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THE ENGLISH CONSTITUTION: THE CABINET

WALTER BAGEHOT

This fusion of the legislative and executive functions may, to those who have not much considered it, seem but a dry and small matter to be the latent essence and effectual secret of the English constitution; but we can only judge of its real importance by looking at a few of its principal effects, and contrasting it very shortly with its great competitor, which seems likely, unless care be taken, to outstrip it in the progress of the world. That competitor is the presidential system. The characteristic of it is that the president is elected from the people by one process, and the house of representatives by another. The independence of the legislative and executive powers is the specific quality of the presidential government, just as their fusion and combination is the precise principle of cabinet government.

First, compare the two in quiet times. The essence of a civilized age is, that administration requires the continued aid of legislation. One principal and necessary kind of legislation is *taxation*. The expense of civilized government is continually varying. It must vary if the government does its duty. The miscellaneous estimates of the English government contain an inevitable medley of changing items. Education, prison discipline, art, science, civil contingencies of a hundred kinds, require more money one year and less another. The expense of defence—the naval and military estimates—vary still more as

Walter Bagehot, excerpted from *The English Constitution*, intr. by the First Earl of Balfour (London: Oxford University Press, first published in 1867; second edition, with an additional chapter, published in 1872; first published in 'The World's Classics' in 1928 and reprinted in 1929, 1933, 1936, 1942, 1944, 1949, 1952, 1955, 1958, and 1961), ch. 1.

the danger of attack seems more or less imminent, as the means of retarding such danger become more or less costly. If the persons who have to do the work are not the same as those who have to make the laws, there will be a controversy between the two sets of persons. The tax-imposers are sure to quarrel with the tax-requirers. The executive is crippled by not getting the laws it needs, and the legislature is spoiled by having to act without responsibility: the executive becomes unfit for its name since it cannot execute what it decides on; the legislature is demoralized by liberty, by taking decisions of which others (and not itself) will suffer the effects.

In America so much has this difficulty been felt that a semi-connection has grown up between the legislature and the executive. When the secretary of the treasury of the federal government wants a tax he consults upon it with the chairman of the financial committee of Congress. He cannot go down to Congress himself and propose what he wants; he can only write a letter and send it. But he tries to get a chairman of the finance committee who likes his tax; through that chairman he tries to persuade the committee to recommend such tax; by that committee he tries to induce the house to adopt that tax. But such a chain of communications is liable to continual interruptions; it may suffice for a single tax on a fortunate occasion, but will scarcely pass a complicated budget—we do not say in a war or a rebellion—we are now comparing the cabinet system and the presidential system in quiet times—but in times of financial difficulty. Two clever men never exactly agreed about a budget. . . . They are sure to quarrel, and the result is sure to satisfy neither. And when the taxes do not yield as they were expected to yield, who is responsible? Very likely the secretary of the treasury could not persuade the chairman—very likely the chairman could not persuade his committee—very likely the committee could not persuade the assembly. Whom, then, can you punish—whom can you abolish—when your taxes run short? There is nobody save the legislature, a vast miscellaneous body difficult to punish, and the very persons to inflict the punishment.

Nor is the financial part of administration the only one which requires in a civilized age the constant support and accompani-

ment of facilitating legislation. All administration does so. 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. There the legislature cannot be dissolved by the executive government; and it does not heed a resignation, for it has not to find the successor. Accordingly, when a difference of opinion arises, the legislature is forced to fight the executive, and the executive is forced to fight the legislature; and so very likely they contend to the conclusion of their respective terms. . . .

Nor is this the worst. Cabinet government educates the nation; the presidential does not educate it, and may corrupt it. It has been said that England invented the phrase, 'Her Majesty's Opposition'; that it was the first government which made a criticism of administration as much a part of the polity as administration itself. This critical opposition is the consequence of cabinet government. The great scene of debate, the great engine of popular instruction and political controversy, is the legislative assembly. A speech there by an eminent statesman, a party movement by a great political combination, are the best means yet known for arousing, enlivening, and teaching a people. The cabinet system ensures such debates, for it makes them the means by which statesmen advertise themselves for future and confirm themselves in present governments. . . .

