E GOVERNANCE OF ENGLAND

SIDNEY LOW

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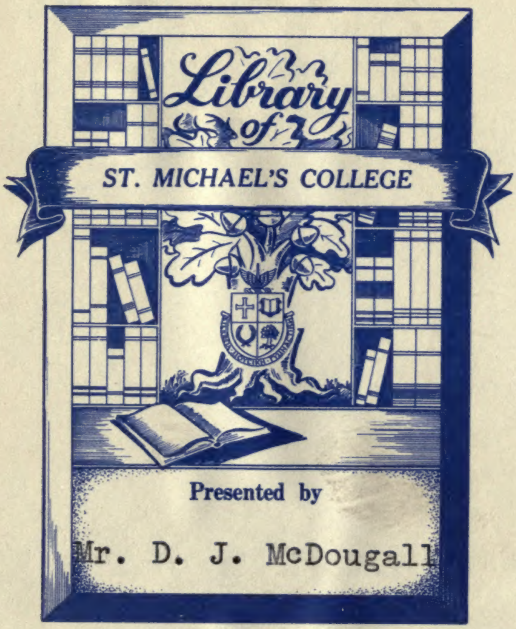

THE GOVERNANCE OF ENGLAND

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BY

SIDNEY LOW

NEW EDITION
REVISED AND RESET, WITH
INTRODUCTORY ESSAY

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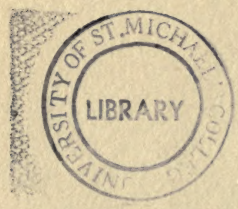

TO

VISCOUNT MORLEY, O.M.

"As the State was formed to make life possible, so it exists to make life good."

ARISTOTLE, *Politics*, i. § 2.

INTRODUCTION TO REVISED EDITION

A RE-TOUCHED portrait is seldom a satisfactory production. It is a fact I have had to keep in mind in preparing for the press this new edition of a book first published more than nine years ago. Such fidelity to the original as the sketch may have possessed when executed might be lost in the attempt to make it a register of all the changes which time has wrought upon the features of the subject. The task would be one of peculiar difficulty at the present moment; for my revised edition is called for, as it happens, while the structure of our polity is undergoing a process of reconstruction still incomplete. With the ultimate form and powers of the Upper Chamber in suspense, and with the revolution in the government of Ireland impending but undecided, it would be futile to pass a definite judgment on transitory developments which must eventually assume a more definite and tangible shape. And so, while drawing some fresh illustrations and arguments from the events of the past few years, I prefer to leave this book as, in the main, an account of the "working constitution" of the United Kingdom in the opening decade of the twentieth century.

It may, however, be worth while to indicate briefly some of the changes that have occurred since the following chapters were composed. Several of these changes were anticipated; and those who did me the honour to read my pages with attention in 1904 will not perhaps have been surprised by the march of events during the years that have since elapsed. I have left the chapters on "The House of Lords" and "The Peers as a Senate" substantially as they were written, though I am conscious that their interest must now be largely antiquarian. But, since it is impossible to know what the Upper Chamber will become, it seems useful to leave on record what it was, and what, to a certain extent, and pending further modifications, it still is.

The Parliament Act of 1911 is a definite step towards the enlargement of the "written" at the expense of the unwritten, or conventional, constitution. It has given a precise, statutory, shape to that limitation of the legal prerogative of the House of Lords which had previously rested on a tacit understanding. In writing of the Upper House* I have pointed out that the prerogative was endured because it was believed that it never would be exercised again except in the most moderate and cautious fashion. The strength of the House of Lords, I said, lay in its weakness; and I quoted a Conservative statesman, the late Lord Iddesleigh, who thought "that the House of Lords would be perfectly intolerable, if it were as powerful in reality, as it is in appearance." If, I added, the House ventured to act as other Second Chambers

* See *infra*, Chap. XII.

act from time to time—that is, if it set itself deliberately to oppose and defeat the considered policy of the popular assembly—"there would be an outcry before which the hereditary principle would go down." The forecast has been justified by events. In 1909 the Peers amended, and practically destroyed, the Finance Bill of a ministry commanding an exceptionally large majority in the House of Commons. Their technical right to do so was unquestionable; but the right had remained in abeyance so long that it was considered obsolete. No sooner was it asserted in this formidable shape than measures were taken to prohibit its employment in the future. The veto of the Peers, habitually regarded as merely suspensive and temporary in practice, was cast into that form by specific enactment. At the same time the "hereditary principle" was directly attacked and virtually abandoned, not merely by one of the great political parties, but by both; and it was agreed that in due season the House of Lords should be converted into a Senate constituted, wholly or in part, by election and nomination.

It would be contrary to the principles of this work to discuss the policy of the Unionist peers in their assault upon the Liberal Budget of 1909. No doubt there were those among them who felt that a protest is not wholly vain even if it is doomed to be ineffectual. A general may sometimes be justified in risking a battle even if it can hardly fail to end in his defeat. Those who held themselves to represent the conservative forces of society may have thought that they could not submit to the attack on property, in 1909, any more

than their predecessors, in 1832, could acquiesce, without a struggle, in the attack on privilege. But in the latter case, if not in the former, the Peers must have known, or at least they should have known, what the consequences would be. Whether their stand against the new methods of taxation were right or wrong, on general grounds, it was bound to produce the results which in fact ensued. The "reserved powers" of the House of Lords were certain to be abolished the moment it was seen that they were no longer kept in reserve but might be made operative. The House, I wrote in 1904, "can seldom venture to assert itself, and then only in a tentative and temporary fashion. If any measures were taken to add to its self-confidence, to give it real authority, to impart to it a consciousness of something like a political equality with the other House, it could scarcely be conserved in its present shape. The demand for a complete reconstruction would be irresistible." So it has proved.

But the precise form which this reconstruction will assume is still indeterminate. The preamble of the Parliament Act signifies that the limitation of the veto of the Peers is to be supplemented, or perhaps superseded, by the creation of an elective, or partly elective, Second Chamber. In fact, there is to be "House of Lords Reform," on a scale more extensive than is suggested in the pages allotted to the subject below.* It is there pointed out that for considerably more than half a century the subject has been before the minds of constitutional reformers. The creation of life-peers, of peers nominated by

* See Chapter XIII on "The Peers as a Senate

the Crown, of *ex-officio* peers, or of representative peers for the whole of the United Kingdom, had been proposed by Russell, Palmerston, Salisbury, Lord Rosebery, and others, as a means of diluting the oligarchical and hereditary character of the House of Lords. It had been felt, long before the crisis in which King Edward VII.'s reign closed, that the House ought to have a stronger representative element. Representation, it is true, can be secured by other means than direct popular election: and a House so largely made up of men who have risen from the ranks by their own efforts, a House which includes peers who have received their letters-patent for distinguished achievements in the field, in the public service, in politics, in the administration of the dependent empire, in the practice of the law, in commerce and industry, and sometimes even in literature and science—such a House cannot be deemed unrepresentative of some of the best elements of our society. Conservative reformers in the past would have been content to carry this kind of representation further. They would have liked to see fewer peers sitting in Parliament by the sole title of being the heirs of their predecessors, and a larger number who had gained their seats by their own merits or good-fortune, and were drawn from all classes, and from the Dominions and Dependencies as well as the United Kingdom. A Senate reinforced by eminent doctors, engineers, professors, nonconformist ministers, economists, men of business, labour experts, and colonial delegates, would undoubtedly have commanded respect.

But, as things stand, it is tolerably certain that no reconstitution of the Upper Chamber will be

entertained which does not provide for a considerable number of senators chosen by direct election, with or without an admixture of peers appointed for life, for the duration of a Parliament, for a fixed term of years, or by *ex-officio* qualifications. Several plans have been proposed with this object. It is indeed easy enough to sit down and work out on paper a scheme which looks attractive and even fascinating—on paper. In practice the difficulties are considerable. The elective part of the arrangement involves a regrouping or redistribution of constituencies; since, if the existing divisions were retained, the elected section of the Upper House would simply be a copy or reduplication of the Lower. There are no natural, historical, or geographical, units to serve the purpose, like the "sovereign states" of the American Union, and the cantons of Switzerland. The counties of the United Kingdom are glaringly unequal in size and population; and they have, with some exceptions, little local self-consciousness or individuality. Probably the most convenient device would be to divide the whole country into a comparatively small number of electoral areas, roughly equal in population, each choosing senators by the *scrutin de liste* method. It might be desirable to soften the inequalities and crudities of the mere local vote by giving some share of direct representation to definite orders and professions; but I do not know how this is to be accomplished. Indirectly, proportional voting might contribute to this end, and so might the selection of the recognised heads of various important interests and communities as nominated peers. In some such way it is supposed that a Senate might be created, which would be

more or less responsive to the popular will, and would derive additional authority from the personal distinction and status of its members.

But it is not certain that this nicely balanced machine could be got to work in the manner desired. Most second chambers are either too weak or too strong. An Upper Chamber in which the elective element preponderated might be much more self-assertive, and much more obstinate in the exercise of its veto, than the House of Lords before the Parliament Act. Like the American Senate, and the Legislative Councils in the Dominions, it would produce frequent deadlocks with the popular assembly, and insist on its direct commission from the Sovereign People. The danger might be avoided by giving greater weight to the official and appointed members; but this might lead to inconvenience of another kind. A Second Chamber, penetrated by the sense of its own impotence, might become more like the French, than the American, Senate: that is to say, a highly respectable debating-society with little real influence over affairs. Able and ambitious men would prefer the activity and opportunities of the House of Commons to the repose of an ineffective council-chamber, no longer gilded by the social prestige of the hereditary peerage.

To steer a prosperous course between these two extremes in the remodelling of the Upper Chamber will not be easy. There are other alternatives which may perhaps be considered. One is to leave the House of Lords, as it stands at present under the Act of 1911, unreformed, or at least only reformed by a mild tincture of life-peerages. It would retain much of its former dignity, even

though deprived of the liberty to destroy a first-class Government measure or to force a dissolution. Its power in this respect would be permanently limited to holding legislation in abeyance for two sessions and a portion of a third; and it would have no power to touch money bills, a power which in any case it would never be likely to use again.

Narrowed as the prerogative of the peers would thus be, it might still enable them to perform some valuable public services. They would have the right to remonstrate, the right to criticise, the right to deal freely with all but those measures that involved the fate of parties, the right to formulate an emphatic protest against legislation of which they disapproved, and the right to compel a Government to submit its controversial proposals to some thirty months of public discussion before it could pass them into law. It is at least an open question whether with these opportunities the House of Lords, still retaining much of its historic tradition and its association with the territorial and industrial aristocracy, might not be in reality more influential than a new-minted and miscellaneous assembly, with larger nominal powers, but with no roots in the past, and no definite relation towards any great permanent element in our social organism.

Another hypothesis is that of averting the necessity for reforming the Second Chamber by abolishing it. It is a suggestion which one cannot mention without diffidence since it has hardly ever been deemed worthy of serious consideration. It is commonly assumed that a single-chamber Parliament must be a kind of constitutional monstrosity.

This, I suppose, is due in part to the fact that almost every progressive community, in adopting representative institutions, has imitated the system which grew up in Great Britain. Yet this system of two Houses, of an "aristocratic" and a "popular" division of the law-making apparatus, is itself the result of a series of accidents. There is nothing, in the nature of things, which prescribes that a Parliament should be divided into two compartments, and not more than two. There was a stage in our history when we had only one Great Council of the Realm, and the arrangement might well have persisted. There was another stage when it seemed likely that there would be three chambers —a chamber of the burgesses or commons, a chamber of the gentry or knights, and a chamber of the greater barons or nobles—with a separate house for the clergy, and perhaps another for the merchants and traders. And if that had been the course of evolution, no doubt eminent jurists and political philosophers would have been prepared to show that the true adjustment of "checks and balances," the happy medium between democratic license and ordered freedom, could not possibly have been maintained without the conjoint existence of three chambers, or four, or possibly five. It is true that in Great Britain, from the time of the Tudors to the end of Queen Victoria's reign, the dual arrangement was successful, and indeed essential. But whether it is equally necessary in the future may be open to question.

In the body of this work it is pointed out that the functions of the House of Lords are to refer projects of legislation to the Sovereign People, so

as to provide against hasty enactments by a temporary majority in the House of Commons; to revise bills sent up to it; to act as a "ventilating chamber" and expose the ministerial measures to the light of unrestricted and impartial debate; to bring to bear the knowledge and experience of eminent statesmen, jurists, and ex-officials on the problems of administration; to assist in the work of private bill legislation, for which many of its members are abundantly qualified; and finally to serve as "a reservoir of ministers." All these functions are valuable. Some, however, are atrophied by recent changes; some can be discharged by other agencies. The House of Lords can no longer force a Government to appeal to the people against its will. The revision of bills, passed through the House of Commons amid the heat and tumult of the party conflict, is still advisable; but it is a task that might conceivably be left to a capable committee of lawyers and parliamentary draughtsmen. If the House of Lords were no longer available as a ventilating chamber the men who shine in its debates might continue to criticise and to warn; for noble lords would still have the platform and the press at their disposal.

But under a single-chamber system, it may be said, the check which an Upper House exercises upon the abuse of its position by a Cabinet would cease to operate. It does not operate very effectively at present, and it is likely to grow weaker. The real restraint upon the majority in the Commons is the existence of the Opposition in the House and the constituencies, and the knowledge that the sovereign electorate can, and will, call the alternative Govern-

ment into office if it is dissatisfied with the conduct of the group it has placed in power. The abolition of the Second Chamber is not likely to be seriously contemplated. But if it were accomplished it would be a far less revolutionary change in the substance, if not in the form, of our system than is commonly supposed.

It would, however, require to be accompanied by the Referendum, or some other machinery for ascertaining the popular will, when ministers were unwilling to submit to a general election. Such a device may be necessary in any case. There is a good deal to be said for the Referendum, and there are also many obvious and valid objections to it. In the few communities where it has been applied, notably in Switzerland and the Australian Commonwealth, it is said to have worked satisfactorily; but it is still comparatively new, it has not often been tested by questions which rouse intense feeling, and it has been tried under conditions far less complex than those that prevail in this country. The difficulty of isolating the issue referred to the electors has been dwelt upon, with that of preventing the verdict upon the particular measure submitted from becoming a condemnation, or an acquittal, of the Government on its general policy. Yet, in spite of these obstacles, some method of direct appeal to the people on the merits of a legislative proposal may have to be adopted, for occasional use and in the last resort, in order to ascertain whether the opinion of the Cabinet does or does not correspond with the opinion of the nation, when a general election is refused, and may not occur in the regular course for years.

In the earlier editions of this work it has been pointed out that the two efficient factors in the working of our political system are the Cabinet and the electorate, since the House of Lords and the House of Commons have lost so much of their theoretical powers. Recent changes have tended to increase the power of the governing committee, and to limit the function of the constituencies to that of a final court of appeal, delivering judgment at fixed intervals. The Parliament Act adds to the strength of a Cabinet in office. It does so directly by restricting the veto of the House of Lords upon legislation. Indirectly it contributes to the same result by reducing the term of a Parliament by two years.

Under the septennial limit the date of a general election was unknown and indeterminate, for it was almost a rule that a Parliament would be dissolved before it expired by efflux of time. The elections might therefore be expected at any moment, at least after two or three sessions had been held, when there might be a doubt whether the "mandate" still held good. With quinquennial Parliaments there will be much less likelihood that elections will be taken at irregular intervals. In the first and second years they will be avoided because the House of Commons is too near its cradle, in the third and fourth years because it is already drawing towards its grave. It is suggested below* that a Prime Minister has many inducements to defer an appeal to the country as long as possible; and that neither his followers nor even his opponents are, as a rule,

* See Chap. VI.

anxious to expedite his movements. Ministers are naturally in no hurry to expose their offices and emoluments, or private members their seats, to the hazard of the polls. The payment of parliamentary salaries is not likely to diminish this reluctance. Any excuse to postpone the ordeal will be considered with indulgence, and the automatic recurrence of a general election at comparatively short intervals would furnish an excellent and plausible excuse. A further motive is supplied by the provisions of the Parliament Act. A Cabinet requires three sessions to pass into law a measure opposed by the Upper House. For any bill of this kind, introduced in the second or third session, the full five years' term will be requisite; and Ministers will not dissolve sooner if they see a fair chance of carrying their programme to a conclusion.

In this respect, then, our system tends to grow more like that of the United States, with some of its characteristic merits and defects. The possibility that a general election may be held at any moment has caused our parliamentary life to be passed in an atmosphere of feverish uncertainty. To this circumstance is due much of its nervous unrest, but also much of its tingling vitality. Members are always preparing, with unsleeping vigilance, for the ordeal of the ballot. They cannot relapse into somnolence for two or three years and awaken only to fierce electioneering at stated intervals. Bagehot and other critics have said that in America "you cannot find the Sovereign People" when you want them. In England it is supposed that you can find them by means of an *ad hoc* dissolution

which enables the constituencies to confirm or withdraw the commission it has entrusted to a ministry. With this privilege or liability restricted the Cabinet would become less responsive to public opinion and more self-confident: even though it might no longer have at hand so easy an expedient for enforcing discipline in the House of Commons as the menace of a premature dissolution. A ministry, on entering office, might do so with a reasonable assurance that it would probably not be compelled to render an account of its stewardship until the expiration of the full statutory term. The control of Parliament over the administration, already weakened by the causes set forth below, will be further relaxed if it becomes the practice for a Cabinet to remain in office for a definite and prescribed, rather than an uncertain, period. "A President's usefulness," says an American critic quoted on a later page, "is measured, not by efficiency, but by calendar month; it is reckoned that if he be good at all he will be good for four years." And of the Prime Minister, like the President, it may perhaps also be said that he "need only keep alive."

The Prime Minister's influence and importance are growing. He is acquiring new and enlarged attributes, beyond those he possesses as chairman of the executive board, and chief of the dominant party in Parliament. Considerable progress has been made towards bestowing substantive recognition upon his office. The royal Proclamation of December 2, 1905, which gave precedence to "Our Prime Minister" next after the two Archbishops, has more than a ceremonial significance. It indicates that the Prime Minister is no longer officially

"unknown to the constitution," or known only as a privy councillor placed at the head of the Treasury or some other department of State. Even if he chooses to be "a minister without portfolio" he has a titular dignity which raises him above his colleagues, and above all non-royal personages in the kingdom, except the two great ecclesiastics, and the quasi-ecclesiastical Lord Chancellor.*

The form now corresponds more closely to the facts. The increasing size of Cabinets has caused the figure of the Prime Minister to stand out more prominently above the ranks of his colleagues. Special functions are attaching themselves to his office, which enlarge its scope, and create for him a distinctive sphere of activity. He is the chief adviser of the Crown, not only in the affairs of the United Kingdom, but also in those of the British Empire. That responsibility has always been his; but it is invested with a new significance. As steps are taken towards the integration of the various units of the Empire in military and naval defence, in economic organisation, in the direction of foreign policy, it is seen that the Crown stands in need of responsible advice in these and other matters which effect the interests of more than one state. A

* The Table of Precedency now stands as follows:—

The King.
The Prince of Wales.
Other members of the Royal Family.
The Archbishop of Canterbury.
The Lord High Chancellor.
The Archbishop of York.
The Prime Minister.

Thus the Prime Minister takes precedence of all peers, whatever their rank, except the Lord Chancellor, and of every other officer of state or of the Royal Household.

machinery, still inchoate but promising extensive development, has been set up for common consultation and joint action within certain limits. We have the Imperial Conference, with its periodical meetings and its permanent secretariat; we have the Committee of Imperial Defence, with its standing sub-committees and its technical staff.

Both these organs belong to the Empire, and in them the self-governing colonies claim to stand on a footing of equality with the Island Kingdom. The Dominions assert that their own executive councils are not subordinate to the "Imperial" Cabinet, but co-ordinate with it; and they view with jealousy any control of the Empire machinery by a ministry dependent upon a party majority in the English legislature. They will yield its direction to the Prime Minister, but only in his capacity of chief adviser of the Imperial Crown.

It follows that the Premier is acquiring the attributes of an Imperial Chancellor, and that he is performing certain duties to which the "collective responsibility" of the Cabinet cannot easily be applied. The point was emphasised when the Imperial Conference of 1907 resolved that in future the Prime Minister, not the Colonial Secretary, should be the ex-officio president. At the sittings of the Conference the President has a wide range of action, in which he is to a considerable extent independent both of his colleagues and the Commons. He may, as he did in 1907 and in 1911, summon the Foreign Secretary or the First Lord of the Admiralty to confer with the representatives of the Dominions, or even to enter into private negotiations with them. The Parliament o

Westminster can take no more cognisance of his proceedings, unless he comes to it for supplies or for legislation, than the Parliament of Ottawa. In the Committee of Imperial Defence the Prime Minister's authority is even less restricted. The Committee is not under the control of the Cabinet, though it includes certain Cabinet ministers. It is really the Prime Minister's advisory council, and he can summon to it not only ministers of the Dominions and the leader of the Opposition, but also members of the permanent staff of the War Office and Admiralty, and other State departments, and, indeed, any persons he pleases, whether they have representative character or not.* With the extension of this method of conducting joint affairs we may expect a more definite recognition of the Prime Minister's status as Imperial Chancellor, and perhaps eventually the separation of that function from the presidency of the British ministry, and the leadership of the British parliamentary majority.

It is pointed out in the analysis of "The Monarchical Position" (Chapter XV.) that Colonial constitutionalists, so far from showing any distrust of the Royal prerogative, are even inclined to exaggerate its importance; for they see in it a protection against the control of "Downing Street," or of the party majority in British politics, and a guarantee for that formal political equality of all the self-governing states of the Empire on which they insist. "The King," I have written, "is the head of the Empire, and there is no other;

* See Viscount Esher, *The Committee of Imperial Defence*, p. 19; and a Paper by the present writer in *King's College Lectures on Colonial Problems* (1913), p. 224 *seq.*

for if the Prime Minister, or the Secretary of State, of the United Kingdom of Great Britain and Ireland is allowed to act as his responsible adviser in that capacity, it is only on sufferance"; since theoretically the King in Canada or in Australia should be advised by his Canadian or his Australian, and not by his English councillors. What, however, would happen if questions were to arise in which the peoples of Great Britain and two or more Dominions are involved, in which their interests clash, and in which conflicting opinions would be offered by the different sets of advisers?

Here the Sovereign must either be guided by his Imperial Chancellor, and leave him to adjust the matter with his *confrères* overseas, or he must act upon his own independent judgment. But this latter alternative would be a noticeable departure from our established practice, and it would be contrary to the spirit of the maxim that "the King can do no wrong"; which means that the King can do no political or executive act except under responsible advice and through responsible agents. In fact the prerogative is wielded by the Crown-in-Council, the council being the ministerial body which can be called to account by its constituents. According to the orthodox theory, the Sovereign is not bound to accept the advice offered him; but if he rejects it, he must be prepared to "send for" another group of councillors who will be able to obtain the support of the legislature and the electorate. This neat and compact formula may apply very well to insular politics, especially when there are only two great organised and disciplined political parties; but with a federal or quasi-federal

system, and even in internal affairs when there are several groups of nearly equal strength, it may not work so smoothly. If unhappily the conditions which preceded the American Revolution were so far reproduced that the majority in one portion of the King's dominions were opposed to a policy favoured by the majority in another portion, where should the Sovereign turn for guidance? Could he confidently accept the advice of his English "government," when it may be a question of deciding between it and another of his governments, which may be an Australian, a Canadian, a South African, perhaps an Indian,* government?

Even in home affairs, especially if Home Rule for Ireland were developed into a federalist constitution for the whole kingdom, or if the Referendum were adopted, the King might seek advice which his Cabinet could not always offer with the requisite impartiality; as, for instance, whether a dissolution might be required to solve an inter-state deadlock, or whether a particular question ought to be submitted to the popular vote, or, again, which of the leaders of a divided and heterogeneous Opposition

* It must not be forgotten that since the great series of reforms introduced by Lord Morley, the Governor-Genera of India in Council, though still autocratic, stands at the head of a hierarchy of legislative bodies and administrative council with a large elective element. He is, therefore, in close touch with the opinion of influential classes of the Indian population. When the Indian Government and the India Office disagree, as they do from time to time, must the final decision always remain with the latter? True, the King-Emperor exercises his prerogative which overrides both; but then it would appear that he would only act, as things stand, on the advice of his Prime Minister and Secretary of State, who might be interested parties in the dispute.

should be "sent for." All this seems to point to a revival of the older functions of the Privy Council long fallen into abeyance. The Judicial Committee of the Council advises the King upon the exercise of his prerogative as the supreme dispenser of justice in all parts of his dominions except the United Kindom.* It is at least conceivable that a political Committee of the Council may eventually be appointed to advise the Crown upon matters which concern more than one of his states or dependencies, and upon constitutional questions. The Prime Minister might be president of this Committee, as he is of the Committee of Defence; though as Imperial Chancellor rather than as head of the Cabinet. It may be said that any such innovation would relax the control of the House of Commons over the Imperial policy. This is true. But the control, as I have shown, is ineffective at present; and the establishment of a council of extra-parliamentary advisers, hazardous as may appear, might be the alternative to a substantial increase of the direct personal authority of the Crown, which would be more hazardous still.

As to Home Rule it would be out of place to speculate upon its possible results, since at the time of writing † it is uncertain whether the projected changes in the government of Ireland will be effected, or what aspect they will ultimately assume.

* The present Lord Chancellor (Lord Haldane) has suggested that the exception should be removed, and that the Judicial Committee should become the final tribunal of appeal for the entire Empire, occasionally sending out some of its judges to the Dominions to adjudicate there on cases brought up to it from the local courts.

† December, 1913.

I see no reason to modify the general conclusion at which I arrived nine years ago, when I said that some machinery of subordinate legislatures and executives, some devolution on a large and systematic scale, would be required in order to relieve the central Parliament of burdens beyond its strength. Almost every great and progressive country, except France and Italy, has worked out the division between provincial and national institutions; and it seems inevitable that we shall be compelled to apply, in some shape, the federal methods which are in operation, in one form or another, in Germany, in the United States, in Switzerland, in Austria, in the Dominion of Canada, in the Commonwealth of Australia, and in the Union of South Africa. Whether the initial grant of Home Rule to Ireland should be regarded as a step towards this goal, or an impediment in the path, is a polemical question into which I do not desire to enter. But, whatever may be the outcome of the present inflamed controversy, one can hardly doubt that in the end a solution will be found, which will leave local and provincial affairs to be dealt with in local and provincial assemblies, under the reserved sovereignty of a central legislature occupied with the politics of the Kingdom and the Empire.

In the analysis of the composition of the House of Commons attempted in the first edition of this book, I indicated the probability of a larger proportional influx of middle-class and working-class members. Some change of this kind there has been in the last few years, but it is less marked than might perhaps have been expected. The Labour

representatives have increased since the dissolution of the 1900 Parliament; but they still form a group which is numerically unimportant, far weaker than the Irish Nationalists, and not much stronger than the Ulster members or the Welsh. A Labour party which constitutes only six or seven per cent. of the House of Commons would represent Labour very inadequately, if it could be supposed that the great multitude of industrial electors really desired to delegate their authority in Parliament exclusively to men drawn from their own order. No such general inclination is yet apparent. Working-men in most constituencies seem content to be represented by persons outside the wage-earning ranks.

The payment of parliamentary salaries, and a simplification of the electoral system that would go far towards conferring the franchise upon every adult person, not suffering under the disability of being an idiot or a woman, may make a considerable difference in the future. Up to the present the character of the House of Commons remains very much as it was described in 1904; though the "socio-political" class, as I called it, has been further encroached upon by the mercantile and professional elements. Lawyers are as numerous in the House as ever, and more prominent than at any former period on the front benches. No Cabinet, before that of Mr. Asquith between 1908 and 1912, had lawyers, who had been in active practice, as its Prime Minister, its Secretary for War, its First Lord of the Admiralty, its Chief Secretary for Ireland, and its Chancellor of the Exchequer. The "democratic" element in the House was considerably strengthened by the great

Liberal victory in the general election of 1906, after ten years of Conservative government. Many of the country gentlemen, sons of peers, landowners, and manufacturing magnates, were swept out by the tide to make way for schoolmasters, solicitors, journalists, tradesmen, and minor employers of labour. Very much the same thing occurred at the first general election after the Reform Act of 1832, and the sequel in both cases was similar. A considerable number of the new men retired, or lost their seats at subsequent elections, and were replaced by members of the older type.

A Parliament in King George V.'s reign includes a larger body of persons of moderate means, persons who have had to earn their living by their own exertions, than any Parliament in the reign of Queen Victoria. But the socio-political class, and the descendants of the "governing families," are still well represented, and if the aristocratic element is declining the plutocratic is growing stronger. The influence of financiers and financial corporations in politics is expanding even more noticeably than that of the lawyers. Instead of the "great Whig houses" of the past we may have an array of great mercantile and banking dynasties, with one brother or uncle or cousin, it may be, in the Cabinet, another an Under-Secretary of State, another sitting as a private member in the House of Commons, another raised to the peerage for his public services or his liberality to his party.

Such men may possess not only high individual ability, but also a knowledge of business, and a close acquaintance with cosmopolitan finance, which

may often prove valuable in the conduct of public affairs. At the same time there are obvious risks in this connection of politics with the "money power," in the association between comparatively poor men, able to influence governments and popular assemblies, and the enormously wealthy groups that control the banks, the stock exchanges, and the great industries.

The danger is felt in the United States, in France, and in other communities where democratic institutions co-exist with abounding wealth and a spirit of determined enterprise. With us the abuse has not so far manifested itself in the graver forms; but we have had some significant warnings which point to a peril of a special kind. In England it is easier than it is elsewhere for the financier to get into touch with the politician through the *nexus* of London society. There are countries where the mercantile centres are locally separated from the political; there are other countries where the division is social or conventional, where the banker, the stock-jobber, the contractor, would not naturally come into contact with ministers, with deputies, with high officers of state, and with the landed aristocracy.

In the amalgam of fashionable London all these elements are fused together. English society is catholic in spite of its exclusiveness; and if it offers a cold welcome to virtuous obscurity it is always eager to recognise wealth and success. The man who has "arrived," through politics or commerce, is not merely a tolerated guest, nor is he treated with frigid courtesy; he is admitted to the inner circle, and speedily assimilates its habits and even its modes of thought. The House of Commons

leader, who may have begun life in the workshop, and the millionaire, who started as a clerk in a city office, meet at aristocratic dinner-tables and at pleasant country-house parties in historic mansions. A "great lady," with an ancient title, may be the hostess at a gathering which would include a Cabinet minister, born in a country parsonage, who has married one of her sisters, and a mammoth company-promoter on whom she has bestowed the hand of her daughter. In the unrestrained intimacy of domesticity, sport, and travel, on the golf-course, and in visits to the same pleasure resorts, the men who direct the great dominating interests, commerce, politics, the law, finance, the press, are brought very close together. Even the brilliant platform rhetorician, who may have been lifted into power as the champion of the masses or the minor bourgeoisie, is apt to forget his clients and his past in this constant association with opulent and well-born persons, whose luxuries and tastes he shares. These considerations apply to all parties; for the great interests, the family connections, the society friendships, cut across the party lines.

The association of the money-power with politics is not an unmixed evil, though it may lend itself to grave abuses unless carefully controlled. It is indeed inevitable; since government can no longer confine itself mainly to national defence, administration, and law-making: nor can it even discharge its duties in these spheres, without close reference to industrial, mercantile, and financial activities. The past few years have made further damaging assaults upon the conception of the State as a detached arbiter between all its citizens, occupied in pro-

tecting them from external attack and internal disorder, and leaving them, with serene impartiality, to push their fortunes as they please by any kind of "private enterprise" which is not illegal. The revolt of one party against free trade, and the repudiation by another of the rigours of free contract, are two expressions of the same reaction from the individualistic and competitive orthodoxy of the nineteenth century. State socialism has been accepted in fact if not in name; and there is no influential body of political thought which definitely repudiates the principle, though there is much controversy as to the extent and manner of its application.

The last decade has witnessed the creation of a new bureaucracy, with its army of inspectors, statisticians, rate-collectors, surveyors, valuers, and clerks. Englishmen have always distrusted "officialism," and they have none of that respect for the public functionary which prevails on the continent of Europe. The civil servant, the national or municipal employé, has been regarded rather as a necessary evil than an object of admiration or affection. Yet the increase, both in the numbers and in the multifarious duties, of this hierarchy might have been, and indeed was, anticipated.* A government which is superintending elementary and secondary education, providing pensions for aged persons, conducting a colossal insurance business, furnishing medical aid to the greater part of the industrial population, surveying and valuing all the landed estates of the country, and managing labour bureaus, evidently

* See *infra*, p. 201.

needs a very large staff of servants. The professional administrator, of one kind or another, is a characteristic product of modern conditions like the professional politician.

The relation between the one class and the other may become more intimate than it is at present. Politics is ceasing to be an occupation or an amusement for persons with leisure, ambition, and private means. The payment of legislative salaries, and the revival of the system of nomination for civil service appointments, will render it easier for a poor man to devote himself to public life with some prospect of making a moderate living by it, even if he never reaches the highest rungs of the ladder. Much will depend upon the competence, the zeal, and the integrity of these persons. If it became the custom for young men of good education and ability to graduate through the municipal councils to the House of Commons, and thereafter to find permanent employment in the administrative services, they might be called professional politicians in no derogatory sense. After all politics is a business of complicated detail, in which the knowledge and experience of the trained man are needed, as well as the energy and common sense of the public-spirited amateur.

Public spirit of a high kind, and a comprehensive acquaintance with practical affairs, together with a philosophic grasp of general principles, will be required for the solution of the large and difficult problems which lie before all governments in the immediate future. These problems have assumed unprecedented proportions, and attracted unparal-

leled interest, during the past few years. Parliament has been compelled to devote a large part of its attention to such subjects as elementary education, old age pensions, national insurance, the protection of children, the prevention of sweating, the care of the feeble-minded, the regulation of the hours of labour in mines, arbitration in industrial disputes, the powers and responsibilities of trade-unions, the treatment of the unemployed, and the readjustment of taxation so as to transfer a greater share of the burden from the poor to the rich. It has embarked upon this course of ameliorative legislation in a characteristically empirical fashion, turning with reluctance from the established party conflict, and dragging one piece-meal project of social reform after another into the field of strife. As a result, its response to the new ideas, the new ambitions, the new hopes, or the new delusions, as some might call them, vibrating through large sections of the population, has been confused and uncertain. Ministers, members of Parliament, and politicians generally, as well as the writers in the press, have met the portentous growth of the socialistic and syndicalist sentiment among the working-classes, and the movement to effect a redistribution of industrial profits by the combined efforts of the wage-earners themselves, either by suggesting hasty expedients to meet each temporary emergency as it arises, or by denying the significance and reality of the phenomena. Labour unrest has been treated with hurried, and mostly ineffectual, palliatives by legislators and administrators who have not cared to make a systematic analysis of the large and complex causes that underlie its manifestations.

The same may be said of the agitation among women for political privileges, which has proved as embarrassing as the agitation among men for economic advantages. The House of Commons and politicians of all parties, with a few exceptions, long regarded the claim for female enfranchisement as a harmless joke, which might be treated either with friendly tolerance or with indulgent censure. But a serious demand for the suffrage by women, whether it can be conceded or not, might have been foreseen. It was the natural sequel to that process of feminine emancipation, and that development of feminine individualism, which had been promoted by legislation, by the teaching of thinkers and writers for more than half a century, and by physical and statistical causes. The "governing classes," if they had neglected the novelists, the poets, and the philosophers, ought at least to have studied the Registrar-General's Returns; and they might have perceived that, in a country where the surplus of female over male lives was mounting steadily year by year till it passed the million, the whole status of women was changing, and the change would have its reflex action—as all social and economic change must have sooner or later—upon the political system.

But those who have the direction of affairs are commonly, as Professor Dicey has pointed out, "behind the age;" for the ideas which were new when they were at the receptive period of their lives are likely to be superseded by the time that they have attained to a commanding position.*

* "Law-making in England is the work of men well advanced in life; the politicians who guide the House of Commons,

Few even among the greater reforming statesmen have had the adaptability to carry their thoughts away from the generation which was young when they were young, and to turn to that which is young when they are old, and will be old when they are dead. They do not often find themselves prepared to deal effectually with such a crisis as arises, from time to time in the life of a nation, when a cloud of doctrines and opinions, long held in suspense in the intellectual atmosphere, has filtered through to the masses, and crystallized into a demand for action. I have pointed out below that for more than a century our public interest has been mainly devoted to political objects.* But the governance of a people is concerned with much besides politics; and its expression, even in the political form, must accommodate itself to the ethical, psychological, and social conceptions which have become prevalent, unless it can modify them to fit into its own moulds. "Representative government and modern industrialism," I have said, "have not as yet harmonised the political and economic forces."

This adjustment has made little progress since these words were written nine years ago; and it is likely to grow both more difficult and more urgent in the years that lie before us. Some of

to say nothing of the peers who lead the House of Lords, are few of them below thirty, and most of them are above forty years of age. They have formed or picked up their convictions and, what is of more consequence, their prepossessions in early manhood, which is the one period of life when men are easily impressed with new ideas." Dicey, *Law and Public Opinion in England*, p. 33.

* See *infra*, p. 310.

the restraints upon the power of the democracy, described in the following pages, are still operative. But some are sensibly relaxed; and the great body of electors who live by manual labour show a much more definite consciousness of their strength, and a more resolute intention to use it for the improvement of their own position.

We have a society in which political power rests with the mass of its poorer members; in which education, carried up to a certain level, is general; in which an unprecedented mental restlessness has been stimulated by the diffusion of reading matter, and the facilities for rapid communication; in which class barriers are still rigid, though the physical, temperamental, and personal differences, which formerly divided classes from one another, have been attenuated; in which moral sanctions and conventions, handed down by tradition, and based ultimately on Christian theology, have lost much of their force; in which the relations of the individual to the universal order, to the state, to the family, and to his fellow-citizens, are being freely examined in the light of new scientific discoveries and philosophical speculations; in which there is a rising belief that a system of industrialism, based on arduous toil for weekly wages by the majority of mankind, is as much opposed to reason and humanity as slavery itself. A revolution, as comprehensive as that which ultimately abolished predial and domestic servitude, seems to be entering upon its initial stages; the passion for material equality, which has succeeded that for political equality, will hardly be satisfied without many strenuous attempts to

transfer property, and all the amenities and opportunities which go with property, from the Few to the Many. The value of our Constitution will be tested by its action in the presence of these aspirations and impulses; and by its capacity to shape them to a favourable issue, without the disasters and the disorganisation by which revolutionary changes in the social structure, and in its ethical and economic basis, have so often been attended.

S. L.

LONDON,
December, 1918.

CONTENTS

THE GOVERNANCE OF ENGLAND

CHAPTER I

THE CONSTITUTION AND THE CONVENTIONS

THE inquirer into the machinery of English politics, who takes Machiavelli's advice, and endeavours to "follow the real truth of things rather than an imaginary view of them," is confronted by the difficulty which forced from De Tocqueville, in a moment of irritation, the impatient aphorism that there is no constitution in England: *elle n'existe point.* The difficulty goes beyond the obvious difference, so often noticed, between an "unwritten" constitution and one embodied in fundamental acts or organic laws, like that of the United States, or that of France under the Third Republic. This distinction is deep and searching, but too much may be made of it. It is true the constitution of the United States enables the American commentator to discuss his subject with a precision and definiteness, to which his English rival seldom endeavours to attain. The former finds it easy to assume the strictly legal attitude; he has a fixed body of positive legislation to guide him, and in the last resort can always fall back upon an authorita-

tive text. His position resembles that of a judge interpreting an Act of Parliament; the English constitutionalist has more often to decide on what may be called the equities of the case. Sometimes he has positive statutes to rely upon, but often he can only refer to the decisions of his predecessors, or to established practice, or to a consensus of opinion, based on a kind of political morality or etiquette, analogous to the old *jus naturæ* and *jus gentium*.

It is not so much that our constitution is unwritten, for of course much the largest part of it is written and printed;* but that it is unfixed and flexible, where others are rigid. We are not concerned with a solid building, to which a room may be added here, or a wing there; but with a living organism, in a condition of perpetual growth and change, of development and decay. There are written constitutions which possess similar features, and there are unwritten constitutions which do not. The political systems of the self-governing British Colonies, which are modelled on that of the Mother Country, differ from it fundamentally in this respect. They are created by Parliamentary enactment; and a statute like the Dominion of Canada Act, or the Australian Commonwealth Act, is a "Constitution" like that of the United States. It is possible for a court of law to interpret its terms on strictly legal

* "A great part of our Constitution is already written. Many of the powers of the Crown, many of the powers of the House of Lords, including the whole of its judicial powers, much of the constitution of the House of Commons and its entire relation to the electoral body, have long since been defined by Act of Parliament." Maine, *Popular Government*, p. 125.

principles, and to pronounce whether any executive, or legislative, transaction is *ultra vires* or not. But what is *ultra vires*, when done by the Imperial Parliament of Britian, or by the Executive Government under its presumed authority? It is a question of opinion, and of opinion that varies from time to time.

It is a commonplace to say that the British system of government, though grounded on law, is largely dependent on what have been called constitutional conventions.* In this respect it is not unique. The studies and researches of Sir Henry Maine, of Waitz, Seebohm, Stubbs, Tylor, and others, have shown that all human societies live largely on legal and historical fictions.† An institution, or an office, is maintained for centuries after its true meaning has departed, and when its operative function is being performed by other agencies. The "ceremonial" part of government is conserved, and may often continue to attract reverence and regard, though it is virtually atrophied; while by its side is a more or less unnoticed "efficient" element which is doing the actual work. This is the universal

* See Professor Dicey, *The Law of the Constitution*, where the nature of the distinction is made the subject of an acute and able analysis.

† "Almost everybody can observe that when new circumstances arise we use our old ideas to bring them home to us: it is only afterwards, and sometimes long afterwards, that our ideas are found to have changed. An English court of justice is in great part an engine for working out this process. New combinations of circumstances are constantly arising, but in the first instance they are exclusively interpreted according to old legal ideas. A little later lawyers admit that the old ideas are not quite what they were before the new circumstances arose." Maine, *Early History of Institutions*, p. 230.

tendency. It is visible everywhere, and one may find traces of it in the greatest and the smallest of human polities and societies—in the Russian Empire and in the arrangements of a Parish Council.* But from one cause or another most modern civilised states have found it necessary to clear away a good deal of this age-worn paraphernalia, and have consciously endeavoured to turn the conventions into systematised and formal rules. They do not always succeed, and they never succeed completely. In England the attempt has scarcely been made. We have had no revolution for two hundred years; we have not been compelled to clean the slate, or examine the foundations of our beliefs; and we are proud of being an illogical people. So we have carefully avoided systematisation; we provide for immediate necessities; and we are content with a constitution, which has been found to meet our practical requirements, though it is partly law, and partly history, and partly ethics, and partly custom, and partly the result of the various influences which are moulding and transforming

* The United States Constitution, like our own, is being constantly modified by new precedents and conventions, as clear-sighted American publicists recognise. "Ours is scarcely less than the British a living and fecund system. It does not, indeed, find its rootage so widely in the hidden soil of unwritten law; its tap-root at least is the Constitution, but the Constitution is now, like Magna Carta and the Bill of Rights, only the sap-centre of a system of government vastly larger than the stock from which it has branched—a system some of whose forms have only very indistinct and rudimental beginnings in the simple substance of the Constitution and which exercises many functions apparently quite foreign to the primitive properties contained in the fundamental law." Woodrow Wilson, *Congressional Government*, p. 8.

the whole structure of society, from year to year and one might almost say, from hour to hour.

This is one reason why the English method of government is so hard to describe. Any account of it must be like the picture of a living person. If you want to see exactly how the original appears, you do not refer to a photograph taken twenty or thirty years ago. The features may be the same, but their expression, their proportion, and their whole character, have changed. In the interval between one examination of our public polity and another, the formal part may not have greatly altered, but the conventional, the organic, the working, portion has been modified in all sorts of ways. The structural elements, it is true, exhibit a wonderful superficial permanence. The Crown, the two Houses of Parliament, the Council of Ministers, the Electorate, the Judicature, and the mutual relations of these various powers and authorities, are the material of all the historians and jurists. There is the same machine, or at least a machine which is painted to look the same. But its balance and adjustment have been varied; in its operation it is quite different, and needs different handling.

The problem of English constitutional history has been that of reconciling the theory with the facts, and of adapting the apparatus to its purpose, without absolutely taking it to pieces and reconstructing it on other lines. This has been the task of legislative and political efforts from age to age. The working efficiency of the system is a measure of the practical, though often unconscious, skill with which the process has been performed. It is

also a testimony to the long series of fortunate accidents which have shaped the destinies of the nation. Other constitutions have been built; that of England has been allowed to grow, and so the organism has gradually adapted itself to its environment. Its development has been biological rather than mechanical; and for this reason it is still instinct with vitality, while some of its much later imitators show signs of stiffness and desiccation.

Form and Substance.

The strangest feature in the whole case is not merely the unconsciousness, but the reluctance, with which these organic transformations are permitted. From decade to decade, one may almost say from century to century, the formal structure of English government alters hardly at all. Essential elements are introduced, modified, abandoned; but this goes on without express recognition in the statute-book, or in the proceedings of the legislature, or even in the common apprehension of the public. So far as the form of our institutions are concerned we might scarcely have moved from the Act of Settlement. If ever the civilisation of modern Europe should be lost and buried, like that of Assyria and Chaldea, and should have to be reconstructed from written records, the philosophic inquirer of the future would assuredly fall into errors as striking as those of some of our own investigators, who have confused the Egypt of the the Shepherd Kings with the Egypt of the Ptolemies, and applied to the Hellenic world of Homer conditions which prevailed in the age of Plato.

The conscientious inquirer into a rediscovered

Britain would have much excuse for failing to detect the difference between the twentieth, and the eighteenth, or even the sixteenth, century. He would find the proclamations and the statutes of King Edward VII. and Queen Victoria couched in terms not greatly different from those employed under the Stuart and the Tudor sovereigns. He might unearth copies of Blackstone and De Lolme, a volume of Hallam, some chapters of Lord Brougham and Earl Grey, and a discoloured fragment of Lord Courtney of Penwith; * and he would naturally infer that since the same forms, and names, and authorities, were so often used, and apparently in the same relation, they meant the same things. By painstaking research and collation he would no doubt obtain a clear idea of Magna Carta, of the Habeas Corpus Act, of the Bill of Rights, of the Privilege of Parliament, of Stockdale's Case and Hansard's Case, of the procedure of the House of Commons, and perhaps of the rules governing the administration of civil and criminal justice. But he would be gifted with the instinct of genius if he penetrated to the springs of English political action, and realised that the efficient factors were for the most part not those he found in his books, and not those of which the Acts of Parliament, and the decisions of the law-courts, took cognisance.

This curious opposition between the actual and the formal elements is not entirely due to that innate conservatism which has contributed much to the strength, and something to the weakness,

* *The Working Constitution of the United Kingdom;* by Leonard Courtney (London, 1901).

of Britain. It is true that the Englishman has a reverence for the past, which is not exceeded in any Western country. *Stare super antiquas vias* is with him not so much an axiom as a religion. When a change is contemplated he prefers to justify it, not by an appeal to general principles, but by showing that it is in accordance with precedent, and a natural and necessary consequence of what has gone before. Hence we have the strange spectacle, witnessed in England with a complacency that amazes foreigners, of new legislation constantly supported by references to the practice and maxims of a community in which the problems of modern society could not have been conceived by the liveliest imagination. In the age of railways, and wireless telegraphy, and flying machines, we are still guided by the authority of legislators who knew nothing of steam-power, and sometimes even by precedents drawn from the acts of sovereigns and statesmen who died before the invention of gunpowder and printing.

