

PART I

**Politics and the Constitution**



## CHAPTER ONE

# The British Constitution

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The age of the democratic revolution in the late eighteenth century saw the beginnings of modern written constitutions, most notably the American Constitution of 1787 and a succession of constitutions in revolutionary France in the 1790s. The essential feature of the British constitution is not simply that it predates any of these modern constitutions, but that it is *unwritten*. Although some fundamental features of the British constitution were written down in legislative documents – for example, the Bill of Rights, the Act of Settlement, and the Act of Union between England and Scotland – the English (later the British) constitution has evolved over centuries in various ways which were never written down. It is therefore largely a *prescriptive* and an organic constitution.

The evolution of the British constitution was due to prolonged and successive disputes between the monarch and the greater nobility, between crown and parliament, and between parliament and people. These disputes sometimes led to armed conflict and political revolution, but, much more often, they have produced minor shifts in the balance of power and in constitutional arrangements between the various institutions and political agents in the state. Some of these changes were barely detected even by those who helped to make them. It is difficult to trace the shifting balance between crown and parliament that occurred almost imperceptibly throughout the whole eighteenth century or to state with precision what the constitution was at any particular date in that century.

There was very considerable debate in the eighteenth century about both precisely what the constitution was and what it ought to be. These debates existed, in part, because the constitution was unwritten, evolutionary and shifting, but also because there were many and profound disputes between competing groups over how to interpret or amend that constitution. While modern historians may legitimately attempt to define the nature and features of the British constitution in the eighteenth century, they have to acknowledge the near impossibility of performing this task because the constitution never stood still even in periods of relative political stability, because so many contemporary political actors offered very different interpretations of the constitution and because the prevailing theory of

the constitution and the actual practice of the constitution were never in exact alignment.

If we wish today to explain the main features of the British constitution, then we need first to look at the contemporary debates on four aspects of that constitution: its origins, its structure, the location of sovereignty and the liberties of the subject. We then need to look at how the political system operated within these constitutional restraints: looking at the role of the monarch and his ministers, at the management of parliament and at church–state relations.

## The Ideological Debate on the Constitution

### *The origins of the constitution*

During the eighteenth century three different notions of the origins of the constitution were in contention – divine right, the original contract and the ancient constitution – but only the last of these secured overwhelming support. The upholders of divine right had largely prevailed before the Glorious Revolution of 1688 and Jacobites adhered to this doctrine well into the eighteenth century. The divine right theory had maintained that legitimate authority came only from God and that God favoured absolute monarchy. Kings ruled by the direct command of God and God had established a clear and inviolable rule, namely, indefeasible hereditary succession, to prevent a dangerous hiatus between the death of one ruler and his replacement by the legitimate heir. Subjects could not lawfully oppose the commands of their rulers and could not legitimately decide for themselves who would rule them. They could never possess the right to take up arms against the crown even to protect their lives, liberties and property. The willingness of men of property to put themselves at the mercy of an absolute king can be explained only by their horror of ‘mob’ rule and their fear of social revolution. They feared the tyranny of the unrestrained multitude more than the power of an absolute king. Some (though not all) Jacobites supported such views in the early eighteenth century, but, by the mid-eighteenth century, fear of a Catholic ruler, and growing confidence in their ability to operate the system of limited monarchy established by the Glorious Revolution, persuaded most men to abandon support for the theory of divine right.

John Locke, in his celebrated *Two Treatises of Government* (1690), had argued that divine right was a slavish doctrine and that the only legitimate form of government was one established by consent and framed in order to secure for all men their natural rights to life, liberty and property. Governors could rightfully exercise power only so long as they preserved the natural rights of the governed. Should they grossly infringe these rights, the governed had the right to resist this abuse of power by force of arms, to dissolve the government, and to erect another which would better preserve the natural rights of subjects. Locke’s views were too liberal for most of his contemporaries and only a few radical Whigs endorsed his views in the first half of the eighteenth century. In the later eighteenth century, however, a number of radicals not only revived the notion of the original contract, but were much more explicit than Locke had been over the question of which men gave their express consent to the creation of civil government and how they would ensure that government defended the natural rights of all men. The most famous and influential of these radicals,

Thomas Paine in his *Rights of Man* (1791–2), insisted that all adult males were involved in agreeing to the contracts which established civil society and civil government. He went on to argue that the only way to secure the natural rights of all men was to create a written constitution in which all men had the right to vote for the legislature which would make the laws and control the magistrates who enforced them. Despite the appeal of Paine's ideas to some radicals, support for his desire for a democratic republic was never widespread in Britain, even among advanced reformers.

