutover areas and the protection of the forests from fire and disease.

The movement for the permanent withdrawal of timber lands from market and their establishment in organized forest reserves was taken up principally by congressmen from the older states in which the lumber industry was waning or where the higher costs of timber were affecting building development. The most active political support came from John Sherman of Ohio, George F. Edmunds of Vermont, and from other congressmen principally from Ohio, Indiana, Illinois, and New York. For continued and permanent public ownerships of the reserves and public controls, possibly even government lumbering, there was no great support in the Senate, perhaps not in the House. Yet an amendment providing for reservations when attached to an omnibus bill to restrict land entries and repeal the preemption and timber culture acts, was approved by Congress in 1891 without a division in either house. By a series of fortuitous circumstances, including adroit leadership, forest reserves were authorized almost a generation before Congress was "fully converted to the principle" underlying them.<sup>24</sup>

The new forest policies involved a sharp break with the philosophy on which American land policy had thus far rested, that is that the government should not be in the business of purveying land any longer than necessary, that it should provide for the easy and early transfer of the public lands to private ownership, that it should not attempt to make gain from their disposal, that it should not retain from private ownership any part thereof, or attempt to reserve to itself royalty rights, rents, or other benefits.

Although that staunch old advocate of land reform, William S. Holman of Indiana, firmly supported the change, the real impetus for it had not come from the land reformers of the past, nor from farm organizations or trade

<sup>23</sup> The allusion is to Henry C. Putnam whose estimates of the remaining commercial stand of white pine in the Lake States as published in the Census of 1880 were so low as to give a big boost to stumpage prices from which he was a major beneficiary. Paul W. Gates, *The Wisconsin Pinelands of Cornell University* (Ithaca, 1943), 226-29.

<sup>24</sup> Ise, *op. cit.*, pp. 116-18.

unions. Neither was this stride toward collectivism the work of single taxers, socialists, or other doctrinaire radicals. True, German intellectuals who were familiar with state forestry in Europe had contributed to the movement but the pressure for the change came out of American experience.<sup>25</sup>

The National Forest Reservation Act of 1891 did not require the establishment of reserves but gave authority to the President to withdraw from the public domain such timbered land as he deemed advisable for permanent government ownership and use. Presidents Harrison, Cleveland, and McKinley withdrew some 50,000,000 acres but their action touched off opposition in Congress to further withdrawals and little more was accomplished until Theodore Roosevelt became president. Despite his aristocratic background, Harvard education and political associations with influential conservatives, Roosevelt, under the tutelage and influence of Gifford Pinchot, espoused and pushed vigorously a program of public land reservation and utilization that makes his administration stand out with that of Franklin D. Roosevelt's as the greatest and most forward looking in matters of planning and conservation. Approximately 100,000,000 acres of public lands were placed under national forest status in Theodore Roosevelt's administration.

Equally important was the establishment of a vigorous National Forest Service that assured adequate protection to the reserves from plundering, trained forces to fight fires and resist the encroachments of insects and disease, controlled cutting, enforced restrictions on grazing in the national forests and conducted scientific experimentation in forest management and reforestation. As a result of wise leadership, successful public relations work and generous appropriations despite frequent expressions of Congressional disapproval, the National Forest Service quickly became an agency with an ardent following among professional foresters, farmers, and all those persons interested in the preservation of wild life and long range plans for the development and large scale expansion of public forestry. No other agency in the growing federal bureaucracy was so advanced in its planning, as collectivist in its thought, as free from doctrinaire conservatism and at the same time free from utopian radicalism as was the National Forest Service under Pinchot, Graves, and successors.<sup>26</sup>

The next major step in forest conservation and the extension of public control was taken in the Taft administration. New Englanders, alarmed by the flood menace and fearful that their mountain areas would be stripped of their splendid timber cover and defaced and forever marred by the advancing lum-

<sup>25</sup> Bernhard E. Fernow, *Brief History of Forestry in Europe, The United States and Other Countries* (Toronto, 1907), pp. 406 ff.

<sup>26</sup> Gifford Pinchot, *Breaking New Ground* (New York, 1947), is contentious, opinionated, and at times severely prejudiced but it is a remarkably clear and useful statement and is indispensable for anyone working on the history of conservation and changing land policies.

bermen, pleaded successfully that Congress authorize the purchase and establishment of national forests on the headwaters of the Connecticut and other important rivers of the east. The Weeks Forest Purchase Act has made possible the great forests now being developed by the Federal government along the Appalachian ridge from Maine to Georgia, in the Northern Lake states, and in the older states of the lower Mississippi. Individualism and *laissez faire* were thus given body blows in the citadel of capitalism. The American capacity to adapt its social philosophy to practical necessity has never been better illustrated.<sup>27</sup>

Long after 1891 the public land states continued hostile to forest conservation, maintaining that other sections had exploited their resources as they wished and that the timber of the west should not be locked up for future generations' use. These states opposed withdrawals and in line with past policy wished the public lands transferred to private hands without reservations. Withdrawing of lands from entry, permanent retention of the land by the Federal government, restrictions on land use, leasing and stumpage fees, the forest purchase program all were condemned as the exercise of unconstitutional power, encroachments upon the rights of the states and of individuals and filching of public funds.

It became less easy for the west to maintain that attitude, however, as it contemplated the semi-arid land that constituted so much of the region and reflected that in the future the growth of the west in population and political influence depended on filling up that vacant territory. The government had spent millions of dollars in buying the land and sovereignty from Mexico, in exploring and surveying the land and had given rich subsidies to provide it with railroads. Could it now be induced to reclaim these arid wastes by applying to them the funds derived from sales and royalties from minerals? To that end the west came forth with a far reaching, even breath-taking measure, arguing brazenly that it only involved reinvesting the funds derived from sales within the same states. The east could see little good in a vast effort to reclaim semi-arid America which would bring into competition with its outworn and impoverished soils highly productive but equally highly subsidized land. Withdrawing of lands from entry, other than homestead, the right to condemn land for reservoirs and water use, Federal construction of dams and irrigation ditches, and the appropriation of income from the lands for such schemes were all condemned by eastern congressmen in much the same way that the Weeks Act had been condemned by the west.

Opposition of the east was in sound conservative tradition while the support for government reclamation activity in the west was in line with the changing view that was gradually permeating American thinking that the older

<sup>27</sup> It is true that many New Englanders seem to have regretted the startling step taken in 1911 and in more recent years have supported action to restrict the executive authority embodied in the Weeks Act.

individualism of the past could no longer serve in the twentieth century world. The government in business did not frighten people who foresaw that its result would be growth and economic progress for many areas.

The Reclamation Act of 1902 provided that 95% of the income from the public lands in the thirteen states and three territories containing semi-arid lands was to go into a revolving fund for the construction of dams and reservoirs to impound water for the irrigation of the parched land. Income from water rents was also to feed the fund. Since the remaining five per cent of public land receipts was already allotted for education the act of 1902 marked the final abandonment of the notion that the lands should provide any revenue for or even reimburse the Federal government for its large expense in managing them.

