

CHAPTER SEVEN

DEMOCRATIC CONTROL OF BUREAUCRACY

"The safety-valve to alleviate discontent is the right to expound ideas, advocate Government reform, and to criticize public officials."

GOVR. W. P. HUNT, OF ARIZONA, 1900.

IN the last chapter we traced a danger to democracy through the inordinate growth of paid officials sitting in Parliament—the overwhelming of the critics by those to be criticized, the strengthening of Government against those governed. This endangers the first function of Parliament which, from its very inception, has been the Redress of Grievances against Government. Redress had always to precede the voting of money to Government.

REDRESS OF GRIEVANCES

The grievances of the electors cannot be redressed unless the Member of Parliament is independent of the Government against which the grievance lies. Moreover, the grievances of the common people will not be redressed unless they are electors. The Courts are open to all who have grievances; but the laws which the Courts must carry out are the laws permitted by those who represent electors. This is the final and conclusive argument for that adult suffrage which most democratic countries enjoyed while their democracy survived.

But to go to law is always an expensive, uncertain and slow method of redressing a grievance—and beyond the means of most victims. Therefore grievances against Government injustice have generally taken the form of petitions to Parliament. In modern times the collective petition be-

came no special person's baby and often got abandoned in the black bag behind the Speaker's chair. Therefore electors tend more and more to seek a remedy by writing to their Member of Parliament, who in turn seeks a remedy from the Minister concerned for the 'sore grief' of his petitioner.

RESPONSIBILITY

The Minister concerned sits in Parliament—among those who seek a remedy from him. He also sits supreme in his office, directing his bureau, and potentially feared by his bureaucracy. The Member of Parliament, by open question to the Minister, can direct the limelight of publicity upon any ill-deed done to his elector (or anyone else) by the Minister's subordinate officials. In the eyes of his fellow Members, the Minister is himself responsible for the ill-deeds of his subordinates. The Minister must defend his subordinate's action; but the subordinate must defend the Minister by making out a good case for the latter to present to the House. Woe to the official who cannot make out a case to satisfy his master, who suppresses any of the facts, who meets an angry chief back from his daily heckling and hears: "Of course, they have moved the adjournment on me! Really, you will have to do something about . . ." Then the whole office has a black day, and perhaps justice is satisfied; and the elector goes away rejoicing—or more usually does not.

It is rarely necessary to pursue Ministers into the limelight. For every grievance raised at Question time or in open debate, a dozen such are dealt with in private correspondence. Each complaint is duly sent on by the Member of Parliament to the appropriate Minister. Redress, or an explanation why there is no redress, comes back to the Member. He can then decide if anything more could usefully be

done. Generally, the Member of Parliament forwards the official explanation with a covering note of affectionate apology for not having achieved justice 'against the tangle of red tape rules in which unfortunate officials are tied'. We endeavour to be soothing to our electors; the Minister endeavours to be soothing to us! None of us wishes for trouble, publicity, or recrimination. Some are, of course, haunted by the love of justice *per se*, or hatred of the State regulations and all that injustice which is 'justified' by expediency; but these are the cranks.

PUBLICITY SECURES REDRESS

However, we receive (and pass on) all these civil answers, because in default of civility we can 'raise the matter' in the House! It is that power which keeps the officials civil, and persuades the Minister to put his arm round you in the Lobby to remonstrate and explain. In a rough and ready way, I can think of no better method of securing the redress of grievances than this. Grievances not only of electors, but of the whole world, can be given skilful publicity. The victim of injustice has the balm of feeling that his last cry is heard, if not answered. I can look back on thousands to whom I have given sympathy, sometimes hope, and more rarely redress. Nor do I believe that the Members of any other Senate or Assembly in the world have such opportunities for benevolence, or such a chance to influence public opinion in moral (or immoral) direction.

