

kins' first Cabinet Tea. A once-a-month obligation, these affairs presumed the Secretaries active at work, the wives their traditional representatives. But here was Miss Perkins both hostess and symbolic host—a notable hermaphroditic feat not commented on by any of the social historians.

In the concluding chapters of the book, in his summation of the President, Schlesinger achieves his most balanced piece of writing. During the last several decades of our Freudian era, with Roosevelt's love and hate affair with the American people still simmering, the what-manner-of-man query has provoked a bevy of answers. He has been interpreted in terms of the country squire, of family tradition, of Groton, of Harvard, of the overly protective mother, of his crippling illness and the characteristics acquired in its mastery. (The indefatigable optimistic energy of Eleanor Roosevelt seems, however, to have much the same texture.) For Emil Ludwig, Roosevelt is nothing short of a divinity, a democratic divinity, of course.<sup>11</sup> Jim Farley speaks of a man made arrogant by power.<sup>12</sup> Donald Richberg delights in calling attention to immaturity, to the perennial boy. (Note, he says, the passion for stamps and ship models.)<sup>13</sup> John Gunther, although awed by Roosevelt's courage and energy, finds feminine his compulsion to exercise charm.<sup>14</sup> Frances Perkins sees him as the creative artist—not the classical, but the modern artist, who, according to her, works through automatism.<sup>15</sup> Rexford Tugwell follows the master politician from his early years to what he knew was his fate-destined place in the White House.<sup>16</sup> Arthur Schlesinger approaches his subject as the Great Enigma, and then proceeds to give the least enigmatic account of the Roosevelt temperament that has yet been done.<sup>17</sup> Enigma, perhaps—but aren't we all? Schlesinger's portrayal has the competent journalist's deftness and the major biographer's feel for character and motivation. It is the most credible statement so far of this fallible man's greatness.

FLORENCE KIPER FRANK

ELIZABETH I AND HER PARLIAMENTS: 1584-1601. By J. E. Neale. New York: St. Martin's Press, 1957. Pp. 452. \$6.00.

SIR JOHN NEALE has hunted Elizabethan parliamentary documents all of his professional life. In this volume, and in the preceding one which encompassed the years 1559-1581,<sup>1</sup> he integrates diaries, letters, manuscripts of speeches, and

11. See LUDWIG, ROOSEVELT (1938).

12. See FARLEY, JIM FARLEY'S STORY (1948).

13. See RICHBERG, MY HERO 294 (1954).

14. See GUNTHER, ROOSEVELT IN RETROSPECT 34-36 (1950).

15. See PERKINS, THE ROOSEVELT I KNEW 163 (1946).

16. See TUGWELL, THE DEMOCRATIC ROOSEVELT (1957).

17. Ch. 35.

1. NEALE, ELIZABETH I AND HER PARLIAMENTS: 1559-1581 (1953) [hereinafter cited as Volume I].

other documents. It takes the place of the Congressional Record and the newspapers of that era. This is strenuous reading, and the author is not subject to Elizabeth's rebuke to her Puritan parliamentarians, that their "preaching tendeth only to popularity."<sup>2</sup> But to persons interested in law and government, in how our institutions came to be what they are, these books are full of meaning. "Lord Chancellor Hatton danced, and that is all we know of him," wrote Lytton Strachey.<sup>3</sup> Professor Neale has brought him to life as an able and effective parliamentary leader during eighteen years. The personalities and daily life of the Elizabethan House of Commons are vividly portrayed. Gone are the illusions that early Stuart parliaments had no roots in the sixteenth century, that the seeds of the cabinet system were not sown before Walpole, and that cold war was born in the twentieth century.

