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Leopold von Ranke

Excerpt

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## BOOK XI.

THE COMMONWEALTH IN ENGLAND, 1649—1653.

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## CHAPTER I.

### REPUBLICAN IDEAS AND INSTITUTIONS IN ENGLAND. THE LEVELLERS.

IT was not in any old parliamentary pretensions, which had gradually risen higher and higher, that the English Republic had its origin, but in a different group of ideas, no less decidedly opposed to the Parliament, such as it had hitherto been, than to the monarchy itself.

In order to understand both the events of the time and the consequences which followed, it is indispensable to realise clearly this opposition. For those motives which give the impulse at the foundation of a new state of things incessantly react upon it.

At the moment when a union appeared possible between the King, the Parliament, and some of the leading officers, on the basis of the old constitution (October 1647), the Agitators in the army conceived the plan of actually carrying out the idea of the sovereignty of the people, so often invoked before, and of building up anew the constitution of the country on that basis. This plan is undisguisedly and expressly stated in the petition which was presented at the time to the council of officers, in the name of five regiments of cavalry. 'Forasmuch,' so runs the petition, 'as all power is originally and in reality vested in the collective people of this nation, the free choice of their representatives and their consent is the sole basis of a lawful government, while the end of government is the common weal.' Conformably to this, it demanded next the dissolution of the Long Parliament, which had not been derived from these principles, and in its stead the complete establishment of a fair and equal representation. The

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election, as a second document explains, was to be according to manhood suffrage, and was to take place every two years. The representatives were to have the right to enact laws, to alter them, and to repeal them; to appoint magistrates of all grades, to call them to account and to depose them; to negotiate with foreign powers, and to decide on peace and war. Thus not only legislation and administration, but also foreign relations, were to be in their hands. Still they are not on that account to enjoy any absolute power, but to confine themselves within the limits marked out by those from whom their power comes. Three fundamental demands were expressly made at the time: first and foremost, equality before the law, with the inviolable maintenance of the rules of judicial procedure; further, a remarkable demand enough, that no one should be obliged to serve against his will in the army. Lastly, the representatives are not to have the decision in matters of religion. The proposed reform was regarded rather as an obligation imposed by religion; for lawful authority can come from God alone, but the supreme power is entrusted by God to the people, and by them it is handed over to their representatives<sup>1</sup>.

They were Independents of strong religious convictions from whom these proposals emanated. They wished to constitute the state according to their own liking, without being restricted either in their religion or in their personal freedom. They expressly took their stand on the principle that the people can be subjected to no single person, and that the authority of the Lords, which does not come from the people, is invalid. In a petition professedly of thousands of well-affected persons in London and its suburbs, but emanating also from one of the most prominent Agitators, Lilburne, it was sought to point out to the Parliament that its whole procedure presupposed, though it had not expressed, these principles. For how otherwise should it have ventured

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<sup>1</sup> In the letter to the Commons we read, that the simple way to peace was 'the making clear and secure the power that you betrust to your representatifs, that they may know their trust, in the faithful execution whereof you will assist them. Parliaments are to receive the extent of their power and trust from those that betrust them.'

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to raise war against the King, which according to the existing laws was the foulest treason, had it not assumed that the King was merely a servant of the people<sup>1</sup>.

Parliament at the time expressed its displeasure at these proposals; it declared that they were contrary to the essence of the parliamentary constitution, and tended to destroy the government of the kingdom. For a long time nothing was said about them. When however, towards the end of the year 1648, the rupture between the King and the Parliament was imminent, they were revived in full force. In the council of officers held at St. Albans there were still some votes in favour of a reconciliation, but an address from the officers of Rich's and several other regiments gave expression to counter proposals of a totally different import. They urged that the authors of the war should be punished, that a speedy termination should be put to the existing Parliament, and that the supreme power, including also the relation between the people and its representatives, should be clearly defined<sup>2</sup>. And these proposals were carried. In the Remonstrance, which opened the great drama that led to the execution of the King, the army demanded not only his punishment but also the immediate dissolution of the Parliament. It was to surrender back its high commission into the hands of the people, from whom it had received it, so soon as this could be done with any safety, and to pledge its word that the government of the state should be based upon grounds of common freedom and security. The House of Commons was to be a true representation of the people, and as such to possess the supreme power in all that concerned legislation, war and peace, and even the administration of justice<sup>3</sup>. Every one was to be subject to its authority.

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<sup>1</sup> The humble petition of thousands of well-affected persons inhabiting the city of London, Westminster, the borough of Southwark, *Old Parl. Hist.* xvii. 451, copied from the original. It is there ascribed to Henry Martin. But from Lilburne's pamphlet 'England's new chains discovered,' it is clear that it comes from his hand.

<sup>2</sup> The representations and consultations of the general council of the officers at St. Albans.

<sup>3</sup> The highest and final judgment in all civil things without further appeal to any created standing power.

