

IV

THE ENGLISH REFORM BILL

[283] THE prime object of the Reform Bill now [1831] lying before the English Parliament is to bring justice and fairness into the allotment of the parts played by the different classes and divisions of the people in the election of members of Parliament, and to do this by substituting a greater symmetry for the most bizarre and haphazard anomalies and inequalities which prevail at present. There are numbers, localities, private interests, which are to be ordered differently; nevertheless, it is on the nobility, the very heart and vital principle of the constitution and condition of Great Britain, that this alteration presses in fact. This is the aspect of the present Bill which deserves special notice. And the aim of this essay is to assemble here these higher aspects of the matter which have been discussed in the parliamentary debates up till now. The fact that in the House of Commons the Bill encountered opposition from so many members, and that the second reading was carried by the chance of one vote, cannot cause surprise, because it is just the powerful aristocratic interests in the Lower House that are to be attacked and reformed. If the Bill were opposed by all those who themselves or whose constituents are to lose their former prerogative and influence, there would at once be a most decided majority against the Bill. The promoters of the Bill could rely only on this, that now a sense of justice had mastered the obstinacy of privilege in those whose advantage lay in those prerogatives—a sense that acquired great strength from the anxious impression [284] produced on interested Members of Parliament by the neighbouring example of France. [Moreover] the almost universal opinion in England about the need of reform always tended to make itself felt as a motive of the first importance in Parliament. But even if public opinion in Great Britain were almost always for reform to the extent, or within the limits, proposed in the Bill, we would still have to be allowed to examine the substance of what this opinion desires, all the more so because in recent times we have not infrequently experienced that its demands have proved to be

impracticable, or, if practicable, pernicious, and that public opinion has now turned just as vigorously against what immediately before it had vigorously demanded and appeared to welcome. The ancients who had belonged to democracies from their youth onwards, and who had lived through a long series of experiences in them and applied their thoughtful reflection to these, had different views about popular opinion from those that are now current on more or less *a priori* grounds.

[285] [I. THE NECESSITY OF A REFORM OF THE FRANCHISE]

The proposed reform starts from the undisputed fact that the bases on which was determined the share held by the different counties and boroughs in England in parliamentary seats had been completely altered in the course of time, [and] that therefore the 'rights to this share' had become completely at variance with the principles of these bases and contradictory to everything that in this part of a constitution appears to the simplest common sense as obviously right and fair. One of the most important opponents of the Bill, Robert Peel, grants¹ that it may seem easy to expatiate on the anomalies and absurdity of the English constitution; and its follies are expounded at length in all their details in the parliamentary debates and in the newspapers. Therefore it may suffice here to recall the chief points, namely that the right of electing to seats in Parliament has been retained by thinly populated towns or even by their councillors (who co-opt their colleagues) alone without their fellow citizens, and thus by places reduced to only two or three residents (and leaseholders at that), while many cities that have prospered and flourished in recent years and have 100,000 inhabitants or more have no right of election; and between these extremes there is still the greatest variety of other inequalities. The first result is that the election to a large number of parliamentary seats is in the hands of a small number of individuals. It is calculated that a majority of the House is at the disposal of 150 peers. Secondly, a still more significant number of seats is purchasable—some of them [286] a recognized marketable commodity so that the possession of one of these seats is acquired by bribery or the formal payment of a specific sum to the electors or in general is reduced in numerous other ways to a matter of cash.

¹ The reference is probably to Peel's speech of 3 March 1831 (*Speeches*, vol. ii, p. 280).

It will be difficult to point anywhere to a similar symptom of a people's political corruption. Montesquieu¹ pronounced *virtue*, the unselfish sense of duty to the state, to be the principle of the democratic constitution. In the English constitution the democratic element has an important sphere in the people's participation in the election of members of the Lower House, of the politicians who have the most decisive role in settling public affairs. Of course it is the almost unanimous view of the pragmatic historians² that if in any nation private interest and a dirty monetary advantage becomes the preponderating ingredient in the election of Ministers of state, then the situation is to be regarded as the forerunner of the inevitable loss of that nation's political freedom, the ruin of its constitution and even of the state. To counter the Englishman's pride in his freedom, we Germans may well cite the fact that even if the old constitution of the German Empire had likewise become a formless aggregate³ of particular rights, it was only the external bond of the German states, and political life within these, so far as concerned elections to their Diets⁴ and the corresponding franchise, was free from the absurdity of the English system, and no less free from the [political] corruption that permeates every class of the English people. Now even if alongside the democratic element in England the aristocratic is an extremely important power; even if purely aristocratic governments like Venice, Genoa, Berne, &c., are reproached with finding their security and strength by submerging their subjects in universal sensuality and moral corruption; and even if it be reckoned as freedom to cast one's vote entirely on caprice, which motive is supposed to determine the will; [287] still it must be recognized as a good sign of the reawakening of a moral temper in the English people that one of the feelings which the need of a reform brings with it is an antipathy to the [political] depravity [to which I have referred]. Equally, however, we can see that the right way to pursue improvement is not by the moral route of using ideas, admonitions, associations of isolated individuals, in order to counteract the system of corruption and avoid being indebted to it, but by the alteration of institutions. The common prejudice of

¹ *Esprit des Lois*, vol. iii, p. 3, and Hegel, *Ph.d.R.*, § 273.

² See Hegel, *Ph.d.R.*, § 3, and note 15 thereto in Eng. tr. (Oxford, 1942).

³ See above, *The German Constitution*, e.g. [9-10].

⁴ Reading *Landständen* with Boumann.

inertia, namely to cling always to the old faith in the excellence of an institution, even if the present state of affairs derived from it is altogether corrupt, has thus at last caved in. A more thoroughgoing reform is all the more required in that, at the opening of every new Parliament, the opportunity presented by bribery petitions has given rise to proposals for improving [the system], but they have remained without any significant success. For example, the recent and most proper proposal to take away the franchise from one place where bribery has been proved and to transfer it to the city of Birmingham, and thereby to display an equitable inclination to redress the most striking inequality with extreme moderation, was manœuvred off the field by the parliamentary tactics of Ministers, especially of Peel, the Minister otherwise praised for his liberal views.¹ A great step forward at the opening session of the present Parliament has thus been reduced to forbidding candidates to distribute any more badges to electors favourably disposed to them. Since the great majority of members of both Houses, who are the judges in bribery cases,² are involved in the system of corruption, while the majority of members of the Lower House owe their seats to this system, charges of bribery against an enfranchised place, and their investigation and trial, have been exposed as downright farces and even as shameless procedures, too publicly and too loudly for anything to be expected along that route now except redress in isolated instances.

[288] The other usual ground taken in Parliament against attacks on positive rights is the [appeal to the] wisdom of our ancestors, but this appeal cannot be upheld in this matter. This wisdom is to be ascribed to the distribution of the parliamentary franchise according to the *then* existing population of counties, cities, and boroughs, or according to their importance in other respects; and there is far too sharp a contrast between that and what has come to be the modern population, wealth, and importance of districts and interests. Another point not broached in discussion is the loss of capital which so many individuals [would] suffer and the loss of income of a still greater number; the monetary gain derived from direct bribery is illegal, though all classes are interested in it either

¹ This is not quite fair to Peel. This involved matter, i.e. proposals to transfer Penryn to Manchester and East Retford to Birmingham, is discussed in N. Gash, *Mr. Secretary Peel* (London, 1961), pp. 470-1 *et al.*

² Hegel is wrong here. The House of Lords had no jurisdiction in electoral cases, which were tried solely by a committee of the Commons.

as bribers or bribed. The capital value lost to the boroughs which are to be deprived of their franchise is based on the fact that, in the course of time, a political right has been transformed into a pecuniary asset. Although the acquisition [of a seat], at a price which is now getting lower, has happened just as bona fide as the purchase of slaves, and although under new laws what the English Parliament considers carefully in such a case is the maintenance of real property, and, in the event of a loss occurring, compensation accordingly, no claims of this sort have been made in the present discussions, nor has any difficulty been raised on this score.¹ But this circumstance may be an effective motive against the Bill for a number of Members of Parliament.