In the long run, it is not the Minister or the law which moves the bureaucracy—or that section of the bureaucracy which sits on the judicial bench—so much as public opinion. All men tend to do that which they know is expected of them. How can they tell what is expected, save from public opinion? A free Parliament and a free Press guide public

opinion, and influence every cog in the machine of government. So does a Führer! But the direction of the guidance of a Führer, whether Church or State leader, must ever be towards the deification of his Church or State. He must justify his machine, his servants.

While Parliament, yoked in publicity with the Press, acts as a good check upon the natural vices of bureaucrats, rendering them nervous of committing a 'gaffe', let us not forget that this very nervousness breeds in officials reluctance to take any steps at all. The Civil Services are at one with the Fighting Services in their extreme reluctance to take responsibility and their passion for awaiting orders. Official files multiply, not because officials like writing but because they hate deciding. Any decision may lay the man who takes that decision open to censure in Parliament. Therefore every decision is postponed and the file goes back from the front line—back, perhaps even to the Minister himself. The Minister requires more information before he decides on what is to him a new point. Then the file reverses slowly, from hand to hand again, to the man on the spot who dares to make what he wants a little clearer; and so the shuttlecock goes on—each avoiding responsibility for fear of 'a cursing'. That the whole Office is abused for red tape is of less importance to me than if I am found fault with. The fear of a cursing extends, of course, to the Minister himself if he is afraid of the Prime Minister, and whether a hundred Jewish refugees should be allowed to land in Palestine becomes a Cabinet Question on which the Prime Minister will be asked to waste his time.

GOOD AND BAD MINISTERS

The cure is to have Ministers who will curse not those who take decisions but those who do not—an easy course to

pursue if he is a man of courage himself. The worst type of Minister is he who, as it were, joins the servants' hall against the master. Such Ministers are intimate with their officials and nervous of their colleagues in the House. They have conspired against Parliament, and thenceforth their servants have them at a disadvantage.

No Minister would allow his officials to attack his Cabinet colleagues in his presence. That is easy; officials would hardly dare to do so, however intimate. But it is almost as bad a lapse from good form to allow officials to attack the honesty or intelligence of a critic in the House. What one may say to one's P.P.S. (or listen to from him) is fatal to discipline if permitted to an official private secretary. From that lapse, further steps downward become easy. Next, the Minister consults as to the *safest* presentation of 'their' case, conceals facts from the House, and ends by lying to the Prime Minister. Such is 'the rake's progress', ending in ignominious retirement.

The good Minister must ever say to his officers, "I want to be quite certain myself that there is nothing in that grievance. I will have no hushing up for the honour of the service; that honour depends on honesty, publicity, reason, not on professional solidarity with black sheep." Moreover, the black sheep are not those who make mistakes, but those who avoid action for fear of making them.

This homily is, of course, applicable also to the Fighting Services. I might remind their successors that the actions of Cromwell, Hawke or Nelson were never devitalized by fear of censure.

WHAT REMEDY UNDER DICTATORS?

I am at a loss to imagine how bureaucrats can be kept in check in autocratic lands. Professional solidarity must

extend to the very highest regions. What can prevent jobbery, nepotism, and the bullying of the subject when there is neither free Press nor free Parliament? Officials may leave school as devoted servants of the State, but they must end by considering themselves to be the State. One has only to contemplate the fear of our police evinced by 'refugees from Nazi oppression' (*alias* Jews) to realize the complete lack of many Continental countries of any method of remedying grievances against the State. Abject submission, tempered by blackmail, was the normal lot of all mankind, from the time of Pericles to the time of Cornwall. The virtue of the Christian Church was that it grafted on to such slavery the doctrines of humanity and mercy. "But Christianity," said Clemenceau, "which began by being the refuge of the poor, has ended by becoming the Trade Union of the rich." For all rebels—Jews, Communists, heretics—outside English-speaking lands there has long been no remedy for grievances—only prostrate submission to a one-eyed Polyphemus or to the Briareus of bureaucracy.