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Now that the army was unanimous and proceeded at once to those forcible measures by which the Lower House was purged of its refractory members, all resistance was at an end. In the proceedings against the King the sovereignty of the people was assumed as the fundamental principle. In their very commencement their issue was already involved. This is clear from the resolution passed on the 9th of January, according to which for the future in all commissions and legal transactions under the Great Seal the name of a single person was no longer to be mentioned: at the same time the design for another seal was brought forward, bearing on one side a map of England and Ireland, and on the other a picture of the House of Commons, with the inscription *In the first year of freedom by God's blessing restored*<sup>1</sup>. From this moment the Commonwealth was virtually in existence.

Now however that their adopted principle had acquired so prodigious an efficacy, it is plain in what a contradictory position the Parliament found itself. It claimed, as it then existed, to be the lawful representative of the people, and the army acquiesced in the claim, because in no other way could it have gained its end. On this false assumption rested the whole procedure. That it was really untenable was obvious. The idea of the sovereignty of the people was from the first hostile to the Parliament no less than to the King, and might at any moment be used as a weapon for its destruction.

In the course of January, in the general council of the officers, the representations to be made to Parliament respecting the constitution and the government were once more considered in detail. The officers avoided repeating a number of the original proposals, those namely which referred to a radical reform of the administration of justice or to the abolition of oppressive burdens: they considered that they ought not to forestall the future legislative authority. So far, on the contrary, as the representation was concerned they assumed the same principles. The representative body was to consist

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<sup>1</sup> In the first year of freedom by God's blessing restored, 1648. According to Whitelocke it was the work of Henry Martin. But men were not yet prepared to adopt a new era.

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of 400 members, to be elected for two years, and to meet always on the second Thursday in June. It was to possess nearly the same rights, and to be subject to nearly the same restrictions that had been formerly proposed; all their resolutions were to be valid without assistance or confirmation from persons outside. For the conduct of public business they were to elect a state council, this council however to be bound by their instructions. On the day on which the trial of the King began, this scheme, entitled 'Agreement of the People of England,' was laid before the Parliament<sup>1</sup>. Had Parliament accepted it, it would have signed its own death-warrant. Nor indeed was it part of its proposers' intention to force it to do so. They were satisfied with having laid down a republican programme which in some degree met the wishes of the army and the needs of the people, without for the present insisting on its execution. The officers could not have ventured to break with the Parliament, whose name and outward authority were essential to them for all they had done and intended to do.

The idea of the sovereignty of the people was not embraced in England with the enthusiasm that it afterwards evoked in another nation: among the members of Parliament many may have shared it; others acquiesced in it as necessary to the assumption and maintenance of the supreme power without the King, and since the troops were determined to be rid of him. There was no thought of constructing a government from the foundations upwards conformably to theory. The real issue lay rather in the fact that the leaders of the army and the Parliamentary chiefs in league with them—those Grandees who since the first advantages gained by the army over the Parliament had played the most prominent part—now seized the sovereign authority for themselves, the latter as claiming themselves to represent the idea of the sovereignty of the people, the other with the concealed purpose of at some future time realising the idea in yet another fashion.

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<sup>1</sup> Agreement of the people of England upon grounds of common right, freedom and safety. Old Parl. Hist. xviii. 519; 15th January.

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These were differences destined hereafter to produce manifold discussions, but which were purposely disregarded at the time, because it was necessary to avoid all open opposition in order to establish under republican forms the supreme power, as it had now become.

The first blow fell on the House of Lords, the resistance of which to the impeachment of the King was the immediate ground on which the principle of the sovereignty of the people was accepted.

After the execution of the King, the Lords reassembled and named a committee to deliberate with a commission of the Lower House on the new constitution of the state. Apparently they cherished the intention of proposing the recognition of the Prince of Wales, though with severe limitations. On the 5th of February they added to the number of the committee and proposed a conference with a committee of the Commons on the following morning at nine. The Commons however were as determined not to let themselves be fettered by conferences with the Upper House. On the same morning they on the contrary embraced the resolution to pay no further regard to the Upper House in the exercise of their legislative authority. This involved a second resolution. The House of Lords was declared useless and dangerous: it therefore deserved to be abolished. On this the House of Lords, during this stage of public affairs, ceased to assemble<sup>1</sup>.

On the 7th of February followed the abolition of the monarchy. According to the testimony of experience, so ran the resolution, the office of a king, or the exercise of his power by a single person, is not only useless and troublesome, but moreover dangerous to the freedom and security, and to the public welfare of the nation, and should therefore be abolished<sup>2</sup>.

The constitution had consisted hitherto of King, Lords and Commons: the last now took it entirely into their own hands. In the fact that the royal authority was no longer

<sup>1</sup> Journals of Lords, 5th February (vol. x.) Journal of Commons, 6th February (vol. vi.)

<sup>2</sup> The office of a King in this nation, and to have the power thereof in any single person.

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necessary to give the force of law to their decrees was involved the introduction of the Commonwealth in England. The transition was not very surprising, since for some time past the King had been dispensed with. To laws succeeded ordinances, and to ordinances acts of Parliament, obedience to which was equally required.