On the other hand another legal principle especially characteristic of England is indeed attacked by the Bill. This is the character of 'positivity' which preponderates in the institutions of English law, public and private alike. It is true that every right and its corresponding law is in *form* something positive, ordained, and instituted by the supreme power in the state, something to which obedience must be given just because it is a statute. But at no time more than the present has the general intelligence been led to distinguish between whether rights are purely positive in their material *content* or whether they are also *inherently* right and rational. In no constitution is judgement so strongly induced [289] to attend to this distinction as in the English, now that the continental nations have allowed themselves to be imposed on for so long by declamations about English freedom and by England's pride in her system of law. It is well known that the latter rests entirely on particular rights, freedoms, privileges conferred, sold, presented by or extorted from kings and Parliament on special occasions. Magna Charta and the Bill of Rights, which concern the most important foundations of the English constitution and which have received further definition in subsequent parliamentary legislation, are concessions wrung [from the Crown] by force, or else acts of grace, agreements, &c., and constitutional rights have stuck by the form of private rights, which they had at their origin, and therefore by the accident of their content. This inherently

¹ While English legislation normally provided for compensation when it encroached on private property, the Reform Bill did not propose any compensation to the owners or other interested parties in boroughs selected for disfranchisement. Hence parliamentary representation was in fact not regarded in England as a species of private property.

disconnected aggregate of positive provisions has not yet undergone the development and recasting which has been carried out in the civilized states of the Continent, and which the German provinces, for example, have enjoyed for a longer or shorter period.

Hitherto England has lacked the features which constitute the major part of these glorious and fortunate advances. Amongst these features the chief is the scientific remodelling of law, whereby, on the one hand, general principles have been applied to and carried through the particular specifications [of law] and their complexities, while on the other hand concrete and special cases have been reduced to simpler provisions. This remodelling has made it possible for the newer continental states to produce statute books and political institutions framed preponderantly on general principles, a process in which, so far as concerns the contents of justice, common sense and sound reasoning have been allowed their proper share. Next, a still more important feature in the transformation of law must be mentioned—the deep insight of princes in making the guiding stars of their legislative activity, with which the monarch's due power is linked, such principles as the state's well-being, the happiness of their subjects, and the general welfare, as well as and above all the sense of an absolute justice, and in doing this with a view to making way for these principles and giving them reality in face of merely positive privileges, traditional private interest, and the stupidity of the masses. [290] The reason why England is so remarkably far behind the other civilized states of Europe in institutions derived from true rights is simply that there the governing power lies in the hands of those possessed of so many privileges which contradict a rational constitutional law and true legislation.

This is the situation on which the projected reform is meant to have an important effect. Not, however, that it has been intended to produce this effect by enlarging the power of the monarchical element in the constitution; on the contrary, if the Bill is not to meet with universal disapproval immediately, jealousy of the power of the throne, that most stubborn of English prejudices, must remain untouched, and the proposed measure owes part of its popularity instead to the fact that by it the Crown's influence is seen to be further weakened. What rouses the greatest interest is the fear in some quarters, the hope in others, that the reform of the

franchise will bring in its train other reforms of substance. The English principle of 'positivity' on which, as I have said, the whole of English law rests, does through the Bill actually suffer a shock which in England is entirely new and unheard of, and one instinctively suspects that more far-reaching changes will issue from this subversion of the formal basis of the existing order.

[2. INSTANCES OF ABUSES TO BE REMOVED]

Some expressions of these points of view have occurred in the course of parliamentary debates, though rather cursorily. The promoters and friends of the Bill may really believe that it will not lead on to anything beyond the point it reaches itself or, in order not to irritate the opposition more seriously, they may not let their hopes become more vocal, just as the opposition too may not represent their real concern as a prize of victory; because they own much, they have, of course, much to lose. But the fact that no more is said in Parliament about this more materialistic aspect of reform [291] is due in great part to the convention that, when important matters are before this assembly, the bulk of the time is taken up by members' explanations of their personal position; they give their opinions not as business men but as privileged persons and as orators. In England a broad field for reform is open, comprising the most important aims of civil and political society. The necessity for reform begins to be felt. Something of what has been indicated [above] on this subject may serve as an example of the amount of work which is over and done with elsewhere and which still waits to be done in England.

Amongst the expectations of material improvements there is above all the hope for economies in administration. But however often this theme is started by the opposition as something absolutely necessary for easing the pressure [of taxation] and the general misery of the people, every time the statement is repeated that all efforts to this end have hitherto gone for nothing, and that the hope held out to the people by Ministers, and even in the speech from the throne, has every time been deceived. These declamations have been repeated in similar words every time taxes have been reduced in the last fifteen years. For finally fulfilling the people's hopes better prospects are held out in a reformed Parliament, i.e. in the greater independence of a greater number of

members on the Ministry, whose weakness and whose hard-heartedness to the people and its interests, &c., has been blamed for a continuing extravagant expenditure. But if we bring under consideration the chief heads of public expenditure in England, it appears that there is no great room for economy: first, interest payments on the enormous national debt cannot be reduced; secondly, the cost of the army and navy, pensions included, is most closely connected not only with the political situation, and especially with the interest of trade, the basis of England's existence, and the danger of internal revolts, but also with the habits of military and naval men and their demand not to fall behind other classes in good living and luxury; and thus in this field there can be no cuts without risk. The calculations made public as a result of the outcry against the so notorious sinecures [292] have shown that even their total abolition, not to be effected without great injustice, would be nothing to speak of. But there is no need to expatiate on these material matters but only to notice that the indefatigable pains that Hume¹ took to examine the finances down to the last detail have gone all along without result. This cannot be ascribed solely to the corruption of the parliamentary aristocracy and the Ministry's obsequiousness to it, needing its help as it did—that aristocracy which procures for itself and its relatives all sorts of gains through sinecures, and, in general, through lucrative posts in the administration, the army, the Church, and the court. The relatively very small number of votes which proposals for reducing expenditure usually gain points to a slender hope in the possibility of, or to a faint interest in, such lightening of the so-called general pressure [of taxation] against which Members of Parliament are of course protected by their wealth. That fraction of them which counts as independent tends to be on the side of the Ministry, and this independence sometimes shows itself inclined to go farther than would have been expected from its usual attitude and the reproaches of the opposition. This happens on occasions when the Ministry expressly displays a special interest in a financial grant. For example, some years ago an extra salary of £1,000 proposed by the Ministry with great vigour for Huskisson,² who was so highly

¹ Joseph Hume (1777-1855), who took 'the sense of the House for a saving of eighteenpence' and added 'retrenchment' to his radical party's watchword.

² When he became President of the Board of Trade in 1823 he resigned his agency for the Cape, a salaried office of £1,200 per annum.

regarded and who gave up a lucrative post because of his official business at the Board of Trade, was voted down by a large majority. So also the same thing has frequently happened with proposals for increasing the establishment of the royal princes which, for England, is not extravagantly assessed. In these cases affecting a personality and a sense of dignity, passion has overcome the lukewarmness usually evinced by Parliament for economies.

This much at least is clear, that no Reform Bill can directly annul the causes of high taxation in England. The example of England and France might in fact lead to the induction that countries in which the administration of the state depends on the assent of assemblies [293] chosen by the people are those most heavily burdened by taxes.¹ In France, where the aim of the English Reform Bill—extending the franchise to a more considerable number of citizens—has to a large extent been achieved, the budget has been compared, in French newspapers, with a hopeful child who is to make significant progress daily. In order to hit upon radical measures for diminishing the oppressive character of the English political administration, it would have been necessary to trespass too deeply on the inner constitution of particular rights. No power is available, having regard to the enormous wealth of private individuals, to make serious arrangements for diminishing the prodigious national debt substantially. The exorbitant cost of the chaotic administration of justice (which makes the road to court open to the rich alone), the poor-rate which a ministry could not introduce in Ireland where need and justice alike demanded it, the utilization of ecclesiastical revenues (to be further mentioned below), and many other great branches of society, presuppose, for the making of any change, other changes in the power of the state than those stipulated in the Reform Bill.

Occasionally reference has been made in Parliament to the abolition of *ecclesiastical tithes, manorial rights, and the game laws* which has come about in France. All this, it is said, would come about under the auspices of a patriotic king and a reformed Parliament. And the drift of the argument seems to characterize the cancellation of rights of that kind as a lamentable overthrow of the whole constitution, quite apart from the fact that it had had appalling anarchy as its consequence in France. We all know that in other states rights of this kind have vanished without any such consequences; not only so, but

¹ Cf. *Ph.d.R.*, *Zusatz* to § 302.

their abolition is regarded as an important basis of increased welfare and essential freedom. Therefore something more may be adduced here about them.

