

# **THE RISE OF MODERN DEMOCRACY IN OLD AND NEW ENGLAND**

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OLD AND NEW ENGLAND

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## PREFACE.

IF it be true that "good wine needs no bush," a translation of Dr. Borgeaud's constitutional studies should not need preliminary apologies. The extent of his researches, the accuracy of his knowledge, and the sobriety of his judgment, those who read his pages can hardly fail to observe. These are the qualities which justify the attempt of Mrs. Birkbeck Hill to present in an English dress this sketch of the development of democratic ideas in England and America.

At the same time, however, it may be for the convenience of her readers to show the relation of these two essays to the rest of Dr. Borgeaud's works, and to give a brief summary of his conclusions.

After obtaining his degree of Doctor in Philosophy at Jena, in 1883, by a thesis on the religious philosophy of Rousseau, Dr. Borgeaud devoted himself to the history of democratic ideas, and democratic government. In 1887, he gained the additional title of Doctor in Law, at Geneva, by his *Histoire du Plébiscite dans l'Antiquité*.<sup>1</sup> But this investigation of the working of the popular vote in Greece and Rome did not throw much light on the origins of modern democracy. Our modern conception of

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<sup>1</sup> E. Thorin, Paris, 1887.

a democracy differs very widely from that of the ancients. Ancient democracies had no idea of universal suffrage, and instead of the rights of man recognised only the privileges of the citizen. For them the state was a city, and its political centre the spot where the sovereign assembly of citizens met to vote. Those who were not there were not represented, and the further the city state extended its borders, the fewer those citizens who could actually exercise their right of voting. Hence the results of the author's enquiry were rather negative than positive. They may be summed up by the statement, that the most permanent effect of ancient democracy was a new conception of Law. Primitive Law possessed a religious character. It was a revelation—an expression of the will of Heaven made known to men, and as perfect and unchangeable as Heaven itself. But the operation of the system of popular suffrage—so to speak—secularised Law. It became the expression of the will of the people, at once the result of the development of political society, and the instrument by which that result was effected. In the East, Law retained its original character, and remained what it was in the beginning, something divine and unchangeable. In the West it altered its original character, and became human and progressive. The formula of Gaius sums up the result of this process of evolution. "Lex est quod populus jubet atque constituit."

But this conception of Law, which was one of



the conquests of Greek and Roman civilisation, was more or less lost to the world in the night of the Middle Ages, to be won back, however, for Western nations by the Renaissance and the Reformation. The religious revolution of the sixteenth century, and the political revolutions of the seventeenth and eighteenth centuries which sprung from it, were destined to make this conception of Law the basis of the modern State.

In the contemporary constitutional systems which form the subject of Dr. Borgeaud's latest work,<sup>1</sup> the sovereignty of the people is the basis of the political organization of the state, and the law is really, in the phrase of Gaius, "What the people ordains and determines." In other respects, however, the debt of modern to ancient democracies is singularly small. The chief characteristic of the modern democratic state is the existence of a written constitution, consisting of a body of fundamental laws, intended to ensure the permanence of its political life, to define the limits of the authority of the government, and to guarantee the rights of the individual citizen. In all such constitutions, however, there are certain provisions for the modification and the revision of the Constitution itself by the suffrages of the nation, as the necessities of the national life may from time to time demand. The manner in which these constitutions originally

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<sup>1</sup> *Établissement et Révision des Constitutions en Amérique et en Europe.* Paris, Thorin et Fils, 1893.

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came into being, and the nature of the process by which they have been, or may be altered, is the special point to which Dr. Borgeaud directs his investigations. His book is, in short, a study on the making of constitutions.

With what conscientious thoroughness Dr. Borgeaud prepared himself for this survey of contemporary constitutional systems the two studies now translated show.<sup>1</sup> The great merit of his method of treating these questions is that he combines the examination of written constitutional texts with the investigation of the general ideas from which they proceeded, and the historical conditions under which they arose. These essays form a connecting link between his two larger works. He endeavours to trace the conception of a written constitution to its source, to show under what circumstances it originally developed, and of what nature the first written constitutions were. It is, as he points out, to the Reformation, and to the democratic ideas engendered by the Reformation, that the written constitutions of modern popular states owe their existence. It was in England and in New England that the conception first took a positive form. And it was also in England, during the struggle between Cavaliers and Puritans, that the fundamental principles of modern democracy first found expression.

A recent American author, Professor H. L.

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<sup>1</sup> Published in the *Annales de l'École libre des Sciences Politiques*, April, 1890, and January, 1891.

Osgood, writing on the kindred subject of the "Political Ideas of the Puritans," comes independently to conclusions substantially identical with those of Dr. Borgeaud.<sup>1</sup> "The modern revolutionary movement," says Professor Osgood, "began not in the eighteenth but in the sixteenth century. Protestantism, especially in the form which Calvin gave it, was hostile to absolutism both in Church and in State, and carried with it a moral vigour without which the mere revival of classical learning would have been powerless to effect deep social changes. Calvinism, in spite of the aristocratic character which it temporarily assumed, meant democracy in Church government. It meant more than that, for its aim was to make society in all its parts conform to a religious ideal." . . . Calvinists "did not need to search the records of antiquity to find communities where the theory of human equality was approximately realized. The local Church furnished a much better model than any Greek state. The theory upon which it was based was easily transferred to the domain of politics."

The influence which the ecclesiastical organization of the Independent Churches exercised upon the development of democratic ideas in the state is very clearly and convincingly shown by Dr. Borgeaud. It was from these congregations, with their "Church-covenant," that the idea of a political society, founded on a mutual compact between its members, found its

<sup>1</sup> *The Political Science Quarterly*, March and June, 1891.