

founded on principles of common utility. And modified as the exercise of most prerogatives has been by the more liberal tone which now pervades our course of government, whoever attends to the common practice of courts of justice, and, still more, whoever consults the law books, will not only be astonished at their extent and multiplicity, but very frequently at their injustice and severity": (Hallam's Middle Ages, III., p. 148).

Professor Dicey, writing in 1885, presents a far different estimate of the effect of the prerogatives of the Crown which have been by the practice of the Constitution in its modern development, as stated without fear of contradiction in the House of Commons and as impliedly acknowledged and accepted in the House of Lords, been virtually transferred to the Cabinet, who are themselves the servants of the people.

"The survival," writes Professor Dicey, "of the prerogative, conferring, as it does, wide discretionary authority upon the Cabinet, involves a consequence which constantly escapes attention. It increases the authority of the House of Commons, and ultimately of the constituencies by which that House is returned. Ministers must in the exercise of all discretionary powers inevitably obey the predominant authority in the State. When the King was the chief member of the sovereign body, Ministers were in fact no less than in name the King's servants. At periods of our history when the peers were the most influential body in the country, the conduct of the Ministry represented with more or less fidelity the wishes of the peerage. Now that the House of Commons has become by far the most important part of the sovereign body, the Ministry in all matters of discretion carry out, or tend to carry out, the will of the House. When, however, the Cabinet cannot act except by means of legislation, other considerations came into play. . . . While every action which is done by virtue of the prerogative is in fact, though not in name, under the direct control of the representative Chamber, all powers which can be exercised only in virtue of a statute are still more or less controlled in their exercise by the interference of the courts. One example taken from the history of recent