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### *The English Constitution*

Walter Bagehot's anatomy of the English constitution is a classic of English political writing. In this new *Cambridge Texts* edition it appears for the first time in its original (1867) book version, with Bagehot's original conclusion, and the substantial introduction written for the second edition of 1872. Paul Smith's introduction places Bagehot's views in the context of contemporary events and prevalent views of the working of the constitution, indicating their relation to his developing ideas on the anthropological and sociological springs of authority. He assesses the accuracy of Bagehot's account of parliamentary government in operation, and the way in which Bagehot exemplifies the difficulties faced by British liberalism in coming to terms with the approach of democracy. All the usual student-friendly features of the *Cambridge Texts* series are present, including a select bibliography and brief biographies of key figures, and annotation which explains some of Bagehot's more arcane contemporary allusions.

PAUL SMITH was formerly Professor of Modern History at the University of Southampton. He is the author of *Disraeli: A Brief Life* (1996) and has edited *Government and the Armed Forces in Britain 1856–1990* (1996) and *The Self-Fashioning of Disraeli 1818–1851* (1998, with C. B. Richmond).

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*The English  
Constitution*

EDITED BY

PAUL SMITH

*University of Southampton*



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## Editor's introduction

### The context of *The English Constitution*

When Walter Bagehot's examination of the bases and mechanisms of British government began to appear in 1865, he was approaching the peak of his career. Not quite forty years old, but already firmly established in the editorial chair of *The Economist*, he was a recognised authority on financial questions, well known among the leaders of the Liberal party, and looking for an opportunity to enter Parliament. It was natural for him, as a member of the group which established the *Fortnightly Review*, to assist the launch of the new Liberal journal with his pen. His first article on the English constitution appeared in the first issue of the *Fortnightly Review* in May 1865, followed by eight further instalments, concluding in January 1867. The subject could hardly have been more topical. The 1860s was a period of intensive constitutional discussion. Standard works on the constitution, like those of Brougham, Grey, and Russell, went into new editions and were joined by fresh studies such as John Stuart Mill's *Representative Government*. Alongside the desire to exhibit the peculiar qualities of the institutions which were held responsible for the growth of Britain's political stability and economic prosperity there ran a current of anxiety about their capacity to meet three looming tests: accommodating the development of society at home; equipping the country to compete successfully with rising powers abroad; and providing a workable model for other countries, especially Britain's colonies.

However calm the domestic political scene appeared at the height of Palmerston's ascendancy, it was obvious that change was on the horizon. Palmerston, at eighty, could not retain the premiership much longer, and

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his departure would open the way for more enterprising Liberals, like Gladstone, who, in the debate on Baines's franchise bill in May 1864, had revived the issue of parliamentary reform by advocating an extension of the vote to working men in terms which were widely, though wrongly, interpreted as signifying support for manhood suffrage. Barely a month before the publication of Bagehot's first article, General Lee's surrender at Appomattox signalled the triumph in the American Civil War of the Union cause, which advanced Liberal opinion in Britain equated with democratic and popular institutions as against the 'aristocratic' South. British institutions, by contrast, seemed to some to be functioning less effectively. The capacity of parliamentary government to maintain the country's prestige on the international scene had been called into question by the failure in 1864 to render to the Danes the support they had been led to expect in their dispute with the German powers over Schleswig-Holstein. Those who felt that this episode was a national humiliation inclined to see Queen Victoria's German sympathies as part of the explanation. The Queen's virtual withdrawal from public ceremonies since the death of her husband, Prince Albert, in 1861, undermined the symbolic value of the monarchy, her poor relations with her ministers its practical political usefulness, her eldest son's fast living its custody of family values. Rumours of her insanity were joined by whispers about her fondness for her Scottish servant, John Brown. Bagehot's articles began to appear about the time jokes concerning 'Mrs Brown' started to circulate in London.

Bagehot's impulse to write about British government was, however, not derived simply – perhaps not even primarily – from immediate preoccupations. *The English Constitution* bears the marks of the fascination with the psychological and sociological foundations of political institutions that would receive more explicit expression in *Physics and Politics*, which began to appear in the *Fortnightly Review* in November 1867 and was published in book form, with a new concluding chapter, in 1872. Friendly from his schooldays with the ethnologist James Cowles Prichard, Bagehot found his interest fired by the implications for human societies of the evolutionary theories of Darwin and A. R. Wallace, by the efforts of Herbert Spencer to assimilate politics to the broad cultural history made possible by new currents of anthropological and sociological investigation, by Sir Henry Maine's exploration of the emergence of stable polities in *Ancient Law*, and by new works appearing as *The English Constitution* was being written – Lubbock's *Prehistoric Times* and Tylor's *Researches Into the*

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*Early History of Mankind* in 1865, with their ideas about custom and the nature of primitive societies; or Huxley's *Elementary Physiology* in 1866, with its suggestions about the transmission of acquired characteristics. In *Physics and Politics*, sub-titled 'thoughts on the application of the principles of "Natural Selection" and "Inheritance" to political society', Bagehot – stimulated, following Henry Buckle, by the vision of 'a science of history . . . a science to teach the laws of tendencies – created by the mind, and transmitted by the body – which act upon and incline the will of man from age to age' – set out his notions about the formation of national character and institutions, and the processes of evolutionary selection by which societies acquired authority and order, until they were capable of making the transition from the 'age of status' to the 'age of choice', in which government by discussion broke down the tyranny of custom. It was in this perspective of slow progress in mutual association and the capacity to organise common force for common ends that Bagehot saw the growth of the English constitution and analysed the conditions of its successful operation.