Much the most widespread and prevalent notion of the origins of the constitution claimed that Britain possessed an ancient constitution which could be traced back many centuries. Many English commentators claimed that English law was customary and immemorial, the monarch's authority had always been limited, the constitution was based on a mixed form of government, the supreme authority in the kingdom was the legislature of King, Lords and Commons, and subjects had the right to resist tyranny. Building upon these foundations, they asserted that the political institutions of the country and the liberties of Englishmen were of ancient vintage. It was firmly believed that this ancient constitution could be traced back to the Anglo-Saxon era before the Norman Conquest of 1066. This concept of the ancient constitution was used by the opponents of royal absolutism. They argued that subjects could throw off the 'Norman yoke' and assert their rights against monarchs who attempted to subvert their liberties. The Glorious Revolution of 1688–9 provided historical evidence of the readiness of the people to justify their legitimate constitutional rights, by force if necessary.

Although a minority of radical Whigs justified the Glorious Revolution by appeals to the contract theory and by claims that the people had forcibly deposed James II because of his abuse of the constitution, the governing elite who successfully carried through the Revolution Settlement (both Whigs and Tories) insisted that they had not done anything so radical. They had sought to restore the ancient constitution by making only a slight alteration in the succession to the crown (in order to remove a Catholic monarch who could not be trusted to uphold the ancient constitution) and by restating the traditional privileges of parliament and the ancient liberties of the subject by such measures as the Bill of Rights and the Triennial Act. They had not claimed that power originated with the consent of the people or that ultimate sovereignty rested in the hands of the people. The Hanoverian succession in 1714, and the defeat of the Jacobite rebellions, both ensured that this view of the constitution would last throughout the eighteenth century. The ruling elite had no desire to see the people appeal to the contract theory or to the right of resistance in order to challenge their own right to govern. They played down the importance of Revolution principles as any sure guide to future political action. They feared that any undue emphasis on the people's right of resistance would undermine the stability of the political and social order which they had established.

When, in the later eighteenth century, radicals began either to claim that the Revolution Settlement had not gone far enough in restoring the liberties of the subject, or that it had justified the people's right to remove a government which infringed their liberties, conservative voices were raised in defence of the older Whig claim that the Glorious Revolution deserved to be celebrated because it had carried through the limited changes needed to restore the ancient constitution. Edmund Burke main-

tained that the constitution was prescriptive and had developed gradually over many centuries without conscious human contrivance or systematic design. It was the product of history and experience, not the deliberate result of human reason or will. Its authority rested not on any original contract or known first principles, but on the evidence that it had existed time out of mind and had made thousands of adjustments to the needs created by altered circumstances and the changing habits of the people. Burke entirely rejected the radical claim that British subjects had the right to cashier their governors for misconduct and to frame a new constitution for themselves. The Glorious Revolution had been conservative in its intentions and limited in the changes it had made. In essence, it was not so much a revolution made as one prevented.

Burke's case was put so effectively that some radicals abandoned the traditional historic appeal to the ancient constitution. Faced with the powerful claim that history could not be effectively used to demonstrate the traditional liberties of the subject, they appealed instead to reason and morality to justify the rights of the subject. Thomas Paine, in particular, argued that it was not sufficient to look back to the Glorious Revolution or to any earlier historic age. To understand the rights of man it was necessary to go much further back to the state man was in when he was first made by his creator. In Paine's view, it was time to escape from the dead hand of history and the tyranny of the past. Despite his fame and political influence, however, he did not persuade most British radicals to abandon an appeal to the historic rights of the subject under the ancient constitution.

### *Mixed government and the balanced constitution*

Almost all commentators in the eighteenth century described the constitution as a limited or parliamentary monarchy whose main features and greatest virtues were that it was a mixed government and balanced constitution. There was much support for the claim that the structure of the British constitution was the best that could be attained in order to establish authority and preserve liberty on the basis of the rule of law. The constitution was regarded as being a mixture of monarchy, aristocracy and democracy, because the supreme legislature was composed of the crown, the House of Lords and the House of Commons. This mixed form of government achieved the greatest number of advantages and the fewest evils of any political system. Three pure forms of government were recognized: namely, monarchy, aristocracy and democracy. Unfortunately, while each form had its merits, it was also undermined by a serious threat to liberty or authority. Monarchy avoided disputes over who had the legitimate right to exercise authority and it allowed a single ruler to act decisively in an emergency; but it placed the life, liberty and property of the subject at the mercy of one man who might act as an arbitrary tyrant. Aristocracy provided an able elite capable of leading and of offering an inspiring example to the nation, but it could too easily degenerate into a narrow oligarchy of warring, self-interested factions. Democracy offered the greatest liberty to the ordinary subject, but it was often too slow to act and was so inherently unstable that it invariably soon collapsed into anarchy or mob rule. Almost all democracies either ended in bloodshed or were transformed into military dictatorships. On the other hand, a mixed

form of government, which incorporated elements of monarchy, aristocracy and democracy, could secure the benefits of each in their pure form while avoiding their disadvantages.