POLICE

Of all bureaucracy's hundred arms, the police are the most dreaded, the most difficult to control, the cause of most grievances unremedied. It is amazing to think that only one hundred years ago Sir Robert Peel started our model British policemen. Now the police contact our lives at every turn, distributing to the humblest citizen advice, warning or permission. The police-station is as familiar as the church; the village policeman has supplanted the squire; fiction centers round their labours, and their startling intelligence is rewarded with the hand of a duke's daughter.

That is the British policeman (at least I hope it is), watched and controlled by the British Parliament, subjected

to Judges' Rules, admired by American lady visitors, wearing the incorruptibility of Caesar's wife, and occasionally reaching the headlines for quite other reasons.

THE LESSON OF FRANCE

But you cannot say that policemen abroad are so human and so popular. They are always the first people to get murdered in times of trouble, and generally they deserve it. In France, as we know, one has only to say '*Mort aux Vaches*'¹ for the worst trouble to follow. The French *Chambre* never controlled the police. In fact it is not too much to say that M. Chiappe and the Paris police controlled French democracy and slew the *Chambre des Députés*. The police did not like the *Front Populaire*; they did like (or M. Chiappe did) the *Camelots du Roi* and the *Croix de Feu*. So the *Croix* now rules France and the *Front Populaire* is in gaol. That Seven Years' War has ended with French bureaucracy triumphant over French democracy—though M. Chiappe has met with an accident.

The lesson we should learn from France is to keep our bureaucracy out of politics, to thank our stars that partizan-ship has been discouraged in the Services both Civil and Military, and to watch in Parliament for any tendency to reward political party merit in the service. It is my impression—an impression shared and fostered by the British Union of Fascists—that our impartial British police were, before the war, becoming pronouncedly pro-Fascist, anti-Communist and even anti-Semitic. If that were so, the fault must lie with those who select the recruits and have promotion in their hands. The London police are controlled by the Home Office, which Parliament can watch. But outside

¹ Only Heaven, or M. Anatôle France, knows the inner meaning of this insult.

London the Chief Constables and Watch Committees have the matter in their hands.

Herein lies one of the greatest dangers to our democracy. If the anti-democrats capture the police and the bureaucracy, instilling into them dislike of parliamentary control, showing them how much more efficiently they could work unchecked by factious criticism from tiresome ignorant Members of Parliament or Watch Committees, then we too, like the French, may see our servants become our war masters. I once imagined that any revolution from the Right would come from the War Office. That is not so; it will come (if come it does) slowly, insidiously, from the police, as in France.

We too are liable to the police-disease; but we start with far better traditions—a dislike of foreign ways, further removed from the class struggle, and with our eyes open to the danger. A wise Home Secretary would circularize to this effect all Chief Constables and Watch Committees. A wise Press would point out the danger.

PRESS ASSISTANCE

I turn to the Press. Parliament could do little to remedy grievances and control the bureaucracy without the Press, and the Press little without Parliament. Even together, with all their publicity, they could not preserve our liberties without an expectant and educated public opinion. Without willing readers the Press would not tell the story. Press, Parliament, pulpit, school-teachers and literature of all sorts create those who call the tune. "Were it left to me," said Jefferson, "to decide whether we should have a Government without newspapers, or newspapers without Government, I should not hesitate a moment to prefer the latter."

If we have in this country fairly efficient control of the bureaucracy, it is due to our Parliament, our Press, and our public opinion. On the Continent they have not the same intimate contact between executive and legislature, a more obedient public opinion, and a Press which respects liberty too little and enjoys licence too much. The absence of a law of libel enabled the Fascist Press of Germany and France to drive decent people out of politics and to lay the foundation for their own creed.

Abroad, as the complications of modern life increased, the bureaucracy swallowed up the Executive and became master over the people, who were without redress. This aggrandizement of bureaucracy and police was not the main reason for democracy's collapse, but it was one element which is often too little taken into reckoning. It needs to be exposed to view here, as a warning for the safety of our own liberties.