Large scale government subsidies to agriculture thus began in a Republican Roosevelt administration. Some would say that no greater handout to special interests has been given.<sup>28</sup> Since 1902 and through 1949 more than \$1,805,000,000 have been appropriated for reclamation projects. The size of the appropriation for 1949—\$266,000,000—and the numerous projects that are being pressed upon Congress calling for vastly greater sums indicate that we are closer to the beginning than the end. Not only are giant dams and storage basins, hundreds of miles of canals, vast pumping projects, and huge power developments being undertaken but the course of major rivers is being reversed, all for the major purpose of providing water for irrigation.

Many of the reclamation projects have not been economically successful and few could have been financed in any sound way without grafting on them hydroelectric power development.<sup>29</sup> The sale of electric power has provided much of the income and the cost of the various projects. Increasingly, as less and less economically feasible irrigation projects were proposed, power was included to finance and justify them. Long before the inauguration of Franklin D. Roosevelt and even prior to the building of Muscle Shoals Dam on the Tennessee which marked the beginning of the Tennessee Valley development, the Federal power industry, a thoroughly socialistic scheme, was under way, not at the urging of the few theoretical socialists but through the strong administrative leadership of Theodore Roosevelt and Gifford Pinchot, supported by numerous

<sup>28</sup> Triple A farm relief of 1933 was an emergency measure designed to bring the farmers out of the worst depression we have suffered, though the subsidy program therein established has grown into a different monster whose longevity is appalling. The data on appropriations for the Reclamation Service is computed from the *Annual Report of the Commissioner Bureau of Reclamation to the Secretary of the Interior, 1949*, p. 70. Needless to say the *Annual Reports of the Secretary of the Interior and of the Reclamation Service*, now the Bureau of Reclamation, are most detailed and useful but are slanted, apologetic, uncritical and tinged with propagandistic fervor.

<sup>29</sup> The best critical analysis of government reclamation activity, now somewhat dated but still useful is R. P. Teele, *The Economics of Land Reclamation in the United States* (Chicago, 1927).

western Republicans and Democrats. Furthermore, Roosevelt, who has recently been characterized as a conservative progressive, and Pinchot were responsible for the withdrawal of water power sites to assure public control, ownership, utilization and a fair rate structure when development was undertaken. Today, the United States government is the greatest power producing agent in the world. Such tremendous structures with their enormous power output as Boulder, Shasta, Grand Coulee, Shoshone, Friant, Arrowrock, and Roosevelt, to name only a few are the result of the demand of the west for Federal aid in developing the arid lands.

American individualism, the belief that private interests could best and most usefully exploit the mineral resources of the public domain had been responsible for the transfer of the Calumet and Hecla copper of Michigan, the Anaconda "World's Richest Hill" lode in Montana, the Mesabi iron field in Minnesota and other valuable deposits to private ownership.<sup>30</sup> Private enterprises rapidly developed these and other natural resources and excited national pride in the growing industrial strength of the United States. Before long, however, the fear was aroused that "monopoly" was being established in the mining industry as in manufacturing, transportation, banking, and in land ownership and that too much economic power and too much wealth was in too few hands. Again, however, it was from the conservationist that the impetus came for government reservation of mineral land and the practice of leasing.

Exhaustion of natural resources was a widely discussed topic around the turn of the century when predictions were being made that our coal, our oil, other minerals, and forests would soon be depleted as to force dependence on high cost mines, expensive timber and importation from abroad.<sup>31</sup> Fearing that the still unplumbed resources on the remaining public lands would soon be acquired by private interests who would be concerned to transform them into wealth at the earliest possible moment, Roosevelt, under the continued guidance of Pinchot, withdrew from entry and private acquisition the sub-soil rights on all remaining public lands suspected of having value for their minerals. These withdrawals gave Congress time over the years to formulate legislation for leasing these lands to mining and oil companies under such conditions as were deemed essential to assure supplies to meet current needs and those of the future and especially to meet the needs of the Navy. Royalties from the mineral development were assigned to the reclamation fund.<sup>32</sup> Not again could a United States Steel Corporation, a Utah Copper Company or a Standard Oil Company secure

<sup>30</sup> The state of Minnesota owns rich ore lands in the Mesabi from which it draws generous royalties but most of the range went into private ownership.

<sup>31</sup> Charles R. Van Hise, *The Conservation of Natural Resources in the United States* (New York, 1910), reflects this conservationist fear of early exhaustion more than opposition to monopolistic control of valuable resources.

<sup>32</sup> John Ise, *The United States Oil Policy* (New Haven, 1926), is important on mineral reserves.



ownership of rich deposits which they might exploit and solely profit from without regard to other social interests, future needs or public welfare.

Conservation, the term popularly used for the changes being introduced into land policy, meant in practice the careful use and management of the natural resources of the public domain. By purely pragmatic reasoning the leaders of the movement had reached the conclusion that the government should not only retain or "reserve" title to ungranted lands but should manage and control their use and exploitation to assure their wise and cautious use with the profits derived therefrom assigned to other worthy objects for expansion. This did not necessarily mean putting the government in business. Where these objectives could be attained under private development government controls would only be used to assure that end. Lumbering has been done within the National Forests only by private enterprise; public power has been sold to private distributing and manufacturing companies; drilling for oil and mining phosphate, coal and other minerals on public lands has been done by private interests. But no longer may the timber within the National Forests be wastefully cut or drilling for oil be continued in an overstocked market; no longer may a small part of the coal be extracted once a mine is opened or the power generated at a government plant be sold at excessively high prices to consumers.

After the great withdrawals for National Forests there remained large areas of public domain good for forage. These grass or range lands varied widely in vegetation, capacity to support cattle and sheep, and in economic value to interested groups. Being unfenced and completely unregulated they were pastured early and with harmful effect in the spring by livestock men anxious to save their own forage. The edible grasses were browsed too closely, were pastured too long, and were trampled badly by too many sheep and cattle. As a result, the more nutritious plants were killed out in a greater or less degree and noxious weeds came in; removal of the binding effect of the plant cover permitted erosion to strip off the soil and cover with silt agricultural lands in the valleys or fill up the reservoirs and ditches. Unregulated and uncontrolled use of the public range lands also produced strife between livestock interests.

In contrast, range land within the National Forests was fenced, the number of animals permitted on it was carefully correlated with the carrying capacity, overgrazing was not permitted, noxious weeds were eliminated, erosion was minimized, seeding and replanting was done and experiments were conducted in the introduction of new and hardy types of grasses. In this way the National Forest ranges continued to provide well for their users, strife was avoided, and the management and development costs were paid by users on a permittee basis.

The extension of range control within the National Forests was not accomplished without friction and sharp opposition from livestock interests. How-

ever, with a decentralized control and local participation in the framing of policies and regulations this opposition gradually dissolved. It was another matter, however, to secure agreement among the livestock people concerning the best way of bringing order and improved conditions to the public domain range.