During Elizabeth's reign from 1558 to 1603, we are privileged to trace in the calendar of events what the author calls "the happy adolescence" of the English Parliament.<sup>4</sup> We may watch its instinctive reach for new powers, opposed by the Queen's determination to maintain the royal prerogative. Her political sense caused her to yield many times, however, to the aspirations of her loyal and affectionate, but troublesome House of Commons, which was in process of becoming, in the prophetic words of a contemporary M.P., a member of the Trinity: Queen, Lords, and Commons.<sup>5</sup> The tactic of obtaining executive favors before voting taxes grew, until in 1601 it was openly advocated as a matter of policy.<sup>6</sup> The Crown in earlier times was supposed to live off its own, and, although the summoning of Parliament to approve the raising of money to meet extraordinary burdens had become customary before the beginning of Elizabeth's reign, Neale's book shows us this custom becoming firmly entrenched, along with the stern ritual that measures to raise revenue must originate in the lower house. Originally, all legislative proposals were supposed to be introduced by the Government, and freedom of speech at the maximum, to Sir Thomas More in 1523, consisted in the right of members to talk against them.<sup>7</sup> But by the accession of Elizabeth, freedom of speech had become a vague phrase into which the pioneers of the new era could read, according to the Queen, "whatever seemed meetest to their idle brains."<sup>8</sup> The Commons were able—though members were consigned from time to time to live in the Tower of London—to push the boundaries of free speech far beyond opposition to royal proposals by the end of the reign, drawing unhistorically, but effectively, on Magna Charta and other precedents to support their innovations.

The development of successful insistence upon privileges by members of the Commons is impressive. As the sessions of Parliament convened (there were

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2. P. 70.

3. STRACHEY, *ELIZABETH AND ESSEX* 7 (1928).

4. P. 438.

5. Volume I, at 19.

6. See p. 415.

7. Volume I, at 17-18.

8. Volume I, at 19.

thirteen sessions, averaging less than ten weeks in length, during Elizabeth's forty-four year reign), the Speaker became accustomed to petition the Crown for the privileges of the members of the House. These petitions were granted in general terms, though sometimes grudgingly, unless the Queen felt that similar privileges had recently been abused. Among the privileges asserted, though not always successfully, were freedom of members from arrest (by the sovereign for becoming obstreperous, or by the sheriff for debt while sitting at Westminster or going to or from sessions), as well as the right of the House to seat and control the attendance of its own members and, indeed, to imprison its own members for offenses against the privileges or dignity of the House.

The system of transacting business by committees arose during this reign, among them conference committees to reconcile differences in legislation between Lords and Commons. Once, when the conference committee was to discuss what to do with Mary Queen of Scots, the Lords asked the Commons for forty members to meet with twenty-one of theirs. The Commons sent forty-four. The Lords retorted by appointing twenty-two of their own number, so as not to fall below the traditional proportion of one to two.<sup>9</sup> The importance of this kind of punctilio is not to be minimized in the adolescence of human beings or of institutions. By it, independence is achieved. In 1581 a protracted debate was occasioned by the practice of applying through the Lords to the Queen for the nomination of a Speaker.<sup>10</sup> The Commons were not yet ready to exercise the power of actually choosing their own Speaker. In 1584 the Speaker was criticized severely for conferring with the Queen over pending legislation, without the privity of the Commons.<sup>11</sup> At the same session the Commons disapproved a fraudulent conveyances bill (a government measure) for the reason that redress was afforded through the Star Chamber instead of in the courts of common law. The common-law courts were so forcefully substituted as the appropriate forum that the Lords feared for the continuance of the Court of Star Chamber, and inserted a clause that the latter's jurisdiction should not otherwise be impaired.<sup>12</sup> Many private bills were introduced in Parliament. This early developed the institutions of lobbying and log rolling.

Significant as these signs are of the expanding power of Parliament, and in particular of the House of Commons, the great questions of the day concerned religious, social, and economic problems, often in their international aspects. In each of these fields the House of Commons asserted its newly won powers against the royal prerogative, which the Queen wished to remain intact. But she knew when and how to bend with the wind. This interplay of forces fashioned the shape of things to come.

Because Elizabeth would not marry, and refused to join with Parliament in designating her successor on the throne, her life was constantly in jeopardy

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9. Volume I, at 247.

