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ENGLISH CONSTITUTIONAL CONFLICTS OF THE SEVENTEENTH CENTURY 1603–1689

LECTURE I : *Introductory*

AN old historian,[1] writing in 1744 of the Revolution of 1688, protests against the habit which prevailed in his day of regarding the Revolution as an isolated event.

"It is usual", he says, "to consider the great Revolution which took place in the year 1688 as a single Act or Interlude which was complete in itself, and needed neither Prologue nor Chorus by way of illustration. But to me it appears rather as the grand Catastrophe of several Acts, consisting of a Multiplicity of Scenes, which began to open soon after the Restoration of King Charles II, and which, through a great Variety of Incidents, in a perplexed and irregular manner, made way almost continually, though insensibly, for that important Event".

Here we have the conception of the historical drama, and this conception can be nowhere more fruitfully applied than to the history of the seventeenth century. Nor need we restrict it to a play which begins with the Restoration. The piece is on the stage for nearly a hundred years. The first Act ends with an execution and the second with an abdication; while between them there is an Interlude of military rule. The character of the Revolution was determined by the Rebellion; while the reign of James I is only the Prologue of the same great play. If we are to understand the history of the seventeenth century, we must begin by grasping its dramatic unity. But this compels the historian of the Constitution to a particular way of treating his subject; he can no longer afford to leave chronology out of account. It is no longer possible for him—as in the Tudor period—to trace the process of organic change as it goes on in separate institutions; it is now necessary to follow a story and to watch

[1] Ralph, *History of England*, i. 1.

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an unfolding plot. Nevertheless, it is convenient, in an introductory lecture, to ignore chronology and to group together some of the fundamental facts.

It has been said that as we pass from the sixteenth to the seventeenth century we appear to emerge into a new age. The point is put in a variety of ways.

(1) It is said that the Tudor period reconstructed English civilisation. The two great powers in which medieval civilisation had centred had been the Church and the Baronage, and both these had been overthrown by the Tudor Kings. The Dissolution of the Monasteries was a visible social revolution; and scarcely less of a revolution was involved in the more silent and gradual subsidence of the baronial power. The fresh industrial energy of the towns was everywhere replacing the declining industrial energy of the monastic foundations; and as the Reformation swept away the monasteries, so the Civil War was about to dismantle the baronial strongholds—now only relics of a military power which had long since spent itself. The danger from great lords and retainers had completely passed away; the King's writ ran everywhere; the long arm of the Privy Council reached into every corner of the kingdom. What men needed now was not protection from the great lords, but protection from tyrannical abuse of its authority on the part of the power by which the great lords had been overthrown.

(2) The same strong dynasty which had thus accomplished a social revolution had also achieved an ecclesiastical revolution. The Reformation had been carried through; on the whole, its results were accepted; and the crusade of the Catholic powers against it had had the effect of identifying the cause of national independence with the repudiation of the claims of Rome. The long reign of Elizabeth, by bringing the greater part of the nation into the fold of the national Church, had put an end to the danger of a war of religion within the realm. The adherents of Rome had ceased to be dangerous. They were a small minority which could organise an assassination but could not raise a rebellion.

(3) The Tudors had also lifted the fear of foreign

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invasion from the English mind. It was not only that the Spanish Armada had been defeated; but also that there had been an immense improvement in the defensible position of England. The success of the United Provinces against Spain had placed the ports of Holland—the natural base for a flank attack upon the English coasts—in the hands of a friendly power. Somewhat the same thing had happened in Ireland—the most vulnerable point in the dominions of Elizabeth. "Ireland hath very good timber and convenient havens", says a letter-writer of 1580;[1] "if the Spaniard might be master of them, he would in short space be master of the seas". This was clearly understood by Spanish statesmen, and so long as Ireland was full of semi-independent chieftains who were hostile to the Reformation, it was easy for Spain to stir up and co-operate in rebellions. But the relentless suppression of rebellions by Elizabeth's vigorous viceroys had at any rate closed the door to foreign intervention. And now at last the accession of James VI of Scotland to the throne of England had barred another road, and had deprived another foreign power of its traditional opportunity for intervention. The alliance between France and Scotland, which had weighed heavily upon the judgments of English statesmen, now determined in the course of nature, and ceased to affect the direction of English policy. England was finally delivered from the nightmare of the North.