A third of a century was spent in discussion and argument as to the need for and best way of obtaining controlled use of grazing on the remaining public lands. Proposals were advanced to turn the land over to the states for their administration, to permit private groups of livestock men to organize grazing districts on the public lands and to maintain controls over their use, to add the public lands to existing National Forests for administrative and regulatory purposes, to sell or transfer the lands in large grazing homesteads to livestock interests, and to establish a new government bureau whose task it should be to introduce controlled use of the range.

Bureaucratic bickerings as well as the opposition of western livestock interests delayed the final solution. The United States Department of Agriculture contended that the grazing of livestock was an agricultural matter and problems relating to it and to land use should be administered by an agency thoroughly integrated with its Bureau of Animal Industry, Soil Conservation Service, National Forest Service and Bureau of Agricultural Economics. Like every good bureaucratic agent, the Department of the Interior disliked giving up any field of authority and fought vigorously to retain the public lands and, when it saw the growing sentiment in behalf of conservatism, to have a new agency created within the Department to handle the controlled use of the range.

The break came in 1934 when amidst depression, drought, poor range conditions, and low meat prices the remaining individualists of the grazing states ceased their opposition and joined with others who had long favored the final withdrawal of the remaining lands from private entry and the establishment of government controls in their use. A new agency was created to administer the range lands which has since been consolidated with the old General Land Office into the Bureau of Land Management. It was authorized to withdraw and place under organized control 80,000,000 acres, later 142,000,000 acres or all the public lands then unreserved and ungranted that had or seemed to have any value for forage. For all practical purposes, this ended the transfer of land to private ownership, except for the small five acre residence homesteads and the reclamation lands that are slowly passing into individual hands. True, the various land administering agencies are still racked with jealous struggles to take over or swallow up each other, the old feud between Agriculture and Interior remains unresolved, despite the recommendations of the Hoover Commission on the Reorganization of Government, and western interests struggle to gain control over the administrative agencies that most intimately affect them with the intention of reducing fees, liberalizing use, and

perhaps of securing additional handouts from the Treasury. Numerous political problems affecting the public lands remain unsolved.<sup>33</sup>

We have thus seen how beginning with 1891 and continuing until today the old policy of permitting, in fact encouraging the rapid transfer of the public lands with their resources into private ownership was breached and finally abandoned. No longer did private ownership seem the highest goal. Instead, there was substituted for it public ownership, public controls designed to ensure intelligent use of the resources, distribute their benefits more widely and safeguard the interests of future generations. In the administration of its public lands America has moved far from the revenue concept, through the free grant and monopoly stage, which only partly met the objectives of the reformers, through the third period in which permanent and public ownership and controls were established. We are now beginning to reap the benefits. We all may enjoy the beauties and scenic wonders of the National parks and forests, thrill at the gigantic dams at Boulder and Grand Coulee, marvel at the way reclamation and water projects have made great desert areas produce rich crops and thriving cities. The liberal and reform position of the nineteenth century might have avoided some of the worst blunders of the past but because restriction was unacceptable to all but a few it had to be replaced by a philosophy of use that was more socially minded.

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<sup>33</sup> Particularly good on the question of bringing the remaining public range lands under organized control is E. Louise Peffer, *The Closing of the Public Domain. Disposal and Reservation Policies, 1900-1950* (Stanford, 1951). For the recommendations of the Hoover Commission see *The Hoover Commission Report on Reorganization of the Executive Branch of the Government* (New York, 1949), 253-57.

#### IV.

### REPRESENTATIVE INSTITUTIONS IN ENGLAND AND EUROPE IN THE FIFTEENTH CENTURY IN RELATION TO LATER DEVELOPMENTS

BY HELEN MAUD CAM

The fifteenth century has a bad character with historians. You may recall William Stubbs' famous characterization of the age as "futile, bloody and immoral." To the bright young scholars of the Renaissance it was a time of old-fashioned obscurantism: their conception of scholasticism as a kind of mouldy pedantry was to mislead later generations as much as did the attitudes of the competent officials and loyal subjects of the new monarchies toward feudalism, which is only in recent years being vindicated from its reputation of being a "disease of the body politic" or "legalized anarchy." Shakespeare, in his vivid picture of internecine conflict—"domestic fury and fierce civil strife," with "the rude son striking his father dead"—was reproducing the views of the Chronicler Hall which established a traditional interpretation of English fifteenth century history.

The impressionistic view that we get not only of England but of the greater part of western Europe in this era is that of an unbridled aristocracy creating chaos, in kingdoms divided not only by class barriers and class jealousies but also by strongly rooted provincialisms or regionalisms. From such anarchy and disunion the strong monarchs, so we are told, come to deliver the unhappy nations. In Spain, Valencia, Catalonia, Aragon, Castile and Leon are united under Ferdinand and Isabella, who put an end to the brotherhoods and military orders that have outlived their purpose of fighting the Moors. In Germany the numberless little principalities are coalescing into the great Luxemburg and Hapsburg powers, whose able clerks and ministers are learning to copy the governmental devices of the great Burgundian duchy, which only just misses becoming a middle kingdom between France and Germany. In France the wars of the Armagnacs and Burgundians, made more bitter by the English occupation of Paris and Normandy, are followed by the revival of the monarchy under the subtle and thrifty Louis XI, a Machiavellian before Machiavelli wrote *The Prince*. In England the thirty years of civil war and dynastic rivalry end with the Battle of Bosworth and the accession of Henry Tudor, who reestablishes law and order and thus creates the conditions for national prosperity. Everywhere, as Michelet put it, "the new Messiah is the King," and the nations turn their backs thankfully on the sordid phase that preceded the new birth of national monarchy.

This is, of course, an artificial simplification of far more complex situations. The new monarchy could, in no country, make a clean break with the past, even had the rulers wished to do so. Revolutionary changes did take place, but everywhere statesmen had, as always, to use the tools and material already to hand, and in England, above all, the Tudors did not find themselves compelled to any drastic innovation until Henry VIII broke with the Papacy. The fifteenth century organs of government met the needs of the sixteenth adequately, and what is true of the common law courts, the justices of the peace and the council is equally true of the king's parliament. Once again, the only important change was to be the disappearance of the abbots from the House of Lords when the monasteries were dissolved; otherwise the sixteenth century parliament maintained the powers and traditions of the fifteenth century.

We are to consider representative institutions; and that means that we are not directly concerned with the House of Lords. There England differed from her continental neighbors. The assemblies of representatives which kings had been summoning in the various European countries—in Italy and Spain since the middle of the twelfth century, in England, France and Germany since the middle of the thirteenth century; in Scotland and Hungary since the fourteenth; in the Scandinavian kingdoms and Poland, only in the fifteenth—contained representatives of the nobility and clergy no less than of the commoners. They were assemblies of *estates* or orders of society, and their organization corresponded to the class system of the nation. But in the English parliament the Lords Spiritual and Temporal were summoned individually, by royal writ; they were not elected to come on behalf of those members of the aristocracy who were not present.