But we look to the past, not merely because it is the past—always a recommendation in itself to Englishmen—but because our formal constitution is strictly a legal system. It is founded on law; and in all the great struggles of our history there has been a constant reference, if not to positive enactments, at any rate to legal principles and methods. Our constitution, as one of the ablest expounders of it has declared,* is supposed to be part of our Common Law. Changes, especially those of an organic nature, have been defended mainly on the ground that they were

* Hearn, *The Government of England.*

either the actual revival of ancient rights or the abolition of unwarranted accretions upon the established customs. To the Englishman, in his political capacity, "use" was what was sought and venerated; the "abuse" was only the perversion of good custom. Our forefathers "wanted nothing new; to stand upon the old way was their interest and desire. Expediency is always open to debate. It admits by its very nature different opinions. But right *lucet ipsa per se.* If its existence be once established, there can be no further question."

An educated Englishman, says Professor Hearn, asked from what source a knowledge of our Constitution might be gained, would probably refer the inquirer to "those three great Statutes, which Lord Chatham called the Bible of the British Constitution." But a reference to them would be disappointing. If he turns to Magna Carta, the student may read of the writ mort d'ancestor and the assize of novel disseizin, of scutages and aids, of weirs and rivers, of weights and measures. In the Petition of Right he will find that the Crown may not make illegal exactions of money without the consent of Parliament, and that it is forbidden to perform various other acts which, as he knows very well, it is not in the least likely to attempt. In the Bill of Rights he will have the advantage of reading all that James the Second ought not to have done; and he will be interested to observe that the King's subjects may have arms "suitable to their conditions and as allowed by law," and that jurors "which pass upon men in trials for high treason" ought to be freeholders. Even if he looks at the three great Reform Acts of the nineteenth cen-

tury, and to the debates in both Houses of Parliament which led up to them, he will still find comparatively little that guides him as to the true character of our institutions; though he may learn something about forty-shilling freeholders, and compound householders, of the occupying tenant and the lodger vote, of the registration of electors, and the qualification for the service franchise.

But for much that is essential to the political machine, as it operates to-day, he may search in vain through the statutes, and the parliamentary debates, and the legal reports, from the reign of King Edward I. to the reign of King Edward VII. There is no positive law for the establishment of our national representative system. "No statute, no rule of Common Law, no resolution of either House of Parliament, has yet recognised the Cabinet." Responsible Government is non-existent for all that our legal theory knows of it. No formal cognisance is taken, even by the House of Commons itself, of the division into parties and of the fact that the Imperial executive is a committee of one of them. And the further fact that this committee holds office at the mercy of the parliamentary majority is not only not mentioned but it is most carefully and elaborately concealed. "In the body of the Act,* for example, which conferred upon Victoria its present form of government, the words 'responsible minister,' or any equivalent terms, never once occur. Were it not for a marginal note which forms no portion of the Act, not even a hint would be given by this statute of the important change, which it was intended to effect" (Hearn, *Government of England*, p. 8).

* 18 & 19 Vict. c. 55.

The list of subjects, which are not embodied in Acts of Parliament or other formal documents, might be indefinitely enlarged. There is no reference to the influence on Parliament of the electorate, to the organisation of public opinion, to the unique position of the Prime Minister, to the relations of the Executive and the Legislature towards the various classes in the community, to the part played by public meetings and political organisations.* At the same time the action and interaction of the various parts of the machine of State are often misrepresented by the legal formulæ which are supposed to describe them. It is known that the whole arrangement would come to hopeless wreck if any attempt were made to work it on these

* Professor Dicey points out (*The Law of the Constitution*, p. 285) that just as it cannot be said with strict accuracy that English law recognises the liberty of the press, so it can hardly be said that our constitution knows of such a thing as any specific right of public meeting. The right of assembling is nothing more than a result of the view taken by the Courts as to individual liberty of person and individual liberty of speech. There has never been any such formal recognition of this right as there is in the Belgian Constitution, Art. 190 which contains the following clause: "*Les Belges on le droit de s'assembler paisiblement et sans armes, en se conformant aux lois, qui peuvent régler l'exercice de ce droit, sans néanmoins le soumettre à une autorisation préalable.*" As t freedom of the press, it would appear, from the legal rules, summarised by Mr. Dicey from Stephen's *Digest*, that the whole of Carlyle's writings, much of Mill's, a good deal of Ruskin's, most of Herbert Spencer's, Darwin's, Huxley's, and Tyndall's, and some of John Henry Newman's, and Froude's, might have rendered their authors liable to fine or imprisonment. In fact, as Mr. Dicey caustically says, "Freedom of discussion is in England little else than the right to write or say anything which a jury, consisting of twelve shopkeepers, think it expedient should be said or written."

lines. That which renders it not only possible, but safe, convenient, effective, and, in the main, satisfactory, is the series of conventions, by which institutions have been perverted to quite other purposes than those they are supposed to fulfil. We live under a system of tacit understandings.

But the understandings themselves are not always understood. A large part of the work of those who have written on the English constitution consists of an examination of the expedients by which the rigour of an archaic body of doctrine is modified to suit the exigencies of a complex and highly-developed modern civilisation. They have had to reconcile, or at least to compare, the theory with the practice, to point out how the one differs from the other, and how the business of the nation gets itself done under cover of the historical fictions. This has been the task which has been admirably fulfilled, by such writers as Hearn, Todd, Walter Bagehot, and Professor Dicey. It may perhaps be said that since the subject has been handled by authorities, so well equipped, so learned, and so able, there can be no necessity to deal with any portion of it again. But it is of the essence of the English system of government that it is in a state of constant development. From year to year it varies; and a picture drawn in the middle period of Queen Victoria's reign can scarcely be faithful to life in the opening decades of the twentieth century. Of the distinguished authors who have been mentioned above, three wrote their works before the Reform Act of 1867;* even Professor Dicey's valuable treatise, in its

* In the Introduction to the second edition of his *English Constitution*, published in 1872, Bagehot has some remarks on

first edition, dates back as far as the year 1885, and Sir William Anson's great text-book, *The Law and Custom of the Constitution*, was composed in 1886. Many things have happened in the interval. It has been a period of rapid movement, of intense intellectual activity, of almost unexampled scientific and mechanical progress, of momentous changes in the world outside these islands, of much shifting of social and industrial forces within them. All this has left its impress upon our public polity. The shaping process of ages has not ceased during the past thirty or forty years, and there is ample warrant for taking stock of the situation.

"An observer," says Bagehot, in his opening sentences, "who looks at the living reality will wonder at the contrast to the paper description. He will see in the life much which is not in the books; and he will not find in the rough practice many refinements of the literary theory." The hint may perhaps be applied even to his own fine and penetrating study. Anxious to distinguish between the working principle and the "literary theory," he, like some other critics of his time, laid special stress on those features which had been inadequately appreciated by their predecessors. In their writings, the transformation of the older English aristocratic constitution into a kind of ministerial republic is accomplished; we are bidden to recognise the effacement of the Crown, and the House of Lords, the weakening of the ancient "checks" and "balances," the practical sovereignty of the House

the possible effects of the Act of 1867. But the book itself was written before that statute, and it "describes the English Constitution as it stood in the years 1865 and 1866."

of Commons, and the predominant importance of the Cabinet. Bagehot's ideas, sound and logical as they are in the main as an explanation of the "rough practice" which prevailed when Lord Palmerston was in office, have themselves crystallised into something like a "literary theory." The conventions, as frequently happens, become conventionalised. We cannot take the speculations and inferences of the critics belonging to the great middle-class period of English constitutional history as though they were of pontifical authority for the present day. Much has occurred since they wrote which they could not foresee; of some influences, which were at work even in their own time, they were not always clearly cognisant.

The chief component elements of our political and constitutional system, such as the Monarchy, the House of Lords, the House of Commons, the Ministry, and the Electorate, present themselves in three different aspects; which may be called the *formal*, the *conventional*, and the *actual*. They can be regarded from the point of view of the jurist, engaged in defining legal rights, attributes, and obligations; or from that of the constitutionalist, who wishes to ascertain the nature of the customs and rules by which these various powers and prerogatives have been modified or extended; or, again, from that of the practical observer, interested in political and social evolution, who tries to penetrate below the surface to "the reality of things." It is with the last of these, rather than the two former, that the following chapters are principally concerned.

CHAPTER II

THE CABINET SYSTEM

Evolution and Accident.

THERE is no part of our system more interesting to consider under the three different aspects, to which reference has just been made, than that which is the centre of the whole. From the legal point of view the Cabinet is only a committee of the Privy Council, and its members are merely "his Majesty's servants," * the high officers who are entrusted by their sovereign with the management of the great administrative departments, and from whom he may obtain confidential advice on affairs of state. According to the conventions of the constitution the Cabinet is the responsible executive, having the complete control of administration and the general direction of all national business, but exercising these vast powers under the strict supervision of the representative chamber, to which it is accountable for all its acts and omissions. If we look only at the actualities of the case, we might be inclined to say that the Cabinet, in its existing shape, is a committee not of Parliament, but of one party in

* They are still so styled in the summons to a Cabinet Council.

Parliament, which while it is in office has the control of legislation, administration, policy and finance. It is a committee which owes its existence to the majority of the electorate, to whom alone it is really, though fitfully, responsible. And if we peer below the surface of things a little closer, we might even conclude that its chief functions have passed from the Cabinet as a whole, and that they have been transferred to an inner council or conclave, consisting of the Prime Minister and the three or four influential colleagues who share his confidence and are habitually consulted by him.

Englishmen are sometimes disposed to look upon the development of responsible government, in its modern form, as a peculiar testimony to their capacity for practical affairs. We credit ourselves with a double allowance of political righteousness, and magnify the virtues of our ancestors, who forged the great instrument and consciously adapted it to its purpose. But it is impossible to examine the history of the Cabinet system without feeling that this praise must be considerably qualified. Our constitution, and our method of government, have been for the most part shaped by a series of fortuitous events. They are the "accidents of an accident." We do well to honour the wisdom of our forefathers; but they were not wise enough to foresee the curious evolution of which the results are before us. On the contrary, some of the ablest of them were occupied in endeavouring to divert its course and to change its mode of operation. We established a great Empire beyond the seas, as Sir John Seeley laboured to explain, in successive fits of absence of mind, seldom realising the greatness of

the work on which we were engaged. And the same philosophical historian has pointed out that a somewhat similar criticism may be applied to the organic changes in our internal government during the past two centuries. "The development," he says, "was much more casual and accidental, much less necessary, than is commonly supposed. It was not a necessary result of the growth of the 'spirit of liberty,' but a very peculiar result of very special circumstances. It follows, I think, that we ought not to consider a minister of the English type, conducting legislation and administration at once, and rising and falling at the pleasure of Parliament, to be necessarily the normal, and only proper, result of political development." And he adds: "So gradual was this development, and so much was it disguised at every step with legal fiction, that even now, I think, it is by no means clearly understood." *

It would be strange, indeed, if any body of persons had deliberately set themselves to the task of creating a system like that under which the governance of Great Britain is now carried on. For its characteristic features, and some of its peculiar excellences, depend upon conditions so extraordinary that no amount of political sagacity could have been expected to prepare for them in advance. There is such an air of unreasonableness, and even absurdity, about many of these provisions, that they have seldom been precisely formulated; and they have been denied and ignored in theory, long after they have been accepted in practice. The Parliaments of the eighteenth century, in the very act of converting "the King's servants" into a committee

* Seeley, *Introduction to Political Science*, pp. 271, 291.

of the House of Commons, were anxious to do the exact opposite, and to exclude ministers and "placemen" from the Legislature altogether. The separation of the legislative and executive elements, which is the complete negation of Cabinet government, was a cherished doctrine long after the two had become indissolubly associated. There was nothing, on which the jurists and constitutionalists of the eighteenth century insisted more strongly, than this division of powers. It seemed the most remarkable feature in the British system to Montesquieu, whose *Esprit des Lois* became, as Mr. Bryce observes, a sort of Bible of political philosophy to the founders of the American Union. The lawyers and the philosophers were equally enthusiastic. It was emphasised by Blackstone, and it had been praised by Locke, who laid down the rule that "legislative and executive powers are in distinct hands in all moderated monarchies and well-framed governments."

The proposition would no more have been questioned by Somers and Walpole than it was afterwards by Hamilton and Madison. The framers of the United States Constitution, when they took measures to keep ministers out of Congress, and made the cabinet-officers directly responsible to the President, were imitating what they regarded as cardinal principles in the English system. They thought they were maintaining its essential virtues, while discarding what they considered to be disturbing and dangerous innovations. On the purely constitutional question, many, perhaps most, Englishmen would have agreed with them. The statesmen of our Re olution era, while they were

busy creating the Cabinet, were extremely suspicious of "closet government," and had a tenderness for the older Privy Council, although they were in fact reducing it to a nullity. In the original articles of the Act of Settlement was one excluding from the House of Commons all persons holding office under the Crown; and another—specially aimed at the secret, or private, council of ministers—which prescribed that matters connected with the chief executive government should be transacted in the Privy Council, and that all acts of this body should be signed by the councillors responsible for them.* Throughout the greater part of the eighteenth century, while the Prime Minister was gradually becoming a kind of elective President or Chief of the State, there was a widespread feeling that the English constitution had no place for a Prime Minister at all.

If we come down to our own times we find the paramount and unqualified authority of the House of Commons continually asserted, while the powers of that House are being steadily transferred to the Cabinet. No statesman did more to assist the process than Mr. Gladstone; yet Mr. Gladstone constantly professed his belief in the theory of complete ministerial subordination to the elected chamber. The acknowledgment of the supremacy of the House of Commons he regarded as "the cardinal

* "All matters and things relating to the well governing of the kingdom, which are properly cognisable in the Privy Council, by the laws and customs of this realm shall be transacted there, and all resolutions taken thereupon shall be signed by such of the Privy Council as shall advise and consent to the same." This article in the Act of Settlement was repealed in 1705.

axiom" in the modern British constitution.* Nor did Gladstone, and those who derived their inspiration from him, come to close quarters with the fact that the Cabinet is not the nominee either of the Commons or the country, but of a portion of the House and a portion of the electorate. This, too, might be called a "cardinal axiom"; but few people can bring themselves to acknowledge it. Lord Morley, in his excellent chapter on the subject in his memoir of Walpole, neatly, but incompletely, defines the Cabinet as "a committee chosen by one member of the two Houses of Parliament from among other members." It would be nearer the truth to say that the Cabinet is a committee selected by one member of one party in Parliament from among other members of the same party.

If we did not know that the Cabinet system not only existed, but was in practice extremely efficient, we might deem it a fantasy as strange as any conceived in the brain of a philosophical visionary. It might seem the nightmare of a satirist, the burlesque of an Aristophanes or a Rabelais, that the laws of a country should be made by a big, miscellaneous, public meeting, composed for the most part of rather idle men, who attended or stayed away as they pleased; that the chief functions of actual rule, the command of fleets and armies, the protection of life and property, the direction of foreign policy, the management of the national revenues, should be entrusted to the nominees of rather more than half this meeting, and that they should perform their duties, subject to constant molestation and attack from the other portion;

* Gladstone, *Gleanings*, i. 236.

that the administration of this country should be carried on in a manner extremely distasteful to perhaps a third or nearly a half of its inhabitants; that the Government should be elected for an indefinite period, as the result of a sort of plebiscite; that it should consist of a secret committee; and that its members should be rewarded or punished, not for their own acts, but for those of their colleagues, so that a minister who had managed his department well might be deprived of office because another minister had managed his badly. Fantastic as these attributes must seem, when thus baldly presented, they do in fact belong to the essence of our polity in its present phase. They are not mere excrescences or superfluities. If they were dropped, the system would be fundamentally different. It might be better or worse; but its whole principle of action and method of operation would be other than they are.

The Cabinet in the Constitution.

The peculiar characteristics of the Cabinet are largely accounted for by the fact that it is a cross between a committee of the Privy Council and a committee of the two Houses of Parliament. To put it in another way, its members are at once the servants of the Crown and the servants of the Nation. Historically it was a committee of the Council; legally—so far as it has any separate legal existence—it is so still.

Its origin may be read in the works in which the development of our institutions has been traced.*

* A good deal has been written about the Cabinet; but considering its importance, the literature devoted to the subject

Much learning has been expended on the task of distinguishing between the various royal and national councils from which the Cabinet is ultimately derived. The council of departmental ministers and great officers of state goes far back into our history. When Sir John Fortescue wrote in 1471, the ministerial system was well developed. He expressly gives the initiative in legislation, as well as executive and administrative functions of all kinds, to the King's councillors. They were to meet frequently in order to "commune and delibre upon the matters of defecultie that fallen to the king"; and upon matters "of the pollicye of the

cannot be called ample. From the historical and legal point of view, the Cabinet is treated in the works of the constitutional historians and lawyers, Hallam, Stubbs, Hearn, Cox, Creasy, Todd, Erskine May, Dicey, Anson, Lowell, and others; in Freeman's *Growth of the English Constitution;* in Gneist's *Englische Verfassungs-geschichte*, and *Das Englische Parlament*; Sir George Cornewall Lewis's Correspondence and his Essays; Earl Grey's *Parliamentary Government* (2nd ed., 1864); Boutmy's *Developpement de la constitution et de la société politique en Angleterre;* and H. D. Traill's *Central Government*. There is a concise and accurate account of the growth of the ministerial system, during the eighteenth and early nineteenth centuries, in Miss Mary Blauvelt's painstaking *Development of Cabinet Government in England* (1902). When we turn from the historical, to the political, side, the materials are scanty. One or two distinguished statesmen, who have themselves been members of Cabinets, have told us something. The most valuable of these disquisitions from those who speak with the authority of actual experience are Gladstone's papers in the first volume of his *Gleanings*, and Lord Rosebery's observations in his monograph on Sir Robert Peel (1899). Lord Morley in his memoir of Walpole (1889), chap. vii., gives an excellent analysis of the functions of the Cabinet, which is understood to have been partly "inspired" by Gladstone; and in Lord

reaume," such as "how the goying owt of the money may be restrayned," and bullion brought in, and how "the prises of merchaundise growen in this launde may be holde up and encreased," also "how owre navy may be mayntened and augmented." The Council are to consider how the lawes are to be amended "in such thynges as they neden reformacion in": whereby, it is added, the Parliament will do more good in a month in the amendment of the law, than they would do in a year, "yf the amendynge thereoff be not debated, and such counsell be riped to their handes."*

Fortescue indicates the tendencies which were changing the feudal council of nobles and great ecclesiastics into the mere ministerial bureau of the Tudor kings, consisting of able administrators. As these officials had no roots in the soil, and were not connected with the land-owning aristocracy or

Morley's Biography of his former leader there are many illuminative passages. Some light on the actual working of Cabinets has been thrown by the publication of Lord Malmesbury's *Memoirs of an Ex-Minister;* and there is much incidental information to be gained from Greville, and from the various political Memoirs and published Diaries of the nineteenth century, especially the *Peel Papers* and the Life of the Prince Consort. The private secretary to a Prime Minister may be expected to know more than most people about the internal economy of Cabinets. Sir Algernon West, who was private secretary to Mr. Gladstone, writes pleasantly and instructively in his *Recollections*, and in an informing article entitled *No. 10, Downing Street*, in the *Cornhill Magazine* for January, 1904. See also *Report of the Royal Commission on the war in South Africa;* and W.Evans-Gordon, *The Cabinet and war* (1904). One need hardly do more than refer to the well-known, and now almost classical, chapter in Bagehot's *English Constitution.*

* Fortescue, *The Governance of England*, chap. xv.

any of the powerful estates, but were simply clever lawyers, capable diplomatists, or active courtiers, they became absolutely dependent upon the Crown. The House of Commons was much more anxious to protect the personal liberties of the subject, and above all to limit the exactions of the royal Exchequer, than to interfere actively in the Executive Government. It left the details of administration to the Sovereign, and was concerned rather in maintaining its independence, by excluding the royal ministers, than in increasing its own influence, by admitting them to its deliberations.

The long conflict between the Monarchy and the Parliament instilled into the minds of the defenders of popular rights a strong belief in the advisability of separating the legislative from the executive, as well as from the judicial, functions. When the Revolution Monarchy came into being, with a strict Parliamentary title, it found itself left with the tradition of a royal monopoly of executive power. The tradition was the cause of most of the political struggles of the eighteenth century. The Hanoverian kings, and especially George III., were unable to reconcile themselves to the fact that their "servants" were agents and nominees of the House of Commons. The House itself was only dimly conscious of the truth which many of its members regarded with apprehension. The revelation that government could only be rendered possible by the consent of a majority of the elective chamber seemed to many Englishmen quite as monstrous and irrational as it did to the King himself; and that, no doubt, was one of the reasons why the devices adopted to secure votes in the

House, the shameless bribery, the backstairs influence, the court intrigues, were tolerated with so little display of popular indignation.

It was also the reason why a minister, possessing the royal confidence, could sometimes contrive to carry on the administration with a minority of the House of Commons. Not till well down into the last century did the House really establish its power as a "government-making organ." When William IV., in 1834, dismissed the Whig ministry, and called Sir Robert Peel to office, he found that our Constitution had altered since the earlier part of his father's reign. The majority of the House was against the King's minister, and the King's minister found that he could not govern. But in the eighteenth century a minister, called to office by the Crown, could rely upon a certain amount of support, because it was thought that administration was the business of the Sovereign and his advisers, and that even members in Opposition, as the elder Pitt said to Grenville on the repeal of the Stamp Act, would be justified in accepting measures of which they disapproved. "The truth is that in those days a Parliament was still distinctly felt to be a conference between the representatives of the people and the Sovereign, present by his ministers. Whatever the Sovereign might propose was received with profound deference. And it had not yet entered the mind of the representatives that they were entrusted with the government of the country. They were in the habit of thinking that it was the business of the King to govern the country."*

* Seeley, *Introduction to Political Science*, p. 287.

What the Parliaments wanted was ministerial responsibility, in a different sense from that in which the term would now be used. They were anxious that the King should have a body of responsible servants with whom the Commons could deal freely and safely; whose names were known, whose proceedings were open and above board, and who could be made individually accountable for advice given to the Crown. They had no objection to the King having his own administrative council; indeed, they regarded this as necessary and natural. But they thought it wrong that the King should be under the influence of a number of persons, perhaps unknown, perhaps with no recognised status, who might meddle with affairs in an underhand fashion, and whose responsibility for what was done in the royal name could not be brought home to them.

This was the real cause of the objection to the Cabinet, and the reason why the name remained so long odious to our ancestors. By a "cabinet council" they meant a committee, which sat in secret and which perhaps had discreditable reasons for doing so. The name, as is well known, occurs in Bacon's Essays, where the writer, in treating of "the inconveniences of counsels," says that "the doctrine of Italy and practice of France hath introduced *cabinet councils*, a remedy worse than the disease." The term was applied by Clarendon to Charles I.'s confidential private advisers; and the Second Remonstrance of the Long Parliament complains of the management of the great affairs of the realm in cabinet councils by men unknown and not publicly trusted. "Formerly," says a writer of the closing

years of the seventeenth century, "all matters of state and discretion were debated and resolved in the Privy Council, where every man subscribed his opinion and was answerable for it. The late King Charles II. was the first who broke this most excellent part of our Constitution, by settling a cabal or cabinet council, where all matters of consequence were debated and resolved, and then brought to the Privy Council to be confirmed."*

To restore the older practice was the object of the article in the Act of Settlement mentioned above. And though this was not allowed to come into operation, there was a steady refusal to recognise the secret committee. In 1711, in the House of Lords, a motion of censure was put down against "the cabinet council" for the conduct of the war in Spain. When the motion came on, the wording was altered so as to make the censure apply to the ministers, not to the Cabinet. Lord Cowper and other speakers held that the law had no cognisance of any such body. This debate, it is true, occurred in the infancy of the institution, when the Cabinet was not very clearly distinguished from the Privy Council as a whole, and when the "Lords of the Council" were able to exercise an authority equal, and in some cases—as in that of the famous *coup d'état* of the Whig peers at Kensington Palace beside the deathbed of Queen Anne—superior, to that of the ministers.

A century later the whole question was argued out again in the House of Lords, when Lord Ellenborough, the Lord Chief Justice, was brought into

* Trenchard, *Short History of Standing Armies* (quoted by Hallam, *Constitutional History*, iii. 182).

the Grenville-Fox Administration by the personal influence of Lord Sidmouth. By this time the "Lords of the Council" had disappeared and the Privy Council had become atrophied. The Cabinet was so well established that it could not be ignored; and even such opponents of innovation as Eldon and Hawkesbury in the Lords, and Castlereagh in the Commons, repudiated the notion that it was unknown to the Constitution, and that therefore no cognisance could be taken of the admission of a particular person to a body which had no legal existence. The proposed votes of censure in the two Houses did not mention the Cabinet. In the Lords the reference was to "any committee or assembly of the Privy Council"; in the Commons it was moved "that the functions of a minister of state, and of a confidential adviser of the executive measures of the Government, should be kept distinct from that of a judge."

Macaulay and Sir George Cornewall Lewis inferred from this that Parliament still ignored the existence of the Cabinet. At any rate, it did not formally discover it, *eo nomine*, till long after. In 1851 a Committee of the House of Commons was appointed to regulate the procedure connected with the opening and prorogation of Parliament. The Committee, in its report, proposed that a certain precedence should be assigned to "Cabinet Ministers." But this was rejected by the House, on the ground that these functionaries were unknown to the Constitution. Another half century had to pass before the House of Commons was at last allowed to admit that such persons existed. In the Session of 1900 the term "the Cabinet," employed in an

amendment to the Address, appeared on the notice-paper of the House.* This was probably the first occasion on which reference had been made, in any official document, to the ruling committee of the Empire. Other parliamentary constitutions have not been able to maintain this impenetrable mystery about the vital organ of Government. The Cabinet is usually the formal Council of State, with the Premier, whatever his other office, as its President. In the Australian Commonwealth the Ministry is the "Executive Council," with the Prime Minister as its *ex-officio* chief, and with a Vice-President and a paid Secretary.

The Privy Councillor's Oath.

It is as members of the Privy Council that Cabinet Ministers are hung on to the legal constitution. Otherwise they are merely departmental officers of greater or less dignity. A Secretary of State has, it is true, certain statutory duties and prerogatives, and a place in the scale of precedency, which is only one degree below the vice-chamberlain of the Royal Household, and next above the eldest son of a viscount; but there is very little formal distinction between a Postmaster-General in the Cabinet and a Secretary of the Treasury outside, or between the President of the Local Government Board and that great permanent official, the Comptroller-General, who has the whole national revenue under his guardianship, who is bound to see that it is paid

* "We humbly express our regret at the advice given to your Majesty by the Prime Minister in recommending the appointment of so many of his own family to offices in the Cabinet."—*Amendment moved by Mr. Bartley, Dec.* 10, 1900.

out under the provisions of some Act of Parliament, and who can prevent the Treasury and the entire Cabinet from drawing a sixpence of the money lying in the Bank of England to the account of the Exchequer, unless he is satisfied that it is required for a purpose duly authorised by the law, and that it will be applied to that purpose and no other. In the department of the Comptroller-General, if anywhere, the embodied spirit of the British Constitution abides; there are enshrined the long results of the struggle, which placed the control of public funds beyond the reach of arbitrary power.*

But the Comptroller-General, though he may have a more genuine authority than most of the ministers, is only an officer in the service of the Crown. The Cabinet Minister is supposed to share its counsels. To him, as a Privy Councillor and adviser of his Sovereign, a special liability attaches. In this capacity he has taken a pledge, which he must not violate. There is, of course, no such thing as the "Cabinet Minister's oath of office." The minister is under no obligation beyond that laid upon him by the oath of fidelity and secrecy which has been from a very early period required of every person entering office as a member of the King's Council. The councillors, says Fortescue, are "to be sworne to counsell the King, after a forme to be divised for ther owthe, and in especiall that they shall take no fee nor clothynge nor no rewards off any man except only off the King."

* The Comptroller-General is appointed by letters-patent, and cannot be removed except by a joint address from both Houses of Parliament (see the *Exchequer and Audit Departments Act*, 1866, 29 and 30 Vict. c. 37, sec. 3).

Mr. Plummer, in his valuable discussion of the whole subject in his edition of Fortescue's *Governance*, reproduces the actual form of the oath taken in 1437 by the Keeper of the Privy Seal and other ministers, who "have sworene and made feythe unto the King to counsaille him wel and trewly, to kepe the King's Counsaille sure, and shortly they shall consail and doo alle that good counsaillers sholde." The oath has followed this model roughly through the centuries. The present form is as follows :—

"You shall swear to be a true and faithful servant unto the King's Majesty, as one of his Majesty's Privy Council. You shall not know or understand of any manner of thing to be attempted, done, or spoken, against his Majesty's Person, Honour, Crown, or Dignity Royal; but you shall let and withstand the same to the uttermost of your power, and either cause it to be revealed to his Majesty himself, or to such of his Privy Council as shall advertise his Majesty of the same. You shall, in all things to be moved, treated, and debated, in Council, faithfully and truly declare your mind and opinion according to your heart and conscience; and shall keep secret all matters committed and revealed unto you or that shall be treated of secretly in Council. And if any of the said Treaties or Councils shall touch any of the Counsellors, you shall not reveal it unto him, but shall keep the same until such time as by the consent of his Majesty, or of the Council, publication shall be made thereof. You shall to your uttermost be in faith and allegiance unto the King's Majesty; and shall assist and defend all jurisdictions, preeminences, and authorities, granted unto his Majesty and annexed to the Crown by Acts of Parliament or otherwise, against all Foreign Princes, Persons, Prelates, States, or Potentates. And generally in all things you shall do as a faithful and true servant ought to do to his Majesty. So help you God and the Holy Contents of this Book."

To the Cabinet Councillor the oath is a serious matter. The pledge to maintain secrecy cannot be

deemed a mere form. It is not merely the King's secrets that the minister swears to keep, but also, and particularly, the secrets of his colleagues. Under this provision everything which passes at a Cabinet meeting is strictly confidential. It cannot be divulged, save with the express permission of the Sovereign, which is only granted in very exceptional circumstances, and on the advice of the Prime Minister. The Cabinet Minister, the moment he is sworn, is linked with his colleagues by a solemn bond. As Privy Councillor the legal offence he can commit is a failure to observe the terms of his oath, in every particular, including that of keeping "the King's counsel" locked in his own bosom, unless or until he is authorised to disclose it.

It is true that the Cabinet Minister shares this responsibility with between two and three hundred other individuals, drawn from various orders and ranks in society, all like him members of the King's Council, and entitled to have the words "Right Honourable" prefixed to their names. The Privy Council is a miscellaneous body of highly respectable persons. It includes the Princes of the Royal House, the two Archbishops, several Dukes, and other Peers, the survivors from former Cabinets, a sprinkling of leading Colonial statesmen, the Lord Chief Justice, the Lords Justices of Appeal and other judges, some officers of the Royal Household, a few diplomatists and retired Indian officials, and a number of private members of Parliament, selected, it would seem, rather for their social standing and party loyalty than for political prominence or intellectual distinction. Most of these right honourable

gentlemen can take their oath with a clear conscience, since they are not likely to have the opportunity of breaking it. They can safely swear not to divulge state secrets for they will not hear any. Unless the Privy Councillor be a minister, or one of a limited number of court officials, it is improbable that he will ever be summoned to a Council at all. The Privy Council, save for certain formal and ceremonial purposes, is merely a name. Its political powers have passed to one committee, and its judicial authority, as the highest of the King's law-courts, to another.* The remainder of the Privy Council are an "honorific mob" of persons, on whom it is thought desirable to confer some titular rank. Of late years the dignity has occasionally been bestowed on eminent literary and scientific men, like Lecky and Huxley, on the principle, perhaps, that they were "too bad for heaven and just too good for hell:" gentlemen who might not have cared for a knighthood and were not deemed eligible for a peerage.

* The august tribunal, which sits unobstrusively in Downing Street to hear Colonial and Indian appeals, is still (1913) styled the Judicial Committee of the Privy Council; but it might just as well be called—as before long no doubt it will be—the Imperial Court of Appeal, since its connection with the Privy Council is merely nominal. The change of name and status might have been made long ago but for the contention, steadily asserted by Colonial constitutionalists (see Todd's *Parliamentary Government in the British Colonies*), that the supreme authority in the Empire is vested in the Crown, not in the Parliament of Great Britian. Colonists, it was thought, would not easily reconcile themselves to seeing the decisions of their own judges overruled in an English court of law. The Judicial Committee does not, in form, confirm or reverse the judgments of the Colonial tribunals; it merely reports on the case, and advises the Crown to exercise its prerogative.

A Secret Committee.

The writers of the text-books are agreed on certain characteristic features of the English Cabinet system. One of these distinguishing points is the collective responsibility of ministers; another that the Cabinet is answerable for its acts to the House of Commons and may be deprived of office the moment it ceases to retain the confidence of the assembly; a third that its other members are subordinate to the Prime Minister, who is the director of the whole administration, and its representative before the nation and the Crown. But there are two other points on which less stress is laid. The English Cabinet is a Party Committee; and it is a Secret Committee. These characteristics are usually noticed in a rather grudging and hesitating fashion, as though they were mere excrescences on the surface of the system. But they have become established factors in the working of the machine. They are parts of the organism; without them it would be fundamentally transformed. Secrecy and partisanship are elements of Cabinet government, in the shape in which it is exhibited among ourselves. And yet nothing is clearer than that they were not consciously introduced, and that they have developed themselves without the cognisance, or against the wishes, of successive generations of Englishmen. They are the most singular examples of that process of adaptation and adjustment, under the pressure of historical accidents and temporary necessities, by which our institutions have been moulded.

The fact that the English Cabinet is a secret

committee is in reality a most astonishing phenomenon, though use and wont have obscured its significance to our eyes. We have been so familiar with it for generations that we often forget its peculiarity. We take it as a matter of course that the gravest concerns of a people, among whom publicity and public discussion prevail to an extent seldom equalled, should be decided under the cloak of an impenetrable darkness. Yet, no doubt, Lord Rosebery, who has himself shared in the arcana of Cabinets, is right when he suggests that "to the inquiring foreigner, nothing can seem more extraordinary, in a country with so much of democracy about it, than the spectacle of a secret council, on the Venetian model, sworn to absolute silence, and conducting the business of a nation which insists on publicity for everything less important." And we may further agree with him that "of all anomalous arrangements for executive government in an Anglo-Saxon community, during the present epoch and under the present conditions, the strangest is the government of England by a Secret Committee." *

The Cabinet is a *secret*, not a *private*, committee. The distinction is essential, though often overlooked. Most Englishmen are aware that the Cabinet meets in private; they do not always grasp the fact that it works in close and guarded secrecy. In this respect it stands apart from nearly all governing councils, in ancient and modern times, and from

* "That it works well on the whole," adds Lord Rosebery in his monograph on Sir Robert Peel, "is a tribute less to the institution itself, than to the capacity of our race to make any conceivable institution succeed."

most other boards of management. Privacy is not unusual. It is indeed an element of the committee system. When a large body of persons—the inhabitants of a nation, the ratepayers of a town, the shareholders of a company, the members of a club, or the subscribers to a charity—*commit*, or entrust, their affairs to a selected group, they do so, in part, to avoid the inconvenience of constant open debate. Business cannot be properly transacted at a public meeting. But though a good committee takes care to obtain the advantages of privacy it is not, as a rule, permitted to assert the further prerogative of secrecy. Special occasions will arise, when it may be necessary to proceed *in camera*, without records and without witnesses; but it is always recognised that this is a license not oftened to be claimed, and legitimate only when matters of exceptional delicacy are under consideration. A board which was in the habit of frequently ordering its secretary out of the room, closing its minute-book, and engaging in secret confabulation, would soon lose the confidence of those to whom it was responsible.

What would be the first step of any competent committee, to which administrative functions and fiduciary powers of any kind were delegated? It would make haste to regularise its existence. It would elect a chairman; it would appoint a secretary and other officers; it would fix the day and hour for its periodical meetings; it would provide a fund for printing and other necessary expenses; it would determine its quorum and the order of its business; and it would arrange that notes of its proceedings should be taken, and that

the minutes should be duly read and passed. What would be thought of the committee of a corporation, or even the committee of a cricket club, which had no secretary, and no quorum, and no minute-book, and no rules of order: which kept no records; and which was so conducted that it was impossible, even for its own members, to say what it had done, or refused to do, at any meeting? A committee, which acted in this fashion, would certainly incur grave discredit, and would be regarded as behaving with intolerable, and almost immoral, irregularity.

That, however, is the fashion in which the most powerful committee in the world does, in fact, conduct its deliberations. The Cabinet has carried secrecy and informality to the highest pitch. Its meetings are still supposed to be nothing but casual consultations between a number of Privy Councillors. It has no regular time of assembly. It has no fixed place of meeting.* It has no office, no staff, no secretary, no rules, no corporate funds, no permanent location. It could not receive a letter or answer it, except through the First Lord of the Treasury or some other of its members, for it has no note-paper, and no seal, and no petty cash to buy stationery or pay messengers. It comes together at uncertain intervals. The date

* Cabinets have no local habitation. "I see them," says Sir Algernon West, "in old days meeting everywhere. In Bertram Currie's house in Combe Wood is a brass tablet recording how a Cabinet was held there during a visit of Mr. Gladstone's. Another Cabinet which I recollect was adjourned from the room in Downing Street to the Garden Terrace." In recent years Cabinet Councils have usually been held at the official residence of the First Lord of the Treasury in Downing Street, or else at the Foreign Office.

is fixed, usually at short notice, by the Prime Minister. Each member of the Cabinet receives a brief printed message, unsigned, but understood to emanate from the First Lord of the Treasury, announcing that "His Majesty's Servants" will meet at the Foreign Office, or at No. 10, Downing Street, at such and such a time. The date and place are left blank in the printed form, and are filled in at the Prime Minister's office.

When it assembles, the Cabinet finds that it has no corporate character. It might be a fortuitous conference of heads of departments at one of the public offices, or a meeting of party leaders at the Carlton Club. It has a standing President in the Prime Minister, who has more than the ordinary power of a chairman at a meeting in bringing forward such subjects as he thinks fit, and closing debate at his discretion.* The pro-

* He may even arrange the order in which the ministers are to be seated round the Council table. Mr. Gladstone was particular on this point. See the interesting article by Sir Algernon West, *No. 10, Downing Street*, already mentioned. The ex-private secretary states that, before a Cabinet meeting, Gladstone would sometimes draw on a sheet of paper, a plan of the table, with the places to be occupied by himself and the other ministers duly indicated. Gladstone used also to bring with him, for his own guidance, notes of the business to be transacted, and the same thing was done by Sir Robert Peel, and no doubt by other Premiers. A Prime Minister will, however, occasionally lay before his colleagues his views on some great question of public policy, by means of written or printed Memoranda, circulated in the strictest confidence, among the members of the Cabinet. This practice is not confined to the chiefs of the Administration. Other ministers will sometimes call the attention of the Cabinet to matters of public importance by the circulation of similar

ceedings are conversational and informal. There is no agenda paper, and indeed no paper of any kind. Not only are no records or minutes kept, but it is understood that a minister may not take a note, for future reference, of anything said or done during the Council.* The Premier is expected to send the Sovereign in writing an account of the Council and a summary of the decisions arrived at. Otherwise no report of the transactions is made to any one. A cohort of newspaper reporters may hang about Downing Street as the ministers leave the Council, but they get nothing.

The secrets of the Cabinet are guarded with undeviating fidelity. At rare intervals a glimpse is permitted into the temple, when there has been a dispute within its precincts, and the obligation

confidential statements. Sir Robert Peel was much given to the composition of these Memoranda, which were usually "read by himself at a meeting of the Cabinet, and afterwards sent in circulation amongst the members of the Government." In the summer of 1903, when the controversy over fiscal policy had reached an acute stage in the Ministry, Mr. Balfour circulated two documents, on the question of tariffs and import duties, among the members of his Cabinet. One was subsequently published as a pamphlet; the other remained confidential, and its contents were unknown except to ministers.

* Sir Algernon West informed me that when he was private secretary to the First Lord of the Treasury he was accustomed to go into the council chamber, immediately after the meeting, and destroy any sheets of written paper which might be left upon the table. But it was seldom that such documents were found; for it is contrary to etiquette to write anything at a Cabinet meeting. It is believed, however, that ministers frequently indemnify themselves for this reticence by communicating to their private diaries an ample *résumé* of the proceedings.

to silence has been relaxed by mutual consent and the permission of the Sovereign. Such was the case on the resignation of Lords Carnarvon and Derby in 1879, that of the Unionist ministers in 1886, and that of Mr. Chamberlain, Mr. Ritchie, Lord George Hamilton, and Lord Balfour of Burleigh, in September, 1903. The last was an interesting illustration of the curious informality with which the proceedings of a Cabinet Council are conducted; for it was clear, from the subsequent disclosures of some of the Free Trade ministers, that they were unaware of the fact that Mr. Chamberlain had offered his resignation to the Prime Minister before the Cabinet met. The Premier believed that his colleagues were cognisant of this important circumstance, and apparently some of them were; but in the buzz of conversation which prevailed the statements made were not completely understood by all the ministers. When there are eighteen or twenty gentlemen assembled in a conference, at which no particular rules of order are observed, it must, no doubt, often be difficult for everybody to follow the proceedings. But these revelations of Cabinet mysteries are extremely rare. It remains broadly true that the highest concerns of the nation are discussed and decided in close conclave.*

* Occasionally confidential Cabinet minutes have been drawn up and submitted to the Sovereign. But the only public document, necessarily signed by all the members of the Cabinet, is said to be the Order for General Reprisals, which constitutes a declaration of war, and is issued with the signatures of the Cabinet Ministers. This document is technically an order of the Privy Council, and it is signed by ministers in their capacity as Privy Councillors. On July 19

A secret governing committee of this kind has few parallels in the past,* and none at the present day, except where there has been a more or less complete adaptation of our practice. The American Cabinet is the advisory council of the President, who is in the chair at the meetings, and takes an active part in the discussions. The French Cabinet has a note made of the business done, and sometimes sends an official report to the newspapers. The President of the Republic may attend the councils if he pleases, and he may intervene in the debates or put questions to the ministers. The same privilege is reserved, and frequently exercised, by the sovereign in most monarchical states abroad. There cannot easily be a secret sitting in the presence of a witness who is not a member of the conjuration. If the supreme executive government of England were what the law supposes it to be—that is, government by the King in Council—it would be conducted under these conditions. Instead of the informal but all powerful Cabinet, huddled away in a corner, and discussing the things of the party as well as the affairs of the country under the friendly cloak of darkness, we should have the Privy Council, a regular and dignified body, with its register, its rules, its clerk, its traditions, and its legal precedents. The acts of

1871, after Queen Victoria had signed the warrant abolishing the purchase of commissions in the Army, the Cabinet, at the Queen's request, drew up a formal Minute of the advice its members had given her on the subject.

* The most famous is the Venetian Council of Ten, that powerful and mysterious Junto, to which the English Cabinet was occasionally compared by its hostile critics in the 18th century.

ministers, if not their words, would remain on record; it would be possible to find out what the Council had done or had declined to do.

In the presence of the Sovereign, and with this amount of publicity secured, mere party considerations would have to be kept in the background. In such a Council, if a minister were asked why he wanted a bill brought in or drafted, he would have to find some reason based on public policy. He could not say, as perhaps he might, at the Cabinet: "Well, you know, if we don't get this thing through, we shall simply lose the whole vote of such and such a trade at the next election," or use words to that effect. When the Cabinet wanted to turn itself into a party caucus, it would have to go elsewhere, and discuss the interests of its own political connection apart from the affairs of the nation.

There appears nothing in the formal Constitution to prevent the Sovereign from attending a sitting of the Cabinet or of any other committee of the Privy Council. William III. and Queen Anne habitually presided over the meetings of their ministers. The custom fell into abeyance because George I. could not understand English. To the accident that the throne was filled by German princes at a critical period of our history we owe the peculiar constitution of our supreme executive. If the kings had been able to take part in the ministerial deliberations, the Cabinet would probably not have been secret. If it had not been secret it is difficult to see how it could have become a close committee of the party majority in the House of Commons. And if, for the rule that no placeman should be capable of serving in Parlia-

ment, there had not been substituted, as has been said, "the rule that no man should be capable of becoming a placeman unless he served in Parliament," * the connection between the executive and the legislative organs could scarcely have been maintained. But in that case the most distinctive features of the modern British system of government would never have reached their full development.†

* See a witty and forcible letter on "The King and the Cabinet," by Mr. Thomas Gibson Bowles, M.P., in the *Times*, October 19, 1901.

† Colonial governors are sometimes instructed in their letters-patent to attend and preside at the meetings of the Executive Council, and to be guided by its advice. They may, however, if they think fit act in opposition to this advice, reporting the reasons for their dissent to the Imperial Government. The Governor usually summons the meeting of the Council. Minutes are kept, and any councillor is entitled to place on the record the reason for any proposal or opinion which he may have brought forward at the meeting. Some Australian and Canadian statesmen disapprove of the presence of the Governor at the sittings of the Executive Council, and have expressed strong objection to the practice. See A. B. Keith, *Responsible Government in the Dominions* (1912), i. 151–158 *seq.*

It is also worth noticing that in France it has now become the custom to have two sets of Cabinet Councils, which are usually held two or three times weekly during the session of the Chambers. At one kind of council the President of the Republic takes the chair, and foreign policy, and general legislative and administrative affairs, are discussed. The Prime Minister presides over the other set of councils, which are concerned more particularly with parliamentary, and presumably also party, business.

CHAPTER III

THE PARLIAMENTARY TYPE OF GOVERNMENT

ACCIDENTAL in its origin, with its powers undefined and largely hypothetical, the English Cabinet system has nevertheless become the standard and type of responsible government, in its Parliamentary form. Only by this extremely delicate and complicated arrangement, this nice balance of interests and powers, this combination of a council of state with a party directorate, does the machine work with some ease and smoothness. No other arrangement seems able quite so effectively to place the centre of authority under the control of those who are supposed to represent the popular will. It is claimed for it that it maintains the democratic principle of referring the ultimate decision to the people themselves, and gives them full liberty in the choice of their rules and law-makers; that it ensures the exercise of the functions of government by a body of persons, whose views are in consonance with the majority of the popular chamber; that it confers on the executive the strength and wide discretion necessary for stable administration, and at the same time renders it responsible at all times to the great jury, whose members are themselves accountable to

the nation; that it strictly conserves the practice of public discussion at every stage of a public transaction; that it requires the holders of high office to be prepared to vindicate their acts before a tribunal, which can punish them by dismissal, if it is dissatisfied or unconvinced. It creates a real sovereign power, which is supreme in every department of state, and in every region both of legislation and administration; and it makes it possible to carry out, by the normal course of constitutional procedure, reforms and changes of the most comprehensive character, provided they are really desired by the majority of the electors.

The Parliamentary type of government is frequently contrasted with the presidential and federal types, the only other forms that seem likely to hold their own in free and civilised communities which have passed beyond the phase of autocratic monarchy. From De Tocqueville downwards the comparison has often been drawn. Foreign observers, naturally desirous of improving their own institutions, have sometimes over-emphasised the merits of the English system. Perhaps they do not always see how much it depends upon circumstances which may be called local or accidental. The mixture contains numerous ingredients, "traces," as the analysts say, of many diverse elements, and if one is omitted, or introduced in undue proportion, the whole flavour of the resultant is altered. None of the imitations, with which the world is covered from Norway to New Zealand, exactly reproduces the original. In one country, they have failed to provide for the secrecy and collective responsibility of the council of ministers; in another, there may not exist a

wealthy leisured class to form the link between society and politics; elsewhere, there has been wanting that tendency to a clean-cut division of parties, a well-marked dualism of public opinion, which provides the machinery for putting the Cabinet in office and for turning it out. Even in those colonies where every effort has been made to apply the English model as closely as possible, the resemblance is incomplete. A careful commentator on Australian politics says:—

"It is doubtful whether responsible government, in the sense of government by a ministry, which carves out a definite policy approved by the country, and, in return, receives allegiance from its supporters in Parliament, has ever been acclimatised in Australasia, except in New South Wales under the influence of the late Sir Henry Parkes. How, indeed, could it be otherwise, when it was sought to transplant a delicate system, hallowed by conventions and dependent for its success upon the election of a special class of representatives, among a community necessarily ruled by men who had little experience of public life? Australian Parliaments, save on the rare occasions when some important issue, such as that of the tariff, has come to the front, have not been divided on ordinary party lines, and have amused themselves with the excitement of a constant succession of new ministries, selected on personal, and not on political, considerations. New South Wales, South Australia, and Victoria, to take three provinces at random, have had, respectively, twenty-eight, forty-two, and twenty-six ministries in forty years. . . . Australia has been confronted with the difficulty, experienced by every young country, that the men, who should naturally enter Parliament, are prevented by commercial or professional duties from devoting the necessary time, and that, in the absence of men of leisure, constituencies are much hampered in their choice of candidates. The payment of members, it is needless to say, offers no inducement to the successful merchant, but has increased the competition among men to whom the salary is an inducement."*

* H. de R. Walker, *Australasian Democracy* (1897), p. 264.

