

## Erskine May, Vol. III, Supplementary Chapter, pp. 425-443

### Parliamentary reform 1861-67

#### Constitutional Changes to 1860

[425] THE century comprised in this history was a period of remarkable constitutional progress. The political abuses of many ages were corrected; and our laws and institutions judiciously improved and developed. While other states were convulsed by revolutions, English liberties were steadily advancing without violence or tumult. The influence of the crown was constantly diminished, and ministerial responsibility increased. The political ascendancy of the House of Peers was reduced. The House of Commons, purged of corruption, and casting off its dependence upon patrons, received a vast increase of power from a wider representation of the people, while it became more responsible to the country, and more sensitive to public opinion.

Meanwhile, the press attained a power which had never been conceived in any constitutional system. [426] Irresponsible itself, but at once forming and expressing the sentiments of the people, it swayed the councils of responsible rulers. In alliance with the press, political agitation exercised a potent influence over the executive government and the legislature.

No less remarkable was the change in the relations of the church to the state, and to the community. The supremacy of the state church had been maintained by a penal code for the repression and discouragement of Roman Catholics and nonconformists. Within this period every restraint upon freedom of conscience, and every civil disability, was swept away. Religious freedom and equality had become the settled policy of the state.

Such were the changes in the laws and liberties of England, which distinguished this period of our history. Let us now approach the consideration of our political progress since 1860.

#### Political Tranquillity under Lord Palmerston

The five first years of this period were marked by unusual political tranquillity. The discussions upon Parliamentary reform, in 1860, under Lord Palmerston, had failed to awaken any excitement, or even interest, in favour of further electoral changes. After thirty years of agitation, and legislative activity, the minds of men appeared to be at rest. The Crimean war, and the Indian mutiny, had served to divert public attention from domestic politics; and the great civil conflict in the United States engrossed the thoughts of all classes of Englishmen.

Such being the sentiments and temper of the country, the venerable statesman who directed its policy, as first minister, was little inclined to disturb [427] them by startling experiments in legislation. No ruler was ever more impressed with the practical wisdom of the maxim '*quieta non movete*,' than Lord Palmerston, in the last years of his long political life. Originally an enlightened member of that party which had been opposed to change, he had developed into a member of the liberal administration, which had carried the Reform Act of 1832. Henceforward he frankly accepted the policy, and shared the fortunes, of the liberal party, until he became their popular leader. He had outlived some generations of his countrymen: he had borne a part in the political strifes of more than half a century: he had observed revolutions abroad, and organic changes at home: and in these, his latter days, he was disposed, as well by conviction as by temperament, to favour political tranquillity. Of rare sagacity, and ripe judgment, it had long been his habit to regard public affairs from a practical

rather than a theoretical point of view—and the natural inertness of age could not fail to discourage an experimental policy.

The miscarriage of the Reform Bill of 1860 had demonstrated the composure of the public mind; and Lord Palmerston perceived that in a policy of inaction he could best satisfy the present judgment of the country, and his own matured opinions.

Such an attitude, if it alienated the more advanced section of his supporters, was congenial to the great body of the Whigs, and disarmed the opposition, who were convinced that his rule would insure the maintenance of a Conservative policy.

[428] Hence, during his life, the condition of the country may be described as one of political repose. There was no great agitation or popular movement: no pressure from without: while within the walls of Parliament this adroit and popular minister contrived at once to attach his friends, and to conciliate his opponents.

### **Attempts at Reform**

The question of parliamentary reform, now dropped by the Government, was occasionally pressed forward by other members. In 1861, Mr. Locke King sought to lower the county franchise to £10, and Mr. Baines to reduce the borough franchise to £6; but neither of these proposals found favour with the House of Commons.

Again, in 1864, these proposals were repeated, without success, though supported by strong minorities. Meanwhile, reformers were perplexed by the utterances of statesmen. The veteran reformer, Earl Russell, had lately counselled the people of Scotland to 'rest and be thankful;' while Mr. Gladstone earnestly advocated the claims of working men to the suffrage, and contended that 'every man who is not presumably incapacitated by some personal unfitness, or political danger, is morally entitled to come within the pale of the constitution.'

In 1865, Mr. Baines' bill revived the discussion of parliamentary reform. Though supported by Government, it was defeated by a considerable majority. The debate was signalised by a protest against democracy by Mr. Lowe, which foreshadowed his relations to his own party, and to the cause of reform, at no distant period.