The assemblies of estates came, on the Continent, to be regarded as an archaic medieval survival. The kings ceased to summon them. The French Estates General did not meet after 1612, the Spanish Cortes disappeared in the eighteenth century and the enlightened despots cleared away most of those remaining, those of Brittany and England being the sole survivors showing signs of life by the time that the French Estates General revived in 1789. Absolutism became the rule in the monarchies of Europe until the revolutions swept away the ancient lumber and democratic institutions were introduced. One of the standing problems of history is, why did this happen?

Let us turn back to the history of the English House of Commons, in a sense the mother or grandmother of all modern representative assemblies. It began as a somewhat insignificant appendage to the king's court, as held in an augmented form. From the Norman Conquest on the kings had summoned their vassals, both ecclesiastical and lay, to come as by duty bound to give them counsel and aid—"aid" taking a specific financial form when the king's ordinary income failed to meet the special needs of war or some other emergency. Early in the thirteenth century instances are found of the king's summoning

lesser folk to his court. There were other elements in the nation beside the magnates who were beginning to count, politically and economically, and it seemed strategically sound to assemble them together on occasion, under the king's eye, as well as following the old practice of sending royal messengers down to the local shire courts or borough courts. So the local communities were ordered to send delegates who would speak for them—in their place—either because the king wished to put some important matter to them (as in 1213) or to get some information from them (as in 1227) or to discuss taxation with them—the new kind of tax that would not, like the older feudal aids, be paid by the magnates and collected by them from their tenants. They might even be ordered to come and stage a popular demonstration, as in 1243, when the king, returning from a none too glorious campaign in France, ordered a number of towns to send deputations to London to "see us and applaud us on our safe return to our kingdom of England."<sup>1</sup>

For long after the days when Simon de Montfort summoned representatives from both towns and counties to support his revolutionary government at the parliament of 1265, these representatives were still only a temporary adjunct to the king's parliaments. The parleys, the discussions, all the formal judicial business of a parliament was conducted between the king, his council, his judges and his barons and bishops. The representatives might attend some of the meetings, but they played a minor part. Three quarters of the parliaments of Edward I were attended by no representatives; and if they did come, they were generally sent away well before the parliament was over. It would seem that their main function was to bind their towns or counties to pay the taxes which were agreed upon between the king and the great men. But as the financial needs of the king mounted with the protracted wars, he might even go behind the backs of the great men. In the critical year 1297, the earls and barons protested furiously that a tax was being levied to which they had not given their consent; the king had induced the armed knights to grant it.

After Edward's death, the twenty years of his incompetent son's reign saw a drastic change. The parliaments became the field of political conflict between the king and his barons, both parties competing against each other for the support of those classes which were represented in the parliaments:—the knights who supplied the fighting force, the burgesses who supplied the ready money. As, from 1300 onwards, the parliaments became more political, so they became more apt to include representatives. The term *community* or *commonalty* of England, which in 1258 meant the whole body of the baronage, now definitely includes the knights and burgesses; by the end of the fourteenth century it will exclude the magnates. The communities—the Communes—the *Commons* are a recognized and distinct element in parliaments.

<sup>1</sup> *Close Rolls, 1242-7*, p. 129.

But the word "Commons" or "Communes"—covers the representatives of two distinct kinds of communities—the knights who came for the shires, the rural areas, and the burgesses who came for the towns, the urban areas. Everywhere but in England these formed two distinct groups—and even in England the knights at first, as in 1306, took counsel with the barons and the townsmen took counsel on the matter of taxation by themselves. But under his grandson Edward III the knights and burgesses were definitely told to discuss taxation together and make a joint report: the social line between the country gentlemen and the craftsmen and merchants of the town is not the line dividing the Lords from the Commons.

We get our first account of the proceedings of the Commons from the inside in the year 1376. The rolls of the king's parliament, in the earlier years of the reign of Edward III, have familiarized us with the picture of the great gathering, the roll call, the sermon, the king's speech (already made *for* him by a minister), the dismissal of the Commons, "Go and talk this over," and then, after some three or four days, the return of the Commons into parliament, and their reply to the questions put to them. But in 1376 an eyewitness relates what happened when the Commons left the parliament chamber. They went out of Westminster Palace, across the road to "their accustomed meeting place" in the chapter house of Westminster Abbey, and seated themselves about the room, one next to another. "And they began to talk about their business, the matters before the parliament, saying that it would be well at the outset for them to be sworn to each other to keep counsel regarding what was spoken . . . among them, . . . And to do this all . . . agreed, and they took a good oath to be loyal to each other. Then one of them said that, if any of us knew of anything to say for the benefit of the King and the Kingdom, it would be well for him to set forth among us what he knew and then, one after the other, (each of the rest could say) what lay next his heart.

"Thereupon a knight of the south country rose and went to the reading desk in the centre of the chapter house so that all might hear and, pounding on the said desk, began to speak in this fashion: '*Jube domine benedicere, etc.* My lords, you have heard the grievous matters before the parliament—how our lord the king has asked of the clergy and the commons a tenth and a fifteenth and customs on wool and other merchandise for a year or two. And in my opinion it is much to grant, . . . Also, as I have heard, there are diverse people who, . . . have in their hands goods and treasure of our lord the king amounting to a great sum of gold and silver; and they have falsely concealed the said goods, . . . For the present I will say no more. *Tu autem domine miserere nostris.*' And he went back to his seat among his companions.

"Thereupon another knight arose and went to the reading desk and said: 'My lords, our companion has spoken to good purpose, and now, as God will give me grace, I will tell you one thing for the benefit of the kingdom . . .'

"And the third man rose . . . and said: 'My lords, our companions have spoken very well. . . . But it is my opinion that . . . it would be well . . . to pray our lord the king and his wise council in the parliament that they may . . . assign to us certain bishops and certain earls, barons . . . such as we may name, to counsel and aid us. . . . And to this all agreed.

"About the same time a knight from the march of Wales, . . . named Sir Peter de la Mare, began to speak . . . and he said: 'My lords, you have well heard what our companions have had to say and what they have known and how they have expressed their views; and, in my opinion, they have spoken loyally and to good purpose.' And he rehearsed, word for word, all the things that they had said, doing so very skilfully. . . . And, because the said Sir Peter de la Mare had spoken so well and had so skilfully rehearsed the arguments and views of his companions, and had informed them of much that they did not know, they begged him on their part to assume the duty of expressing their will in the great parliament before the said lords, as to what they had decided to do. . . . And the said Sir Peter, out of reverence to God and his good companions and for the benefit of the kingdom, assumed that duty. . . ." <sup>2</sup>

Here is something that deserves the name of a House of Commons, even though it is quite outside the "Great Parliament"; and it has mastered the principle of secrecy — and also is in process of evolving its mouthpiece, the Speaker. From 1376 on, the Commons will choose a man who will speak for them in the presence of the king and lords.