First, as to *tithes*, the oppressive character of this tax has been obvious in England for long past. A special hatred is generally directed against a tax of this kind, but in England [294] this hatred cannot astonish anyone, since in many districts there the clergyman has collected for him every day every tenth jug of milk from the cowherds, a tenth of the day's eggs, &c. Moreover, this tax has been cavilled at on the score of unfairness, because the more the produce of the ground is increased by industry, time, and expenditure, the higher the tax rises, with the result that the improvement of agriculture, in which large capital resources have been sunk in England, is burdened with a tax instead of being encouraged. The tithe belongs to the Church of England; in other countries, Protestant ones especially, either recently or long ago (in Prussian territory more than a century ago) tithes have been abolished, or made redeemable, unostentatiously and unobtrusively without either spoliation or injustice. The ecclesiastical revenues have been deprived of their oppressive character and they have been raised in a more appropriate and becoming manner.

But, in England, the nature of the original justification of tithe is essentially fading away, or is turned upside down for other reasons. The application of tithe for the maintenance of religious doctrine and the upbuilding and support of the Church has mostly been transformed into a sort of private property revenue. The clergyman's office has the character of a living and the duties of it have changed into rights to an income. Apart from the fact that a number of lucrative benefices, [such as] canonries, entail no official duties at all, it is only too well known how common it is for the English clergy to occupy themselves with anything but the functions of their office, with hunting, &c., and idleness of other kinds, to dissipate the rich revenues of their places in foreign travel, and to hand over their official duties to a poor curate for a pittance that hardly saves him from dying of hunger. A comprehensive idea of the connexion between holding a benefice and drawing its revenues on the one hand and the moral conduct and the fulfilment of official duties on the other is afforded by an example that was the subject of court proceedings a few years ago. A motion came before the court against a clergyman named

Frank,¹ to the effect that, on account of insanity, [295] he was incapable of managing his property and that it should be put in ward. He had a living of £800 per annum, and other benefices of about £600. But the judicial complaint was brought before the court by his son, as having now reached his majority, in the interests of the family. As a result of many days' [proceedings] and a mass of testimony, the publicly proved demonstration of the alleged lunacy brought to light actions of this clergyman of which, wholly undisturbed by a spiritual authority, he had acknowledged his guilt in the course of years; for example, he was once drawn in broad daylight through the streets and over the bridge of his town with a strumpet from a house of ill fame on each arm and pursued by a lot of sneering street-arabs. Still more scandalous were the stories, likewise confirmed by witnesses, of his relations with his own wife and a lover of hers who lived in the same house. This shamelessness in a clergyman of the English Church was no detriment to his possession of his office or to his enjoyment of the income of his benefices. Examples of this kind bring the Church into contempt, especially because, despite the establishment of an episcopal hierarchy, the Church does not itself check corruption of this kind and the scandal it entails. This contempt, like the greed of other clergy in the collection of their tithes, makes its own contribution towards diminishing the respect demanded of the English people for the Church's property rights. Such property, being destined for religious purposes, has a totally different character from that of private property which can be disposed of at will; this difference is the basis of a different [kind of] right, and the enjoyment of these goods is tied up with duties as conditions of their possession; and in Protestant states it is religious purposes which fundamentally justify the state in taking steps for the fulfilment of these purposes and the duties connected with the revenues; considerations of this kind seem to be altogether foreign and unknown to English heads [296]. But in this matter, to stick to the abstract outlook of private rights is far too much to the advantage of the class with the preponderating influence in Parliament. Therefore this class hangs together with the Ministry, which has the chief and most lucrative benefices in its gift, and has an interest in providing with livings of this sort younger sons or brothers who

¹ This case does not appear in *The Annual Register*. But for another clerical scandal not wholly dissimilar, see N. Gash, *op. cit.*, p. 375.

are left without capital because landed property in England generally goes to the eldest son. This same class is to retain and even increase its place in Parliament under the Reform Bill. Therefore it is very doubtful if it has anything to fear for its interest so far as the wealth of the Church and its patronage are concerned.

Fears of a reform of such a state of affairs in the English Church have every reason to extend especially to its establishment in Ireland, which has been so heavily attacked for many years, principally in the cause of furthering Catholic emancipation—in itself only a political matter. It is well known that the majority of the Irish population adheres to the Catholic Church. The property that once belonged to it, the churches themselves, tithes, the obligation of parishioners to keep the church buildings in good repair and to provide furnishings for worship and wages for sextons, &c., all this has been taken away from it by right of conquest and made the property of the Anglican Church. In Germany, for more than 150 years as a result of the Thirty Years War, and in recent times as a result of the advance of reason, every dominion, province, city, or village has retained the property belonging to the church of its inhabitants. The religion of prince and government has not absorbed in its area the ecclesiastical properties belonging to another denomination. Even the Turks have generally left alone the churches of their Christian, Armenian, and Jewish subjects; even where these subjects have been forbidden to repair their churches when dilapidated, they were still allowed leave to buy permission to do so. But the English have taken all the churches away from their conquered Catholic population [297]. The Irish, whose poverty and misery and consequential degradation and demoralization is a standing theme in Parliament, acknowledged by every Ministry, are compelled, out of the few pence they may have, to pay their own priest and construct a place for their services. On the other hand, they have to pay a tenth of all their produce to Anglican clergymen, in whose large incumbencies, comprising two or three or six or more parishes, there are often only very few Protestants, and sometimes the sexton is the only one. They are even forced to pay for the upkeep of the churches that are now Anglican and for providing plate, &c., for the services. The foes of emancipation have urged, as a bugbear, that the reform of such crying injustice would be the probable consequence of emancipation. Its friends, however, and their followers, have on

the contrary contented themselves at bottom with the thought that, with emancipation, the demands of the Catholics will be satisfied and the establishment of the English Church in Ireland will be all the more secure. This situation, unprecedented in a civilized and Protestant nation, and its legal title, are supported by self-interest and up to now have held out against what must be presumed to be the religious temper of the Anglican clergy and against the rationality of the English people and its Members of Parliament. True, the Reform Bill does assign a few more seats in the Commons to the Irish, and the Catholics may occupy them. But this might be more than counterbalanced by the provision in the same Bill for increasing the number of members drawn from that class whose interest is linked with the present position of the Anglican Church in Ireland.

There is likewise an apprehension that the reform will in due course extend to *manorial rights*. For long past these rights have not merely brought the agricultural class into subjection; they press as heavily on the bulk of that class as villeinage did, indeed they bring it down to an indigence worse than a villein's. In England itself, though incapacitated for the possession [298] of property in land and reduced to the status of tenants or day labourers, this class does find work to some extent in times of prosperity, England being generally opulent and possessed, in particular, of prodigious manufactures; but what really keeps it from the consequences of extreme indigence is the poor law which imposes on every parish the obligation of looking after its poor. In Ireland, on the other hand, this protection is not available to the class which lives on agriculture and is generally propertyless. The descriptions of travellers, as well as documented parliamentary reports, picture the general condition of the Irish peasants as so miserable that it is not easy to find a parallel example in small and poor districts of continental countries, even in those of them that are backward in civilization. The propertylessness of the agricultural class has its origin in the circumstances and the legislation of the old feudal system, which, in the form in which it still exists in many states, does at least assure to the peasant a subsistence from the soil that he cultivates and to which he is bound. But while the Irish villeins do possess personal freedom, the lords of the manor have got property into their own hands so completely that they have cut themselves free from any obligation to look after the subsistence

of the people who till their soil for them. This is the justification of the fact that, if landowners find more profitable a mode of cultivation which needs fewer labourers, then those who cultivated the ground hitherto and who were tied to it for their subsistence, just as villeins were, and whose families had lived there in huts for centuries, cultivating the soil, are driven in hundreds, even thousands, from the huts which they lived in but did not own. Those who already own nothing are deprived of their birthplace and their hereditary means of livelihood—in the name of justice. And this too is justice, that the landowners have the huts burnt so as to make sure of getting the peasants off the ground and cut off their chance of delaying their departure or creeping in under shelter again.

These cankers in Ireland¹ are laid before Parliament year in year out. How many speeches are made on them! How many committees have sat! How many witnesses have been examined! [299] How many sound reports have been drawn up! How many remedies have been proposed which appear either unsatisfactory or impracticable! The proposed withdrawal of the surplus poor by colonization would have had to take away at least a million inhabitants if it was to be likely to have any effect. How could this be achieved? For another thing, the empty space thus produced would very quickly be filled in the same way as before if laws and circumstances remained otherwise the same. An Act of Parliament (the Sub-letting Act)² which was meant to restrict division into small tenancies, the method of accommodating a fertile class of beggars in Ireland, and their breeding-ground, was shown to be so little adapted to remedy the evil that it had to be repealed recently after a few experimental years. The moment of transition from feudal tenure to property has slipped by without giving the farmer class the chance to own land; a chance of achieving this might have been afforded by altering rights of inheritance, introducing an equal distribution of patrimony between the children, allowing distraint and the sale of property for the payment of debts, and in general altering that legal character of property in land which carries with it who can say what formalities and costs in connexion with

¹ Hegel writes 'England'.