The purpose of *The English Constitution* was to lay bare the workings of British government, to consider the specific characteristics of the British people which made it possible, and to assert its merits against 'its great competitor, which seems likely, unless care be taken, to outstrip it in the progress of the world' (p. 12), the presidential system of the United States. All these matters bore on the question of whether other peoples could successfully copy it, a problem of especial interest to Britain's principal colonies, then in the first decades of responsible government. (Significantly, the most detailed accounts of British parliamentary institutions to appear in 1867, the year of Canadian federation, came not from Bagehot but, respectively, from the librarian of the Legislative Assembly of Canada, Alphaeus Todd, who used Bagehot's articles, and the professor of history and political economy in the University of Melbourne, W. E. Hearn.) Bagehot was following an idea of the evolution of political institutions in conformity with the spirit of a people which tended easily to idealisation of the form which they had at any given moment assumed, and he alleged a popular contentment with British arrangements which he evidently shared. Yet he did not think the machinery of government was beyond amendment, and if he began his articles in a period of apparent flat political calm, that, he suggested in *The Economist* of 25 March and 28 October 1865, was a good time to contemplate improvements. The British constitution was 'no magical entity,



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but a rational contrivance . . . good only because it is conducive to certain ends', which might be improved by 'looking steadily and shaping it carefully towards those ends'. There was no reason why 'our law, polity, and administration' should not be made to 'work like a scientific machine, precise in detail, as well as effective in broad results'. A taste for smoothly functioning mechanisms and an admiration of science were characteristic of Bagehot.

As his series on the constitution progressed, from May 1865 to January 1867, questions not only of adjustment to machinery but of more fundamental change were thrust into prominence. Palmerston's death in October 1865 opened the way for the new Russell ministry to introduce a parliamentary reform bill in March 1866. Whig-Liberal dissentients, voting with the Conservatives, wrecked the measure in June and brought the government down; but the Hyde Park riots of 22–23 July and a string of provincial mass meetings built up a head of popular pressure for reform, and in the Queen's speech of 5 February 1867 Derby's minority Conservative ministry undertook to tackle the question. In August, its measure became law, in its final form greatly extending working-class participation in the electorate by instituting male household suffrage in borough constituencies. Though Bagehot was strongly hostile to anything tending towards democracy, he had made his name in 1859 (when an earlier reform bill had been under discussion) with an article including a scheme for extending the franchise to working men in the larger boroughs, and had reiterated the plan in an article in *The Economist* of 24 December 1864, which he now summarised in his final article and reproduced as an appendix to the book version of *The English Constitution*.

More distant events crowded in as well. The rise of Prussia's power, signalled by her victory over Austria at Königgrätz in July 1866, together with apprehension about the designs of the French Emperor, Napoleon III, who in May had made public his dislike of the European settlement of 1815, stimulated renewed concern about Britain's apparent lack of influence in continental affairs and about the efficacy of her military and administrative arrangements compared with those of Prussia and France. This helps to explain the content of Bagehot's seventh article, published in October 1866, 'On Changes of Ministry'. Ostensibly prompted by the exit of the Russell and the advent of the Derby administration in June–July 1866, it turns into a critique of British administration as built up by the accretions of centuries, with the Prussian and French systems looming in the background, 'new machines, made in civilised times to do

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their appropriate work' (p. 144). Its interpolation is in part responsible for the awkward positioning of part VIII, 'Its Supposed Checks and Balances', which is really a continuation of parts III–IV on the monarchy, dealing with the powers and duties of a monarch at the break-up of an administration. Bagehot maintained that he could not consider the crown's powers of dissolving Parliament and creating peers until he had discussed the House of Lords and the House of Commons, but in any case 'Checks and Balances' is separated from the parts on the Lords and the Commons by the discussion of changes of ministry. The imperfect arrangement of *The English Constitution* thus owed something to the press of events, as well as to the fact that Bagehot could not find the time to revise the work for book publication. Never designed as an academic treatise, it became more and more a tract for the times.

### The peculiar constitution of the English

With its immediate juxtaposition of 'living reality' and 'paper description', 'life' and 'books', 'rough practice' and 'literary theory', the first paragraph of *The English Constitution* buttonholes the reader with the promise of hoary misconceptions to be exploded and inner workings to be laid bare. To satisfy the appetite thus whetted, Bagehot does two things. At the most fundamental level, he offers an analysis of *why* the constitution works successfully, based on a view of political psychology according to which the authority that the ruling organs of the state – the 'efficient' parts of the constitution – employ is generated by the instinctive deference of the population to the 'dignified' parts, principally the monarchy, and, more generally, to the '*theatrical show* of society' (pp. 5, 30). Hence 'the few rule by their hold, not over the reason of the multitude, but over their imaginations, and their habits; over their fancies as to distant things they do not know at all, over their customs as to near things which they know very well' (p. 33). Second, Bagehot presents a description of *how* the machinery of the English, or British, constitution really works (he habitually uses 'English' and 'British' interchangeably). He dismisses what he represents as prevalent views of the separation of powers (legislative, executive, and judicial) or the balance of powers (crown, Lords, and Commons), in order to reveal what he calls the 'efficient secret' of the constitution, 'the close union, the nearly complete fusion of the executive and legislative powers', which are brought into conjunction in the cabinet, the 'hyphen' which joins, the 'buckle' which fastens them together

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(pp. 8–9, 10). The cabinet is defined as ‘a committee of the legislative body selected to be the executive body’ (p. 9), and it is cabinet government which forms the defining structural feature of the English constitution and the major point of contrast with the constitution of the USA.

Comparison between the English and American systems centres on the availability or otherwise of an effective sovereign power. ‘Hobbes told us long ago’, says Bagehot, in almost his only reference to the corpus of political theory, ‘and everybody now understands that there must be a supreme authority, a conclusive power in every state on every point somewhere. The idea of government involves it – when that idea is properly understood. But there are two classes of governments. In one the supreme determining power is upon all points the same; in the other, that ultimate power is different upon different points – now resides in one part of the constitution, and now in another’ (p. 150). The merit of the English constitution is that it belongs to the first class, whereas the American, based on the separation of powers (between the President and the Congress) thought to be the essence of the English, belongs to the second. From Bagehot’s notion of executive and legislative powers joined in the hands of a cabinet in practice chosen by, and dismissable by, the House of Commons, it follows that the Commons exercise the effective sovereign power. It is true that Bagehot sees ‘the nation’ as the ultimate sovereign (p. 96), but, in normal liberal fashion, he regards popular sovereignty as incapable of being exercised by the mass. ‘The principle of popular government’, he asserts, ‘is that the supreme power, the determining efficacy in matters political, resides in the people – not necessarily or commonly in the whole people, in the numerical majority, but in a *chosen* people, a picked and selected people.’ He envisages the majority as eager to delegate its power of choosing its ruler to ‘a certain select minority’, by which he appears to mean the body of parliamentary electors. In this analysis, the middle classes – ‘the ordinary majority of educated men – are in the present day the despotic power in England’ (pp. 19, 30). But his scheme requires a second stage of delegation of power, to the House of Commons: it is ‘the true sovereign’, appointing ‘the real executive’; and ‘when sure of the popular assent, and when freshly elected, it is absolute, – it can rule as it likes and decide as it likes’ (pp. 98, 154).