It would not be difficult to show that the parliamentary monarchies on the Continent of Europe, such as Italy and Belgium, which remodelled their constitutions in the last century, with the express purpose of assimilating them to our own, have had to admit equal or wider divergencies. For the course of Flemish and Italian history has not been at all like that of Britain, and the stratification of society is very different.

But the parliamentary governments possess one prime quality in common. In all of them, in England, in Prussia, in France, in Belgium, and in the British Dominions, the ministers are members of Parliament. The executive board is accountable to the elected chamber, and its acts can be examined, revised, criticised, and disallowed, by the representatives of the constituencies. There is, or so it is assumed, direct responsibility; there is direct power. The ministers can do great things—they can, indeed, do almost everything; but it is on the condition that they have the confidence of the national delegation. While they retain that, they are among the most powerful and efficient rulers on earth; the moment they forfeit it, they become private citizens. Clothed with this authority, their range of political action is scarcely limited. An English Prime Minister, with his majority secure in Parliament, can do what the German Emperor, and the American President, and all the Chairmen of Committees in the United States Congress, cannot do; for he can alter the laws, he can impose taxation or repeal it, and he can direct all the forces of the state. The one condition is that he must keep his majority—the outward and concrete expression

of the fact that the nation is not willing to revoke the plenary commission with which it has clothed him.

The root of the whole is the usage by which ministers are compelled to belong to one or the other House of Parliament. It is mere custom, and as we have seen was steadily opposed, not so much by the Crown, as by the Legislature itself. Even now the law looks upon the practise grudgingly, and will not allow more than four Secretaries of State, and four Under-Secretaries of State, to have seats in the House of Commons at any one time (21 & 22 Vict. c. 106, sec. 4, and 27 & 28 Vict. c. 34).* "There is no statute or legal usage of this country," says Gladstone, "which requires that the ministers of the Crown shall hold seats in the one or the other House of Parliament. It is perhaps on this account that, while most of my countrymen, would as I suppose declare it to be a becoming and convenient custom, yet comparatively few are aware how near the seat of life the observance lies, how closely it is connected with the equipoise and unity of the social forces." † Without it the "servants of the Crown" would not be kept continually cognisant

* In April, 1864, there was a solemn constitutional debate, due to the fact that, through inadvertence *five* Under-Secretaries of State had been allowed to sit and vote in violation of the statute. An Act of Indemnity was passed to relieve the fifth Under-Secretary from the possible pains and penalties he might have incurred.

† Gladstone, *Gleanings*, i. 224. Mr. Gladstone recalls the fact that, from accidental circumstances, he held the office of Secretary of State between December, 1845, and July, 1846, without a seat in the House of Commons. It is, he says, "by much the most notable instance of the kind" in our recent history.

of the fact that they are also the servants of the nation. Without it they could not have in their hands the general management of legislation, and without it their responsibility for executive acts could not be brought home to them at every stage.

In the United States the distinction of powers, theoretical with us, or obsolete, is still alive and operative. The Executive is kept apart from the Legislature. The members of the Cabinet do not sit in Congress; they are merely heads of departments, responsible to the President, who is the chief of the administration. Congress occupies itself in making laws and providing for the raising and disbursement of the Federal revenues. There is no Ministry directly responsible to the Legislature, unless it be the chairmen of the various committees of the House of Representatives, whose ministerial functions are in many respects more important than those of the Cabinet officers. These latter are only highly-placed confidential clerks, like our "permanent" under-secretaries, though without the element of permanence. The President is Premier for the purpose of diplomatic negotiations, naval and military administration, and foreign affairs; but for legislative purposes, the Prime Minister, if there be such a functionary, is the Speaker of the House of Representatives, who nominates the committees and takes care that the chairmen are members of the dominant party.

The several sections of this ministry of committees act separately, without concurrence or true concert, with very little reference to the executive, and sometimes with scant regard to a common policy. Finance is regulated under a method, which has

been described as that of spending according to the suggestions of one body and taxing in obedience to the suggestions of another. The Chairman of the House Committee of Ways and Means has sometimes been called the American Chancellor of the Exchequer. But he is a Chancellor of the Exchequer who has only to look after the raising of revenue. The expenditure is under the control of another finance minister, the Chairman of the Committee of Appropriations; while the Cabinet officer, actually at the head of the Treasury department, is not responsible for either side of the Budget, and is indeed little more than an expert witness who is allowed to lay his suggestions before the Congress committees for acceptance or rejection.*

The American system divides responsibility, and makes it difficult to place it anywhere. The Congress cannot control a President who has been elected, without reference to its feelings and sympathies, for a fixed term of years; the President has no authority over a Congress, which may happen to have a majority drawn from the party opposed to him, since he cannot dissolve and appeal from the representatives to the electorate; and the House of Representatives has little power even over its own business, which is really transacted by the heads of the two-score "little legislatures" that owe their being to the Speaker.

* "To see our Cabinet officers resign, because appropriations had been refused for the full amount asked for in the Secretary to the Treasury's 'Letter,' would be as novel in our eyes, as would be, in the view of our English cousins, the sight of a Ministry of the Crown remaining in office under similar circumstances." Woodrow Wilson, *Congressional Government*. p. 164.

Now these various powers and responsibilities are supposed to be entrusted, under the true Cabinet system, to the same hands, and they are exercised in an atmosphere of public discussion. They are combined in a governing Council, which derives its existence from a Representative Chamber chosen directly by the electorate. "The people [that is, the qualified voters] have allowed an executive to subsist, with apparently wide powers; but they virtually choose this executive, and keep it in so close and constant a dependence upon their pleasure, that it dare not act against what it believes their will to be." * The nation can be master in its own house, its energies can be directed along one channel, instead of being dissipated by want of unity. The officers, the sailors, and the engineers of the ship of state, can work in conjunction, with combined purpose and harmony of will. The House of Commons is theoretically strong, because it can call the Ministry to account for every act, and compel their resignation by refusing supplies. The Ministry is its servant, but not its slave; for it can advise the King to dissolve Parliament, appeal to the nation, and ask it to decide.

Some of the acutest of American publicists have been specially struck by the manner in which our system, unlike their own, makes power, both to legislate and to govern, the direct prize and result of successful leadership in popular assemblies. A national Parliament, they say, should train politicians for practical statesmanship, it should exhibit them to the country, so that when men of ability are wanted, they can be found. "In those Govern-

* Bryce, *American Commonwealth*, i. 218.

ments which are administered by an executive committee of the legislative body, not only the training, but also the exhibition, is constant and complete." * An American nominating convention does not "look over the roll of Congress" to pick a man to suit its purpose. If it did it could not find him, because Congress is not a school for the preparation of administrators. The business of Congressmen is "to pass Bills, not to keep them in running order after they have become statutes." But the Cabinet politician has to learn both arts. "The Ministry is a legislative Ministry, and draws its life from the Legislature, where strong talents always secure executive place. A long career in Parliament is at least a long contact with practical statesmanship, and at best a long schooling in the duties of the practical statesman." The leaders of English public life, we are told, have something besides the weight of character, the prestige of personal service, and the authority of individual experience, to exalt them above the anonymous writers in the press.

The people are interested in the Parliamentary debates, for they know what they mean, and to what end they may lead. They feel that they are present at "a discussion by the sovereign legislative body itself, a discussion in which every feature of each mooted point of policy shall be distinctly brought out, and every argument of significance, pushed to the furthest point of insistence, by recog-

* I am quoting here, and in the following pages, from various chapters of President Woodrow Wilson's admirable study of *Congressional Government* (twelfth edition, Boston, 896).

nised leaders in that body; and above all a discussion upon which something — something of interest or importance, some pressing question of administration or of law, the fate of a party or the success of a conspicuous politician—evidently depends." By its ability in dealing with its legislative proposals in Parliament the ministry's tenure of office is regulated; on his capacity in defending or in assailing the ministerial policy in Parliament is based the aspirant's chance of one day becoming a minister himself. The prospect, or even the possibility, of winning high and honourable office is the safest method to infuse the best talent of the nation into public life. Our indulgent Transatlantic critics lament that a place in Congress has no prize to offer, greater than membership of some one of numerous committees, none of them supreme in policy, or with recognized authority to do more than suggest; whereas in England a seat in Parliament is eagerly sought "by men of the rarest gifts, because a career there is the best road, is indeed the only road, to membership of the supreme Committee of Government. Leadership, with authority over a great ruling party, is a prize to attract great competitors, and is in a free Government the only prize that will attract great competitors."

Such eulogies need some qualification, when we apply them to the conditions that actually prevail. It would be safe to say that Cabinet government *might* be, rather than that it *is*, all that is implied in the flattering estimates of its admiring critics. The model was nearer the reality in the years between the two great Reform Bills than at any other period; for in that era of middle-class supre-

macy, before the electoral flood-gates had been opened to the inrush of the masses, and at a time when legislation and internal affairs were of relatively greater importance than foreign policy, the relations between the executive, the legislature, and the constituencies, were much more like those imaged in the constitutional theory than they can be said to be at the present day. Even in the 'sixties, the ideal of the text-book writers was often a long way from the facts; and the modifying influences have gained force in recent years. Account should be taken of the extent and real character of the responsibility of ministers; the relations of members of the Cabinet to one another and to the Prime Minister; the development of the party system; and the diminished power and importance of the House of Commons as compared with the ministry on the one hand and the electorate on the other. The last is the most significant feature in our recent political evolution. "The principal change," says Todd, "effected by the development of the English Constitution since the Revolution of 1688 has been the virtual transference of the centre and force of the State from the Crown to the House of Commons." One might add that the principal change effected since 1832 has been the further tendency to shift this "centre and force" from Parliament to the Cabinet, and to render the latter amenable to the control of the constituent bodies themselves rather than to that of their elected representatives.

CHAPTER IV

THE CABINET AND THE COMMONS

The House of Commons is the most remarkable public meeting in the world. Its venerable antiquity, its inspiring history, its splendid traditions, its still youthful spirit and energy, the unrivalled influence it has exercised as the model of Parliaments, its inseparable connection with the vitality of the English nation, its place as the visible centre, the working motor of our constitution—all this gives it a unique position. More than the Monarchy itself, more, far more, than the Cabinet, it attracts the attention not of Englishmen alone, but of foreigners. Its debates are studied beyond the Channel and beyond the Ocean. Its proceedings are familiar to many thousands who have never set foot in Britain, and have never uttered a word in the English tongue. For a man to have attained a conspicuous station in this august assembly, to be numbered among its leaders, its trusted councillors, its favourite orators, is to be counted among the foremost figures of his age.

The story of English history is the record of the struggle of the House of Commons, first for freedom, then for power. The long contest of the elective

chamber with the aristocracy and with the Crown, is that which lends dignity to the annals of our race, and vies in interest with the expansion of the Anglo-Saxon peoples in the regions outside Europe. The process was almost complete before its results were fully realised. But the recognition is now ungrudging and unqualified. The constitutionalists of the last century made it their business to enforce the lesson that the House of Commons was the real reservoir of authority in our polity, the life-giving element from which all others derived their validity. It was the true "efficient" part, whatever reverence and value might attach to the other, the dignified and ceremonial factors.

Much of the work of these writers is an attempt to substantiate the proposition that the House of Commons, in Mr. Gladstone's phrase, is the centre of our system, the solar orb round which the other bodies revolve. Men who were born when George IV. or William IV. was king, were still able to find some novelty and freshness in the final phases of the rivalry between the Crown and the Commons. They dwelt, disproportionately as it may seem to us, on the conclusion and the consequences of the long struggle. Looking at the state of things which prevailed in the first half of Queen Victoria's reign, when the House of Commons was more nearly the nation, in a political sense, than it had ever been before or than it has ever been since, they even magnified its authority. They endeavoured to show that it had absorbed many of the functions of the Crown, and of Parliament as a whole, that it was supreme alike in law-making, in the management of finance, in the

control of administration, and in the direction of public policy. The "Old Whigs" viewed with mingled admiration and apprehension, the Old Tories with undisguised alarm, this presumed omnipotence of the popular chamber. The *Quarterly Review* in 1866 spoke disparagingly of "the feeble and pliable executive of England," which "yields, and must yield, to the slightest wish of the House of Commons." Nassau Senior said that "the House of Commons, even now, while it is returned by less than one-tenth of the people, is the preponderating power in the British Empire. Returned by universal suffrage, representing, not as now a fraction, but the whole of our population, it would trample on the Crown and the House of Lords." Earl Grey, in 1864, thought that some increase in the power of ministers, in relation to the House of Commons, was "a matter of urgent necessity."

The extreme theory of Parliamentary omnipotence was concisely re-stated by the Duke of Devonshire, on September 5, 1893, in a speech delivered in the House of Lords during the debates on the second Home Rule Bill. In the United Kingdom, said the Duke, Parliament (which for these purposes means the House of Commons) is "supreme," not only in its legislative, but in its executive functions :—

"Parliament makes and unmakes our Ministries, it revises their actions. Ministries may make peace and war, but they do so at pain of instant dismissal by Parliament from office; and in affairs of internal administration the power of Parliament is equally direct. It can dismiss a Ministry if it is too extravagant or too economical; it can dismiss a Ministry

because its government is too stringent or too lax. It does actually and practically in every way directly govern England, Scotland, and Ireland."

But it should be remembered that this uncompromising assertion of Parliamentary sovereignty was put forward by an eminent Whig statesman, who, though still playing an active and distinguished part in politics in the closing decade of the nineteenth century, had served his political apprenticeship more than forty years earlier, was first in office under Lord Palmerston, and was a Cabinet Minister under Lord John Russell.

It seems, at any rate, an excessive assumption to maintain that the House of Commons, or Parliament, does "actually and practically, in every way," directly govern the kingdom. The House is still powerful, it is still influential in all departments of government, it is still a bulwark of public liberty, and still the worthy and splendid elective assembly of a great people. It does much and could do more. Even now its attributes are mighty, it does not cease to be interesting, and at times the world gazes enthralled upon the battles which rage within its walls. The show of power is with it, nor has it abated its pretensions, or diminished by one jot the assertion of its nominal authority. But it is undergoing the evolution which comes in turn upon most political organisms. Much of its efficiency has passed to other agents. It supremacy is qualified by the growth of rival jurisdictions. Its own servants have become, for some purposes, its masters. The Crown is at least as powerful as it was when the Throne was occupied by a retired royal lady. The Cabinet is more powerful, and has

drawn to itself many attributes which the Commons are still imagined to possess. The Electorate, fully conscious of its own influence under an extended franchise, wields a direct instead of a delegated authority. And causes, internal to the House itself, have deprived it of some of its functions, and limited its exercise of others.

These functions may be classified under the following heads:—

(1) Legislation.

(2) Administration and executive control.

(3) Financial policy and management of the public revenue.

(4) The discussion of abuses and the redress of grievances.

(5) The testing and selecting of public men in debate, and their appointment to ministerial offices.

With all these matters the House is still concerned. But it is difficult to maintain that in any of them, except perhaps the last, it has conserved its old privileges without diminution.

The House as a Legislative Body.

The law-making function is, if not the oldest, at any rate the most dignified and conspicuous attribute of Parliament, and the one that strikes the popular imagination with the liveliest force. It has so far dwarfed the other powers and duties of the great national Councils that we commonly talk of the two Houses, and sometimes of the Lower House alone, as the Legislature. But when we say that the House of Commons makes the law, we use language that no more conveys the facts than the legal formula, which tells us that every statute is

enacted by the King with the advice and assent of Parliament. New laws are made by the Ministry, with the acquiescence of the majority, and the vehement dissent of the minority, in the House of Commons. The Crown has nothing to do with the matter, the House of Lords very little, except that it has a limited power—seldom exercised in cases of real importance—to delay the operation of the proposed measure; the Opposition party protest against it, energetically but powerlessly at every stage; and the non-official ministerialists are able to do no more than affect the treatment of details.

Every member of the House, with the exception of a score or so who sit on the front benches to the right of the Speaker's chair, would admit, if he spoke the truth, that his influence over legislation was little greater than that of a private individual outside. He has the opportunity to criticise, to object, to make suggestions; but so has any writer in the press, or any one else who is able to address his countrymen in writing or by word of mouth. The legislator, it is true, may utter his criticisms, his objections, or his suggestions, under conditions that confer on them a certain air of authority and help to secure for them some amount of publicity; though one may doubt whether the orator who addresses an attenuated House in a speech of half an hour's duration (neatly summarised in five lines of the daily papers the next morning), has any special advantage over that possessed by a person who can make his voice heard from the pulpit or the platform, or is allowed to express his opinions in influential journals and important magazines. The Education Bill of 1902, weakly and ineffectually

debated in the House of Commons, was exposed to a continuous hail of hostile comment from the leaders of the Nonconformist community outside Parliament; and no one, I think, can honestly contend that these vigorous controversialists, some of whom could at any moment call up an audience of several thousand people to listen to their words, would have produced more effect if their speeches had been delivered in the House of Commons.

The power to shape legislation is in practice confined to those members of the House who form the inner ring of the Cabinet for the time being. A Leader of the Opposition will probably be one of the most powerful and influential of living men; he may have behind him the enthusiastic devotion and respect of a constituency which is numbered by millions; he may be accepted, with unquestioning satisfaction and sincerity, as the representative of their political opinions by nearly one-half the inhabitants of the country. His position, even if not supported by brilliant ability, renders him a critic of legislation whose lightest words are listened to with attention; nor would one deny that such attention is bestowed upon him by ministers, or assert that they can afford to disregard his arguments or his proposals. Nevertheless, until a general election has changed the balance of parties in Parliament, he can neither legislate, nor—as far as the House of Commons is concerned—prevent legislation, on any subject of a controversial nature: that is to say, on any subject which is of sufficient importance to excite widespread interest. No doubt, if he chose to bring in some harmless or colourless measure—an amendment of the Midwifery Act, let us say, or a Bill to

regulate the placing of street letter-boxes—he would have a good chance of carrying it into law; but even then that would only be because the minister, whose department was concerned, might be disposed to accept his views. His position and personal influence would cause the suggestion to come before the ministerial mind with greater weight than if it had been made by a writer in a newspaper; otherwise, the Opposition chief has really not much more power than anybody else to get even an administrative reform carried.

If the department, through the minister temporarily at the head of it, decides that the Midwifery Act does not need amendment, or that street letter-boxes are suitably placed already, the leader of the Opposition, like any influential reformer outside Parliament, could do no more than protest, endeavour to educate opinion on the subject, rouse public interest in it, demand action at some future time. Some of this work he would probably accomplish from his place in the House; but he could do it quite as effectually, and very probably he might even find it more convenient and desirable to do it, on the platform, through the political organisations, and in the press. In Parliament he has no direct control over legislation and policy. If he chooses to insist upon his opinion and to divide the House against the Ministry, he will do so only to emphasise his protest. The moment the leader of the Opposition announces that he proposes to vote against the Government on the Pillar-box Bill, that Bill would become a party question; the Ministry would stand or fall by it; the majority would vote one way, the minority would vote the other; and as the Ministry,

from the nature of the case, represents the majority, and the leader of the Opposition the minority, the latter, of course, must be beaten whenever the subject of the fight is of sufficient importance for the parties to muster their forces.

Thus we have the curious fact that nearly one-half of the "Legislature" are not legislators at all, or only legislators on sufferance and on matters of no moment. They can neither make laws nor prevent laws being made. They can, it is true, talk about them, while they are in the process of making; but so can anybody else. There was an Homeric battle-series at Westminster, when the leaders of the Unionist Opposition raked the Home Rule Bill with their fire through the long-drawn days of the Session of 1893. But for all the practical effect these speeches had on the fortunes of the Bill in the House of Commons itself, they might as well have been delivered in a public hall or a college debating society.

The Unionist orators did not turn votes by their arguments, nor would Cicero and Demosthenes have done so under like conditions. It is of the essence of our existing Parliamentary system, as it has developed in recent years, that votes are not turned. A member of Parliament is elected to vote for a particular Ministry, or to vote against it. He is the delegate of his constituents, or rather of that active section of his constituents which assumes the local management of political affairs. "Your representative," said Burke to the electors of Bristol, "owes you not his industry only, but his judgment, and he betrays, instead of serving, you if he sacrifices it to your opinion. I maintained your interests

against your opinions, with a constancy that became me. I knew you chose me to be a pillar of the State, and not a weathercock on the top of the edifice." But that is not at all the view of a representative's functions taken by the members of a modern Liberal or Conservative Association. They do not send him to Parliament to exercise his independence; they would be particularly annoyed and irritated if he did; and they scrutinise his votes with jealous care, in order that they may take him to task speedily, and with no superfluous delicacy or reserve, if he shows any dangerous tendency in that direction.

And the modern M.P. understands the conditions of his political existence so well that, in point of fact, he hardly ever does vote against his party on any party issue, when his own side is in office. Rare indeed are the recent cases in which a Ministry has been beaten in a regular party division by the defection of its own supporters. One of these, the defeat of the Gladstone Government in 1885, on Mr. Childers's Budget Bill, was partly an accident, if it was not, as many people thought, produced by the connivance of ministers themselves, engaged in the process known as "riding for a fall." Much the same may be said of the adverse vote on the supply of ammunition to the Army, which resulted in the ejection from office of the Rosebery Government on June 21, 1895. The Ministers, if they had chosen to muster their followers, could the next evening have reversed the snap vote of censure, taken on a side-issue in a half-empty House. But they were conscious that their position was unsatisfactory, that they had no real

majority in the country, and that they were in office only by the sufferance of the Irish members. A Ministry may purposely court defeat in the House when it desires a fresh appeal to the constituencies. Or, of course, it may go to pieces itself, and the party will respond to its collapse. The Liberal disaster in 1886, on the first Home Rule Bill, was not so much a revolt against the Cabinet as the result of civil war within that body—a mutiny in the camp with several of the generals at its head. So was the partial disruption of the Unionists that occurred when Mr. Chamberlain began his Tariff Reform agitation in the spring of 1903. If Conservative members were found in the Opposition lobbies, and one or two even sitting on the Liberal benches, it was only because a question had arisen on which the Cabinet itself was divided. The Free Trade Unionist was opposing some of his leaders at the bidding of some others. These cases do not affect the general truth of the proposition that the Ministry is the real law-making organ, and that it can count on the support of its Parliamentary majority for any legislative project, so long as the majority holds together.

The Legislative Initiative.

That the Ministry should initiate legislation is a characteristic part of our system. The Cabinet drafts its measures, and submits them to the Legislature; which considers and discusses them, as a body of persons arranged in parties, not as a collection of individuals each entitled to have his own opinion on public policy and allowed some

opportunity of carrying his views into effect. Every transaction, every project of law, comes before the House as an act of the Ministry and an act of the Party. If it fails, or should be condemned the result is a blow to the executive, and indirectly to that portion of the electorate by whom it is appointed. The system checks irresponsible sciolism, and hasty experimentalising. It may render legislation slow, but it prevents it from becoming fantastic. The official who lays a new proposal before the House of Commons knows that he, or at any rate his friends and connections, may have to carry it into effect. If it is sound, they will strengthen their position in the country; if it works badly, discredit may attach to them for years to come.

Most foreign legislatures, set up with more or less idea of imitating our own, fail to reproduce this feature. They do not reserve the initiative in legislation to the executive; or they do not criticise by parties. In some, as in the United States Congress, the law-making function is altogether separate from the ministerial; in others, as in most of those of Continental Europe, and in the Australasian States, individual members may compete with ministers, and perhaps prevail against them. They have a concurrent right of initiative; and, owing to the lack of party discipline, and the fact that groups of members will combine for particular purposes, there is always a fair chance that a ministerial project may be rejected, and that a private member's proposal may be carried, even though the Government should have opposed it. So it happens that one set of persons may make laws, and another set may see to their execution.

American critics noticing the feverish, scattered energy of their own Congress, struggling ineffectually under its avalanche of Bills, are more impressed than Englishmen are apt to be with the initiating prerogative of our Cabinet. "The function of the British Ministry," we are told, "is to provide the necessary legislation; and as a rule the Ministry is composed of men well known to the public and of more than usual experience. The function of the American Committee, on the other hand, is simply to sift or impede the efforts of a large assembly, composed of persons of equal authority, to pass laws, with the execution of which, if they were passed, they would have nothing to do." *

A public meeting, without regular leadership, is like an army without generals. It is apt to degenerate into a mob, with all the mob vices of fitfulness, haste, and tyranny. "No portion of our Parliamentary history," Macaulay has pointed out, is "less pleasing or more instructive," than the period at the close of the seventeenth and the beginning of the eighteenth century, when the lower Chamber was left to itself, without adequate direction, either from officers of the Crown or ministers of its own choice.

"The House of Commons became altogether ungovernable; abused its gigantic power with unjust and insolent caprice, browbeat King, and Lords, and Courts of Common Law, and the constituent bodies; violated rights guaranteed by the Great Charter; and at length made itself so odious that the people were glad to take shelter, under the protection of the Throne and the hereditary aristocracy, from the tyranny of the assembly which had been chosen by themselves."

* E. L. Godkin, *Unforeseen Tendencies of Democracy*, p. 108.

The remedy was found in the gradual establishment of Cabinet government in the eighteenth century, and the complete recognition, in the nineteenth, of the Ministerial system in Parliament. The legislative initiative has been freely conceded to the Government by the most philosophical students of representative institutions. "When," said John Stuart Mill, in a speech in the House of Commons in 1863, "a popular body knows what it is fit for and what it is unfit for, it will more and more understand that it is not its business to administer, but that it is its business to see that the administration is done by proper persons, and to keep them to their duties. I hope it will be more and more felt that the duty of this House is to put the right persons on the Treasury Bench, and when there to keep them to their work. People will more value the importance of this principle the longer they have experience of it."

The operation of the principle has been carried much further since Mill spoke. It is not merely a question of Cabinet initiative and direction, but of Cabinet authority over legislation, almost unrestrained. The privilege of the executive in these matters was supposed, before recent changes, to be consistent with a concurrent right of the members of the House of Commons to make proposals themselves, with some chance of getting them embodied in the statutes. And it was always understood that the House had an unlimited power to amend and modify all projects laid before it, whether by ministers or other persons. But its prerogative in both these respects has been attenuated. The "rights" of the private member

are still maintained, and sometimes plaintively or angrily vindicated; but his opportunities are so slight, and so fettered and guarded, that they are useless. In the earlier part of the last century it was possible for the most important changes in the law to be introduced and carried through the House of Commons by non-official legislators. The culminating instance was that of the Roman Catholic Relief Bill in 1825, brought in by Sir Francis Burdett and passed through its third reading. This was one of the last instances of a first-class measure, involving the deepest political issues, being laid before Parliament otherwise than by a minister. But for several decades afterwards, the independent member could still have his chance with Bills of a somewhat less controversial character, or with those on which opinion was not divided according to party lines.

But even over these questions the House, as distinct from the Government, has now very little power. Its opinion, whether expressed by the second reading of a bill, or by a resolution, is of scarcely any practical value, unless it is endorsed by the Cabinet, and placed on the party programme. A division in favour of some change or reform, which has not received the official stamp, is a mere demonstration, and it carries no real weight. The House of Commons passed resolutions in favour of payment of members, but nothing was done until a ministry in office was converted to the principle, and then it was put into practice without direct statutory authority. Ministers ignore "academic" votes of the House, and the newspapers treat them as harmless exhibitions of enthusiasm or

caprice. Year by year bills for legalising marriage with a deceased wife's sister, and for conferring the parliamentary franchise on women, were introduced and strongly supported. The former amendment of the law has at length been enacted by the acquiescence of the ministry. But several years earlier, in 1902, it had been carried through the second reading by a majority of over two to one. Here, in form, was an overwhelming demonstration in favour of a specific change in the law, on the part of the popular Assembly, which, in the oft-quoted words of De Lolme, can do anything except make a man a woman or a woman a man. In this case it did no more than if it had been a meeting of the Economic Section of the British Association. The Bill received no "facilities" from the Government, and it went no further. The triumphant division was a useful advertisement for the movement, but that was all. It furnished a striking example of the transfer of real legislative power from the House at large to its Executive Committee.

Under the rules at present in force, the Government has precedence at every sitting throughout the session, except the evening sittings on Tuesday and Wednesday, and the sittings on Friday. Priority is given to private members' notices of motion on Tuesdays and Wednesdays, and to private members' bills on Fridays. After Easter, the Government takes the evening sittings on Tuesdays, and after Whitsuntide, it takes all sittings, except those of the third and fourth Fridays after Whit-Sunday. This does not give much play for the private member's constructive statesmanship. And

even on the days when he can claim precedence his limits of action are much restricted. The "Twelve-o'clock Rule," as it is called, and the automatic suspension of the sittings of the House at half-past five on Fridays, make it difficult for any controversial business to be debated to a conclusion unless it is in the hands of the Government.

The arrangement, by which the House rises, in the ordinary course, at midnight, was intended to put an end to the demoralising scandal of frequent all-night sittings, sometimes produced by a mere knot of obstructives in order to annoy and harass the majority. But the result has been to place the private member at a further disadvantage. The Government can always suspend the Twelve-o'clock Rule to secure a proper hearing and due attention for matters in which it is interested. The private member has no such power; so that a very small hostile minority can generally talk out his motion, by impeding its progress until midnight comes "with its abhorred shears" and slits the thin-spun life. Thus, even if he gets a place on the order-paper before Easter, the private member has very little scope, and at the best he can hardly expect to do more than call attention to his proposals, in the hope that they may impress public opinion, and be inscribed in time on a Ministerial programme. After Easter he can do very little indeed, and after Whitsuntide nothing at all.

If he cannot legislate himself he may be supposed to have the power and opportunity to criticise the legislation of the Executive. This he does, and with as much freedom as his standing in the

House allows. On the second reading of Government Bills he can say a good deal on the general principle. But what he says is mainly intended for the outside public and the reporter's gallery. The Bill is not likely to be rejected on this occasion, for the simple reason that it has behind it the strength of the Government, and therefore the weight of the more numerous party in the House. In Committee the Government can always call up its supporters to vote for any clause as a question of confidence; and it can cut short discussion altogether, by getting the House (that is, its own majority of the House) to declare that the various stages of a Bill under consideration shall be concluded at certain fixed dates. The notice for "closure by compartments" appears in some such form as the following, under the name of the Leader of the House:—

"Licensing Bill (Procedure). That the proceedings in Committee and on Report of the Licensing Bill shall be brought to a conclusion in a manner hereinafter mentioned, on six allotted days. . . .

"After this order comes into operation, any day shall be considered an allotted day for the purpose of this Order on which the Licensing Bill is put down as the first Order of the Day.

". . . After the passing of this Order, on any day on which any proceedings on the Licensing Bill stand as the first Order of the Day, no dilatory Motion on the Bill, nor under Standing Order No. 10, nor Motion to postpone a Clause, shall be received, unless moved by the Minister in charge of the Bill, and the question on any such Motion shall be put forthwith. Nor shall any opposed private business be set down at the evening sitting for consideration on any of the allotted days or on the day on which the third reading of the Bill is put down as first Order."

This is a comparatively mild example. Discussion is truncated but not absolutely stifled. A more drastic form of "closure by compartments" was introduced to assist the progress of the second Home Rule Bill and has been rendered more rigorous since. How little real control members of the Commons, on either side, can exercise over the legislation proposed by ministers has been strikingly illustrated in almost every Session since 1893, when measures of the largest scope, bristling with controversial detail, on which it is inconceivable that all those who constitute the majority—to say nothing of the minority—of the House could have seen absolutely eye to eye, have been voted through at the call of the Cabinet, with a considerable proportion of the clauses not so much as discussed in Committee. It would seem as if the rank and file of the predominant party are content to give a free hand to their leaders, without even taking the trouble to look into the Bills they are asked to pass into law.

CHAPTER V

THE CONTROL OF PARLIAMENT

In cases of the kind just mentioned, we might almost imagine that if by some silent and miraculous revolution the House of Commons were swept out of existence, while the other parts of our Constitution were left standing, the progress of events in all essentials would have been little different from what it was. The function fulfilled by the House of Commons, though it looked all-important, was in reality nearly otiose. Let us imagine that in 1893 Gladstone and his colleagues had been elected by the direct choice of the constituencies, instead of by a process of secondary election through the Houses of Parliament. Instead of sending a number of delegates to London to support Mr. Gladstone until he thought fit to resign or dissolve, the Liberal and Nationalist electors of the three kingdoms might have cast their votes at once for the Liberal statesman and for such other public men as he desired to assist him in the government of the country. And suppose the Ministry thus chosen had "tabled" its Home Rule Bill before the nation on the 1st of February, by means of the Queen's printers, and had announced that on the last day of

July this Bill, with such alterations as ministers themselves might incline to make in it, should be sent up to the House of Lords.

One may be inclined to ask what difference in the general result this would have produced. The Bill would have been before the country for six months; it would have been discussed, criticised, turned inside out, defended by its supporters, riddled and bombarded by its opponents, in the newspapers, in the magazines, and on the platform. The vigorous speeches of the front Opposition bench would have had quite as much effect on the mind of the nation, and on the minds of ministers, if they had been delivered at public meetings; and scores of other members, who never found a chance of speaking on the measure in the House, would have had leisure and opportunity to talk about it to the country.

In the space that intervened between the first and third readings of the second Home Rule Bill, the measure, it is true, was almost recast; and the same may be said of the third Home Rule Bill. But the alterations were not in the main due to adverse votes in the House of Commons. They were the effect of searching criticism, and of the conviction, brought home to the minds of ministers, that some parts of their Bill would not "work." If it is admitted that all the oratory of Westminster will not turn half a dozen votes one way or the other, on any question of real public interest, the chief theoretical value of the debates disappears. The House is scarcely a legislating chamber; it is a machine for discussing the legislative projects of ministers, and only one among the various instru-

ments by which political discussion is in these days carried on.*

The declining power of the House of Commons in this respect receives less attention than it deserves, though it has been admitted, sometimes with reluctance, sometimes with a certain satisfaction, by some keen observers. The late Lord Salisbury occasionally noticed the phenomenon, as in his speech at Edinburgh on October 30, 1894, when he said: "There is an enormous change in the House of Commons as I recollect it, and the evolution is going on still; and we have reached this point—that discussion of a measure is possible in the Cabinet, but for any effective or useful purpose, it is rapidly becoming an impossibility in the House of Commons."

Lord Salisbury, though he regarded the change with his customary philosophical and scientific

* One of these instruments is the press; and the newspapers can sometimes modify Ministerial projects much more rapidly than the House of Commons. In July, 1904, ministers were engaged in drafting a scheme of Army reorganisation. Whether by accident, or by a calculated indiscretion, the outlines of the plan appeared in the newspapers a few days before the date fixed for the War Minister's statement. A cardinal point was the virtual abolition of the Militia. This proposal was at once strongly condemned, not only by the Opposition journals, but also by several of the leading Conservative organs. As the result, when the project was laid before Parliament, it was found that the provisions relating to the Militia had been eliminated. The Secretary for War declared that he still believed in his original proposals: but that he felt compelled to abandon them in view of the fact that they were plainly out of accord with public sentiment. It may well be doubted whether three months of heated debate in Parliament would have produced as much effect as this brief campaign in the newspapers.

detachment, did not consider that it was one to be applauded. Private members of the House sometimes raise their voices against it in angry or plaintive remonstrance. "Were they prepared," said one of these oppressed legislators indignantly, in the debates on the Closure resolutions by which it was proposed to expedite proceedings on the Licensing Bill of 1904—

"Were they prepared to declare that as a body the House was unfitted to frame its measures, and that when a Bill passed into Committee, if time was short, or if the measure was controversial, or if any elements of complication arose, it was to be taken, not in the form in which Parliament had settled it, but in the form in which the Government draftsman had framed it, and in which the Cabinet had chosen to adopt it? The Constitution had undergone a serious change. It had ceased to be government by Parliament; it had become government by Cabinet; and an even later development, they were told, had taken place, and it was now government by Prime Minister in Cabinet, little distinguishable from the autocracies into which the democracies of the past had degenerated. . . . There was no tribunal by which legislation could be reviewed and criticised. The only security given was in the discussion and deliberation of Parliament, and if they came to the conclusion that this deliberation and discussion could not be expended upon their measures, then they were abandoning one of the most important functions which the House had hitherto exercised."*

No doubt a member's views as to the growing encroachments of the Government on the right of discussion are apt to be coloured by his own relations to it. The extinguished Opposition orator may writhe beneath the closure like a toad under the harrow. To the minister, anxious to push his Bill

* Mr. Lawson Walton in the House of Commons, July 1, 1904.

through, the harrow may seem only a useful implement of agriculture. But, aside from all party spirit, there must be many members of the House who regard their own powerlessness with misgiving and dissatisfaction. One of them has put the case strongly but temperately in these words:—

"There is no doubt as to the facts of recent Parliamentary history. In the last few years the powers of the Government have been greatly increased, those of private members have greatly declined—not merely powers of talking, for that is little, but of doing useful work. Each step in the process looks small, but the cumulative result is very considerable. For instance, the closure used to be occasionally refused. Even Mr. W. H. Smith, who sat more continually in the House watching its proceedings than any Leader of recent years, was refused the closure. The Government is practically never refused the closure now. Then the rules are much more stringently applied in a more technical or quasi-legal manner than formerly, whether as regards questions, amendments, instructions, or points of order. Again, it was practically impossible, till the greater stringency of administering the rules of these later years, to pass Bills, as was done during the late Parliament, without an amendment of a single word.

"It is supposed to save time; but what effect does it have on private members, on both sides of the House, to be told that no contribution they can give, no argument they can make in the direction of improvement, is of the slightest use? The Government says it knows how to draw a Bill which is absolutely perfect, and all suggestions about the Bill are made to appear waste of time. If this be so, what is the use of a deliberative Assembly?"*

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* The quotation is from a letter by "An Old Member of the House of Commons" in the *Westminster Gazette*, March 19, 1901. Cf. the remarks of Mr. F. E. Smith on the First Reading of the Parliament Bill, February 22, 1911: "Hon. members knew the conditions under which business was carried on in the House. It was only to use a form and a name to say that they

It must be remembered that the situation of the Ministerialist member outside the Ministry itself is not much better than that of his rival on the opposite benches. He, also, is only in a limited sense a legislator; he has scarcely any power to make new laws or prevent them being made, or to amend old ones. He is not consulted, any more than the members of the Opposition, on bills which ministers propose to introduce; he sees them only when they come from the printers; and then he knows that, whether he likes them or not, he will be expected to support them by his vote in the lobbies.

On the other hand this suppression of "the liberty of unlicensed debate," as Milton might have called it, and the regulation of desultory, half-instructed, opinion, has found its advocates, and even its enthusiastic eulogists. Against the doubting words of Lord Salisbury, may be set the exultant langage of Lord Salisbury's son, a brilliant representative of the newer school of Toryism. Speaking in the House of Commons in March, 1901, in ardent defence of the revised rules of procedure brought forward by the Government,

were left to the House of Commons. They were not left to the House at all; they were left to the Cabinet. The Home Secretary had attempted to draw a distinction by saying that the Cabinet existed only by the support of the private member, and the right hon. gentleman added that a breath from the House of Commons would blow the Cabinet away. A fallacy underlay that observation. . . . The House knew that the day of the private member had passed away, perhaps never to return. The influence of the private member was a thing of the past, and it had progressively declined as the strength of the caucus had progressively grown."

Lord Hugh Cecil uttered these remarkable sentences:—

"We hear often of the infringements of the rights of private members, and it cannot be denied that a transfer of political power from the House of Commons to the Cabinet is going on. . . Why is it that nobody cares, outside these walls, about the rights of private members? Because there is a deep-seated feeling that the House is an institution which has ceased to have much authority or much repute, and that when a better institution, the Cabinet, encroaches upon the rights of a worse one, it is a matter of small concern to the country."

Such language, as Mr. Bernard Holland observes in his penetrating study of our method of Government entitled *Imperium et Libertas*, has hardly been heard within the precincts of the Palace of Westminster since the days of Charles I.* In 1791, Reeves, the author of the *History of English Law*, anxious to exalt the royal prerogative, used somewhat similar language about the House of Commons, contending that the chambers of Parliament were but branches on our constitutional tree, which might be lopped off without seriously damaging the trunk. The House was deeply indignant, and compelled the Government to prosecute Reeves for sedition, though the jury refused to find him guilty.†

* Mr. Holland adds: "The theoretical and practical deduction from this doctrine is that the House of Commons is to become a mere body for registering the decrees of a secret committee, largely consisting of men in the House of Lords who never come near it. How long in that case will the House of Commons continue to attract the services of able men? It is felt already that, for a man who desires not so much honorary distinction as real and practical work, the London County Council offers satisfactions, which Parliament is powerless to bestow." *Imperium et Libertas*, p. 257.

† *State Trials*, xxvi. 530-534.

Nodody however proposed to prosecute, or even to reprimand, Lord Hugh Cecil, for his open aspersion of the dignity and authority of the House of Commons. Perhaps it was felt that there was undeniable truth in his statement of the facts, whatever might be thought of his verdict on the merits of the two "institutions," which were the objects of his audacious comparison.

The House of Commons and the Executive.

What has been said of legislation applies largely to administration. The House of Commons no longer controls the Executive; on the contrary, the Executive controls the House of Commons. The theory is that the ministers must justify each and all of their acts before the representatives of the nation at every stage; if they fail to do so, those representatives will turn them out of office. But in our modern practice the Cabinet is scarcely ever turned out of office by Parliament *whatever it does*. The Ministry may fall by its own connivance as in 1885 and 1895, when it feels that the country is turning against it; or it may break up on some question, like that of Home Rule or Free Trade, upon which its own members are divided. But such a question will be one of policy, not of administrative action. It is very difficult to bring a Government to account for anything done in its ministerial work.

The real check upon a too gross and salient misuse of Ministerial power is, no doubt, the salutary fear of public opinion; but this is a restraint that would be pretty nearly as operative without the assistance of the House of Commons which does not respond to it except after a general election.

For the control of Parliament, which was supposed to be regular, steady, and constant, is exchanged the control of the electorate, which is powerful but intermittent. It is brought into operation at uncertain intervals, and is exercised only with reference to one or two great issues of policy, often determined by ministers themselves, instead of being applied, from day to day, to the conduct of public affairs. The country may change its politics in consequence of the acts or omissions of the Executive, but the rank and file of the House do not. If they do, we should find members constantly, or at any rate occasionally, voting with the Opposition; but that scarcely ever happens. Even when a party is broken by internal dissension, members are very reluctant to vote *against* the official leaders, though they will sometimes abstain from voting *with* them. This was the case with the Free Trade Unionists in the various debates which arose out of Mr. Chamberlain's Preferential agitation. Only a very small knot of the "free fooders" voted regularly with the Opposition in the Session of 1904, though they were quite as strongly opposed as the Liberals to the fiscal views of the chief members of the Cabinet. The custom of voting with the party has solidified into a rule; and that rule established, the control of Parliament tends to become sensibly attenuated, till for long periods of time it is almost non-existent for practical purposes.

Lord Rosebery, a Prime Minister who has held his office under the new conditions, has pointed out that, in any case, the theoretical accountability of the Cabinet is normally and regularly in abeyance

for half the year. "During the whole of the parliamentary recess, we have not the faintest idea of what our rulers are doing, or planning, or negotiating, except in so far as light is afforded by the independent investigations of the press."* But a body of men who have their hands upon the details of a complicated business all the time cannot be effectively supervised by another body paying fitful attention to the subject during a part of the time. The members of the House of Commons are occupied in various ways; they have many things to interest them during the short London season; and though they may have every desire to do their political work properly the circumstances are much against them. Half the House is taken up with business, and the other half with amusement. As the Session goes on, and the weather grows warmer, and London society plunges into its summer rush of brief excitement, many members find it difficult to devote their energies steadily to their "parliamentary duties." It is difficult for the Whips to keep a house, when so many of their men are loitering at garden parties and afternoon fêtes, or lunching late and long, or lingering over the dinner-table, or hurrying off to country-houses and golf-courses from Friday to Monday. How can a man plough solidly through his Blue Books and his Reports and Papers in this distracting environment?

The conditions of Parliamentary life are illustrated by the curious and unexpected results of the Rules of Procedure which were drafted under the direction of Mr. Balfour. They were based on what seemed

* See Lord Rosebery's article on Sir Robert Peel in the *Anglo-Saxon Review* for June, 1899.

the sound assumption that the House of Commons would do its business better if it adopted more businesslike methods, and had its regular hours every day for work and its regular periods for rest and refreshment. Instead of continuous sittings which might last from noon of one day till sunrise on the next, with benches nearly empty for hours at a time, the House was to meet at half-past two, go on till half-past seven on four days a week, adjourn till nine, and continue to sit, in the ordinary course, till midnight. It was hoped that members, after the day's work, would go home to dinner, and come back, fresh and vigorous, for the evening's debate. But it seems the member of Parliament is so constituted that the only way to secure his punctual attendance is to bring him down to the House and lock him up as long as he is wanted. Otherwise he cannot be trusted to come in, even to vote, when required. His wife and daughters, and his friends, and his own natural desire to be in a pleasanter place than the heated chamber, and uninviting corridors, of the House, are too much for him. Members of Parliament, on the testimony of one of their number, "are to a considerable extent predatory in their habits, going for their food to other people's houses. The conventional luncheon hour in London varies from 1.30 to 2 nominally; allowing for ordinary unpunctuality, 1.40 to 2.10; the dinner-hour is anywhere after 8.15. These are clearly incompatible with attendance at Westminster at 2.30 and 9." *

* See a letter from Mr. Reginald Lucas, M.P., in the *Times*, May 5, 1904. A fortnight after the date of Mr. Lucas's letter

The disability, no doubt, affects one party more than the other, since a Conservative Whip is likely to find a larger proportion of his flock disturbed by the demands of fashion and society than his Liberal competitors;* and, of course, much will depend upon the discipline of the party, and the feeling of the rank and file towards their chiefs. Still, the fact is incontestable that, whether through the preoccupations of work or pleasure, the majority of members are unable to bestow upon the proceedings of the Executive that continuous, unintermitting, attention by which alone effective control can be maintained.

The opportunities of the private member to bring

there was a discussion in the House on some of the results of the new Rules. Dr. Farquharson, a Scotch member, said: "There were many members who found it most inconvenient to be at the House at two o'clock—especially those gentlemen who were in business or professional life. The House of Commons ought not to be a place accessible only to men of leisure who wished to enlarge their social circle. Under present conditions it was impossible for any man carrying on commercial or city life, or practising in the Law Courts, to come to the House before four or five o'clock, when the interesting questions were over." Mr. Balfour, in his reply, said: "I come to the conclusion that the domestic attractions to which the hon. gentleman refers are of a high character. Many gentlemen find it difficult to return to the House at nine o'clock, unless there is some special excitement, or some hope of an interesting scene."

* The difference between the two parties in this respect was noted long ago. Lord Malmesbury writes in his Diary under date February 25, 1837: "A good deal of division exists among the Tories, who are very careless in their attendance, and who prefer their pleasures to their duties. Not so the Whigs, who are always ready to obey their leader's call, and never dream of thinking for themselves." *Memoirs of an Ex-Minister*, p. 56.

pressure to bear upon the Administration by a motion in the House are even more limited than his command over legislation. He has three courses open. He can put down an amendment to the Address, if he sees his way to suggest one which raises an important question of general public policy. He can ballot for the chance of putting down a notice of motion on a Tuesday or Wednesday, in the period during which those evenings are not required by the Government. And he can also, at any afternoon sitting, after questions, and before the Orders of the Day, rise to move the adjournment of the House "for the purpose of discussing a definite matter of urgent public importance."