DEMOCRATIC CONTROL OF JUSTICE

There remains one branch of the bureaucracy which we have not considered. Judges would resent being classed as a branch of any bureaucracy, for justice is more ancient and is still respected here far beyond any bureau of State. Yet judges are the paid servants of the State, controlled by Parliament (as is the Executive), though still present in that Parliament, of which they were once the core and the essence.

Judges in this country are appointed by the Executive for life. They can only be removed by vote of both Houses, and none has ever been so removed. The Lords of Appeal (the supreme Court of the Empire) sit in the House of Lords with the same privileges and rights and powers as other lords, and are paid £6000 a year each for the exclu-

sively legal part of their duties. As a permanent part of the Civil Service they are not supposed to have any Party, but to maintain an independent attitude.

Below the Lord Chancellor and the Lords of Appeal, the whole judicial hierarchy spreads down to the Justices of the Peace in every borough and county. They have all now ceased to be executive and become purely judicial, if not impartial. It is only indirectly that Parliament can seek to control either their judgments or their less balanced utterances. The risks of Contempt of Court restrain the Press from adverse comment, though publicity for an outrageous sentence or fractious *obiter dicta* often has the effect of censure.

We may suppose that in other lands 'justice' is sometimes to be bought, and sometimes intimidated by gangsters or government. No doubt prejudice still has influence here on many minor judicial decisions and in lower Courts; but since the Lord Chancellor, Lord Macclesfield, was expelled for corruption two hundred years ago, we have been free from both corruption and intimidation. Judges interpret the laws made by Parliament, they do not seek to alter them; they cannot veto them as in America. They are not judges of the Constitution, but have a defined position in that unwritten constitution. He would be a bold man who sought to increase the control of the democracy over the judiciary in Britain. Among all the wild, radical, or socialist schemes for Reform which have drifted through the last fifty years, not one has proposed that we should copy America and elect Judges or even Justices of the Peace. The most we hear is that they should not take three months' holiday in the summer, and compel litigants to wait in purgatory.

LAWYERS IN PARLIAMENT

Parliament objects to any of its Members acting as advocate in cases which are heard by Parliament's Private Bill Committees. Parliament does not object to its Members taking Treasury briefs and fees to appear in cases for the Crown which come before the Judges. It may make the Member who is briefed more amenable to the Government whips, but so does the deftly offered suggestion of a knighthood.

A very great number of judicial appointments are made from and in Parliament. Besides all the law officers of the Crown for England and Scotland who sit in the House of Commons or House of Lords, there are appointments waiting as soon as they desire them for nearly all barristers who are lucky enough to be elected to Parliament. Some, such as recorderships, can be held at the same time as a seat in the House. Others, if they fail to be made Lord Justices of Appeal, County Court Judges, or Stipendiary Magistrates, can usually become a Colonial Chief Justice and retire to Fiji or Jamaica.

Members of the Bar are much better at stating a case than is the ordinary Member of Parliament. They can explain Bills and proposed Amendments to Bills, can point out the encroachments of the bureaucracy concealed in a Bill with much greater clearness and perspicuity than will the Minister in charge of the Bill. On Standing Committee my aim has always been to get a barrister on his legs to explain the Bill and expound the existing law.

What we owe to lawyers in Parliament now is as nothing to what we have owed them throughout parliamentary history. The age-long struggle of Parliament against the Crown found its protagonist in Coke; but Fortescue and Lyttelton had gone before. Erskine's silver tongue established the law of freedom, and Brougham carried the great Reform Bill

on his ample shoulders. From 1350 onwards, the young lawyers made their early bow in the Commons House. Perhaps one fifth of the Members of the House have been lawyers of some sort ever since the middle of the 15th century, leavening the bucolic squires with the spice of wit and classic lore.

LOCAL AUTHORITIES AND THEIR BUREAUCRACY

We are too apt to consider democracy only in relation to Parliament. In essence, Parliament, with executive and legislature centralized in Westminster, is less democratic than our County, City and Borough Councils; and these are less democratic than the Urban and Rural District Councils; while the Parish Council is often just pure democracy, all citizens present and consenting—or demurring.