The nation feels that its judgement is important, and it strives to judge. It succeeds in deciding because the debates and the discussions give it the facts and the arguments. But under a presidential government a nation has, except at the electing moment, no influence; it has not the ballot-box before it; its virtue is gone, and it must wait till its instant of despotism again returns. It is not incited to form an opinion like a nation under a cabinet government; nor is it instructed like such a nation. There are doubtless debates in the legislature, but they are prologues without a play. There is nothing of a catastrophe about them; you cannot turn out the government. The prize of power is not in the gift of the legislature, and no one cares for the legislature. The executive, the great centre of power and place, sticks irremovable; you cannot change it in any event. The teaching apparatus which has educated our public mind, which prepares our resolutions, which shapes our opinions, does

not exist. No presidential country needs to form daily, delicate opinions, or is helped in forming them. . . .

After saying that the division of the legislature and the executive in presidential governments weakens the legislative power, it may seem a contradiction to say that it also weakens the executive power. But it is not a contradiction. The division weakens the whole aggregate force of government—the entire imperial power; and therefore it weakens both its halves. The executive is weakened in a very plain way. In England a strong cabinet can obtain the concurrence of the legislature in all acts which facilitate its administration; it is itself, so to say, the legislature. But a president may be hampered by the parliament, and is likely to be hampered. The natural tendency of the members of every legislature is to make themselves conspicuous. They wish to gratify an ambition laudable or blameable; they wish to promote the measures they think best for the public welfare; they wish to make their *will* felt in great affairs. All these mixed motives urge them to oppose the executive. They are embodying the purposes of others if they aid; they are advancing their own opinions if they defeat: they are first if they vanquish; they are auxiliaries if they support. The weakness of the American executive used to be the great theme of all critics before the Confederate rebellion. Congress and committees of Congress of course impeded the executive when there was no coercive public sentiment to check and rule them.

But the presidential system not only gives the executive power an antagonist in the legislative power, and so makes it weaker; it also enfeebles it by impairing its intrinsic quality. A cabinet is elected by a legislature; and when that legislature is composed of fit persons, that mode of electing the executive is the very best. It is a case of secondary election, under the only conditions in which secondary election is preferable to primary. Generally speaking, in an electioneering country (I mean in a country full of political life, and used to the manipulation of popular institutions), the election of candidates to elect candidates is a farce. The electoral college of America is so. It was intended that the deputies when assembled should exercise a real discretion, and by independent choice select the president. But the primary electors take too much interest. They only elect a deputy to vote for Mr Lincoln or Mr Breckenridge, and the deputy only takes

More educated, engaged in public in part?

a ticket, and drops that ticket in an urn. He never chooses or thinks of choosing. He is but a messenger—a transmitter: the real decision is in those who chose him—who chose him because they knew what he would do.

It is true that the British House of Commons is subject to the same influences. Members are mostly, perhaps, elected because they will vote for a particular ministry, rather than for purely legislative reasons. But—and here is the capital distinction—the functions of the House of Commons are important and *continuous*. It does not, like the electoral college in the United States, separate when it has elected its ruler; it watches, legislates, seats and unseats ministries, from day to day. Accordingly it is a *real* electoral body. The parliament of 1857, which, more than any other parliament of late years, was a parliament elected to support a particular premier—which was chosen, as Americans might say, upon the 'Palmerston ticket'—before it had been in existence two years, dethroned Lord Palmerston. Though selected in the interest of a particular ministry, it in fact destroyed that ministry. . . .

