

Evolution of Popular Government Notes

I. ORIGINS OF GOVERNMENT

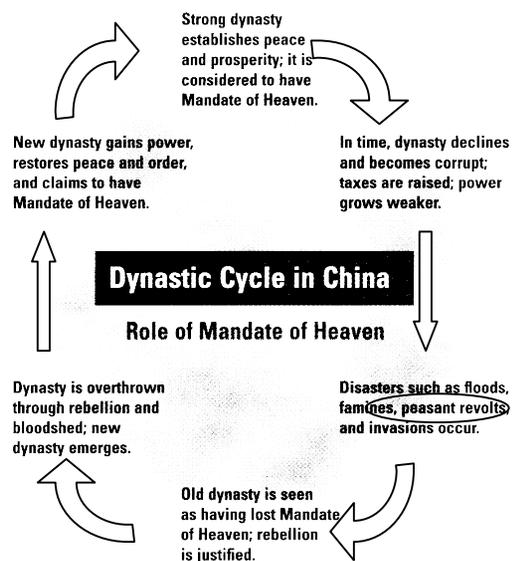
- Governments were created by people for protection.
- During the Neolithic and Bronze Ages, as societies had more food supplies and land to protect, governments began to emerge.
- People entered into this agreement **voluntarily** - that is, we think that people initially chose to give up complete and total freedom (chaos and anarchy) in order to create rules to protect their belongings and existence.
- Initially, government was a cooperative venture that sought to serve the people.
- In time, competition within each society would emerge between rival families over who would rule - religion would be used to settle the disputes.
- *recall Egyptian Pharaohs and the Chinese Mandate of Heaven.*

II. ROLE OF THE CITIZENRY

- The majority of the population is seen as without political power.
- However, the role of the citizenry has been to incite changes in government.
- Today, changes that are initiated by the general public are called "grassroots movements."

A. Dynastic Cycle

- In China, the changing of government is caused by the "Dynastic Cycle."



- It was the peasant revolts that caused the toppling of one family and the rise of the next.
- *recall the Dynastic Cycle*

B. Tyrants

- In Greece, especially Athens, when peasant revolts threatened to overthrow city-states, archons were temporarily appointed.
- Archons made concessions to the peasants in order to appease the peasants and end the threat.
- When archons gave power or rights to the peasants at the expense of the power of the upper class, they have been referred to as **tyrants**.
- *recall Draco, Solon, Pisistratus, and Cleisthenes*

C. Populares & Optimates (or plebeians & patricians)

- In Rome, "Populares" were those who sympathized with the plebeians, while the "Optimates" sympathized with the patricians.
- Like the archons in Greece, dictators in Rome were temporarily appointed leaders during a time of emergency.
- Most "emergencies" involved uprisings by the plebeians demanding more economic reforms and opportunities (such as land reform).
- Some populares, such as Tiberius and Gaius Gracchus and Julius Caesar, were assassinated because of their promises of reforms.
- Beginning with the reign of Octavian (Augustus), Rome became a dictatorship in perpetuity to ensure the peace of civilization (appeasement of the plebeians).

D. Feudalism

- Under feudalism, things begin to change.
- Continued invasions from Vikings, Muslims, and Magyars, caused peasants to turn to local leaders for protection.
- As a result, peasants **voluntarily** gave up even more freedoms in exchange for protection and basic services (including religious services to ensure salvation).
- Lords will fight to defend their land while serfs will work to serve the lord. (Note the difference, originally governments were created to serve the people, now the people are serving government).
- Some lords become more powerful and defeat rivals consolidating power and lands thus creating large kingdoms.
- These lords, now kings, continue to demand the traditional service from the peasants.

III. EVOLVING GOVERNMENT IN ENGLAND

A. Competing Legal Systems

- In the early Middle Ages, the people of England were subject to different systems of law simultaneously.
- When these different systems contradicted each other, individuals often times found themselves in conflict with the law when they believed that they were doing right.

1) Ecclesiastical Law (Canon Law) - The Laws of the Church

- Summary judgment by the clergy.
- Punishments included excommunication, interdict, execution, service.

2) Mercantile Law - Laws of Business/Trade

- Each industry may have its own laws.
- Punishments included fines, imprisonment, pain, expulsion from guild.

3) Feudal Law - Laws of the Manor

- Lords of the Manor had a degree of autonomy to create their own laws for each manor they held.
- Punishments included banishment, imprisonment, extra service, execution.

4) Local Law - Laws of Towns

- Kings who granted charters for towns also conferred some autonomy to create laws for the town
- Punishments included banishment, imprisonment, service, fines, execution.

B. Proving Guilt or Innocence

- Trials in the Middle Ages would be unfamiliar to us today.
- Depending on the system of law and the infraction, the accused may have a different type of trial.

