

The gradual emergence of the parliamentary process, and of the knights and burgesses as active elements in it, clearly is in no way dependent upon a series of clear-cut administrative acts. On the other hand, more can be said than that the alterations in the character of medieval parliaments simply reflect the appearance, during the century 1250-1350 in England, of an active and intelligent middle class, with an accompanying conscious participation in political life. Investigations on a number of fronts make it evident that much is involved and many elements play their parts in setting the commons upon the long path to supremacy in the State. Of importance are the long struggles for effective power between the magnates and the king, during which parliament came to be associated, not simply with the technicalities of government, but more closely with what may comprehensively be termed politics. The petition or bill, a means of expressing the subjects' complaints and prayers, lies back of parliamentary evolution into a national tribunal for righting nationwide wrongs by legislation. Taxation, which slowly reaches the principle of redress before supply, of necessity forms a prominent chapter in the history of the English parliament. But there are in addition a host of lesser formative influences. Each occasion when the needs and circumstances of the moment made it useful to seek the political support of the local communities helped to change the character of the assemblies to which representatives were summoned. Expedients repeated gave the commons a political importance and an indispensability that could not later be gainsaid. From the non-institutional side, much can be attributed to the representatives' experience in administrative and legal problems, acquired through enforced participation in local government.

To compress the major movements in the remarkable and unique history of the English parliament, with their many ramifications, into the compass of a thin octavo volume is a courageous enterprise. There can be little dispute about the need for such treatment, for current accounts, overlaid with an accumulation of detail, have been set out most frequently in monographs designed to attract mainly those already endowed with considerable technical competence, while the general reader is too often left with histories that take no due cognizance of recent discoveries. Professor Haskins' book omits little of importance, but reflecting, as it does, investigations converging upon the major problem from a variety of positions, it quite naturally reproduces the over-emphases characteristic of specialized research and falls short of being the synthesis of parliamentary studies so badly needed. This, of course, it does not claim to be, nor could the subject be treated with anything approaching adequacy in six lectures. It does provide an intelligent and valuable survey of a difficult field and doubtless will take its place at once as a most useful conspectus of recent historical thought about the English parliament. An index would have further increased the value of the book.

S. E. THORNE †

TO SECURE THESE RIGHTS, THE REPORT OF THE PRESIDENT'S COMMITTEE ON CIVIL RIGHTS—U. S. Government Printing Office (1947).

FEDERAL PROTECTION OF CIVIL RIGHTS—QUEST FOR A SWORD. By Robert K. Carr. Cornell University Press (1947).

Throughout its entire history the United States has been struggling to realize in practice the ideals of those daring spirits who formu-

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lated for a new country the principles of democratic liberty. Vast technological changes have brought many new problems, centering around economic freedom and common control of a complex economic system. But the tradition of individual freedom and participation in government has remained as America's greatest contribution to organized society and constitutes today the most vital, hopeful and influential aspect of American democracy in a change-ridden world.

Of course America has never been able to achieve in practical operation the full implications of its great tradition. We have had substantial successes. But we have always had serious lapses and at times, as in the period of the Alien and Sedition Acts and again in World War I, sad and discouraging relapses. Except for our treatment of the Japanese-Americans we came through World War II with a record of surprising fidelity to the tradition. But today we face again a period of dangerous retrogression that threatens to wipe out all the gains of the past.

The Report of the President's Committee on Civil Rights would rank as a notable document at any time in our history. Coming at this particular period—when impending changes are beginning to arouse the most bitter conflict—it constitutes an especially significant accomplishment.

The Report makes three major contributions. In the first place it restates in simple but eloquent terms the basic principles of our American heritage—the right to safety and security of the person, the right to citizenship and its privileges, the right to freedom of conscience and expression, the right to equality of opportunity. The Committee's reaffirmation of these ideals is forthright and courageous. To give but one example, in the field of equality of opportunity: One of the darkest blots upon the record of the Supreme Court is certainly its acceptance in *Plessy v. Ferguson*<sup>1</sup> of the doctrine that segregation of races, provided "equal facilities" are afforded, does not constitute discrimination. If there be any "badge of inferiority" in such a situation, said the Court pompously, "it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction upon it."<sup>2</sup> Such is still the prevailing legal dogma. The Committee minces no words in rejecting it. Let us hope that the Committee's stand will help the present Court take an equally honest and decent position.

Secondly, the Report, while acknowledging the progress we have made in implementing our theories of freedom, points out sharply the festering areas in which we have fallen short of the goal. It tells the unhappy story of our record in lynchings, police brutality, denial of the right to vote, discrimination in the armed services, discrimination in employment, in education, in housing, in health, in public facilities, and our failures in other fields. Again the Committee's account is straight-forward and bold. It is likewise carefully and specifically documented. If at one or two points the Committee does not delve too deeply—notably in the operation of the President's loyalty program for government employees—that may perhaps be forgiven.

Lastly the Report makes a series of concrete recommendations for immediate action. These include proposals for strengthening the Civil Rights Section of the Department of Justice and the entire machinery of administration, revision of the Federal civil rights laws, enactment of anti-

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1. 163 U. S. 537 (1896).

