

Constitutionalism in Great Britain

Part Two

The Interregnum: When Charles I was executed on January 30, 1649, the Rump Parliament abolished the monarchy and the House of Lords and a Commonwealth, or republican form of government was proclaimed. That government theoretically consisted of the surviving members of Parliament and a council of state which exercised the executive power. In reality, the government was transformed into a military dictatorship: The army that defeated Charles controlled the government and the army was controlled by Oliver Cromwell. (1599-1658). Cromwell was born to a family commonly described as a member of the gentry. He had gone through an intense religious experience (possibly as the result of a severe illness) which convinced him that he was a member of the elect. He had risen to fame during the Civil War by infusing Puritan ideals into the Parliamentary army which became known as the New Model Army. Although it was properly called a Protectorate, and Cromwell the Lord Protector, it was in essence a military dictatorship. For historical purposes, the period is called the Interregnum, meaning "between the Kings."

The Rump Parliament had prepared a constitution known as the Instrument of Government (1653), which provided for triennial Parliaments, a Council of State, and the office of Lord Protector, held by Cromwell. The Instrument also provided that only Parliament would have the authority to raise taxes. Disputes frequently erupted when Parliament sat for four years, refusing to dissolve itself. Cromwell, determined to bring about a "godly reformation," tore up the Constitution after which he instituted quasi-martial law. He had picked 140 men to serve in a new Parliament, which became known as the "Bare-Bones" Parliament, presumably after one of its members, a leather merchant called "Praise-God Barbon." He kept the standing army in force, and six months later the Barebones Parliament was dissolved and the country divided into twelve military districts, each governed by a major general, who acted through justices of the peace.

The Instrument of Government provided for toleration of all Christian religions except Catholicism, an idea which Cromwell supported, but which most Englishmen did not. He also welcomed Jews to immigrate because of their skills. Most Jews had left England 400 years earlier. Yet Cromwell's Puritan ideals never left him. He never lost his rough edge, and was stubbornly idealistic; easily convincing himself that he was right and therefore should not compromise. He imposed taxes without Parliamentary approval, and dissolved Parliament when it disagreed with him. He insisted that people should lead "godly" lives, and accordingly ordered theaters closed, forbade sports, and censored the press. When a rebellion broke out in Ireland in 1649, Cromwell put it down with merciless savagery. The result of his treatment of the Irish was a deep seated hatred by Irishmen of England and all things English, a sentiment that still exists. The Puritan republic was every bit as oppressive as the monarchy of the Stuarts. He was so unpopular that he began wearing armor under his clothes and took circuitous routes throughout London to foil any assassins who might be stalking him.

Cromwell's regulation of the English economy was typically absolutist. He enforced the Navigation Act of 1651 which required that English goods be transported on English ships. This was a great boost for the British merchant marine and caused a short war with the Dutch.

In 1657, a newly elected Parliament produced a new constitution and offered Cromwell the throne.

He refused, perhaps because he believed God had spoken to him against the monarchy; but did accept the terms of the "Humble Petition and Advice" by introducing a second house of Parliament, designated the House of Lords, and by the terms of which he could name his own successor. Cromwell demonstrated his gratitude by dissolving the Parliament. He died one year later and was followed by his son, Richard Cromwell. The younger Cromwell was not the man his father was, and served only a short time.

At the time of Cromwell's death a hurricane like storm wreaked havoc on the English countryside. Those who opposed Cromwell said that the storm's cyclone was the devil, come to claim the soul of the usurper.

The Restoration: The military government collapsed in 1658 when Cromwell died. The English people were fed up with military rule, and wanted a restoration of the common law and social stability. They were ready to restore the monarchy, and would not soon re-experiment with a republic. The heir presumptive, Charles, son of Charles I, was living in exile in Holland. However, his return was only accomplished by military force when General George Monck, a former royalist officer with troops still loyal to him marched on London and dissolved Parliament. Charles issued a conciliatory proclamation, and Parliament invited him to assume the throne. He was crowned Charles II on April 23, 1661, eleven years after the execution of his father.