[429] After this session, Parliament, which had exceeded the usual span of Parliamentary life, (1) was dissolved. The elections were not marked by the excitements of a severe party conflict: no distinct issue was referred to the constituencies; and general confidence in Lord Palmerston was relied upon by candidates rather than any special policy: but the Liberal party gained a considerable accession of strength.

There was, however, one memorable election. Mr. Gladstone, who had represented the University of Oxford for eighteen years, lost his seat, and was returned for South Lancashire. As member for the University his career was always restrained and trammelled: as member for a great manufacturing and commercial county, he was free to become the leader of the Liberal party.

### **The Question Reopened on the Death of Palmerston**

At length in October, 1865, the aged premier died, at the summit of his power and popularity; and at once a change came over the national councils. He was succeeded by Earl Russell, the acknowledged leader of the Whigs, and the statesman most associated with Parliamentary reform. He had felt deeply the loss of his own measure in 1860, and the subsequent relations of Lord Palmerston's government to its policy. They had fought their way into office as the champions of reform, and at the first check, had abandoned it. For five years they had been content to rule and prosper, without doing further homage to that cause; and now Earl Russell, Mr. [430] Gladstone, and other members of the cabinet would no longer submit to the reproach of insincerity. Nor was a change of policy, at this time, dictated merely by a sense of

honour and consistency. It rested upon a continued conviction of the necessity of such a measure, in the interests of the state, and in fulfilment of obligations which Parliament, no less than ministers, had assumed. And further it was deemed politic, with a view to satisfy the long-deferred hopes of the more advanced members of the Liberal party. Accordingly, in the autumn, Earl Russell announced that the consideration of reform would be renewed in the approaching session.

There were, however, some considerations, not sufficiently weighed at the time, which had a disastrous influence over the fate of ministers, and of the measure to which they stood committed. Parliament had recently been dissolved, while Lord Palmerston was still minister, and reform had been treated, upon the hustings, with little more earnestness than in the House of Commons. Hence the cause was without the impulse of a popular demand. Again, a large proportion of the members, returned at the general election, sharing the sentiments of Lord Palmerston and the late Parliament, had no inclination to disturb the political calm of the past few years. But above all, in this, the first session of a new Parliament, members were invited to recast the constitution of the House of Commons, many of them to forfeit their seats, and all to return speedily to their constituents. The political [431] situation, indeed, may be compared to a feast offered to guests who had lately dined.

### **Lord Russell's Bill**

At the first meeting of the Cabinet after Lord Palmerston's funeral, ministers had taken means to collect ample electoral statistics: and early in the session of 1866 were prepared to submit their proposals to Parliament. Warned by the obstacles which a comprehensive measure had encountered in 1860, they confined their scheme to a revision of the franchise, reserving for another session the embarrassing problem of a re-distribution of seats. It was proposed to reduce the occupation franchise in counties to £14 annual value, and in boroughs to £7. The addition to the voters was estimated at 400,000, of which one-half would be working men. This measure, however moderate and cautious, was at once beset with difficulties. Though falling short of the views of Mr. Bright and the radicals, it was supported by them as an 'honest measure.' But it was denounced by the Conservatives, and even by several Whigs, as democratic and revolutionary; and an alarming defection soon disclosed itself in the ministerial ranks. Comprising about forty members, it numbered among its leaders Mr. Lowe, Mr. Horsman, Mr. Laing, Lord Elcho, Earl Grosvenor, and Lord Dunkellin. This party was humorously compared by Mr. Bright with those who had gathered in the 'cave of Adullam,' by which name it was henceforth familiarly known.

[432] The first weak point in the scheme which was assailed, was the omission of a redistribution of seats. This was brought to an issue by an amendment of Earl Grosvenor, on the second reading of the bill, when ministers, after a spirited debate of eight nights, and in a very full house, escaped defeat by five votes only. Deferring to the opinion of so large a minority, ministers promised a bill for the redistribution of seats, and reform bills for Scotland and Ireland, before they proceeded with the original measure. On the 7th May, these bills were introduced. By the redistribution of seats bill, thirty boroughs having a population under 8,000 lost one member, and nineteen other seats were obtained by the grouping of smaller boroughs, —forty-nine seats being available for larger places. Though sharply criticised, this bill was read a second time without a division; but ministers were obliged to agree to a proposal of Mr. Bouverie to refer it and the franchise bill to the same committee, with a view to their consolidation. Nor was this all: the measure was already too large to be fully discussed, when Sir R. Knightley carried an instruction to the committee, by a majority of ten, to provide for the better prevention of bribery and corruption at elections.