² 7 Geo. IV, xxix (1826). On 18 March 1831 Melbourne introduced in the House of Lords a Bill to repeal this Act, but the object was to frame new legislation to secure more effectually the object of the earlier Act.

alienation, &c. But English legislation about property in these and other respects has got too far away from the freedom enjoyed in this matter by continental countries; every private relationship is caught too deeply in these fetters. Moreover, to alter the law in order to open for the class that works the land the possibility of acquiring property in land would only be in the highest degree insignificant in relation to the whole situation. The power of the Crown is too weak to see to this transition. Moreover, under the Reform Bill, parliamentary legislation remains in the hands of that class which has its interest, and still more its fixed habits, in the hitherto existing law of property. Hitherto its aim has always been to remedy the results of the system, when need and misery became too crying, by direct action and so by palliatives (like the Sub-letting Act) or by pious aspirations (that the Irish land-owners should take up residence in Ireland, &c.).

[300] The *Game Laws*, again, are mentioned as a matter that might be open to reform. To touch it is to cut to the heart numerous English Members of Parliament and their connexions, but the nuisance and the mischief have become too great for the urging of a change in these laws not to have become inevitable. Universal attention has been drawn in particular to the increase in the number of gamekeepers assaulted and murdered by poachers, to the increasing loss of game suffered by landed proprietors on their estates, especially to the increase in the crimes of poaching coming before the courts, though they are only a small proportion of those actually committed, and furthermore to the disproportionately harsh punishments prescribed by law and actually inflicted for the infringement of game laws, because it is just the aristocrats, who possess these rights, who made the laws and who then sit in court in their capacity as magistrates and jurymen. The interest of the hunting fraternity is likewise engrossed by the great extension of hunting rights in open country. A squire's son has hunting rights and every parson counts as a squire, so that the son may have this privilege which his father, unless himself a squire's son, does not possess, &c. For many years past a Bill has been introduced annually into Parliament for amending these laws, but no such Bill has yet had the luck to be passed in face of the privileged interest of sportsmen.¹ A Bill of this kind is before the

¹ By the existing game laws only those persons were permitted to take or sell game who were duly qualified. The ordinary qualification was ownership of

present Parliament. It must be regarded as very much of a problem to assess the amount of influence the projected Reform Bill would inevitably have on the legislation about hunting rights, on the reduction of punishments, on the restriction of personal hunting rights, and especially, in the interest of the agricultural class, on the right of hunting stags, hares, foxes with a string of hounds and twenty, thirty, or more riders and with still more on foot through sown fields and all cultivated unenclosed land. In many German provinces a standing article in the grievances of the Estates long ago was the damage caused by game, the havoc caused in fields by hunting, and the consumption of crops and fruit by game [301]. Up till now English freedom has put no restriction on these rights which princes in Germany have long ago renounced in the interest of their subjects.

The extensive jumble of English private law, which even Englishmen master their pride in their freedom sufficiently to call an Augean stable, might well afford grounds for hoping for some tidying up. The little that Robert Peel carried through a few years ago is regarded as most valuable and has won universal praise.¹ More comprehensive proposals for the reform of justice, advanced later by the present Lord Chancellor, Brougham, in a seven-hour speech, and heard with great acceptance,² did give rise to the appointment of committees but so far have remained without further result. What has been achieved in Germany for more than a century by the imperceptible work of scientific education, the wisdom of princes and their love of justice, the English nation has not acquired from its popular representation; and in the new Bill there are just not contained those special features which would provide a preponderance to profound insight and true knowledge over the crass ignorance of fox-hunters and landed gentry, over an education acquired simply in social gatherings or through newspapers and parliamentary debates, or over the adroitness of lawyers, which is generally acquired solely through routine. The qualifications required in Germany, even from the well born and from wealthy landowners if they are to take part in public administration

lands of £100 yearly value: but others could be qualified, such as the sons of esquires or persons of higher degree. A parson with a life interest in his living worth £150 per annum would be qualified. These restrictions were removed by 1 and 2 William IV, c. 32.

¹ See N. Gash, *Mr. Secretary Peel*, Chapters 9 and 14.

² 1828 in H. of C. See F. Hawes, *Henry Brougham* (London, 1957), p. 201.

or politics either in general or in special spheres, namely theoretical study, scientific education, practice and experience in affairs—are to be found as little in the new Bill as in the organization existing hitherto, as qualifications of members of an assembly in whose hands lies the most extensive power of government and administration. Nowhere more than in England is the prejudice so fixed and so naïve that if birth and wealth give a man office they also give him brains.¹ [302] Even the new Bill contains no condition of this kind: it sanctions the principle that a free income of £10 drawn from property in land is a full qualification for the task of judging and deciding on a man's capacity for the business of government and financial administration which lies with Parliament. The idea of a board of examiners drawn from intelligent men, experienced in the duties of office, instead of a mass of individuals qualified only by the £10 income, like the idea of demanding proofs of capacity from candidates for the legislature and political administration, is of course an idea far too far away from the idea of the unconditional sovereignty of those entitled to decisions on this matter.

Those material changes demanded by rational law which have been touched upon above, and others as well, have been secured already in many civilized continental states, especially in the German countries, but the need for them seems almost to have gone to sleep in England. Thus the necessity of reform has not been shown up as a result of experiencing the little or nothing done by Parliament in this matter during the persistence of the sort of rights to the patronage of parliamentary seats that has existed hitherto; England is in agreement with what the Duke of Wellington said recently in the House of Lords, that 'from the year 1688' (the year of the Revolution which drove from the throne the House of Stuart with its Catholic mentality) 'until now the country's affairs have been conducted in the best and most glorious way through the union of the wealth, talents, and innumerable skills which have represented the great interests of the kingdom'.² National pride in any case keeps the English back from studying and understanding the progress made by other nations in the development of their legal institutions. The pomp and display of the formal freedom to

¹ Cf. *Ph.d.R.*, Preface, Eng. tr., p. 8.

² *Duke of Wellington's Speeches in Parliament*, vol. i, p. 410 (28 March 1831). Hegel apparently quotes from a newspaper report which is textually different.

discuss public business in Parliament, and in other assemblies of all classes and groups, and to settle these matters in Parliament, as well as the title to do so without any qualifications, inhibits in England [303] or at least does not encourage quiet reflection on and penetration into the essence of legislation and government. Few European nations are dominated by such dexterity of reasoning in terms of their prejudices and by such shallowness of principle. Fame and wealth [in England] make it superfluous to go back to the foundations of existing rights, a process to which external need, and the need of reason thereby aroused, has driven peoples who have felt existing rights oppressive.

[3. OUTLOOK FOR PARLIAMENTARY REFORM]

We return to the less material points more immediately connected with the present Reform Bill. One point of great importance, also stressed by the opponents of the Bill, is that in Parliament the various great interests of the nation ought to be represented and [the question is] what alteration this representation would now suffer as a result of this Bill.

Views on this matter seem to differ. The Duke of Wellington says¹ that, under the Bill in question, the greater part of the electors would consist of shopkeepers, and that thus the interests of trade would seem to gain advantage; but there is a general view, on which great stress is laid in the Bill's favour, that landowners and the agricultural interest will not only lose nothing of their influence, but will more likely gain a relative increase, because the proposal in relation to the electoral rights that are to be cancelled² is to give to the big cities or to the trading interest only twenty-five members, while the other eighty-one are to go to counties or the landed interest together with the smaller burghs, where into the bargain the influence of the landed proprietor usually prevails. In this matter it is especially remarkable that a number of commercial people, namely the leading bankers in London who are connected with the East India Company and the Bank of England, have declared themselves against the Bill [304]. Their reason is that, while this measure aims at establishing the representation of the kingdom on the great foundation of property and at extending this foundation, it would close the chief avenues whereby the moneyed,

¹ *Duke of Wellington's Speeches in Parliament*, vol. i, p. 411.

² 'Transferred' would be more accurate than 'cancelled'.

trading, shipping, and colonial interests have been represented in Parliament along with all other interests throughout the country and in all its foreign possessions down to the remotest corner.