In comparison, the House of Lords and the monarchy have virtually no directing power. Regarded as pieces of machinery, they are neither essential nor very efficient. Unable since 1832 to withstand a determined Commons backed by a determined nation, the House of Lords would be

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superfluous, were it not useful in repairing some of the deficiencies in the way the lower House does its work. Even for the functions they can perform, its members are poorly equipped: the hereditary principle does not produce a high level of ability or application to political or any other business, and the peers are too heavily dominated by the outlook and interests of wealthy landowners. Monarchy is a still worse case of the hereditary principle. Though the crown no longer in reality constitutes the executive or possesses a legislative veto, Bagehot recognises that it may still exercise functions of great political importance. A capable monarch may play a beneficial role in choosing a prime minister, when the choice is not predetermined by the settled preference of a majority party, and in operating the two devices which Bagehot presents as necessary to prevent the seizing up or the abuse of the machinery of government – the ‘safety-valve’, which allows the creation of peers to overcome intransigent resistance of the upper House to the lower, and the ‘regulator’, whereby the caprice, party prejudice, and corporate ‘selfishness’ that constitute the vices of the Commons as sovereign power may be checked by the dissolution of Parliament. Still more may such an individual exert a valuable influence by the judicious exercise of those ‘rights’ in relation to ministers which Bagehot defines as ‘the right to be consulted, the right to encourage, the right to warn’ (p. 60). Bagehot substantially underestimated the practical political influence of the monarchy, at least in the hands of someone like Queen Victoria, pertinacious in the defence of her prerogatives and, by the late 1860s, possessing greater political experience, and a more intimate acquaintance with European affairs especially, than almost any of her ministers. As *The English Constitution* was appearing, her desire to have the question settled was bearing on the Derby ministry’s decision on whether or not to tackle parliamentary reform. But Bagehot’s point was that the hereditary principle would rarely produce a figure of such calibre. History shows that ‘it is only during the period of the present reign that in England the duties of a constitutional sovereign have ever been well performed’ (p. 64). In general, the effective exercise of the vital powers of dissolution and creation of peers is likely to be better placed in the hands of the prime minister than in those of the monarch; and the dangers of the abuse of power by party and Parliament, against which, in principle, the crown may act as a safeguard, may be discounted where ‘the mind of the nation is steadily political, and where its control over its representatives is constant’ (pp. 162–3). Hereditary monarchy is thus not essential and may not be advantageous to parliamentary government, and the real structure

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of the state is such that England is, in Bagehot's view, a 'disguised republic' (pp. 183 n.6, 185).

Despite Bagehot's air of whisking away veils and the trenchancy of his language, there was nothing in this account of how the constitution worked to astonish anyone familiar with the existing literature on the subject. Though they might still be found in the pages of older writers like Lord Brougham, a third edition of whose *British Constitution* appeared in 1862, or even in newer ones, like Homersham Cox (*The Institutions of the English Government*, 1863), cruder notions of the separation and balancing of powers had long been out of fashion. It was obvious that the constitution could not and did not work without intermeshing of its components. Francis Jeffrey was one of the first to point out, in the *Edinburgh Review* in 1807 and 1809, the 'silent' change in the mode of operation of the constitution, as a result of which, he considered, the House of Commons, commingling among its members the influences of crown, peers and electors, had become the arena where the necessary balance was struck. In the Commons, he argued, 'as the great depository of the political power of the nation, and the virtual representative of the whole three estates, the chief virtue and force of the government is now habitually resident'. This doctrine was endorsed in his lectures on *The Dogmas of the Constitution* (1832) by the first professor of law at King's College, London, J. J. Park, a self-proclaimed disciple of the 'nascent school of *inductive politics*, or *observational political science*', who anticipated Bagehot's mission to dissipate popular 'delusion' about the constitution by exhibiting its 'real' structure. By the time Bagehot wrote, such views were commonplace. The major study by a political practitioner, Earl Grey's *Parliamentary Government Considered With Reference to Reform*, which received a new edition in 1864, and to which Bagehot's work presents many parallels, stressed the virtual union of executive and legislative powers in the hands of ministers responsible to Parliament, but especially to the House of Commons, where contests for supremacy were in the main conducted and decided.

That the course of constitutional evolution had made the House of Commons the effective sovereign was a familiar notion. David Hume's assertion, as far back as 1742 ('On the Independency of Parliament'), that the house 'absolutely commands all the other parts of the government', echoed in the teaching of Dugald Stewart at Edinburgh, was a starker version than most. The Benthamite jurist John Austin, in *A Plea For The Constitution* (1859), stressed the sovereignty of Parliament rather than

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that of the Commons, whose part of sovereignty he regarded as delegated to them by the electoral body; but he nonetheless accepted that the lower House was more than a match for the monarch and the Lords when 'backed in its pretensions by the persistent opinion of the public'. Two years later, Mill, in *Representative Government*, pursuing the principle that in any constitution the ultimate controlling power must reside somewhere, concluded that the 'unwritten maxims of the Constitution – in other words, the positive political morality of the country', in requiring that the prime minister should always be 'virtually appointed' by the House of Commons, made that body 'the real sovereign of the State'. That the cabinet was the essential organ in co-ordinating the executive and legislative powers and guiding the Commons in the exercise of a sovereignty which could hardly be left to the unorganised divagations of a large assembly was equally a widely received idea – especially after Macaulay, in the fourth volume of his *History of England From the Accession of James the Second*, published in 1855, had explained how it had come into being after the Glorious Revolution as a necessary device to make 'parliamentary government' work, and had defined it as 'a committee of leading members of the two Houses', nominated by the crown, but consisting 'exclusively of statesmen whose opinions on the pressing questions of the time agree, in the main, with the opinions of the majority of the House of Commons'. Austin saw the cabinet as in one aspect the ministers of the crown, in another 'virtually a standing committee of the two Houses of Parliament', without which parliament would be incapable of 'corporate action'. The same notion appeared in the *Dialogue on the Best Form of Government* published in 1863 by Bagehot's friend, the Whig politician George Cornwall Lewis, himself a cabinet minister until his death in that year. The *Dialogue*, too, canvassed the proposition that England was really a republic. The dismissive view of the practical authority of the monarch was current enough for Trollope to caricature it in the mouth of the Radical MP, Bott, in *Can You Forgive Her?* (1864): "I mean to say that the Queen will send for any one that the House of Commons may direct her to call upon", said Mr Bott, who considered himself to have gauged the very depths of our glorious Constitution. "How hard it is to make any one understand that the Queen has really nothing to do with it . . . the power of governing this great nation does not rest with the throne. It is contained within the four walls of the House of Commons."