10. Volume I, at 375.

11. P. 76.

12. Pp. 84-88.

at the hands of supporters of Mary Queen of Scots, who was next in the royal line and prepared to assert her title. Her supporters, in addition to the Papacy, included the Kings of Spain and France, as well as her own Scotland. When the sovereign died, in those days, all government offices were vacated. Mary's ascension of the throne would have meant anarchy, civil war, and foreign invasion. Elizabeth was opposed to Mary in her own mind, but believed that war would follow the rejection of Mary or the selection of someone else. An illuminating constitutional question arose from this impasse. Endeavoring to provide for the contingency of Elizabeth's death, Lord Burghley—more nearly Prime Minister than anyone else—prepared a bill vesting the power to choose a successor in Parliament, to be exercised after Elizabeth's decease.<sup>13</sup> The Queen "misliked" this bill so intensely that it was not introduced. The well reasoned grounds of her displeasure were analyzed by Neale to have been (1) that it would concede too much power to Parliament, and (2) that Parliament's choice would not be accepted by the country, but would merely introduce a parliamentary candidate to compete with other contenders in civil war.<sup>14</sup> In Tudor eyes the divinity that doth hedge a king was incapable of being conferred by parliamentary decree. Elizabeth understood better than Burghley that wars have been averted by popular acceptance of inheritance as the basis of the right to rule, for she deliberately let nature take its course, and, after Mary's execution, her son became James I of England. Elizabeth saved his right to the throne from being destroyed by his mother's conviction on ample evidence of plotting against Elizabeth's life. By her statesmanlike foresight, Elizabeth thus averted a general European war at the end of her reign in 1603, kept peace between England and Scotland, and united them under both the Union Jack and a Protestant son of a Catholic mother.

Again intense Puritan opposition and Roman Catholic repudiation, she retained the time honored ritual and ecclesiastical administration of the Anglican Church. She regarded protection of the Church as involved in the royal prerogative, and when Commons meddled in this field—as they constantly did—she told them to go back to their proper business "with all convenient speed."<sup>15</sup>

As the Reformation receded into the past, social and economic questions were attacked by the Commons with the same kind of evangelistic fervor. Although government did not intrude into people's daily lives as much then as now, perhaps due to lack of energetic law enforcement, the range of public regulation is surprising. Justices of the Peace had power to fix prices.<sup>16</sup> Conversion of land from tillage to pasture was limited by law,<sup>17</sup> although an opposite policy was to prevail in the eighteenth century. "Regrating, ingrossing, and forestalling"—monopoly and restraint of trade—had been found to be intolerable under the

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13. Pp. 45-46.

14. Pp. 46-48.

15. *E.g.*, pp. 145-65, especially at 163-64; Volume I, at 302-03, 351-52. For use of the quoted phrase by Elizabeth, although in another context, see Volume I, at 273.

16. TREVELYAN, *ENGLISH SOCIAL HISTORY* 170 (Canadian ed. 1946).

17. P. 337.

manorial system, and were restrained by local courts.<sup>18</sup> A modern antitrust prosecution seems a far cry from an attack on the privileged position of a flour mill on a medieval manorial estate, but such is the course of history. Sir Francis Bacon advocated laws to prevent enclosure of arable lands for pasturage of sheep,<sup>19</sup> and Sir Robert Cecil favored legislation to prevent bread from being made too fine or ale too strong—not in the interest of temperance, but believing that, if the quality were diluted, they would be more generally shared (to prevent superfluous consumption).<sup>20</sup> Practical Sir Walter Raleigh was opposed to checking the growth of English woollens by penalizing the raising of sheep, and apparently thought that these and other industries should be allowed to develop on their merits.<sup>21</sup> So did one of his fellow members who said that “men are not to be compelled by penalties, but allured by profit, to any good exercise.”<sup>22</sup> This did not stop Raleigh, or many others, from profiting by grants of monopoly from the Queen—in his case covering wines, tin, playing cards, and export of woolen broadcloth.<sup>23</sup>

One had to go to church under penalty of law,<sup>24</sup> and there was a debate over whether this applied to those who could afford private chapels.<sup>25</sup> Even personal attire was regulated at times, to prevent people from dressing beyond their means or station in life.<sup>26</sup> Lord Burghley was instrumental in having Wednesdays decreed to be fish days, to help the fishing industry.<sup>27</sup> Much of this regimentation was local, often it was unenforced, and Her Majesty's Government preempted a number of these functions, with the net result of freeing persons and industries from more local inhibitions than the new ones imposed. This process, too, is not unknown in the United States.

