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James Bryce: The American Commonwealth Study Guide

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JAMES BRYCE: THE AMERICAN COMMONWEALTH
STUDY GUIDE, 2004
Steven Alan Samson

CHAPTER TWO: THE NATION AND THE STATES

Study Questions

1. Distinguish between a League [or confederation], a Nation [or centralized regime], and a Federal Republic. What accounts for the "complexity which makes American history and current American politics so difficult to the European?" What is different about the machinery of government? (15-19)

Review

League	Nation	Federal Government
two patriotisms	machinery of government	

CHAPTER THIRTY-SIX: NATURE OF THE AMERICAN STATE

Study Questions

1. What have previous English students of politics, such as John Stuart Mill and Sir Henry Maine, failed to grasp with respect to the American states? Where have American publicists [Francis Lieber's term for political commentators] fallen short? What is the closest European equivalent to an American State? (447-49)

2. At the time of this edition, Idaho (1890), Wyoming (1890), Utah (1896), Oklahoma (1907), New Mexico (1912), Arizona (1912), Alaska (1959), and Hawaii (1960) had not been admitted to the union. The size of the states in square miles is not very accurate with the size of Rhode Island less by nearly 300 sq. mi. and by nearly 3000 sq. mi. What factors have contributed to the dissimilarity of States? How does Bryce group the states? What powers are lacking in the States? What circumstances work for uniformity among the States? (449-54)

3. How do the final causes (ends, purposes) of the recognition of the autonomy of Finland, Hungary, and other [not yet independent] European territories differ from the recognition of the American States as autonomous commonwealths? Identify some of the attributes of these States? Note (note 7) the eligibility at that time of non-citizens for the electoral franchise in a third of the States. Constitutionally, what is the authority of a State? What have been some of the different views of State sovereignty? What is the State's most important attribute of sovereignty? What was the ambiguity concerning secession? (454-59)

4. What contradictory propositions are supposedly harmonized in the Constitution of 1789? [*Quicunque Vult* is the trinitarian Athanasian Creed]. How do the technical and practical issues differ concerning the relations between the States and the Union? What does Bryce mean when he says: "When treason prospers, none dare call it treason?" What disservice did the Constitution do on this score? The reference to a point of law involving

Edward III and his successors is to the **Salic Law** (of the Salian Franks), which prohibited a woman or her son (in this case, England's Edward III) from succeeding to the throne. In Spain this law was set aside in 1833 in favor of Isabella of Spain, leading to the Carlist War. Tainted by scandal she was deposed in 1868. The candidacy of a Hohenzollern prince, Leopold, provided the occasion for the Franco-Prussian War. (459-61)

5. What do the rights of a State now include? Exclude? The discussion of direct taxes is now out of date. But most of the points concerning State statutes are still true, as is Bryce's point about the duality of citizenship. (461-63)

Review

five groups of states
electoral franchise
denied powers
boundary lines
attributes of sovereign States
population movement
secession question

CHAPTER THIRTY-EIGHT: THE DEVELOPMENT OF STATE CONSTITUTIONS

Study Questions

1. Distinguish three periods in the development of State constitutions and their chief attributes [they may be called the Jeffersonian or early republican, the Jacksonian or democratic, and the Progressive or reform periods]. How have the roles of legislatures, governors, and judges changed? Identify three types of constitution, which are reduced to two following the Civil War: older and newer. How are the newer constitutions different from the older ones? What are the negative and positive aspects of the new democratic spirit? *Vestigia nulla retrorsum* means no signs of turning back. Which states are the most prone to change? Where is economic and social change apt to be swift and sudden? (488-97)

2. What does a study of these documentary sources indicate about popular attitudes? How are distrust for politicians and an anxiety to protect private property manifested? Note provisions against the taking of private property without due compensation [as in the Fifth Amendment's takings clause] and private statutes [as in the Constitution's rejection of bills of attainder and corruption (taint) of blood]. Identify some public goods that are provided through private enterprise. In what ways is the scope of public administrative activity extended? What sorts of charitable, reformatory, and educational institutions are tax-supported? What sorts of illegal activities merit the special attention of State constitutions? (497-500)

Review

periods of state constitutional development
abolition of property qualifications for suffrage
types of constitutions
Jeffersonian abstract human rights
constitutions as reflections of popular attitudes
ratification by popular vote (referendum)
re-eligibility of office holders
attributes of the newer constitutions
sources of political change
newer political functions and prohibitions

CHAPTER THIRTY-NINE: DIRECT LEGISLATION BY THE PEOPLE

Study Questions

1. What are some of the difficulties and defects inherent in legislating by a Constitution? Why were Americans more and more removing legislation from the legislature and entrusting it to the people? What are the advantages of having a sovereign legislature? How did legislative assemblies evolve? What English practices are similar to the Swiss Referendum? What accounts for the American practice of finalizing a constitution Through a solemn ratification? (501-06)

2. What has accompanied the growth of the tendency in favor of direct popular rule? Why have legislatures welcomed the direct intervention of the people? Since delegated powers may not be delegated, what has usually been required to permit this? When is direct legislative power most likely to be exercised? Illustrate some typical sorts of "superlegislation" (laws incorporated into constitutions). What are some of its disadvantages? Advantages? Why may its effect be conservative? Dante's quotation is from Purgatorio, Canto VI, lines 143-44 suggests inconstancy, even futility: "To middle of November reaches not what thou in October spinnest." (506-11)