If more than forty members rise in their places to support him, he can bring forward his motion. This is an ancient constitutional privilege which has always been regarded as of substantial value, since it enables any member, with the assistance of a comparatively small minority, to have the conduct of ministers debated. But it has been rendered almost nugatory by the restrictions placed upon its exercise. Formerly a motion for the adjournment, for purposes of debate, might be made without leave or conditions at any time before the Orders of the Day were called on. Now such motions may only be made by ministers of the Crown. Further, a motion for the adjournment must (1) not revive discussion on a matter which has been discussed in the same session, and (2) it must not anticipate a matter which has been already appointed for consideration by the House, or with reference to which notice of motion has been previously given.

The result of these rules is that a supporter of the Ministry may "block" debate on any subject, for a whole session, by giving a notice of a motion on that subject. If he frames his notice in sufficiently wide terms he can anticipate all attempts to deal with any branch of it, or with any cognate topic, by a subsequent motion for the adjournment. Ingenious members amuse themselves by "thinking out any possible subject that could be of interest to any human being, and putting down a notice of motion upon it." Thus, if at any time it seems desirable to examine any act of the Government, by means of a motion for the adjournment, the probability is that the mover will find himself blocked by a notice on the paper, and will be told by the Speaker that he is out of order.

It seems unlikely that this "blocking" practice will be tolerated much longer. But the weakness of the private member, and of the House generally, and the growing strength of the Cabinet, are not due in the main to the Rules of Procedure. These might be amended. But their amendment would not affect the deeper causes which have altered the balance between the Legislature and the Executive.

Even if members were very industrious, instead of being, for the most part, rather idle, and if they were much more capable and zealous than is generally the case, they could not cope with the work. It may or may not be true that the "closure by compartments" method "stifles the voice and paralyses the action of the House of Commons," and that it "is causing the House of Commons to be regarded as a mere automatic machine for registering

the edicts of a transient majority."* Such results at any rate are not due to ambition or grasping love of power on the part of Cabinet ministers. Very few of our statesmen are built that way. They are not in the least inclined to play the part of a Strafford. But "the King's business must be carried on"; and regularly every session it turns out that it will not be carried on, without the use of expedients which, in the phraseology of politics, are called drastic.

"The Parliament," said Gladstone, "is overweighted; the Parliament is almost overwhelmed." This was spoken more than thirty years ago; and assuredly the description has lost none of its force during the intervening period. The House of Commons is buried under the multiplicity of its nominal duties, the variety of its functions, the mountainous mass of its interests.

The result of trying to cope with these colossal tasks is that the business of the House is in arrear, as a matter of course, after the first few weeks of the session, and members, without reluctance or with relief, surrender the whole conduct of transactions into the hands of the ministers; who alone, with the assistance of the officials of the House and the chiefs of the permanent Civil Service, know what is being done, and can keep their heads in the whirlpool.

* Mr. Asquith on the proposal to closure the Licensing Bill by stages in the House of Commons, July 1, 1904. Mr. Asquith was in opposition at the time. His words were several times cited against himself in the sessions of 1912 and 1913, when as Prime Minister he applied the closure with even more severity than his predecessors.

The manner in which the most sweeping administrative changes can be made without the authority, or even the cognisance, of the House of Commons, was strikingly exhibited when the Army Council was created, and the War Office reorganised, in 1904. The revolutionary changes involved were only communicated in very vague and general terms to the House; and that only in the course of a debate on the vote for the Secretary of State's salary a week before the close of the session. On August 15, Parliament was prorogued. Two days later a string of orders-in-council appeared, defining in elaborate detail the functions, status, and responsibilities of the Army Council, and those of the newly-constituted Inspector-General of the Forces. It cannot be said that the House of Commons was consulted on these very important executive acts, or was even made acquainted with them, before "His Majesty, by and with the advice of His Privy Council," was "pleased to order" that they should be carried into effect.

The House as a Guardian of the National Finances.

If what has been said above is correct, it applies to the management of finance, which is partly administration and partly legislation, and in either character is beyond the effectual control of non-ministerial members of Parliament. The Budget is determined by the general policy of the Government. It may be altered in detail with the acquiescence of its authors, or as the result of a bargain with doubtful allies and possible foes, as was the case

with the re-cast Finance Bill of 1909–10; or in consequence of an out-of-doors agitation. But in the House itself the Ministerial finance can only be modified by defeating the Ministry.

Mr. Bryce * tells us that "the House of Commons is strong because it can call the Ministry to account for every act, or by refusing supplies, compel their resignation." But the refusal of supplies is a constitutional figment. "The ultimate legal sanction," says Sir William Anson, † "which the House of Commons could bring to bear on a Ministry of which it disapproves, the refusal to pass the Mutiny Act or grant supplies, has never in fact been applied." And even if the House were willing to take this course, it could not do so, unless it were ready to turn out a Ministry; that is, unless the majority would consent to humiliate itself and allow a triumph to its rivals. Nothing can be better in form than the separation between the functions of the Committee of Ways and Means and those of the Committee of Supply, or the manner in which the Estimates are brought in, presented, and discussed. But in practice the control of the House is largely inoperative; first because of the feverish scuffle against time, which forbids deliberate and prolonged examination of detail; ‡ and secondly, because a serious attempt to refuse a Vote, or alter an item in an account, can

* *The American Commonwealth*, i. 266.

† *Law and Custom of the Constitution*, i. 130.

‡ A few days before the close of the session of 1904, the sum of £28,000,000 was voted *en bloc* without discussion. On June 19, 1900, the House voted nearly 42 millions sterling in less than five hours.

usually be foiled by setting the party machinery to work. A strong Free Trader and Home Ruler would be reluctant to instal in power a government of Tariff Reformers and Unionists merely because he wished to prevent an isolated piece of extravagance in the War Office or the Admiralty.

The province of private members in regard to finance is, in fact, limited to criticism, and there are special reasons why such criticism should be ineffective. The details are often highly technical, and most members are ignorant of the complicated questions which arise in connection with the financial and departmental measures presented to them. Debate on these subjects is almost abandoned to the handful of experts who are too few in numbers, and too little influential with the outside public, to be able to force their views upon unwilling ministers.

Who is not familiar with the farce of a debate on the Army or the Navy in Committee? Millions are voted away, vital questions of Imperial importance are discussed and disposed of, in the presence of a minister and an under-secretary or two, an ex-First Lord, a couple of thoughtful hobbyists, and a dozen or so of growling colonels and grumbling captains. The bulk of the House—busy, fatigued, bored and idle—is out at dinner, or on the terrace, or in the smoking-room; its members will come and vote if required, but otherwise will know no more of the debate than the newspaper-readers who will glance languidly the next morning over the array of unintelligible figures and obscure technicalities. Here, again, the function of the House of Commons is no longer active. Other organs could, and in point of

fact do, supply its place. Which would command the more attention: a speech on some military or naval topic, in Committee of the House of Commons; or a letter in large type in the newspapers, by a public man who is a recognized authority on the subject? Several times in recent years it has been shown that it is far easier to compel a Government to change its naval or military policy, as the result of a "scare" or an agitation got up in the press, than by means of votes and speeches in Parliament.

The House as a Ventilating Chamber.

It is the time-honoured and cherished function of Parliament to call attention to abuses, and to demand the redress of public grievances. At the beginning of public business on four days of the week, a period of three-quarters of an hour is set apart, during which any question, of which previous notice has been given, may be addressed to a minister; or if the questions are of an urgent character, and relate to matters of exceptional public importance or to the arrangement of business in the House, a question may be asked without notice. If the member desires a verbal answer to his question he may distinguish it by an asterisk; otherwise a printed answer is circulated with the Votes; unless the minister thinks it of such interest that he prefers to deliver his answer in the House.

This right of freely questioning the advisers of the Crown is an ancient and valuable privilege. It is, however, somewhat limited by the fact that the Speaker is the judge of the propriety or admissibility of any question, and may disallow it if in his

opinion it is of unreasonable length, if it contains statements of an argumentative, ironical, or abusive nature, or if it refers to any debate that has been held in the current Session; or again, if it reflects on the character or conduct of ministers or members of the House, or if it asks for a mere expression of opinion, or if it deals with an abstract question, or a hypothetical proposition. In addition to all this, the minister, if he finds the inquiry inconvenient, may decline to return an answer as being detrimental to the public interest, or indeed without giving any reason at all.

It will be seen that this method of extracting information on the actions of the Executive is in practice considerably circumscribed. Nevertheless the shower of questions, "starred" and "un-starred," descends upon the heads of ministers, day after day, during the session. Not the least onerous part of their duties is that of fending off the persistent inquisitor, without either committing themselves and their departments, or seeming to shirk investigation. The knowledge that any pertinacious opponent may, at any moment, summon a member of the Government to the witness-box does to a certain extent act as a drag upon the Cabinet autocracy, since it prevents ministers from sitting and working entirely in the dark, and compels them to keep an anxious eye on the public and the press.

A question in the House of Commons is then one excellent way of giving publicity to a subject. At the same time it must be remembered that it is only one way. These are plenty of others, and some of them are now almost equally effectual. The value of the question asked, and its influence on the

public mind, depend not so much on the fact that it is put in the House as on the personal weight of the member who brings it forward.

A public man of repute has facilities for carrying out the ventilating process without the assistance of Parliament. If a person wants an administrative evil remedied, or a new project accepted, he may write about it to the papers, or he may get up a public meeting and have speeches delivered upon it; and by such methods he might well render more effectual help to his cause than if he requested the member for his division to ask a question in the House of Commons. Or he may induce some persons of influence to go in deputation and talk about the subject to one of the ministers. Thereby he serves a double object: he may perhaps bring over to his views the temporarily omnipotent individual, who can, if he chooses, give effect to them; and if he does not succeed in that, he will, at any rate, have brought the matter before the notice of the newspaper-reading world in what may be called a formal and official manner. The practice of sending deputations to ministers is a tacit recognition of the changing relations between the Government and Parliament. It implies that for immediate and practical purposes it is more useful to persuade the Cabinet than to persuade the House of Commons.

CHAPTER VI

THE SELECTIVE AND ELECTIVE FUNCTIONS OF THE HOUSE OF COMMONS

There is one function of the House of Commons, which is not legally and seldom even conventionally recognised, but which is of extreme value and interest. It is a place where men are tested for practical statesmanship, and where they are sifted and selected. In Parliament, politicians of all degrees of capacity are exhibited to the country, "so that when men of ability are wanted they can be found, without anxious search or perilous trial."*

The House is a great arena and training ground for public men; here they have the opportunity of showing their mettle, and displaying those qualities of mind and character, which distinguish the sheep from the shepherd, and the rulers from the ruled. Here, by a long process of reversed gravitation, the larger intellects, through years of friction and contest, gradually rise to the surface, while lighter and smaller men settle down in the obscurer depths; and it is by the results of this elaborate competitive examination that the House chooses its prize-winners and leaders. The test may not be perfect, but it is

* See the article by Mr. Parton, in the *Atlantic Monthly*, vol. 25, p. 148.

efficacious. The clash and conflict of personality go on daily through the session, the winnowing and sorting machinery is always at work. There must be some real qualities of superiority in the man whose claims to leadership are admitted, after this ordeal of constant supervision and inspection, by nearly seven hundred of his rivals and fellows, some of them persons of exceptional capacity, nearly all shrewd men of the world.

It may, of course, be said that the qualities by which success is achieved under these conditions are of a special kind: the power of effective speech, and the gift of winning popularity in a large miscellaneous club, are not necessarily guarantees for judgment, decision, and insight. And it may also be urged that quite undue importance attaches to mere oratorical excellence and the talent for dialectic and debate. The system, we are sometimes told, tends to exclude the strong silent man, and to hand over our affairs to tonguesters and rhetoricians.

There is something in the reproach; but it applies less to the House of Commons than perhaps to any popular assembly in the world. Englishmen, though they may be ruled by talk, are singularly unimpressed by oratory as such. It requires a public speaker of the most exceptional genius to perform those feats which can be accomplished, with comparative ease, among peoples of more excitable or imaginative temperament—to work up a crowd into a passion of enthusiasm, or to throw over it the spell of that "magnetism," of which Americans think so much and we think so little. If the House of Commons is a talking-shop, it is one in which

mere talkers are distinctly at a discount. A member may have great oratorical talent, an easy flow of words, admirable elocution, and all the graces of style; but he will produce little effect on his fellow-members, unless they feel that behind all this lies the weight of strong character, and the force of a vigorous personality. Some of the most accomplished and finished speakers have never attained any real eminence in the chamber; which, on the other hand, has frequently allowed itself to be swayed and controlled by men like Walpole, and Pelham, and Castlereagh, who were in no sense orators. In our recent Parliaments, statesmen like Sir Stafford Northcote, Mr. W. H. Smith, and the ninth Duke of Devonshire, whom nature had gifted with a limited oratorical endowment, had no difficulty in acquiring and maintaining the confidence of the House of Commons. John Bright was almost, if not quite, the greatest orator of the Victorian era, and he found his opportunity in a passionate public agitation for which the gifts of the platform were particularly demanded. But he never had a tithe of the influence in the House which was wielded by Cobden, whose merits were chiefly those of clear reasoning and lucid exposition.

It is true that the roll of our great party leaders contains some splendid oratorical names, such as those of the two Pitts, of Fox, Canning, Peel, Gladstone, and Disraeli; but it may be said that the House admired and followed these men, not so much because of their eloquence as because it recognised in them magnificent gifts of mind, temperament, and character. These are the qualities

which really appeal to the House of Commons, and it is only when a great orator shows that he possesses them that he can prevail over that assembly.

Whatever may be the imperfections of the test, it is one that can be constantly applied under conditions which are fairly equal for all and generally understood. The floor of the House is a battle-ground where any man may fight his way to the front; the lists are set, and if he desires to compete for the prize of political distinction, he is free to enter. When he gets there, he plays his part upon a conspicuous stage; the theatre is open to the public eye, and the world is gazing upon the actor from day to day. Parliament gives him a platform and a pedestal, it sets him up in the view of the nation, and invests him with a certain importance, and a recognised status. Yet even here it may be noted that there has been a considerable change of late. Other elements of our society compete in interest with that which is purely political.

It was Bagehot's opinion that the literary world, the scientific world, the philosophical world, were not only not comparable in dignity to the political, but in comparison were hardly worlds at all. The newspaper, he says, "makes no mention of them; and it could not mention them." If this were true at the time when Bagehot was writing, it must be said that we have moved rapidly in the intervening space. No one, I suppose, would now contend that a famous author, a popular preacher, a distinguished man of science, or even a successful actor, is less in the public thoughts than the politicians, if we except some half-dozen leaders of the very first rank. "I wrote books," Bagehot heard a

man say, "for twenty years, and I was nobody; I got into Parliament, and before I had taken my seat I had become somebody." In these days one would be more likely to hear testimony of an entirely different character. "I sat in Parliament for twenty years, I voted steadily, I even made a speech occasionally, and I backed a bill or two. But outside my constituency, where my wife gave away the prizes to the school children, nobody ever seemed to have heard of me. Then I wrote a flashy novel, and some flippant essays, and I became a sort of celebrity at once. They began publishing my portrait in the illustrated papers, and discussing the kind of waistcoat I wore."

Further, there is the difficulty, already noted, against which the new member has to contend in making his way: that of the overpowering influence of the official group. Private members have steadily decreasing opportunities for useful work, and for exhibiting their ability.

"No man, when chosen to the membership of a body possessing great powers and exalted prerogatives, likes to find his activity repressed and himself suppressed, by imperative rules and precedents, which seem to have been framed for the deliberate purpose of making usefulness unattainable by individual members. Yet such the new member finds the rules and precedents of the House to be."*

What is here said of the Washington House of Representatives applies also to a great extent to its older rival at Westminster. The young politician who enters Parliament for the first time might be justifiably addressed to this effect: "You will find

* Woodrow Wilson, *Congressional Government*, p. 63.

the House an extremely dull place; you will find your abilities very largely wasted as a private member. If you have the luck to get into the Cabinet, and are at the head of a great office, you will have most interesting work, and a position of first-rate importance; but what are your chances?"

The chances are slight. The Parliaments of 1895 and 1900, until the reconstruction of the Ministry after the crisis on the fiscal question in the autumn of 1903, only brought five or six new men into the Cabinet, and these new ministers had all been in the House fifteen to twenty years. So that the advice to the candidate might justly be summed up in the words of a witness already quoted. "Expect fifteen to twenty years as private member or under-secretary; and then, on an average, once every two or three years, there will be one vacancy in the Cabinet. Will you give the best years of your life to this long and rather uninteresting apprenticeship, on the off-chance of becoming a member of the institution to which so much of the political power of the country is being slowly and surely transferred?"*

It is significant that several of the men who have, in recent years, risen most rapidly in the House, had made their reputations before they got there. The ambitious politician, in these days, might almost be recommended to be sure to make himself somebody *before* he entered Parliament. Long before the obscure and unknown member could have found the opportunity to make his mark in the *difficile*

* See the letter already referred to from an "Old Member of the House of Commons," in the *Westminster Gazette*, March 19, 1901.

and over-worked chamber itself, he might possibly have gained a name and attracted a following for himself outside. He might have become the mayor of a great provincial municipality, like Mr. Chamberlain; or have written books, and established himself as a leader of political thought, like Lord Morley; or made a reputation at the Bar and on the platform, like Mr. Asquith; or engineered a successful labour movement, and had the trade union thousands to back him up, like Mr. John Burns. Nevertheless, when all the qualifications have been considered, it remains the fact that the House of Commons continues to be our great national selecting agency for public men, and its efficiency in this respect, though diminished, is still unrivalled.

The House as an Electioneering Body.

The selective function is related to the most significant of all the present activities of the lower chamber of Parliament, that is to say, the business of making and unmaking Ministries. This is now its primary constitutional office, and no other can be compared with it in real importance. But it does the work indirectly, or it might be more accurate to say that it lends itself to the work. The real political sovereign, and the arbiter of the destinies of cabinets, is the electoral body. In the eighteenth century, Ministries went out of office because they lost the confidence of the King; in the great Parliamentary period of the nineteenth century, because they had lost that of the House of Commons; and under the democratic franchise they have usually taken their dismissal from the electors. Sir

William Anson points out * that the only Premiers, before 1830, who resigned, in consequence of defeats in the House of Commons, were Sir Robert Walpole in 1741, and Lord Shelburne in 1783. From 1830 to 1867 a defeat in the House of Commons, on what the Cabinet regarded as a vital issue, was the ordinary mode of terminating the existence of a Ministry. Between 1867 and 1906 there were nine changes of Government, and in seven of these cases ministers resigned, not because they were defeated in the House of Commons, but because the verdict of the constituencies at a general election had been given decidedly against them. The power which determines the existence and extinction of Cabinets has shifted first from the Crown to the Commons, and then from the Commons to the constituencies.

It is the constituencies, then, which in fact decide on the combination of party leaders to whom they will, from time to time, delegate their authority. But their verdict is taken by what is virtually a process of double election, corresponding roughly to the method whereby a President of the United States is chosen. The electoral colleges in America have theoretically the right to select any person they please; but they are appointed on the understanding, never violated in practice, that they will cast their vote for the candidate nominated at the great party Conventions. Similarly the member of Parliament, sent to the House of Commons by his constituents, goes there under a pledge, which is almost though not quite as binding, that he will cast his vote, under all normal conditions during

* *The Law and Custom of the Constitution*, ii. 130.

the life of the Parliament, for the authorised leaders of his party. The main difference is that the presidential electors, when they have installed the President in office, have done with the matter; whereas our ministerial electors continue busy until it is time to choose another Prime-Minister-President.

This great official's chances of obtaining a further term are largely determined by his conduct in Parliament. Here he is constantly on his trial, before the jury of the nation, who will be called upon, at the expiration of five years or some shorter period, to render their verdict. It is towards this high tribunal that the eyes of both parties are turned. The nation is interested in what is being done, mainly because of its possible influence upon the fortunes of the parties and the party leaders. Legislation, though no doubt in most cases honestly intended for the public benefit, must always be viewed from this standpoint. The minister can never forget that a successful Act of Parliament added to the statute-book is a point in his favour in the contest which is always impending. The Leader of the Opposition is equally conscious that to defeat a Government measure, however well designed it may be, is to cast discredit upon his opponents and improve his own position.

It follows that a quite disproportionate amount of attention is paid to the electioneering side of ministerial projects. A bill affecting the property and daily pursuits of millions may go through almost unnoticed, while the fiercest conflict will rage for weeks round some other measure which involves partisan issues in a direct form.

The Education Acts of 1902 and 1903 introduced momentous changes into the system of national instruction. But these were ignored, while debate seethed angrily round the provisions dealing with the management of the voluntary schools. It was on this alone that Conservatives and Liberals, Anglicans and Nonconformists, could find a convenient battle-ground, since it was felt that on this the result of the next general election might possibly turn. While the Parliament of 1880 was never too busy to spend hours and days over Mr. Bradlaugh's Oath and over Redistribution, enactments regulating the rising electrical industry of the country—and, according to some authorities, going far to strangle it—were allowed to pass without serious discussion.

A Premier would find himself regarded as a dull and unimaginative person, unworthy of his position, if he did not give his followers and the public a reasonable amount of exciting sport every session by a first-class fighting measure. It sometimes seems as if non-contentious proposals, with which, otherwise, most people would be disposed to agree, have to be made interesting by the introduction of the party element. And this is indeed natural, though the real reason cannot well be avowed. The session is only a preparation, more or less direct, for the general election. No sooner has one of these great national events been decided, than the electoral barometer begins to be sedulously tapped in order to ascertain what the prospects for the next are likely to be. A series of adverse by-elections is much more likely to modify ministerial policy than the most brilliant eloquence

and lucid argument expended in debate across the floor of the House.

In recent years this position of the House of Commons, as a kind of preparatory school for the polls, has been sometimes accepted without disguise. It was frankly admitted by the Unionist leaders, and more particularly by Mr. Chamberlain, after the adoption of the policy of Tariff Reform. In one of his speeches in 1904, Mr. Chamberlain expressed great admiration for the Referendum, and regretted that no such expedient for ascertaining the popular will, on a single great issue of policy, existed under our system.* In the meanwhile he pointed out that some sort of a substitute could be created, by preparing the public mind, through a prolonged period of discussion and agitation, and eventually submitting the question for decision at the polls. It may be said, indeed, that it is, to a

* "Parliament is the executive of the nation's will. I do not appeal to the executive, I appeal to the makers of Parliament. Well, it is unfortunate, I have often thought it is unfortunate, that in our Constitution there is no such admirable arrangement as exists in the United States of America, in Switzerland, and in some other places, and which is there called a Referendum. A Referendum is a proceeding by which any great change of policy is submitted, independently of everything else, to the people at large; a plébiscite is taken on a policy, and the policy disconnected altogether from questions of persons and questions of party. A man may vote for the policy, and at the same time he may vote for his representative for the party which hitherto has been opposed to the policy; but if he does he gives them at the same time an instruction as to the policy which they are to carry out. I wish we in this country could take to-morrow a Referendum, a plébiscite, a vote of the people as to whether or not they would have the change in our fiscal system which I have proposed to you."—Mr. Chamberlain at Birmingham, May 12, 1904.

large extent, in the power of any Government to turn a general election into a species of Referendum, if they can succeed in concentrating all attention upon one single point of overwhelming interest, and so asking the electors to decide for or against them on that.

The Ministerial Referendum.

It is not always possible for a Ministry to get an issue so sharply cut. It may have to be judged on the general conduct of affairs and on its attitude towards a great variety of topics. But it has considerable opportunities for choosing the weapons, and fixing the conditions, of the duel. In his capacity of chief electioneering manager a Prime Minister must carefully consider when it best suits his party interests to go to the country. He naturally looks for the most favourable moment; that is to say, the moment when it seems likely that his own friends will do well and his adversaries will do badly. One of the peculiar features of the true Cabinet system is that you can always "find the sovereign people," as it has been said, at the very moment when you want it. Under the arrangement prevailing in countries like the United States, where there are regular times for renewing the executive and the legislature, this cannot be done. The appeal unto Cæsar can only be made at fixed intervals, and under rigid conditions. However deeply the nation may be estranged from the President it can only get rid of him at the appointed date, which may be two, or three, or nearly four, years distant; and however little the Senate and the House of Representatives may

correspond in their composition to popular opinion they must live out their allotted time. The American system, according to one of its critics, is essentially astronomical or mathematical. "A President's usefulness is measured, not by efficiency, but by calendar months; it is reckoned that if he be good at all, he will be good for four years." The Prime Minister must keep himself in favour with the majority; "a President need only keep alive."

Some other critics have seen, in this very fact, a most noteworthy merit; they have pointed out that there is a stability in the American policy which is wanting to our own. It is less subject to the gusts of passing passion and popular excitement; the country cannot be called upon to change its rulers, perhaps to come to some irrevocable decision, on a sudden impulse. A measure of social innovation, so violent as to be impossible in the United States, might be carried in England, after a single general election, under the inspiration of some magnetic personality, or the arts of a triumphant demagogue. When Philip is drunk in America he has plenty of time to grow sober. A Government cannot take its opponents by surprise, and by suddenly flinging itself upon the polls gain a verdict before the nation has had time to think the matter out. All parties, and all interests, have warning and notice beforehand in the United States. They know when the Presidential and the Congressional elections will take place, and they have plenty of opportunity to put their case forward, and to rebut that of their adversaries.

Under the English system it is often in the power of a Cabinet to rush the appeal to the

electorate. A surprise dissolution is not only possible but it has more than once actually occurred. In the closing fortnight of January, 1874, the Liberal majority in Parliament was still solid, and there seemed absolutely no reason of state for an appeal to the constituencies. And hardly anybody had the faintest idea that such an appeal would be made when Mr. Gladstone communicated his decision to dissolve to his Cabinet Council on the 23rd of January. On the 24th, the Prime Minister announced the impending dissolution in an address at Greenwich. This was positively the first intimation given to the public, and the announcement fell like a thunderbolt. But no time was allowed for reflection or preparation. On the 26th of January a proclamation was issued dissolving Parliament; and by the 29th the first members were returned to the new House of Commons. The elections were practically complete by the second week in February. They showed a decisive majority against the Government, and on the 17th of February Mr. Gladstone tendered his resignation to the Queen and Mr. Disraeli was "sent for." The whole proceeding, it will be seen—the dissolution, the electoral campaign, the actual elections, and the change of Government—had occupied less than a month.

Again, in the autumn of 1900, the Unionist Ministry had a powerful and still unbroken majority. It was conducting a war which, beyond doubt, had the enthusiastic support of the nation. There appeared no adequate warrant, on public grounds, for suddenly plunging the country into a general election at a moment when its energies were needed

for the successful prosecution of the campaign. Ministers, however, thought, as it proved rightly, that no time could be more propitious to them for obtaining a renewal of their commission from the electors. Towards the middle of September it was announced that Parliament would be dissolved; on the 17th the Royal Proclamation was issued; the first returns were received on the 29th; and by the middle of October the elections were over, and the Government had obtained a majority of 130. In 1900 the surprise dissolution was in favour of ministers, in 1874 it went against them; but on neither occasion could it be said that the sovereign people had chosen its rulers with that deliberation which so solemn an act would seem to require.

There are few things which shock English political morality more deeply than the manner in which on the Continent* elections are habitually "worked" by the Administration. A hostile critic might perhaps suggest that the opportunity allowed to an English Cabinet of snatching a general election when it pleases, and without any regard to other interests than those of its party, is an equal abuse of popular institutions. It is an abuse from which the country would, no doubt, be protected by the authority of the Crown if it became too flagrant; for it is well within the prerogative of the Sovereign to refuse his assent to a dissolution of Parliament, if advised on inadequate or frivolous grounds.† But such action cannot conveniently be

* And even in New Zealand; *see* H. de R. Walker's *Australian Democracy*, p 269.

† In the self-governing States where party majorities are narrow and changes of Ministry frequent, the right of the

taken by the King, unless he has reason to suppose that the Opposition leaders would be willing to accept office without dissolving Parliament, and this is not often the case. It is difficult to prevent a minister, with a majority still unbroken though perhaps crumbling, from choosing his own time, and his own ground, for the electoral battle. And much of his tactical skill, and perhaps a part of the intellectual energy that might be applied to the national service, will be occupied in so arranging matters that his appeal to the constituencies will be made under circumstances adverse to his opponents.

In another way, this power of the Prime Minister to call a dissolution when he pleases increases the authority of the Cabinet. It can be used as a kind of penal measure, if Ministerialists are too undisciplined and the Opposition too obstructive. Whatever motives may have induced a member to seek a place in the House of Commons, he will usually want to hold it as long as he can, and with as little trouble and expense as possible. Each election means to him a fight, a considerable outlay of money, and the risk that he may lose a seat which he presumably desires to retain. From his personal

Governor to refuse a dissolution is occasionally exercised, in order to save the community from the expense and annoyance of superfluous general elections. Dissolutions were, for example, refused in New South Wales by Lord Belmore in 1872, Sir Hercules Robinson in 1877, and Lord Carrington in 1889; and by Lord Northcote, as Governor-General of the Australian Commonwealth, in 1904. Other instances are given by Todd, *Parliamentary Government in the British Colonies*, chap. xvii., and Keith, *Responsible Government in the Dominions*, 180–211.

point of view a short Parliament is a mistake, and a premature dissolution a nuisance. Even the Opposition member, unless he belongs to the front benches or the official ring, is not nearly so anxious for a fresh appeal to the country as the public imagines. His party may have something to gain by the shuffle of the cards, but he individually very little. In any case he will have to incur much trouble, and an expenditure which may amount to a thousand pounds or more.

The Ministry can often subdue rebellion in its own ranks, and to a certain extent keep its antagonists from going to extremities, by allowing it to be known that if certain things are done, or not done, there will be a general election. "If you don't vote straight, and vote regularly," says the Leader, through the Whips, "you will have to fight for your seats, and put down your money, and risk the loss of your Parliamentary salaries, *now* instead of two, or three, or four, years hence." The hint is, no doubt, carefully and diplomatically conveyed, and is not often made in public, though sometimes even this may be done. On June 25, 1904, when the Unionists were much demoralized, and very slack in their attendance, Mr. Balfour was asked whether he would not "withdraw all seriously contentious measures and wind up the business of the Session, in order to submit the policy of Ministers to the judgment of the country." The Prime Minister issued the following written reply:—

"I do not propose to take the course suggested by the hon. member, unless the Government incur such a defeat as proves that they have lost the confidence of the House of Commons; or unless they fail to secure that day-to-day support which is

necessary in order effectively to carry on Parliamentary business. In either of these events they would, of course, ask relief from responsibilities which they are not sustaining for their own comfort or satisfaction."

One of Mr. Balfour's supporters in the press commented on these remarks the next day with illuminative candour:—

"Members should bear in mind that *elections are expensive* and, if unsuccessful, extremely mortifying things. Counter attractions during the next few weeks may perhaps tempt members to risk the Government's defeat on a snap division. But we would remind those gentlemen that their carelessness, if continued, *will probably involve the substitution of an election expenses bill for the rent of a grouse moor*, besides a possible defeat at the polls." *

As a rule neither statesmen nor publicists are quite so outspoken. These *arcana imperii* are kept decently in the background. But the possibilities here referred to are always within the sphere of political consciousness. The veiled threat is specially cogent in the earlier period of the life of a Parliament. When it is entering its fourth or fifth year, members grow more callous, since they know that in any case the appeal to the constituencies cannot be long deferred. This is one of the reasons why ministers usually find some difficulty in maintaining

* On March 15, 1867, Lord Derby at a meeting of the Conservative party said that if the Reform Bill were rejected the Government would dissolve. On this Mr. Herbert Paul, *History of Modern England*, ii. 79, observes: "A penal dissolution has always been regarded as a legitimate weapon for a Minister in an emergency to use. But it means, of course, that every member who votes against the Government will subject himself, if he succeeds, to a fine of some hundreds of pounds."

the perfect cohesion and subordination of their party, and in keeping down the exuberance of their opponents, as the parliamentary term is approaching its penultimate stage.

It follows also that one cannot, at any given moment except in the few months immediately succeeding a general election, say that the House of Commons represents the opinion of even the majority of the electorate. It may have done so, roughly speaking, when it was chosen: but it may have lost that character long before it has seemed fit to the Premier to recommend a dissolution. The balance of parties in the constituencies may have changed; but the balance of parties in the House remains the same, except in so far as it has been disturbed through the by-elections. Thus, a Prime Minister may continue to govern for a period that may even extend over years, in defiance of popular opinion, which has only indirect methods of making its influence felt until the Cabinet is willing to allow a new Parliament to be elected.

NOTE TO CHAPTER VI

Lord Salisbury on the Cabinet and the House of Commons

Several years ago I dealt with some of the points discussed in the preceding chapters, in a monthly Review. The paper was read by the late Marquis of Salisbury, from whom I received the following letter:—

Hatfield House,
December 2, 1894.

Dear Sir,—I have read your article in the *Nineteenth Century* with much interest and sympathy. I believe the view taken in it to be, generally speaking, entirely sound. There is only one criticism which I will allow myself. I think that you rate too low the share which, as things are, the House of Commons possesses in the selection of the men who are placed upon the Treasury bench. Of course they have no nominal or conscious share; but, nevertheless, when party leaders have to select, for a certain number of the offices of the Government, members of the House of Commons who have never held office before, one of the qualifications, which they consider with the greatest care, is that of being able to speak and act in a manner acceptable to the House of Commons; and if a man who has held office before has shown a marked incapacity in this respect, the party leaders will always be glad of any decorous method of excluding him from ministerial office.

The following is the reason which makes this consideration so imperative upon them. I think you reason quite soundly in showing that, in respect to the larger issues, the House of Commons is gradually losing its power, between the Cabinet on the one side, and the electorate on the other. The power which the Cabinet has of acting upon the various motives which guide members of Parliament is so great that

the majority is more and more becoming a blind machine; but this observation only applies to the deliberate and considered decisions of the House of Commons. If there is time for party pressure to be applied, time to bring into play the importunity of electoral associations, a member of Parliament who is inclined to be recalcitrant finds himself very powerless, and is more and more disposed to yield. But there are many decisions of the House of Commons which are taken upon the spur of the moment, in which an issue arises during the same night as that in which the division is announced. In this case there is no time for pressure, and the votes of members are very much affected by the course of the debate, and consequently by the influence and the dexterity of the member of the Government who has charge of the question. By the odd convention of Parliament, an adverse vote upon such occasions is often fatal to the Government. They are held to have broken the unwritten law, or, at all events, to have strained it, unless they resign upon such a vote; and even if they do not do so, or if they procure a subsequent vote of confidence, their power, and heir prospect of a continued tenure of office, are materially compromised by such an accidental defeat.

I do not know whether this state of things will last. I am inclined to think that it is dying away, and that as time goes on Cabinets will become less and less sensitive to chance votes of the House of Commons, and will rely more and more upon those more deliberate decisions which they can influence by their electoral machinery. But so long as it does last, Parliamentary dexterity will bear a very high premium, and will be much sought after in the selection of rising statesmen; and so far the House of Commons will remain very powerful. In other words, its whims and caprices will retain great authority, long after its power of coming to an independent and deliberate resolution has passed away.

This is the only criticism I have to offer upon your view of the present position of the House of Commons; and I dare say that criticism may not remain true very long.

Yours faithfully,

SALISBURY.

CHAPTER VII

GOVERNMENT BY PARTY

An American writer to whom I have previously referred says that the British Parliamentary system is "perfected" party government. The adjective is worth noting. Government by parties prevails to some extent under every free popular constitution; but only in that of the United Kingdom, and those which are closely modelled upon it, is it carried out in a thoroughly uncompromising fashion. The English are supposed to be an "illogical people"; but in this respect they evince in their actions, though not perhaps in their words, a conspicuous and remorseless logic. There is no attempt to concede to the defeated combatant in the electoral struggle any shred of political power. The "spoils" system has been abandoned, for more than fifty years, in the administration of the Civil Service of the Crown; but it is retained, without disguise or mitigation, in the direction of political affairs.

The minority, indeed, as Cobden said, has only one right, that of using all its efforts to become the majority in its turn; and until it is successful in that enterprise it must submit to impotence and

exclusion. We do not attempt to mitigate the disaster inflicted on the defeated party at a general election by giving its members any real share either in the executive government or in the making of laws. We have accepted none of those expedients by which, in other countries, the rigour of the conflict, in appearance at least, is somewhat relaxed.

In the United States the control of administration is the prize of victory in a Presidential election, and the vanquished faction gets no chance of office for four years; but it can make its influence felt in legislation. The Speaker of the House of Representatives, who is one of the managers of the party dominant in that Chamber, will take care that there is a majority of his own associates on every one of the important committees by which the Acts of Congress are shaped. But he would not venture to exclude his opponents altogether. The composition of the committees is supposed to correspond roughly to that of the House; so that, in each of these legislative councils, there will be a quota of members of the defeated party able to take some part in the moulding of legislation. The right of the minority may not in practice amount to very much, but it is at any rate not ignored. Similarly, in the French Chamber the various *bureaux* are supposed to be fairly selected from the different groups of which the assembly is composed.

In Great Britain itself, when we look at what may be called the subordinate legislatures, we see that the supremacy of the party element, while admitted for electoral purposes, has its edge blunted in the ordinary direction of business. The govern-

ing bodies of the great municipal corporations are often chosen strictly on party lines. But even where the system is recognised, with the least concealment, as for example in the London County Council, its severity has been so far relaxed that the minority is not placed under the ban of complete exclusion nor is it condemned to merely powerless criticism. The victorious majority at the polls, when constituting the chief administrative committees by which the policy of the Council is determined, will usually see that the chairs are filled by their own leaders, and they will arrange to have a superiority of votes at each of these boards; but the minority has in every case its proportionate, or something like its proportionate, share of representation. It would be considered an intolerable abuse of their advantages for a majority to refuse to allow to their defeated rivals a sufficient allotment of seats in all the committees.

But in the conduct of national affairs we admit no such compromise. Our politics, as Mr. Balfour has said, are an organised quarrel,* and we accept the results with an equanimity none the less surprising because we prefer that it should not be explicitly recognised. We constantly profess that the Government of the day represents the House of Commons, and through the House of Commons the

* "In English domestic politics we are never at peace—*our whole political organisation is arranged in order that we may quarrel*—and we always do quarrel, sometimes over matters of great importance, sometimes over matters of small importance, sometimes over matters which cannot but be matters of bitter strife, and some matters which I should suppose might be always dealt with by agreement." Mr. Balfour at Fulham, July 19, 1902.

nation. In reality it does nothing of the sort; it represents, as a rule, rather more than one half of the electorate, and rather less than two thirds of the House. We speak of the Administration resting on popular support; forgetting that by something like a moiety of the electors it is not supported, but on the contrary vehemently disliked, and that their only interest in it is to turn it out and put something else in its place. The spectacle of millions of free men in a free state, habitually governed in opposition to their own will, and their own convictions, is so astonishing that we prefer to avert our gaze from it.

The party system is treated as something exceptional and a little discreditable. Men may be willing to die for party but they seldom praise it. For two centuries Englishmen, while throwing an incredible amount of ardour and energy into their great faction fight, have systematically condemned it. Hardly any writer of the first rank except Burke, or any leading statesman except Mr. Balfour, has cared to face the facts deliberately. From the time of the great Duke of Marlborough, who towards the darkening close of his career declared that he had no wish in the world except to live in some country where the detested names of Whig and Tory were unknown, to the present day, there has been an unbroken stream of theoretical condemnation. No sentiment is more likely to elicit applause at a public meeting than the statement that "this, Mr. Chairman, is not a party question, and I do not propose to treat it from a party standpoint."

Parties and Groups.

Yet the division into parties, is, in fact, essential to the operation of our constitutional machinery. Our government is "a system whose successful working pre-supposes the existence of two great parties and no more; parties, each strong enough to restrain the violence of the other, yet one of them steadily preponderant in any given House of Commons." * If the imitations and adaptations have failed to produce the expected results it is to a large extent due to the fact that this condition has been found incapable of transplantation. The constitution of the third French Republic is as much dependent upon an elective Parliamentary Cabinet as our own; but while it has assimilated much it has so far failed to establish that permanent duality of organised opinion which has prevailed with us since the end of the seventeenth century. Instead of parties France has had groups; and we have only to look into the penetrating chapters of Mr. Bodley's great work on French politics to understand the meaning of this distinction. In twenty-one years, as Mr. Bodley has pointed out, France had twenty Ministries; and seventeen different politicians had held the portfolio of Foreign Affairs. "All these seventeen ministers have been Republicans, holding practically identical opinions on current affairs, and not one of the twenty changes has been due to a direct party vote, which is impossible in the French Chamber."

The group system necessarily robs the Cabinet and the Parliamentary *régime* of some of their most

* Bryce's *American Commonwealth*, i. p. 287.

valuable and characteristic features. Where it prevails the process of secondary election, by which the administration is really appointed, is deprived of all its efficacy. There is not even an approximate certainty that the Government represents the majority of the Legislature, or that the majority of the Legislature represents any one preponderant opinion in the country. You cannot choose your ministers properly, and you cannot control them when chosen, if there are no real parties separated by clear dividing lines, but merely cliques and associations scrambling for office. Popular election will only work without friction where, as normally in Great Britain and the United States, there are two great parties, and no more than two.

The inconvenience which may arise if the number is increased by a single unit has been exhibited in our recent politics. The Irish Nationalists have often threatened to throw our Parliamentary machine into complete confusion, and they have at times met with sufficient success to justify the boast. A ministry cannot be stable if it is the nominee of a chance collection of groups. It may be destroyed by some turn of the political kaleidoscope at any moment, and the process of selecting it, instead of being simple and straightforward, becomes one of personal intrigue and fine-spun calculation. Whatever may be said against the two-party system, it does, at any rate, supply an intelligible and efficient agency for selective purposes. It may be rough and ready, it may be inaccurate in its results; but at least it will work.

No one will deny that a certain fissiparous tendency in English parties, and more particularly

in one of them, has become very marked of late years. It is not unlikely that in the immediate future there will be many members on one side of the House of Commons, and perhaps on both, who, in addition to professing a general allegiance to one or other of the greater combinations, will have also pledged themselves to support the aims of some much smaller body or sect. The future of English constitutional politics largely turns on the relations which the one drift of opinion will bear to the other in the mind and conduct of this kind of bi-coloured legislator.

When the time comes for him to choose between his party and his group, or in the still more exacting moment when he sees a chance of assisting the particular interest to which he is pledged at the cost of voting against his leaders and the allies with whom he usually acts, the member of Parliament, like Desdemona before the Venetian senators, will "perceive here a divided duty." In a certain number of cases it may be only reasonable to suppose that his decision will resemble that of Brabantio's daughter. To his group, no doubt, he owes a filial reverence. "To you," he may often say with truth, "I am bound for life and education"—for political life and a sound education in particularism; and he would no doubt be willing to add—

> "My life and education both do learn me,
> How to respect you."

After which very proper tribute to the sanctities of political kinship we may perhaps expect him to throw himself, even as Desdemona did, into the arms of that other more exigent "party" with whom he

is on terms of the closest intimacy. The Groupist in him will give place, when the strain comes, to the Partisan.*

On the other hand, it may be said that even if the groups would hesitate to combine against the Ministry of their choice when it is a question of a formal vote of confidence, there is no certainty that they would not do so on other issues. Indeed, we have had examples before now of a snap division taken on some minor point, by which sudden defeat is inflicted on a Government that has still a good working majority in the House. The Prime Minister whose observations I have given above † has pointed out that it is this circumstance which renders it as necessary as ever it was for the Cabinet to include members, skilled in the art of House of Commons management and possessed of the confidence of the chamber. It is true that the Ministry is generally impregnable, when it has had time to organise electoral pressure, and to bring to bear the party machinery on the rank and file; but it is always liable, unless the House of Commons is adroitly managed and properly held in hand, to sustain a rebuff on some incident that may arise in

* The strain may be felt in the constituencies as well as in the House of Commons. We have an illustration in the present (1913) relations between the Liberal and the Labour parties. The latter group is nominally independent of the former. But in Parliament the Labour members have usually acted in close association with the Liberals; and Labour candidates, in spite of the opposition of their executives, sometimes stand, and get themselves elected, as "Liberal-Labour" representatives.

† See Note to Chapter VI., *supra*, "Lord Salisbury on the Cabinet and the House of Commons."

the course of debate, or on some question too remote from general interest to rouse the feeling of the constituencies. As the parties are more and more broken up into groups, no doubt temporary agreements among several of them to support each other mutually, on the *do ut des* principle, might become more common. But it is not at all certain that these combinations, even if they produced rather frequent successes in the division lobbies, would really diminish the authority of the Cabinet. Ministers might perhaps be supported by the electors if they treated the division as nothing more than a very emphatic expression of opinion in favour of a particular policy or measure, which need not involve anything so serious as the resignation of the Government.

Parties and Principles.

In the meanwhile, we still have the dual party system; and its justification is to be found in the fact that it continues to operate as the most effective restraint we possess on the otherwise almost uncontrolled power of the Administration and the Parliamentary majority.

The "checks and balances" of which we hear so much from writers on the Constitution are, for the most part, no longer operative. The royal veto is a form which has long been disused; the powers of the House of Lords were limited by custom even before the passing of the Parliament Act. There is nothing at all resembling the elaborate apparatus by which the founders of the American constitution endeavoured to make Congress a counterpoise to the President, and the Senate a brake upon the House. In Great Britain there is always the

possibility of a majority in the House of Commons legislating in a spasm of reckless violence, at the instigation of a powerful and injudicious Ministry. The true check upon a presumptuous Government and a hasty Legislature is the existence of an alternative party, numbering its adherents by hundreds of thousands in the constituencies, and having its articulate chiefs in the House of Commons itself. It is this which really controls the English Prime Minister, as it controls the American President; both functionaries are aware that their steps will be watched and scrutinised by jealous and capable rivals, having in the country an electoral army which in any case is nearly equal to their own, and may easily become superior. The check on the Ministry-in-office is the existence of an alternative Ministry-out-of-office, ready and able to take its place at any moment; and such an opposition Government *in posse* is impossible without the two great well-balanced forces, always mobilised and on the war footing.

The dual arrangement of parties in England grew out of a series of historical accidents. If there had been no revolt against the Stuarts, and no succession of sovereigns who were heartily disliked for nearly three generations by one portion of their subjects, and were therefore dependent on the support of another portion, the line could not have been so sharply drawn. The division into Whigs and Tories worked into a tradition, and eventually into a national habit. Yet it is strange that the dualism should have been so steadily maintained, and that it should scarcely ever have been broken. It seems to correspond to some inherent racial

quality. Sir Henry Maine thinks that man, as he is a fighting animal is also a partisan, from the nature of his being. "Party feeling is probably far more a survival of the primitive combativeness of mankind than a consequence of conscious intellectual differences between man and man. It is essentially the same sentiment as that which in certain states of society leads to civil, intertribal, or international, war; and it is as universal as humanity."*

This may explain why there are parties, but not why there are only two parties. It is often contended that the division is scientific, and corresponds to a real dichotomy, since every man is by nature either a Liberal or a Conservative, according as the hesitating or the adventurous elements prevail in his temperament. "Men," says Lord Courtney, "have always been, and must be, drawn into camps of progress and of caution."† But the distinction appears arbitrary. Caution and progressiveness are only two of the characteristics which all or most men possess in greater or less degree. In private life, and in ordinary relations, it would be no easier to range them into these two classes than under any other equally comprehensive categories. And it is impossible to maintain that these attributes have been constant in the two great English parties. The Conservatives or Tories have often been progressive; the Liberals or Whigs stationary or retrogressive.