In committee Lord Stanley moved, without notice, the postponement of the franchise clauses; but was defeated by a majority of twenty-seven. Mr. Walpole moved that the occupation franchise in counties should be raised to £20, and his [433] amendment was lost by fourteen

votes only. Mr. Hunt proposed that the county franchise should be based on rating instead of rental, and was resisted by a majority of seven; and lastly, Lord Dunkellin moved a similar amendment in regard to boroughs, which was carried against the government, by a majority of eleven.

## **Fall of the Government**

Ministers now perceived that the game was lost. They had declared their resolution to stand or fall by their bill; and its fate was beyond hope of recovery. They submitted their resignation to the Queen, who hesitated to accept it; and a vote of confidence was about to be moved with a view to re-establish them, when they finally determined to resign.<sup>(2)</sup> Their defeat, indeed, had been sustained upon a question of secondary importance, and might have been repaired at a later stage of the bill: but they had been sorely pressed on other occasions: their party was disorganised and broken up: it was plainly impossible to pass the bill, and they could not abandon it without discredit.

Such was the issue of this infelicitous measure. A strong ministry was ruined; a triumphant party overthrown; and the minority again placed in power, under the Earl of Derby. But events of higher importance resulted from the miscarriage of this measure. For some years, reformers had been indifferent and inert: when Earl Russell promised reform, they trusted him, [434] and were calm and hopeful: but now that he had been driven from power, and supplanted by the opponents of reform, they became restless and turbulent. The spirit of democracy was again awakened, and the new government were soon brought into collision with it. A meeting in Hyde Park had been announced by the Reform League for July 23rd, as a demonstration in favour of an extension of the suffrage. Ministers being advised that the crown had power to prevent such a meeting in a Royal Park,<sup>(3)</sup> and fearful of a disturbance to the public peace, instructed the police to close the gates of the park, and prevent the entrance of the multitudes expected to assemble there. The gates were accordingly barred; and the leaders of the League, on being refused admittance, proceeded, according to previous arrangement, to Trafalgar Square to hold their meeting. Meanwhile, the park gates were securely held, and a considerable police force was collected inside. But the vast enclosure was without protection, and the mob, pulling down the railings, rushed through every breach, and took forcible possession of the park. Democracy had overcome the government; and the maintenance of order was afterwards due, as much to the exertions of Mr. Beales and the Reform League, as to the police.

These events increased the public excitement, and encouraged the activity of the reformers. Several important meetings and [435] popular demonstrations were held, which stirred the public mind: while political uneasiness and discontents were aggravated by commercial distress and an indifferent harvest.

Public opinion had, at length, been aroused in favour of reform: but the House of Commons had lately shown its disinclination to deal with that question; and the party of whom the new ministry was composed, aided by a strong body of Whigs, had defeated Earl Russell's moderate measure, as revolutionary. Would ministers resist reform, and count upon the support of their new allies: or venture upon another reform bill, and trust for success to adroit management, and the divisions in the Liberal party?

## **Derby and Disraeli's Bill**

These questions were set at rest, at the opening of the session, by the announcement of a reform bill in the Queen's speech. No position could be more embarrassing for a government. In a minority of seventy in the House of Commons: representing a party opposed to the principles of reform: brought into power by resisting such a measure when offered by the late government: confronted by a strong party in the House pledged to reform, and by popular

agitation: in what manner could they venture to approach this perilous question? At first they invited the House no longer to treat reform as a party question, but to concert a satisfactory measure in friendly consultation; and for this purpose they offered to submit resolutions as the basis of a bill. Such a course was naturally objected to, as being designed [436] to evade ministerial responsibility; and when the resolutions appeared, they proved too vague and ambiguous for effective discussion. In explaining them, indeed, Mr. Disraeli sketched the outline of the ministerial scheme: but they were eventually withdrawn; and ministers were forced to commit themselves to more definite proposals. And here the difficulties of their position were disclosed by the resignation of three members of the Cabinet—the Earl of Carnarvon, Lord Cranborne, and General Peel. Their reluctance had already induced the government to sketch out a less bold scheme than their colleagues had been prepared to propose; and their retirement, otherwise a source of weakness, now enabled the Cabinet to agree upon a more extended measure.