Charles II exhibited considerable charm, energy, courage, and a lively sense of humor. He was loyal to those who had been loyal to him during the Interregnum, with the notable exception of his Queen, to whom he was anything but faithful. The colonies of Pennsylvania, Maryland, North and South Carolina were founded when Charles gave generous land grants to those who had supported him. For that reason, these colonies were known as Restoration Colonies.

At the time the monarchy was restored, both houses of Parliament were restored also, together with the established Anglican Church, the courts of law, and a system of local government administered through justices of the peace. However the religious issue of the status of Catholics and Puritans and the political issue of the Constitutional position of the King with relation to Parliament remained unresolved.

On religious matters, Charles was largely indifferent, although Parliament was not. The Test Act of 1673 stated that those who refused to accept the Eucharist of the Church of England could not vote, hold public office, preach, teach, attend university or even assemble for meetings. Those considered "nonconformists" had to take an oath that they would not try to alter the established order of the church and state in England. However the Act proved largely unenforceable. When William Penn, a Quaker, and a number of his Friends (no pun intended) held a meeting, they were arrested, but a jury refused to convict them.

In political matters, Charles was determined "not to set out in his travels again." He planned to get along with Parliament at any cost. He appointed a council which constituted his major advisors but who were also members of Parliament. These men acted as a liaison between the King and Parliament. These five men became known as the Cabal, after the first letters of their last names: Clifford, Arlington, Buckingham, Ashley-Cooper, and Lauderdale). The Cabal was an ancestor to the present Cabinet system. It gave rise to the concept of royal ministers who answered to the Commons.

One of the King's advisors, Anthony Ashley Cooper, the Earl of Shaftsbury, was one of the eight Lord Proprietors who received a royal grant for a colony which they named Carolus, Latin for Charles. The Ashley and Cooper rivers in Charleston, S.C. are named for him.

Charles and Parliament had a tacit understanding that he would summon frequent Parliaments and Parliament would grant him sufficient income. Parliament did not keep its end of the deal, and Charles entered into a secret agreement with Louis XIV of France which provided for Louis to give Charles 200,000 pounds annually in exchange for which Charles would relax restrictions on English Catholics, support France in its war with the Dutch, and convert to Catholicism himself. When the deal became public, a tremendous amount of anti-Catholic sentiment arose. The situation was exacerbated by the fact that Charles had no legitimate heir (although he had several bastard children). Next in line upon his death was his brother James, the duke of York, who had publicly acknowledged that he was a Catholic. One Titus Oates actually claimed there was a Jesuit plot to assassinate the King, slaughter all English Protestants and proclaim James King. Oates had made up the entire tale, and Charles knew it, but did not speak up because of his own secret promise to Louis XIV to restore Catholicism in England. Hatred of French absolutism (and Louis XIV in particular) and fear of a permanent Catholic dynasty caused hysteria. The Commons passed an exclusion bill which precluded any Roman Catholic from ascending the throne; however Charles dissolved Parliament quickly, and the bill never became law.

The Glorious Revolution of 1688: In the early 1670's, two factions emerged in Parliament: Members who supported the full prerogatives of the monarchy were known as Tories, those who were critical of the King's policies and who espoused parliamentary supremacy and religious toleration were known as Whigs. In 1679, a number of Whigs tried to make Charles' illegitimate son the lawful heir. In 1681, Charles attempted to rule without Parliament, as had his father. Several Whigs were charged with plotting to assassinate the King and his brother, and were executed. On his deathbed in 1685, Charles proclaimed himself a Catholic.

Charles was in fact succeeded by his brother in 1665 who became James II. In Scotland and western England, a small insurrection developed in favor of Charles' illegitimate son. The rebellion was crushed, and the pretender was executed. James was as devout in his Catholicism as he was naïve. He showed his true colors almost immediately; and the anti-Catholic fears of the multitudes were suddenly and painfully realized. In violation of the Test Act, he appointed Catholics to positions in the army, universities, and local government, and dismissed advisors who were non-Catholic. When a court case was brought to test the validity of his actions, the judges ruled in the King's favor. He had suspended the law at will, and appeared to be reviving the absolutist policies of his father and grandfather. He also issued a declaration of Indulgence, granting religious freedom to all; on its face a noble gesture, but one which did not endear him to Anglicans.