The powers of a Parish Council are not extensive, but everybody in the parish sees what it does, knows what they are paying for, and can meet and discuss it. There is no majority rule on a Parish Council. Unanimity is natural, and their bureaucrat—the parish clerk—has no chance of scamping or delaying matters because everybody is looking on. It is a free society, not government.

The smaller the unit, the more everybody knows everybody and everything; as the unit grows to a District Council, more has to be delegated to servants and the elector is lost in a crowd. But we may consider more closely the functions and performance of a County Council. This is a miniature Parliament of some 60 members, directly elected by single member constituencies, with some co-opted aldermen. There is little legislation, merely the framing occasionally of a few by-laws. The Council's function is therefore executive. The Chairmen of a dozen Committees are, as it were, Cabinet

Ministers (unpaid). Each Committee looks after its own job and reports to the full Council, who confirm or refer back the proposals of the Committee. The permanent paid officials sit each on their appropriate Committee as advisers, forming with the Chairman and Vice-Chairman a bureau responsible for the conduct of the department.

Education, police, roads, asylums, and small holdings are the most important spheres of activity. Revenue is drawn by rates levied upon the annual value of all house and factory property, but not upon agricultural or unused land. They are assisted by grants from the Exchequer, and valuation of property and collection of the rates is left to the Urban and Rural District or Town Councils. Democratic County Councils, including the London County Council, were only started in 1888, so that they have no long traditions. But in most cases they are run with clean hands by the gentry. Labour is not strongly represented on most of the Councils owing to there being no payment for lost time, and to the absence of those functions of Government of special interest to Labour.

The Labour Party seeks no alteration in the scope and method of County Government, save the payment for time lost in attending their meetings. The tendency of socialists is generally to pass laws which shall compel the local authority to act; but the general practice, which socialists do not seriously oppose, is to make optional such laws as concern the Councils' activities.

My own objection to the present working of County Councils is that their resources are levied in such a manner as to discourage the improvement of property, and yet to increase the purchase price and rent of agricultural land.

THE POWER OF TOWN CLERKS

From the democratic point of view, local government in Great Britain is rather better than in those lands where English is not spoken; though it is not so popular or efficient as in the New England States. The County Councils are certainly less corrupt than any I know elsewhere. Where Britain differs from other lands is in the relative importance of Mayor and Clerk. The Mayor, generally a mediaeval survival, is an annually chosen figurehead. Power resides in the permanent paid servants, the Town Clerk and other officials.

Where (as in County Councils) the Chairman continues in office year after year, that Chairman tends to become Premier, influential ruler of the county, and the most important man therein. Elsewhere, the Town Clerk—head of all local bureaux of service—tends to become Prime Minister to a temporary constitutional sovereign. Some of the 'sovereigns' may give him trouble, but he survives their brief reigns. There are cases where the Town Clerkship has become hereditary in one family.

The ordinary Town or City Council is not very effective in the redress of grievances against the Town Clerk or city officials. There is always a good deal of patronage at the disposal of the head of a great city; if that patronage gets entirely into the hands of the Town Clerk, few Councillors will care to make themselves troublesome to that high functionary. Fortunately, in Parliament, we do not know even the name of the Permanent Secretary to the Treasury. But the Town Clerk sits beside the Chairman on every Committee to instruct him and thus has a very powerful influence on criticism and efficiency. I doubt whether such appointments should be made for life. Indeed, control of local bureaucracy

might be considered dormant in England. We are an easier people to govern than the Scots or the Irish.

REDESS OF GRIEVANCES IN AMERICA

Obviously the popularity of Parliament in Britain comes from its power and practice in redressing wrongs suffered by the citizens, whether at the hands of the State or at the hands of foreign governments, or at the hands of the rich and powerful. How far do other Parliaments or Senates perform the same function and secure the like popularity?