Macaulay, in his famous reply to Lord Mahon, maintained that the Whigs had always kept in

* Maine, *Popular Government*, p. 31.

† *The Working Constitution of the United Kingdom*, p. 138.

advance of the Tories, even though the whole nation might have moved onwards, just as the forelegs of the stag are always leading. But in fact both parties have passed and repassed one another, and have frequently exchanged policies and ideas; each by turn has had its phases of protection and free trade, imperialism and insularity, democracy and oligarchy, socialism and individualism. During the first three-quarters of the eighteenth century, and down to the accession to power of William Pitt, the Tories, with some justice, boasted that they were the representatives of popular rights and national interests as against the aristocratic Whig cliques; and until the outbreak of the great war with France it was the Whigs who were usually the party of foreign adventure and expansion, while the Tories had rather a stronger leaning towards peace, retrenchment, and economic progress. Political reform has never been a Liberal monopoly; and social reform has found its champions in the Conservative ranks as well as in those of their rivals. On the other hand, the Conservatives, until the Beaconsfield Ministry of 1874, were not specially identified with the maintenance of the Empire; and in the 'fifties and 'sixties of the last century, under Lord Derby and Disraeli himself, they were less ardent vindicators of English pretensions abroad than the dominant section of the Liberals under Palmerston.

Thus it is a difficult, perhaps even an impossible, task to draw a dividing line from age to age between the two parties, on the basis of doctrine. But the fact is that Englishmen, in their public as in their private life, have no great regard for abstract

generalisations. They are careless about measures and much more particular about men. Attachment to persons, rather than fidelity to principles, is the spirit of our party life. The English nation, as M. Boutmy well says, can much more easily dispense with belief in an abstraction than with belief in a man. "At almost every epoch in its existence it has been dominated by the image of some citizen, brave, assiduous, energetic, always ready to step into the breach, a type of the active virtues which the race conceives to be the highest of moral perfections."*

The parties, therefore, instead of being two groups of believers endeavouring to propagate their own particular faith, are two armies of active combatants, each desiring above all things to follow its own chosen champion to victory. Not the defeat of a principle, but the defeat of a leader and his "side," is the really mortifying thing. In this soldier-like or sportsman-like conception loyalty to the chief is almost the first of virtues. The subaltern, the fighter in the ranks, would not think of deserting his colours, or refraining from putting forth all his strength on the field of battle, because he happened to disagree with his commander's views on strategy and tactics. Mr. Balfour has explained the success and permanence of the party system in England by ascribing it to "some natural moderation in our British blood," which, he thinks, "enables us to be political enemies without attributing every infamous motive to those on the opposite side in politics."†

* Boutmy, *Psychologie politique du peuple anglais*, iv., chap. 3.

† Speech at Haddington, September 21, 1902.

This is undoubtedly a valuable trait; and it works in well with a rather loose hold on principle combined with a keen realisation of purely personal claims. The great party leader, who has won the confidence of his followers by the display of energy, capacity, courage and intellectual ability, may execute, with something like impunity, the most startling transformations. He may alter the programme as he pleases, provided that he continues to fill the bill himself and exhibit those qualities by which he has attained his superiority. That Peel, after his surrender to Roman Catholic emancipation in 1829, should have been left with the opportunity of "betraying" the Tory party a second time sixteen years later, must always seem a marvel to those who do not understand this feature of our public life; but it was not more remarkable than Disraeli's "leap in the dark" in 1867, or Gladstone's capitulation to Home Rule in 1886, or Mr. Chamberlain's abandonment of Free Trade in May, 1903. All these statesmen carried with them many or most of their political adherents. The nation was much more interested in considering the expediency and possible results of the new movement in each case than in discussing the consistency of its authors.

The prevailing sentiment has always been very much that which animated the Duke of Wellington when that staunch supporter of Protestant ascendancy agreed to consider the Catholic claims in order to avert, as he thought, revolution and social disruption. "The King's government must be carried on": and the Duke was more concerned in conducting the political campaign safely and

successfully than in vindicating the intellectual and moral coherency of his action; just as in fighting a battle he would not have thought it necessary to inquire whether the dispositions by which he was able to beat the enemy were, or were not, in strict accordance with the rules of the text-books.

Nothing indeed is more curious than to observe the unimportance of formal statements of doctrine compared with the significance attributed to the utterances and assertions of influential men. The party organisations and conventions put forward their programmes at frequent intervals, but nobody takes much notice of them. The formula does not bind the party, and the ordinary elector cares nothing about it. For this reason the sweeping general statements of policy drawn up at meetings of delegates are allowed to pass with languid indifference. It is quite understood that they mean very little. Shareholders do not tremble in their shoes when a Trades Union Congress declares for "nationalisation" of railways; landlords are not even excited when Federated Liberal Associations resolve to expropriate land values.

It seems to the English temperament a waste of time to refute the expression of erroneous opinion unless it is to be followed by action. Then, indeed, it is a very different matter. For nearly twenty years the National Union of Conservative Associations had been passing occasional resolutions in favour of "Fair Trade" and Retaliation, without attracting the slightest attention. But a single leading statesman uttered a few sentences, which seemed to intimate an intention to attack the established fiscal system, and instantly the whole country was

in a ferment. There was nothing new in what Mr. Chamberlain said at Birmingham on the 15th of May, 1903; but then Mr. Chamberlain had, or he might have had, the power to give effect to his views. This brought the question into "practical politics," and made it serious at once.

It is to this characteristic, more than to the natural moderation in our British blood to which Mr. Balfour referred, that the relative lack of violence in our party conflict is probably due. As neither party has a very strong or definite body of principle to work upon each is disinclined to go to extremes; both are, in a sense, opportunists. It is quite understood that there will be no sudden break in the continuity of public policy after a change of Government. Each party, as soon as it gets into power, is habitually taunted with adopting the measures of its opponents; and it is true that in opposition, the leaders, conscious of the responsibilities they may have to face, are extremely careful not to compromise themselves by unreserved condemnation of what has been done. It is only the irregular, unattached, fighters in the vanguard, little likely to be burdened with office, who can be as vigorous and uncompromising as they please. The division between the parties is to a large extent artificial; each exaggerates its differences from its rivals, while in opposition, and leans in the direction of the alternative policy, when in power, "so as to correct the discontinuity which party organisation tends to produce."

Is it on this account that Oppositions have nearly always been weak since 1832? Do the responsible leaders feel that they must not commit themselves

too strongly, lest they damage the inheritance to which they expect to succeed? Lord Salisbury indeed, converted this sentiment into something like a general rule, and developed it in his famous doctrine of the Pendulum:—

"What is known as 'the pendulum' has established itself as the law of English politics, and I think that within certain reasonable limits each party should accept the work of its predecessor and try, as far as it can do consistently with the public interest, to work it out to a satisfactory conclusion. And I do not think that in doing so we can be exposed to the imputation of inconsistency or of having changed our opinions."

Inspired by such feelings, it must be difficult for the front-bench men, on the left of the Speaker's chair, to assail with complete conviction all the proceedings of those whom they hope to follow in office. At any rate, it seems to need the agency of some unfettered guerilla leader in the ranks of the minority, such as Disraeli was among the Conservatives after 1846, and Randolph Churchill between 1881 and 1885, to infuse genuine vigour into a Parliamentary Opposition.

If, however, it is difficult to regard the two great factions as really divided by permanent differences of principle there may be more ground for considering that the division is based on the conflict of interests. It is true that for at least a century the one party has, on the whole, been more closely identified with property and vested rights than the other. We have not been entirely free from the danger of stratification by classes; and sometimes it has seemed that we might actually find ourselves in presence of the "two nations" of "Sybil,"

with all the "haves" on one side, and all the "have-nots" on the other. Our party conflicts might then have become more like those of the republics of the ancient world and of the mediæval town communities: that is to say, a struggle between the richer and the poorer part of the population.

This result has been prevented or postponed by the national characteristics which are referred to below.* The English have continued to be a "deferential people"; and neither of the established parties has thought it necessary or desirable to exclude men of wealth, social influence, or aristocratic descent from the high places in their councils. These elements are more conspicuous on one side than the other; but they have, so far, always been admitted to a large share of authority in both camps. Nevertheless the tendency to a division of the nation by horizontal rather than vertical bulkheads, to make the struggle one of classes rather than of policies, has manifested itself from time to time in Great Britain as in other Western countries.

The conflict has been usually averted—even when it has seemed imminent—by some great quarrel that crossed the dividing social lines. Such was the struggle for Free Trade between 1832 and 1846; and the disruption of the Conservatives in the latter year, under the strain of Repeal, at least saved Toryism from becoming a merely anti-popular creed of privilege and reaction. In 1885 Gladstone declared that the "masses" were on one side in politics and the "classes" on the other. If this were true, he did much—though without intending

* See *infra*, Chap. X.

any such result—to arrest the development by his conversion to Home Rule. For this movement compelled many Liberals to seek union with the Conservatives; and it submerged the rising socialistic, ultra-democratic sentiment in the Liberal Party under the volcanic ashes of a fierce racial and sectarian controversy.

Stratification again was growing very marked in the years of Gladstone's final ministry, and those which followed. From 1892, onwards till nearly the end of the century, it was almost a matter of course that any person, belonging to the propertied, "respectable" orders of society, should be a Conservative; while the masses of working-class voters, feeling the power conferred upon them by the extension of the franchise, were growing aggressively Radical. Then came the Boer War, and the transfer of the political conflict to the Imperialist battle-ground; and then again the division on fiscal policy and the dispute over Tariff Reform. Whatever may have been the motives or the policy inspiring the successive disruptions of English parties, since the eighteenth-century Whigs fell to pieces in the war with France, they have had this effect. The great peril, so constantly present to the minds of philosophic opponents of democracy in ancient and modern times, has been averted; and even under a wide popular franchise we have not as yet found the nation divided into two antagonistic and embittered political hosts, of which one would include all who own property, and the other would be made up of those who possess little but their hands—and their votes.

CHAPTER VIII

MINISTERIAL RESPONSIBILITY

THE accountability of ministers to Parliament, and through Parliament to the nation, is the theoretical basis of our modern English Constitution. The Cabinet is a political council; it is a party committee; but it is also an administrative board. It is engaged not merely in legislation, and in the shaping of policy, but in the daily supervision and management of the business of the nation. Great powers are entrusted to its members, with a corresponding responsibility. "The laws," as Burke says, "reach but a very little way. Constitute government how you please, infinitely the greater part of it must depend upon the exercise of powers which are left at large to the prudence and uprightness of ministers of state. Even all the use and potency of the laws depends upon them. Without them your Commonwealth is no better than a scheme upon paper; and not a living, active, effective organisation." It is on the efficiency and integrity of ministers, and on the ability of the people's representatives to call them to account, that good government ultimately depends. The merit of cabinet government is that it defines and concentrates ministerial responsibility, and makes it

possible to bring the popular judgment to bear upon the servants of the State, when they have lost the public confidence, or discharged the duties badly.

But an English Cabinet is a group of political leaders, not a body of persons trained to administration. They have risen to prominence by the arts of the platform, the senate, or the *salon;* and they are not, as a rule, selected for high office because of any special knowledge or understanding of the important departmental work they are appointed, and paid, to control. In our time, a Ministry consists of a certain number of men of, as a rule, proved integrity and good social standing, most of whom have attained a certain distinction in one or the other House of Parliament. Two or three may be persons of brilliant talent and acknowledged force; two or three more have a deserved reputation for character and ability; several of the others have a full share of that capacity which one commonly expects to find in the best kind of English gentleman, well-born, well-educated, well-placed, and well-to-do.

But they are seldom "experts" in a business, to which they bring no more than a general knowledge of affairs, such as a reasonably intelligent person may be assumed to possess. Sometimes they may not even reach this moderate standard. In one Cabinet a country landowner, in another a lawyer or a financier, may be acting as the nominal chief and "responsible" director of the Navy of Britain. The Army may be under the control of a middle-aged civilian—

> "That never set a squadron in the field;
> Nor the division of a battle knows,
> More than a spinster."

A hunting country squire, whose acquaintance with learning ended forty years before when he took his "pass" degree at Oxford, may find himself Minister of Education; and the Empire of India, with its clash of races and religion, its feudatory princes and kings, and its three hundred and fifty Oriental millions, may be represented by a Nonconformist solicitor.

Some years ago I listened to a speech at a public meeting, delivered by the Vice-President of the Council who, under the system then in force, was at the head of the Department of Education. The right honourable gentleman, having occasion to make use of the word "chimæra," pronounced it as if it were spelt "kimmerer." It may not be essential that he who drives fat oxen should himself be fat; but one would suppose that a Minister of Education would have education enough not to make a mistake of this kind.

The system is defended on the ground that, after all, precise and comprehensive knowledge of the details of his office is not what is required of a minister under our Parliamentary constitution. It is for his official subordinates to supply him with the technical details, and generally to look to the business of the department. He brings to bear on it the cool, matured, judgment of a shrewd man of the world; he is able to vindicate and explain its doings in Parliament; and generally to be responsible for it in the eyes of the great council of the nation. Like the golden chain that Homer tells us binds heaven and earth and sea to the throne of Jove, this great official catena is supposed to join the highest and the lowest, and to stretch

from the humblest messenger or door-porter to the exalted seats, where the statesmen who rule the Empire lie beside their thunder. Through one superior or another all grades of the service are responsible to the highly-placed gentlemen, titled and ribboned, who are the heads of the permanent staff; they themselves, these accomplished under-secretaries, are responsible to the noble lords or eminent commoners who hold the ministerial seals; while these ministers, in the fulness of their power, are liable at any moment to be arraigned, not merely for their own acts, but for the acts of their sub-ordinates, before the Assembly, which again is itself responsible to the sovereign People. This is the doctrine of ministerial responsibility, which is by many regarded as the main shaft and supporting pillar of the political edifice.

It is, at any rate, one of the features in it which we are accustomed to consider with a good deal of complacency. There seems something business-like in the arrangement, as well as something very much in consonance with the spirit of our in-stitutions. It has been said that the essence of good government is the power to find the proper man to hang if things go wrong. We like to think that we have satisfactorily provided for that. We can always "hang a minister," we murmur to ourselves, when we contemplate the possibility of things going grossly wrong; and we feel a kind of pity for peoples who have nobody to hang. In America, for in-stance, you could not think of hanging a minister, because the minister is only a kind of clerk to the President, and the President is practically irresponsible and irremovable as long as his term

of office lasts. And in countries like Germany and Austria, where the Sovereign governs as well as reigns, you may do what you like to ministers, but you cannot really touch the effective ruler of the state without risking rebellion or revolution, which are remedies too strong for ordinary application. But in England, so it is held, we can, without violence or any disturbance of the normal machinery of government, maintain a constant control over all departments of the executive. We have always before our eyes the minister, and that minister is responsible to us; and if, through negligence or incompetence, he does not do his work properly, we know how to deal with him.

It sounds formidable; but in practice it is not so very terrible. The process of hanging a minister, as understood in modern times—indeed ever since impeachment went out of fashion—is about the mildest species of execution that could be devised by human ingenuity. Perhaps if ministers did anything palpably wicked—if they pocketed the gold of a foreign enemy, if even it could be proved that they were guilty of flagrant corruption and gross dishonesty—it might be possible to rouse public indignation to the point of actually sending them for trial. But it would take almost a *coup d'état*, or a series of revolutionary riots, to accomplish that; and, after all, when things have gone so far it becomes possible to bring home his responsibility even to a despotic sovereign. The most autocratic ruler in the world cannot afford to outrage the feelings of his subjects beyond a certain point.

But in the ordinary way, what is our check upon ministers—what the penalty we hold over them to

induce them to govern us with prudence, unrelaxed attention to their duties, and well-informed judgment. Practically no more than this: if we are not satisfied with their doings we can turn them out of office, and decline to let them come in again. To speak precisely, one might say that the electorate can only do the latter of these two things. The way to punish a minister, without a general election, is by an adverse vote in the House of Commons on a question which would involve the defeat of himself and his colleagues. If he does anything to incur the just wrath of those six hundred and seventy vigilant censors and austere critics, the fall will come. He himself will lose his large salary and his fine position; he will have the mortification of dragging down his colleagues, and he may even condemn his party to disaster at the polls, and to political impotence for several years.

Collective Liability.

But this responsibility of ministers is collective, not individual. The Administration, as a whole, answers for the acts of its members. "The Cabinet," says Lord Morley, "is a unit—a unit as regards the Sovereign, and a unit as regards the Legislature. Its views are laid before the Sovereign and before Parliament, as if they were the views of one man. It gives its advice as a single whole, both in the royal closet and in the hereditary, or the representative, chamber. If that advice be not taken, provided the matter of it appear to be of proper importance, then the Cabinet, before or after an appeal to the electors, dissolves itself and disappears. The first mark of the Cabinet, as that

institution is now understood, is united and indivisible responsibility."*

No article in our constitutional practice is better established, or has been more unreservedly recognised. Its gradual ascent to the place it now occupies forms one of the most interesting and important chapters in English history. It was definitely asserted before the close of the seventeenth century, and formally admitted in Parliament in the reign of Anne. In 1711 the positive declaration was made in the House of Lords † that the ministers, "according to the fundamental constitution of this kingdom," are jointly accountable for all the acts of the Crown. But, though theoretically acknowledged, the rule was very imperfectly observed during the greater part of the eighteenth century; ministers continued to carry on their departmental business without much concert and co-operation under the general superintendence of the Sovereign.

It was not till the second Rockingham Ministry, in 1782, that the principle of collective ministerial responsibility was accepted. This Cabinet came in "on the distinct understanding that measures were to be changed as well as men; and that the measures for which the new Ministry required the royal consent were the measures which they, while in opposition, had advocated." ‡ The King was deeply chagrined, and talked of retiring to Hanover; but he submitted to the necessity of

* Morley, *Walpole*, p. 155.

† By Rochester in a debate on Spanish affairs. *Parliamentary History*, vi. 972.

‡ See Hearn, *The Government of England*, p. 196.

the case, and the effect of his compliance was accentuated when the younger Pitt entered office at the head of an administration whose members might perhaps have been more accurately described as the Prime Minister's assistants rather than the King's servants. The collective responsibility of ministers has seldom been seriously questioned since 1783. George IV. in 1825 made a faint attempt to disturb it by inviting his ministers to furnish him with "an individual opinion" on the question of the proposed recognition of the independence of the Spanish American Colonies. The ministers declined, and sent instead a joint reply, drafted after consultation, in which they defended their policy. It was an intimation that the whole Cabinet intended to stand or fall by the proposals, distasteful though they were to the Sovereign, which certain of their number had framed.*

It would not now be disputed that a minister must either be prepared to support a policy which his colleagues endorse, or that he must resign his office. Almost the last attempt on the part of a minister to conduct the affairs of his department without regard to the general policy of the Cabinet was that of Lord Palmerston after the *coup d'état* of 1851. The Foreign Secretary, on his own initiative, expressed to M. Walewski, the French Ambassador, his "entire approbation of the act of the President." Lord John Russell insisted on Palmerston's resignation. Nominally his dismissal was required on the ground that he had exceeded his authority as Secretary of State. In reality his offence was that he had ignored, or opposed, the collective decision

* Stapleton, *Canning and his Times*, pp. 418, 435.

of the Cabinet to pursue a course of strict neutrality and non-intervention in French affairs.

This case differs altogether from that of a resignation, such as were those of Mr. Chamberlain and of the Free Trade ministers in 1903, due to the inability of members of the Cabinet to agree upon a question of general policy. It does, however, occasionally happen that Parliament is able to take cognisance of the acts of a particular minister, and to isolate him, so to speak, from the sphere of collective responsibility. In 1855 Lord John Russell was personally aimed at when Sir Edward Bulwer Lytton gave notice of a vote of censure on "the minister charged with the negotiations at Vienna," Lord John anticipated the discussion of the motion by quitting office, admitting that the Austrian proposals, which he had supported at Vienna, had not been approved by his colleagues. In 1858 Lord Ellenborough's famous despatch, condemning Lord Canning's equally famous proclamation, was the subject of hostile resolutions in both Houses of Parliament. A minister may be censured by Parliament for irregularities, unconnected with the general action of the Administration, and in that event his retirement would not necessarily involve the resignation of his colleagues. Such a case was that of Lord Westbury, who was compelled to resign the Great Seal in 1865, in consequence of a vote of censure carefully framed so as to strike at the Lord Chancellor without in any way damaging his colleagues.

But if the minister does not take an independent line, or commit offences against public morality or political etiquette, he is sheltered

behind the shield of joint responsibility. This means that he carries on his departmental duties under the protection of the entire Cabinet and that the whole force of the party machine will be brought to his assistance when required. The theory is thus stated by an eminent authority:—

> Each minister acts in his own department as the recognised agent of his colleagues in that particular department, subject, however, to inquiry and control by the whole body. But in all cases on which any difficulty is likely to arise, each minister, from motives, not merely of prudence, but of honour, takes the opinion of the Cabinet. When the precaution is taken, the measure becomes the common act of the Ministry. All its members have either expressly approved of it, or have at least sanctioned it by their acquiescence." *

This doctrine of joint ministerial responsibility is the most characteristic of all our constitutional understandings.† Without it the due accountability of ministers to the elective assembly cannot

* Hearn, *The Government of England*, p. 204.

† It is one of those conventions of the Constitution "with which," says Professor Dicey, "the law has no direct concern." In the legal sense the responsibility of ministers means no more than that some minister is liable for every act of the Crown in which he takes part. This responsibility of ministers appears in foreign countries as a formal part of the Constitution; in England "it results from the combined action of several legal principles: first, the maxim that the King can do no wrong; secondly, the refusal of the Courts to recognise any act as done by the Crown, which is not done in a particular form, a form in general involving the affixing of a particular seal by a minister, or the counter-signature, or something equivalent to the counter-signature, of a minister; thirdly, the principle that the minister who affixes a particular seal, or counter-signs his signature, is responsible for the act which he, so to speak, endorses." Dicey, *The Law of the Constitution*, p. 26.

be maintained. So at least it is assumed, not merely in England, but in other countries where the Parliamentary system of government is in force. In France it is carried, in theory, almost as far as in this country, and it has been authoritatively claimed that it applies not only to the actions, but to the words, of members of the Cabinet. In a speech, delivered on September 21, 1902, M. Combes, the French Premier, protested against the hasty partisanship which endeavoured to find a declaration of Government policy in every unconsidered observation of any individual member of the Administration :—

"Our adversaries are not, and cannot be, unaware, so absolute is the rule and so constant the tradition in this matter, that under a Parliamentary system the Government is never committed by a minister's individual declarations, but only by those of the head of the Government. He alone is responsible before the Chamber and before the country for the direction given to policy, and he alone has the power of making known that direction. Each minister individually has jurisdiction and authority only for the administration of his department. To recall this rule, which is of the very essence of the Parliamentary system, is to reduce to its true value, that is to nullity, the pretension paraded by our adversaries of holding the entire Ministry to a phrase, more or less unfaithfully reported, which has slipped into some reporter's summary. If, for instance, it concerns domestic policy the Premier alone can be attacked, as the organ of the Government and the country, for the declaration which he deems it proper to make. If it concerns foreign policy, the Minister for Foreign Affairs alone is commissioned to speak and act in the name of the Government. Such is the true Parliamentary system."

The Delinquent Minister.

A good deal of pains has been expended in pointing out the various methods by which the repre-

sentatives of the nation and the electorate are able to punish the members of an incompetent Executive. But few writers seem to have thought it worth while to consider what this punishment amounts to in practice. Punishment, which is not really punitive, and which fails to visit the consequences of his offences upon the wrong-doer, cannot be deemed to have much efficacy. The essence of a good penal system is that its penalties should be deterrent.

In private life, and in most pursuits and avocations, a breach of responsibility has a definite meaning, and is commonly followed by direct and painful results. An officer in the Army or Navy, who is responsible for the safety of a ship, or the good order of a regiment, has much to lose by an exhibition of negligence or irresolution. He can be dismissed from the service, and forfeit not only his rank and social status but the prospect of all professional reward and perhaps even his means of livelihood. So in civil employment. If a butler, after being told that he is responsible for the plate-chest, carelessly allows the spoons to be stolen, he may be dismissed without a character, and may never again get a good place. If the manager of a bank, or the cashier of a commercial house, makes a few bad mistakes in dealing with the interests of his employers, he can be deprived of his position, and will be practically a ruined man. Failure, disgrace, poverty, even starvation, may be the consequences of laxity, incompetence, irregularity, indolence. Honour and material benefits are gained by the person who discharges his trust with zeal and fidelity; humiliation and actual want may

be the portion of those who err, not necessarily through dishonesty, but through inattention or lack of judgment.

The "responsible" minister of the Crown does not find his energies stimulated and guided in this fashion. Ambition, public spirit, a sense of duty, may induce him to administer his department efficiently. But he has little to gain, beyond the satisfaction of his own conscience, by doing the work supremely well, and not very much to lose by doing it rather badly. He is one of a body which answers, as a whole, for the acts of its members.* The House of Commons cannot dismiss a minister, of whose acts it disapproves, it cannot even formally censure him, unless it is prepared to get rid of all his colleagues as well. Now, as a rule, that is just what the House—that is to say, the majority of the House—is most reluctant to do. If it censures the Ministry, it practically censures itself; if it consigns it to defeat at the polls, it is of course depriving a considerable number of its own members of their seats. It is absurd to suppose that the House of Commons—even the party majority—approves every action of every member of a committee of some twenty ministers or more † over a space of four or five years. But very rarely indeed does it express its disapproval in the only fashion for which a Premier need care, that is

* "The Chancellor of the Exchequer may be driven from office by a bad despatch from the Foreign Office, and an excellent Home Secretary may suffer for the blunders of a stupid Minister of War." Morley, *Walpole*, 155.

† Considerably more, if we include the ministers who are outside, as well as those within, the Cabinet circle.

by a hostile division on a point of real importance, or an unfavourable vote in Supply. It is practically impossible to bring a minister to book unless the House is prepared to sacrifice the whole Cabinet to punish him.

The Government can always meet an attack, which might otherwise be successful, on the administration of a particular department, by making the question one of confidence. A good illustration is supplied by the debate of January 27th, 1902, on the agreement entered into by the Postmaster-General with the National Telephone Company. The agreement was condemned by many of the supporters of the Conservative Administration in office, and a hostile amendment was moved by the Lord Mayor of London, himself a strong Conservative ministerialist. There was no real question of party policy involved; it was simply the judgment and good sense of a minister, as the head of a branch of the public service, that was challenged. It was not easy to defend the agreement on its merits; but the ministerialists were warned not to condemn it, since such condemnation would be accepted by the Government as equivalent to a vote of censure. A Conservative private member, said that "if the amendment were carried, the Government would be told that they had been defeated on a serious charge," and the House would incur the responsibility of changing the administration of the country "at a very critical period in its history."* Mr. Hanbury, speaking for the Cabinet, put this point with even more directness. "The

* See the report of the debate in the newspapers of January 28, 1902.

hon. member who has just sat down has, perhaps, with a little more ingenuity than ingenuousness, said that this discussion ought to be approached in no party spirit; but this is an amendment to the Address, and as such must be a vote of censure on the Government."

These appeals proved effectual. The Lord Mayor declined to vote for his own amendment, and the Ministry won an easy victory in the division. A newspaper, which supported the Government but opposed the telephone agreement, made the following comment on the result:—

"This is not very satisfactory; but it is the consequence of our present system of government, by which it is impossible to call to account any single minister for the delinquencies of his department without compelling the resignation of the whole Ministry. There can be no doubt that, engaged in a war as we are, with vast issues hanging upon the retention in office of men who can be trusted to 'see the thing through,' the less must yield to the greater interest, and London must hunger after an efficient telephone system for years to come. The party machine, in fact, has intervened; and the influence of the Boer War is felt in a matter which has, strictly speaking, no concern whatever with that war, and which is in no sense a party question."

The party machine always does intervene, if the occasion is sufficiently serious, to protect the departmental chief; so that the theoretical power, residing in Parliament, to bring about the dismissal of a minister, if he offends, is not a very serious check upon the conduct of any member of the supreme Executive.

If his responsibility were, in fact, what it is in theory, a minister would reason with himself somewhat in this wise:—

"Here," he might say, "is an obviously difficult and unpleasant bit of work to be done, which will cause a great deal of trouble, rouse a lot of opposition among my permanent officials, and take up so much time that I shall hardly be able to enjoy my autumn holiday and my shooting this year. But then, if I omit to do it, the House of Commons will find it out, and I may have to resign and be disgraced; so here goes to clean the Augean stable!" Whereas, if he is irresolute or indolent, he may, as things stand, reasonably argue in quite a different fashion:—

"After all, if we don't put that business right it won't so very much matter. The Service may suffer a little, but the thing has gone on for years, and may well last my time. Very likely some pertinacious fellows will make a fuss about it in the House and the newspapers; but that will not hurt us particularly. The general election is a good way off, and when it comes we shall lose or win on various issues quite unconnected with my little department. People will have forgotten all about it by that time; and even if they do remember, their votes will be determined by dozens of other considerations."

As an incentive to good departmental administration, the "fall" is necessarily inoperative; since every minister knows that he is quite liable to lose his place when the time comes, not because of any misdeeds of his own, but through some accident or mistake independent of his office or his personal action. He may have cost the country thousands of lives and millions of pounds by launching an ill-arranged expedition into the heart of a distant

continent, too late for it to be of any use; but his "fall" may not be due to that misfortune. It may have quite passed out of mind when his defeat is eventually brought about because his colleagues have decided—perhaps in opposition to his own wishes—to put an unpopular tax on sugar or on beer.

All this the minister knows, and something more. He cannot fail to be aware that at the end of a few years of office he is extremely likely to be turned out in any case, whether the administration to which he belongs has been efficient or incompetent. It may be stated as a general proposition, which most electioneering experts accept, that the chances at a general election are distinctly unfavourable to the party in office. If its majority is very large it may contrive to stay in, much reduced in numbers, as was the case in 1900 and 1910: with a small margin it will be beaten, as in 1892, 1895, and 1905. We do not know much about the obscure working of the electoral mind; but we know that, whether the cause be caprice, or some confused idea of equity, or a general discontent with the conditions of existence in a rather unsatisfactory world, the elector is commonly inclined to "give the other fellows a chance." The odds are considerable that a Ministry, whatever its record, will do badly at the polls after being four or five years in power. The longer a Government stays in, the more time is there for the balance to swing against it. But if this be true, it detracts further from the value of the "fall" as a stimulus and deterrent. A Cabinet will not be greatly influenced by the threat of exclusion when it knows that in all probability it will be excluded in the natural course of things.

A minister will not refrain from governing ill, lest he be "hung," since he must feel that he is quite likely to be hung, even if he governs well.

There is another circumstance which tends to make his responsibility sit somewhat lightly on an English minister. Even if it were true that any slackness or inefficiency is promptly detected and punished by the House of Commons, what, after all, would the punishment amount to? Only that the distinguished amateur is bowled out rather sooner than he expected, and has had a shorter innings than he desired.

But the pavilion is not a bad place from which to watch the game for a time, especially if it happens to be a pavilion well kept and well furnished, and well provided with excellent refreshment and the best of good company. Our ministers do not break their hearts when they lose office. They are rich, or if not rich influential and distinguished persons, occupying a fine position in the most agreeable society in the world, possessing a substantial proportion of the things which make leisure worth having. Politics, pursued in our modern, gentlemanly, sportsmanlike fashion, carries with it no painful penalty for the politician who loses; he does not play for his head, or his fortune, or even his reputation. The worst punishment Parliament or the electorate inflicts upon the minister who has forfeited its confidence (beyond the loss of a salary which he is often too wealthy to miss), is that of sending him back to his friends, his estates, his sports, his studies, and his recreations. That is the utmost we do to him: though he may have made mistakes, which will leave their mark on the stability and the

prosperity of the country for generations, which may have imperilled the safety of the Empire, or have gone far to endanger the social order of the country.

If he personally comes to grief at the polls, it is more likely to be on a question of policy than on one of administration. The crushing defeat of Sir William Harcourt, during the election of 1895, was certainly not due to his *lâches* as Chancellor of the Exchequer, nor to any want of capacity, zeal, and devotion to the public service. He was perhaps the ablest member of the defeated Cabinet, and his financial reforms were approved by the entire Liberal party. But he had identified himself with the most unpopular project of the Rosebery Government. The electors of Derby admired his Budgets, but they disliked the Local Veto Bill; and they punished the Chancellor of the Exchequer for his injudicious advocacy of that measure by depriving him of his seat.

The defeated leader, the "fallen minister," soon had another constituency provided for him, and was ready to take his place again at the head of the Liberal ranks in the House of Commons, with every prospect of resuming his seat in a Liberal Cabinet, when the electoral fiat should restore his connection to power. Even if he had failed to get back speedily to Parliament, he would have been little the worse. His friends, his followers, his sovereign, the general public, thought no less highly of him. His exclusion from office, the fact that he had helped to guide his party to disaster, deprived him of some toilsome duties; but it left him still a great gentleman, distinguished, prosperous, and respected.

To an American Cabinet officer, dismissal may mean exchanging a residence in the City of Washington, with its pleasant cosmopolitan society, for a law office in a remote western town. In France, the transition may be even more marked, as *M. le Ministre* leaves the stately apartments, in which he has lived at the charge of the Republic, with a train of secretaries and attendants, a dignified person in the select circles of a wealthy and brilliant society, to return, a somewhat obscure private citizen, to his desk or his newspaper. In these cases the loss of place may be a far heavier penalty than it can be for an English minister, appointed from the ranks of the governing oligarchy, rich, important, and influential. Macaulay points out that in the period between the Restoration and the reign of George II., when impeachments and proscriptions were still possible, the party conflict was carried on with savage ferocity. The temper of politicians was exacerbated by the risks they ran and the consequences of failure. In the English political contest, as it has been conducted since the great Reform Bill, success, for those who are in the front ranks, may bring some satisfaction, but failure bears with it few real terrors. The game can be played with good-humoured complaisance, and with little trace of the social envy and bitterness noticeable in some other countries, so long as the leading performers are a group of men for whom politics is only one of the occupations or the amusements of an extremely comfortable existence.

CHAPTER IX

THE PRIME MINISTER AND THE INNER CABINET

THE Prime Minister, until within the last few years was "unknown to the Constitution," and is still only recognized indirectly.* There is no "President of the Cabinet." There is a President of the Council, who should be at the head of the Government, but is, in fact, only a minister with no departmental duties of any real importance —a "minister without portfolio," to use the Continental term. It might tend to simplicity if the Prime Minister always held this titular post. Lord Rosebery, when Prime Minister in 1894, endeavoured to make the office of Lord President of the Council a reality by taking it into his own hands. In France the Premier is officially President of the Council of Ministers. In Canada the Prime Minister is *ex*

* "The Prime Minister has no salary as Prime Minister. He has no statutory duties as Prime Minister, his name occurs in no Acts of Parliament, and though holding the most important place in the constitutional hierarchy, he has no place which is recognised by the laws of his country. That is a strange paradox." Mr. Balfour, at Haddington, Sept. 21, 1902. Ceremonial, if not legal, recognition has now been conferred upon the office. On December 2, 1905, some months after the publication of the first edition of the present work, a Royal Proclamation was issued, giving "place and precedence" to "the Prime Minister" next after the Archbishop of York.

officio President of the Privy Council of the Governor-General. In the Australian Commonwealth, though the Premier is usually at the head of an important department, such as the Ministry of External Affairs, or the Ministry of Home Affairs, he is also President of the "Executive Council," the existence of which body is so far recognized that it has a Vice-President and a Secretary.*

But in England the existence of the Prime Minister was long and jealously concealed. He does not seem to have been formally mentioned in any public document before 1878, when he made his appearance in an unexpected place. In the opening clause of the Treaty of Berlin, Lord Beaconsfield is described as "First Lord of Her Majesty's Treasury, *Prime Minister of England.*" This was, no doubt, a concession to the ignorance of foreigners, who might not have understood the real position of the British plenipotentiary if he had been merely given his official title. There is another timid advance towards reality twenty-two years later: at the time of the reconstruction of the Unionist Cabinet in November, 1900, the *Court Circular*, whether through inadvertence, or in a deliberate spirit of daring innovation, alluded to the Marquess of Salisbury as "Prime Minister." †

The term, or its alternative "Premier," ‡ has always been rather "unconstitutional." In 1761 George Grenville declared Prime Minister to be "an odious title." Lord North thought so too,

* See *supra*, p. 29.

† See the *Court Circular*, dated "Windsor Castle, Nov. 12," in the *Times* of Nov. 13, 1900.

‡ First used apparently in its present sense in 1746.

and would never allow himself to be so described by his friends or in his own family circle. In the great attack upon Walpole in the Commons in 1741, Sandys said: "According to our constitution we can have no sole or prime minister; *we ought always to have several prime ministers or officers of state;* every such officer has his own proper department, and no officer ought to meddle in the affairs belonging to the department of another."* A hundred and sixty-three years afterwards, in the opening period of King Edward VII.'s reign, we find one jealous vindicator of ancient forms complaining in Parliament that a catalogue of "birthday honours" had appeared in the newspapers as "the Prime Minister's List," and another inquiring whether the Prime Minister had any legal status at all.†

* A motion to this effect was brought forward in the House of Lords and defeated. But the minority entered a protest on the journals "that a sole, or even a first, minister is an office unknown to the law of Britain, inconsistent with the constitution, and destructive of liberty in any Government whatever."

† "Mr. MacNeill asked the First Lord of the Treasury why, in the official announcement of the list of birthday honours, had that list been intituled the Prime Minister's list; what was the reason for this new departure in the form of the official announcement; and at whose suggestion and on whose responsibility had it been made; and whether there was any, and if so what, precedent for the announcement of the list of Birthday Honours as the Prime Minister's list.

"Mr. Balfour: There was no official announcement of the kind supposed by the hon. gentleman made. I understand the list of honours was headed in one newspaper as the hon. gentleman suggests, but that was not the ordinary way in most of the newspapers, and certainly it had no authority from myself.

"Mr. G. Bowles: Will the right hon. gentleman say, for the information of the House, whether he is aware of any such official recognized by the law as the Prime Minister?"—See the parliamentary report in the newspapers of July 1 1904.

It seems to be characteristic of the Anglo-Saxon temper to start with an office and to end with a man. The Prime Minister's position is the result of the same process as that which has converted the President of the Board of Trade into what is virtually a Minister of Commerce, and the First Lord of the Admiralty into a Minister of Marine. Much of the authority of the Cabinet has insensibly passed over to that of the Premier, as the powers of a Board of any kind tend to be concentrated in the Chairman, especially if his colleagues are much below him in ability and reputation. From the nature of the case a Prime Minister in England is usually a strong man. Second-rate politicians may work their way into the Ministry by influence, intrigue, family connections, painstaking industry, good luck, and the efflux of time. But the Chief must be one whom a great party can respect, to whom it has surrendered the control of its destinies, and who has won his way to the foremost place in its councils through years of conflict with ambitious rivals. He is likely to be above the level of the ordinary politician; and the mere fact that he has "arrived," that he has won the race and reached the goal first, must impress the ablest of his lieutenants. He cannot easily be only *primus inter pares*, and of recent years he has nearly always been something more. He is the really "responsible" minister, the person who answers to the sovereign and who answers to the nation.

It is the Premier who has been nominated by the choice of the people as expressed at a general election. His associates in office, or in the leadership of the Opposition, may or may not count; a

few of them do, most of them do not. Bismarck once said that the issue at a general election in Germany was *für oder gegen Bismarck*. And something of the sort may often be truly said at a general election in England. It has been for or against Mr. Gladstone, Lord Salisbury, Mr. Balfour, Mr. Asquith, or some other eminent statesman who stands at the head of a party. When the plebiscite has been declared in favour of the successful leader, he is "sent for" by the Sovereign, to whom he has been in fact "sent" by the electorate. The other ministers, with just the few exceptions of the men who stand so near his throne that they cannot thrust them aside, are merely his nominees. So long as he does not ignore those commanding personages whom the public and the party know, he can do very much what he likes with the remainder of his staff. All that is required is that his appointments shall not be flagrantly improper, and that his departmental ministers shall be reputable personages, of some standing in Parliament, who can be classed as of "Cabinet rank."

That the Prime Minister must be the responsible Executive, and the other ministers his subordinates, was asserted in plain terms by Pitt a hundred years ago. Lord Melville, in his famous Letter to Addington in 1803, said that Pitt deemed it absolutely necessary that "there should be an avowed and real minister, possessing the chief weight in the Council, and the principal place in the confidence of the King. In that respect there can be no rivalry or division of power. The power must rest in the person generally called the First Minister. . . . If it should come unfortunately to such a radical difference of opinion

as no spirit of conciliation or concession can reconcile, the sentiments of the Minister must be allowed and understood to prevail."

The precise amount of authority exercised by the Prime Minister must depend upon circumstances and his own character. If he is a Pitt, a Peel, a Palmerston, a Disraeli, or a Gladstone, he may come near to being a dictator. During the fifty years that followed the death of Pitt, the Cabinet, as a whole, exercised an unusual control of affairs, because the interval that separated the Premiers from their coadjutors was not very wide. From the Ministry of "All the Talents" in 1806 to that of the Liberals in 1855, the Prime Ministers, with the exception of Canning and Peel, were somewhat wanting in commanding ability and in their hold upon popular support. Lord Grenville, the Duke of Portland, Spencer Perceval, Lord Liverpool, Lord Goderich, Grey, Melbourne, Aberdeen, were scarcely statesmen of the first rank; and perhaps the same verdict would now be passed on Lord John Russell. Their Cabinets, however, included many able men who were well able to hold their own with their titular chiefs, and often carried more weight with Parliament and the constituencies. For the greater part of the following half century the conditions were reversed. The office of Premier became more like that of an elective President, when it was held by a succession of able men who were unquestionably the real, as well as the nominal, chiefs of their parties, and who as a rule stood far above all rivalry or competition on their own side. In such circumstances an English Prime Minister may be an important personage indeed. "Nowhere in the wide world," said

Gladstone,* "does so great a substance cast so small a shadow; nowhere is there a man who has so much power with so little to show for it in the way of formal title or prerogative."

In the days of Pitt, and as late as those of Peel, it seems to have been possible for a Prime Minister to maintain an effective control over all branches of his administration. The letters of Peel show that, during his last Ministry, he kept himself constantly in touch with the other members of the Cabinet in their departmental work, and largely directed their offices, especially in matters referring to foreign policy, colonial affairs, and finance. But no Prime Minister can now attempt this kind of minute supervision, even when he has no department of his own.† To do so, says Lord Rosebery, would

* *Gleanings*, i. 244. Gladstone reminds us that departmentally the Prime Minister is "no more than the first named of five persons, by whom jointly the powers of the Lord Treasureship are taken to be exercised; he is not their master, or otherwise than by mere priority their head: and he has no special position or prerogative under the formal constitution of his office. He has no official rank except that of Privy Councillor. Eight members of the Cabinet, including five Secretaries of State, take precedence of him.'" The ceremonial anomaly, as stated above (p. 155) has now been amended by the Royal Proclamation of December, 1905, which gives the Prime Minister precedence over all his colleagues.

† As a rule the Prime Minister is First Lord of the Treasury, with departmental duties which may be called nominal. But the rule has had conspicuous exceptions. Gladstone, in 1880–81, following the example of Pitt, was his own Chancellor of the Exchequer. Lord Salisbury was Foreign Secretary from 1887 till 1900, when he accepted the sinecure office of Lord Privy Seal. The Premier, or any privy councillor, might presumably be a member of the Cabinet, without holding even a titular department, as was the case with Lord Lansdowne in the

demand more time and strength than any man has at his command. Peel himself arrived at the conclusion that the task of a Prime Minister in the House of Commons, as he understood the office, had become almost an impossibility. In August, 1845, he wrote:—

"I defy the minister of this country to perform properly the duties of his office; to read all that he ought to read, including the whole foreign correspondence; to keep up the constant communication with the Queen and the Prince; to superintend the grant of honours and the disposal of civil and ecclesiastical patronage; to write with his own hand to every person of note who chooses to write to him; to be prepared for every debate including the most trumpery concerns; to do all these indispensable things, and also sit in the House of Commons eight hours a day for one hundred and eighteen days."

Palmerston Cabinet of 1855. Since 1905 the Premiership has been associated with the office of President of the Imperial Defence Committee. In this capacity, the Prime Minister is at the head of a department, specially occupied with the control and co-ordination of the naval and military policy of the Empire. The Defence Committee is not a committee of the Cabinet. What it may become in the future is an interesting question; but at present it is constitutionally the advisory council of the Prime Minister, and it includes, besides Cabinet Ministers, certain high officials concerned with military and naval administration whom its President may be disposed to summon to its deliberations. It has its own secretary and permanent staff; and since the operations of the War Office, the Admiralty, the Foreign Office, and the Colonial Office come under its purview, and since it is occasionally attended by ministers of the self-governing Dominions, it may be regarded as the committee of the Prime Minister in his capacity of Imperial Chancellor rather than in that of Chief of the Executive in Great Britain and Ireland.

"The worst of it is," adds Peel, "that the really important duties to the country—those out of the House of Commons—are apt to be neglected." The last consideration applies with fuller force since Peel wrote. The head of the Government is not only enmeshed in his Parliamentary duties for six months of the year, but he has frequently to take part in platform agitation during the recess. A Premier may lose grip of the administration, but he cannot relax his hold on the party conflict. "A minister of these days," says Lord Rosebery, "would be preparing or delivering a speech in the country, when Peel would be writing minutes of policy for the various departments." As a fact, the Prime Minister is seldom able to keep himself constantly in touch with any of the departments, unless it is that of the Foreign Secretary, with whom he must necessarily be in frequent communication, and whose more important dispatches are supposed to be submitted to him. Otherwise he must leave his subordinates very much to themselves. He must accept responsibility for the work of departmental chiefs, with whose proceedings he can scarcely be acquainted, and they on the other hand can shelter themselves behind him, and call upon him to throw the shield or his influence with the House of Commons and the country, over acts performed in their ministerial capacity.

The Cabinet and the Conclave.

In the shaping of policy and legislation the collective action of ministers is not in practice always effectively exercised. The Prime Minister

does not often take all his colleagues into his confidence; or even consult them, except at the more formal Cabinet Councils. There is no reason why he should; for the majority of them are not of sufficient personal or official weight to affect his decisions. There are, however, a few ministers, the holders of the greater offices, or men of high authority with the party and Parliament, with whom he must be on confidential terms at every stage, for fear of a defection which would be dangerous. And it is these few who form a kind of private governing conclave or executive committee of the ministerial Council—a Cabinet within a Cabinet.

The growth of the Inner Cabinet is one of the most interesting developments of recent years. It is not exactly novel, for something of the sort existed, and was made cause of complaint, from time to time during the eighteenth century. Under Walpole almost all important matters were discussed in the first instance, in an informal Cabinet, consisting of the First Lord of the Treasury, the Chancellor, and the two Secretaries of State. Under Pelham the Prime Minister and his brother and the Chancellor formed an Inner Committee.

This practice was so far recognised that in the early part of George III.'s reign there were usually two classes of ministers—those who were allowed to see private papers and confidential despatches, and those from whom these documents were withheld by their colleagues. The gradations of influence within the Shelburne Cabinet in 1782 were described by Shelburne himself in curious language. First, there were ministers who were admitted to the Cabinet without possessing access to confidential

information. Then there was the Cabinet "with the circulation," that is, with the privilege of a key to the official boxes, in which foreign despatches and other important papers were, and still are,* sent round for the perusal of ministers; and highest of all was the Cabinet "with the circulation and the post-office," that is to say, with the power of ordering the letters of individuals to be opened, a right which technically belonged only to a Secretary of State, and would naturally be granted only to persons of the greatest weight in the Administration.† The first Earl of Malmesbury, during the negotiations for peace with France wrote a double set of despatches from Paris and Lille, one set, which contained the really confidential information, being shown only to Pitt, Grenville, and Canning; while the second set, which was comparatively unimportant, was allowed to be seen by the remaining ministers. In the heyday of Parliamentary government, that is, between the 'thirties and the 'sixties of the last century, the Junto had more restricted opportunities. The Cabinets were comparatively small, and many of their members stood on a footing of something like personal equality. There was not much room for discrimination in a Cabinet of thirteen or fourteen, which might include such members as Palmerston, Gladstone, Lord John Russell, Sidney Herbert, Lord Clarendon, Cardwell, and the Duke of Argyll, all of whom were ministers together

* Secret and confidential documents are circulated among ministers by means of locked boxes, to which every member of the Cabinet possesses a master-key.