These avenues are the places and small boroughs where a seat in Parliament is directly available for purchase. Consequently it was hitherto possible by the route of ordinary trade to arrange with certainty that bank directors, like directors of the East India Company, had seats in Parliament, just as the great plantation owners in the West Indies and other business men, who dominate equally great branches of trade, likewise confidently expected seats too, so that attention would be paid to their interests and those of their associates, which in any case are of course so important for the national interest in England. From the last Parliament the Bank Director Manning, who had sat there for many years, was expelled on the ground that his opponent had proved that he had used bribery in his election.¹ That the different great interests of the realm should be represented in its great deliberative assembly is a characteristic point of view in England, and in its own way it has been a fundamental article in the constitution of the older Imperial and local Estates in all the European monarchies, just as, for example in the Swedish constitution, it is still the basis of membership of the Diet. This is opposed to the modern principle in accordance with which only the abstract will of individuals as such is to be represented. It is true that in England it is the subjective whim of noblemen and others with electoral privileges that constitutes the basis of nomination to seats, and therefore the representation of interests is left to chance. But still this subjective whim counts with such importance and so momentously that the most eminent bankers are not ashamed to embark on the corruption involved in the sale of parliamentary seats and to complain in a public declaration to Parliament that these great interests would [305] find closed to them by the Bill this route for their representation in Parliament, this route which, being via bribery, was not exposed to accident. Moral considerations weaken such an important point of view, but it is a defect in a constitution to leave to chance what is necessary and to compel people to attain

¹ There is some confusion here. W. Manning was elected M.P. for Penryn (a rotten borough) in 1826. A petition was brought against his return. The House of Commons found that there had been bribery but that he was not concerned in it. He was the father of Cardinal Manning.

the necessary end by way of the corruption which morality condemns. The interests divided organically into classes, as they are in the cited example of Sweden into the classes of the nobility, the clergy, the *bourgeois*, and the peasants, no longer correspond completely with the situation in most states since the time when, as in England, the other interests mentioned above have become powerful. This discrepancy would nevertheless be easy to set aside if the earlier basis of inner constitutional law were understood once more, i.e. if the real basic constituents of the life of the state, granted that they be really distinct, and granted that substantial consideration must be given by government and administration to their distinctive worth, were to be consciously and expressly brought to the fore, recognized, and, when they were to be discussed or when decisions were to be taken about them, allowed to speak for themselves without this being left to chance. Napoleon, in a constitution which he gave to the kingdom of Italy, divided the right of representation in the sense of this outlook between *Possidenti*, *Dotti*, and *Merchanti*.

In the earlier parliamentary debates on proposals for very incomplete reforms, a principal reason raised against them, and adduced now too, was that all great interests were represented in hitherto existing [arrangements for] parliamentary seats, and that affairs, not individuals as such, should have an opportunity to express themselves and make themselves prevail. This argument is not pursued in further detail, but there seems to enter into it a point which the Duke of Wellington earnestly pressed on the Lords in his last speech, as a point overlooked alike there and in the Commons, namely that what they had to create was a legislative assembly, not a corporation of the enfranchised, a House of Commons and not a new system for its constituents.¹ If it were not a matter of the right to enfranchisement and therefore of [306] who were to be the constituents, but of the result, the creation of a legislative assembly and a Lower House, it might of course be said that such a House was constituted already in accordance with the hitherto existing law on representation. Indeed in the course of his speech the Duke cites the evidence of a friend² of the Reform Bill to the effect that the present House of Commons is so formed that no better could be elected. And in fact there lies in the Reform Bill itself no further guarantee that a House elected in accordance

¹ *Duke of Wellington's Speeches in Parliament*, vol. i, p. 406.

² Lord Lansdowne, *ibid.*, p. 407.

with its provisions and in transgression of the previously existing positive rights would be any more excellent.

These rights the Duke put in his speech on the same footing as the right on the strength of which he could as little lose his seat in the Upper House as the Prime Minister, Earl Grey, could be deprived of his properties in Yorkshire.¹ In any case the Bill contains the new principle that the privileged franchise is no longer placed in the same category with strict property rights. From this point of view we must recognize as correct that charge made by opponents of the Bill, namely that precisely in virtue of this new principle itself the Bill is downright illogical. A more personal and more offensive charge² lies in the statement that the line of demarcation by which electoral rights were to be left to privileged smaller towns was drawn in such a way as to leave untouched the boroughs belonging to the Duke of Bedford, whose brother, Lord John Russell, had introduced the Bill in the Commons. In fact the Bill is a hotchpotch of the old privileges and the general principle of the equal entitlement of all citizens (except for the external limitation of a freehold of £10)³ to vote for those by whom they are to be represented. Thus the Bill contains an internal contradiction between positive rights and an abstract and theoretical principle. Therefore the illogicality of what is derived from the basis of the old feudal law is shown up in a cruder light than if all entitlements to voting had been put on one and the same footing of positive rights.

This principle does in itself open the way for an infinity [307] of claims on which Parliament can indeed *prima facie* impose limits; carried out logically it would produce a revolution rather than a mere reform. But that such further claims may not be pressed very energetically so soon is the inference from the fact that the middle and lower classes in the three kingdoms seem to be very generally satisfied with the Bill. The so-called practical sense of the British people, its concentration on gain, subsistence, wealth, does not seem yet to have been much touched by needs for the

¹ *Ibid.*, p. 406, not Grey but Brougham, and there is no reference to Yorkshire. In any case Grey's seat was in Northumberland, but Hegel may confuse that county with Yorkshire. See below, p. 316, n. 4.

² Croker and others made this charge in the debate on leave to introduce the Reform Bill, 1-9 March 1831.

³ The basis of *borough* franchise laid down in the Bill was occupation, whether as owner or tenant, of property of £10 annual value. Hegel is mistaken here.

above-mentioned material rights. Still less efficacious in Britain is the purely formal principle of equality. The fanaticism of principles like that is foreign to the British mind. Indeed this British practical sense is involved in an immediate loss because a great mass of people lose the gain from bribes because of the rise in the voting qualification from forty shillings to two hundred.¹ If this higher class² has hitherto derived a cash advantage from its votes, it will not lose it. An M.P. elected for Liverpool has just been excluded from Parliament because the voters have been proved to have taken bribes. The electors in this city are very numerous, and it is a wealthy place; so one would expect that amongst the bribed a number of well-to-do people will have been found as well. Further, just as the big landowners knew how to make out that hundreds and thousands of their propertyless tenants were owners of a forty-shilling freehold, so this peculiar method of creating votes will operate again under the new qualification, and these same dependants will appear in the disguise of £10 freeholders. Equally unlikely, [308] despite the elevation of the qualifying freehold, is the disappearance of the numerous weeks of feasting and drinking in which the English masses, with their unbounded bestiality, were encouraged to indulge and in which they got their pay.³ At the last election but one it was stated that in the populous county of York £80,000 sterling had been disbursed for the election of a landowner there, Beaumont.⁴ In parliamentary debates it has been alleged that the election expenses have gradually become all too high; thus the question arises of how the people are to regard the fact that the rich will make savings at their expense. It is still undecided how it will stand with this matter of material advantage,

¹ There is further confusion here. While the borough franchise was based on the £10 householder, the county franchise of 40s. freehold still remained. This confusion persists in what follows. Hegel seems to have confused the provisions of the English Reform Bill with those of the Irish Bill which accompanied Catholic emancipation. In the latter the franchise qualification was elevated everywhere from 40s. to £10.

² This higher class of £10 freeholders has recently been stigmatized by the name of 'paupers' in the Upper House. [H.]

³ Reading Boumann's text.

⁴ In one of the last sittings of Parliament £120,000 was quoted as the expenditure on the Liverpool election mentioned above. [H.] T. W. Beaumont was a wealthy landowner elected for his County of Northumberland in 1818 and 1820. Defeated in 1826 he was elected again in 1830 in a contested election. County elections were expensive, if contested, as they rarely were. The Yorkshire election of 1826 was estimated to have cost £150,000.

and what new combinations the tireless speculation of agents concerned with the trade in parliamentary seats will produce; it would be too soon to make conjectures about the change which confronts this interest.