At the same time it was not perfectly certain whether they would meet with it. The lawyers for instance, who were committed by their profession to the maintenance of existing forms, would they accept the setting aside of the kingly name so quietly? Yet the nation was accustomed to follow their lead, and a standstill in the judicial procedure would have caused a general disturbance. The difficulty became apparent even during the trial of the King, because that trial rendered necessary an extension of the old law term. The judges considered that they ought not to allow this, unless according to precedent they were also authorised to do so by the Lords. The Lords were quite prepared to agree; but the Commons wished to avoid recognising their assistance, now that they had taken the highest power into their own hands. At last two of the commissioners, to whom the Great Seal was entrusted, declared themselves ready at the express command of the House, of which they were members, to publish the necessary documents under their sole authority.

The most prominent of them was Bulstrode Whitelocke, one of Coke's school of parliamentary lawyers, a friend and pupil of Selden, who never it is true went so far as to commit what was actually illegal, but easily acquiesced in it when it was once done. He had an irresistible tendency to attach himself to the ruling powers, and to accept personal promotion from them, provided they allowed the system of English law to remain as a whole such as it had once been established. With his colleague Widdrington he left the city at the time, in order not to take part in the trial of the King: this over however, they returned without a long struggle and resumed their seats on the woolsack. By order of the Commons they brought out the Great Seal stamped with the royal arms, and allowed it to be broken in pieces before their eyes in the House. One of the two,



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Widdrington, then retired, Whitelocke however considered himself bound to serve also as commissioner for the administration of the new seal.

His co-operation was of the greatest service in advancing matters. When the adjourned proceedings should have recommenced, on February 9, six of the twelve judges refused to continue in office under the altered conditions. The other six declared themselves ready to do so, but only after a formal abrogation of their oath of allegiance to the King, and on the condition that the House first declared that the fundamental laws of the state should be maintained intact and justice administered according to them.

Thanks to Whitelocke's energy the matter was carried through the Commons the same day, for on him it depended that the administration of justice should not be interrupted for a single day longer: he considered that in securing this he had rendered no slight service to the Parliament <sup>1</sup>.

It is clear from Whitelocke's Memorials that he was not without scruples as to his conduct. By the administration of justice, he declared, he had thought to do the best service to God and his country: God had set him in this way and he must go on in it, so long as it was permitted him. He mentions this consideration in a conversation with Lenthall, who had expressed his opinion that the soldiers would treat everything as theirs by right of conquest <sup>2</sup>. The participation of the lawyers in the Republic was a sort of protection against the tendencies of the agitators. Then appeared the declaration of Parliament, that it was fully resolved to maintain intact the fundamental laws of the nation for the public good, and expected that the law courts would proceed in accordance with them.

We may connect with this tendency, so hostile to a general convulsion, the fact that at the election of the State Council which followed, men of such radical views as Harrison and even Ireton, though proposed were not carried.

<sup>1</sup> Whitelocke's Memorials 374.

<sup>2</sup> 'To claim all by conquest.' Whitelocke 363. In the same place he also mentions 'the perplexed thought in sober men, who resolved to depend on God and to go on in the way wherein he had set them.'

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The Council of State elected on February 14 was entrusted with powers very extensive, but most carefully defined. It was to resist all attempts to restore the monarchy, to maintain peace at home, to reduce to subjection Ireland and the islands which had not yet submitted, to preserve a good understanding with foreign powers, to protect Englishmen abroad and to promote their trade. For these purposes it was entrusted with the command of the land and sea forces, together with their organisation, and with the right to draw from the public revenue the sums necessary for the public service, for instance for negotiations with foreign powers; but over and above this the right also to imprison refractory persons, and to administer to them an oath in time of danger in order to discover the truth<sup>1</sup>.

A sufficiently remarkable combination was this of military, diplomatic, police and judicial powers. It comprised all executive authority, to a larger extent than any King had ever enjoyed it, through its connexion with Parliament and the influence it in its turn exercised upon that body. The Council of State acquired the appearance of a compact authority invested with absolute powers.

At its first establishment it was thought advisable to include a number of peers as well as several others who had taken no part in the late proceedings, with the view, it might be supposed, of binding them completely to the Commonwealth. At this point an unexpected difficulty again occurred. Of those who were selected more than half refused to take the prescribed oath, since this contained a formal approval of the execution of the King, of the abolition of the kingly power and of the Upper House, and of the supreme authority as resident in the Lower House<sup>2</sup>. They declined to countenance

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<sup>1</sup> Old Parliamentary History xix. 9 sqq.

<sup>2</sup> The oath was 'that they approved what the House of Commons and their high court of justice had done against the King, and of their abolishing of kingly government and of the House of Peers, and that the legislative and supreme power was wholly in the House of Commons. From the Journal (vi. 146) it appears that Grey of Wark was willing to bind himself to obey both Houses, but not to one only: in the Order Book, No. 2, we find further, 'Mr. Whitelocke saith, he likes the main of it, but excepts of those words which concern the court of justice: James Harrington excepts only at the word fully' (wholly).