At length, on the 18th March, the bill, which had caused so much expectation, was introduced. The franchise was granted in boroughs to every householder paying rates, who had resided for two years: in counties to every occupier rated at £15; and there were added various franchises, based upon education and the payment of taxes. As a counterpoise to the extended occupation suffrage, a scheme of dual voting was proposed for voters of a higher qualification. There was to be a redistribution of thirty seats.

The scheme was founded throughout upon the principle of securities and compensations, the conception of which was due to the peculiar relations of the Government to different parties. Household suffrage in boroughs, the [437] distinctive principle of Mr. Bright and the radicals, had also found favour with Mr. Henley, Mr. Walpole, Sir Roundell Palmer, and a certain section of the Conservatives; and could not be opposed by the Whigs, without an open breach with advanced reformers. On the other hand, it was qualified by a two years' residence, by the personal payment of rates, by voting papers, by education and tax-paying franchises, and by dual voting. These securities, as they were called, against a democratic franchise, commended the measure to the Conservative party, but their futility had been apparent to the seceding ministers, and was soon to be proved by their successive rejection or abandonment. The measure embraced proposals calculated to please all parties; and ministers were prepared to assent to any amendments by which its ultimate character should be determined by the majority. The results may be briefly told. Household suffrage in boroughs was maintained, with one years residence instead of two; the county franchise was reduced to £12; a lodger franchise was added; the higher class franchises, the dual votes, and voting papers disappeared from the bill; and the disqualification of large numbers of compound householders was averted.

The scheme for the redistribution of seats was also enlarged. Every provision which had reconciled Conservatives to the measure was struck out: every amendment urged by the liberal party was grafted upon the bill. And thus the House of Commons found itself assenting, inch by inch, to an extended scheme of reform, which neither [438] Conservatives nor Whigs wholly approved. Parties had been played off against one another, until a measure which gratified none but advanced reformers,—probably not more than a sixth of the House of Commons,—was accepted, as a necessity, by all.

While the bill was under discussion in the House of Commons, the public excitement gave an impulse to the Liberal party, in passing every amendment favourable to extended franchises. And one remarkable episode illustrated at once the strength of popular sentiment, and the impotence of the executive Government to resist it. A great demonstration in favour of reform was announced to take place on the 6th May, in Hyde Park, when Mr. Walpole, the Home Secretary, not profiting by his sore experience of the previous year, issued a proclamation, stating that the use of the park for the holding of such meeting was not permitted, and warning and admonishing all persons to refrain from attending it. But, in spite of this proclamation, the

meeting was held, and large assemblages of people occupied the park, without disorder or disturbance.

The right of the Government to prohibit the meeting was contested not only by Mr. Beales and the Reform League, but by Mr. Bright and many other members of the Liberal party. On the other hand, the conduct of the Government in first prohibiting the meeting, and then allowing it to take place, in defiance of their authority, was censured as bringing the executive into contempt. In deference to the strong opinions expressed upon this subject, Mr. Walpole resigned the seals of the [439] Home Department, but retained his seat in the Cabinet.

Meanwhile, the state of the law in reference to the use of the parks for public meetings was so unsatisfactory, that the Government had brought in a bill to prohibit, under the penalties of a misdemeanour, the holding of any meeting in the royal parks, without the consent of the crown. This bill being violently opposed, was overtaken by the close of the session, and abandoned; and the law has still been left uncertain, and incapable of enforcement. It cannot be questioned that the meetings of 1866, and 1867, should either have been allowed, or effectually prevented. The latter course could only be taken at the risk of bloody collisions with the people; and accordingly such meetings have since been permitted, and have signally failed as popular demonstrations.(4)

In the House of Lords, several amendments were made to the Reform Bill; but the only one of importance agreed to by the Commons was a clause of Lord Cairns, providing, with a view to the representation of minorities, that in places returning three members, no elector should vote for more than two candidates.

### **Completion of the Scheme**

The scheme of enfranchisement, however, was not yet complete. The settlement of the boundaries of boroughs and the divisions of counties was referred to a commission, and the consideration of the reform bills for Scotland and Ireland was postponed until the next session.