(4) A principal danger of the reign of Elizabeth had been the danger of a disputed succession. At one time it must have appeared doubtful whether a disputed succession would not, after all, follow upon Elizabeth's death; for James of Scotland did not appear then in the light in which we are accustomed to regard him now—as quite the obvious heir. If the succession was to be determined by the will of Henry VIII, the crown would go to the descendants of his younger sister Mary, who had married Charles Brandon, Duke of Suffolk. But if the will of Henry VIII was set aside, and it was held that the descendants of his elder sister Margaret had the prior

[1] Thomas Bawdewyn to the Earl of Shrewsbury (Edmund Lodge, *Illustrations of British History*, ii. 231).

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claim, then it was at any rate arguable that James as an alien could not inherit; and in that case the crown would pass to the descendants of Margaret's second marriage, who were represented by Lady Arabella Stuart. But fortunately for the union between England and Scotland, the advantages which the accession of James would bring were present to the minds of English statesmen, and especially to the mind of the one whose word carried the greatest weight—the aged Queen herself. As death drew near, she abandoned her habitual reserve on the succession question and spoke out plainly in favour of James. "I told you", she said to Nottingham and others on March 22, two days before she died, "my seat had been the seat of Kings, and I will have no rascal to succeed me; who should succeed me but a King?" Cecil asked her what she meant by "no rascal shall succeed me"; and she replied, "My meaning was, a King should succeed me; and who should that be but our cousin of Scotland?"[1] Thus it came about that the Stuart House succeeded to the throne of England without opposition; and when its title was once established, there was an end to disputed successions, for the curse of childlessness which had descended upon the House of Tudor spared the House of Stuart. At the time of his accession James had two sons.

The sense of relief with which the nation saw the accession of James is described in one of Bacon's Fragments.[2] It had been generally supposed, he tells us, especially abroad, that when Elizabeth died,

> there must follow in England nothing but confusions, interreigns, and perturbations of estate; likely far to exceed the ancient calamities of the civil wars between the Houses of Lancaster and York, by how much more the dissensions were like to be more mortal and bloody when foreign competition should be added to domestical, and divisions for religion to matter of title to the crown.

But when it fell out that James succeeded without opposition, "it rejoiced all men to see so fair a morning

[1] Robert Carey's account, quoted in Creighton, *Queen Elizabeth*, p. 302.
[2] "The Beginning of the History of Great Britain" in *Works* (ed. Spedding), vi. 277.

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of a Kingdom, and to be thoroughly secured of former apprehensions; as a man that awaketh out of a fearful dream".

The considerations which I have mentioned all serve to differentiate the centuries.

"England in 1620", says Seeley,[1] "was not the same state that she had been under the Queen. England and Scotland were united in the person of the King, and united in the Reformation. All those dangerous and terrible discords which in the Queen's time had laid the island open to foreign invasion were extinguished. There were no longer two sovereigns in the island, and two evenly balanced religions; no longer two systems of alliance and of royal affinity. The State ruled by James was as much greater than the State ruled by Elizabeth, as James himself was less great than Elizabeth".

But observe the consequences. In the reign of Elizabeth it was foreign policy that was of transcendent importance, and determined the issues of national life and death. The causes which governed foreign policy lay for the most part outside England, and the whole matter was, from its very nature, bound to be in the hands of the Queen and the group of experts in diplomacy which surrounded her. But in the reign of James the greatest foreign questions have been already settled, and it is therefore possible for constitutional questions to come to the front. Foreign affairs are a region where statecraft may exercise itself, but they no longer involve issues that are vital; the subtle and discerning instinct of the political classes sees that they need no longer eclipse all other questions.

"Just as after the Napoleonic wars", says Seeley,[2] "a period of reform set in, and the kind of stagnation in which legislation had fallen was broken up, so at the end of the long Spanish war, Parliament was relieved from a pressure which had paralysed it".

And this brings us to a new point. The Parliament which was thus let loose upon politics was not the same deferential assembly which had been bullied and browbeaten by Henry VIII. One of the great achievements of the Tudor period on the constitutional side was the consolidation of Parliamentary institutions. The very fact that the Tudor Kings had found Parliaments subservient

[1] *Growth of British Policy*, i. 258.

[2] *Ib.* i. 259.