But a higher interest seems to be afforded by the franchise itself by the very fact that of itself it awakens a desire and a demand for its more general distribution. Nevertheless experience proves that the exercise of the right to vote is not so attractive as to provoke strong claims or the movements to which they give rise. On the contrary, what seems to prevail in the electorate is great indifference, despite the associated interest derived from the receipt of bribes. From the large class of those who lose their votes because of the raising of the electoral qualification¹ or whose rights are weakened because their votes are cast [along with those of] the general mass of voters in the county, no petitions against a Bill so disadvantageous to them have come forward. On the other hand, the protests that have been raised come from those whose certainty or probability of election to a seat in Parliament has been impaired or altogether lost. By an Act of Parliament a year ago the freehold qualification for a vote in Ireland was raised and as a result 200,000 persons lost their votes, [309] without their making any complaint about this loss of their qualification for participating [as voters] in affairs of state and government. In any event, the electors see in their right a property which accrues to the benefit of those alone who wish to be elected to Parliament and on the altar of whose personal opinion, whim, and interest everything implicit in this right of participating in government and legislation is to be sacrificed.

The chief election job for which candidates recruit agents acquainted with localities and personalities, as well as with the way of handling them, is to hunt out electors and bring them forward, especially by bribery, to cast their votes in favour of their patrons. The great landowners get their crowds of tenants herded to the poll, some of them, as was said above, being disguised for the moment as owners of the requisite freehold. Brougham humorously described a scene at his former election where tenants were camped in courtyards with fires, pudding, and porter and, to withdraw

¹ Once again the same confusion between the Irish Bill and the English. Under the latter only non-resident voters were disqualified; in other instances the franchise was continued to possessors during their lifetime.

them from the influence of the opposition, locked up until the very moment when they had to cast their obedient vote. This indifference to the franchise and its exercise is in the highest degree in contrast with the fact that it is in this right that there lies the right of the people to participate in public affairs and in the highest interests of the state and the government. The exercise of this right is a lofty duty, because there rests on it the constituting of an essential part of the public authority, i.e. the representative assembly, because indeed this right and its exercise is, as the French say, the act, the sole act, of the 'sovereignty of the people'. From this indifference to the franchise we can easily draw an indictment against a people on the score of its political obtuseness or corruption, just as we can from the custom of bribery when the right to vote is exercised. Yet this harsh judgement must be softened if we ponder what must obviously contribute to such lukewarmness: namely, the sense that amongst the many thousands of votes cast at an election a single vote is actually insignificant. [310] Out of the approximately 658 members who are to be elected to the House of Commons or the 430 to be elected to the French Chamber (the forthcoming changes to be made in these figures do not matter here) it is only one member who is to be chosen [in a given constituency] and this is a very inconsiderable fraction of the total number: but the single vote is an even more insignificant fraction of the total of 100 or 1,000 votes which secure *one* member's election. The number of voters to be on the roll under the new French electoral law is assessed at 200,000; the number of members to be elected is given in round figures as 450. It follows that one vote is a two-hundred-thousandth part of the total voting power and the ninety-millionth part of one of the three branches of the legislative power.

The individual scarcely brings to mind in figures like these the triviality of his effectiveness, but nevertheless he has a definite inkling of this quantitative insignificance of his vote, and the quantitative consideration, the number of votes, is here what in practice is alone decisive. Of course the qualitatively¹ high considerations of freedom, duty, exercise of sovereign rights, participation in general affairs of state, may be emphasized against indolence. [But] sound common sense is glad to stop at what is effective. If

¹ Reading *qualitativem* with Boumann. Lasson and Hoffmeister both read *quantitativem*, but this must be a misprint or a *lapsus calami* of Hegel's.

the individual has brought before him the usual story that, if *everyone* thought so indolently, the state's existence and, above all, freedom itself would be jeopardized, he is bound to remind himself just as much of the principle on which his duty and his whole right to freedom is built, namely that he should let himself be guided not by considering what others do but solely by his own will, and that what is finally decisive for him, what is even duly acknowledged as his sovereign, is his own individual volition.

In any case this influence, in itself so trivial, is restricted to [influence on the choice of] *persons*, and it becomes infinitely more trivial by reason of the fact that it has no bearing on the *thing*; indeed the latter is expressly excluded [from popular influence]. Only in the French democratic constitution of the year III under Robespierre—a constitution adopted by the whole people but of course all the less [311] carried into effect—was it prescribed that *laws* on public affairs were to be brought before individual citizens for confirmation.

Further, the electors are not even constituents giving instructions to their delegates. The programmes which the members of the National Assembly took with them from their election were at once cast aside and forgotten by both parties. It counts as one of the most fundamental constitutional principles in England and France that members, once elected, are just as sovereign in casting their parliamentary votes as their electors were when they cast *their* votes. In both countries members in their deliberations and resolutions on public business do not have the character of officials and they share with the King what is sanctioned for him, namely answerability to no one for the fulfilment of their duties.

In consequence of the feeling of the actually trivial influence of an individual and his sovereign choice (which is tied up with the franchise), experience teaches that elections are not in general attended by many. The numbers, that we sometimes find in newspapers, of those legally entitled to vote and of those who actually cast a vote at an election have usually been obviously very different from one another in the turbulent days of Charles X's¹ last years on the throne. In the most recent election held in the centre of political interest, i.e. in Paris, where the parties seem to have shown no lack of zeal in summoning the electors to cast their votes, it was stated that of about 1,750 voters some 600 did not put in an

¹ King of France, 1824-30.

appearance. In this connexion it might be interesting to get to know the average proportion of voters to votes actually cast in other areas where all the citizens are enfranchised and where the franchise affects a much nearer interest of theirs, e.g. in elections for choosing town councillors in Prussia.

In the earlier years of the French Revolution the zeal and the behaviour of the Jacobins at elections disgusted peaceful and decent citizens and even made it dangerous for them to cast their votes. So faction alone held the field.

While [312] the great political bodies which are now making decisions about the franchise think that they are fulfilling a duty of high justice by enlarging the external qualifications for this privilege and granting it to a larger number of people, they do not reflect that they are thereby diminishing the influence of the individual, weakening his idea of its importance and consequentially his interest in exercising this right. Still less do they ask themselves how any political power at all comes to dispose of this right of the citizens by taking into consideration fifty or a hundred francs or so many pounds sterling and altering this right in accordance with amounts like these. This right in its essential character is accepted as sovereign, elementary, inalienable; in short as the opposite of something which can be bestowed or taken away.

The so well-reputed sound common sense of the English people makes individuals feel the insignificance of the influence they exercise on public affairs by their single votes. Moreover, this same common sense gives them a proper sense of their general ignorance and their slender capacity for judging the talents, acquaintance with business, skill, and education required in high officers of state. Is it to be supposed that such a great increase in capacity is involved in possessing a freehold of forty shillings or ten pounds or paying two hundred francs in direct taxes (whether the additional centimes are reckoned in or not)? The rigidity of the French Chambers in disregarding any qualification except that which is supposed to lie in the 200 francs (with or without the additional centimes), and ascribing this qualification solely to members of the Institute, is characteristic enough. The formalism of respecting the 200 francs has obliterated respect for the capacity and good will of prefects, councillors, doctors, advocates, &c., who do not pay so much in taxes.

Moreover, the voters know that, on the strength of their sovereign

right, they are exempt from having to have in advance a judgement on, or indeed an examination [313] of, the candidates and that they have to decide without anything of this kind. Thus it is no wonder at all that in England a great number of individuals—no matter whether a majority of them—require to be stimulated by the candidates before they will take what is to them the trifling trouble of voting, and for their trouble, which advantages the candidates, they have to be compensated by them with badges, roasts, beer, and a few guineas. The French are newer in this political path, and they have not yet sunk so far into this sort of compensation, doubtless through the pressure of the vital interests of their situation which has not yet been deeply consolidated and which indeed has become one of the most deadly danger. But since they have been roused to take things and their share in them more seriously, they have seized a share in things for themselves in insurrections, clubs, associations, &c., and have thus gained a right and found compensation for the triviality of the part which their individual sovereignty plays in public affairs.