Bagehot's description of the working of the constitution thus fitted into a well-established way of representing it, especially conformable to

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the experience, understanding, and needs of the Whig-Liberal parliamentarians who had had the usufruct of it in government for all but about seven of the preceding thirty-five years. That did not mean that it was complete or necessarily correct. From the point of view of political scientists and constitutional lawyers, it is remarkable as much for what it leaves out as for what it puts in. Bagehot has virtually nothing to say about the role of the judicial power, the rule of law, the importance of a free press, or local government as a source of education in self-government and of resistance to bureaucratic centralisation, though all of them were important features of the constitution in the broadest sense. Since it was primarily the problem of government with which they had had to familiarise themselves since 1830, Whigs and Liberals of Bagehot's stamp looked at politics from a governmental standpoint. They were interested more in the location and efficient use of power than in restraints on government and in the protection of the liberties of the subject, which they did not see themselves as liable to infringe. For someone like Bagehot, the battle for the liberties of the subject was over, because a properly worked system of representative government of its very nature guaranteed them. A major problem of government was now that the English people, having freed themselves from executive tyranny by centuries of struggle, could not be weaned from dislike of the executive and could not regard it, though under popular control, as the beneficent agent of their own will. Bagehot found de Tocqueville's admiration of English local self-government as a bulwark against central oppression out-of-date: 'we need not care how much power is delegated to outlying bodies, and how much is kept for the central body. We have had the instruction municipalities could give us: we have been through all that. Now we are quite grown up, and can put away childish things' (p. 182). It is noteworthy that Bagehot was able to see at least this advantage in the extension of the franchise in 1867: that the 'now secure predominance of popular power' would facilitate the acceptance of strong executive government. 'The English state', he declared, 'is but another name for the English people, and to be afraid of it, is to be alarmed at ourselves.'

It is of a piece with this cast of mind that Bagehot's recommendation of cabinet government over the presidential government of the USA rests principally on its allegedly superior efficiency in the provision of effective executive authority. In particular, the cabinet, unlike the President, can ensure the passage of the legislation which government needs. All administration, Bagehot asserts, 'requires in a civilised age the constant support

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and accompaniment of facilitating legislation'. In England, 'on a vital occasion, the cabinet can compel legislation by the threat of resignation, and the threat of dissolution; but neither of these can be used in a presidential state' (p. 13). A cabinet whose head can call on the royal power of dissolution (as well as the power to create peers, if it becomes necessary to coerce the House of Lords) is evidently in a strong position *vis-à-vis* the legislature. The more Bagehot's account of the cabinet is examined, the more apparent is his difficulty in marrying it, as a description of what is 'while it lasts and holds together, the most powerful body in the state' (p. 11), with his view of parliamentary government as embodying the sovereignty of the people (or the middle classes), exercised by delegation to a legislature of which the cabinet is only a 'committee'. He has to acknowledge the extreme oddity of a 'committee' which can dissolve its parent body – 'a power which no assembly would – unless for historical accidents, and after happy experience – have been persuaded to entrust to any committee' (p. 11). A certain unease about the whole scheme is betrayed in the opening paragraph of his second *Fortnightly Review* article (dropped in the book version), where he professes himself 'well aware . . . that this is but an approximate description of the English government – a delineation of what it *tends* to be, rather than of what it is'. In fact it is clear from what he says that the cabinet was not 'a committee of the legislative body selected to be the executive body'. It was chosen by the prime minister, who was invited to form a ministry by the monarch, and the prime minister usually possessed (and the monarch sometimes possessed) substantial latitude of choice. It was more like the executive power in commission than a committee of the legislature (of which it was however a part), and what Bagehot described as the 'action and reaction between the ministry and the Parliament' which constituted the 'whole life of English politics' (p. 95) was just that, the interplay of two powers rather than the product of their 'fusion'.

The executive had a better claim to be the stronger of the two than apologists for parliamentary government were willing to recognise. The chastening menace of its ability to dissolve Parliament and to create peers was not its only resource. Just as important were its function of initiating and managing parliamentary business (steadily facilitated by developments of Commons' procedure after 1832) and its leadership of the (usually) majority party in the Commons. Earl Grey's experience told him that 'parliamentary government is essentially a government by means of party, since the very condition of its existence is that the Ministers of



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the Crown should be able in general to guide the decisions of Parliament, and especially of the House of Commons; and all experience proves that no popular assembly can be made to act steadily under recognized leaders except by party organisation.' It was in many ways party that was the true 'efficient secret' of the constitution, and the real reciprocating link between the executive and legislative powers. Faced with the absurdity of the 'government by a *public meeting*' (p. 99) implied in his idea of the exercise of sovereignty by 658 assorted gentlemen in the House of Commons, Bagehot had to agree with Grey: they could do nothing without organisation by party. 'Efficiency in an assembly requires a solid mass of steady votes; and these are *collected* by a deferential attachment to particular men, or by a belief in the principles those men represent, and they are *maintained* by fear of those men – by the fear that if you vote against them, you may yourself soon not have a vote at all' (p. 101). To the fear of dissolution, as a disciplinary weapon of a ministry over its followers, he might have added the hope of office and other benefits of the considerable patronage which still remained to the executive.