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and had therefore used them, had given Parliaments a great place in the State. It might have been possible for Henry VIII to have ignored the authority which Parliament claimed over legislation and taxation; to have accomplished the Reformation by royal Injunction instead of by Act of Parliament; to have recruited his finances by royal writs instead of subsidies; to have discontinued by degrees the practice of summoning the Estates. But the fact that he did not do so mightily strengthened the position of Parliament. The Tudors allowed Parliamentary influence to be confirmed by a whole century of precedents, and thus the road which for the first Tudor had been only an ill-marked track had become to the feet of the first Stuart the beaten way of the Constitution.

"Parliament", says Prothero,[1] "had in fact confirmed its position as an indispensable element in the State. Without the training, the prestige, and the sense of self-importance conferred on it by a century of Tudor legislation, it could never have been styled by Pym, the soul of the body politic".

And in Parliament, the House of Commons was no longer relatively unimportant. The Tudors, seeking a counterpoise to the baronage, had done their best to elevate the country gentry and the commercial classes into political importance; and during the sixteenth century these classes had steadily improved their position. The gentry had been enriched by the practice of enclosure and the spoils of the monasteries, while the commercial classes had profited by the growth of trade and the merchant ventures in the New World at the expense of Spain; and the best of the energy and enterprise of these classes was concentrated in the House of Commons.

So far we have been dealing with general causes; but we must not leave personality altogether out of account. The House which had succeeded to the powers of the Tudor absolutism had not inherited the Tudor political genius. All the Tudors had been dignified and effective personalities, and Henry VIII and Elizabeth had been great statesmen. The Stuarts, coming to power at a time

[1] *Statutes and Constitutional Documents*, 1558–1625, p. xxiv.

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when statesmanship was more important than ever to the Crown, displayed qualities of only the ordinary type. They were for the most part conscientious and meritorious, but the dynasty only produced one statesman, and he was neither conscientious nor meritorious—I mean, of course, Charles II. The contrast between the Houses may be measured by comparing Queen Anne with Queen Elizabeth and Charles I with Henry VIII. Set side by side with this decline of statesmanship on the part of the Crown, the advance of Parliament to its new position. If the policy of the Stuart dynasty should seem to be dangerous, if it should appear to threaten the public weal as the country gentry and the commercial classes conceived it, Parliament was now qualified to come forward as a critic of the Government, or even as a rival to the Crown, if any powerful motives should arise to induce it to take up an attitude of independence. It is remarkable that just at the time when Parliament was becoming capable of self-assertion and initiative, motives of almost irresistible strength were beginning to operate in this direction. The controversies between the first two Stuart Kings and their Parliaments turn mainly on the two great questions of Taxation and Religion.

Financially, the Stuart Kings fell on evil days. The permanent revenue of the Crown, even under the careful management of Elizabeth, did not produce enough to meet the ordinary expenses of government, and yet the expenses of government continually tended to increase. It was not that the country as a whole was poorer; in fact the contrary was the case. After the defeat of the Armada, and the clearing of the cloud of uncertainty and danger which had hung so black over England in the earlier years of the great Queen's reign, there had been an immense improvement in the general financial position. This is the period of the manor-house—what someone alludes to as "all that great bravery of building that set in in the times of Elizabeth". It is also pre-eminently the period of plate, in which the savings of all classes were accumulated, almost as a peasant of India lays money by in the form of silver ornaments and jewels. The foreign trade of England

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also was making a considerable start. In the earlier years of James I's reign both the East India Company and the Levant Company did remarkably well, and later the Thirty Years' War on the Continent threw a great deal of trade into English hands. The difficulty was that under existing constitutional arrangements the Crown did not sufficiently share in this increase in the country's wealth. It is true that the revenue of James I benefited through the customs by the increase in foreign trade, and, as we shall see later, the remarkable increase in the yield to custom was his salvation from bankruptcy. But the Crown gained little from the increasing wealth of the country in general, because the assessment for subsidy remained unchanged. We find Sir Walter Raleigh protesting in Elizabeth's Parliament of 1601 against the absurd under-assessment of persons of large fortune. "Our estates that be £30 or £40 in the Queen's books are not the hundredth part of our wealth."[1] And yet it was not in practice possible to go behind the subsidy books or to break down the tenacious custom which governed the entries there.