3. How is it that in the American States representative government is not nearly so conservative as Europeans imagine? What is von Holst's conclusion? Why are constitutions superior in quality to legislation? The author discusses why is the California Constitution of 1879 is an exception [see Chapter 90 below]. (511-14)

Review

advantages of direct legislation

CHAPTER FIFTY-ONE: THE WORKING OF CITY GOVERNMENTS

Study Questions

1. What are some of the chief complaints against city governments? What accounts for the rapidly rising expenditures and taxes in the largest cities? (679-89)

2. What reforms were proposed by the New York commission? What other reforms have been offered? (689-93)

Review

rising costs of city government reform proposals

CHAPTER NINETY: KEARNEYISM IN CALIFORNIA

NOTE: One of the most interesting and colorful sections of the book deals with the rough and tumble politics of California three decades after the Gold Rush. A

few years after Denis Kearney left the scene, another colorful and larger than life figure, William Randolph Hearst, started up the San Francisco *Examiner* in 1886 at the age of 23 and began building up his media empire.

I. The Character of California

What America is to Europe, what Western America is to Eastern, that California is to the other Western States. The characteristics of a new and quickly developed colonial civilization are all strongly marked. It is thoroughly American, but most so in those points wherein the Old World differs from the New. Large fortunes are swiftly made and not less swiftly spent. Changes of public sentiment are sudden and violent. The most active minds are too much absorbed in great business enterprises to attend to politics; the inferior men are frequently reckless and irresponsible; the masses are impatient, accustomed to blame everything and everybody but themselves for the slow approach of the millennium, ready to try instant, even if perilous, remedies for a present evil.

These features belong more or less to all the newer commonwealths. Several others are peculiar to California – a State on which I dwell the more willingly because it is in many respects the most striking in the whole Union, and has more than any other the character of a great country, capable of standing alone in the world. It has immense wealth in its fertile soil as well as in its minerals and forests. Nature is nowhere more imposing nor her beauties more varied.

It grew up, after the cession by Mexico and the discovery of gold, like a gourd in the night. [California's population leaped from 92,497 in 1850 to 379,994 in 1860 to second place with 10.5 million in 1950; San Francisco went from 34,776 in 1850 to 776,357 in 1950, which is approximately its population today]. A great population had gathered before there was any regular government to keep it in order, much less any education or social culture to refine it. The wildness of that time passed into the blood of the people, and has left them more tolerant of violent deeds, more prone to interferences with or supersessions of regular law, than are the people of most parts of the Union.

The chief occupation of the first generation of Californian was mining, an industry which is like gambling in its influence on the character, with its sudden alternations of wealth and poverty, its long hours of painful toil relieved by bouts of drinking and merriment, its life in a crowd of men who have come together from the four winds of heaven, and will scatter again as soon as some are enriched and others ruined, or the gold in the gulch is exhausted. Moreover, mining in this region means gambling, not only in camps among the miners, but among townfolk in the shares of the mining companies. . . .

Everywhere in the West the power of the railways has excited the jealousy of the people. In California, however, it has roused most hostility, because no State has been so much at the mercy of one powerful corporation [the Central Pacific Railway]. . . .

[Bryce describes the great ethnic diversity and notes that the Chinese largely keep to themselves. San Francisco is virtually the capital of an

independent country separated from the Mississippi Valley by 1200 miles of desert].

II. The Sand Lot Party

[Hard times reached the Pacific coast by 1876, aggravated there by a heavy fall in mining stocks]. The railroad kings could stand their losses, but the clerks and shop assistants and workmen suffered, for their savings were gone and many were left heavily in debt, with their houses mortgaged and no hope of redemption. Trade was bad, work was scarce, and for what there was of it the Chinese, willing to take only half the ordinary wages, competed with the white labourer. The mob of San Francisco, swelled with disappointed miners from the camps and labourers out of work, men lured from distant homes by the hope of wealth and ease in the land of gold, saw itself on the verge of starvation, while the splendid mansions of speculators, who fifteen years before had kept little shops, rose along the heights of the city, and the newspapers reported their luxurious banquets. In the country the farmers were scarcely less discontented. . . .

Both in the country and in the city there was disgust with politics and the politicians. . . .

It was a common saying in the State that each successive legislature was worse than its predecessor. . . . [The criminal justice system was so weakened by circumstances that murder begat vengeance and vigilantism was rife. Into this volatile mixture came a quick-tempered Irish-American demagogue, Denis Kearney, who harangued crowds in the Sand Lot, won the support of the San Francisco *Chronicle*, agitated for Chinese exclusion laws, and, through his Working Man's Party along with the Granger movement, promoted a constitutional convention in 1879 to fight against political corruption, heavy taxation of the poorer classes, the tyranny of corporations (especially the railroads), and the Chinese. Afterwards, Kearney's influence faded and he eventually went East to promote Chinese exclusion laws].

Review

factors that led to the Constitution of 1879