

THE CULTIVATION OF HISTORY by Hewlett Edwards

The Fig Tree," 1954

*There is a saying among the south sea islanders: Know the roots and you will know the tree.
Know the tree and behold! It will answer to your cultivation.*

History is the endless record of experiments; a series that cannot be broken and of which there is never complete specification nor adequate separation from a multiplicity of similar operations. The movement of events cannot be arrested for examination and analysis, history shows and must show approximation upon approximation. Within itself each event appears to be complete and completed, it cannot be undone; but, as a part of a series which is one whole, what is so indeterminate as an isolated event? It seems conclusive, yet it is always moving on to fresh conclusions.

It is in this difficult complexity that policy is crystallised and becomes history in which men of understanding as well as of action have erected signposts for the use of their successors. To illuminate one of these is to select that particular incident or aspect as being of a significance exceeding that of a thousand other happenings which might have been chosen. He who writes history, chooses history.

This group of ideas clusters round the word Constitution:

One such signpost firmly erected in early Christian days was the Athanasian Creed. This draws attention to the threefold nature of reality, and sets forth ideas which, perhaps necessarily, were in advance of common usage. This incomprehension was extravagantly illustrated in the major controversy of those days, for amongst and throughout the wars, revolutions, plagues, pestilences and famines of early Christendom, in which individuals and nations were racked, shaken and overwhelmed; throughout these confusions ran the thread of a controversy in which an idea was not so much pursued, as eventually discovered.

This was the idea, or group of ideas, which clusters round the word constitution in its social and political connection. The content of this controversy concerned the veridical relationship between Pope and Emperor; between Authority and Power.

In this discussion, argument was continued by canonists and legists for more than a millennium. From the first, the problem seems to have been envisaged in limited perspective as a simple struggle for power between the Papacy and Empire; but even in a thousand years, neither party attained complete domination although both came near it.

Out of the strife, however, came extensive results though these were not those consciously aimed at. To a high degree, Canon Law and Roman Law stand as memorials to this disputation, truly notable monuments, though inconclusive as solvents of the constitutional issue.

The controversy was the thread along which the rival disputants groped towards ideas and institutions which could satisfy both spiritual and temporal requirements.

The lawyers and theologians were bent on realising a dualistic Constitution

In the sixth century, Justinian confirmed a strategy already adopted when, in his *Novellae Constitutiones*, he said that the mercy of God had bestowed upon mankind the two greatest gifts, the *sacerdotium* and the *imperium*, the one ministering to the divine and the other presiding over and caring for the human.

Following this directive, the lawyers and the earlier generations of theologians were bent on realising the strict separation of Church and State according to the ideal of a dualistic constitution. In this, success appeared to have been attained when in 800 A.D. the Pope, assuming spiritual leadership of the world, crowned Charles V of France Emperor, with temporal Headship.

But Charles' Empire did not survive his life, and all was again in confusion.

In the tenth century the position was reversed, and we find Otto the Great, a German Emperor, crowning and deposing Popes from 963 until his death. Nothing was settled. Indeed, by this time, the political content of the Middle Ages had become one long quarrel turning upon this question of constitutional ascendancy. By the thirteenth century all was again changed. Dualism became heresy, and all effort was turned towards a unification of control, the concentration in one person of Power and Authority. It was Alanus, an English monk, who, writing in the decade following 1200 A.D., originated the view that the single head of medieval polity for matters both spiritual and temporal, was the Pope.

The establishment of “what touches all should be approved by all”:

To the medieval mind, absolute government was the only possible form of government, and although the democratic derivation of a Prince’s powers was closely canvassed, a democratic share in central administration was neither thought of nor discussed.

This did not prevent the establishment early in the thirteenth century of the principle that ‘What touches all should be approved by all’, while, later in the same century, canonist scholarship demanded that representation should have full power to consent to the ordinances of the King in Council.