Seven bishops of the Church of England petitioned the king that they not be forced to read the declaration of indulgence, as they considered it an illegal act. They were imprisoned in the Tower of London, but acquitted amid great public enthusiasm. The situation reached a boiling point when James' second wife became pregnant. James rather rashly predicted the child would be a boy, and a Catholic heir to the throne. The Queen gave birth to a male in June, 1688. The timing of the birth, James' prediction, and the fact that the only witnesses were Catholic led to rumors that the child was really a surrogate baby. Regardless, the child was next in line to the throne, and a Catholic dynasty appeared inevitable.

An influential group of Englishmen, both Tories and Whigs, offered the throne to James' Protestant daughter by a previous marriage, Mary, and her Dutch husband, William Prince of Orange. William's supporters flooded England with propaganda in favor of his ascension. William landed with an army, and James took the hint. Popular uprisings appeared all over England, and James' supporters defected wholesale. James was in a state of emotional and physical collapse. He with his wife and infant son fled to France, where they lived the remainder of their days. Parliament declared the throne vacant by abdication, and William and Mary were crowned King William III and

Mary II. This event became known as the *Glorious Revolution of 1688*. It forever destroyed the idea of divine rule by an English monarch.

A fortuitous event helped William's cause. When he embarked with 15,000 men, a wind blew his ships to the southwestern coast of England while the same wind kept James' fleet in port. The fortunate wind was called a "Protestant Wind."

By accepting the throne at the invitation of Parliament, William and Mary implicitly recognized the supremacy of Parliament. The revolution established the principal that sovereignty and ultimate power in the state was divided between the monarch and Parliament, and that the King ruled only with the consent of the governed.

The College of William and Mary in Virginia, a prestigious institution with a history department second to none was named for William III and Mary II.

Parliament quickly passed the English Bill of Rights, the cornerstone of the modern British constitution. Law was to be made in Parliament and could not be suspended by the crown. Parliament had to be called at least every three years, and elections to and debates in Parliament were to be free, in the sense that the Crown would not interfere, a principal largely disregarded in the eighteenth century under the Kings George. To ensure an independent Judiciary, the Bill of Rights provided that Judges would hold office "during good behavior." There was to be no standing army in peacetime, and "the subjects which are Protestants may have arms for their defense suitable to their conditions and as allowed by Law." (In other words, Catholics could not keep and bear arms—the Protestant majority feared a Catholic rebellion.) Freedom of worship was guaranteed, but importantly, the act provided that the English monarch must be a Protestant.

The English philosopher *John Locke*, personal secretary and physician to Anthony Ashley Cooper, the Earl of Shaftsbury, provided the most profound defense of the Glorious Revolution in his *Second Treatise on Civil Government*. His First Treatise had discussed the inadvisability of absolute monarchy. In the second Treatise, Locke argued that civil governments were created by the people to protect their life, liberty and property. Every government was charged with protecting the "natural rights" of the people, meaning those rights held by all men because they have the ability to reason. Any government that failed to do so or usurped power to which it was not entitled was tyranny. In the event of a tyrannical ruler, the people have the right to rebel against that government.

Locke's ideas were borrowed from ancient Greek and Roman ideals of government that is that there are natural, or "universal" rights equally held by all people in all societies. These ideas became a powerful influence on Enlightenment thought, and were especially popular in colonial America. By implication, they were also influential in the French Revolution.

The Glorious Revolution was NOT a democratic revolution; it placed sovereignty in Parliament, and Parliament only represented the upper classes. The vast majority of English people still had no say in government. However, it did establish a *constitutional monarchy*, and ushered in a period of aristocratic government which lasted until 1914.

Over the course of the eighteenth century, the *cabinet* system of government developed. The term derived from the small private room in which English rulers consulted with their chief ministers. Under that system, the chief ministers must have seats in the commons and the support of a majority of its members. Over time, the responsibility of the crown in decision making gradually declined. One particular minister, Sir Robert Walpole, who sat on the cabinet from 1721 to 1742,

enjoyed the respect of the crown and the Commons. He came to be called the King's first or "Prime" Minister.