1) Trial by Ordeal

- The accused would have to undergo some sort of physical ordeal.
- In most cases, survival meant innocence (the idea was that God would not allow a wrongfully accused person to die for a crime they did not commit).

2) Trial by Combat

- In this system, the accused and the accuser would fight (sometimes to the death) with weapons blessed by a priest.

- The outcome of the battle would illustrate guilt or innocence.

*Often time these combats would be public spectacles at tournaments. Eventually, the combatants would be allowed to hire trained fighters for these battles. In time, these hired fighters, who fought at *tournaments* (tourney for short), would come to be known as *attorneys*.

C. Unification

- After the Battle of Hastings (1066), William the Conqueror of Normandy (an area of Northern France) became King of England.
- William declared all the lands of England as his own and began distributing fiefs to his own trusted nobles and knights (from France).

1) *Domesday Book (1086)*

- William took a complete and thorough survey of ALL his lands.
- This information allowed William, and later kings as well, to create a more efficient system of government and tax collecting.
- Nothing in England was unaccounted for.

2) *Common Law (beginning 1154)*

- Later Kings created the “King’s Law” for ALL people of the land which also competed with the earlier legal systems.
- It was considered more fair and consistent than the other competing legal systems.
- The accused could face his accuser in front of a representative of the King (sometimes the King himself), present evidence, and make a plea for innocence.
- The magistrate would judge the case based on the evidence and testimony.
- Punishments were determined on the basis of decisions from earlier cases involving the same offense. This type of system is one that is based on *precedent* (or based on decisions that preceded it).
- As this system became more liked and popular, it eventually replaced the other systems.
- Because this system provided laws that were the same for everyone, that is common to everyone, it became known as *common law*.

D. Bureaucracy

1) *King*

- The King was the owner of all the land and hence considered the highest authority in England.
- Attempted to gain support of populace by clashing with the pope to undermine the pope’s authority.
- Limited the power of the feudal lords by forming a *chancery* and *Curia Regis*.

2) *Chancery*

- This was the high legal court.
- This group was responsible for drawing up charters and issuing writs the king needed.

3) *Curia Regis*

- “King’s Court”
- Was essentially an assembly of ALL bishops, abbots, and lords.
- The main purpose of this body was to advise the King on different pressing matters of his kingdom.
- This was a way for the King to keep an eye on the lords to keep them in check.
- Being a member of the King’s Court was a pseudo position of authority. The king would take advice from this group but could still do whatever he wanted.

4) *Systems of Justice*

a) *Sheriffs*

- These officers were responsible directly to the king, not the lords.
- According to William, the ideal person for the job was of Norman descent, strong-willed, and ruthless. Essentially, the sheriff was the king’s strong arm throughout the lands.
- His responsibilities included collecting taxes summoning and leading the *fyrd* (national levy of all freemen to help defend the kingdom, essentially a military draft) and presiding over the *Hundred Court*.

i) *Hundred Court*

- This was the system of lower courts.
- It was the responsibility of the sheriff or his bailiff to preside over these courts.
- They met every four weeks, in open air, to punish thieves or witness the sale of land.

b) *Shires*

- The King divided England into provinces called *shires*.
- Each shire had its own local court that was presided over by the *ealdorman*.

i) *Ealdormen*

- Each ealdorman was the chief officer of their shire.
- He was appointed by and accountable to the King.
- He was responsible for presiding over the shire court and levies in war.

ii) *Shire Court*

- The shire court met twice each year.

- It was responsible for carrying out the King’s orders, declaring and enacting laws, and conducting trials.

D. Magna Carta (1215)

1) *King John (Softsword)*

- King John was the younger brother of King Richard the Lion-Hearted (*recall the 3rd Crusade*).
- He was corrupt and ignored the advice of the Curia Regis.
- John was largely unsuccessful in war, losing many battles and land (in France) to the French.
- Alienated himself from the Church by appointing his own choices for Bishop instead of those chosen by the Pope.
- Frequently raised taxes in order to finance his losing wars.
- The chancellors and nobles were fed up with John’s ineptitude and forced him to sign a document that would limit the King’s ability to abuse his power.

2) *Terms of the Magna Carta*

- This was the first time in history that a monarch’s power had been limited.
- Although it was a step in the direction toward a constitutional form of government it was designed only to protect the rights of the nobility, not the commoner.
- Taxes could only be levied with the consent of the Curia Regis - this is the beginning of what will become the banner of the American Revolution: “No taxation without representation.”
- In addition, the King could not sell, deny, or defer justice to any person (right to a trial), nor could any person be arrested, imprisoned, or dispossessed “except by the lawful judgment of his equals or by the law of the land,” (due process of law).