Again, it was laid down that, wherever a matter of faith was disputed, laymen as well as clerics were to be consulted. Discussion on such points was a lively interest and the consideration and adoption of constitutional principles was perennial. In England, theologians were active in the general disputation; while English lawyers worked out the typically inductive system of the Common Law. This was a development parallel to Roman Law, both originally being in part derived from the endeavours of the Church Fathers to perpetuate and establish in legal form the moral teachings of the Gospels, interpreted as Natural Law.

Following this idea, it was held that liberty was derived from Natural Law and therefore seemed immune from human restriction. Later this was evidently found inconvenient, as liberty came to be regarded as a ‘*mundane benefit*’ of which anyone might be deprived by a Prince of the Church. It was upon this argument that slavery was recognised and Magna Carta was discredited by the Church (Innocent III). Both Roman and Common Law were concerned with the temporal aspect of human relations, whereas Canon Law was focussed upon the spiritual aspect of the individual and carried greater prestige and dignity. While Roman legists depended chiefly upon argument and deduction from scriptural texts (Mosaic and New Testament), the emphasis in Common Law was upon circumstances and conditions then obtaining.

Reality is Threefold, not Unitarian, not Dualistic

The conversion of the Emperor Constantine early in the fourth century marked the emergence of Christians from a long period of persecution and martyrdom. Authority, in the persons of the Elders of the Church, was no longer oppressed, but stood in an unfamiliar - indeed in an unknown - relationship to Power as personified in the Emperor. Whatever the earliest contacts may have been, it is known that about twelve years after the attainment of this unique position Constantine called together the leaders of the Church in a Council at Nicea (A.D. 325), which indicated on the highest and most authoritative plane, fundamental principles bearing on this very predicament.

A strong directive was issued making clear a position which had long been obscure, and in so doing promulgated verities - discovered rather than devised - which must be observed by those who would go with and not against the nature of reality.

Reality it was stated, is threefold; not unitarian, not dualistic; a Mystery best described as Three in One. This was the *Nicene Creed* recited at the second session of the Council, where the young Athanasius distinguished himself. The elaborate Athanasian “Confession of our Christian Faith” became current later.

The modern world is not without instances of flagrant evasion of obvious truth. To us it seems extraordinary that the principles enunciated should not have been related to the predicament experienced; that the Creed should not have been seen to have its political analogue precisely suited to immediate - and difficult - circumstances.

It must have seemed, if only for a brief moment, that Spiritual Authority and Temporal Power were at one; and the realisation that there was no precedent governing their fruitful co-existence must have followed quickly. The Council of Nicea did not specifically consider the principles upon which Authority and Power might together work out the spiritual and material advancement of the new Christendom, but in the Creed it stated them.

Reality is threefold, and that idea, as developed in the (Athanasian) Creed, must to the extent of man's capacity, be reflected in his institutions. But there is no trace of any attempt to grapple with this problem, instead, the unique opportunity was allowed to pass and political society slide back into just another phase of contending parties. Or was it inconspicuously propelled?

Such must have been the background of that age-long quarrel which turned its back upon the Athanasian thesis, making a prolonged excursion into dualism and turning at last towards centralised autarchy. For papalism did not remain satisfied with spiritual leadership, and, failing to distinguish between Authority and Power, the supremacy of the Pope was taken far into the temporal sphere.

This direction, pursued over generations, built up the stresses and pressures which prefaced the 'Reformation'; an explosion in which papal absolutism was broken into fragments which, Sysyphean, sprang to the same monopolistic ideal (e.g. in Henry VIII of England and Phillip II of Spain). With this catastrophe, the controversy between the protagonists of Pope and Emperor ceased to be a focal issue. The prolonged endeavour to force action *which was against the nature of reality* shattered the polity in which it existed, as in the end it will shatter any polity in which it is tolerated.

Rejection of the tripodal (trinitarian) framework - the only framework which fits man and society into the universe - has, in its later course, exalted 'Totalitarianism', 'Communism', and now an oncoming Luciferianism salutes and summons the 'Atomic Age'.

Conjunction of Authority and Power made apparent the third member of the political triad:

The most significant and fruitful facet of this historical perspective is that, despite the following of many false trails, the trinitarian idea was not to be always or completely denied, as is to be seen in the unfolding of the English constitution.