The Congress of the United States is a much more centralized assembly than is our Parliament. Quite half of the wide field covered by Parliament in Great Britain is dealt with in State Senates and Houses of Representatives at the capitals of the forty-eight (United) States of America. The man without his pension in Peoria writes not to Washington but to Springfield, Ohio, and almost certainly does not know the name of his representative in Congress. Nor can his representative, whether in the State or Federal Legislature, ask questions of the Secretary for the Interior or his State counterpart at Springfield, even if he wished to oblige a constituent. He is not at Washington to look after the grievances of half a million constituents, but to look after the interests of his Party in his constituency. Government contracts, Government appointments—for these he will go and see the officials themselves—holding over them the fear that if he cannot get his way he will go and see the Minister, if that Minister represents his Party. To put it crudely: they seek not so much justice for an elector as advantage for a Party; and they have no standing in either case, since they are completely divorced from the Executive, save only by the common bond of Party.

If grievances are redressed in America, such redress is obtained in the law courts, where justice is cheaper and more accessible than in this country. Your Senator or your Member in the House does not come into the picture. Indeed, I know of no reason why either individual or institution should enjoy any popularity at all, except among professional politicians. The Senators, without a blush, have put up a statue to Huey Long in the Senate House. Possibly, if some Huey Long or Father Coughlin establishes the Corporative State in America, they will then put up a triptych to Washington, Lincoln and Roosevelt, to gaze upon the scene in cold and disapproving silence.

REDRESS OF GRIEVANCES ELSEWHERE

Practically all the Parliaments of the Empire have adopted in some degree the British system of the Executive in Parliament, open to questioning and criticism. The Members are individually elected, and are known to their constituents (as in Great Britain) and are used for the redress of grievances. With India I deal separately; all the other Parliaments are inferior to our own only because they have less responsibility outside their own borders. With little corresponding to our Foreign and Colonial Office, there is less scope for peripatetic benevolence or the wider humanities.

Some of the European parliaments are based on our model, *e.g.* Denmark, Hungary, and formerly Greece, and to them the preceding paragraph applies equally well. They also have the American advantage of cheaper access to normal justice in the courts. Others, such as France, have procedure which differs widely from our own, but yet have the Executive present among the Members—though without that Question hour in which to heckle the bureaucracy and enliven the

representatives, the proceedings and the Press. The bureaucracy was so powerful and all-pervading in France that redress could hardly be sought through the *Chamber des Députés* or the *Sénat*. A wiser access was through the *coulisses* of the Minister's waiting-room.

The German Reichstag had a procedure balanced half-way between England and America. Ministers of State, usually elected Members of the Reichstag, sat at a high table with, but not amongst, their fellow Members. They could speak and explain and justify. Below them, in a separate pen, sat their permanent officials, heads of the various departments, who answered in person when directed from above. They were interpellations, drafted by a Party; but Questions were usually directed to the permanent officials' pen, in order to bring up the grievances of constituents. As in America, most of these grievances were naturally dealt with in the various provincial *Landtage*—which were glorified editions of English County Councils, or less glorious copies of American State Legislatures.

Therefore in few of the countries outside the British Empire is that redress of grievances, which was ever the first duty of Parliament, to be found as a distinctive or prominent feature of democracy. Emphasis is ever laid on law-making, money-voting, and the direction of high policy, rather than on the grievances of the subject against the Crown. In all cases, sometimes by intention, sometimes by accident, the close connection between the British M.P. and his constituents has been avoided, and responsibility-to-Party substituted for responsibility-to-electors. This has inevitably reduced the value to the electors of their own representative; it has destroyed the almost paternal (or step-paternal) relations which exist in England between a Member and his constituents; it has failed to provide the

citizen with a channel of access to the bureaucrats, whose interference in his life grows year by year more intimate.

Therefore, fascists find Britain most unresponsive of all to their denunciations of Parliament. However it may fare with other democracies, we are still useful, and by reason of our utility freedom may still survive.