All these differences are more important at critical periods, because government itself is more important. A formed public opinion, a respectable, able, and disciplined legislature, a well-chosen executive, a parliament and an administration not thwarting each other, but co-operating with each other, are of greater consequence when great affairs are in progress than when small affairs are in progress—when there is much to do than when there is little to do. But in addition to this, a parliamentary or cabinet constitution possesses an additional and special advantage in very dangerous times. It has what we may call a reserve of power fit for and needed by extreme exigencies.

The principle of popular government 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. It is so in England; it is so in all free countries. Under a cabinet constitution at a sudden emergency this people can choose a ruler for the occasion. It is quite possible and even likely that he would not be ruler *before* the occasion. The great qualities, the imperious will, the rapid energy, the eager nature fit for a great crisis are not required—are impediments—in

common times. A Lord Liverpool is better in everyday politics than a Chatham—a Louis Philippe far better than a Napoleon. By the structure of the world we often want, at the sudden occurrence of a grave tempest, to change the helmsman—to replace the pilot of the calm by the pilot of the storm. . . .

But under a presidential government you can do nothing of the kind. The American government calls itself a government of the supreme people; but at a quick crisis, the time when a sovereign power is most needed, you cannot *find* the supreme people. You have got a congress elected for one fixed period, going out perhaps by fixed instalments, which cannot be accelerated or retarded—you have a president chosen for a fixed period, and immovable during that period: all the arrangements are for *stated* times. There is no *elastic* element, everything is rigid, specified, dated. Come what may, you can quicken nothing and can retard nothing. You have bespoken your government in advance, and whether it suits you or not, whether it works well or works ill, whether it is what you want or not, by law you must keep it. . . .

Even in quiet times, government by a president is, for the various reasons which have been stated, inferior to government by a cabinet; but the difficulty of quiet times is nothing as compared with the difficulty of unquiet times. The comparative deficiencies of the regular, common operation of a presidential government are far less than the comparative deficiencies in time of sudden trouble—the want of elasticity, the impossibility of a dictatorship, the total absence of a *revolutionary reserve*.

COMMITTEE OR CABINET GOVERNMENT?

WOODROW WILSON

It is only by making parties responsible for what they do and advise that they can be made safe and reliable servants. . . . Let, therefore, the leaders of parties be made responsible. Let there be set apart from the party in power certain representatives who, leading their party and representing its policy, may be made to suffer a punishment which shall be at once personal and vicarious when their party goes astray, or their policy either misleads or miscarries. This can be done by making the leaders of the dominant party in Congress the executive officers of the legislative will; by making them also members of the President's cabinet, and thus at once the executive chiefs of the departments of state and the leaders of their party on the floor of Congress; in a word, by having done with the standing committees, and constituting the cabinet advisers both of the President and of Congress. This would be cabinet government.

Cabinet government is government by means of an executive ministry chosen by the chief magistrate of the nation from the ranks of the legislative majority—a ministry sitting in the legislature and acting as its executive committee; directing its business and leading its debates; representing the same party and the same principles; 'bound together by a sense of responsibility and loyalty to the party to which it belongs', and subject to removal whenever it forfeits the confidence and loses the

Woodrow Wilson, excerpted from 'Committee or Cabinet Government', in Ray Stannard Baker and William E. Dodd (eds.), *College and State: Educational, Literary and Political Papers (1875-1913) by Woodrow Wilson* (New York and London: Harper and Brothers, 1925; New York: Kraus Reprint Co., 1970), i. 95-129. The essay was first published in the *Overland Monthly*, January 1884, series 2, vol. 3: pp. 17-33.

support of the body it represents. Its establishment in the United States would involve, of course, several considerable changes in our present system. It would necessitate, in the first place, one or two alterations in the constitution. The second clause of Section 6, Article I, of the constitution runs thus: 'No Senator or Representative shall, during the term for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office.' Let the latter part of this clause read: 'And no person holding any other than a cabinet office under the United States shall be a member of either House during his continuance in office', and the addition of four words will have removed the chief constitutional obstacle to the erection of cabinet government in this country. The way will have been cleared, in great part at least, for the development of a constitutional practice, which, founded upon the great charter we already possess, might grow into a governmental system at once strong, stable, and flexible. Those four words being added to the constitution, the President might be authorized and directed to choose for his cabinet the leaders of the ruling majority in Congress; that cabinet might, on condition of acknowledging its tenure of office dependent on the favour of the houses, be allowed to assume those privileges of initiative in legislation and leadership in debate which are now given, by an almost equal distribution, to the standing committees; and cabinet government would have been instituted. . . .