The formative period was in the twelfth and thirteenth centuries, when English law was administered by the ablest and best men of the Kingdom; it was then that the emerging principles of Common Law were being shaped, Canon Law performing the function of a bridge connecting legal process with ethical and theological discussion.

During that period, the argument between the Papacy and the Empire was mainly dualistic (it was certainly not trinitarian) and yet in England at that time the conjunction of Authority and Power made apparent the third member of the Political Triad - the Common Law with all that followed it.

Directional inspiration plus executive action only exist by virtue of their issue, or content. THE THREE ARE ONE. In use they can and must be distinguished, but they can never be separated.

King John failed in this. He did not distinguish but tried to combine Authority, Power and Law in his own person; and, in this violation of well-understood but largely unformulated principles, he brought the constitutional issue to a head.

The Barons at Runnymede may not have realised fully the part they played: but they played it. They stood as an embodiment of the people of England, all England; the outcome and incarnation of the inter-locking activities of Church, King, and People; and their purpose was to bring the King to recognise his limitations in this threefold structure by the implementation of the rights of the other parties. Magna Carta was the sign and confirmation of this.

It was a truly English document, containing neither explanations, argument nor reasoning. Of the seventy-nine clauses it contains, only five are in abstract terms; four are administrative; seven lay down sanctions and the other sixty-three directly concern the settlement of specific cases. It is a lesson in what not to say. These decisions fixed established custom, binding the law back to then current usage.

Upon ground so secured was cultivated a comprehensive organism of many parts which sustained the King's Justice, Canon Law and the Common Law including in the Inns of Court, virtually a university. For more than three-hundred years this organic relationship developed, reaching its climax in the life and person of Sir Thomas More. The thread of this fruitful continuity was broken by Henry VIII whose absolutist ambition and determination to transcend the law, which More resisted, led to the great Chancellor's execution in 1535. With his death, the Law Reports which were a continuous record of the being and becoming of the Law, fluctuated and then ceased.

It is true to say that the English people with their customs, characteristics and achievements sprang out of and exist because of the adequacy of this trinitarian setting - though something was lacking or we should have it yet.

In 1535, the current induced by these conditions was immensely strong and neither Henry nor Cromwell and their like could do more than check or divert the flow. But the tide had turned.

The disruption of the Common Law and the undermining of the Constitution has taken another three or four hundred years, and still continues, as has been shown by such distinguished lawyers as Lord Acton and Lord Hewart. Major Douglas summed it up "...we now have the merest shell of a Constitution, Single Chamber Government dominated by Cartels and Trade Unions".

Constitutionalism must have a relation to the Universe

Consider then these signposts of the past: the Gospels, the Athanasian Creed and Magna Carta. Although so widely different in content and expression each is a crystallisation of the same policy, which has become history. It is this history which we must cultivate; Christian charity (*caritas*) in which to live and grow, Athanasian (Greek) penetration of reality as the guide to growth, and British determination to secure results. These also are one in our Constitution but that Constitution has been crippled and made impotent. For its restoration, another crystallisation of policy is needed.

In the opinion of Douglas:

- "Constitutionalism must be organic; it must have a relation to the Universe.
- "...the restoration of the supremacy of Common Law, the removal of encroachments upon it, and the establishment of the principle that legislation by the House of Commons impinging upon it is *ultra vires* is an urgent necessity.
- "It is necessary to provide individuals, as individuals, not collectively, with much more opportunity to judge political matters by results, and to be able to reject, individually and not collectively, policies they do not like..."
- To crystallise these directives into history is to bring substance to things hoped for and to provide evidence of things to come: it is the establishment of the threefold Constitution as a production unit of truth and freedom.

Acknowledgements are made to the following sources:

Medieval Papalism by Walter Ullmann, J.U.D., F.R.Hist.S.;

Christian Philosophy in the Common Law by Richard O'Sullivan. K.C.;

Realistic Constitutionalism by C.H. Douglas.