Although mixed government was the best system that human wisdom had ever discovered, it was susceptible to corruption and dissolution if the three component elements did not coexist in harmony. Each element had a natural tendency to pull in its own separate direction and so it was only by carefully balancing them that they could remain harnessed together. Fortunately, the British constitution had secured all the benefits of mixed government because a constitutional balance had then been achieved between the three institutions of crown, Lords and Commons. Each of these institutions possessed its own peculiar privileges and distinct functions. As chief magistrate the king was above the law, was the fount of honour and public office, was the unchallenged head of the executive, and retained various prerogative rights, including the power to summon, prorogue and dissolve parliament. The aristocracy enjoyed the highest honours in the state, sat in the upper house of parliament as of right, and formed the highest court of justice in the land. The members of the House of Commons were the representatives of the people and, as such, defended the liberties of the subject, put forward the grievances of the people and initiated all taxes (and so controlled the supply of money entering the public purse). Besides these individual functions, all three institutions of crown, Lords and Commons combined to form the sovereign legislature. No bill could become law and no money could be raised without being approved by all three institutions in the same session of parliament. There was no strict separation of powers, even though the king appointed all executive posts, the House of Lords was the supreme court of law and the House of Commons voted the public revenue. The executive and the judiciary also interacted with the legislature: the king appointed the judges, who sat in the House of Lords, where they offered legal advice (though they could not vote), they held office during their good behaviour and could be dismissed only by a vote of both houses of parliament. Thus, the British constitution was a complicated system of checks and balances. It preserved the privileges of crown, aristocracy and people, while seeking to secure a harmonious relationship between all three. It was this delicate balance and this constitutional equilibrium that ensured that those twin goals of mixed government were achieved: namely, liberty and authority.

It was not only the governing elite and their loyalist allies who praised mixed government and the balanced constitution. Most reformers, and a majority of those who supported the radical cause, were all convinced that the theoretical structure of the British constitution was without equal in the world. In practice, however, they saw that a monarch who misused his power could still threaten to overturn the delicate balance of the constitution.

### *The sovereignty of parliament*

In the eighteenth century most men were convinced that their property, their privileges and their liberties could be secured only if there existed a single supreme authority from whose decisions there could be no appeal. Political commentators insisted therefore that there must be a supreme, irresistible, absolute and uncontrolled

authority in every state if order was to be maintained and anarchy avoided. Throughout the eighteenth century a clear majority of the political nation believed that the combined legislature of crown, Lords and Commons embodied this sovereign authority. Parliament could act as it saw fit and its actions could not be undone by any power on earth except a subsequent parliament. In his immensely influential *Commentaries on the Laws of England* (1765–9), William Blackstone insisted that the British legislature was sovereign and absolute and could change the constitution itself. Blackstone's views were echoed many times in both houses of parliament. None the less, despite such repeated claims, it is misleading to believe that the doctrine of parliamentary sovereignty gained universal approval or that it was unchallenged throughout the eighteenth century. There were criticisms of the sovereignty of parliament from both conservatives and radicals. There were conservative supporters of royal sovereignty not only while there was a Jacobite claimant to the throne, but long afterwards. Indeed, in the late eighteenth century there was a resurgence of support for the authority of the king. Several high church clergymen claimed that the king's authority was still superior to that of parliament. The government of the Younger Pitt even had to condemn the constitutional claims made for George III by John Reeves, one of the government's most fervent supporters, in his ultra-conservative tract, *Thoughts on English Government* (1795).

For most of the eighteenth century many Whig and radical opponents of royal power were also concerned about the concept of an absolutely sovereign legislature. The genuine pride taken in the constitution and in the liberties of Englishmen, and the traditional hostility to arbitrary, absolute power, made many men doubt the wisdom of giving parliament completely unfettered authority. These doubts were expressed in a variety of arguments. One argument maintained that the law of God, derived either explicitly from the Bible or indirectly from the law of nature, was superior to that of any human agency. They stressed that no human power could command what was against the law of nature. The most common line of attack, however, was to appeal to the fundamental laws of the constitution. Sometimes it was claimed that specific constitutional decisions taken in the past were inviolable and could not be altered or repealed by subsequent acts of parliament. The examples most frequently cited were Magna Carta, the Bill of Rights, the Triennial Act and the Act of Union with Scotland. More frequent still were complaints by opposition elements that ministers were introducing legislation which was contrary to the spirit of the constitution. Government policies towards the American colonies in the 1760s and 1770s were frequently condemned in Britain as well as in the colonies for being unconstitutional. The American crisis forced some Whigs to revert to Locke's position: in normal matters of government the legislature was sovereign, but it could not gravely infringe man's natural and inalienable right to his life, liberty and property. The fundamental principles of the constitution were ultimately superior to the authority of parliament. The authority of parliament was bound by the principles of the constitution.