[4. THE DIVISION OF THE POWERS OF GOVERNMENT]

The peculiarity, which has just been touched on, of one power in England which is supposed to be subordinate and whose members yet make decisions on the whole of the affairs of state without being instructed, without accountability, without being officials, is the basis of a relationship with the monarchical part of the constitution. Mention must be made of the influence which the Reform Bill may have on this relationship and on the governing power in general. For considering this matter it is necessary first to recall the most immediate consequence of the peculiarity which has been referred to, namely that in England the power of the Crown and the power of government are very different from one another. To the power of the Crown there belong the most important branches of the supreme control of the state, especially those with a bearing on [314] other states, the authority to make war and peace, control of the army, the appointment of Ministers (though it has become etiquette for the monarch to appoint directly the Prime Minister only, while the latter puts together the rest of the Cabinet), the appointment of army commanders and officers, of ambassadors, &c. Yet it is to Parliament that there belongs the sovereign decision on the budget (including even the sum allowed for the

maintenance of the King and his family), i.e. on the entire range of the means for making war and peace and having an army, ambassadors, &c. Moreover, a Ministry can only govern, i.e. exist, in so far as it falls in with the views and the will of Parliament. Thus the share of the monarch in the power of government is more illusory than real and the substance of this power lies with Parliament. Siéyès had a great reputation for deep insights into the organization of free constitutions. At least, at the transition from the directorial to the consular constitution, Siéyès was able to extract from his papers the plan which was to give France the enjoyment of his experience and profound reflection; it is well known that this plan put at the pinnacle of the state a head to whom was to accrue the pomp of representation in other countries and the appointment of the supreme state counsellor and the responsible Ministers as well as their subordinate officials.¹ Thus the supreme power of government was entrusted to this state counsellor while the *Proclamateur-électeur* was to have no share in it. Napoleon felt himself made master and ruler; we all know his soldier-like judgement on this project for such a chief, in whom he saw only the role of a *cochon à l'engrais de quelques millions*, a role that no man of talent and honour would find himself undertaking. In this project something was genuinely overlooked which in others has been arranged with full awareness and deliberate intention, i.e. that the naming of Ministers and the other officials of the executive is in itself something formal and powerless and that in substance it falls to wherever the power of government effectively is. In England we see this power in Parliament; in the numerous monarchical constitutions created [315] in our experience, the formal separation of the power of government, as the executive, from a power which is *purely* legislative and judiciary is explicitly declared, and the former power is even set out with pomp and distinction. But the nomination of the Ministry has always been the centre of dispute and contention, despite the unconditional ascription to the Crown of this right of nomination; and the so-called 'purely' legislative power has carried off the victory. Even in the latest French constitution the government has soon seen itself compelled to transfer

¹ 9 Nov. 1799. In 1797 Siéyès had drawn up a constitution in which he proposed a Grand Elector who was to reside in state at Versailles and represent the country to foreign powers but have no immediate authority except that of nominating the two Consuls who were to exercise the actual powers of government.

its headquarters to the Chamber of Deputies, where it has been brought even to the point of having to enter into public disputes with its subordinate officials.

Connected above all with the fact that the power of government lies in Parliament is an argument advanced by the opponents of the Reform Bill on behalf of the boroughs through whose possession many parliamentary seats rest with single individuals or families, namely that it was by means of this fact that England's most distinguished statesmen had found their way to Parliament and thence to the Ministry. It may well be a fact that a remarkable and profound talent has often before now been recognized by private friendship and is in the position of being able only through some individual's generosity to attain the due place which otherwise it could not achieve in view of the deficient resources and family connexions of the mass of the citizens in a town or county. But examples of this kind may be ascribed to the realm of chance where one probability may easily be set against another, and a possible advantage against a possible disadvantage.

Connected with this is another ostensible consequence of great importance to which the Duke of Wellington drew attention. (He has not the look of an orator because he lacks what has given many Members of Parliament such a great reputation for eloquence, namely an easy-flowing loquacity continuing for hours at a time and remarkably rich in self-display. But the Duke's speeches with their disjointed sentences, for which he has been reproached, are not lacking in substance or in points that go to the root of the matter.) He expresses his fear that, in the place of those to whom the care of the public interest is now entrusted in Parliament, [316] altogether different men will arrive, and he asks once again whether, as was quoted above, the shopkeepers, of whom in his view the great majority of the voters will consist as a result of the new Bill, are the people who ought to elect the members of the great national council which has to make decisions on domestic and foreign affairs, on the interests of agriculture, manufacture, and colonies.

The Duke speaks from observation of the English Parliament where above the mass of members who are incompetent and ignorant, with a veneer of current prejudices and a culture drawn from conversation and often not even that, there stands a number of brilliant men wholly devoted to political activity and the interest of the state. To the majority of the latter a parliamentary seat is

guaranteed partly by their own wealth and the influence which they themselves or their family have in a borough, city, or county, and partly through the influence of the Ministry and then through their party friends.

To this class there belongs a number of men who make political activity the business of their life. This may be because it is their predilection and they have private means, or because they occupy public positions which they have obtained through a connexion with parliamentary influence. Even if they have obtained them by other means, still, either because of their official position or because of their general inner vocation, they cannot neglect attaching themselves to a party and to the class of politicians. Where the service of the state is not tied to other qualifications, for example a degree, passing a government examination, undergoing a course of preliminary training in affairs, &c., a man must be incorporated into this class; he has to create some importance for himself there; he is carried by its influence, just as correspondingly his influence accrues to it. There are a few anomalous cases of individuals isolated from any party connexion, e.g. Hunt,¹ but when they come into Parliament they do not fail to make a strange figure there.

Other bonds of the political class—family connexions, political conversations and speeches at dinners, &c., the endless and world-wide [317] exchange of political correspondence, even the social gadding about to country seats, horse-races, fox-hunting, &c.—will of course not be disturbed. But one chief element in the power of this class, namely the disposal of a number of parliamentary seats, does suffer through the Reform Bill an important modification which may well have the effect which the Duke mentions, i.e. many other individuals will appear in place of those belonging to the present circle of those devoted to the interest of the national government; but this is likely to bring as its sequel a disturbance of the uniformity of the maxims and considerations of that class, and these constitute the brains of Parliament. To be sure it does not appear that Hunt, for example, despite his isolation, goes beyond the usual notions of the oppression of the people by taxes, sinecures, &c., but, as a result of reform, the route to Parliament may be open to ideas which are opposed to the interest of this class and which therefore have not yet entered its head. Ideas, I mean, which make up the foundations of a real freedom and which affect

¹ Henry ('Orator') Hunt, 1773-1835, M.P. for Preston, 1830-3.

the matters above-mentioned—ecclesiastical property and organization, duties of the clergy—as well as the manorial and other bizarre rights and property restrictions derived from feudalism, and further sections of the chaos of English laws. In France these ideas have been intermixed with many further abstractions and bound up with the violent upheavals familiar to us all. But unalloyed, they have for long past in Germany become fixed principles of inner conviction and public opinion, and have brought about the actual peaceful, gradual, and legal transformation of the [old feudal] rights.¹ The result is that here we have already made great progress with the institutions of real freedom; the most important of them we have established and enjoy already, while the governing power of [the English] Parliament has scarcely yet brought them seriously to mind. From the pressing claims of these principles and from the demand for their immediate realization England might indeed have to fear an extreme shattering of the bonds of its social and political life. In England the contrast between prodigious wealth and utterly embarrassed penury is enormous; just as great, perhaps still greater, is that between, on the one hand, the privileges [318] of its aristocracy and in general the institutions of its positive law and, on the other, the rights and laws as reconstituted in the civilized states of the Continent and the principles which, being grounded on universal reason, cannot always remain so foreign, even to the English understanding, as they have been hitherto.

The *novi homines* who, the Duke of Wellington fears, will worm their way into the place of the present statesmen may well find in these principles the strongest supports of their ambition and their attainment of popularity. In England it is impossible for these principles to be adopted and carried into effect by the government, which has hitherto been in the hands of the privileged class. Consequently their advocates would inevitably come on the scene only as an opposition to the government and the existing order of things; and the principles themselves would have to appear not in their practical truth and application, as in Germany, but in the dangerous form of French abstractions. The antithesis between *hommes d'état* and *hommes à principes* which appeared in France at the beginning

¹ Hegel thinks of reforms and codifications of law, abolition of serfdom, grant of self-government to Estates, &c., which took place in Germany after 1789. These reforms were French-inspired, but they were the work of absolute princes and their officials and not of representative bodies. See G. P. Gooch, *Germany and the French Revolution* (London, 1920), pp. 515 ff.

of the Revolution in just as sharp a form has not yet set foot in England; but it may well be introduced as a result of opening a broader way to seats in Parliament. The new class may all the more easily get a footing, since the principles as such are simple in nature and so can be quickly grasped by the ignorant. Since in addition, on the strength of their universality, these principles have a claim to adequacy for everything, they suffice in a man of a certain slenderness of talent, and a certain energy of character and ambition, for the requisite all-attacking rhetoric, and they exercise a blinding effect on the reason of the masses who are just as inexperienced in these matters. On the other hand, the knowledge, experience, and business routine of *hommes d'état* cannot be so easily procured, and these qualities are just as necessary for applying rational principles and introducing them to life as it is lived.