† See Todd, *Parliamentary Government*, ii. chap. 8.

under the Earl of Aberdeen. In such a company the difficulty would have been to leave anybody out of the select conclave.

The influence of the Inner Council has been fostered by the increasing size of modern Cabinets. The old tradition was that the Cabinet should be a very small body. Confidence and intimate discussion are difficult in a large committee. If some of the members are removed from others, even by the space of a long table, the character of the assembly is changed. The proceedings become more like those of a public meeting, with speeches and debates instead of informal conversation. In the eighteenth century, seven was regarded as the proper number for a Cabinet. Additions were made steadily, but slowly. Up to the middle part of Queen Victoria's reign the number of Cabinet Ministers was not supposed to exceed twelve, and even this was deemed inconveniently large. Greville thought that a Cabinet of fifteen was "much too numerous"; and Macaulay notes with something like horror that "we have seen Cabinets of sixteen." But this figure is now commonly exceeded. Lord Derby's Cabinet of 1858 had thirteen members; Lord Palmerston's, which followed, had fifteen; Lord Derby's in 1867 the same number; Mr. Gladstone entered office in 1868 with a Cabinet of sixteen, and with one of fifteen in 1880, and one of seventeen in 1892. The Salisbury Government of 1886 had sixteen Cabinet ministers; that of 1895 had nineteen, and when reconstructed in 1900 the total reached twenty. And Sir Henry Campbell-Bannerman's Cabinet of 1906, and that of Mr. Asquith which followed, were equally

numerous. The figure is not likely to fall much below this point, and may not improbably rise beyond it.

The large Cabinet is one result of the complexity of modern government and the specialisation of administrative functions. There are more first-class official departments than there were a hundred years, or fifty, or even fifteen, years ago. New ministries have had to be created, and these are pushing their way into line with the older and more dignified offices. War and Marine, Finance, Foreign Policy, and the Colonies and Dependencies, are not the only matters which require the attention of a powerful minister and an authoritative bureau. Commerce is too important an interest to be left out of the Cabinet. So is Education. The Vice-President of the Council has now been transformed into a regular Minister of Education, who must have a seat in the supreme committee. Nor is it easy to omit the Minister for Agriculture, the President of the Local Government Board, or the Postmaster-General. There are more seats to be filled, though perhaps some others may be vacated. The Lord Privy Seal may disappear as well as the Chancellor of the Duchy of Lancaster; but we can hardly go on much longer without a Minister of Labour, a Minister of Transport and Communications, a Minister of Public Works, and a Minister of Health.*

This is a legitimate cause of Cabinet expansion. There are others not quite so defensible. Public

* Mr. Asquith admitted the Attorney-General to the Cabinet, a step perhaps towards the establishment of a Ministry of Justice.

men in England are usually long-lived, and they do not retire early. It is an article in the code of political etiquette that a statesman who has once attained "Cabinet rank" should be entitled to high office whenever his party comes back to power, so long as he himself remains a member of either House of Parliament. A Prime Minister, in forming his administration, is distracted and disturbed by the "claims" of various worthy noblemen and gentlemen, often of advanced age, who would feel affronted if they were passed over. Gladstone said that the next most serious thing to admitting a new man to the Cabinet is to leave out a man who has once been a member. Lord Derby, on the formation of the Aberdeen Cabinet, told Queen Victoria that if the Premier were to satisfy all the claims upon him he would have to include at least thirty-two persons in his Cabinet. Greville, glancing caustically at the ministerial crisis of 1839, is struck by the "manner in which the public interests are complimented away for the sake of individual pretensions." Poulett Thomson "must have been" Chancellor of the Exchequer, if not Governor of Canada: he "could not be passed over"—Greville does not understand why.* Sometimes, however, these claims are not merely personal. The leader of a great party has many groups and subdivisions to consider. The various interests demand a fair share of representation. One aspirant is perhaps the mouthpiece of a policy, which is not in all respects that of the "front-bench men," but which has asserted itself too strongly to be ignored. Another gives potent

* *Greville Memoirs*, Part ii. chap. 7.

expression to local sentiment, and is the master of many votes. A third is a clever *novus homo*, who has been forcing his way through from the back benches, without much regard to the feelings of the "old gang," and him it may be desirable to harness and muzzle.

The easy way to dispose of these claimants is to put them into the Ministry, and if they will not be content with the subordinate grades, to admit them to the Cabinet itself. It is worth noting that the distinction between the superior and inferior classes of ministers is being weakened. A capable under-secretary may sometimes be as important a personage as if his name appeared over the rubric, *The above form the Cabinet.* The stronger line of demarcation is the circumference of the Inner Ring; and the outsider, even though introduced to the ruling body under the pressure of circumstances, may not be allowed to enter this select circle. He may be in the Cabinet, rather than of it, and he may discover that he has little more control over policy than some of his colleagues who cannot put "right honourable" before their names.

Now and again, some revelation is made to the public, and a corner of the veil is just sufficiently uplifted to show that to be a member of a Cabinet is not necessarily to share the confidence of its Chief. When Gladstone formed his Administration in 1886 he included some ministers who were not in complete accord with him on the proposed legislation for Ireland. Sir George Trevelyan afterwards stated that he and his friends had supposed that they would be allowed "to knock

the measure about in the Cabinet," * and mould it into a shape which they could accept. Mr. Chamberlain entered the Government under reservations, and on the condition that the question should form the subject of inquiry and discussion. "I imagined that it was intended to proceed with the examination step by step in the Cabinet, and that after full consultation, we were *all* to be called on to endeavour to build up some scheme which would fulfil the intentions of the Prime Minister." But he found that he had "misunderstood his right honourable friend in this particular." The Home Rule Bill was completed by Gladstone, in concert with Mr. John Morley and one or two other members of his Junto: the Outer Cabinet were merely called upon to register the results.

We get a glimpse of the same state of things, in the disclosures, which ensued upon the ministerial secessions from Mr. Balfour's Cabinet, during the autumn of 1903. It would seem that the crucial decisions were not communicated to the general body of the Cabinet, and that ministers even so important as the Chancellor of the Exchequer and the Secretary of State for India were not admitted to the confidential conclave.

We may perhaps expect further development along these lines. In a very large Cabinet, partly composed of busy departmental officers, political management will tend to be left more and more in the hands of the influential sub-committee. It is a repetition of the evolution of the Cabinet itself. The organic, working, secret, "cabal," segregated

* Morley, *Life of Gladstone*, iii. 294; S. H. Jeyes, *Mr. Chamberlain*, p. 254 *seq.*

itself from the Privy Council, which gradually lost its efficiency and became merely formal. Similarly, the Inner Cabinet may draw to itself the effective power of the whole body in the moulding of legislation and the direction of policy. The real business may be transacted at little meetings, still more private than those to which "His Majesty's Servants" are summoned; and a Cabinet Council may in time become a rare, and almost superfluous, ceremony.* The Cabinet is a long way from this stage at present. But even now, ministers are rendered nominally responsible for many matters, of which some of them have little real knowledge, and on which they can bring to bear no genuine influence.

* There was much complaint in the autumn of 1901 at the infrequency with which Cabinet Councils were summoned. Although the country was at war, there was no formal meeting of ministers for several weeks after the prorogation of Parliament, and not one in the month of September or until towards the end of October. The Chancellor of the Exchequer apologised for a state of things, which was in rather remarkable contrast with previous practice (Lord Palmerston held no less than ten Cabinets in September and October, 1855), by saying that there really was no need for these frequent meetings. "There are such things *as interviews between ministers* . . . there are official messengers who carry communications between different departments, and even to an incompetent Government the telegraph and the post-office are open" (speech by Sir Michael Hicks Beach at Oldham, Oct. 10, 1901). This looks like a rather plain-spoken admission that the formal Council, the pledge of solidarity and collective responsibility, has been largely superseded by informal interviews and communications between certain selected members of the Cabinet.

CHAPTER X

THE LIMITATIONS OF DEMOCRACY

The Sovereign People.

THE English Constitution might be the most democratic in the world. Nowhere else does it seem so easy for the Sovereign People to exercise its will; nowhere else is the power of that sovereign so little fettered. In most monarchical and federal states this power is crossed and checked in various ways. The great majority of the citizens of the United States might perhaps be firmly persuaded that it was desirable to abolish the separate State legislatures, or to impose export duties on commodities, or to allow soldiers to be quartered in the houses of civilians, or to withhold the franchise from coloured persons, or to grant titles of nobility, or to have the President chosen by direct, instead of by secondary, election. But they could do none of these things without a revolution, or without the difficult and elaborate processes by which the amendment of the constitution is safeguarded.

In England, changes at least as sweeping as any of those mentioned, could be consummated by the normal political machinery. No *Assemblée Constituante* or National Convention would be required

for the purpose. Parliament is, from the legal point of view, the absolute sovereign of the British Empire: "since every Act of Parliament is binding on every court throughout the British dominions, and no rule, whether of morality or of law, which contravenes an Act of Parliament, binds any court throughout the realm." * But the political, as distinguished from the strictly legal, sovereignty, is with the electoral body. The electorate is the real "sovereign" in England, and the conventions of the Constitution are supposed to maintain its supremacy. "Our modern code of constitutional morality secures, though in a roundabout way, what is called abroad the Sovereignty of the People." †

And to that sovereignty no limits are set. Democracy in America could not impair the validity of contracts, or prescribe a redistribution of all private property. But if the great majority of the English electorate were persuaded that such innovations were desirable, they could have them carried into effect by the ordinary process of legislation. There is no bar to the unchecked authority of the *demos*, such as is presented in the United States, not merely by the Constitution, but by the position of the President: and in the monarchical countries of Continental Europe by the control over administration exercised by sovereigns who are practically their own prime ministers.

In Great Britain, the Executive is supposed to

* Dicey, *The Law of the Constitution*, p. 357.

† "A dissolution," adds Professor Dicey, "is in its essence an appeal from the legal to the political sovereign. A dissolution is allowable or necessary whenever the wishes of the Legislature are, or may fairly be presumed to be, different from the wishes of the nation."

be the servant and nominee of the Legislature; the Legislature consists of delegates of the larger number of the Electors; and it is difficult to see what further extensions in the direction of popular government any partisan of Ochlocracy—the rule of the multitude—could devise. Yet, in effect, the multitude does not rule England. It is singular how little the advance of Democracy, in the sense just spoken of, has led to the actual administration and control of affairs by persons belonging to the most numerous classes of the population.

Our Government retains the characteristic, which has so often roused the enthusiastic approval of foreign observers, and of Burke, and Hallam, and Macaulay, and Brougham, and other writers of the Whig and Liberal school. It is still a "limited Monarchy," as it used to be called, though perhaps it could be more accurately styled a limited Democracy; and it might even now be "likened to a pyramid, of which the broad base, supporting the whole, is formed by the People; the middle portion is the Aristocracy of rank, property, talents, and acquirements; and on the narrow summit rests the Crown." * The rule of the Many continues to be checked and qualified by the influence of the Few, though that influence can no longer be called aristocratic, in the sense in which the term could have been used in the eighteenth, or the earlier part of the nineteenth, century.

The Socio-Political Class.

The successive extensions of the suffrage have frequently inspired cautious critics with alarm.

* Lord Brougham, *The British Constitution*, p. xx.

Educated and philosophical writers, belonging to the comfortable middle classes, regarded with dismay the transfer of preponderant political power to the masses. They predicted that the process would be destructive to the national stability and the maintenance of social order. Government would be administered, not in the interest of the whole community, but in those of the most numerous and poorest section. Property would be held at the mercy of a vast predatory horde for whose exclusive benefit the laws would be framed; experience, knowledge, culture, trained judgment, would be shouldered out of public life, and their places taken by credulity, recklessness, and greed. These forebodings were not confined to observers of the more academic and conservative temperament, like Lord Sherbrooke, Sir James Stephen, Sir Henry Maine, and Mr. Lecky.* They were shared to some extent by Liberal, and even Radical, advocates of popular rights, whose affection for the People was perceptibly tempered by apprehension. Bagehot says frankly, "I am afraid of the ignorant multitude of the constituencies." Leading men in politics, on the Liberal side, did not say this so plainly, but that was what they meant. It was expected that the Reform Bill of 1867 would be followed by a great change, not only in the principles of our public life, but in its *personnel*.

Neither result has been manifest. The new voters showed no greater desire than their predecessors for sweeping innovations or revolutionary experiments. Still less is it true to say that the Democracy has insisted in enthroning its own

* See Lecky, *Democracy and Liberty* (1896), passim.

members in the seats of power, and turning out the men of property, birth, and superior education, to make room for them. For the Labour Cabinet, and for the House of Commons with a majority of members belonging to the working class, we must go to the Australian Colonies. In England we move cautiously. The demagogue plays his part in our politics, but it cannot be said that he is much more conspicuous than he was in the 'sixties of the last century. Since the Reform Bill of 1867, the Conservatives have divided office fairly with the Liberals; and the former party has seldom been more powerful, in Parliament and the country, than it was during the greater part of the two decades following the further extension of the franchise in 1885.

It was reasonable to expect that the establishment of political equality would lead to a great change in the composition of the Legislature and the Executive. One might have anticipated that wealth and rank would disappear or lose all their predominant influence. The House of Commons, it was thought, would be constituted, like the French Chamber, largely of minor professional men—doctors and engineers in no great practice, country attorneys, journalists, and schoolmasters, with, of course, plenty of labour delegates. But the English working man, for five-and-thirty years after the Act of 1867, followed in the footsteps of the small shopkeeper, his predecessor in political predominance, during the five-and-thirty years that succeeded the Act of 1832. He remained generally faithful to the tradition, which has prevailed through all English history, that the conduct of public affairs

should be largely entrusted to those who enjoy the advantages of birth, breeding, and affluence.

The recognition of this superiority is one of the most distinctive of national traits. It has been praised as the useful attribute of a Deferential People, or sneered at as the characteristic of a Nation of Snobs. The passion for equality, which burns in the breast of the Frenchman, leaves the Anglo-Saxon cold. There is a "best set" wherever men and women of the race are gathered into any kind of association. You find it at the Universities, at every pleasure-resort, on board a passenger steamer, and in the Australian back-blocks. It is very nearly as well marked in American society as in that of Great Britain. There are towns, all over the United States, where there are certain families, who are recognised as belonging to the best people, and are looked up to, and sought after, by their fellow-townsmen in consequence. The social distinction bulks as largely in the novels of Mr. Howells and Mr. Henry James, as those of Thackeray; and the society portrayed in *Washington Square* is not much less "deferential" than that described in *Pendennis*.

In America this sentiment is mainly social; it is not carried into politics, from which, until recent years, men of culture and position have been disposed to stand aloof. In England, however, politics has always been a kind of adjunct to society. It still remains an occupation with distinctly aristocratic associations. There are many reasons for this. One is the fact that political power was so long bound up with the possession of land. Another cause was the existence of the House of Lords, and

the fact that rising rich men, who in other countries are anxious to get into politics for material purposes, do so in England because it brings them into contact with peers, and the sons and relatives of peers, and other persons of social consequence.

It might conceivably happen, in France or in the United States, that the entire legislative body, in both its Chambers, with the Cabinet thrown in, might not contain a single individual belonging to "smart" society—no one whom an ambitious *parvenu* with a discerning wife and marriageable daughters would care particularly to know. In England such a situation is much less likely to arise. Politics is pretty certain to attract a considerable number of persons who have the things which many Englishmen and most Englishwomen esteem much more than intellect or mere cleverness; that is to say, titles, and ancient lineage, and great landed possessions, and riches which have descended upon the holders without any vulgar effort of their own. London fashionable society is a vast and mixed crowd. But the Peerage is at its centre, in its inmost select circle. And the peers, or some of them, cannot help being politicians.

The element of wealth is as important as ever it was; its relative weight has increased in comparison with that of birth. The tendency of modern Parliaments is to become rather less aristocratic and rather more plutocratic. Bagehot who, with many of the middle-class writers of the mid-Victorian epoch, was almost morbidly conscious of class distinctions thought that the constituencies cared for nothing so much as rank and birth in their representatives. "A man who is an honourable or

a baronet, or better yet, perhaps, a real earl, though Irish, is coveted by half the electing bodies; and *cæteris paribus* a manufacturer's son has no chance with him." This could not now be said. Most constituencies would be better pleased with the son of a great manufacturer than with an impecunious "honourable" or an Irish peer. But, no doubt, the manufacturer's son would be more of a "gentleman," more tinged with aristocratic ideas and associations, than his predecessor in Lord Palmerston's day. He would have been at Eton or Harrow, he would very likely be a sportsman and a landowner, he would have all the tastes and manners of the class into which he is very likely to have married.

It would not be true to say that politics in England, even in Queen Victoria's reign, was a monopoly of the rich. Still less would that generalisation hold in the reign of King George V. Nevertheless many members of Parliament are persons of independent means, and most of those who take a leading position might be called wealthy. A poor man may get into the House of Commons, with his expenses paid for him by a political or industrial organisation. This is usually the case with labour representatives, who are "run" by the trade societies, and depend on their parliamentary salaries for their support; and there are other members, English, Scotch, Welsh, and Irish, in a somewhat similar position. But a political aspirant in England should be in easy circumstances, and if he is very rich his upward progress will be smoother and more rapid. Without sufficient private resources, he finds himself handicapped in

various ways. In London, during the session, he is associated with a luxurious, pleasure-loving society, that has a great deal of money to spend, and spends it freely on dressing, dining, motor-driving, theatre-going, in parties, entertainments, and amusements of all kinds. The legislator need not take part in this expensive life; but if he does it is much easier for him to be at the centre of things, and to understand what is going on and become influential with his party.

If he is to be a leader, he must entertain, and give dinners and receptions. This is expected of him in a country where dining and politics have been closely associated for two centuries. Our Ministerial system may almost be said to have been born at the dinner-table. The first regular private meetings of the Cabinet were Harley's famous Saturday dinners, at which the inner group of Queen Anne's Council could get together and discuss affairs, without the presence either of the Queen or of inconvenient colleagues.* The tradition has been maintained. Politics, the dinner-table, and the *salon*, have never sundered their alliance. There is a curious letter from Disraeli to Lord Malmesbury, in which the importance of "the Captain" [Lord Derby] giving the proper dinner parties, is dwelt upon with amusing solemnity:—

"The cards should all be out; if the dinners took place a month hence it would not matter. What they want is to be asked to their leader's, and to have their cards meeting them

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*Blauvelt, *Development of Cabinet Government in England*, p. 131. Swift was occasionally present at Harley's Saturday dinners, and often alludes to them in his letters and journals.

on their arrival in town. You must remember this is a new Parliament, full of new men who have never entered his house. . . . Those who understand these things have all been to me to say how critical this is. . . . Lord Salisbury also should be asked to invite the men. His dinners last year did great good, when our fortunes were darkest." *

The letter is dated January 24, 1853; but I daresay a party leader of the twentieth century is occasionally admonished in a similar strain by "those who understand these things."

These matters, though they may be weighty enough to the member of Parliament himself, do not deeply concern his constituents. But they also have their own reasons for wishing him to be well-to-do. The party managers want a member, who can contribute handsomely to the local political clubs, pay most of the expenses of registration, and provide the whole, or a good part, of the salary of the agent and his clerks. The electors at large have a natural affection for the lavish public-spirited person, who is always ready to respond to local solicitations with a sufficient cheque. Church guilds, musical societies, charitable committees, football and cricket clubs, flourish under the fertilising stream, and tap its source with unblushing rapacity. The wealthy M.P. or candidate groans but pays. Sometimes, if he is "nursing" the place assiduously, the constituency, in its corporate capacity, may receive a *douceur* in the shape of a public library, or an open space, or a swimming bath.

Even for those who do indulge in these political luxuries the cost of getting and holding a seat in

* Malmesbury, *Memoirs of an Ex-Minister*, p. 293.

England is often heavy. A considerable proportion of the English members of Parliament would be satisfied if their annual outlay upon their division came to no more than £500. Many spend less, some a great deal more. There are large county divisions, and certain small and greedy urban communities, debauched by a succession of over-affluent members, in which the annual expenditure could be reckoned in thousands of pounds rather than hundreds. And this is exclusive of the actual cost of the election, which may be anything from £600 to £2,000, and may have to be defrayed at any moment determined by the Fates and the Prime Minister. A man in straitened circumstances cannot meet all these demands with the open-handed liberality the electors appreciate. Against the average member of Parliament, especially if he be a Conservative, there can hardly be a more injurious imputation than that he "does nothing" for the place—that he spends no money there. And unless he is a politician of real distinction, or of exceptional personal popularity, he is in some danger of finding that his local Association is angling industriously for a more munificent patron.

Apart, however, from selfish considerations, the electors incline towards the rich man on public grounds. Englishmen have a rooted regard for success, particularly if it is of the solid, material kind; and wealth means success, in a world where everybody would be rich if he could. It is a proof of ability to have made a great business or to have kept it going. Even if the money has been inherited, its possession is interpreted as evidence of stability and soundness. It is the old idea of the stake in

the country. A man with a large income and fat investments may not be so clever as a fluent lawyer or an ingenious professor, but he is felt to be more trustworthy. Besides, he can be independent. He will be under no temptation to turn his politics into cash. The poor man, with no capital but his brains and a possibly precarious profession, is always looked upon as very much of an adventurer in England till he has "arrived." The constituencies so far have not shown themselves specially anxious to facilitate his arrival by the political road. They have of late extended a certain favour towards the trade-union working-man delegate; but to the "carpet-bagger" none at all.

The Parliamentary Oligarchy.

There are signs of a change. Tendencies are at work, which may undergo sudden and rapid development. Nothing would be less surprising, than a very substantial modification of the social and personal character of the House of Commons during the next decade or two. In the meanwhile it cannot be said that the real "democratic" element has ever yet made its presence conspicuously felt in the representative Chamber.

The Parliament of 1900 was perhaps a little less wealthy and a little less aristocratic than its predecessors; * yet it was, in the main, an assembly of persons who had either made or inherited a fortune,

* It was computed that a quarter of the members of the House of Commons in 1865 were connected with the thirty-one "great governing families" of England. In this House there were 134 members of noble families, and 83 others of aristocratic birth or descent.

or who were connected with the landed and territorial classes. Taking the assembly as a whole, its composition was pretty much what it had been twenty, thirty, or fifty years earlier. I select, at random, from a list of this Parliament, a dozen names of English and Scottish members, beginning with one letter of the alphabet, and a dozen names beginning with another letter. The status and profession of these members are given below, and in some cases their place of education, since this is often a guide to the social position of Englishmen of the upper and middle classes:—

1. Steamship owner; company director.
2. K.C.; eminent Chancery lawyer.
3. K.C.; successful barrister.
4. Country gentleman; Eton and Christ Church.
5. Member of great financial family; Eton and Trinity.
6. Son of a duke.
7. Brother of a duke.
8. Wealthy landowner and country gentleman.
9. Landowner and member of old territorial family.
10. Labour delegate.
11. Chairman of manufacturing company: Eton.
12. Country gentleman; Eton.

1. Landowner; ex-diplomatist, member of aristocratic family.
2. Manufacturer and coal owner.
3. Banker.
4. Country gentleman; retired military officer.
5. Very wealthy merchant and financier.
6. Merchant.
7. Newspaper proprietor.
8. Great landowner; partner in wealthy banking firm: married to daughter of an earl; Eton.
9. Son of a peer.
10. Country gentleman.

11. Wealthy country gentleman and colliery owner; Harrow and Trinity.
12. Country gentleman; barrister; Yeomanry officer; Harrow and Trinity.

The result would be much the same if we went over the whole catalogue. Country gentlemen, brewer, colliery proprietor, banker, "J.P. and D.L." are descriptions which continue to meet the eye—descriptions slightly chequered by the occasional "journalist," "miner's agent," and "trade union secretary." About a quarter of the members had been to school either at Eton or at Harrow. Now, the proletariat has not yet taken to sending its boys to these seminaries; and it may be said that most of the youths educated there are the sons of very well-to-do parents, while many of them belong to the class which, in any other country but England, would be called aristocratic.

The Oligarchy in the Cabinet.

When we ascend from the Commons to the Cabinet we find the popular element no more conspicuous. If we look at the body which really rules the Empire, we see at once that it mainly represents one portion of the House, and that the undemocratic portion. And this is not the case with the Conservatives alone, who might, perhaps, be expected to have more indulgence for the claims of wealth and birth in public life: the tendency has been little less pronounced in the Liberal Ministries.

In this respect our political system has preserved much of its oligarchical character. The effective

power continues to be retained in the hands of a comparatively small body of persons, many of them born to politics and brought into it young. Roughly speaking, this class is composed almost entirely of persons who form part of what is called Society. It includes a considerable proportion of the Peerage, with a certain number of members of the older county families, who are rich enough to keep good houses and live in style in London, as well as a sprinkling of industrial, mercantile, and financial, magnates who have the same qualifications. These are the people who can, and do, "boss" politics: not so much because they are clever, or noble, or even rich, as simply because they are at the centre of affairs, and have convenient opportunities for getting their hands upon the levers.

The case is similar to that which constantly occurs at a public meeting, or a large committee, called to discuss and transact any kind of business. A knot of active and busy persons will gather round the table, at which the chairman and secretary sit, and they will propose the motions, draft the resolutions, suggest the amendments, and generally arrange matters as they please. There is nothing to prevent any individual, in the body of the hall, or near the door, from taking his fair share in the proceedings, beyond the fact that he is isolated and unsupported, and locally sundered from the focus of activity. If he can speak, trumpet-tongued, he may command a hearing; but if he is only an ordinarily quiet and modest person he never gets his chance. The fussy wire-puller at the table can do more with a whisper than he could with a burst of eloquence.

So it is with *la haute politique* amongst us. The

governing cliques can govern because they see one another daily: they are always calling on each other, or lunching, or dining, or attending receptions together; they have been at the same schools and colleges; they have shot together, hunted together, yachted together; they stay at the same country houses, when they leave the dozen or so of streets and squares in London in which they all live; and about half of them are more or less closely connected by the ties of blood or marriage. Of course, the outsider does get in, just as he may contrive to make his voice heard at the public meeting; but he has to be an outsider of unusual ability and force of character, and even then he does not, as a rule, win his chance till he has either married into the circle, or acquired sufficient wealth and social *prestige* to be assimilated by it.

Society in England, however, has always exhibited a wide liberality in its recognition of personal ability. The selective process, by which it winnows out a certain number of capable men, and admits them to the socio-political connection, is really an important, though of course quite unacknowledged, element in our political system. The process is no doubt often performed capriciously, irregularly, and unmethodically; still it has served the purpose of bringing into public affairs some talent which might otherwise never have found its opportunity. To suceeed in London society, said Disraeli, you require birth, genius, or a million. He was himself the most striking illustration of the fact that genius, especially a genius for politics, may sometimes confer on its possessor all, and more than all, the opportunities which could be offered by wealth or inherited rank.

Of the Prime Ministers of the nineteenth century the greater number were peers, or closely connected by birth with the Peerage, like Grenville, Portland, Liverpool, Grey, Melbourne, John Russell, Aberdeen, Palmerston, Derby, and Salisbury; two, Peel and Gladstone, belonged to wealthy mercantile families; but Addington was the son of a physician, Canning's father was an obscure barrister and his mother an actress, and the elder Disraeli was a Jewish literary man, of foreign descent, with a name which most Englishmen were unable to pronounce correctly. The successful outsiders had made their way, by luck or their own cleverness, into the select circle. Addington, whose father had been medical attendant to the great Earl of Chatham, was put into Parliament for a close borough when he was six-and-twenty. Canning, after attracting attention to himself in his brilliant career at Eton and Christ Church, was no more than twenty-four when Burke and Pitt introduced him into politics as member for Newport.

There have been Cabinet Ministers, like John Bright, Mr. Joseph Chamberlain, Lord Morley, and Mr. John Burns, whose distinction has been achieved outside the socio-political *côterie*, who have been commanding figures in the country, and well known to the public, before they were admitted to the dominant group. Such cases may become more frequent in the future; but the number of men, who have scaled the walls of the political citadel, by the truly democratic method of impressing their personality upon the masses of their fellow-citizens, has so far been small. Nor of these are there more than two or three who have attained positions of the highest eminence and authority, and who could have

been thought of as possible candidates for the first place of all.

We have, then, this actually large, but relatively rather small, governing class, consisting of the few thousand representatives of the nobility, landowners, capitalists, and leading professional men, who make up London society. No constitutional rule or precedent prescribes that ministers shall be appointed from this set of persons. But, from the circumstances of the case, they usually are so appointed. The electorate itself is far too amorphous, too scattered, and too ill-organised, to perform the process of selection; and there is nothing in England corresponding to the party conventions, by which candidates for the Presidency of the United States are nominated. When the result of a general election has decided that one of the two great parties is to enter office the Sovereign sends for the statesman who is the most conspicuous figure on the winning side, and commissions him to form a Ministry. This personage, whether he be a great nobleman or a distinguished commoner, has passed most of his years—even if he has not been actually "born in the purple"—within the innermost recesses of the socio-political edifice. He himself may be, and probably is, altogether above any vulgar admiration for wealth, rank, and fashion. Yet the conditions of his life make it difficult for him to break away from his environment. His opportunities do not allow him to consort with people who are poor, unknown, and socially obscure. When he has to make up his ministry he naturally consults his own little court of followers and allies; and *they* naturally press the claims of their own friends and kinsmen. What

wonder if the distribution of offices falls largely to the members of this body?

A ministry, Liberal or Conservative, has so far always been composed in part of the Premier's political associates and supporters among the Peerage. The rest are drawn from the House of Commons; and since, as a rule, one fairly well-educated and capable Englishman is as well able to perform the duties of a public department as another, when assisted by a sedulous permanent civil service, no great harm is done, and public feeling is not outraged, by the fact that social influences largely determine the choice. A man of conspicuous ability, the representative of great classes or interests, a Lloyd George or a John Burns, may have to be admitted, whether he belongs to the right set or not. But such men are rare. The public is not specially concerned in asserting the claims to office of one member of the House of Commons rather than another. It has done its duty at the polls by practically appointing A and his party to the government, in preference to B and his following; and it is quite content to leave the constitution of the executive committee, and the allocation of the posts in it, to the leader and his advisers. The power is exercised on condition that it be not grossly abused. Provided the men appointed are respectable, upright, and fairly competent politicians, of good private character, and of some experience in public life, the nation is satisfied.

A glance at the composition of any recent English Ministry will show how largely it still continues to be made up from this governing oligarchy. Here is

Lord Salisbury's third Administration, as formed on June 29, 1895:—

	Status or Occupation.
Marquess of Salisbury ...	Great peer and landowner; head of ancient and wealthy aristocratic family.
Mr. A. J. Balfour	Nephew of Lord Salisbury; wealthy landowner.
Lord Halsbury	Lord Chancellor.
Duke of Devonshire ...	Head of the House of Cavendish; great territorial magnate.
Viscount Cross	Peer; landowner and Chairman of Quarter Sessions.
Sir Michael Hicks-Beach ...	Baronet and landowner.
Sir Matthew White-Ridley ...	Ditto.
Mr. Chamberlain	Successful manufacturer and man of business.
Marquess of Lansdowne ...	Peer and wealthy landowner.
Lord George Hamilton ...	Son of a Duke.
Mr. Goschen	Wealthy financier.
Lord Ashbourne	Distinguished lawyer.
Lord Balfour of Burleigh ...	Head of old Scottish aristocratic family; landowner.
Lord James of Hereford ...	Successful lawyer.
Mr. Ritchie	Wealthy man of business.
Mr. Chaplin	Country squire and landowner.
Mr. Walter Long	Ditto.
Mr. Akers Douglas	Ditto.

The subordinate ministers outside the Cabinet included a duke and five other peers, two eldest sons of peers, and one nephew of the Prime Minister.

This is a Conservative Cabinet; but if we turn to a Liberal Ministry the analysis would not be very different. Take the members of the 1894–95 Administration:—

	Status or Occupation.
Earl of Rosebery	Peer and wealthy landowner.
Earl of Kimberley	Ditto

Marquess of Ripon	Peer and wealthy landowner.
Lord Tweedmouth	Ditto
Earl Spencer	Ditto
Lord Herschell	Successful lawyer.
Mr. Asquith	Ditto
Sir H. Campbell-Bannerman	Son of a wealthy manufacturer and landowner.
Sir William Harcourt ...	Member of ancient and aristocratic county family.
Sir George Trevelyan ...	Baronet and head of old county family.
Sir Henry Fowler	Wealthy solicitor.
Mr. John Morley	Man of letters.
Mr. Arnold Morley	Son of a very wealthy manufacturer.
Mr. James Bryce	Distinguished jurist.
Mr. Shaw Lefevre	Landowner, nephew of a peer.
Mr. A. H. D. Acland ...	Member of old county family.

Literature and learning were a little better represented in this Liberal Cabinet, in the persons of Mr. Morley and Mr. Bryce. Otherwise, it was not really much more "popular" in its composition than its predecessor.

The Liberal Cabinet of King Edward VII.'s reign as formed by Sir Henry Campbell-Bannerman and reconstructed by Mr. Asquith, was more "popular," that is to say, it included besides one Labour member, five or six barristers and solicitors and a professional literary man. But even in this "democratic" Cabinet, birth, wealth, and social influence were among the qualifications of two-thirds of the members. They were, of course, not the only qualifications; yet it is plain that they were allowed as much weight, in determining the selection, as was the case with the rival Ministry. No one who knows English politics will be prepared to

maintain that all, or even most, of Mr. Asquith's colleagues were persons who could have been nominated beforehand on their public reputation for places in the Cabinet. They were included because they happened to be known and favourably regarded in the right quarters.

Again, in September, 1903, if the nation had been polled to nominate a Colonial Secretary in succession to Mr. Chamberlain, the name of Mr. Alfred Lyttleton would not have been found on the list. To the general public he was known mainly as a cricketer; in the House of Commons itself he was popular and respected, but he had not taken a very active part in debate, and would not have been regarded as one of the leaders of the Assembly. It was because his high gifts of character and intellect had been rightly gauged by the inner circle, in which a Prime Minister moves, that he was elevated from the back benches of the House of Commons to one of the half-dozen highest posts in the service of the Crown. Democracy would certainly not have made Mr. Lyttleton Colonial Secretary, perhaps, it would not have made him a minister at all. The governing oligarchy did so, and its discretion was wisely exercised. It was a rather striking illustration of the manner in which an able man of high social and personal qualifications, but of no great political standing, may be introduced into the supreme administration of the country.

It is not a process of jobbery: for it does not happen that bad or incapable men are corruptly given posts for which they are unfit; but oligarchical, in its essence, it certainly is. The members of the oligarchy are, as a rule, so far removed from

the need of earning a livelihood, as to be able to enter active politics in the prime of life. Some of them have been preparing themselves for office from their boyhood, by a long course of study, by travel, and by an early apprenticeship to the House of Commons, so that, as they near forty, they have acquired an experience, with which the middle-class man, who enters Parliament about that age, cannot be expected to cope.

This is a real advantage, which acute foreign observers of our politics fully appreciate. The late Mr. T. B. Reed, formerly Speaker of the United States House of Representatives, told the present writer that he often looked with envy on this feature of our system. In America, he said, too many of the ablest men come into Federal politics too late in life. Mr. Reed added that they often leave too early. In England a man can take to politics young, and he has a good chance of remaining in it to an advanced age:—

> "Till old experience doth attain,
> To something like prophetic strain."

In the United States a valuable political career may be interrupted, or destroyed, by the operation of the rule which prohibits a man from becoming a candidate for Congress outside his own district. Thus, if he forfeits the favour of his local supporters, or from any other cause loses his seat, he may never get back to Congress. In England, a statesman, who has some public following, may have to wander from one constituency to another: but there is pretty certain to be a body of electors somewhere who

will take care that his services are not lost to his party. The English political leader, beaten in London or Lancashire, can appeal to a more favourable electorate in Scotland or Wales. But an American Representative, who had been ousted from his seat for a Congressional district in Massachusetts, could not find compensation by travelling to Illinois or Colorado; nor could he even seek the suffrages of another constituency in his own State. The Constitution prohibits the former alternative; and State law or established usage deprives him of the latter, by prescribing that a member of Congress must be resident in the district for which he is elected.

The American custom is theoretically more reasonable than our own; for, other considerations apart, it does seem proper that the representative of a locality should have local interests and ties. The insistence on the local qualification in America may be due, as Mr. Bryce suggests, to the eighteenth-century abuses of the English electoral system, under which adventurers, unconnected with the district, were sent down to a borough by influential patrons, or allowed to buy the seat from the "freemen." Yet the American restriction keeps some eminent men out of public life, and it prevents others from obtaining that useful kind of authority which is the result of long association with affairs. Here, as elsewhere, we have been fortunate enough to find that the defects and anomalies, which scientific constitution-makers avoided, have turned out to be valuable in practice. The earlier years of American politicians have been devoted, more often than is the case in Great Britain, to

some professional pursuit, or to money-making. The able young man, unless he intends to "live by the altar," and to pursue politics for gain, has to establish his material position, before he can become a candidate for Congress or his State Legislature. By that time he is middle-aged; he has behind him the habits of half a lifetime, passed in specialised labour; and he does not so easily adapt himself to another kind of business which has rules and technicalities of its own. The difficulty of a Democracy lies in inducing a sufficient number of honest and capable men to undertake public duties without the temptation, or the hope, of obtaining the "spoils." As long as the governing oligarchy retains its influence that difficulty will be less apparent in England than it has been in some other countries.

On the other hand, it must be remembered that our political leaders have not often been forced to undergo that routine of unrelaxed toil, pursued for the greater part of the day during the great part of the year, which falls to the lot of the majority of adult human beings on the face of this earth. Many of them, indeed, would speedily break down under such continuous and sustained exertion. It is astonishing how little it takes to make a member of Parliament ill. A fortnight of real pressure is enough to send harassed legislators flying to the country, in search of rest and change.* During the troubled weeks of the

* Mr. S. H. Jeyes, in his monograph on Mr. Chamberlain, attributes no small portion of the success of that statesman to the fact that, unlike most of his rivals, he was able to devote himself to his political duties with genuine energy and

summer of 1899, which preceded the outbreak of the Boer War, some of the most responsible personages in the Cabinet were away taking their holidays. It hardly seems to have occurred to them that a minister could postpone his vacation, and remain in town till the early autumn, even at a time when the country was trembling on the very verge of a great campaign.*

The members of this class have always exhibited and continue to exhibit, many qualities which Englishmen esteem. They are upright, patriotic and good-tempered, and they survey public affairs with that easy, unimpassioned, common sense which we understand and rather admire. Some of them are persons of the highest intellectual capacity, and most of them are fairly able, and as well informed and well educated as the majority of their countrymen. And it may be said that they are the sort of men who have, for centuries, led the English people in peace and war, in commerce and administration, and by whom, on the whole, the English people have shown themselves well content to be led. A different kind of leadership may be required

industry. "With the unfettered leisure of a man of fortune, he combined the habits of a man of business. Whether agitating on a public platform or directing party organisations, he laboured as industriously as an official whose salary is regulated by the results he achieves. When he was grappling with administrative problems in Whitehall he was as keen about the efficiency of his department as if he were building up a private business." Jeyes, *Mr. Chamberlain, His Life and Public Career*, p. 155.

* See Sir Redvers Buller's correspondence with Lord Lansdowne in the *Report of the Royal Commission on the War in South Africa*, 1903.

in the future, and it may or may not be forthcoming. But so far the tradition of the past has continued to prevail, and its influence, in this respect, though, no doubt, decreasing steadily, is still very great.

CHAPTER XI

GOVERNMENT BY AMATEURS

It has often been made a reproach to Democracy, particularly to modern Democracy, that it is careless as to the special qualifications of those who direct its affairs. It chooses its rulers not because they are competent but because they are popular. A man becomes a member of a legislature not on account of his ability but because his opinions are those of the greater number of the electors. It will hardly be disputed that modern representative institutions under a wide franchise have not brought into the national service the highest skilled talent of the community. Mr. Godkin* says that in America, in the case of elective offices, such as those of legislators and governors, there is a marked tendency to discredit such qualifications as education and special experience. He thinks that this is due to the prevailing worship of Equality. "In the popular mind there is what may be called a disposition to believe, not only that one man is as good as another, but that he knows as much on any matter of general interest."

Mr. Bryce takes much the same view. "The

* *Unforeseen Tendencies of Democracy*, p. 43.

fact is," he says, "that the Americans have ignored in all their legislative, as in many of their administrative arrangements, the differences of capacity between man and man. They underrate the difficulties of government, and overrate the capacities of the man of common sense. Great are the blessings of equality; but what follies are committed in its name!"* Politics, like criticism, according to Byron's definition,† is one of the businesses for which, on this assumption, no special preparation or predisposition is required.

While the passion for social equality is much less noticeable in this country than in the United States and France, the tolerance of intellectual equality is even more marked, and the belief in the average good sense of the average man quite as strong. Government in England is government by amateurs. The subordinates, in their several grades, are trained; the superiors, the persons in whom rest responsibility and power, are untrained. Yet the necessity for trained intelligence and accuracy is greater than ever. The influence of government on all departments of national life has increased, and will continue to increase. We may not like this tendency, but we cannot check it. The doctrine of administrative *laissez-faire* is not so much discredited as out of date, in an age when public authorities are constantly finding fresh duties and responsibilities thrown upon them. Government, which carries our letters, and manages our

* Bryce, *The American Commonwealth*, i. 483.

† "A man must serve his time to any trade,
Save criticism; critics are ready made."
Byron, *English Bards and Scotch Reviewers*.

telephones and telegraphs, and hoards our savings, and sees after the teaching of our children, and may presently own our railways, has also become a national purveyor of medical treatment and a gigantic insurance corporation. It tells us how much sugar we may take with our beer and how much fat with our butter. It casts its eye upon the windows of our lodging-houses and the ventilators in our factories. It takes cognisance of the importation of German corkscrews and Austrian lead pencils, and could not allow five sparrows to be sold for a farthing without its intervention. The revival of the tariff controversy brought back a whole body of economic preoccupations, from which, in this country, governments and parliaments had been relieved. The incessant and multitudinous activity of the State will grow with the growing complexity of the social system, with the new wants, the new duties, the new dangers, which are constantly arising. A modern nation is running with all its motors at high pressure, and it will not run itself.

The amount of skilled faculty required in every important business is greater than ever it was. But the greatest business of all—the business of government—is carried on by persons who have very often no special attainments, and as a rule no special training. We require some acquaintance with the technicalities of their work from the subordinate officials, but none from the responsible chiefs. A youth must pass an examination in arithmetic before he can hold a second-class clerkship in the Treasury; but a Chancellor of the Exchequer may be a middle-aged man of the world, who has forgotten what little he ever learnt about

figures at Eton or Oxford, and is innocently anxious to know the meaning of "those little dots," when first confronted with Treasury accounts worked out in decimals. A young officer will be refused his promotion to captain's rank if he cannot show some acquaintance with tactics and military history; but the Minister for War may be a man of peace—we have had such—who regards all soldiering with dislike, and has sedulously abstained from getting to know anything about it.

It may be said that all this is merely a characteristic of government by the people under the forms of popular election. The amateur is installed in power in the central government of France, and the United States, and in other countries with a fully developed representative system, and he directs municipal affairs almost everywhere. Moreover, he is no newcomer in the government of England. From Saxon and Norman times downwards we have had him. The tithing-men, and hundred-men, and the freemen of the boroughs, the freeholders of the county court, the barons of the Great Council and the *Curia Regis*, the knights and burgesses of the early Parliaments, the members of the later House of Commons, the justices at Quarter Sessions, the Guardians of the Poor, all these, in their several degrees, were ordinary citizens, "unlerned and lewed," as Chaucer would have called them, laymen picked out from the average mass of their class and ordered to discharge public functions. It might be urged that government is only being conducted on the principles which have prevailed for ages in Great Britain, which are also prevailing at present over a large part of the civilised world.

There are, however, two points to be noticed. The first is that government is more technical than ever it was before; the second that the governors are, relatively speaking, less expert than at any previous period. The older English system distinctly contemplated that the actual executive should be in the hands of a very highly trained body of professional politicians, that is to say, the King and his paid officers, who had the best reason for taking their duties with the utmost seriousness, since the master might have lost his crown, and the servants their heads, if they made too many mistakes. The Saxon *thegnhood*, and the Norman *comitatus*, the prelates and magnates summoned to the King's Council, were closely conversant with the kind of business they were required to discuss.

All the older English deliberative assemblies were constituted of persons who were called together to handle affairs with which they would have some amount of precise acquaintance. Right down to the end of the eighteenth, and far into the nineteenth, century, central as well as local government was mainly in the hands of the county gentlemen, and the nominees of the territorial proprietors. In a country which was preponderantly agricultural, these rural interests were all-important. The "governing class" was then really occupied in the national administration. "Not by the forms of Parliamentary rule," says Professor Gneist, "but by personal activity in the daily work of the State, has the greatness of England been created, as was once that of Republican Rome." It is the surcease of this "personal activity," the divorce

between the local and the central institutions, which fills the great conservative constitutionalist with apprehension for the future stability of our society, and launches him upon a sea of doleful foreboding.*

The Detached Property Owner.

The Prussian professor may lay undue emphasis on this point, but it is not one to be ignored. The change, though comparatively recent, is considerable. The landed class is still strongly represented in the House of Commons, and paramount in the House of Lords; but its character has altered. Its members are no longer *ascripti glebæ*, bound by intimate ties to the soil of England. The great landlord is often a mere rentcharger, the smaller landowner a kind of *rentier*. "The inactive peer," says Gneist, "who in previous generations formed the exception, has become an everyday phenomenon, at a time when the very existence of the House of Lords is at stake. An irresistible desire to wander abroad has taken possession of the landed gentry, though their presence on their estates has become more necessary than ever, in order not utterly to lose their waning local influence." † This kind of "phenomenon" is more common now than it was a very few years ago. There never was such a leisured class as there is in England at the present day—leisured in the sense of being completely

* Gneist, *Student's History of the English Parliament*, p. 415.

† "All moves," adds Prof. Gneist in his inspiriting fashion, "as formerly in France and Germany when on the very brink of the precipice."

irresponsible, utterly unfettered by public obligations, entirely hedonistic, and good-naturedly selfish. Everybody who has any acquaintance with English society must be familiar with the country gentleman unattached. Let us take a typical specimen.

His ancestors, for many generations, were the lords of some thousands of acres of moor and pasture ground, with a little good plough-land, in a county of the North. Through the vicissitudes of our history they assiduously nursed that estate, living in modest sufficiency from the tribute of their tenants and the profits of their own farming and cattle-breeding. One squire was out with the disorderly Lancastrian host that fell into rout at Towton; another rode behind Rupert at Marston Moor; a third just cautiously saved himself from joining the Young Chevalier on the march to Derby. They were hard-drinking hunting men and sturdy Tories all through the eighteenth century; they damned Bonaparte and the Whigs in the early nineteenth; one of them sat in Parliament after the Reform Bill, and voted steadily for Peel and the Corn Laws until the Great Betrayal of 1846. They were always local leaders, minor magnates in their own sphere, busy with the affairs of their small *enclave*, much occupied in county business, waywardens, officers of the Militia and the Yeomanry, Justices of the Peace.