The more advanced radicals located sovereign authority in the people. They insisted that the ultimate authority in the state resided in the collective will of the people, but they did not devise an effective means of establishing the sovereignty of the people. Some radicals did insist that members of parliament (MPs) were not independent representatives, who could vote on motions in parliament as they saw fit,



but were delegates who could be instructed how to vote on major issues by the electors who returned them to parliament. A few radicals considered setting up a national convention which would allow the people to resume their sovereign rights and enable them to decide the best means of securing their constitutional liberties. Thomas Paine was convinced that the natural rights of man could be safeguarded only if a written constitution clearly restricted the authority of both the legislature and the executive. In his opinion, it was essential that such a written constitution should be the act of the whole people. It should establish not only the general principles within which government or legislature could operate, but should lay down detailed restrictions on the exercise of power. No part of the constitution could then be infringed either by government or parliament without breaching the trust of the people, dissolving civil government and returning the people to the state of nature.

While the critics of the doctrine of parliamentary sovereignty did not succeed in having it rejected, they almost certainly convinced even its strongest supporters that it was a *legal fiction*. Its value and utility lay in preserving order while allowing for prompt action. These benefits, however, would have been jeopardized by any rash attempts to trample on the rights and liberties of the people. The assertion of the doctrine in the face of American resistance had resulted in the disastrous loss of the American colonies. Thereafter, even the staunchest advocates of a sovereign parliament were fully conscious of the general commitment to the notion of government by consent and the widespread support for the liberties of the subject. Edmund Burke stressed the dangerous consequences that might ensue if the legislature lost sight of the need to carry public opinion along with it.

### *The liberties of the subject*

In the eighteenth century many commentators praised the advantages which British subjects enjoyed as free men living under a free constitution. Although a narrow propertied elite clearly dominated government and parliament, those who admired the existing constitution confidently asserted that the British people possessed as much liberty as was consistent with the preservation of social order. On the other hand, there were also many radical commentators who criticized the actual working of the constitution and they often did so on the grounds that it was failing to safeguard the liberties of the people. There was a profound and prolonged debate between those who were confident that the British people did in reality possess considerable liberty and those who believed that they were being denied their liberty by a corrupt and reactionary governing elite. These differences rested, in part, upon conflicting assessments of what government and parliament were in fact doing to and for the subject, and, in part, on different perceptions of those legitimate rights and liberties which the people as a whole ought to possess. Defenders of the status quo believed that government and parliament were doing as much as possible to preserve the liberties of the subject, whereas critics complained that the governing elite were denying the people their historic, natural and legitimate rights. These opposed views were underpinned by different notions of what rights and liberties British subjects ought and could reasonably expect to possess. No commentator, no matter how conservative, was prepared to assert that the people were without any rights. On the other hand, there was a great deal of discussion and much heated debate over the

precise nature and extent of the liberties which British subjects could legitimately demand as their historic or natural rights.

It was accepted by all that every subject had the right to enjoy freedom from oppression and that each individual was free to do some things without interference from government or legislature. There was a moral limit to the power of government or parliament to interfere with the activities of subjects. It was also agreed that this sphere of free action could not be unlimited, because this would mean that no government or parliament could possess any legitimate or effective authority over its subjects. Even at their most limited, it was always claimed that the people's civil liberties ensured the right of subjects to live under the rule of law and to have an equal opportunity of justice. Arbitrary authority was restrained by positive law, ancient custom and common law, or natural law to the extent that no subject could be imprisoned without trial; all men were subject to the same laws administered by the same law courts; no torture could be used to secure a confession; and no accused person could be convicted of a serious offence except after a trial by jury.

Equal justice for all was not seen as the full extent of every subject's claim to civil liberty. There was also almost universal agreement that all subjects had an inalienable right to their property. Locke's views on this particular issue were widely accepted. Even the radicals of the late eighteenth century were prepared to defend both private property and its unequal distribution. Some quite explicitly denied that they desired to invade the rights of private property.