E. Model Parliament (1295)

1) *Edward I*

- Sometimes he is referred to as the English Justinian.
- Although he did not produce a code of laws, he provided the first “Statutes of the Realm” - all public laws since have been added to volumes of this collection.
 - a) “What touches all, by all should be approved.”
 - In an effort to raise money to fight wars with France, Edward needed a way to circumvent the Curia Regis (who by the Magna Carta was the only body that could levy taxes).

- Edward summoned two burgesses (representatives) from every shire to meet and decide to locally raise money for wars.
- Eventually this group, which represented each shire (local government), would become the House of Commons.
- The Curia Regis eventually became a body to represent the kingdom as a whole - the House of Lords.
- These two groups would become the two houses of the British law-making body - Parliament.

F. Act of Supremacy (1534)

- Throughout Europe, kings and the Pope disagreed on who was the higher authority - often times squabbling over taxation by kings on the clergy.
- recall the formation of the Anglican Church (Church of England)
- A series of laws were passed by Parliament supporting the king in his efforts to secure the throne for his progeny.
- In 1534, Henry secured authority over the Church through the Act of Supremacy. It declared that Henry (or the king of England) was "the only supreme head in earth of the Church of England."
- Many other acts soon followed that ended the Pope's presence and control over ANY lands in England.

*At this point, the King of England had unified the lands and made himself the supreme leader in England.

G. Challenges to the Monarchy

- after the passing of Queen Elizabeth I (daughter of Henry VIII) in 1603, power changed hands from the Tudors to the Stuarts (ruling family of Scotland)
- early Stuarts attempted to rule by *divine right* (without the consent of Parliament) and sought to dissolve Parliament

1) Charles I v. Parliament

- When King Charles I went to Parliament to ask for funds, he was forced to sign the Petition of Right.
 - a) Petition of Right
 - prohibited the king from raising taxes without consent of Parliament or imprisoning anyone without a legal reason

- Soon after, however, Charles dissolved Parliament and ignored the Petition of Right.
- when Charles tried to impose strict religious laws on Calvinist Scots, and when they did not cooperate, he had to meet with Parliament in order to get money to fight the Scots. When Parliament convened, they staged their own revolt, refused to be dissolved without their own

consent. This became known as the Long Parliament.

2) The English Civil War & the Commonwealth (1649 - 1660)

- The English Civil War ensued. Cavaliers, supporters of Charles I battled the Roundheads, supporters of Parliament. Parliament's forces found a leader, Oliver Cromwell who would lead England through its next phase the Commonwealth.
- During the Commonwealth, Parliament and government turned out to be enemies of Catholics and treated the poor poorly.
- Cromwell sought to create a puritan society, one that was morally pure. by removing all temptations by closing theaters and outlawing dancing, taverns, and gambling.
- The Commonwealth ended with the death of Cromwell.

3) The Restoration

- People who were tired of the Puritan ideals and strict society of the Commonwealth welcomed back Charles II who reopened theaters and taverns.
- During the Restoration, England was tolerant of all Protestants.

4) The Glorious Revolution (1688)

- James II would inherit the throne after Charles II. He was less popular than his brother, because he was proud of his Catholic faith.
- When he began to rule as an absolute monarch, Parliament gave him the ultimatum, to either leave England or lose his head just as his father did.
- When James II chose to leave, the bloodless revolution became known as the Glorious Revolution.

H. Constitutional Limitation of Royal Authority

- with the departure of James II, Parliament invited William and Mary of Orange to sit on the throne of England
- before they could hold power, the pair was forced to accept the new Bill of Rights (1689)

IV. THE ENLIGHTENMENT

- period of time in Europe characterized by the application of scientific reasoning to all aspects of human behavior
- rational thinkers began to put forth ideas that challenged the ideas of absolute monarchy and tyranny
- many historians put the dates for the Enlightenment (also called the Age of Reason) beginning with the scientific revolution around the mid-16th century and ending around the time of the French Revolution (1789)

A. Thomas Hobbes

- believed that people are cruel, greedy, and selfish, and if left to their own devices would fight, rob, and oppress each other
- felt that people entered into a *social contract* where they give up their natural state of existence in order to create an organized society that could impose order and obedience

B. John Locke

- advocated for *natural rights* of individuals - life, liberty, and property
- felt differently about the *social contract*, that it signifies an agreement between that the leader would organize society in a way that would best protect natural rights
- implied that people had the *right to revolution* when their government did not serve the people's best interest

C. Charles Montesquieu

- feared the abuses of a tyranny where all of the powers of government rested with one person or group
- believed that government would best be able to serve the interests of the people with the least temptation for tyranny if the main powers of government were divided among different people or groups - *separation of powers*
- the three powers of government are *legislative* (law-making), *executive* (law-enforcing), and *judicial* (law-interpreting)
- as a further protection, he argued for the ability of each branch of government to have the power to oversee the actions of the others so that no one branch would become too powerful or overstep its limits - *checks and balances*