

This distinction may be accepted as in the main correct, although it is not by any means wholly so. The British Constitution is not wholly unwritten, nor is the American Constitution as it is interpreted wholly written. In England we have the Great Charter, the Petition of Right, Habeas Corpus Act, Bill of Rights and Act of Settlement, not to mention a host of minor Acts, all defining and limiting the rights and duties of king and people. On the other hand, in the United States the ambiguity of certain clauses of the Constitution leaves wide scope for the courts, especially the Supreme Court, to give their own interpretation of the meaning of the Constitution. And this liberty of interpretation has been freely used, especially during periods when great questions were at issue, and during the formative period of the Union. Such questions as the right to establish a United States Bank, to impose protective duties, etc., have been settled, not so much by an appeal to the written Constitution as by a very free interpretation of the spirit of that Constitution by the judges of the Superior and Supreme Courts. While it is necessary thus to point out that a rigid line of distinction between the two Constitutions cannot be drawn in this fashion, we may accept the distinction in the broad sense of the terms to be true. It is interesting and important to notice what follows from this radical difference in the two systems of government. The practical result is expressed by saying that the British system is an *elastic* system, while the American system is *inelastic*. By these phrases we understand that the British Constitution is capable of adapting itself readily to the varying needs of the people, while the American Constitution, on account of its unwritten and therefore rigid character, cannot so readily adapt itself to the needs of the hour. The fact is a very

important one to notice, and to English people it is a radical defect in the American Constitution that it does not readily bend, while to American people it is considered an excellence in their system that it is not easily changed by the passing waves of public opinion. The cause of this *inelasticity* in the American system is that no change can be made in the Constitution without first obtaining the sanction of an overwhelming majority (two-thirds) of their two Legislative Assemblies, and also of (three-quarters) the States of the Union, voting as States. This majority—three-fourths—renders it practically impossible for any change to be made, except under abnormal circumstances such as followed the close of the great Civil War. On the other hand, under the British system a bare majority of the House of Commons and the House of Lords can at any time change the Constitution in its most essential features. The British contend that a system so plastic and easily adapted to popular opinion prevents strife, confusion, heart-burnings, and ensures a peaceful and successful solution of political problems. The admirer of the American Constitution says that what it loses in *elasticity* it more than gains in permanency and stability. The Englishman points out that under the British system the abolition of slavery could have been peacefully accomplished, the American retorts that his constitution ensures the rights of minorities, and effectually dispels the fear of the rule of the ignorant and vicious among the masses—a fear that haunts some of the best minds among British publicists. The American Constitution has been well described as “an elaborate system of checks and balances,” a system in which minorities may and sometimes do rule, a system in which one branch of the Legislature checks the other branch, and in which the Executive