Cabinet government has in it everything to recommend it. Especially to Americans should it commend itself. It is, first of all, the simplest and most straightforward system of party government. It gives explicit authority to that party majority which in any event will exercise its implicit powers to the top of its bent; which will snatch control if control be not given it. It is a simple legalization of fact; for, as every one knows, we are not free to choose between party government and no-party government. Our choice must be between a party that rules by authority and a party that, where it has not a grant of the right to rule, will make itself supreme by stratagem. . . .

It cannot be too often repeated, that while Congress remains the supreme power of the state, it is idle to talk of steadying or cleansing our politics without in some way linking together the interests of the executive and the legislature. So long as these two great branches are isolated, they must be ineffective just to the extent of the isolation. Congress will always be master, and will always enforce its commands on the administration. The only wise plan, therefore, is to facilitate its direction of the government, and to make it at the same time responsible, in the persons of its leaders, for its acts of control, and for the manner in which its plans and commands are executed. The only hope of wrecking the present clumsy misrule of Congress lies in the establishment of responsible cabinet government. Let the interests of the legislature be indissolubly linked with the interests of the executive. Let those who have authority to direct the course of legislation be those who have a deep personal concern in building up the executive departments in effectiveness, in strengthening law, and in unifying policies; men whose personal reputation depends upon successful administration, whose public station originates in the triumph of principles, and whose dearest ambition it is to be able to vindicate their wisdom and maintain their integrity.

Committee government is too clumsy and too clandestine a system to last. Other methods of government must sooner or later be sought, and a different economy established. First or last, Congress must be organized in conformity with what is now the prevailing legislative practice of the world. English precedent and the world's fashion must be followed in the institution of cabinet government in the United States.

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THE PRESIDENT AND CONGRESS

HAROLD J. LASKI

A distinction must be drawn between the 'crisis' situation and the 'normal' situation. In the first, the President's position is so overwhelming that it is, broadly, imperative for Congress to follow where he chooses to lead. Then, the nation requires action, and it looks to the President to define the kind of action that is required. It assumes the necessity, in crisis, for the conference upon him of wide powers; it is impatient of doubt about, or hostility to, their conference. It may, indeed, almost be said that it is too impatient; no one can analyse, for instance, the workings of the Espionage Act of 1917 without seeing that Congress then practically abdicated before the President. Much the same is true of the 'hundred days' of Franklin Roosevelt. It would have been literally impossible, in the face of public opinion, for Congress to have resisted the pressure to give the President what he chose to demand; there are, indeed, careful observers who believe that if, at that moment, he had demanded even so drastic a measure as the nationalization of the banks, Congress would have had to accept it. In a crisis, to put it shortly, public opinion compels the abrogation of the separation of powers. There is really only one will in effective operation, and that is the will of the President. He is as powerful, while the emergency has a psychological hold on the country, as the British prime minister at a moment of national emergency.

But in a 'normal' situation the position is very different. The American system, in its ultimate foundations, is built upon a belief in weak government. It must never be forgotten that the constitution is the child of the eighteenth century; that the

Harold J. Laski, excerpted from *The American Presidency: An Interpretation* (New York and London: Harper and Brothers, 1940), ch. 3 (footnotes omitted). Copyright 1940 Harper and Brothers. Reprinted by permission of Harper-Collins Publishers.