Although the Stuart Kings succeeded to the poverty of Elizabeth, they did not inherit her saving spirit. Speaking generally they were wasteful Kings, and this is true of James I as well as of Charles II. The ordinary peace expenditure of Elizabeth had been about £220,000 a year; in 1607 James spent £500,000. It is true that the Irish troubles were a constant drain on the Exchequer, and that the rise in wages and prices was always putting Government, as a large employer and purchaser, at a disadvantage—but a considerable part of the increase was due to an extravagant household, pensions to courtiers, and preposterous purchases of plate and jewels. On the whole we may take it, that where Elizabeth had only been pressed for money, James and Charles were on the verge of bankruptcy, and that this sinister change in the situation was due—in part at least—to wasteful administration.

This poverty of the Stuart Kings is a fundamental fact in the history of the period, because it established a vicious

[1] *Parliamentary History*, i 920.

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circle. (1) It compelled the Crown to summon frequent Parliaments, and to ask for subsidies to meet ordinary expenditure, in violation of the theory of the Constitution, which made Parliament meet on great occasions only, to vote supplies for the emergencies of war or rebellion. (2) Frequent Parliaments meant facilities for Parliamentary organisation and Parliamentary criticism which had not existed in the days of the Tudors when Parliament met seldom and sat for a short time. (3) When a Stuart Parliament met, it found itself confronted by ecclesiastical grievances of sufficient magnitude to justify it in pressing the Crown for their redress, and for this a powerful lever now lay ready to its hand, for it could insist that redress of grievances should precede supply. (4) It thus became an object of the first importance with the Crown to increase its ordinary or extra-Parliamentary revenue, even although in order to do so it was necessary to press its legal rights against individuals much further than Elizabeth had done. But (5) this was to make fresh grievances for Parliament to redress, and so to embitter still further its relations with the Crown.

Besides these financial grievances, Parliament found itself confronted by ecclesiastical grievances, and these were the more important, for religion not only furnished far more powerful motives of action than did finance, but it determined the spirit in which the controversy was carried on. "It is observable in the House of Commons, as their whole story gives it", wrote Sir John Eliot,[1] who knew the House better than any other politician of the day except Pym, "that wherever that mention does break forth of the fears or dangers in religion, and the increase of popery, their affections are much stirred; and whatever is obnoxious in the State, it then is reckoned as an incident to that".

At two points in particular the policy of the elder Stuarts was precisely such as to "stir the affections" of the House of Commons.

(1) It must be remembered that in the seventeenth century most problems of foreign policy had a religious

[1] John Forster, *Sir John Eliot* (edition of 1872), i. 145.

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character, and the foreign policy of the Stuarts sometimes appeared to their Parliaments to imperil Protestantism. To us, who look at things from a distance, it is clear that after the defeat of the Armada and the failure of Spain to overwhelm her revolted provinces Protestantism had ceased to be in any serious danger. But it was not possible for the men of the time immediately to grasp their true position, and thus in the first half of the seventeenth century the panic fear of Spain and Popery was liable to periodical revivals, during which it exercised a potent influence upon politics. And the foreign policy of the Stuarts was exactly such as to arouse this fear. The engagements of James with Spain and of Charles with France seemed dangerous to Protestantism, and especially dangerous at a time when the Catholic Powers were carrying all before them in the Thirty Years' War. And where Protestantism was at stake, Parliament was prepared to break out of the circle to which the incantations of the Tudors had confined it, and to claim an influence hitherto denied it upon the foreign policy of the Crown.

But (2) the Stuart period saw also a new internal religious discord, and in this the Crown appeared to have taken the wrong side. On James I's accession Puritanism in the narrower sense—the rejection of the Prayer Book as a whole, and the complete repudiation of episcopal authority—was only represented by a small minority in the country; but Puritanism in the wider sense—the Puritanism which asked for a further reformation of doctrine and ritual than Elizabeth had been willing to allow—was the creed of the greater part of the members of the Church of England itself. Nor was this at all surprising, for the system of doctrine and the system of discipline associated with Puritanism are the result of the necessity that Protestantism should be systematised.[1] If Protestantism was to fight Rome it must be something more positive and coherent than a mere negation of Rome, and it acquired coherence through the work of Calvin, who "shaped the mould in which the bronze of Puritanism was cast", and "by his unbending will, his pride, his severity,

[1] S. R. Gardiner, *Cromwell's Place in History*, p. 107.

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