



Introduction

R. W. DAVIS

THERE WAS NOTHING INEVITABLE about the growth of modern freedom in the West. Around 1000 A.D., at the beginning of the medieval period, there were no signs that would foreshadow it. Poor, politically fragmented, and culturally backward, the West was simply not in the same class as the great empires to the east, the Moslem and the Chinese. If anything important were to be expected, it would have been only reasonable to expect it from them.

Yet 500 years later, the West was transformed. It was rich, powerful, and culturally alive. It was not politically united, but the monarchical states into which it was divided were formidable in their own rights. And within them, too, there had been a blossoming of political forms. The towns, built by their own trading activities, were to a large degree governed by their own citizens. Representative institutions, parliaments and estates, had grown later than the towns, and in part to draw them into the system of feudal government. True, save in England and what would become the independent Netherlands, representative bodies were beginning to face adversity by the end of the fifteenth century; but in those two countries they were flourishing. The protection of the law had long been extended to property; now courts of law, especially in England, became increasingly concerned with the protection of people. How does one account for the transformation? Douglass C. North answers this question in "The Paradox of the West," the first chapter of this volume.

The Greeks are usually seen as the original progenitors of freedom. As the first to devise civil and political liberty, they obviously have a strong claim to the title. Beyond that, they were also the first to have a word, *eleutheria*, for the concept. Often, however, those who borrow concepts see things through the spectacles of

their own times, which distort the original meaning or purpose; this certainly has been true of borrowing from the Greeks. What is the history of the word *eleutheria* in its own time? When did it assume a meaning similar to freedom, and why? Martin Ostwald in chapter 2 examines this question.

When one thinks of the medieval Church, one is likely to think first of a great spiritual institution. That it unquestionably was, but it was much else besides. The Church's spiritual power endowed it as well with great political power, making it an important and effective check on the assumption of despotic power by the state. The Church also provided a model of government for secular bodies, which imitated its choosing of its functionaries by election, and adopted representative institutions as suggested by the Church councils. By perpetuating Roman traditions of popular election and inspiring representative government, the Church was vital to the development of modern freedom, as Brian Tierney demonstrates in chapter 3.

The earliest secular institutions to follow the example of the Church in shaping their own governments were the towns of Italy. Public officials were elected. The number of those eligible for election tended to be large. The franchise was usually broad, and was often democratic. As might be expected, the resulting town governments provided effective protection to private property and other institutions essential for the carrying on of business. But they protected life as well as property. Though more dependent on outside authority than in Italy, towns elsewhere showed similar characteristics. They were the initial training grounds for laymen in the practice of free government, as John Hine Mundy shows in chapter 4.

As the towns were waxing wealthy, monarchs in the thirteenth and fourteenth centuries began to feel distinctly needy. The reason was costly and almost continuous warfare, which put impossible strains on traditional and not easily expandable revenues. The obvious solution was to tap the resources of the towns and of better-off rural residents. But these elements in society were made up of people who had long enjoyed considerable independence of thought and action. They could not easily be bullied. It made much more sense to gather their representatives together for negotiation over taxation and grievances. Such was the background of parliaments and estates all over Europe, as H. G. Koenigsberger demonstrates in

chapter 5, the first of two on the subject that he has written in this volume.

In England in the seventeenth century parliamentary legislation would become the major vehicle for protecting the liberties of the subject. Before that, however, the common law courts were the main arena for such advances in freedom as took place. Two developments of outstanding importance for the making of modern freedom were the gradual whittling away of villeinage, and the growth of due process by such devices as habeas corpus. Most basic perhaps, psychologically as well as legally, was the disappearance of villeinage, which by 1600 left all Englishmen "free men." Habeas corpus protected the individual against arbitrary imprisonment by forcing state authorities to show just cause in a timely fashion. Both developments represented significant strides toward the modern conception of freedom dedicated to providing equal protection for all individuals. Unlike the common law in England, other systems of law seem not to have had much in the way of procedures for securing liberty: certainly nothing resembling habeas corpus. Nor did they have the flexibility to end servile status, which was thoroughly entrenched in Roman law, except by legislation. J. H. Baker in chapter 6 examines the key developments in the common law.