The right to freedom of conscience was another important civil liberty which was conceded by many commentators. From Locke onwards several writers defended the right to freedom of worship, though many denied that Protestant Dissenters, Catholics and atheists could claim the same political rights as Anglican Protestants under an essentially Anglican Protestant constitution. Freedom of worship was given to Protestant Dissenters as early as the Toleration Act of 1689, but the survival of the Test and Corporation Acts ensured that they were still legally denied the right to take office under the crown or to serve in local government. The position of Roman Catholics was much worse. Under the constitution they were probably third-class citizens. Freedom of worship and various political rights and civil liberties were legally denied to Roman Catholics by a series of harsh penal laws passed by parliament in the late seventeenth and early eighteenth centuries. It is true that these were rarely implemented to their full extent, but, none the less, anti-Catholicism was a widespread prejudice in British society and indeed a defining characteristic of that society and its constitution. Anti-Catholicism was so virulent that when parliament sought to relieve Catholics of some of the penal laws in 1778, this minor concession provoked the Gordon Riots of 1780, the worst outbreak of public disorder in the eighteenth century.

The demand for religious toleration generally advanced hand-in-hand with the campaign for a free press and for the free expression of political views. Pre-publication censorship lapsed in 1695 and throughout the eighteenth century there was a very flourishing press in which parliamentary debates were reported, profound political issues could be debated, and frequent and harsh criticisms of the government were advanced. The principle of a free press was rarely challenged. In times of very severe political crisis, of course, the government was able to per-

suade parliament to impose temporary restrictions on the press, but, more frequently, the government sought to restrict the circulation of the opposition press by imposing stamp duties which would increase the price of newspapers or by subsidizing the press, directly and indirectly, so that it would produce material favourable to the viewpoint of the governing elite. It was always recognized that subjects had the right to bring their grievances and complaints before king and parliament by means of private and public petitioning. In the last resort, moreover, it was generally acknowledged that subjects possessed the natural right to use force to preserve their liberty.

The danger of relying on the right of resistance, however, was that it could be asserted only in a dire emergency when it might already be too late to preserve the people's civil liberties. It made sense, therefore, to ensure that parliament, and, in particular, the House of Commons, was in a position to resist the abuse of power by the executive and was strong enough to defend the liberties of the subject. It was generally agreed that this could be done only if the House of Commons represented the people and their interests. Conservative commentators believed that the House of Commons did effectively represent the people and their interests. It was claimed that parliament represented all the powerful interests in the country since many of the greatest landowners, churchmen, lawyers, financiers, merchants, admirals, generals and businessmen sat in parliament, and MPs were elected from all areas of the country, and by rural communities and urban communities of all sizes and types. Once they were elected, MPs represented all their constituents, not just those who had voted for them. Indeed, they were the representatives of the British people as a whole. Moreover, the fact that large towns, such as Birmingham, Manchester or Sheffield, were not directly represented in parliament did not mean that their interests were neglected by a House of Commons in which there were many MPs representing similar towns. The voters too were men of property who were sufficiently educated and independent to be trusted with the important task of choosing the nation's representatives. The franchise was rightly restricted to men of property, who could be trusted to exercise it wisely. They firmly rejected the radical claim that the vote should be given to the impoverished mob or rabble, who would be easily misled by corrupt men of wealth or by charismatic demagogues. The stability of the constitution depended on the representation of property because only men of independent means could be certain to possess the qualities to exercise a free choice among the candidates standing for election to the House of Commons.

In contrast to those conservative voices who sought to defend the existing electoral system, there were reformers and radicals who insisted that the present restricted franchise returned parliaments which looked only after the interests of men of substantial property and which frequently failed to defend the liberties of most of the people. Whether they looked back to the historic rights of Englishmen under the ancient constitution or they appealed to the universal and inalienable natural rights of men, these radicals insisted that the constitution could not be safeguarded nor the rights of the people secured, unless the franchise was greatly extended. Some wanted to give the vote to all male householders because they would have some property to defend. Some suggested extending the franchise to all men who paid certain taxes and so contributed to the upkeep of the state, while the most radical commentators

pressed for a universal adult male suffrage (though only a very tiny minority ever advocated votes for women).

### The Working of the Constitution

Although there was constant and sometimes intense ideological debate about the nature of the British constitution in the eighteenth century, the majority of the political elite during most of the period agreed on the major features of that constitution. They generally maintained that Britain possessed an ancient, prescriptive constitution; that liberty and stability were secured by Britain's mixed government and balanced constitution; that the sovereign authority in the state was the combined legislature of crown, Lords and Commons; and that all British subjects possessed the right to justice in the rule of law, and freedom of conscience and expression, but that only a minority deserved the franchise. In order to understand how this system worked in practice, however, it is necessary to look at those political customs and practices which were nowhere embodied in formal acts of parliament. It is necessary in particular to look at the authority of the monarch and royal ministers, the management of parliament, and the relations between church and state.