The present head of this ancient house has no taste for the routine of rather dull business and unexciting recreation. He does not see why he should bury himself among his ancestral fallows, and work like an auctioneer's clerk. The estate is more valuable than ever it was before, for there

are minerals in the neighbourhood, and rents have risen; but the home farm is given up, and the agent looks after the tenants. Our squire is on the Commission of the Peace, but he seldom appears on the Bench, where he would have to rub shoulders with local tradesmen and interest himself in squabbles over a public-house license. He goes to his grim old Hall in the autumn for the shooting, since he is fond of sport, in the modern fashion, which is to say that he is fond of amusing himself. But he does not stay long. He has a house in a square in Kensington, where his wife expects him to give dinner parties; he plays golf at various places on the English and Scottish coasts and motors over the French roads; he spends his summer at a German bath, and much of his winter on the Riviera or in Egypt. He is a perfectly happy, upright, and deeply respectable Briton. His tastes are manly; his instincts are sound; he is full of a healthy, egotistical domesticity. He lives for himself and his wife and his sons and daughters, and in a minor degree for the rest of his family and his friends. But of citizens he is the most uncivic; he dwells apart from the main currents of national life; he is in the State but not of it.

Perhaps that is an extreme case. But the number of such men is rapidly increasing. You meet them everywhere—men of independent fortunes, inherited from their ancestors, and perhaps increased by judicious intermarriage with the prosperous *bourgeoisie*. Nowhere is there so much wealth, absolutely free from any corresponding sense of obligation, as in modern Britain. Property, we are told, has its duties as well as its rights; in most countries

and in most ages it has had to undertake the distinctly onerous duty of defending itself from attack. But in our securely fenced and padded society the property-owner has no such anxiety. Black care need not mount behind that horseman. No one menaces, no one disturbs him, unless it be at times a Radical Chancellor of the Exchequer. He may, if he pleases, be as much a stranger, politically speaking, in England, as he is in the Continental pleasure resorts in which he passes so much of his time.

The greater landowners cannot take their responsibilities so lightly. The management of a large estate is still a serious business, requiring attention and care. But even here there is a change. The wealthiest English landlords derive the chief part of their income from urban ground-rents and leaseholds, or from mines, railways, docks, and other forms of industrial property. The head of one of these vast concerns must have an office, and he does well to look after it himself. But he need no longer be in close personal contact with the administration of the country. If he has rural estates, he keeps them up mainly for recreative purposes; he has his parks, his gardens, his coverts, and his mansions, to which he retires for sport, and rest, and the entertainment of his friends. He continues to be a very important personage in his various districts; but his importance is social and personal rather than administrative. There are exceptions, as in the case of some of the territorial magnates, who own large tracts of land remote from the great towns, and are surrounded by some shadows of the old quasi-feudal tradition. They still retain an

interest in country government; but county government, outside the county boroughs, is drifting away from the tide of English political and industrial activity. This beats most strongly in the urban municipalities, great and small, and from the life of these places in modern *thegnhood* stands apart.

It is from this comfortable class of persons, independent, and to some extent *déracinés*—no longer bound intimately to the land, but attached to it by a mere "cash nexus"—that the House of Commons, as we have seen, is largely recruited. The landed interest vies with the mercantile plutocracy in filling the benches of the Lower Chamber. The two classes together with the lawyers still form the majority of the House, if the members from Ireland and Wales are excluded. The large admixture of the mercantile element may perhaps be regarded as a counterpoise to the amateurishness of the more strictly "leisured" men. These ironmasters, railway directors, manufacturers, bankers, mill-owners, are not idlers, and they must know a good deal about practical affairs. But they may be amateurs in the House of Commons. The better they know their businesses, the more closely they attend to them, the less likely are they to approach either the details, or the broad principles, of politics in a serious professional manner.

There is, of course, a good deal to be said for a governing body which is not too full of minute knowledge. A collection of experts is in many ways a dangerous assembly. It is apt to be stiff, pedantic, impracticable. If all the members of the House of Commons were as well informed and sedulous as a handful of them are, ministers would be worried to

death, and the work of the Empire would not get itself done. The House is a fairly representative collection of average Englishmen, interested in public questions, but not overwhelmed by them, and generally able to look at things in a detached, practical fashion. They are not wholly unconscious of their own limitations, they are honest and well-meaning, and they are fairly capable. So they can consider the acts of the Executive, and discuss legislative projects, with the cool, shrewd, tolerant judgment of men of the world, who are neither fanatics nor formalists. The danger is, not that the House of Commons may become too zealous, but that it may not be zealous enough. Its members, though generally upright, and sometimes able, are too apt to regard politics as a pastime, and the House itself as a club.

The Amateur in the Electorate.

If the elected is a political amateur, so assuredly is the elector. Of all the curious, unforeseen results due to the development of the representative system under modern conditions none is more remarkable than the manner in which it has relieved the great mass of citizens from active participation in politics. Aristotle considered it essential that the State should be small enough for all citizens to take a personal share in the functions of the legislature and the judiciary. The invention of representation has enabled a Democracy to be enlarged beyond the constricted area of the Greek city; and the free press and the public meeting have given opportunities for the constant and intelligent supervision of their Government to the inhabitants of

even the largest and most scattered communities. The ordinary elector is supposed to be keenly alive to the march of events, and to follow with close attention the acts and omissions of those to whom he has entrusted the stewardship of his corporate interests.

But that is not so in fact. The mechanical improvements and appliances of civilisation, combined with the growth of the democratic principle, have brought into politics those great masses of toiling men who, according to Aristotle, are too busy to be good. "The jurors who are to be our citizens," observes the philosopher of a slave-holding republic, "must not be husbandmen, as leisure, which is impossible in an agricultural life, is equally essential to the culture of virtue and political action." He is led therefore to the conclusion that "neither the mechanics, nor any other members of the State, who do not cultivate virtue, are entitled to political rights." *

In a modern State the citizens, whether they "cultivate virtue" or not, have little scope for leisured thought. The great majority have neither the time nor the mental concentration, to study politics in a systematic fashion. True, we have a free and a cheap press, and everybody reads the newspapers. But it is only a very insignificant minority, who keep their minds fixed steadily, from day to day

* "It is evident, from what has been demonstrated, that in a State in which a perfect polity prevails, and in which the citizens are just men in an absolute sense, the citizens ought not to lead a mechanical or commercial life; for such a life is ignoble and opposed to virtue." Aristotle, *Politics*, bk. iv. chap. 9.

on the sequence of events with the object of arriving at a reasoned decision. Of the rest, many take their papers for the sporting columns, the gossip, or the reports of proceedings in the courts of law; some perhaps for the notices of literature, art, and the drama; others for the fashion articles and the notes and paragraphs about well-known people and society functions, or for information upon finance and trade.

When men live in small communities, even under an imperfect system of self-government, they cannot avoid personal participation in some public functions. So it was in the older rural England, before the organic social changes of the last century. Where a family might go without its winter firing, if the lord of the manor prohibited the cutting of turf and the collection of wood, every tenant would be a self-appointed member of a Commons Preservation Society. Much satire has been expended upon the Parish Pump; but one can understand the interest that humble installation must have possessed for the little group of households which had to draw their own water from it daily in their own buckets. There were civic duties to discharge as well as civic rights to vindicate.

The old offices, or many of them, exist, and they have been largely reinforced by the army of new ones created under the Municipal Corporations Acts, the Local Government Acts, and the Education Acts. But the population has grown out of all relation to them, and they are lost amid the vast agglomerations of people in the great towns and the greater town suburbs. Neither local government, nor central government, is now the concern of the

general body of Englishmen, who take no share in the one, and only an intermittent and occasional part in the other. These functions are discharged not by the citizens as a whole, but by small committees, sometimes selected, sometimes self-elected.* The great majority of the inhabitants of a city are what the Greeks called *idiots* (ἰδιῶται), persons who perform no public duties, and take no interest in public affairs. And nowhere, with the doubtful exception of the United States, is there so large a proportion of persons who live "the untroubled life of the non-political man" † as in a great English urban centre.

To the English town-dweller, if he so pleases, the State and the City are no more than huge benefit clubs, from which he derives many advantages in return for moderate periodical disbursements of cash. He pays his subscription by way of a cheque to the rate-collector or the assessor of Income Tax, grumbling a little at the amount; and that is very often the sum of his civic sacrifices, beyond the liability to serve, once in a way, perhaps once in a lifetime, upon a jury. The great machine is run for him by paid officials, or by small bodies of voluntary operators; he hardly hears the whirring of the wheels as they buzz past. There are tens of thousands of intelligent Londoners of all classes who do not know the names of the members of their Borough Council and their Board of Guardians, who have

* Through the abolition of the personal duties of the citizen, the communal body is, in fact, virtually transformed into a system of shareholders." Gneist, *Students' History of the British Parliament*, 416.

† βίος ἀνδρὸς ἰδιώτου ἀπράγμων (Plato, *Republic*, 620 C).

not the faintest idea of the duties of a school-management committee, who except at election times would find some difficulty in remembering the Parliamentary and County Council division for which they have a vote.

For the vast majority of adult persons the single tie that binds them to the political system of their country is the exercise of the franchise. At the polls, is made the appeal unto Cæsar; the electors constitute themselves the supreme tribunal, and pronounce their verdict on the great issues of policy, and the conduct of the administration. "The franchise," says Professor Hearn,* "is not, as many persons contend, either a right or a trust. It is a duty." But there never was a solemn obligation more easily borne, a duty which could be discharged with less effort, or attention, or care, or risk, or labour, or personal inconvenience. Nothing is required from the elector but the expenditure of a few minutes of his time once in two, or three, or perhaps five, years. A parliamentary election, the choosing of a new Grand Council of the Empire, need give him no more trouble than taking out a dog-license.

Before the Ballot Act, and the general simplification of electoral machinery, the case was different. The process of recording the vote was slow and cumbrous, it made some demands upon the leisure and patience, and sometimes even upon the moral and physical courage, of the elector. He may have had a long journey to take in bad weather over bad roads. With open voting, especially when the poll was going on for days, the course of the fight could

* *The Government of England*, p. 537.

be closely followed. Every voter must have felt that he was taking a personal part in it, and it would have been strange if he did not develop that individual interest which, at present, is often confined to a mere handful of active political "workers" in the constituency. In the literature of the earlier part of the nineteenth century we get vivid pictures of the older electioneering, with the rowdy nomination day, the speeches of the rival candidates on the hustings, the excited mobs clamouring round the booths, the electors marching up to vote for the Blue or Buff candidate, proudly or defiantly conscious that the public eye was upon them, and perhaps aware that consequences, not uninteresting to themselves, might follow. There is an excellent account of the whole transaction in Lytton's *My Novel*, and another, burlesqued but informing, in the famous chapter in *Pickwick* on the Eatanswill Election. The picture is one of Hogarthian riot and rough vigour, but at least it is alive.

If the corruption and coarseness of the old system have disappeared, much of its animated interest has gone too. There is no hustings,* the

* M. Boutmy rather quaintly regards the suppression of the hustings as fraught with all sorts of grave consequences. "The law of 1872 attacked what seemed to be only a farce in the worst of taste; but this farce of a day, during which the crowd satisfied to repletion its brutal appetite for power, shrouded the real act of sovereignty, to all appearance mean and insignificant, in a veil of dust, noise, and intoxication, which prevented their attaching due value to it and grudging the ballot to the freehold electors. The system of secret voting, while it deprived the people of their few hours of license, during which they exhausted their superfluous animal spirits (*où il épuisait son trop-plein de vie bestiale*), also unwisely took

nomination is a matter of form, the oratorical duel in public between the opposing candidates has been abolished; the polling lasts only one day, and in the great town it is usually a quiet and dull day. The election has been divested of every circumstance of significance and dignity. The town-hall, or an elementary school, or some other public building, has replaced the polling-booth. In the middle of the large bare room the row of sentry-boxes of rough boarding is erected. At an unimpressive table sit the returning officer and his clerks with the tin ballot-boxes in front of them. The elector strolls into the room, gives his name and address to one of the officials, receives a numbered slip of paper with the names of the candidates, takes it to one of the deal shanties to affix his cross, comes back with it folded, drops it through a slit in the tin box, and goes out. That is all; and to the voter it sometimes seems too little. Anybody who has had much experience in elections must have observed that a young working-class elector will often appear bewildered and disconcerted by the raw simplicity of the whole proceeding. Unconsciously he feels that it is too brief, too unimportant. He fancies that there must be something more for him to do: that this high privilege, this urgent duty, of which he had heard so much, ought not to be rattled through with so scant a ceremony, so little expenditure of energy on his own part.

Writers on the constitution dwell on the analogy

from them that participation which rendered the masses less conscious, and the compensation which softened for them the bitterness of the feeling of inequality and exclusion." *Psychologie politique du peuple anglais*, part iv. chap. i.

between the electoral and the judicial system. "Popular Government," says Sir Henry Maine,* "and Popular Justice were originally the same thing." The jurors, in the courts of law, as Maine points out, are strictly controlled and guided, and are assisted to arrive at a definite conclusion on the facts before them by a system of contrivances and rules of the highest elaboration and artificiality. But the adjudicating Democracy, in its political capacity, is under no compulsion to examine the evidence closely, it has no expert professional guidance, and it is allowed, and indeed encouraged, to discharge its functions with the minimum outlay of time and attention. What confidence would be placed in the decision of a jury in the law-courts, if there were no guarantee that the jurors had heard the addresses of counsel, if some of them knew nothing of the case except what they had gathered from intermittent glances at newspaper reports, and if they were not obliged to take any more real trouble in the matter than would be involved in personal attendance for a few minutes in order to record their verdict on a ballot-paper?

It is a curious result, not so much of Democracy, as of modern industrial and social conditions and the increase in the size of all units of government and population. Political power is vested in the mass of citizens; but the mass of citizens, in most countries, are too busy or too indifferent to obtain political knowledge. Hence it arises that

* Maine, *Popular Government*, p. 89: see also his *Early Law and Custom*, p. 160; and Stubbs' *Constitutional History*, i. 620 *seq.*; Palgrave, *Rise and Progress of the English Commonwealth*; Brunner, *Entstehung der Schwurgerichte.*

their public affairs are still managed for them, and the direction of their public policy really determined, by an oligarchy of one kind or another. In some states, with a wide popular franchise, but an imperfectly developed constitutional system, as in Austria and Germany, it takes the form of a ministry and a civil service under the control of a strong personal monarchy. In the Latin countries, it is usually seen in the shape of a powerful, all-pervading bureaucracy. The modern English substitute is found in groups of persons who pay rather more continuous attention to public affairs than the majority of electors. They also are amateur politicians, so far as training and expert knowledge are concerned; but their interest in politics, and their closer contact with it, give them a limited kind of professional competence in the pursuit, and a certain amount of acquaintance with what may be called its *technique*. The number of this class tends to increase, since politics has become one of the open professions and its rewards and emoluments are no longer confined to the privileged few, and the exceptionally fortunate. Payment of members of Parliament, and the creation of a new bureaucracy, not drawn exclusively from the organised Civil Service, will no doubt have a considerable effect. Intelligent and active persons may devote themselves to politics from other motives besides vanity, public-spirit, a sense of duty, a natural officiousness, or a vague ambition to become distinguished. The general amateurishness of the electorate will be diluted by a larger element of those for whom politics will be the main occupation and predominant interest of their lives.

CHAPTER XII *

THE HOUSE OF LORDS

THE strength of the House of Lords for two centuries lay in its weakness. If it had been able to exercise a tithe of the powers it theoretically possessed, it must have been reformed out of existence long ago. "There can be no doubt," said a Conservative statesman, the late Earl of Iddesleigh, "that the House of Lords would be perfectly intolerable, if it were as powerful in reality as it is in appearance." It is not, and it cannot be, so strong as most Second Chambers—as the American or the French, Senate, the Swiss Ständerath, or the Legislative Councils in our self-governing Colonies. If it ventured to act as these Upper Houses do from time to time there would be an outcry before which the hereditary principle would go down. A Senate in Washington, a State Council in Berne, or a Legislative Council in Melbourne, may not only interfere with the Executive, but it may, and sometimes does, bring about a deadlock either with the Government or the popular Chamber. It can take this course, not without

* [For reasons stated in the Introduction this and the following chapter have been left, with a few alterations, as they appeared in the first edition of this work, published in 1904.]

friction, but without producing revolution, because it is felt that the Senators or the Councillors, whether elected or nominated, do represent something besides mere privilege.

The House of Lords, ever since the struggle over the great Reform Bill, was haunted by a suspicion that it existed on sufferance. It could seldom venture to assert itself, and then only in a tentative and temporary fashion. If any measures had been taken to add to its self-confidence, to give it real authority, to impart to it a consciousness of something like a political equality with the other House, it could scarcely have been conserved in its present shape. The demand for a complete reconstruction would have been irresistible. It was sometimes urged that while the House of Commons represented everybody, the House of Lords represented nobody. This was one of the reasons why, on the whole, the two Chambers got on so well together. Everybody and Nobody, as Lord Iddesleigh observed,* must find it hard to quarrel. But if a Second Chamber were established, which represented somebody, the case would be different. Everybody could quarrel with Somebody easily enough.

The House of Lords does, in fact, possess some representative character. Like the rest of our institutions it was not made, it grew; and it has grown into something rather like that which the constitution-makers of the last hundred and fifty years have been trying to create. Assuming, as they did, that some check on the democratic law-making chamber was necessary, they had to devise a Council, which was not irresponsible, but

* In an article in the *New Review* for March, 1894.

yet was not responsible to quite the same constituency as the other House. If there were a King or a Governor available, he could nominate for life or a term of years, as in the New South Wales constitution, or in Louis Philippe's Chamber of Peers. Otherwise the Upper House had to be elected, either by some kind of fancy franchise, or by electoral districts different from those forming the constituent bodies for the popular Chamber. The result is representation, but unequal, and more or less capricious, representation. The better the electoral scheme of the primary Legislature, the harder it must be to vary it. "If there be two representative Chambers, and if one be formed on sound principles, the second, so far as it differs from the first, must deviate from those principles." *

Under a Federal system the difficulty can be parried. The Senate can be appointed by the States, and in its constitution it can embody the principal of local autonomy out of which the Union has been formed. But in this case glaring inequalities are apt to be perpetuated. The Canton of Bern, with its 640,000 inhabitants and 2,600 square miles of territory, has no more representation in the Swiss State Council than Appenzell with only 14,000 people and an area of sixty-one miles. The State of New York has two seats in the American Senate, and so has the State of Nevada. The House of Lords may have as much claim to correspond to a number of different elements in the community as an Assembly solely constituted with reference to territorial divisions, historical in their origin but now perhaps merely geographical terms

* Hearn, p. 543.

which have almost lost their meaning. It represents varied and important interests, much and diversified knowledge, and nearly all classes in our society, except the most numerous. Many of the Peers have been trained to politics by years passed in the House of Commons. Some of them have precisely that experience of public service, in a responsible office, which Mill, in his *Representative Government*, insists upon as one qualification in the members of a good Second Chamber: they have been high officials in India, in the Colonies, or at home, pro-consuls and administrators, successful soldiers or diplomatists. A few of them represent learning, science, and art, as they cannot be, or at any rate are not, represented in the Lower House. Such men as Tennyson, Leighton, Playfair, Kelvin, Lister, might not have cared to sit in the House of Commons, and very likely would not have been elected.

A Senate cannot be deemed unrepresentative of some of the best elements of a nation when among its members may be included the greatest, or nearly the greatest poet and painter of their age, the most famous savants, philosophers, and jurists, the most eloquent preachers, the most learned theologians, and many of the magnates of finance, industry, and commerce.* The House of Commons is full of lawyer M.P.'s, but with a few exceptions these are

* "It would be difficult, not to say impossible," said a defender of the Upper Chamber in 1894, "except under an entirely novel and complicated system of elective bodies, to create an assembly as representative, as is the House of Lords, of all the great professions, industries, trades, and other interests, which look to Parliament for direction and guidance."

not the leaders of their profession. They must be politicians and "good candidates," and some of the finest of our legal intellects are neither. These jurists find their appropriate place among the Peers.

In spite of the dead weight of the mere titled nobodies, there is probably more intellect and ability in the House of Lords than in any other Second Chamber that could be named.

The Revisory Powers of the House.

But the House of Lords has a character of its own, which it is impossible to impart to any artificially constructed Senate. Something besides personal ability and distinction is required to give weight to a law-making, governing, council. "The King of England," said Disraeli, "may make Peers, but he cannot make a House of Lords. The order of men of whom such an assembly is formed is the creation of ages." Though they have lost much of their ancient prestige and unique position, the Peers still possess attributes which impress the mass of mankind. Mere talent, even in countries where perhaps talent is more appreciated than it is in England, has a very limited range in politics. De Tocqueville says of the American House of Representatives three-quarters of a century ago, that it was very poorly provided either with distinction or dignity. "You are struck by the vulgar aspect of this great Assembly. The eye looks often in vain for a celebrated man." It would not have looked in vain in the French Chamber of Peers after the Bourbon restoration. Celebrated men were quite common in that body, which could almost claim to represent the highest intellect of contemporary France. All the

same it was quite insignificant and never exercised any real authority. The House of Lords has the influence which belongs to wealth, to high rank and ancient lineage, to landed property, to ideas and sentiments, which have been interwoven into the texture of English society, and to traditions, and usages, and habits of mind, which are the growth of ages. No synthetic process could quite reproduce this curious and complex result of time and chance.

A few years ago it was a commonplace to say that the constitutional functions of the Peers are too well understood to need discussion. The limited and suspensory character of their veto was supposed to be realised by everybody, and particularly by themselves. If the system of "checks and balances" is to save a country from the excesses of democratic violence, the House of Lords fulfils its purpose very imperfectly. It used to be imagined that a popular Chamber was always liable to be carried away by sudden gusts of emotion, or by spasms of destructive zeal, unless a steady hand could be laid upon the rein at any moment. But a House of Commons, led by a strong Cabinet, with the majority of the electorate behind it, could not be bitted and bridled by the Peers. What Wellington and Lyndhurst shrank from seventy years ago, would not be attempted again by any champion of the forces of conservatism. The Lords cannot prevent reform or even revolution, if the electorate is in earnest and has a Ministry to its mind. In that sense the Upper House is not the check upon popular violence or ministerial haste. The true safeguard is the existence of the Opposition minority

and the potential alternative Government. If this is influential in the Commons and the country, nothing subversive can be done. No Cabinet, so at least it used to be held, could venture upon a really radical change, with the consciousness that two out of every five electors were opposed to it, and with an apprehension that "the supremacy of the odd man" might be turned against themselves after the next election.

The duty of the House of Lords, as defined in the books, was to provide that time should be given for mature reflection on matters of importance. It could not upset the verdict; but it could take care that the issue is properly placed before the Court. It could ask for suspense of judgment till the national tribunal has weighed and examined the arguments. It could say to the committee which speaks for the Commons: "You tell us you have received your mandate—or, as the vulgar might put it, got your orders—to do such and such things. Well, we are not quite sure. We think you were chosen on other grounds. We did not notice any special reference to this subject in your election addresses. So we shall throw out your Bill, and you can go to the people and place the question before them, in an isolated, definite, fashion. If you come back with a great majority, we must no doubt admit that you are right in your construction of the popular will, and we shall have to allow you to do what you want."

What exact amount of proof the Lords were entitled to require was always a moot point. Might they throw out a first-class political measure after an *ad hoc* election? In fact it depended on the real

strength of ministers, and the extent to which they could be supposed to carry public opinion with them. The leaders of the Peers have to consider whether they are defying a popular sentiment, sufficiently intense to make itself felt decisively at the polls. They can act freely when they believe that the Government would be bound to accept a rebuff and that it is in no condition to go to the country. This was the case in 1893, when the House of Commons passed the Home Rule Bill and the House of Lords rejected it. Mr. Gladstone's more ardent followers were extremely indignant, and there was a fierce Radical outcry against the Upper Chamber. But Lord Salisbury, who led the Peers, maintained that he had the best constitutional authority for his action. He contended that Home Rule was not fairly before the constituencies in the preceding general election. The scheme of an Irish Parliament was looked upon as temporarily "dead," and the Liberals had won their victories on a programme of domestic reforms.

The action of the House of Lords on this occasion was clearly in accordance with the constitutional conventions. If Mr. Gladstone had gone to the country and had come back—which was extremely unlikely—with a strong majority, the Unionist peers were bound by the declaration of their leader to give way. But if there had been any chance that they would refrain from putting their veto upon the Bill of 1893, it is tolerably certain that this measure would not have been introduced. Many of the Liberals who voted for it in the Commons did so, because they knew that no harm would ensue: the Upper House would take care that the Bill did not

go further. If there had been no revising Second Chamber there would have been a sufficient check upon the minister in the apprehensions of his own followers, conscious that they had only a half-hearted support in the constituencies. A Government could not have accepted the responsibility of dissolving the union of the Three Kingdoms in such circumstances. The House of Lords did not, as Unionist speakers used occasionally to declare at the time, "stand between us and revolution." There could scarcely have been a revolution, against the wishes of the larger part of the electorate in England and Scotland.

The powers of the Lords were in reality more effectively displayed in this Parliament by their action upon the Parish Councils Bill and the Employers' Liability Bill. On Home Rule, Mr. Gladstone's followers were divided and only in part convinced. But in his measures of domestic reform the Prime Minister had his party with him. Yet the Peers sent back both Bills, with important amendments, which almost changed their character. On the Parish Councils Bill, a compromise was reached. But on Employers' Liability the Peers stood stiffly to their guns. They had inserted in the Bill the clause establishing a general right of "contracting out," which had been the subject of the hottest debates in the Lower House, and had been vigorously resisted, and finally refused, by the Government. The Bill, as thus altered, was sent down to the Commons, who immediately rejected the amendment by more than the normal ministerial majority. The Lords calmly sent it back again; and in the end, after some warm language had been used on

the Liberal benches, Mr. Gladstone abandoned the measure. There were frequent threats of appealing to the Democracy against the privileged Chamber. But the agitation died away, since it was clear that the Peers, on the Employers' Liability Bill, had a strong *prima facie* case. They contended that they were merely protecting the liberties of that large body of working-men who did not want to be denied the power of making their own contracts. The Government was challenged to ascertain, by means of a general election, what proportion these persons bore to the whole body of labour voters. As Ministers were uncertain on the subject themselves, and by no means confident that there was any widespread enthusiasm for the compulsory system, they preferred to leave the question unanswered.

The revival of the House of Lords, and its successful self-assertion, in this long session was a remarkable phenomenon. I may perhaps be allowed to reproduce some sentences published soon after these events, because they may be thought to bear witness to the impression produced upon many observers at the time. "The Peers," it was said, "have done nothing but exercise their old constitutional privilege in a thoroughly constitutional fashion. In the great era of moderate Liberal progress and middle-class predominance, which extended from the Ministry of Lord Melbourne to the Ministry of Lord Beaconsfield, the House of Lords was insensibly losing its importance as a working factor in the machinery of the constitution. Largely composed of elderly or middle-aged Peers, of the old Whiggish and old Tory connections, its conduct was marked, as a rule, by a natural timidity, and a

shrinking desire to avoid forcing itself obtrusively upon the hostile notice of those still dreaded and unfamiliar legions, whom the Reform Bill and the ballot-box had brought into the field. The Peers felt that they were the *reliquiæ Danaum*—the remnants of the old Constitution that had escaped the fierce storm of change and progress. Besides, Liberal 'ideas' were in the air, and a generation brought up on its Mill and its Macaulay had an idea that all 'privilege' was opposed to the eternal verities of politics. Therefore, the Lords, the privileged class of legislators, had a tendency to keep themselves a good deal in the shade, to shirk anything in the nature of a conflict with the Ministry and the majority of the day, to render themselves a mere registering Chamber, whose main function it was to endorse and accept the edicts promulgated in 'another place.' The veto power was recognised: it might be used if occasion called for it; but it was felt that the occasion would arise more and more seldom, until in fact, the veto of the Lords, like the veto of the Crown, became almost atrophied from disuse."

There was another cause, and perhaps a more potent one, for the comparative inefficacy and unobtrusiveness of the House of Lords during the greater part of Queen Victoria's reign; and this was the character of the House of Commons. A second Chamber is necessary chiefly because a First Chamber is imperfect. "With a perfect Lower House," said Walter Bagehot, "it is certain that an Upper House would be scarcely of any value. If we had an ideal House of Commons, perfectly representing the nation, always moderate, never passionate,

abounding in men of leisure, never omitting the slow and steady forms necessary for good consideration, it is certain that we should not need a higher Chamber. But, though, beside an ideal House of Commons, the Lords will be unnecessary, and therefore pernicious beside the actual House, a revising and leisured legislature is extremely useful if not quite necessary."

The House of Commons, of forty or fifty years ago, was very far from a perfect legislative and deliberative assembly. But it got through its work; and it fairly represented the views, and realised the aspirations, I do not say of the nation, but at any rate of the electorate. It accomplished what it was wanted to do: that is to say, it gradually and steadily brought into operation those moderate political reforms, on which the hearts of most middle-class Englishmen were seriously, if not too ardently, set. It did not overload itself with business; its *personnel* commanded the respect of the country; it contrived to turn out a respectable tale of legislation, year by year; and, though it had its ample share of the inconsistency, the contradictoriness, and the mental confusion, which are common to all large and miscellaneous assemblies of men, it was a reasonably successful body, which knew what the nation desired and was able to carry out its intentions. At no time in its career has the House of Commons, been more powerful and more efficient than it was during the first three decades of Queen Victoria's reign. And in the fourth decade, though the "leap in the dark" of 1867 had enthroned the Democracy in power, the old influences and traditions remained, and the House of Commons

was still a sober, capable, business-like council, regarded with respect and quiet admiration by most Englishmen.

Recent years have witnessed a great change. The House of Commons has become incapable of executing its allotted tasks, without an amount of straining and creaking that threatens to shake the whole fabric to pieces. Only by terrific exertions, and after much fuss and wasted energy, can it succeed in doing anything at all. The "impotence of Parliament" has become a commonplace of political controversy. But obviously if such an assembly is impotent—impotent to perform its functions of rapid and effective legislation, and impotent to control its own members—it would seem to need a helping, sustaining, and revising hand somewhere. Thus the old constitutional conception of the Upper House became of much more actual and practical importance. It felt compelled to do what the theorists have always said that it ought to do if occasion arose. Under the House of Commons' conditions, Bills are hustled through, with half their clauses undiscussed, and the other half a mass of contradictions, absurdities, and inconsistencies. These ragged, amorphous, measures may be cut and trimmed into shape in the House of Lords, and sent back again shorn of the excrescences fastened upon them by embarrassed ministers, overwhelmed with work, and distracted by the necessity of conciliating one or other section of their miscellaneous following.

"When Parnell organised the Nationalist Party, and used it to hamper and shackle all English legislation, he builded better, or at least larger, than

he knew. His object was to worry the House of Commons into getting rid of its Irish Question at all costs; he probably did not guess that the indirect results would be a growing conviction, on the part of Englishmen, that it was necessary to find some constitutional counterpoise to the erratic and uncertain motions of an Assembly, which might at any moment be at the mercy of a set of determined adventurers, the representatives of a province, a sect, or a class, prepared to fight for their own special object, regardless of the general welfare, or even of those large and well-marked party interests, which the use and traditions of two centuries have established.

"Small and uninfluential as the majority may be, while it lasts and holds together it can do what it pleases. Because it knows its tenure of power is uncertain it is the more anxious to reap its harvest while it can. And there would scarcely be a limit to the mischief a demoralised collection of self-seeking and ambitious groups might do, if there were no Second Chamber to compel reflection and reconsideration, and to enforce a reference to the people, before the rights and liberties of whole sections and large classes of the population are traded away."

This was written in the last decade of the nineteenth century. In the second decade of the twentieth, one would be inclined to lay less emphasis upon this checking and balancing function of the House of Lords. Its importance is still great; but it is now more clearly seen that the true counterpoise to democratic haste and partisan violence in legislation is to be found elsewhere.

Moreover, a writer, a few years ago, must still have found his opinions unconsciously coloured by the traditional view of the relations of the Peers to the party system, which had been adopted by the constitutionalists of the preceding period. The House of Lords was regarded as a great conservative force, because the House of Commons was assumed to be necessarily radical. During the interval that elapsed between the Reform Bill of 1832 and the defeat of the Liberals at the general election in 1874, the Conservatives were more often in a minority in the House of Commons than their opponents. "Only for fifteen years out of the last fifty," said Mr. Gladstone,* "has the ministry of the day possessed the confidence of the House of Lords." Bagehot in the Introduction to the second edition of his work, written in 1872, regards it as quite natural that the Peers should be in opposition to the Government of the day. It was taken for granted that this situation would frequently recur. Much of the most authoritative writing on the subject was framed on the assumption that the House of Lords would naturally act as a steady drag upon a Ministry and a House of Commons, both normally of liberal, or radical, tendencies. The progressive element, indeed, seemed likely to be so powerful, that the slight advantage given to the other cause, by the possession of a majority in the Upper House, could be conceded without alarm.

Events have shaped themselves differently since the great extension of the franchise in 1867. From that date to the end of King Edward's reign, the Conservatives were in power more than half

* In the essay *Kin beyond Sea*, originally published in 1878.

the time; in twenty-four out of the forty-three years, they held office. Instead of being the champions of a minority in the Lower House and the constituencies, the Peers are now often on the side of the Administration—a mere "Committee of the Carlton Club," as their adversaries will sometimes bitterly suggest. In such circumstances, a good deal of their theoretical usefulness, as a checking and revisionary organ, disappears. When the Conservatives are in power, the Peers are slow to interfere with any great political measure, for fear of giving an advantage to the party which the majority of their number dislike and distrust. They remain languid and quiescent, with their constitutional functions largely in abeyance, until the advent of a Liberal Ministry recalls them to activity, as it did in 1893 and 1906. The standing Conservative majority in the House of Lords then becomes of some effect, whether for good or evil. It is on such occasions that resentment is roused by the spectacle of a privileged caste always able to resist the popular will; and with that sentiment fanned into fresh vitality by a quarrel between the Peers and a Liberal Cabinet an agitation for the reform or reconstruction of the Upper Chamber is almost certain to be set on foot.

CHAPTER XIII

THE PEERS AS A SENATE

THE House of Peers might be ended, or it might be mended, according to the once popular antithesis. Ending never had many advocates. Single-chamber governments have hardly ever been tried, and the very idea is usually rejected—it would not always be quite easy to say why—as dangerously impracticable.* Reform has usually aimed at breaking down the hereditary monopoly, and introducing a representative and temporary element. Many devices and expedients had been from time to time suggested before the great coup of 1911, by Conservative, as well as by Liberal, statesmen. Those who were anxious to increase the efficiency, and sustain the authority, of the Peers, as well as those who were jealous of their exclusive privileges, had been in favour of some change. Lord Salisbury and Lord Iddesleigh, Mr. Gladstone and Lord Rosebery were among the House of Lords reformers.

* The question is discussed by Mill in the chapter "Of a Second Chamber" in his *Representative Government*. The elaborate vindication of the existence of a Second Chamber, as a check on the representative House, is one of the main purposes of President John Adams's famous *Defence of the Constitution of Government of the United States*, 1787–1788.

Most of the schemes had the common aim of leavening the mass of hereditary legislators by an admixture of persons who will owe their elevation to merit or to election. The simplest method is that of the creation of life-peers, which, according to the best authorities, is not a constitutional innovation at all, but merely a reversion to ancient practices. Freeman and Stubbs contended that the Crown, according to the early precedents, has a right, which has never been abandoned, to summon a peer to sit in Parliament, without incurring an obligation to extend the privilege to his descendants.* Unfortunately for themselves the Peers succeeded in defeating an attempt to introduce, or re-introduce, life-peerages. In 1856 Sir James Parke was created Lord Wensleydale, by letters-patent which stated that his peerage was bestowed upon him for life only. The Lords, under the influence of Lyndhurst's eloquence and imposing personality, refused to allow the new life-peer to take his seat. The Ministry gave way, the decision was accepted as good law, and an

* Stubbs' *Const. Hist.*, iii. 443 n., says that the doctrine of "ennobling the blood" is historically a mere absurdity: "it is impossible to regard the blood as ennobled by law." Disraeli, in his *Vindication of the English Constitution*, says: "It would not be too much to affirm that the law of England does not recognise nobility; it recognises the peerage, and it has invested that estate with august accessories; but to state that a man's blood is ennobled is neither legal nor correct, and the phase, which has crept into our common parlance, is not borrowed from the lawyers, but from the heralds." The opposite view is taken by May (*Const. Hist.*, i. 290), who says that "all temporal peers have been ennobled by blood." See also, Pike, *Constitutional History of the House of Lords*, chap. xv.

excellent opportunity for quietly modifying the composition of the Upper Chamber was lost. Twenty years later, while the general question of life-peerages was left untouched, a limited number of judicial life-peers, the Lords of Appeal in Ordinary, were created by statute. These Lords are simply paid judges of the House of Lords Court, but they are summoned to Parliament for life and are allowed to sit and vote.

The precedent thus established might easily have been carried further. A moderate infusion of life-peers has often been recommended by those reformers, who want to do something for the House of Lords without doing too much. Earl Russell brought in a Bill in 1869 which would have allowed the Crown to nominate four life-peers, in any one year, or twenty-eight in all. A much bolder measure, providing for a very extensive creation of representative life-peers, was laid on the table by Lord Dunraven, an independent Conservative, in 1888. In the same session, Lord Salisbury introduced his House of Lords (Life-Peers) Bill as a Government measure. The Crown was to have the right of nominating five life-peers in any one year, with a total number not exceeding fifty. Three of the five life-peers were to be appointed from among those who were, or had been, ambassadors, colonial governors, judges, generals, or admirals. The Bill, however, met with little favour and was dropped. Lord Rosebery's Resolution, which was rejected by the House earlier in the same session, went further. It would have permitted the Crown to constitute an Upper Chamber, made up partly of selected members of the Peerage, and partly of life-

peers; the latter to be persons, who had gained distinction in some branch of the public service.

Lord Lansdowne's Bill, which was carried through the second reading in May, 1911, and then dropped, provided that the Upper House should consist of one hundred "Lords of Parliament" elected from among their own number by the hereditary peers; one hundred and twenty elected by the members of the House of Commons for the districts they represented; one hundred nominated by the Crown with due regard to the distribution of parties in the Commons; with seven spiritual, and sixteen judicial, peers.

Even if the hereditary principle is retained there is an obvious advantage in the free introduction of life-peers. No doubt many able men from the professional classes do succeed in getting to the House of Lords; but not till they have made their name and their money, and are growing old and tired. An eminent scientist of seventy, a high-placed official retired under the age limit, must add rather to the distinction than to the practical efficiency of the House of Lords.

To make room for the life-peers it would be necessary to withdraw from many of the hereditary legislators the right to attend the sittings of the House. As a fact very few of them do attend, except when the occasion arises for quenching some exciting or subversive measure which has come up from the Commons. Then they arrive in their cohorts; and noble lords, who have never listened to the debates and know nothing of the arguments, grope their way through the unfamiliar corridors, and take part in a division reckoned

in hundreds. At other times the tenants of the Chamber are no more than a handful. The way to get cured of an excessive admiration for the House of Lords, it has been said, is to go and look at it. Its ordinary sittings are not impressive. There is none of the noise, the bustle, the tingling vitality, of the House of Commons. A half-score of elderly gentlemen are in the Government seats, a few more loosely scattered about the other benches. Even in an important debate the speakers would have an unusually good audience if there were seventy or eighty members present.

It would be well to confine attendance to those who are really interested in the work and capable of doing it, and to keep out the loungers, the incompetent, and the disreputable. This could be easily accomplished by electing representative peers for England, as is done for Scotland and for Ireland under the Acts of Union. If the peers were allowed to appoint, say, two hundred of their own body to be Lords of Parliament, all the statesmen, the party leaders, and the experienced politicians, in the peerage would find their places. The business would not be interfered with by the capricious presence of ignorant amateurs; and public sentiment would be spared the shock it occasionally feels, when it observes that, however dissolute or disgraceful a peer may be, nothing short of bankruptcy, or a conviction for felony, can exclude him from the ranks of the hereditary legislators.*

* Lord Salisbury's Bill of 1888 contemplated relieving the House of its more unworthy members, by providing that where any Peer had been guilty of disgraceful conduct, the House might present an address to the Sovereign, who might

This restriction of the right to sit in the House of Lords would have several advantages. Membership of the Upper Chamber would no longer be the mere privilege conferred by birth, but would be bestowed on the representative peer by the votes of his own order. The House would contain all the most able and respected of the peers; and it would be kept within manageable limits. Under the present system it is constantly expanding, and it threatens to grow altogether unwieldy. Each administration takes a substantial contingent of successful soldiers, lawyers, eminent officials, and wealthy and active party men, out of the commonalty, and lifts them, and their heirs, into the baronage. Peel was the last Premier to exercise a jealous supervision over the bestowal of honours by the Crown. In five years he only recommended the creation of five peerages. "It reads to us," says one of Peel's successors, "like a dream, like a chapter dropped from the annals of some Utopia or Atlantis."*

Every Prime Minister now adds his tens, or even scores, of members to the Upper House. A revising Senate should be a rather small body; but the House of Lords is nearly as large as the House of Commons.† If the process of fresh creation goes on at the same rate for another half-century, the

then direct that the writ of summons should be cancelled and the Peer disentitled to sit during the existing Parliament. See Pike, *Constitutional History of the House of Lords*, p. 277. Under 33 and 34 Vict., cap. 23, sec. 1, Peers, convicted of treason or felony, are disqualified from sitting or voting. They are also, by the same statute, disqualified during bankruptcy.

* Lord Rosebery in the *Anglo-Saxon Review*, June, 1896.

† The full Assembly would contain over six hundred persons, if attended by all the Peers of the United Kingdom, the representative Peers of Scotland and Ireland, and the Bishops.

Chamber may become a mob. It will be far too large for effective deliberation, if all, or even a reasonable portion, of those entitled to a summons should care to be present. Incidentally, it may be observed that the increased size of the House makes the constitutional remedy of "swamping" all but impossible in practice, and thus has produced one of the very results aimed at in the Peerage Bill of 1719. The Peers, under George I., endeavoured to establish a monopoly for themselves by restraining the Crown from the creation of more than six beyond the then existing number of peerages. The attempt, if it had succeeded, would have given us, instead of a peerage, a nobility; instead of an aristocratic class, shading gradually into other sections of the community, we should have had a narrow and rigidly-defined privileged caste. The project was indefensible and was, very fortunately, defeated. But it was not entirely the outcome of mere selfish exclusiveness: it was also dictated in part by the desire to remain independent, and to save the House of Lords from being filled with courtiers and subservient ministerial nominees.

The Crown never has "swamped" the Upper Chamber;* but it is conceivable that it might have done so, when perhaps thirty or forty new patents

* Brougham declared that there was no real intention of swamping in 1832, and that he would himself have opposed the project if brought forward seriously. See his *British Constitution*, p. 268. This use of the prerogative had been advised by the Cabinet in a memorandum to the King before the general election of December, 1910, and it might have been applied if the Peers had refused to accept the Parliament Act of 1911; but in that case it might have been necessary to create three hundred new peerages or even more.

would have sufficed to neutralise a hostile majority and turn the scale. With a House seven or eight hundred strong, viscounts would have to be brought up by platoons, and barons by battalions, in order to produce much effect. The expedient could not be attempted, without making both the Crown and the peerage ridiculous.

If, however, the House of Lords were composed of 150 to 200 representative peers, elected by their order, and about the same number of members appointed by the Crown for life, some of these difficulties would disappear. Without permanently increasing the size of the House, it might be possible to carry out a partial swamping operation by life-peers; since it would be recognised that, as these ennobled emergency-men died off, their places need not be supplied. While the normal membership of the House would be smaller, the actual attendance would be better. Two-thirds, or three-quarters, of the hereditary peers would find it no hardship to be deprived of a privilege, of which, at present, they very seldom avail themselves.*

* A rather fantastic suggestion, which yet is not without a certain attractiveness, is that a peer, on succeeding to his honours, should be placed a grade lower in the hierarchy than his predecessor. Thus a duke would be succeeded by a marquis, a marquis by an earl, and so on. The effect, of course, would be that in five generations or less the peerage would die out, unless in the course of that period the head of the family could contrive to get himself raised a step in rank. The peer would be involved, throughout his life, in a kind of competitive examination, on the results of which the future position of his family would depend. If he were a respectable, public-spirited person, who had done something meritorious, he would no doubt obtain his promotion as a matter of course. If he were an idler or trifler, the Crown and the Prime Minister would

On the other hand, the ambitious young aristocrat, anxious to play his part on the larger stage of the Commons, would not find himself doomed to political extinction, or premature repose, by the death of his father. He could wear his coronet, without forfeiting his seat in the Lower House. If Palmerston had been a peer of the United Kingdom, his political career would assuredly have been very different from what it was. Fortunately for him he held only an Irish peerage, and was, therefore, eligible for election to the House of Commons. Under the arrangement suggested, any peer, if he wished it, might divest himself of his dignified disabilities. That some do feel the disqualification was shown by the Peer's Disabilities Removal Bill, laid before Parliament in 1893, at the instance of some distinguished young members of the House of Commons, who were the eldest sons of peers. It provided that peers might vote at elections and might themselves be elected members of the House of Commons, but in that case their hereditary titles were to lapse; a peer, accepting the office of Secretary of State, was to lose his peerage and hereditary titles, for himself and his heirs, and become a commoner. The Bill, which was not perhaps meant very seriously, never reached the stage of a second reading.* It is one of the consequences which must be reckoned with that any limitation of the hereditary principle in the Upper Chamber would set free the cleverest and

decline to help him, and if his immediate successors were not more deserving, the peerage would lapse. It would be an automatic method of eliminating the unfit stock from the governing circle.

* *Hansard*, 4th series, viii. 839.

most ambitious of the peers to enter for the prizes of the Lower Chamber. The aristocratic element, mitigated in the one House, would gain an accession of strength in the other.

The nominated members of the House of Lords —the life-peerage—would no doubt add to its reputation and influence. Some of them might be merely wealthy nobodies, or fussy party men; but the former class certainly, and the latter in all probability, might be better content with the solid advantages of an hereditary title. Prime Ministers, if they used their opportunities discreetly, might easily make the list of life-peers an imposing catalogue, containing many distinguished names, which the public would recognise and respect.

It might, moreover, be possible to impart to the House of Lords a further and very valuable representative element. The House of Commons recognises no distinctions or divisions but those of locality. Hence whole classes and interests may remain virtually unrepresented, unless they happen to command a strong vote in a particular constituency. The older English principle of giving representation to "estates," or orders of men, has entirely disappeared. The device of using the local division as an electoral unit is so convenient that it is never likely to be abandoned, since it is a method of getting the Legislature chosen which cannot easily be bettered for simplicity and rough practical effectiveness. Yet it is both imperfect and unscientific if the object be to bring together an assembly in which the various elements of the population, and the leading activities and occupations of all classes, are fairly represented.

It can hardly be pretended that, in these days, persons living in local juxtaposition have interests necessarily identical, or are in any but a purely physical and geographical sense the members of a community. This might have possibly been the case when difficulties of communication made men everywhere dependent on their immediate neighbours. These conditions have changed. Local ties have weakened; the intercourse between persons of the same profession and the same class can be pursued easily enough on a national scale. The modern Englishman may love his neighbour; but he is not bound to have anything to do with him. On the other hand, those with whom he is associated in sentiment and interest, and with whom indeed he is in frequent contact, may have their place of residence many miles away. A stockbroker in South Kensington may have much more in common with another stockbroker living at Brighton than with a greengrocer in the next street. The members of a profession, the adherents of a sect, may be scattered all over the kingdom, and form a numerous body in the aggregate, and yet not be strong enough in any one district to send their own candidate to Parliament or to turn votes.

It is undoubtedly a defect in the House of Commons that it takes no account of the interests which have grown up irrespective of locality. The object of most of the schemes of proportional representation is to correct the haphazard crudities, and the possible inequalities, which are, or may be, the result of the present system. Some of these proposals are highly ingenious, like the device suggested by Mr. Hare, which won the

approval of Mill, or like that to which Lord Courtney has given his support.* The weak point of all these proposals is their complexity. Unless very carefully managed, they would almost certainly tend to hand over the conduct of elections to the professional manipulator. Even the attempt to secure some sort of minority representation, by three-cornered constituencies, did not work well, and it had to be abandoned. The practical difficulty of representing either minorities or "estates" in the House of Commons will rather increase than diminish.