Broadly speaking, it was the fourteenth century that made it certain that the Commons were to be an essential element in Parliament, and it was in the fifteenth century that the forms and patterns, the rules and procedures were established within which the effective powers of the Commons were to grow. Of these forms, the office of Speaker is exceedingly significant.

It was the king who had ordered the knights and the burgesses to sit together. This was a very valuable partnership, as it turned out, for the knights stiffened the backs of the less self-confident townsmen. However, it was the Commons themselves who "realizing the tactical value of unity," evolved the office of Speaker. Instead of depending on the royal messenger who had brought the king's word to them to report their answer back to him, they chose one of themselves to be their spokesman for the whole duration of a parliament.

Peter de la Mare insisted that he spoke for the whole body of the Commons, and refused to be cowed or snubbed by John of Gaunt for his unprecedented role, and though when the parliament was over he was temporarily imprisoned, he had set an enduring precedent. Later speakers maintained the

<sup>2</sup> From *The Anonimale Chronicle*, edited by Vivian Galbraith (Manchester); translation from Carl Stephenson and Frederick George Marcham *Sources of English Constitutional History* (New York, 1937), pp. 220-222.



tradition of taking their orders from the Commons. How free the Commons' choice was is a moot point; we hear of a disputed election and a majority vote as late as 1420, whilst forty years after that it is clear that the Speaker has become a salaried royal nominee, as he was down to the Long Parliament of Charles I.

It is probable that the great Lords brought influence to bear on the election, and a large number of those chosen to the post had gained administrative experience in the service of the king or magnates. But in the long run the most important feature in the elections was the preference shown for "the old parliamentary hand," to use modern phraseology. Thomas Chaucer, the son of the poet, chosen Speaker five times, sat in nine parliaments; whilst other Speakers had sat in eleven, twelve, thirteen, fifteen or even seventeen parliaments.

The usual duration of a parliament was something like one to three months; it was thus highly important that men with long experience presided over the discussions in the Commons, and helped to establish its traditional rules of procedure. By the middle of the fifteenth century, it is clear that the Speaker was controlling the procedure inside the House as well as speaking for it outside; in 1431 when the Speaker was ill, a temporary substitute was elected "so that parliament may more quickly end." Men desired the post so as to be able to promote the private petitions of their friends. Moreover, the fact that he was the embodiment of the authority of the House had been officially recognized in 1404 when a letter from all the people of England to all the people of France explaining their desire for peace was sealed by the two archbishops, the abbot of Westminster, one duke, one earl and one other lord, and Sir Arnold Savage, Speaker of the House of Commons.

How far were the Commons really independent of the Lords? This is a hard question to answer. A satirist who wrote in 1399 gives a none too complimentary description of the discussions in the House about that time. They are represented as saying:

"We are servants and we draw a salary, we are sent from the shires to make known their grievances, to discuss matters on their behalf and to stick to that, and only make grants of their money to the great men in a regular way, unless there is war. If we are false to the people who pay our wages, we are not earning them.'" But in contrast to these fine sentiments, the narrative goes on:

"Some members sat there like a nought in arithmetic, that marks a place but has no value in itself. Some had taken bribes, so that the shire they represented had no advantage from their presence (in parliament). Some were tattlers, who went to the king and warned him against men who were really good friends of his and deserved no blame either from king, council or commons, if one listened carefully to their speeches. Some members slumbered and slept and said little. Some stammered and mumbled and did not know what they meant to say. Some were paid dependents, and were afraid to take

any step without their masters' orders. Some were so pompous and dull-witted that they got hopelessly involved before they reached the end of their speeches, and no one, whether he sat on the bench or whether he was a burgess, could have made out what they wanted to say, there was so little sense in it.

"Some had been got at beforehand by the council, and knew well enough how things would have to end, or the assembly would be sorry for it. Some went with the majority, whichever way they went, while some would not commit themselves. Some were quite openly more concerned about the money the king owed them than about the interests of the Commons who paid their salaries, and these were promised their reward; if they would vote the taxes, their debts would be paid them. And some were so afraid of great men that they forsook righteousness."<sup>3</sup>

The account is ambiguous—some of the members are fools, some are knaves, some are honest men. It was written at the end of the century that had seen the deposition of two kings. In neither instance can it be shown that the Commons, as members of parliament, had any share in the proceedings. Very likely the men sent up to Westminster in response to Richard II's last writs of summons, were there in Westminster Hall, along with the London mob, who heard Henry claim the throne. It was "the estates and people" that declared Richard deposed—but the first step taken by the Commons, when Henry's first parliament assembled ten days later, was to disclaim responsibility. They do not wish, they say, to be involved in the state trials that have been going on before the Lords in parliament, and at their formal request the King agrees that it shall go on record that the Commons are petitioners and demandants, and that it belongs to the King and to the Lords to render judgments in parliament. But the King adds that they must be prepared to give *advice and assent* in the making of statutes, and the granting of subsidies and such matters for the common good of the realm, if the King wishes, and this may be taken as an official description of the function of the Commons at the opening of the fifteenth century, and another indication of the growing process of definition and formulation of powers.

The history of the granting of taxes, as we have seen, goes very far back; the share in lawmaking was, apparently, more than a formality by 1399. In fact, as early as the reign of Edward I, formal petitions from the Commons had sometimes produced legislation, and by 1399 statutes normally originated in that way. "Advice and assent" is more than this; and the share of the Commons in legislation was to be more exactly defined in the fifteenth century. We cannot assert that no bill became a statute without their consent; but we can say that it is quite usual to describe a statute as being established by the assent of both Lords and Commons. But the assent might be to the general gist of the measure, and alterations in the final drafting might defeat the inten-

<sup>3</sup> H. M. Cam, *Liberties and Communities* (Cambridge, England, 1944). pp. 230-1.

tion of the petitioners. In 1414 the Commons, asserting that they had the power of assenting as well as petitioning, asked that when the law was finally drafted they might have an opportunity to reconsider it, but they only got a promise that nothing *contrary* to their request should be enacted. Thus it was a very material advance when, in the course of the century, the practice grew up of including in the original petition the form of the intended act itself, so that no redrafting was needed. Whether the original petition had come from the Commons or from other source, they now knew exactly to what they were assenting, and could propose verbal alterations to the measure that was going to become law.

If we turn to the statute rolls to examine the content of these same statutes, the question of how they originated becomes interesting. Howard Gray showed that the bulk of legislation in the first half of the fifteenth century was initiated by petitions from the Common House. That does not preclude the possibility that the originating impulse came from elsewhere; we have solid evidence that both magnates and king could put petitions into the mouths of the representatives. In the second half of the century fewer laws are passed, and most of them seem to originate in the king's Council or the House of Lords; but again, the form is not conclusive. It is more enlightening to consider in whose interest the legislation is conceived; and when we note the large number of statutes protecting the interests of native craftsmen against the undue competition of foreign manufacturers, we seem to get a clue to the moving forces. Between 1464 and 1486 statutes were passed to protect cordwainers, horners, pattern makers, lawyers, shearmen, and fullers, as well as less well organized interests, against the importation of foreign manufactures. This protective legislation, no less than the fact that petitions are now being addressed to the Commons themselves, asking for their backing *vis á vis* the king and the Lords, in promoting legislation, indicates that however much the Commons might be playing for safety in the controversial field of national politics, they were active and effective where economic matters were at stake. All sorts of local concerns, too, such as today would be a matter for a private bill or a statutory order, were being promoted in this parliamentary legislation. The representatives might be used as pawns or tools by the great men; but the machinery of legislation was coming to affect an ever wider field of national interests, and here we may well believe the Commons knew how to look out for themselves.