The Renaissance and the Reformation likewise promoted ideas of individual worth by exalting human potential. Briefly put, the Renaissance encouraged people to have faith in their ability to look after themselves in this world; while Reformation theology encouraged the belief that their passage to the next was a matter between them and God alone. Beyond putting a greater emphasis on the individual and what he or she could accomplish, the Reformation also encouraged the growth of ideas of freedom in more specific ways. John Calvin particularly, with his doctrine that lesser magistrates had both a right and a duty to lead in restraining and even overthrowing rulers who defied God's will, put a significant check on temporal authority and its power to command its subjects. William Bouwsma examines these kinds of questions in chapter 7.

In the main, resistance theories such as Calvin's were brought into play against the several monarchies that had emerged from the chaos and confusion of the fourteenth and early fifteenth centuries, physically strengthened by enhanced revenues and military might and psychologically more secure through the veneration of their

subjects. Donald Kelley in chapter 8 first discusses the position of monarchs. He then turns his attention to the resistance theories with which they would have to contend in the later sixteenth and seventeenth centuries. In the course of that century and a half a queen of Scotland was forced to abdicate; a king was deposed and a new state established in the Netherlands; two kings of France were assassinated; one king of England was beheaded by the public executioner, and his second son forced into exile and supplanted by heirs more congenial to Parliament. All of these actions were taken in the name of liberty exercised under God's sanction, and seen as just retribution for unregenerate monarchs. Resistance theories obviously provided powerful arguments. Nor was their day done; they would continue to be important, most notably as furnishing the fundamental theoretical underpinning for the French Revolution.

Parliamentary institutions were to be of central importance in the two countries in which one can discern clear, albeit incomplete, outlines of the existence of modern freedom at the beginning of the seventeenth century. Nor was the connection between freedom and parliamentary institutions merely coincidental. The Dutch States General was carefully designed, mainly through the necessity of referral back to the provincial estates, in such a way as to make it no threat to Dutch liberties. The English Parliament, as has been suggested, made itself the champion of liberty during the seventeenth century, for reasons which are explored in detail in the volume after this one. H. G. Koenigsberger, in his second chapter, examines Dutch and English parliamentary institutions and their importance for freedom in the early modern period. At the same time, by comparing them with similar institutions elsewhere in Europe and carrying his investigation up to 1700, he is able to put them in a broad context and suggest the reasons for their survival and success. Professor Koenigsberger argues that the explanation is more a question of contingencies than of a special Dutch or British genius for parliamentary government.

It will not have escaped the reader's notice that the chapters in this volume touch on all the freedoms enumerated in our definition. Though it would have been anathema to Luther and Calvin, in the doctrine of every believer's direct relationship with God (Luther's "priesthood of all believers") lay the seed of the doctrine of religious liberty. Among its political liberties, ancient Athens allowed every

citizen freedom of speech in the Assembly; as the English Parliament did every member in the sixteenth century. The early modern English courts were developing safeguards against capricious authority, as in habeas corpus. Medieval towns were very much concerned with freedom to produce and exchange goods and services. And institutions of church, state, and municipal government were developing mechanisms which would allow popular participation in the political process.

While all the parts were there, the sum in 1600 was still not modern freedom. Though freedom of speech of a sort existed in Athens, Socrates still had to drink the hemlock; and members of Parliament who, in the opinion of the monarch, carried their own freedom of speech too far were still forcibly reminded that it had limits. Yet though modern freedom was still unformed, it was from the earlier materials touched on that it was to be fashioned. This volume discusses the major building blocks appropriated from the ancient and medieval periods.