#### *Crown and executive*

In the earlier eighteenth century there were serious disputes and armed conflict about whether the Hanoverians or the Stuarts should sit on the throne, but at no stage was there marked hostility to monarchy as such and there was generally considerable support for those prerogatives of the crown that had survived the Glorious Revolution of 1688–9. After the Glorious Revolution the crown lost some, but not all, of its prerogative powers. The monarch had to be a Protestant (and after 1701 had to be an Anglican Protestant) and had to appoint only Anglicans to offices in the state. The monarch ceased to be able to pass or seriously amend laws without consent of parliament and, because of the constant need for parliamentary taxation, the monarch had to summon annual sessions of parliament in order to finance government policies, particularly costly wars. Queen Anne was the last monarch to veto parliamentary legislation (in the first decade of the century) and, thereafter, the monarch had to accept bills passed by parliament.

Despite these reductions in the prerogative powers of the crown, the monarch still possessed considerable political influence. The monarch was the supreme head of the Church of England. The monarch could still summon or prorogue parliament when it was most convenient to do so. The monarch always remained at the pinnacle of an aristocratic social hierarchy and leading politicians always sought access to the royal court in order to secure royal favour. Court posts conferred honour, distinction, influence and material rewards, but it was the monarch's right to appoint to the leading positions in the government that made it vital for politicians to gain access to the monarch in the royal closet. In the last resort, all government measures required the monarch's approval if they were to have any chance of passing through parliament. The leading government ministers were not in office because a majority in parliament, still less a majority of the electorate, had put them there. Ministers were first

appointed by the monarch and only then did they seek majority support in parliament. Ministers could be dismissed at any time by the monarch, even while they seemed to retain majority support in parliament.

The privy council ceased to act as a governing body in the eighteenth century, though it retained some honorific duties and ceremonial roles. The government was dominated by about fifteen politicians who held the highest posts in the state. These men sought to agree government policy in regular meetings of the cabinet or cabinet council, though increasingly the most important decisions were taken in advance by a less formal inner cabinet of about half a dozen ministers (usually including the head of the Treasury, the two secretaries of state, the lord chancellor and the lord president of the council). The monarch ceased to attend the cabinet council in person very early in the eighteenth century. The decisions taken by the inner or efficient cabinet had to be conveyed to the monarch in the royal closet and royal support had to be secured before measures were presented to parliament. The cabinet's view usually prevailed, but it was not the final arbiter of government policy. The monarch always had to be persuaded and the monarch might have very decided views, especially on foreign policy and about other government appointments. Almost all administrations had a leading minister, who, from the earlier eighteenth century, came to be known as the prime minister. He was almost always the head of the Treasury. The prime minister, however, did not have as much authority as modern holders of this title. He did not appoint the rest of the cabinet – the monarch did. Although he might labour hard to bring in his friends and to exclude his rivals, this could be done only by gaining the ear of the monarch, usually through informal meetings in the royal closet. There was no doctrine of cabinet solidarity. Ministers might quite often disagree with one another and compete for the monarch's support for their particular point of view. When the prime minister resigned or was dismissed, it was not necessary for the rest of the cabinet to leave office with him.

The prime minister and his ministerial colleagues had three major political tasks to perform in order to retain royal favour and support: to maintain domestic peace, to avoid unsuccessful wars abroad, and to find the financial resources through loans and taxes to achieve these objectives. These tasks could be performed only with the support of both houses of parliament. As we shall see, this task was greatly eased by the extent of crown patronage. Indeed, it was crown patronage rather than the royal prerogative that allowed the monarch to establish and maintain the executive's powerful influence in parliament.

### *The management of parliament*

There was no separation of powers in the British constitution. The leading members of the government (and even some officeholders whom we might today regard as civil servants) sat in parliament in order to promote the passage of government business through the legislature. The House of Lords did not directly oppose money-raising bills in the eighteenth century and hence its constitutional role was less significant than that of the House of Commons, which did certainly control the purse strings of the state. The Lords however did contain many of the most important men in the country, in terms of wealth and status, and the clear majority of all cabinets were members of the upper chamber. Their debates and their decisions, especially on