Meanwhile, the forms of legislation were becoming set.

Halfway through the fifteenth century, in 1455, a royal official was brought before the judges in the Court of Exchequer Chamber to explain precisely the way in which acts of parliament were brought into being. He testified that bills that were passed by the Commons were endorsed "to be delivered to the lords" and that if the Lords amended one so as to enlarge its scope, it came back to the Commons for their consent, but not so if they narrowed its scope. Bills passed first by the Lords came to the Commons for their assent.

Forty years later a judge declared explicitly that the consent of King, Lords, and Commons was necessary to make an act of parliament. And by now an act of parliament, a statute, was a weighty and permanent matter: to the judges it was of equal force with the common law. Its forms were becoming fixed; the rule of three readings before a measure was passed was already coming into use. Almost imperceptibly, in the fourteenth and fifteenth centuries, it had come about that the kings who had in the ninth century laid proposed additions to the laws before a select body of wise men for their approval, who had in the twelfth century issued decrees with "the counsel and the consent" of their feudal tenants in chief, but who had also in the thirteenth century issued long and elaborate provisions and statutes drafted by their learned judges with no word of counsel and consent at all, who had in the fourteenth century issued statutes at the request of the Commons and with the assent of the Lords, were now, in form at least, requiring the assent of the elected Commons to every statute issued by authority of parliament.

When Sir John Fortescue, writing about 1470, is seeking to explain to the young son of Henry VI, temporarily an exile in France, the difference between English and French ways of government, he says that, whereas in countries under Roman law *What pleases the prince has the force of law*, "the King of England is not able to change the laws of his kingdom without the consent of his subjects, nor to burden them with extraordinary taxes against their will, so they are at liberty to enjoy their property, and are ruled by the laws they themselves desire."<sup>4</sup> Similarly, when he comes to describe the statutes of England in detail he contrasts them with the laws of other countries which are made only for the advantage of their rulers. "As the statutes of England are made by the assent of the whole realm they are bound to be to the advantage of the people—all the more since they proceed from the wisdom not of one counsellor only, but of three hundred chosen men, as those who know the form of the summons and procedure of parliament can testify."<sup>5</sup>

In one of the matters mentioned by Fortescue, that of taxation, the Commons had secured a key position. In 1407, according to a statement formally enrolled on the records of Parliament, the king and the lords spiritual and temporal assembled in the parliament chamber had conferred on the state of the realm, and the Lords had made a definite proposal as to the rate of the taxes that should be levied on the people. Twelve of the commons were sent for and told to report to their fellows what had been decided by the Lords and the king, and to get their approval. "And when this report had thus been made to the said commons, they were thereby greatly disturbed, saying and affirming that it was to the great prejudice and derogation of their liberties."

<sup>4</sup> Sir John Fortescue *De Laudibus Legum Anglie*, edited by S. B. Chrimes (Cambridge, England, 1942), p. 24.

<sup>5</sup> *Ibid.* p. 40.

And the king, needing the financial aid of the knights and burgesses, made a solemn promise, with the consent of the lords, that henceforth, though the lords might discuss taxes *by themselves* and the commons *by themselves*, "neither the lords on their part nor the commons on their part shall make any report to our said lord the king of any grant made by the commons and assented to by the lords, until the same lords and commons are of one mind and accord in this matter, and then (the report shall be made) in the manner and form accustomed, that is to say, by the mouth of the Speaker of the said commons." <sup>6</sup>

This is the first step towards the monopoly of financial power by the House of Commons, as we know it today, and as it was finally secured by the Parliament Act of 1911, which provided that a money bill can become law without the assent of the Lords. In the fifteenth century, it must be remembered, a very large amount of the king's revenue came in automatically, with no need for a grant; a great many loopholes had to be barred before the Commons had secured that power over the royal purse which was in the end to give them the supreme power in all fields of government. But it is peculiarly significant that this should occur in England at a time when representative assemblies elsewhere were losing rather than gaining control. In Spain the proctors of the towns were letting the power slip from them. They quarrelled about precedence among themselves, instead of attaching conditions to their grants, as we are told by a chronicler of the early fifteenth century, who blamed them bitterly for their unwisdom.

In France the kings, to whom a country ravaged by civil war looked as the one power capable of establishing peace and prosperity, succeeded by 1450 in establishing the custom of levying what taxes they needed without seeking consent from their subjects. It was no longer necessary to summon the estates of France to get grants of money. Though the kings continued to call them together from time to time for two hundred more years on national business, they could get on without their financial assistance, and in the seventeenth century, at the very moment when the parliaments of James I were giving him more and more trouble, the French Estates General were dismissed for the last time before 1789. Richelieu was able to congratulate himself when he looked across the Channel and saw what troubles Charles I was having with his parliaments.

This is not the whole story. When we contrast the survival of the English parliament with the fading out of her continental sisters we have to remember that England had only one representative assembly for the whole nation, while in Spain there were separate Cortes for Catalonia, Valencia, Navarre, Aragon, and Castile, whilst in France there was an even larger number of provincial Estates. In both countries regional rivalries were strong, so that, however much

<sup>6</sup> *Rolls of Parliament*, III 610-1; translation from Stephenson and Marcham, *op. cit.* pp. 264-5.

the fourteenth and fifteenth century kings of France might try to induce them to cooperate, the separate provincial Estates refused to make a common grant, and a series of provincial assemblies had to be held after the king's needs had been explained to the Estates General. The practice of collective bargaining was never established, and in due course the kings dropped first the useless preliminary assembly, and then the local assemblies. Thus when the stronger Renaissance kings revived the Estates General, they lacked both the traditions and the powers of the English parliament.

Again, the fact that the knights sat with the burgesses in England whilst in France the *petite noblesse* went with the *grande noblesse*, and in Spain the *caballeros* had a house of their own, is also significant, though probably not as significant as the provincial divisions, which, it should be remembered, are still recognizable and still politically important today in both France and Spain. Germany, even more divided, had innumerable small assemblies of estates. There was nothing outside England comparable to the "Lower House," the word we are beginning to meet in official records from 1450 onwards.

If we look at the House of Commons, then, at the end of the fifteenth century, we see an institution with an established place in the national system, with a Speaker, with rules of procedure, and with established powers over taxation and legislation. But if we ask the further question—how active were the members? How often was a parliament held? We discover that the facts are not what we should expect. Between 1475 and 1485 only two parliaments were summoned, the first sitting for six weeks and the second for four. The task of the latter was to endorse the deposition of Richard III's nephew, already probably murdered by his orders.