If Bagehot, in describing the working of the constitution, unnaturally forced into the straightjacket of 'parliamentary government' dominated by a sovereign House of Commons a theory of 'cabinet government' which made clear the power of initiative and control inherent in the British executive, it may be that it was because in his day the balance of power between legislative and executive seemed to have moved in favour of the former. 'The fact', wrote Earl Grey, in terms very similar to some used by Gladstone, 'of all the most important public questions on which Parties were formerly divided, having been finally settled, has contributed to increase the difficulty of maintaining the authority of the Government in the House of Commons.' After the disruption of the Conservative party in 1846, MPs were disciplined neither by great party issues nor, most of the time, by close party competition. Whigs and Liberals were permanently the largest bloc in the Commons between 1847 and 1874 and were in government for over four-fifths of that period: much of politics centred on which of them, rather than on whether any of them, should hold office. To the extent that their Radical wing could be held to constitute a third party, there was a three-party system, which Bagehot thought particularly conducive to ministerial instability. It is not surprising that in such circumstances votes in the House of Commons should have brought down six ministries between 1852 and 1866.

This situation, however, reflected transitory political circumstances

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rather than the inherent nature or even the predominant ethos of the constitution. The 'parliamentary government' of which this is often seen as the classical period – and Bagehot as the supreme expositor – was even in Bagehot's presentation, as in Grey's, more governmental than parliamentary in its essence, directed from the top down for purposes of executive action, not from the bottom up for purposes of popular control. The fact was masked in the 1850s and 1860s by a degree of factionalism which gave maximum scope for party incoherence, and by the absence, at least until 1866, of an urgent need for the sort of strong legislative action which would have required cabinets to exert over the House of Commons the full authority which they could command. Richard Crossman, in the best-known modern commentary on *The English Constitution*, and Angus Hawkins have credited Bagehot with a realistic description of the constitution as it was at Palmerston's death, and gone on to argue that it was almost instantly outmoded by the extension of the franchise in 1867 and the consequent arrival of 'party government', in which highly cohesive parties, nationally organised, conducted a more intensive, issue-driven and polarised political combat before a mass electorate periodically delivering a plebiscitary verdict on their claims. But, as Grey asserts and Bagehot accepts, party government had already imposed itself, as the only practicable method of making a parliamentary, representative system work, when work needed to be done. What changed after 1867 was not the nature of the constitution or even the way of operating it, so much as the working balance between its powers, as the executive exploited the additional opportunities conferred on it or responded to the new necessities imposed on it by the direction of party and Parliament in the age of mass following and almost incessant major legislation. So far as Bagehot expressed a 'classical' Whig theory of parliamentary government, it was a theory of executive government in, through, and subject to the ultimate sanction of, Parliament, based on the organising mechanism of party and not a theory of government *by* Parliament, still less by the House of Commons, however much it might recognise and draw the theoretical credentials of government from a delegation to that House of the sovereignty ultimately residing in the 'people'. As such it was adaptable to changing conditions after 1867, which strengthened the hand of the executive by enabling it to add to the authority attaching to 'the Queen's government' the sanction of mass support. Bagehot's implausible description of the cabinet as a committee elected by the legislature both distorted the situation which obtained when he wrote and exaggerated the extent of the

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difference between that and what was to follow. Yet it was so far the distinctive idea of his analysis that he stuck to it in his 1872 introduction, even though Disraeli's decision to resign without meeting Parliament, after the general election of 1868 had returned a Liberal majority which made the defeat of his government certain, had sufficiently acknowledged that the choice of ministry now lay with the electorate rather than the House of Commons.

If Bagehot's description of the way in which the different parts of the constitution meshed was problematic, his analysis of how the machine was invested with the necessary authority among the population at large was even more so. Since his English constitution is an evolutionary growth, the product of a process of practical adaptation to circumstance not of planning by a constituent assembly (like the American one), allegiance to it has to be explained in terms more of habits of obedience than of acts of consent, more anthropologically than politically. Hence his ostentatiously empirical account of how the machinery of government works is yoked with a very speculative analysis of how the authority and allegiance which enable government to get things done – he has a keen sense of how hard it is to get anything done – are generated. Bagehot's notion of the deferential polity was unusual among Liberal apologists, who liked to think in terms of rule founded on reason rather than on the impressionability of ignorance; but it offered an answer to the question, which they tended to ignore, of how rational government by an élite could command the allegiance of masses supposedly incapable of rational political understanding. Though more unconventional, it was not substantially more original than his schema of cabinet government. It had something of the flavour of Disraeli's Tory recognition of 'imagination in the government of nations as a quality not less important than reason'; but Whigs, too, understood, in the words of Earl Russell's *Essay on the History of the English Government and Constitution* (which received a new edition in 1865) that it was necessary to take account of the fact that man was 'a creature of passion and of imagination as well as of reason', and to exploit all the influences that could give 'sanctity' to the supreme authority: 'the reverence paid to Royalty . . . the respect which grows around an ancient aristocracy . . . the refinement of polished manners, and the social kindness which adorns and animates the domestic relations of a cultivated people'.

The striking feature in Bagehot is that what his scheme requires is deference, not to what he represents as the real structure of government but

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to an apparent structure which disguises it, and this is because the real structure has no capacity to attract obedience. Characterising the post-1832 constitution as embodying the 'despotic power' of the middle-class electors, he at once admits that this 'select few' have nothing about them to impress the masses. This makes it difficult to understand why the masses should be, as he supposes, 'eager' to entrust to them the exercise of popular sovereignty. Bagehot has effectively renounced any benefit of the argumentation of Liberals like James Mill, who convinced themselves that middle-class dominance could be explained and justified on the basis that the middle class was 'the chief source of all that has exalted and refined human nature', the political guidance of which would naturally be accepted by the lower orders if the franchise were to be extended. He clearly does not think much of the political judgment of the 'bald-headed man at the back of the omnibus' (p. 30). Indeed, it is palpable that the élite government he desires depends not only on the deference of the unfranchised many, but equally on the deference of the privileged electorate to that narrow band of men of large property and education from whom they choose representatives they have no pretension to control (something he makes explicit only in the introduction to the second edition, asserting, against the plain sense of his text, that that was what he meant by deference all along).