foreign affairs, religious issues and legal questions, therefore did carry weight. Administrations however rarely had much trouble in persuading a majority in the Lords to support their policies. There were fewer than 200 men qualified to sit in the Lords until the 1780s (another sixty or so were created in the last two decades of the eighteenth century). Some peers never attended because they were Catholics, too old and infirm, or too poor to afford the expense of another house in London. The highest recorded vote in the eighteenth century was when 176 peers voted on the repeal of the Stamp Act in 1766. Normally the attendance rarely reached 120 members, and much lower attendances were quite common. Even the right of peers to vote by proxy did not greatly increase the number of occasions when very high votes were recorded. This being the case, it is not surprising that the government found it relatively easy to dominate the Lords. Most of the leading members of the government and most important courtiers sat in the Lords. So did twenty-six bishops, sixteen elected Scottish representative peers, the most senior army and navy officers, the judges (who could speak but not vote), and several holders of royal pensions. The number of peers holding positions of profit or trust under the crown increased from about fifty earlier in the eighteenth century to around 100 by the later decades. Most lords lieutenant of the counties sat in the Lords and these men recommended the appointment of justices of the peace (JPs) and militia officers. Not surprisingly, therefore, most peers were usually attached to the government of the day and helped it to frustrate most opposition campaigns.

The government found it much more difficult to manage the House of Commons, though even in this chamber ministers suffered relatively few defeats in the eighteenth century. The House of Commons was a larger chamber: 513 MPs prior to the union with Scotland in 1707 and a further forty-five MPs thereafter. The Act of Union with Ireland in 1800 added another 100 MPs. Most MPs were men of considerable wealth and status (a large majority were landed gentlemen, and all were supposed by law to possess substantial real estate), and they cherished at least the impression of being independent of the crown and certainly resented being regarded as servile creatures of the government. Some MPs, however, hardly ever attended debates and 400 was a very high attendance figure in any great crisis. The political loyalties of a significant number of MPs were influenced by crown and aristocratic patronage. Many crown appointments, titles and honours – in the state's bureaucracy (especially in the Treasury) and in the church, the armed forces and the legal profession – were granted to MPs or their relatives and clients. A number of parliamentary seats, including some treasury boroughs, admiralty boroughs, the Cinque Ports and some boroughs in the duchy of Cornwall, returned MPs in the crown interest. By such means crown patronage could strongly influence though not entirely control the votes of about 100 MPs in the earlier eighteenth century and perhaps 200 in the later eighteenth century. This bloc of pro-government MPs was usually known as the Court and Treasury party, though the loyalty of its members could never be absolutely guaranteed when the government faced a severe crisis. Aristocratic influence over MPs was also substantial. Many of these peers were supporters of the government, though, of course, some supported the opposition. About fifty Irish peers or sons of English peers sat in the House of Commons early in the eighteenth century. By the 1740s this number had increased to about 100 and fifty years later it had increased to about 120 MPs.

Peers also influenced the results in a significant number of parliamentary constituencies. They carried considerable interest in about 100 seats in the earlier eighteenth century and double that by late in the century.

Despite the growing influence over MPs exercised by the crown and the members of the House of Lords, the House of Commons could never be managed by patronage alone. Any successful administration had to have other means to influence the votes of the independent backbenchers. The leading ministers gathered able men of business around them to win over opinion-formers on the backbenches. Parliamentary debates were vital in persuading the uncommitted backbencher and hence effective ministerial teams of fine orators and expert debaters had to be deployed. MPs could also be influenced before a session started by efforts to explain government policy through the despatch of circular letters to the constituencies or through ministerial addresses to large numbers of backbenchers in private meetings. Ministers had also to be excellent man-managers, prepared to invite MPs to private meetings or able to lobby or buttonhole MPs in the chamber, and thus win them over to the government side by persuasion. Robert Walpole and Lord North possessed such skills personally. William Pitt the Younger was too cold and aloof to perform such tasks, but the work was done for him by able lieutenants such as Henry Dundas and Henry Addington. Effective administrations also manipulated parliamentary procedures to government advantage. They sought the election of a Speaker of the House, who would be at least sympathetic to the government side, if not usually servile. They worked even harder to ensure that the chairmen of parliamentary committees (especially the committee of supply and the committee of ways and means, which handled financial matters) were government supporters. Debates could be held at times which many backbench MPs found inconvenient: very early or very late in the session, or very late in the day. In a difficult situation popular opposition proposals might be allowed to pass an unmanageable House of Commons, but were defeated in a more compliant House of Lords. In a real emergency even a powerful administration might retreat rather than pursue a policy that was alienating too many MPs. Thus, Walpole abandoned his excise scheme in 1733, Henry Pelham repealed the Jewish Naturalization Act after a few months in 1753, and William Pitt abandoned his Irish trade proposals in 1785. What needs to be recognized, however, is that all successful administrations stayed in office for long periods because their policies were acceptable to the majority of the House of Commons (and also to public opinion outside parliament). Able ministers made shrewd assessments of how to maintain order and stability at home, how to please the most powerful interests in the state, how to raise the necessary loans and taxes to fund government policies, and how to keep the peace abroad or, if necessary, fight successful wars against the nation's enemies. Failure on one or more of these fronts was responsible for bringing down most administrations during the eighteenth century.