Henry VII, having ousted Richard, began with a fairly frequent summoning of parliaments. There were four in his first seven years, but when his son Henry VIII succeeded him in 1509 there had been only one parliament in the last eleven years. The thrift and ingenuity of Henry VII were finding means of carrying on the government without asking for extraordinary aids; the average Tudor citizen considered that "few parliaments" were the sign of a healthy and prosperous country; and it is not impossible that the English Parliament might have shared the fate of the French Estates General if Henry VIII had not needed its assistance to carry through the details of his repudiation of Papal authority in a legal and water-tight fashion. Pollard has called him the second founder of parliament.

Thus, though the fifteenth century had seen so marked an advance in the definition of its functions and forms, all was not well with the House of Commons. As an insurance company might have said, it was not a good risk in 1500.

We can never judge the history of any institution simply by looking at its forms; we need to know the forces that are behind it; the social forces, the

political forces, what we have been taught in this century to call the ideological forces. Behind what seems to be the advance of democracy we discern, on closer scrutiny, a corrupt and decadent aristocracy, exploiting this form of government for its own purposes. Sir John Fortescue, having in his first book warned the heir apparent to the throne of England that he cannot make laws or levy taxes without the consent of Parliament, writes a second book, the first on the art of government in the mother tongue, to explain that what England needs is a strong government; that nothing is worse for a country than that its king should be short of money and have to ask for grants; that, above all, the ever-mighty subject is the chief peril, and that the great and wealthy magnates who fill the king's council and spend their time getting jobs and favours for their dependents rather than looking after the king's government are a public danger. Obviously he does not think that parliaments are any use in such a situation; an honest and expert civil service and strict economy are the remedies he proposes.

Why are parliaments ineffective for controlling the great men? Because the great men control the parliaments.

The fifteenth century is more articulate than any previous age in England; lay folks as well as clergy could now write and read, and family letters bear out and elaborate the picture sketched by Fortescue. Any young man who wants to get on must find a patron—some noble lord who will pull strings for him in the council, in the law courts and on the hustings.

It is time to look at one or more aspect of the fifteenth century House of Commons; the elections to Parliament. Before this century there were no explicit directions how the men were to be selected who spoke for the shires and the boroughs in the king's parliament; the sheriff was just told to hold the elections and send up the names of those elected. Between 1400 and 1450 no less than five statutes were passed directing sheriffs as to procedure and laying down the qualifications both for eligibility and for being an elector. Once again it is the century of definition. The statute of 1430 fixed the law for the next five hundred years. Only those might have a voice in choosing the knights for the shire who had freehold property worth forty shillings a year. But the reason given is significant; "the elections have of late been carried out by too great and excessive a number of people dwelling within the counties, of whom the larger part have been people of little substance or no worth, each pretending to have the same voice in such elections as the most worthy knight or squire dwelling within the same counties."<sup>7</sup>

No notion of the equal political rights of freemen is traceable here. And when we turn to the private correspondence of the times, we find that even the worthy knights and squires did not have it all their own way. Sir John Paston

<sup>7</sup> *Statutes of the Realm*, II 243; translation from Stephenson and Marcham, *op. cit.* p. 276.

in 1450, who is planning to canvass the county of Norfolk—in fifteenth century terminology “to labour to be knight of the shire”—gets a letter from the Duke of Norfolk. “Our uncle of York and we have fully appointed and agreed of two persons to be knights of the shire of Norfolk as we think convenient and necessary for the welfare of the said shire, and therefore pray you, *as you list to stand in the favour of our good lordship*, to make no labour contrary to this desire.”<sup>8</sup> Sir John dares not risk the displeasure of the two dukes—one of them soon to be declared heir to the throne—and he does as requested.

Five years later it is the Duchess who writes. “It is thought necessary for diverse causes that my lord have in this parliament such as are members of his household,”<sup>9</sup> and asks Sir John to vote for the duke’s two nominees and exhort others to do the same. In 1461 Sir John took steps of his own, to the great disgust of the sheriff, a dependent of the Duke of Norfolk’s, who reported disorderly demonstrations at the shire court of large crowds of men armed with “bills, glaives, jacks, salades and other arms” who shouted “Ye shall none other knights choose here this day but our masters John Paston and John Berney” and absolutely refused to have their property qualifications tried by the sheriff. He probably made a good story of it; he certainly postponed the election twice, and John Paston’s son up in London wrote down to his father congratulating him on escaping with his life—“Thank God you wore a good doublet when the sheriff’s man struck you with his dagger!” In this contest there were even election posters—“There was a bill set up on the shire house door of favour to you and hatred to the other.”<sup>10</sup> But in 1461 the duke’s influence did not avail and Sir John and his partner went to Westminster. In 1470 he got in again; this time by the influence of the Duke of Oxford. In 1472 the rival dukes came to an agreement. Each got in a nominee, and Paston was defeated; but he found a seat in one of the boroughs.

A magnate might not always get his way against a body of country gentlemen but burgesses were easier to manage. There were a great many small boroughs which were quite glad to escape having to pay the expenses of their fellow townsmen—two shillings a day—by agreeing to choose a nobleman’s nominee who would pay his own expenses. And there were something like two hundred borough members to seventy or so county members. It was about the middle of the fifteenth century that a number of new parliamentary boroughs were created; some of them growing towns that had a good claim to be represented, but some very small beer. Some of the rotten boroughs of the great Reform Bill of 1832 had been rotten from birth; many of the fifteenth century creations were pocket boroughs, which had gained the right to elect

<sup>8</sup> *The Paston Letters*, edited by James Gairdner, Library Edition (London, 1904), II 184.

<sup>9</sup> *Ibid.* III 34.

<sup>10</sup> *English Historical Review*, XL (1925), 79 ff.; *Paston Letters*, III 303, IV 20.



two members to Parliament because some noble lord wanted to get two more of his adherents into the Common House, as Sir John Paston calls it.

The picture presented to us by Wedgwood's volume on the personnel of the House of Commons in the middle of the fifteenth century reminds us strongly of the picture which eighteenth century historians draw of the relations between the two Houses in the days when patronage moulded politics under the Whig aristocracy. It is much the same picture as Mr. Neale paints of the Elizabethan parliaments. The influence of the great men, in nine cases out of ten, in all these periods determined who should be elected to Parliament.

But great as was the power of family connection and the desirability of having a noble patron who could call up gangs of liveried retainers to apply violence where the forms of law were not enough, and who could find jobs or estates or land for those who served him faithfully, there were other forces in the country. The power and prestige of the monarchy that had been temporarily discredited under the saintly but feeble-minded Henry VI, and further discredited by the crimes of the greedy competitors for the Crown and the rival Roses could be restored, and was restored by Henry Tudor.