To explain the alleged cheerful obliviousness of nineteen out of twenty of the population to a representative system governed by the vote of the unprepossessing twentieth, Bagehot shifts, within a couple of pages, from the idea that the 'numerous unwiser part' delegates its 'power of choosing its ruler' (pp. 29–30) – a power which the constitution as he conceives it does not in any case confer on it – to the notion that its attention is drawn away and absorbed by a glittering show of social and political power at the centre of which stands the monarchy. The essential quality of monarchy as a state form is its intelligibility to the simple-minded multitude, which barely knows of cabinet and Parliament and believes that the Queen really rules – or so Bagehot says, on the basis of no more sophisticated social research than is indicated by his injunction to readers to 'go out into their kitchens' and make trial of the housemaid and the footman (p. 6). It is not clear how far he really believes this picture of popular innocence, since at the same time as he speaks of 'whole classes unable to comprehend the idea of a constitution' he allows that most 'do indeed vaguely know that there are some other institutions besides the Queen, and some rules by which she governs' (p. 37). But fixation on the monarchy is his

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only way of explaining how obedience is obtained. From the point of view of getting the business of human societies done, he contends, in a passage in his second *Fortnightly Review* article subsequently omitted, that among 'the many provisional illusions which have benefited mankind, *irrationality* in the conception of the sovereign, absurd ideas about him and his person, have been almost the most beneficial'. The importance of the Queen is that 'the mass of our people would obey no one else, that the reverence she excites is the potential energy – as science now speaks – out of which all minor forces are made, and from which lesser functions take their efficiency' (p. 167). The people's deluded view of how it is governed is not for Bagehot a deformity to be cured. In sharp contrast to Mill in *Representative Government*, he conveys no sense that political institutions may be made vehicles for popular enlightenment and progress. On the contrary, the cabinet government he idealises finds the guarantee of its viability in a population sufficiently ignorant and deferential in the mass to enable the higher classes to rule unimpeded and, indeed, unremarked. When he writes of the political naïveté of the 'wretched' peasantry of Dorset, as a microcosm of 'what England really is' (it is notable how this Somerset man, when he wants to bring on the clowns, slides a county eastward), it is a situation essential to good government, not one to be remedied by it, that he purports to describe.

His conviction of harmony between the present character of the English people and the present arrangements of their constitution makes it hard for Bagehot to contemplate changes of such scale as seemed to be implied by the revitalised drive for franchise reform which formed the domestic backdrop to his last four articles. It is not that he thinks the operation of the machine cannot be improved in detail. He would like to make the Lords more fit for the performance of their constitutional functions by raising the level of ability through an infusion of life peers and by eliminating the influence of non-attenders through the abolition of proxy votes. While defending the British model of parliamentary chiefs of government departments who change with the ministry, as against continental bureaucratic administration (which he sees as hidebound, unimproving, and oppressive) he nonetheless devotes much anxious attention in his seventh article to the defects of the administrative system – its excessive range of tasks, its difficulty in recruiting sufficiently able men, the ignorance on the part of the public which hampers its work, and the 'unsystematic and casual arrangement of our public offices' (p. 146). He is conscious that the capacity of the House of Commons to execute its

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business to the nation's satisfaction is diminished by the fact that it is too much dominated by the landed interest and that its composition gives too little weight to the advancing industrial north and too much to the 'stationary' south. It performs its function of 'teaching' public opinion less well than it should – and less well than 'the higher part of the press' – because it lacks sufficient representation of 'mind' as opposed to property (Bagehot was writing on the eve of inviting the electors of Bridgwater to help remedy the deficiency). Finally, its 'informing' function of bringing before the nation the 'ideas, grievances, and wishes of special classes' is impaired by lack of direct representation of the working men (a problem which Bagehot separates from that of the proper representation of public opinion: the working classes, he asserts, 'contribute almost nothing to our corporate public opinion') (p. 116). These admissions about the representative quality of the Commons were highly topical, appearing as they did only three days after Gladstone's introduction of the reform bill of 1866; but substantial reform of the representative system was hard to accommodate within Bagehot's conception of the English constitution.

As he puts it in the penultimate paragraph of his book, the reform question 'shows the difficulty of maintaining and amplifying parliamentary institutions in the midst of a various, and, at the bottom of the social scale, ignorant and poor nation; it brings out unmistakably the fact that our constitution is not based on equality, or on an avowed and graduated adjustment to intelligence and property; but upon certain ancient feelings of deference and a strange approximate mode of representing sense and mind, neither of which must be roughly handled, for if spoiled they can never be remade, and they are the only supports possible of a polity such as ours, in a people such as ours' (pp. 191–2). The introduction of 'democracy' (i.e. male household suffrage) will destroy deference: once they begin to rule, the masses will never admit inferiority to the élites they have displaced. The various contemporary schemes for admitting working men to a share but not a preponderance of electoral power will not preserve the equilibrium of the constitution either. Deference being a tribute of the imagination to the compelling force of long tradition and splendid show, not of reason to argument, those who yield it instinctively to monarch and aristocracy will not yield it argumentatively to ingenious varieties and gradations of franchise designed to give them votes without influence proportionate to their number.

Extension of the franchise, Bagehot feared, meant increasing the dependent and venal portion of the electorate, and hence the grip on the

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House of Commons of landowners and monied men of small political talent or energy – ‘plutocracy’ was almost as great a threat as democracy. Perhaps, as a Liberal, he feared, too, that it meant giving an opening to the Conservatives, newly installed in office, though in a minority in the Commons, in July 1866: if they went low enough in the suffrage, he told his friend the Tory Earl of Carnarvon, in November 1866, ‘Rank & position & wealth combined wd. make them irresistible.’ This was not a recipe for the reinforcement of ‘mind’ in the national councils, or for the consolidation of that rational, deliberative system of Liberal parliamentary government in which the ablest statesmen consulted the views of the foremost experts, as Gladstone consulted Bagehot’s in 1865 – when the latter visited Hawarden to discuss the country banks’ issue question – and again in 1866 about the Overend, Gurney banking failure. The most, therefore, that Bagehot could endorse in the way of parliamentary reform was his revived plan of 1859, added as an appendix to the first edition of *The English Constitution*, to transfer a ‘considerable’ number of members from small boroughs to great seats of industry, and, in those seats of industry *only*, to lower the franchise by an unspecified extent to admit the artisan class, thus redressing the balance of power between north and south and enabling working men to elect a number of representatives. That, he hoped, would save the appearances on which his English polity so greatly depended: without representation of the artisans, the House of Commons would not ‘look right’ (p. 121).