### *Church and state*

The Church of England was the most important institution in the state in the later seventeenth century and it was intimately bound up with government, landownership and the social hierarchy. It was impossible to ignore the influence of the church

or its authority in all facets of the life of all subjects. At this time the clergy accepted their role as servants of a personal monarchy and as advocates of an authoritarian state. They preached obedience to the powerful in the state and stressed the authority of the king in particular. They regarded disobedience as a sin and exercised a comprehensive control over the morals and religious duties of the laity. The Church of England claimed the loyalty of all subjects in England and Wales and wished to maintain strict religious conformity so that all subjects would be compelled to attend services in its churches regularly.

The Glorious Revolution began a process that saw significant changes in the relationship between church and state. The Church of England undoubtedly lost some of its special privileges. It found it increasingly difficult to support divine right monarchy and to preach its ideological support for the doctrines of passive obedience and non-resistance. The Toleration Act of 1689 formally allowed Protestant Dissenters to worship freely outside the Church of England and gradually Roman Catholics were allowed similar rights in practice. The Act of Union with Scotland in 1707 brought a largely Presbyterian country into the state and recognized the existence of a different state church in the northern kingdom, the Presbyterian Church of Scotland. It was therefore legally possible for many British subjects to choose to attend the services of other denominations than those of the Church of England. All hopes of religious uniformity in the state vanished. The governing institution in the church – Convocation, with its two houses of bishops and representatives of the lower clergy – expressed the dissatisfaction of many clergy in the earlier eighteenth century, but, when the disputes reached fever pitch over the Bangorian controversy in 1717, the government ended its meetings. Apart from a brief meeting in 1741, when no business was actually conducted, Convocation ceased to meet until 1855. The crown, advised by leading ministers, regularly appointed bishops who could be expected to work closely with the government on political matters. The church was regarded by many Whig politicians as an arm of an Erastian state. Furthermore, even the ecclesiastical courts steadily lost authority over the morals of the laity in the early eighteenth century. The lapsing of the Licensing Act in 1695 also meant the end of the powers of religious censorship previously exercised by the church. Unorthodox religious views and anti-clerical arguments flourished in the eighteenth-century press.

Throughout the eighteenth century most conservative clergy of the Church of England wished to return to a situation in which church and state worked together to support an authoritarian regime. Almost all of the clergy wished at least to maintain the remaining privileges of the Church of England. The leading politicians recognized the political value of the church and so an alliance of church and state was maintained, though it was never an alliance of equals but an uneasy agreement which often found some of the clergy dissatisfied with the church's subordinate role. The Church of England remained the state church and from 1701 the monarch was required to conform to the state church not just to exercise supreme authority over it. The Test and Corporation Acts of the later seventeenth century, which laid down that only those who conformed to the Church of England could hold office under the crown or serve in town corporations, remained on the statute books until 1828. Repeated attempts to repeal them failed, though regular indemnity acts after 1727 did enable Protestant Dissenters to evade the restrictions of the Corporation Act.



The twenty-six bishops in the Lords were expected to place their votes and their voices at the disposal of the government and generally did so unless they thought the remaining privileges of the Church of England were in danger. Bishops often wrote pro-government pamphlets, canvassed for pro-government candidates in elections, and delivered pro-government sermons on key dates in the calendar, such as the monarch's birthday, the anniversary of Charles I's execution on 30 January, the anniversary of Charles II's restoration on 29 May, and the anniversary of William III's landing at Torbay on 4 November 1688. The crown and the aristocracy could also exercise considerable authority over thousands of ordinary parish clergy because so many clergymen obtained their livings through lay patronage. The church as a whole still possessed considerable wealth and property and it continued to play a major role in providing education, distributing charity and disseminating news and views. Clerical propaganda played a major role in promoting the notion of a Protestant constitution and of a Protestant people constantly at war with militant Catholicism and French absolutism. In periods of crisis the clergy regularly played an important role in promoting Fast Days and in propagating a conservative ideology in defence of the status quo. Both the ruling elite's right to govern and the duty of subjects to obey were constantly sanctioned by the clergy. The clergy also frequently campaigned against vice and immorality and served the state as well as the church by promoting such moral virtues as humility, sobriety, frugality and industry. Moreover, the church's parish structure remained the basic unit of local government in rural and urban areas and did much to administer the system of poor relief in particular. For a large proportion of the population the Church of England's ceremonies and rituals marked their major rites of passage through life. It offered a focus to their daily lives and a consolation in death.

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