In Elizabeth's words, she did not wish to “animate Romanists,” nor to “tolerate new-fangledness.”<sup>28</sup> She wanted the Anglican Church and the monarchy to remain the way her father had left them. She was careful to have the sermon at her coronation preached by a married priest,<sup>29</sup> but she did not propose to have the realm governed by the kind of theocracy which later characterized Salem and Boston in New England. She resisted the drift toward secular sovereignty over the whole lives of the people. She had acceded to a statute for compulsory

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18. See. pp. 347-48, 353 (bills introduced), 366 (Justices of the Peace berated for not exercising this jurisdiction); 2 HOLDSWORTH, HISTORY OF ENGLISH LAW 452, 467-69 (1936); 4 *id.* at 140, 375-76, 386; 8 *id.* at 57-58.

19. P. 337-38.

20. P. 350.

21. P. 343.

22. *Ibid.* (speech of Henry Jackman).

23. MAGNUS, SIR WALTER RALEIGH 29 (1956).

24. Volume I, at 192.

25. Volume I, at 212-13.

26. Volume I, at 354.

27. Pp. 88-91.

28. P. 100.

29. Volume I, at 42.

church attendance, but would not countenance compulsory Communion. She would "open no window into men's souls."<sup>30</sup>

In these and other contests the House of Commons cut its eye teeth, and its wisdom teeth, too. Techniques were learned and perfected that enabled Parliament later to exert more power in the Stuart era, when the governing genius of Elizabeth was supplanted by ivory-tower martinets. Peter Wentworth's speeches on freedom of consultation and of speech—"He was wrong, utterly wrong in his own generation; but the future hallowed his doctrine"<sup>31</sup>—resembled Pym and Eliot more than Sir Thomas More.

This last we have known from our youth, educated by the philosophy of the American Revolution to checks upon the sovereign power of the executive. But much remains to be said in favor of checks on the sovereign power of the legislative branch, whether it represents the gentry, as in the time of Elizabeth, or the populace. The House of Commons became a valuable check on the powers of the monarch, but Queen Elizabeth exercised a wholesome check on the unrestrained passions and purposes of Parliament and its constituents. She said that she did not want to undermine monarchy and be the agent of "popularity."<sup>32</sup> That is something to ponder.

Traditionally the Bill of Rights restrains the powers of the Crown, but can it be that the monarchy served to check oppression by an unbridled Parliament and people? The Queen had no taste for either Catholic or Protestant fanaticism. "The Elizabethan system, the grand finale of Tudor triumph, was as much a triumph of the Renaissance as of the Reformation. The two became one, and partly for that reason Shakespeare's England had a charm and a lightness of heart, a free aspiring of mind and spirit not to be found elsewhere in the harsh Jesuit-Calvinist Europe of that day." So spoke G. M. Trevelyan.<sup>33</sup> One cannot escape the conclusion from Neale's pages that Queen Elizabeth had a great deal to do with all of this. "When she had finished her strange doings," wrote Lytton Strachey, "there was civilization in England."<sup>34</sup> Invaluable and necessary as they are, the first ten amendments to the Constitution—and even the fourteenth amendment—are in some respects pale substitutes for Queen Elizabeth, when it comes to checking tyranny of the majority or of aggressive minorities over taste, mind, person, and estate. The most patriotic and wisest leader of her generation fought conspiracies to subvert the state, but wanted no windows opened into the human soul. Her people responded with an outpouring of spirit, energy and accomplishment that has seldom been surpassed.

JOHN VAN VOORHIS†

30. Volume I, at 42.

31. Volume I, at 325.

32. P. 48.

33. TREVELYAN, *op. cit. supra* note 16, at 97.

34. STRACHEY, *op. cit. supra* note 3, at 14.

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