In Bagehot’s own terms, the enactment in 1867 of household suffrage in the boroughs was bound to be fatal to deference. When he wrote the introduction to the second edition of *The English Constitution* in 1872, however, he was less pessimistic than might have been expected. If he frankly expressed his fear of the ‘ignorant multitude of the new constituencies’ (p. 205) – as no MP would dare, he noted, signalling the abandonment of his parliamentary ambitions – he was not unhopeful of the prospects of leading it by the nose. In part this was because of his seemingly fuller recognition than in 1865–7 of the power of direction possessed by the political élite, just as applicable to the management of Parliament and the electorate under the enlarged franchise as it had been under the franchise of 1832. In particular, he recognised, as he had not done explicitly before, the faculty of setting the political agenda, which conferred a certain latitude of manoeuvre, at least in relatively quiet times. ‘The leading statesmen in a free country have great momentary power. They settle the conversation of mankind. It is they who, by a great

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speech or two, determine what shall be said and what shall be written for long after. They, in conjunction with their counsellors, settle the programme of their party . . . It is by that programme, by a comparison of the programmes of different statesmen, that the world forms its judgment' (p. 200). If that power of leadership were used to avoid bringing to the centre of political debate questions of class interest which would align the poorer and more numerous classes against the rest (and to make such judicious concessions as would remove the incentive for those classes to combine), and if the plutocratic Commons and the aristocratic Lords were to avoid disputes which would break the front of wealth and education and throw the decision into the hands of the 'ignorant multitude', the balance of the constitution and the government of the best might yet be sustained. It was ironic that ten days before Bagehot dated his introduction, the Marquess of Salisbury should have advertised in the Lords his determination to assert that House's prerogatives in dealing with measures coming up from the Commons without an evident mandate from the constituencies.

No work has exerted more influence than Bagehot's, not only on notions of the English constitution, but on English notions of 'constitution'. There is substance in David Eastwood's charge that Bagehot did more than anyone to establish a dominant mode of talking about the constitution which treats it as a matter of practice rather than principles. Had he called his work *The English Government*, he would more accurately have described its content. British Liberalism, acquiring power by developing rather than demolishing venerable institutions, needed neither to draw up a new constitution nor to philosophise about the theoretical foundations of the one it was overhauling. 'Theory' and 'philosopher' are disparaging terms in *The English Constitution*, the work of a practical man, seeking to enlighten other practical men about practical things, and pursuing the conviction that he had derived in his youth from Burke, that 'politics are but a piece of business', to be determined by 'sense and circumstance'. Bagehot's fascination is with power: the culturally and historically determined generation and application to politics of efficient mechanical energy. The virtue of the English constitution as he conceives it is that, through the mechanism of cabinet government, 'its efficient part, at least when in great and critical action, is decidedly simple and rather modern' (p. 8). His analysis of the location and operation of governmental power is unaccompanied by any attention to 'constitutional' restraints on its



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possible abuse, because he sets it in the context of a representative system which is taken to embody the sovereignty of the people – or, at least, the ‘political people’ – in such a way as to eliminate problems of protection of rights and liberties: the sovereign people will not permit its representatives to oppress it. But Bagehot achieves this apparent reconciliation of effective power with effective constraint only through a thoroughly tendentious characterisation of the cabinet as no more than a committee of the sovereign legislature (essentially, of the House of Commons), which impugns his excessively admired credentials as an accurate observer, and invites L. S. Amery’s criticism that he seriously – and influentially – misread the nature of the constitution in a way that masked the full potential power of government in the British system.

Bagehot’s further difficulty with power in the state is that which embarrassed all Liberals: how to ground the legitimacy of governmental authority on a popular sovereignty in which most of the population was not thought culturally qualified to participate. His use of the idea of deference to remove it was the most original part of his work. Whatever its descriptive weaknesses, it put him where he wanted to be: among those searching for a political science which would explain political phenomena in cultural, historical, and psychological terms. It is this dimension which allows him today to be ranked as a ‘founding father’ of British political science, in Vernon Bogdanor’s words, ‘groping towards something very much like the modern notion of “political culture”, basic elements of which were those norms and values which affected behaviour’. It had, however, the effect of leading him to place at the very centre of his construction of constitutional authority the monarchy, the practical utility of which as an organ of government he simultaneously depreciated: the most ‘dignified’ part of his scheme turned out to be also the most functionally ‘efficient’. Bagehot, in the end, relies so heavily on the Queen as the source of the ‘energy’ on which the constitution depends as to illustrate Maitland’s observation that English politicians had substituted the authority of the crown for a theory of the state. Deference, moreover, expounded by Bagehot as a prime condition of rational, deliberative government in a society such as the British, grounded his liberal polity in unreason. The mission of nineteenth-century liberalism to dispel superstition ends in embrace of it as an ally. If he enriched the study of the constitution by a recognition of the importance of non-rational compulsions in politics which anticipated Graham Wallas’s instinctualism and J. G. Frazer’s acknowledgement of popular superstitions as a support of state

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order, he also helped to open the way to a politics of cultural despair in which the method of preserving élite government seemed to be the devising of political imagery adapted to manipulate mass psychology, in the manner analysed by Mosca and Pareto. Bagehot's rooting of the stability and authority of the constitution in popular bemusement did not presage or promote a liberal future. If the allegiance of the greater part of the population to its system of government depended on mesmerism rather than conviction, and on instinctive deference rather than active and informed consent, no kind of social contract joining rulers and ruled could be imagined which would supply a conventional basis for individual rights. Treating the constitution in terms of machinery without reference to moral ends, and resting its 'unstable equilibrium' on a cynical contempt for the mass of its subjects, Bagehot invites the verdict which he himself delivers on Palmerston: 'He a little degraded us by preaching a doctrine just below our own standard – a doctrine not enough below us to repel us much, but yet enough below us to harm us by augmenting a worldliness which needed no addition, and by diminishing a love of principle and philosophy which did not want deduction' (p. 118).