It is all important to remember that the Tudors, for all their autocratic ways, were not dictators or totalitarians. They respected the law and were determined to have it on their side, and it is to the law that Fortescue looks, rather than to Parliament, to protect the rights and the property of the Englishman. Sheriffs and juries might have been bribed and intimidated under the Yorkists and Lancastrians, so that the law was of none effect, but the Judges of the King's Court had preserved the art and science of law, and the Chancery had retained its reputation. The professional lawyer, of whom Sir John Fortescue, Chief Justice of the King's Bench, is typical, was not depraved. With a strong executive to see that judgments were enforced, and to see that *ad hoc* judicial commissions were not nominated by interested parties (a practice assumed to be the rule in the Paston correspondence), the judicial and legal system was good for many more centuries, and worked all the better for some of the new devices, like the court called the Star Chamber, introduced to defeat the practices of the over-mighty subjects of the king.

The Tudors relied not only on the machinery of justice and government inherited from the great kings of the twelfth and thirteenth centuries; their main support was the good will of the nation. The common man was sick of the anarchy of "bastard feudalism" as it has been called. The merchants and oversea adventurers, the manufacturers and craftsmen, rapidly developing a great cloth industry, the agriculturists, converting their plough lands into sheep walks, all saw endless possibilities of enterprise and wealth if only peace could be assured and property protected. The substantial squires and burgesses had not been completely at the mercy of the magnates; both in ability and in wealth they were necessary to the greater men, and sometimes undoubtedly the tail

could wag the dog. The very fact that the Lords sought to manipulate the Commons meant that they had something worth manipulating. The shift of economic power from the aristocracy to the gentry, with which Tawney has made us familiar, must be taken into account if we seek to trace the growing independence and ultimate supremacy of the lower house of Parliament.

Political theory is following close on the heels of political fact. Fortescue, insisting on the wisdom supplied by "the three hundred chosen men,"<sup>11</sup> is not the only man to suggest that something of importance was behind the representatives who came to Westminster. By 1450 a little book in the keeping of the clerk of Parliament which purported to describe the way Parliament had been held before the Norman Conquest, was preaching the doctrine that the members of the House of Commons were more important than the bishops and earls, "because the magnates are there only for themselves, but the knights and burgesses represent the whole commonalty of England—'totam communitatem Anglie.'"<sup>12</sup> Edward IV addressed the Commons and their Speaker, "John Say, and ye, sirs, that have come to this my court of parliament for the comon of this my land." In 1484 another lawyer repeating this statement made it more precise. Every one, he said, was party and privy to what was done in Parliament, "since the commons have one or two for every commonalty, to bind or unbind all the commonalty."<sup>13</sup>

This was an idea that would have startled the legist Bracton or the legislator Edward I, two hundred years earlier; that the binding force of a statute derived from the consent of the whole community given by their representatives. It is the argument of a lawyer, not an authoritative pronouncement, but that anybody could say so in 1482 indicates something of the development that had been taking place in the last hundred years.

The idea will march: under the Tudors we shall find members insisting that they have a privilege and dignity not their own—they are "public persons, counsellors to the whole state."<sup>14</sup> Queen Elizabeth's faithful servant, Sir Thomas Smith, will declare of Parliament that "every Englishman is intended to be there present," in his book on the English Commonwealth.<sup>15</sup> And behind all these statements we can still catch the voice of that anonymous poet of 1399 who said that the members were sent from the shires to make known their grievances, and if they were false to those who paid their salaries they were cheating them.

<sup>11</sup> See Note 5 above.

<sup>12</sup> M. V. Clarke, *Medieval Representation and Consent* (London, 1936), p. 383.

<sup>13</sup> Quoted by S. B. Chrimes, *English Constitutional Ideas in the Fifteenth Century* (Cambridge, England, 1936), pp. 73, 79.

<sup>14</sup> Quoted by L. F. Brown, "Ideas of Representation from Elizabeth to Charles II," *Journal of Modern History*, XI (1939), p. 27.

<sup>15</sup> *De Republica Anglorum*, ed. Alston, (Cambridge, England, 1906), p. 49.

Further, it must be remembered that it was the acceptance by the judges of the doctrine that statutes can only be framed in Parliament, with the consent of the king, lords and commons, that made it necessary for Henry VIII to take Parliament into partnership when he broke with Rome. Legally as well as politically, he had to have their help if he was to make a solid and lasting structure of his state church; and in so doing, he gave Parliament a new start in life (no Parliament before that which he summoned in 1529 had ever endured for seven years) and brought into being an authority which was in the end to oust him from the supremacy he had just established.

The record of representation in fifteenth century England is a very mingled one and in many ways, I feel, characteristically English. The magnates maintaining and exploiting for their own interests a system which was based on a principle hostile to aristocracy; the representatives with their double allegiance to these patrons and to the communities that elected them; the kings endeavoring to reduce the holding of parliaments to a minimum, and the man in the street warmly agreeing that few parliaments are a sure sign that things are going well. And alongside this, the lawyers, almost unconsciously evolving a theory of popular authority and declaring that the especial glory of England is that her king has no power to rule save by laws to which his people have given their consent, nor to tax his people save by their own grant.

If these incongruities are English, so also, I think, is the basic importance of the power of the purse firmly located in the House of Commons. What had begun as a common sense measure of strong and autocratic rulers centuries before had, inch by inch, been established as an unbreakable rule. When Edward I insisted that the electors must be bound by the undertakings given on their behalf by their representatives, he was all unawares helping to establish the rule that only with the consent of the elected representatives could a direct tax be imposed. In process of time that was to become the only consent that was needed. Upon that one significant fact, that the elected representatives, and they alone, could bind those who elected them to pay a tax, has been erected the whole fabric of parliamentary sovereignty. The process can be summarized in the proverb, *He who pays the piper, calls the tune.*

It is not quite clear who was calling the tune when the first settlements were made in Virginia and New England, but the settlers of those days came from a country where it was a burning issue, and the principle was in their blood. By 1688 it had been finally determined in England who should call the tune, though the means by which the piper should be penalized if he played a wrong tune were still somewhat rough and ready, and two different techniques were to be worked out on the two sides of the Atlantic. But if one is to translate this somewhat materialistic fact into a principle, I think that the word that sums it up is *responsibility*.

When Edward I framed the writs which committed the electors to be bound by the action of their representatives, he was forcing responsibility on

them. When the members drew their salaries from the men of the shires and boroughs they accepted responsibility to those who paid them, even though they might at a later date forget this and look to the great Lords. When the Commons finally wrenched the overall power of taxation from the Crown in Stuart times, they committed themselves, almost unconsciously, to responsibility for selecting the administration. And the same holds good with the last stage of all. We may today boast of the widening of the franchise in the nineteenth and twentieth centuries from the male property holder to the adult citizen of either sex, but this acceptance of the principle of equality cannot of itself produce democracy. Unless the individual voter, man or woman, accepts responsibility along with equality, democracy becomes a dead letter. It is not only government *for* the people, it must be government *by* the people; and the people must be prepared to face the consequences alike of their action and of their inaction.