2. 163 U. S. at 551.

lynching, anti-poll tax and F. E. P. C. legislation, adoption of legislation to end various forms of discrimination, and a number of other measures. The recommendations are not all new. But they are important in two respects. They bring together into one comprehensive program, with the Committee's full backing, the many suggestions for Federal and state action that have been advanced from time to time in various quarters. And they properly stress the enormous importance of better enforcement of legislation already on the statute books.

I would quarrel with only one of the Committee's proposals—its recommendation for Federal and state legislation requiring all groups, which attempt to influence public opinion, to register and disclose information showing the names of officers, sources of financial contributions, disbursements and the purposes of the organization. The problem is a difficult one. But I do not believe the Committee's report has made anything approaching a persuasive case for restrictions of this nature, which in the present temper of the times would severely curtail freedom of association for unpopular groups.

Despite its treatment of this issue, however, the Report remains a magnificent achievement. Calm, tolerant, vivid in its impact, the Report represents the kind of thinking that is sorely needed in this period of mounting hysteria.

Professor Carr's book is a valuable supplement to the Report. The author served as head of the Committee's staff, a group by the way that has received considerably less public acclaim than it undoubtedly deserves. The book is a study of the Civil Rights Section of the Justice Department and its efforts to fashion a positive weapon for an affirmative program of Federal protection to civil rights.

The first half of the book is devoted to an analysis of the obsolete and inadequate Federal civil rights legislation, largely a product of the reconstruction era, which has served as the statutory basis for the Section's operations. The study, clearly and cogently written, illustrates in abundant detail the need for the overhauling of that legislation which has been recommended by the Committee.

More important—because it enters upon a largely unexplored field—is the remainder of the book. This is a study of the Civil Rights Section in actual operation. Here we get an insight, from the files of the Justice Department itself, into some of the delicate problems of law enforcement in the super-charged field of civil rights. We see the Civil Rights Section, starved in funds and sometimes receiving indifferent backing from the Attorney General, attempting to pick its way with a highly developed sense of caution in a constant battle to get some sort of a job done without risking judicial strangulation on the one side and political annihilation on the other. We catch a glimpse of the creaking machinery of the Department of Justice, probably the most ineffective of any modern nation; of the struggles with autonomous U. S. Attorneys, unwilling to take an aggressive stand themselves and resentful of pressure or assistance from Washington; of the hesitations of the F. B. I., fearful of disturbing its relations with local police officials; of the resistance from local juries and judges, themselves imbued with the prejudices from which the offense to civil rights sprang; of the heartrending post mortems of the Civil Rights Section, trying to cheer itself up with the notion that a verdict of not-guilty in a clear case is better than not having moved at all. Professor Carr barely scratches the surface of the enforcement problem; but it is a job that has not been attempted before.

The two volumes are, of course, far from the last word in the field of political and civil rights. They are limited in scope to the traditional problems of civil rights in a laissez-faire state; they do not touch on the new issues of personal liberty in an industrialized service state. Nor do they reach into the political ramifications of the subject, though the one-party system in the South is at the root of much of the difficulty there. Only passing reference is made to the international implications, which grow more significant with each passing day. Nevertheless the Report constitutes a memorable document in the long struggle for civil rights and Professor Carr's book makes a fruitful and helpful contribution.

THOMAS I. EMERSON †

FREEDOM AND THE ADMINISTRATIVE STATE. By Joseph Rosenfarb. Harper and Brothers. New York, 1948. Pp. xiii, 274. \$4.00.

The thesis of this book is that a planned economy is inevitable and while the evolution of social forces will not permit us to arrange some other kind of economic system there yet remains to us the choice of having control vested in the administrative state which is free and democratic or the administrative state under the heel of a dictatorship.

This thesis is supported first by an analysis of the genesis and evolution of the administrative state, second by consideration of the problem whether freedom and democracy are possible in a planned, state-controlled economy, third by appraisal of the crucial role of labor in the administrative state, and finally by examination of the mechanisms of law and government that are suitable to a managed economy within a framework of freedom and democracy.

The author regards the war experience as proof that a democratically planned economy is possible. "This generation" he says "has asserted its mastery over the economic environment by state action and democratic economic control. That is the greatest invention in social behavior since the evolution of the democratic form of government." To go on and demonstrate that in peacetime full production and employment can be maintained through a managed economy based on private enterprise and democratically controlled "should be America's contribution to modern state craft."

The major lines of Rosenfarb's blue print should be indicated. The needs of the country—for housing, food, automobiles, etc.—can be ascertained. An inventory of natural resources and foreign imports, and of industrial capacity is possible. Desirable yearly production in each industry can be accurately estimated. Production quotas would be assigned producers by the government with a guarantee against loss if the producer were unable to sell all of his production. Losses would be unlikely because full employment would provide maximum purchasing power. The producer's guarantee would be calculated upon the average cost of production for his industry plus a certain profit. Price and wage controls would be necessary for stabilization, and because continuity of production would be indispensable, strikes would have to be avoided. The peacetime analogues of the Office of Price Administration and the National War Labor Board would have to be added to the administrative mechanisms of the government.

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