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## Principal events in Bagehot's life

- 1826 Born 3 February at Langport, Somerset; father a banker.
- 1835–42 Educated at Langport Grammar School (to 1839), then Bristol College.
- 1842–8 Student at University College, London (father's unitarian principles excluding Oxford and Cambridge); BA with first-class honours in classics 1846; MA and gold medal for philosophy 1848.
- 1847 First article published in the *Prospective Review*.
- 1848–52 Studied law; called to the bar but never practised.
- 1851–2 Witnessed Louis Napoleon's *coup d'état* in Paris; wrote series of articles on French politics for the unitarian journal, the *Inquirer*.
- 1852 Entered family banking business, which left ample time for literary pursuits.
- 1855 With R. H. Hutton, established and edited the *National Review*, contributing articles on literary, political, religious, and economic subjects until demise of journal in 1864.
- 1856 Became contributor to the *Saturday Review*.
- 1857 Began to contribute to *The Economist*.
- 1858 Married, 21 April, Eliza Wilson, daughter of *The Economist*'s founder and proprietor, James Wilson, MP.
- 1859 Achieved notice and introduction to leading Liberals with article on 'Parliamentary Reform' in the *National Review*, which appeared as a pamphlet; became director of *The Economist*, writing approximately two articles a week on current affairs.

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- 1860 Adopted as candidate for the parliamentary seat which the Reform bill of that year proposed for London University, but later replaced; declined government's invitation to succeed father-in-law (d. August) as financial member for India and chancellor of the Indian exchequer; gave up management of Bristol branch of Stuckey's Bank to concentrate on work in London (including managing the bank's branch there).
- 1861 Became editor of *The Economist*.
- 1865 With George Eliot, G. H. Lewes, and others, took part in establishing the *Fortnightly Review*, first instalment of 'The English Constitution' appearing in first number in May; declined to stand for Parliament for Dudley; agreed in June to stand for Manchester but withdrew after speech there was badly received.
- 1866 Contested Bridgwater at June by-election, as a Liberal, losing 294–301 to Conservative candidate.
- 1867 Final instalment of 'The English Constitution' appeared in the *Fortnightly Review* in January, followed by book publication of the work; 'Physics and Politics' began to appear in November; illness at the end of December inaugurated a period of indifferent health.
- 1868 Rejected as parliamentary candidate for London University in favour of Robert Lowe; subsequently declined to stand for Mid-Somerset.
- 1872 *Physics and Politics* published in book form; second edition of *The English Constitution*.
- 1873 Declined to stand for Parliament for Liverpool; *Lombard Street*, study of the operation of the money market, published.
- 1876 'The Postulates of English Political Economy' published in the *Fortnightly Review*, first part of projected study of political economy, some of the materials for which were later arranged by Hutton and Sir Robert Giffen as *Economic Studies* (1879); series of seventeen articles on depreciation of silver reprinted as pamphlet by *The Economist*.
- 1877 Having been consulted by the Chancellor of the Exchequer, Northcote, devised treasury bills; died 24 March at Langport, following a chill.

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## Note on the text and annotation

The text provided here is that of the first (1867) edition of *The English Constitution*, omitting the ‘Appendix on Reform’, which comprises pp. 339 to 348 of that edition, and adding Bagehot’s introduction to the second edition of the work, published in 1872. The ‘Appendix on Reform’ reproduces Bagehot’s article, ‘A Simple Plan of Reform’, in *The Economist* of 24 December 1864, which itself revived the scheme which he had propounded in the *National Review* in 1859. Its essentials appear in the proposals for parliamentary reform canvassed in the final chapter of the main work.

*The English Constitution* originated as a series of articles under that title written by Bagehot for the new Liberal journal, the *Fortnightly Review*, edited initially by G. H. Lewes. They ran from the first issue of the *Fortnightly Review* in May 1865 to January 1867, and were then collected into a volume published in 1867 by Chapman and Hall. A second edition, with a lengthy introduction, followed in 1872. A text of the second edition which collates it with the *Fortnightly* articles and the first edition may be found in Norman St John-Stevan (ed.), *The Collected Works of Walter Bagehot* (15 vols., London, 1965–86), vol. v, 165–409, hereafter referred to as *Works*.

Virtually all reprints of *The English Constitution* hitherto have taken the text of the second edition. There are, however, substantial reasons for preferring the first. Readers of the second edition must be surprised by the abruptness with which it ends: there is no conclusion. The reason is that the second edition silently discards the closing seventeen pages of the first without putting anything in their place. One may guess that Bagehot thought them too closely related to the particular circumstances of the

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Reform debates of 1867 to merit reprinting in 1872; but they are sufficiently characteristic both of his general views and of their application to the problem of parliamentary reform to be worth retaining. Furthermore, the first edition is more logically arranged than the second, reproducing as it does the original order of the *Fortnightly Review* articles. For no stated or evident reason, in the second edition, the original no. II, 'The Prerequisites of Cabinet Government', which properly follows no. I, 'The Cabinet', becomes no. VII. The first edition is therefore the more complete and better-ordered presentation of Bagehot's views as he expressed them in 1865–7, and the second edition adds nothing of importance beyond its introduction.

Though Bagehot omitted or altered some passages in the articles for book publication, and made a handful of further amendments in the second edition, his text was never comprehensively revised. As he makes clear in the 'Advertisement' to the first edition, he could not find the time for revision, but he also lacked the inclination. When Forrest Morgan produced the first collected edition of *The Works of Walter Bagehot*, published in 1889 by the Travelers Insurance Company of Hartford, Connecticut, he was aghast at Bagehot's casualness in grammar, syntax, and reproduction and attribution of quotations, and at his evident insouciance about proof-reading. Bagehot's great friend and fellow-journalist, R. H. Hutton, acknowledged that he could never correct a proof properly, and the result is evident in *The English Constitution*. Probably because it was hurried out to reach the public while the Reform issue remained at the centre of attention (the last *Fortnightly Review* article having appeared on 1 January 1867, the book was in Gladstone's hands by 18 February), the first edition was carelessly produced, and the second was far from remedying all its defects. Some oddities, like the references to Palmerston as a living person, which had appeared in the first three *Fortnightly Review* articles, published before his death in October 1865, Bagehot deliberately allowed to remain, as emphasising the period at which the work was composed.

In the text which follows, obvious involuntary slips have been silently corrected, and punctuation and capitalisation have been revised. Annotation is in general restricted to what is required for full comprehension of Bagehot's more important contemporary and historical allusions (and in one or two cases makes grateful use of the efforts of Forrest Morgan and his assistants to trace Bagehot's literary references). In some instances, the biographical notes on persons mentioned in the text have