However, the introduction of such a new element would not only disturb the class whose members have the state's business in their hands; it is the power of government [319] which would be thrown off the rails. This power, as has been said, lies in Parliament; however much it is divided into parties and however great the passion with which they confront one another, still equally so little are they factions. They stand within the same general interest, and hitherto a change of Ministry has had important consequences rather in relation to foreign affairs, to war and peace, than in relation to domestic affairs. The principle of monarchy, on the other hand, has little to lose in England. The resignation of Wellington's Ministry is well known to have been brought about as a result of the minority in which it found itself on the motion¹ about the adjustment of the Crown's Civil List—an occurrence of special interest because it affected one of the few things left to the monarchical principle in England.² The remains of the Crown lands, which yet had the same character of family property, the private property of the royal family, as the properties of families of dukes, earls, and barons in England, were handed over to the exchequer in the last century, and in compensation a fixed sum corresponding to their revenues was set aside in the budget voted for other purposes annually by the House of Commons. This

¹ Actually to refer the Civil List to a committee of the House of Commons.

² Here Hegel's political knowledge and insight fail him. He knew that the King's appointment of Ministers was only formal (see above [314]), but he does not seem to have known of the conventions about votes on the Civil List.

landed property, the miserable remains of the earlier great wealth of the throne which was so seriously diminished by extravagance, especially through purchasing troops and baronial support in civil wars, had not been split into what was to remain family property and what was to be spent for the general purposes of the state. Now the characteristic of family and private property which belonged to one part of that remaining wealth had already been altered, at least in form, as a result of that property's having changed from land into a compensating sum included in the annual parliamentary budget. Nevertheless there still remained an appearance of monarchical influence on this small part of the annual British expenditure, even though this influence was subject to the Cabinet. Even this relic of regal control has been abolished by Parliament's recent decision to separate one part which is set aside under the King's control for expenditure on himself and his family and to leave the rest, hitherto already spent on national purposes, to disposal by Parliament. [320] In this connexion it must not be overlooked that the majority which was strong enough on a monarchical matter to bring about the resignation of Wellington's Ministry¹ was, as is well known, a majority of only *one* at the second reading of the Reform Bill² which is directed against the prerogatives of the aristocracy.

What can be regarded as characteristic for the position of the monarch in the constitution is the reproach cast at the Ministry in connexion with the Catholic Emancipation Bill as well as in debates on the Reform Bill, namely that it had allowed the King's partly given consent to these measures to become public. There was no question of the exercise of monarchical omnipotence or of a so-called *coup d'état*. What is found improper is only the authority or influence which a personal remark of the King could exercise. On the one hand by its action the Ministry vindicated its delicacy by avoiding in the management of a Bill the embarrassment of going contrary to the King's will. But the situation equally clearly implies that even in the matter of the initiative accruing to the monarchical element, the throne, Parliament wishes to deal solely with a Ministry dependent on and incorporated with that element, and strictly only with its members, since only in that capacity can

¹ Nov. 1830; a motion for a committee to examine the Civil List was carried against the government by a majority of 29.

² 22 March 1831. 302 for, 301 against.

Ministers move a Bill. Thus the right accruing to the King, as the third branch of the legislative power, of confirming or rejecting a Bill accepted by both Houses becomes all the more illusory in that the Cabinet is once again the same Ministry embodied in Parliament. Earl Grey has said,¹ in reply to that reproach, that the Ministry's introduction of the Bill did have the King's agreement in advance, but that the Ministry was exonerated from the blame of saying outright that the King's agreement had been secured, simply by the fact that this statement had not come from Ministers but from elsewhere.

Thus the special dissension which might be introduced into Parliament by the presence of *novi homines* would not be the struggle with which each of the numerous French constitutions began every time about whether the power of government was actually to be given to the King and his Ministers, these being those [321] to whom it was ascribed in words. In the English political administration as it exists there has been settled very long ago what in France has always first needed a decisive and authentic interpretation through the insurrection and violence of an insurgent people. Thus the reintroduction of the Reform Bill can only touch the effective power of government established in Parliament. On the situation existing hitherto, this power suffers purely superficial variations appearing as changes of Ministries, and no genuine dissension on principles. A new Ministry belongs itself to the same class of interests and the same group of statesmen as its predecessor. The necessary preponderant strength that it needs as a party it gains partly through the number of members who count as independent and who on the whole take the side of the Ministry, feeling that a government there must be, but also partly through the influence it may be able to exercise on appointments to a number of parliamentary seats. Now even if the so-called agricultural interest seems to have declared that it will find its account in the mode of election which is to be newly introduced, and even if a great part of the former patronage of parliamentary seats and the combinations for their purchase retain their position, still there is no escaping the fact that the class that has hitherto dominated Parliament, the class that afforded to every Ministry ready-made material for [maintaining] the existing system of social life, will suffer modification as a result of introducing new men and different

¹ 28 March 1831 in the House of Lords.

principles. The Reform Bill in itself encroaches on this system, i.e. on the principle of purely positive rights which secures the possession of privileges, no matter what relation, if any, they may have to the rights of real freedom. When claims of a new kind, which hitherto have scarcely come to halting and involuntary expression and have been not so much demanded as vaguely feared, come to be increasingly discussed in Parliament, the opposition changes its character: the parties have an object other than that of getting the Ministry.

If we grasp this hitherto different character of an opposition as it appears in its extreme in France, it is most distinctively expressed in [322] the surprise, expressed recently in France at every change of Ministry, that individuals coming out of opposition into power now acted on almost the same maxims as their supplanted predecessors. In French opposition newspapers we read naïve complaints that so many excellent individuals become backsliders as a result of their progress through office and become false to the left to which they belonged earlier, i.e. that, while of course they had previously granted *in abstracto* that there had to be a government they have now learnt what government really is and that something more is needed for it than principles. These, as we all know, consist of general ideas about freedom, equality, the people, its sovereignty, &c. For men of principles, national legislation is in essence more or less exhausted by the *droits de l'homme et du citoyen*, framed by Lafayette and the model for the earlier French constitutions. A more fully detailed legislation, an organization of the powers of the state and the hierarchy of administrative officials, and the subordination of the people to these public authorities, was of course accepted as necessary and was drawn up. But instead of that activity of institutions in which public order and genuine freedom consists, recourse was had once more to these generalities which, by what they demand in the way of freedom, make constitutional law self-contradictory from the start. Obedience to law is granted to be necessary, but when demanded by the authorities, i.e. by individuals, it is seen to run counter to freedom. The right to command, the difference arising from this right, the general difference between commanding and obeying, is contrary to equality. A multitude of men can call itself a 'people', and rightly, because 'people' is just this indefinite multitude; but authorities and officials, in general the members of the organized power of the

state, are different from the 'people', and they are therefore to be in the wrong; they have forsaken equality and they stand over against the 'people' which has the infinite advantage of being recognized as the sovereign will. In the circle of this extreme contradiction a nation revolves once it has been dominated by these abstract categories. [323] The members of the English Parliament under the existing system, and Englishmen in general, have a more practical political sense and they have an idea of what government and governing is. Yet it also lies in the character of their constitution that the government as good as does not encroach at all on the particular circles of social life, on the administration of counties, cities, &c., on ecclesiastical and educational establishments, and even on other public concerns such as road-making. This freer and more concrete condition of civil life may add to the probability that abstract principles of freedom will not so soon find in the class above the lower one (which in England is of course extremely numerous and which in general is most open to these abstractions) the welcome which the opponents of the Reform Bill represent as threatening immediately.

But should the Bill, on account of its principle rather than of its terms, open the way to Parliament, and so into the heart of the power of government, for principles opposed to the system existing hitherto, these principles might appear there with greater influence than radical reformers have been able to gain up till now. If so, the battle would threaten to be all the more dangerous, in that between the interests of positive privilege and the demands for more real freedom there stands no higher mediating power to restrain and adjust the dispute. In England the monarchical element in the constitution lacks the power which in other states has earned gratitude to the Crown for the transition from a legal system based purely on positive rights to one based on the principles of real freedom, a transition wholly exempt from earthquake, violence, and robbery. The people would be a power of a different kind; and an opposition which, erected on a basis hitherto at variance with the stability of Parliament, might feel itself no match for the opposite party in Parliament, could be led to look for its strength to the people, and then introduce not reform but revolution.