[440] Before these measures were introduced, in 1868, the Earl of Derby was obliged by ill-health to retire, and was succeeded as Premier by Mr. Disraeli, to whose extraordinary tact, judgment, and address the passing of the English Reform Act was acknowledged to be due. Many difficult questions remained to be settled, which needed the exercise of all his abilities. The Scotch Reform Bill, founded generally upon the same principles as the English bill, proposed an increase of seven members to represent Scotland. This provision contemplated an addition to the number of the House of Commons, which was resisted; and justice to the claims of Scotland was eventually met by the disfranchisement of seven English boroughs having less than 5,000 inhabitants; and in this form the bill for the representation of Scotland was passed.

The Reform Bill for Ireland left the county franchise unaltered, reduced the borough franchise, and proposed a partial redistribution of seats, which was shortly abandoned. The measure, avowedly incomplete, and unequal to the English and Scotch schemes, was nevertheless assented to, as at least a present settlement of a question beset with exceptional difficulties.

The boundaries of the English boroughs and the new divisions of counties were still to be settled; and, after an inquiry by a select committee, the boundaries, as defined by the commissioners, were, with several modifications, agreed to.

[441] The series of measures affecting the electoral system was not even yet concluded. A measure was, after long discussions, agreed to, for transferring the cherished jurisdiction of the Commons, in matters of election, to judges of the superior courts, and for amending the laws in restraint of corrupt practices. And, lastly, a bill was passed to facilitate the registration of the year, so as to insure the election of a Parliament during the autumn, by the new electors.

## Constitutional Importance of these Measures

These measures for extending the representation of the people were little less important than the great Reform Acts of 1832. The new franchises embraced large numbers of the working classes, and greatly enlarged the basis of electoral power. At the same time, a certain counterpoise to household suffrage was found in the addition of twenty-five members to the English counties, which their population fully justified, and the withdrawal of thirty-three members from English boroughs.

Considering how this great constitutional change had been accomplished,—not by the deliberate judgment of statesmen, but by the force of circumstances,—its results were, not unnaturally, viewed with grave misgivings. The Earl of Derby himself had said, 'No doubt we are making a great experiment, and taking a leap in the dark;'<sup>(5)</sup> and many thoughtful men believed the state to be approaching the very verge of democracy. Nor can there be any reasonable doubt that the popular element of the [442] constitution acquired a decided preponderance. Even with a limited franchise, popular influences had prevailed; and an extended representation necessarily invested them with greater force, and clothed them with more authority. Yet, the sound principles of these measures have since been generally acknowledged. If the settlement of 1832 was to be disturbed,—and no one contended for its perpetuity,—household suffrage was an ancient franchise known to the constitution: it had been advocated in 1797 by Mr. Fox and Mr. Grey: it found favour with men of widely different political sentiments—and its basis was broad and rational. The redistribution of seats was unquestionably judicious and moderate.

It may be too soon yet to estimate the results of the new constitution. Rank, property, the employment of labour, and other social influences, have apparently retained their ascendancy; but however the popular will maybe pronounced, no constitutional means are left for resisting it. At once to lead, to satisfy, and to control this vast power, and to hold it in harmony with other authorities, will demand the highest statesmanship. A Government resting upon the confidence of an enfranchised people will indeed be strong: but its policy must be that of the community, which is the source of power.

Whatever may be our institutions, public opinion has become the ultimate ruler of our political destinies. However formed,—whether by statesmen, or demagogues,—whether by society at large, or by the press,—or by all of them combined—it [443] dominates over ministers and parliaments. Under a more restricted representation, it dictated the policy of the state; and under our present constitution, it will exercise its influence more promptly and decisively. In public opinion, therefore, rests at once our safety, and our danger. If rational and well ordered, like the society of this great country, whose judgment it should express, we may rely upon it with confidence. If it should become perverted and degenerate, who shall save us from ourselves?

### Footnotes.

1. Upwards of six years.
2. Mr. Crawford, member for the City of London, was on the point of rising to give notice of a vote of confidence, when he received a letter from Earl Russell announcing his resignation.
3. This right had been affirmed in 1855 by an opinion of the Law Officers of the Crown, Sir A. Cockburn and Sir R. Bethell, and of Mr. Willes.
4. Such meetings were regulated by Act in 1872.
5. August 6th 1867; upon the question 'that this bill do pass.'

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