Something, however, might be done in the House of Lords. Various important orders and interests could find their voice in that Assembly. The judicial life-peers, and the ecclesiastical life-peers, might be provided with suitable colleagues. Without touching on the question of Church Disestablishment, it may perhaps be surmised that the monopoly of political power possessed by the Bishops cannot be much longer maintained. The leaders of the other great religious communities might put in a claim for a certain number of seats in the Senate; nor perhaps would that body be any the worse if, on questions of public morals and conduct, on Licensing Bills or Education Bills, it could learn the opinions, not only of the Anglican Bishops, but of the leaders of Wesleyanism and Congregationalism, and of the prelates of the Roman Church in Britain.

For the well-being of our modern society it may be urged that the medical profession is even more

* It is described in *The Working Constitution of England*, chap. xvi.

important than the legal; and the public service would gain something, if life-peerages were regularly bestowed on the Presidents of the Royal College of Surgeons and the Royal College of Physicians. Learning and science might be directly represented in other ways. The University members, a mere powerless anomaly in the House of Commons, might be transferred to the Lords, and reinforced by representatives from other centres of education, besides those at present capriciously recognised for political purposes. The Chambers of Commerce and the Institute of Bankers, and other authoritative organisations of the trading and mercantile communities, might also be allowed a certain number of seats. And finally the trade-unions might be permitted to leaven the august assembly by sending to it a few of their most able officials. It might be difficult, indeed, to persuade these tribunes of the people to accept a title of honour, even for their own lives; but if they could become peers without being lords they might consent to serve in a Chamber where their special knowledge of working-class opinion would necessarily be of value.

A House of Lords so modified would undoubtedly form a strong Senate. The real danger is that it might become too strong. It is the difficulty which confronts us the moment we consider any scheme of House of Lords reform. If the reform is genuine it must obviously result in increasing the power of the Second Chamber. The hereditary peers are acutely conscious of the fact that they hold their legislative privilege by a precarious tenure. A body of representative peers of Parliament who had been nominated because of their real or assumed capacity,

might often be unwilling to subordinate their opinions to those of the House of Commons. A Senate, largely composed of clever men of affairs, who owed their success in life to their own exertions, might at times prove inconveniently self-assertive. Those who advocate the introduction of the representative, or the nominated, element into the House of Lords, should do so with the consciousness that any such innovation would add to its authority and its influence.

Even in its present "unreformed" condition the House is frequently able to get its own way. The consequences which directly ensued upon the rejection of the Finance Bill of 1909 showed that the Peers cannot thwart the national, or even the ministerial, will on great occasions. But great occasions do not often occur. Public feeling, though intense when roused, runs along a narrow channel. For nine bills out of ten the electorate cares nothing; and with these the Lords have still a pretty free hand. Many measures in which some of the peers take a great interest, such as bills affecting private rights, and those promoted by local authorities, they can mould and transform, and even reject. The London County Council, and some of the other great municipal bodies, are constantly bringing forward bills to promote improvements, or establish public services, which get through the Commons and are thrown out, or passed only with onerous restrictions, in the House of Lords.

In the domain of private legislation the work done by the House is of extreme importance. The bills of private individuals or companies are divided, in their initial stages, between the two Houses; and it

may fairly be said that Private Bill Committees of the Lords will compare very favourably in authority and impartiality with those of the Commons. The peers who sit on the Committees are as a rule men of large practical experience and sound legal and administrative training; and it is understood that, on the whole, these tribunals command the confidence of the financial and business community. Outside the Cabinet there are few individuals more powerful than the Lord Chairman of Committees, who can sometimes, by a stroke of the pen, effect alterations in the Standing Orders relating to Private Bill procedure, which may be of much more real and far-reaching importance than many an Act of Parliament that has filled the newspapers for weeks. The burden of private bills is increasing; and the work could not be got through at all if it were left to the unaided energies of the House of Commons.

Moreover, if the Upper House no longer controls the Administration, it can still criticise it. As a ventilating chamber it might, if its members pleased, almost supersede the House of Commons. That Assembly is so fettered by its rules, so overwhelmed by the quantity of its business, and it is held so tightly in the grasp of the party system, that free discussion is always difficult, and sometimes impossible. But in the House of Lords, which has an elastic code of procedure, which conducts its debate in an easy, informal fashion, uncoerced by the Ministry or even by the Chair,* there is no diffi-

* The Lord Chancellor is *ex-officio* Chairman of the House of Lords, but he has no authority to rule a speaker out of order, and no more right than any other Peer to call attention to irrelevancies.

culty in raising a discussion at any time on almost any subject of public importance. A minority, muzzled or silenced in the Commons, may give full expression to its views, in "another place." It cannot turn out its opponents; but it can develop its own argument, and lay its case before the nation. A Ministry, which, owing to the "congestion" of business towards the end of a session, or from other causes, has had to hurry through votes and the committee stages of bills, without adequate consideration, in the House of Commons, may sometimes find this breathless legislation retarded in the House of Lords.*

The license of unrestricted discussion, mitigated by the dinner-hour, may sometimes be employed in

* On the 29th of July, 1904, that House had before it the Finance Bill, which had left the Commons the previous day, a Thursday. The Friday afternoon alone remained for the Bill to pass through all its stages in the Upper House; since the House of Commons adjourned at 5.30 that day, and the Royal Assent to the Finance Bill—which must be given in the presence of both Houses—could not otherwise be formally signified before the following Monday, August 1st. On that date the taxes imposed by the Finance Act of the preceding year expired. No legislative authority would then have existed to sanction their further imposition, and a Bill of indemnity would have been necessary to legalise the duties levied at the Customs House. The Liberal Peers, however, as a protest against the unceremonious haste with which they were asked to deal with a measure of so much importance, insisted on debating the Bill till nearly six o'clock, by which time the Commons had risen, and the Royal Assent could not be given. As a matter of fact nothing happened. The dissentient Peers had forgotten that the 1st of August was a Bank Holiday, on which day the Customs House would be closed, and no duties levied The House of Commons sat on the Monday, and the Royal Assent was given to the Bill in time for the resumption of business at the ports on the Tuesday.

the Lords for merely factious or obstructive purposes. But, wisely used, it may occasionally serve as a really valuable means of compelling ministers to defend and explain a policy, which the House of Commons has not had sufficient opportunities of examining in detail. And if the peers were a little more zealous in their Parliamentary duties, and more regular in their attendance, they might frequently make their House an arena for the discussion of those larger questions of public policy—questions of imperial interest, or of social and economic reform—which the Commons, absorbed in the exigencies of the passing hour, dismiss as irrelevant or academic. They might lift politics from the rut of the commonplace, and bestow some attention on those more comprehensive principles, and those remoter consequences, for which a bustling popular assembly, and a busy partisan executive, have no time or thought. For the philosopher in public affairs, if there is room anywhere, it should be, one would think, in the House of Lords: though that is the last place, it must be admitted, where anybody would look for him at present.

The House of Lords a "Reservoir of Ministers."

The House, however, if it does not make or unmake Ministries, has a large share in their composition. There is no law* which prescribes that every important public department shall have its

* Except the negative provisions of the Acts, already referred to, which provide that not more than four Secretaries of State and four Under-Secretaries shall sit in the House of Commons at one time.

representative in both Houses, so that if the Secretary of State or other ministerial chief is in one Chamber, his assistant must be a member of the other. It is merely one of the conditions which are pretty rigidly observed, and it has both its drawbacks and its advantages. The assumed necessity for maintaining the administrative balance in the two branches of the Legislature may sometimes unduly limit the Premier's field of selection. Thus in December, 1900, the Prime Minister, Lord Salisbury, vindicated himself for an appointment, to which some objection could be taken, by pointing out that there were few peers available at the moment for this particular office, and that a member of the House of Commons was ineligible for it, because the minister at the head of the department was already sitting in that chamber. *

But this is a drawback counterbalanced by the utility of the House of Lords as a "reservoir of ministers." † Without this source of supply at his disposal, a premier would be restricted, both for his Cabinet and his under-secretaries, to the members of his own party in the House of Commons. The executive would be made up entirely of politicians, dependent, in every case, on a party majority in the constituencies. The House of Lords makes it possible to bring in a certain number of men of a different stamp, men who are responsible to Parliament, without being at the mercy of the ballot, and who, from their training and position, may often have

* See Lord Salisbury's remarks on the appointment of Lord Hardwicke as Under-Secretary for India, December 14, 1900.

† The phrase is Bagehot's, in *The English Constitution*, chap. iv

qualities which are difficult to find among those who have risen to prominence in an elective Chamber. There are, and there are likely to remain, certain posts in the administration of an Empire like our own, for which it is desirable to have not merely "gentlemen," but great noblemen, wealthy, cultured, highly placed, and socially distinguished.

A Secretary of State for Foreign Affairs ought to be, and now usually is, a member of a great aristocratic house. Of recent years he has usually belonged to one of those territorial families whose names are known to the cosmopolitan society of the world—a Salisbury, a Rosebery, a Derby, a Granville, a Lansdowne, or a Grey. Sometimes, it is true, ministers so qualified may have seats in the House of Commons, like Castlereagh, Palmerston, John Russell, and Sir Edward Grey. Often they will prefer to be in the Upper Chamber. The work of the Foreign Office is constant and exacting. The daily round may not be more severe than that which many professional men and business men perform as a matter of course; but it has got to be got through punctually. Important despatches, and interviews with ambassadors, cannot be postponed because the Secretary of State has to spend his afternoons and evenings in the House of Commons. Even half a century ago the duties of the Foreign Office could not easily be combined with constant attendance at Parliament.

Lord Malmesbury * says: "I found what Lord Palmerston told me was correct—namely, that the average work of the Foreign Office took him ten hours of the twenty-four." Disraeli (in 1864)

* *Memoirs of an Ex-Minister*, p. 585.

"quite scouted the idea" of being Foreign Secretary, as he wanted to retain the leadership of the House of Commons, and felt that the one position was incompatible with the other. Mr. Balfour, indeed, once laid it down as an absolute rule that the head of the Foreign Office should be in the Lords. Speaking in the House of Commons on the proposal to erect a national monument to Lord Salisbury, he referred to the regret which that statesman experienced, when his accession to the Peerage removed him from the popular Chamber. "And yet," added Lord Salisbury's nephew, "it is a singular reflection to make that, had Lord Salisbury been able to have his way, had he indeed remained, what he was born to be, an ornament to the debates in this House, it would have been quite impossible for him to have been Foreign Minister, through all the long and troubled years in which he dealt with our foreign policy; for this most laborious department can never be filled, in my judgment, by any man who both does his work in his office and also does his work in this House." *

Possibly, with the increase and specialisation of the business of Government, the principle may have to be applied to other departments besides the Foreign Office. Freed from the burden of perpetual debate, and to a large extent emancipated from the bondage of the lobby, the House of Lords minister has great opportunities for administrative

* See the Report of Mr. Balfour's speech in the newspapers for May 18, 1904. "No man can efficiently discharge in conjunction, especially at a time of crisis, the duties of the Foreign Department and those attaching to the leadership of the Commons." Gladstone, *Gleanings*, i. 101.

usefulness. But the number of peers who have the requisite capacity, and who are at the same time willing to devote themselves to the rather dull monotony of official business—who are not too old, or too young, too idle, too frivolous, or too much occupied with other matters, for such an employment—is not very large. The bottom of the "reservoir" is rather easily reached, when it is tapped for able men, willing to take upon themselves the more arduous work of politics, without its excitements, and with small prospect of such rewards as can really appeal to their ambition.

CHAPTER XIV

THE MONARCHY

THE Crown of England is a convenient working hypothesis. "There is no distinction," says Mr. Gladstone,* "more vital to the practice of the British constitution or to the right judgment upon it than the distinction between the Sovereign and the Crown." The distinction is often overlooked, and it is all the easier to do so because no account is taken of it in our legal or our ceremonial terminology. The law and the conventions do not distinguish between the rights, the powers, and the prerogatives, of the actual Sovereign, and those of the mythical, immortal, omnipotent, all-embracing, infallible, and omniscient, personality or institution, which is technically the central and binding force of our whole system. The Crown is like the ether, which modern physicists postulate as the essence of matter and energy. There may be no such thing; but to assume that there is gives coherency to theory and a basis for calculations and inferences of value. There is certainly no such thing as the English monarchy, as it is represented in the statutes, in the courts of law, and in proclamations,

* *Gleanings*, vol. i. p. 234.

orders in council, and formal documents in general. The government of this country is not that of a semi-divine despot. The Sovereign who is the hereditary and ceremonial head of a parliamentary democracy has many privileges and attributes of the highest importance; but the tremendous powers, technically ascribed to him, he does not possess. They belong to a convenient myth, which is called the Crown, but might almost as well be called the Nation, or the Will of the People, or any other suitable abstraction.

"To most Englishmen," says Professor Dicey, "the extent of the authority actually exercised by the Crown is a matter of conjecture." The transfer of powers from the Sovereign, in his personal capacity, to the Crown, in the abstract, has been going on through the centuries of English history.* What it comes to, in effect, is that most of the prerogatives, theoretically belonging to the Crown, are now in reality exercised by the Committee of Parliament which is supposed to represent the nation. There is a famous passage of Blackstone in which the nature of the prerogative is defined in the most impressive terms:

"We are next to consider those branches of the royal prerogative which invest our sovereign

* "The leaders of the English people in their contests with the Royal power never attempted, except in periods of revolutionary violence, to destroy or dissipate the authority of the Crown as head of the State. Their policy was to leave the power of the King untouched, but to bind down the action of the Crown to recognised modes of procedure, which, if observed, would secure first the supremacy of the law, and ultimately the sovereignty of the nation." Dicey, *The Law of the Constitution*, chap. viii. p. 399.

lord, thus all-perfect and immortal in his kingly capacity, with a number of authorities and powers; in the exertion whereof consists the executive part of Government. This is wisely placed in a single hand by the British constitution, for the sake of unanimity, strength and despatch. The King of England is, therefore, not only the chief, but properly the sole, magistrate of the nation; all others acting by commission from, and in due subordination, to him; in like manner as, upon the great revolution of the Roman state, all the powers of the ancient magistracy of the Commonwealth were concentrated in the new Emperor: so that, as Gravina expresses it, *in ejus unius persona veteris reipublicæ vis atque majestas per cumulatas magistratuum potestates exprimebatur.*"

If this be taken as a description of the royal office in Great Britain, it is, of course, absurd. It cannot be said that some of the modern definitions are much more accurate, if accepted in their application to the Sovereign as an individual person. Lord Brougham, writing in 1860, tells us that: "The whole executive power is lodged in the Sovereign; all appointments to offices in the Army and Navy; all movements and disposition of those forces; all negotiation and treaty; the power to form or to break alliances; all nomination to offices, whether held for life or during pleasure; all superintendence over the administration of the civil and the criminal law; all confirmation or remission of sentences; all disbursements of the sums voted by Parliament; all are in the absolute and exclusive possession of

the Crown."* The terms used by Mr. Gladstone, eighteen years later, are not very dissimilar:—

"The Sovereign in England is the symbol of the nation's unity, and the apex of the social structure; the maker (with advice) of the laws; the supreme governor of the Church; the fountain of justice; the sole source of honour; the person to whom all military, all naval, all civil service is rendered. The Sovereign owns very large properties; receives and holds, in law, the entire revenue of the State; appoints and dismisses ministers; makes treaties; pardons crime, or abates its punishment; wages war or concludes peace; summons and dissolves the Parliament; exercises these vast powers for the most part without any specified restraint of law; and yet enjoys in regard to these and every other function an absolute immunity from consequences."

As an account of the state of things actually prevailing under Queen Victoria, the words of the Liberal statesmen are no more accurate than those of the Tory lawyer in the reign of George III. It is not true that the actual occupant of the throne is the supreme governor of the Church, the fountain of justice, or the "sole source" of honour; that the whole executive power is lodged with him; that he makes all appointments to offices in the Army and Navy; that he regulates the movements and disposition of those forces; that he negotiates treaties, and forms alliances; or that he exercises any kind of superintendence over the administration of the civil and the criminal law. But these powers belong to the prerogative; and what the prerogative means in the legal sense is set forth by Bagehot. He thinks that it would "very much surprise people" if they were only told how many things Queen

* Brougham, *British Constitution*, 3rd ed. 1826, p. 261.

Victoria could have done without consulting Parliament:—

"She could disband the army (by law she cannot engage more than a certain number of men, but she is not obliged to engage any men); she could dismiss all the officers, from the general commanding-in-chief downwards; she could dismiss all the sailors too; she could sell off all our ships of war and all our naval stores; she could make a peace by the sacrifice of Cornwall, and begin a war for the conquest of Brittany. She could make every citizen in the United Kingdom, male or female, a Peer; she could make every parish in the United Kingdom a 'university'; she could dismiss most of the civil servants; she could pardon all offenders." *

Queen Victoria could, of course, have done none of these things; but some of them might have been, and in fact actually were, done by her Cabinets. It was not the Queen who abolished purchase in the Army by an act of prerogative. In 1871 the Gladstone Cabinet carried a Bill through the House of Commons, by which the sale of commissions was abolished. The Bill was rejected by the Lords, and the Cabinet thereupon proceeded to effect its object by the issue of a royal warrant. The use of the prerogative, in this instance, had really nothing to do with the Sovereign; it was simply an easy method, by which the Ministry of the day carried out its own policy in accord with what it presumably regarded as the wishes of the electorate.

There was a somewhat similar employment of the reserve powers of the Crown thirty years later, when Mr. Balfour's Government, towards the close of 1903, appointed a committee of three persons, of whom one was a peer, one an admiral, and the

* Bagehot, *English Constitution*, Introduction to second edition, pp. xxxvii and xxxviii.

other a distinguished military officer, to examine the central organisation of the Army. Acting on their report, the Government at a stroke remodelled our military administration, changed the whole constitution of the War Office, created a new Army Council of high officers in substitution for the existing heads of the military departments, and even abolished so great an office of state as that of the Commander-in-Chief. Parliament was not consulted, except subsequently and indirectly, when certain votes were required to make good the expenditure incurred. These far-reaching and extensive changes were executive acts, carried out by proclamation, or by orders in council, royal warrants, and departmental decrees. They were done in virtue of the prerogative of the Crown, wielded, however, in no sense by the wearer of the Crown, but by the Prime Minister of the day, who was thus enabled to obtain the irresponsibility and independence of Parliamentary control, which the legal theory claims for "the King in Council." *

Constitutional Kingship.

It is sometimes said that the royal prerogative is in abeyance. In reality it is transferred. What portion of the comprehensive powers, inherent in the Crown, could, might, or should, be exercised by the Sovereign, is a point which has never yet been

* "We forget that the executive *de jure* is the Crown in Council, that the Crown in this capacity is wholly outside Parliament, that the part which the Crown plays in Parliament is to receive the advice of its people and to make laws: not to submit, formulate, or defend a policy." Anson, *The Law and Custom of the Constitution*, i. 39.

determined. English political history, for nearly two centuries, consists, to a considerable extent, of the struggle to decide the question.

According to the conventional theory, the solution has been reached by handing over the operative part of the prerogative, as well as all executive authority, to the responsible elective committee of Parliament. The Sovereign retains great influence, great dignity, and complete freedom from political liability; but he has had to abandon the right to direct national affairs, or to shape national policy. The King can still "do no wrong." The meaning of this axiom, and its value from the legal point of view, are well understood. What it signifies is that there is no public act of the Sovereign for which responsibility cannot be brought home to somebody, and that no one can plead the orders of the Crown in defence of any illegal proceeding. It remains true that for any purely private and personal action which can be performed without agents or human assistance, the Sovereign could not be made amenable. If a King of England were to go out into the streets and pick the pockets of his subjects, or if—to use Professor Dicey's illustration—he were to shoot his Prime Minister through the head with his own hand, there is no court of law which could take cognisance of his deeds. The nation would have to leave him to that retribution, which the ghost of Hamlet's father prescribes for his faithless Queen.* In exchange for security from the turmoil of politics, the Sovereign is sup-

* "Leave her to heaven,
And to those thorns that in her bosom lodge,
To prick and sting her."

posed to have resigned the substance of royalty—the right to rule—to other hands.

But it has never been contended by English critics, as it is by some foreign observers, impatient of the mysterious half-lights and vague shadows, in which our system moves, that the transfer has been complete. An American philosophical investigator, of the depth and learning of Mr. Burgess, regards our constitution in its present shape, as dating from the Reform Bill,* and considers most of our historical learning as obsolete, especially in that part which relates to the functions of the Monarchy. To him Great Britain is a Ministerial Republic, and the Sovereign a mere ceremonial figure-head. Few Englishmen would be willing to accept this conclusion. They know that though the King does not govern the country, he does still have a share in the control of Government, which may be greater or less, according to circumstances, but is in any case substantial.

The precise extent of this participation is hard to define. The orthodox "literary theory," of our classic school of publicists, is summarised in a sentence by Mr. Gladstone. The character of the regal office, he says, has been altered; but this great position has not been emptied of its force and reduced to an illusion. "The nearest approach to an account combining truth and brevity would perhaps be found in the statement, that while in extent the change has been, at least inwardly, nothing less than a transformation, its substance may chiefly be perceived in

* "I contend that the present constitution of Great Britain did not exist before the year 1832." Burgess, *Political Science and Constitutional Law*, i. 91.

a beneficial substitution of influence for power." * The whole authority of the State periodically returns into the Royal hands whenever a Ministry is changed. During the interval between the retirement of one Government and the appointment of another the King is the depositary of power. Moreover, it is his personal duty to decide which of the leaders of the majority in Parliament shall be entrusted with the Premiership. The right to commission a particular statesman to form a Ministry remains, though it is conditioned by the fact that the Sovereign's field of choice is narrowly restricted. And again, within certain limits, the Sovereign may also require the acting chief of the executive to seek a fresh mandate from the electorate. Power, of a genuine kind, must rest with the Sovereign so long as it is at his discretion to "send for" the leader of the Opposition, and so long as he can—under favourable circumstances—demand, or refuse, a dissolution.

But these functions are exceptional, and can be exercised intermittently, and only for very brief periods. In the ordinary course of things, the constitutional Sovereign is understood to have three rights, which have been defined as the right to be consulted, the right to encourage, the right to warn. The minister can do what seems good to him and his colleagues. But it is subject to the obligation of submitting every important decision, before it can

* *Gleanings*, i. 38. As long ago as 1783 we are rather surprised to find Lord North saying to Fox, on the formation of the Coalition Ministry: "The King ought to be treated with all sort of respect and attention; but the appearance of power is all that a king of this country can have." Russell, *Memorials of Fox*, ii. 38.

be carried into effect, to this dignified, authoritative, supremely influential, critic. The correct attitude for the King, we are told,* is that of the sagacious, dispassionate mentor. He should address his potent "servant" in some such terms as these: "The responsibility of these measures is upon you. Whatever you think best must be done. Whatever you think best must have my full and effectual support. But you will observe that, for this reason and that reason, what you propose to do is bad; what you do not propose to do is better. I do not oppose, it is my duty not to oppose; but observe that I *warn*."

Such remonstrances and exhortations must often have effect. They come to the harassed politician from a quarter he cannot ignore, with all the weight and prestige given to them by the exalted station of the speaker. There are few men who can treat the lightest, to say nothing of the gravest, words of a king or queen as if they were those of anybody else. But the Royal Counsellor has other advantages. He speaks from the vantage-ground of perhaps a greater knowledge than the minister possesses, and of a closer and more intimate connection with affairs of state. Ministers come and go; but there is no resignation for the King, while life endures. His statesmanship may conceivably be much sounder than those of his nominal advisers. Lord Eldon declared that George III. had more wisdom than all his ministers together. He attributed this, not so much to the King's natural abilities, as to his unrivalled opportunities for acquiring political knowledge by an experience far longer than that of the oldest member of his Cabinet. "A King,"

* Bagehot, chap. iii.

said Peel,* "after a reign of ten years, ought to know much more of the working of the machine of Government than any other man in the country."

A wise and sagacious monarch, it is urged, may be well content with his hortatory and monitory privilege. It gives him great opportunities to mould events; but whether it amounts to all that the constitutionalists of the old Whig line maintained, is somewhat doubtful.

The actual position was defined at the beginning of King Edward VII.'s reign by an observer, who had closely studied the relations between Queen Victoria, her son, and their constitutional advisers. "The Prime Minister has been trained in a school which identifies his office with practically absolute political power." Again: "The Sovereign can under the constitution no more initiate a policy for ministers to follow, or impose upon them, by the urgency of his appeal, a policy of his own devising, than he can by his sole authority promulgate a new law." And further: "Under no conceivable circumstances can a Government's action in high matters of policy originate suddenly and unprovokedly with the King." †

* *Croker Papers*, ii. 316.

† These passages are from an interesting letter in the *Spectator* of January 3, 1902, on the Prime Minister and the Crown, written by Mr. (now Sir Sidney) Lee, the author of the authoritative biographies of Queen Victoria and her successor. Mr. Lee was writing to dispose of a rumour, which had suggested that Court influence, rather than the deliberate judgment of the Ministry, was "the efficient cause of the co-operation of our own Fleet with the German Fleet off the Venezuelan coast. In plain terms, we are invited to believe that the English Sovereign, of his own motion, has successfully importuned his ministers to entangle this country

Custom, it is true, "requires the minister to acquaint the occupant of the throne with his intentions, particularly in the domain of foreign affairs, before carrying them into effect." Having been seised of the ministerial project, the Sovereign may, if he pleases, criticise; but then "usage forbids the minister to attach to the Royal criticisms any paramount force." The minister "invariably treats them as unauthoritative suggestions," and he is "entitled to ignore them altogether;" while his Sovereign has not even a constitutional right to feel offended.

A Recent Experiment.

Our constitutional Monarchy, like our Cabinet system, is a modern and fortuitous growth. It may be true that the root-idea of "limited monarchy" lies embedded in our institutions. This, however, means little more than that an English King is guided by the rule of law, not by the dictates of his own arbitrary will. Fortescue * is at great pains to point out the difference between a "lordship only royal," in which the Prince rules by the *jus regale*, and a kingdom "royal and politick," which is governed under "a lawe called *jus politicum et regale*." But the expedient of converting both the *jus politicum* and the *jus regale* into an undefined right to advise and admonish, is modern and largely accidental.

in an alliance with a foreign Power." Such action, it was contended, would have been entirely inconsistent with the traditions inherited by King Edward from his predecessor on the throne.

* *The Governance of England*, chap. ii. And see Mr. Plummer's illuminating Note on this passage.

The fact that the Hanoverian succession was secured, at the death of Queen Anne, by a combination of the great Whig nobles, enabled these magnates to create a ministerial oligarchy, founded on territorial influence. The effect was to convert the "King's servants" into the King's masters. The authority appropriated by the aristocratic league was eventually transferred to the nominees of the middle-class House of Commons; but at every stage it was watched with doubting eyes by the nation, and there was always a large party willing to aid the Sovereign in the endeavour to obstruct the process. From the accession of Anne to the accession of Victoria, the Tory Party, narrow and prejudiced, as it often showed itself, was animated and ennobled by the idea of defeating the domination of a class, and reconstituting the ancient Monarchy in all its efficiency as the representative of the nation as a whole. If, at the back of their consciousness, the Whigs and Liberals preserved the inspiring ideal of civil and religious liberty, the Tories were elevated by this dimly-seen vision of the Patriot King, freed from the fetters of a faction or a clique, and focussing the energies of the State for the common benefit. The conception had appealed to the glowing imagination of Bolingbroke, and its swan-song was sung by Disraeli in pages of brilliant rhetorical prose.

The attempt failed, not so much because the national genius disliked it, or because the national institutions forbade its realisation, as because the Sovereigns themselves were incapable of filling the place marked out for them. The first two Georges were strangers, absorbed in the politics of Conti-

nental Europe. The third king of the line, a man of strong character, if of limited understanding, was prevented from pursuing a steady policy by long intervals of insanity. His son came to the throne, hopelessly discredited by personal irregularity, and enfeebled by years and dissipation. The successor of George IV. was an elderly Prince, of good intentions, and mediocre ability; and from him the sceptre passed to a girl of eighteen.

It is significant that the true constitutional system, as defined in the books, was not really established till the reign of a female Sovereign. Even George IV., broken by age and disease, made an angry struggle against his Cabinet; even William IV. appealed, though ineffectually, from the Ministry and the Parliamentary majority to the nation when he dismissed Lord Melbourne in 1834. If the sons of George III. had been vigorous and capable rulers; if William IV. had been succeeded, not by a young lady, but a man of talent and energy in the prime of life: the political evolution of the nineteenth century might have taken a different turn. The subtle and delicate balance, by which the hereditary Monarchy and the elective Ministry are enabled to work in unison, is most likely to be conserved when the Sovereign is a woman, and the executive chief a statesman of dignified station and commanding talent.

The large and philosophical generalisations, with which we are familiar, are really drawn from the exceptional conditions that prevailed during the reign of Queen Victoria. When we are told that "the suggestion of the Sovereign may influence the judgment of the minister;" that "Princes are rather

moons than suns in the political firmament"; that the Throne must remain "sheltered within an inner and landlocked haven," and that "the mental habits, which it tends to generate, will be less masculine, though more amiable:" we can clearly discern the picture before the writer's mind. It is that of a Queen, still young and comparatively unversed in affairs, listening with a kind of filial reverence to the sentences of a Melbourne or a Peel; or of a Queen, of mature years, prudent, high-minded, and sagacious, but broken by an inexpugnable affliction, reserved, retiring, and somewhat self-absorbed, dominated by the impressive personality, the vibrating intellectual force, of a Gladstone or a Disraeli. It would almost seem as if, for the proper working of the constitutional machine, we required the Salic Law of succession to be inverted, so that the crown of Britain should never be inherited except by a woman.

It happened that at the critical stage of development the throne was occupied not merely by a woman but by a very young unmarried woman. When she did wed, she took as husband a Prince who, by his integrity, his unselfishness, his absolute freedom from personal ambition, was best fitted to assist the experiment. Yet, even with the throne shared by one so little "masculine," in any derogatory sense, as Prince Albert, the political apparatus ran sometimes with ominous jerks and joltings. There was frequent trouble with the Cabinet, and occasionally it grew serious. The ideal arrangement, the equipoise of "influence and power," did not work at all well when the Sovereign was under the close inspiration of an able, scholarly, cautious

observer of affairs like the Prince Consort, and was nevertheless expected to yield to the impatient impulsiveness of Palmerston. Nor were the relations altogether perfect, even with the impeccably correct, and somewhat priggish, Cabinet of Lord Aberdeen. The throne was certainly not "sheltered within an inner and landlocked haven" in the early part of 1854, when it was being furiously assailed by the newspapers, and when it was commonly believed by the London mob, and by many people all over the country, that the Prince, and possibly the Queen as well, would be "committed to the Tower."*

In the *Life* of the Prince Consort there is a remarkable letter addressed to him by Baron Stockmar at this period. The Prince's mentor, with all his constitutionalism, was impatient of what he deemed the ministerial encroachments of the preceding quarter of a century. He was greatly disturbed by the idea that the majority of the people were being "impressed with the belief, that the King, in the view of the law, is nothing but a mandarin figure, which has to nod its head in assent, or shake it in denial, as his minister pleases." Stockmar exhorted his Royal pupils not to yield to this opinion:—

"The most jealous and distrustful Liberalism, in any discussion about the definite interpretation of the law of Royal prerogative, must be satisfied, if this be placed no higher than a right on the part of the King to be the permanent President of his Ministerial Council. Now the most stupid of Englishmen

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* "People," wrote the Prince himself, on January 24 1854, "surrounded the Tower by thousands to see us brought to it!"

knows, that, up to the present hour at least, his country is always governed by only one party, and that consequently the Premier of the Cabinet for the time is and can be nothing else but the Chief of the Party then in power. Out of the very character of this Party Chief it ought to be demonstrable to the narrowest capacity, that every Premier, even were he a patriot of the most far-seeing views, and absolutely exempt from prejudice, must suffer from two drawbacks inherent in his office, which demand a constitutional corrective, and for which none can be sought or found, except in the true position of the Crown towards the Cabinet, and in the way it deals with it in the exercise of its prerogative. . . .

"The twaddle about ministers being responsible to the nation for every fault of head or heart will not keep matters straight. Where the question is how to keep the State in health, our object should be, not to cure a complaint by severe remedies after it has broken out, but to protect it against disease. . . .

"Ministerial responsibility in these days, for such ministers as are incapable, and at any rate for such as are unscrupulous, is a mere bugbear. The responsible minister may do the most stupid and mischievous things. If they are not found out, he may even continue to be popular; if they do come to light, it only costs him his place. He resigns or is removed—that is all: the whole punishment, the whole restitution made for the mischief done to the commonweal." *

Mr. Gladstone, who was himself a member of the Aberdeen Cabinet, took his revenge upon Baron Stockmar by treating this Memorandum with high contempt in his review of Sir Theodore Martin's Biography twenty years later. His scornful criticism of the German publicist reads less convincingly to-day than it did at the time it was written. Many people will perhaps think that the Baron's remarks about the real character of ministerial responsibility were not altogether foolish, and that they deserved, and still deserve, consideration. But Mr. Gladstone in this, at any rate, faithful to

* Martin, *Life of the Prince Consort*, ii. 545 *seq.*

his whiggism, was always impatient of adverse criticism upon a method of government which he had invested with a kind of sanctity. The constitutional Monarchy, as he understood it, with a Liberal Cabinet in office, seemed to him the sum and crown of human political wisdom, and as perfect, and apparently almost as permanent, as the order of Nature itself. Yet it might scarcely have endured, without considerable modification, even to the end of the Queen's reign, but for the premature death of the Prince Consort.* The loss of her diligent confidential adviser rendered the Queen, even when riper years brought her a larger experience, less able to hold her own with the strong and self-assertive ministers of her later period. The cherished sorrow, that caused her to seek a life of comparative seclusion, her dislike to continuous residence in or near London, and a certain inability to grasp, steadily and constantly, the complicated details of public policy, which the Prince, with his laborious industry and cultivated intelligence, might have corrected—all this induced her to acquiesce, not perhaps quite willingly, in the establishment of Cabinet supremacy. Modern constitutionalism was watered by the tears shed over the mausoleum at Frogmore.

* During the second decade of his married life, the Prince Consort exhibited a certain tendency to enlarge the personal influence of the Throne in the conduct of affairs. The angry criticisms of the Liberal journalist "Verax," in a once famous pamphlet, *The Crown and the Cabinet*, (Manchester, 1878), though exaggerated, and bitterly hostile to the Prince and his official biographer, have an element of truth.

NOTE TO CHAPTER XIV

Lord Rosebery and the Royal Prerogative

In January, 1903, a speech was delivered by the Earl of Rosebery at Plymouth, which contained a passage of some interest in connection with the relations of the Crown and the Cabinet. It was urged that in the difficulties created by the reconstruction of the Army after the South African Campaign, it would have been wise to appoint Lord Kitchener Secretary of State for War, with "large and almost dictatorial powers," so that he might have a "free hand" to deal with army administration. It might, no doubt, be objected that if Lord Kitchener had become Secretary of State he would be a member of the Cabinet, and as such responsible for the acts of the Cabinet. "But," said Lord Rosebery, "is there a necessity for that? As Secretary of State he might only be summoned to the meetings of the Cabinet which had to do with his department; and he might be definitely cut off from the collective responsibility of the Cabinet. *It is in the Power of the Sovereign to summon any Privy Councillor to any Cabinet for any particular purpose;* and there is no reason why he should not have adopted that course in the case of Lord Kitchener." The words italicised seem worthy of attention. We are to assume that Lord Rosebery would have seen nothing objectionable in the appointment of a Secretary of State, responsible, not to the Premier and the general body of his colleagues, or to the majority of the House of Commons, but directly to the Crown. It is clear that, in the situation imagined, the military Secretary of State must be, in more than a formal sense, "the King's servant"; since he would be expressly released from all dependence on that governing committee of the dominant party in Parliament which is known as the Cabinet. Lord Rosebery was, perhaps, not speaking with much sense of responsibility, nor was he faced by the immediate prospect of office. But his suggestions are noticeable; since they show that one of the most eminent of Liberal statesmen, at the opening of the twentieth century, was prepared to accord to the Crown a share in the actual conduct of administration, such as the champions of Royal prerogative, a hundred years earlier, would scarcely have ventured to demand.

CHAPTER XV

THE MONARCHICAL POSITION

It has been shown that the "limited monarchy," as we now know it, is a modern growth, fertilised in a special soil and under conditions exceptionally favourable. It must be regarded as still on its probation; and advantageous as it has proved to us, there is really no warrant for the opinion, frequently maintained by English writers, that it is an arrangement so simple, so intelligible, and so obviously just and wise, that, like Truth, in Dryden's satire,* it needs but to be seen to be beloved by all sensible people. On the contrary, it is extremely complex, mysterious, and artificial; so delicate, and so curiously adjusted, that it is scarcely possible to expose it to analysis without a sense of unreality. On the face of it, the distribution of powers, as between the actual and ceremonial authority, is puzzling and unnatural. If we were not habituated to this undefined dualism it might appear as irrational as the relationship between the Frankish king and his

* "For Truth has such a face and such a mien,
As to be loved needs only to be seen."
Dryden, *The Hind and the Panther.*

Mayor of the Palace, or that of the Mikado to the Shogun in old Japan.

One can conceive a painstaking investigator, after the next glacial epoch, writing in something like this strain:—

"Not the least extraordinary among the practices of this remarkable nation was the institution of what seems to have been a kind of double royalty. For reasons which, even after all my conscientious examination of their records, are still obscure to me, it seemed good to the English people to encumber themselves with two Chief Rulers, the one hereditary, and the other appointed from time to time for an indefinite period. And while the substance of power belonged to the latter, all its outward attributes were lavished upon the former.

"A stranger visiting London at this era would have become speedily conscious of the splendour and dignity of the ancient monarchy. The palaces of the king, and the residences of his family, would be pointed out to him. He would find the Sovereign surrounded by a pompous and stately pageantry. All the picturesque and decorative formalities, which had disappeared from ordinary life, were still maintained for him. When he drove out on any public occasion he was attended by a magnificent body-guard of mounted soldiers, with drawn swords and shining armour. When he personally opened the session of his legislative chambers, the peers of his realm appeared before him, arrayed in antique robes of barbaric sumptuousness. His Household was supervised by great officers of state and regulated by a complicated etiquette. The proudest magnates of the land were honoured by a post in his domestic

service. The noblest ladies did not disdain to be enrolled among the personal attendants of his Queen.

"Such were the attributes of the hereditary chief of this Empire. Great is the difference when we turn to the elective ruler. No pomp or ceremony attended his movements. In his dress, his bearing, his mode of life, he was in no way distinguished from any private citizen. He was not necessarily of ancient lineage or aristocratic birth. He might, it is true, be a great noble, but this does not seem to have been essential; for this supremely important office could be conferred on one who was the son of a manufacturer, of a small country landowner, of a physician, an actress, or an obscure literary man of alien race and religion. After the stranger in the streets of the capital had passed the glittering procession of the monarch, with its blazing uniforms, its armed and mounted escort, its gleaming corselets and tossing plumes, he might easily enough come upon the *de facto* ruler, walking undistinguished and almost unrecognised amid the crowd upon the pavements."

To the "common sense of the common people," the contrast is only less poignant, because it is not perceived. Monarchy has been for so many thousands of years the ordinary mode of government for by far the greater part of mankind that it has passed into the instinctive consciousness of the race. Most people, in all countries and climates, accept the rule of a Sovereign as a law of nature. And to the vast majority of human beings the conception of a king is that of a despot. Limited and constitutional monarchy is a thing which, even in England, is only very partially appreciated by the multitude.

If it were announced that the King had "ordered" that women were no longer to visit the theatres in garments which left their necks bare, expert observers would recognise that this was either a hoax or a revolution. But many people would take it quite as a matter of course. There would probably be far less sense that any despotic encroachment had been attempted upon "the liberty of the subject" than if Parliament tried to accomplish the same end by legislation. A large number of persons throughout the country would be genuinely surprised to learn that Parliament could, and that the King could not, render it penal to wear, or to abstain from wearing, any particular kind of costume. And in fact, though the King could not, and would not, issue a sumptuary edict, he might express a wish; and the wish would have all the force of law with a considerable portion of his subjects.

The Rehabilitation of Royalty.

The future of constitutional Monarchy in England is an interesting subject for speculation. Will the subtle equilibrium be maintained, or will the beam be tilted to one scale or the other? Much, of course, depends on character—the character of the monarchs, and the character of the ministers, in the current, and the coming, generation. We can hardly hope to reproduce in permanence that very unusual interaction of personal forces to which reference has been made. There are influences at work which tend to depress the royal office, and others which may exalt it.

On the one hand, there is no doubt that Royalty has lost much of the semi-religious sanction, on

which, in most ages, it has rested. The divinity that hedges a throne is far less perceptible than it was three-quarters of a century ago; when, though the wearers of the Crown might be openly insulted, there was still much of the old "Church and King" feeling left. There were numbers of the most excellent people in England to whom "loyalty" was a virtue like piety, and the Lord's anointed a reverential figure, quite apart from his character or his actions. That sentiment has almost died out. The King is a human being, and the Throne a mundane institution. Such a rationalistic attitude is not altogether favourable to Royalty, which has so much of the attributes of mystery that it flourishes best in an atmosphere of faith.

Socially and morally, however, Royalty rather gained than lost ground in Europe during the second half of the nineteenth century. At the time of Queen Victoria's accession the institution was a good deal discredited. The great reaction, which succeeded the revolutionary wave at the close of the previous century, had spent itself, and a distinctly republican sentiment was noticeable in most Western countries. Royalty had done little to vindicate its *métier* after the fall of Napoleon. The Bourbon Restoration in France had been a conspicuous failure, and had ended, ignominiously enough, in the Revolution of 1830. The *bourgeois* monarchy of Louis Philippe, which followed, had failed to make the Royal office popular at home or respected abroad. The King himself, though a man of considerable intellectual ability, was a self-opinionated pedant, who believed that human nature could be deceived to an unlimited extent by forms and words.

The system by which he ruled France was a despotism of the middle classes, and it had not even the merit of being honest. Under this shabbily corrupt *régime* feeling was steadily ripening for the outburst of 1848, which led the way to another trial of Cæsarism, and finally to what seems likely to be permanent Republicanism.

In England itself the Monarchy was less popular than it had been at any time since the latter part of the seventeenth century. George the Fourth had thoroughly discredited the office. Although his offences were condoned by the fashionable world of the metropolis they were never really forgiven by the middle classes or by the masses, with whom, especially since Queen Caroline's trial, the King had been openly and bitterly disliked. How prevalent this feeling was, and how little attempt was made to disguise it, is shown by the outspoken comments of the *Times* when George the Fourth died. Without even making a pretence of conventional eulogium the journalists wrote with a frankness which, in these days, strikes us as brutal:—

"The truth is—and it speaks volumes about the man—that there never was an individual less regretted by his fellow-creatures than this deceased King. What eye has wept for him? What heart has heaved one throb of unmercenary sorrow? Was there at any time a gorgeous pageant on the stage more completely forgotten than he has been, even from the day on which the heralds proclaimed his successor? If George the Fourth ever had a friend—a devoted friend—in any rank of life, we protest that the name of him or her* has not yet reached us."

* The writer had forgotten Mrs. Fitzherbert.

We can measure the change of opinion since 1830 by endeavouring to imagine a respectable London newspaper publishing a statement of this kind on the very morrow of the death of a Royal personage, no matter what his character had been.

William the Fourth, though less open to hostile criticism than his brother, was not an impressive personality. He was honest, good-natured, self-indulgent, and rather foolish. The best that could be said of him was that he had done little harm, and that he had meant well by the country. The *Times* was kinder to him than to his predecessor, but it was openly contemptuous :—

> "All is now over. The good old King of England is relieved from earthly trouble—from mental anxiety, domestic and political—from bodily suffering, such as it was terrible to witness. Death has done its worst on what was mortal of King William, and the memory of his inoffensive nature will protect that portion of him, which bade defiance to death, from the shafts of human envy, vengeance, or malignity."

This was not exactly the kind of sovereign to raise the reputation of the Crown. In point of fact, when the Queen came to the throne, a large part of England was flagrantly anti-monarchical. Of the two great political parties, one was ostentatiously opposed to the Court and what it considered the Court faction. But outside the Whigs and the Tories there was an immense body of unenfranchised, but not inarticulate, opinion in the country, which was strongly inclined to republicanism; and by it the ancient constitutional monarchy of Great Britain was treated with unconcealed disrespect. The populace of London, which in recent years has become frantic in its demonstra-

tions of attachment to the throne, was in those days notoriously disloyal. Greville in his Diary, describing the wedding of the Queen, notes it as rather an agreeable sign that the behaviour of the people showed some amount of courtesy and interest.*

The change which has occurred in the intervening period is remarkable. The age covered by the reigns of Victoria and Edward VII has been an era of nation-building. The loose and shaky fabrics, which seemed tottering to their fall sixty years ago, have now in most cases become sound, water-tight, and stable structures. Many causes have combined to bring about these results; but it is undeniable that one of the most efficient factors has been the character and personality of the sovereigns who have occupied several of the European thrones during a greater or less portion of the period. After George the Fourth and William the Fourth, and Louis Philippe, and Francis and Ferdinand of Austria, and the two Frederick Williams of Prussia, and the unhappy individuals who finally discredited the thrones of the Spanish Bourbons, we have had Queen Victoria and King Edward of England, William the First and then William the Second in Germany, Francis Joseph of Austria, Victor Emmanuel of Italy, Alexander the Second the "Tsar

* "The Queen proceeded in state from Buckingham House to St. James's without any cheering, but then it was raining enough to damp warmer loyalty than that of a London mob. . . . Upon leaving the palace for Windsor she and her young husband were pretty well received." *Greville Memoirs*, vol. iv. chap. vii.

The Tories were specially disloyal. "They seem not to care one atom for the Crown," notes Greville on September 5, 1839.

Liberator" of Russia, Leopold the First of Belgium, King Christian in Denmark, Queen Christina in Spain, and the Emperor Mutsuhito in Japan.

Not all these august personages could be described without exaggeration as men or women of genius; but it is, I think, safe to assert that they have been gifted with some of the best and most useful qualities which a sovereign can have. They were all capable and courageous, they laboured for the interests of their respective countries with assiduity and zeal, and their personal character, in most cases, was such as to secure them the regard of their subjects. It happened also, by another happy stroke of Fate, that several of them lived to an advanced age, and that their reigns were prolonged far beyond the average span. There is, perhaps, no other station in life in which length of years is so palpable an advantage as in that of kingship. No one can doubt that the secular duration of Queen Victoria's reign was of the utmost political value to the British Empire. It took years before the people, either of Great Britain or Greater Britain, were weaned from the contemptuous toleration which they had extended to the last preceeding representatives of the Hanoverian dynasty.

The personality of the Queen was a real consolidating agency in the British Empire. While Downing Street was lecturing the Colonies, and while the colonists were still raw with the old sense of suspicion and distrust, there was a growing pride in the throne and an increasing attachment to the reigning family. The sense of a profound interest, and a kind of proprietorship, in the Courts at Osborne, Windsor, and Balmoral,

quickened by occasional visits of princes to India and the Colonies, did much to weld the widely-scattered realms together. The "bond of Empire" was not the Imperial Parliament, which the legislatures of the self-governing Colonies regarded with jealousy, nor the Imperial Cabinet, which they look upon as only one of the many committees that administer the several self-governing portions of the British dominions: but the Throne, as represented by a venerated Sovereign. There has been a most remarkable modification of the attitude towards the Royal prerogative. Colonial constitutionalists are now inclined even to exaggerate the powers of the Crown.* But we may well doubt whether there would be this contented acquiescence in the Royal supremacy, if the occupant of the throne during the latter half of the nineteenth century had been a George the Third or a George the Fourth. Unconsciously the colonial writers have generalised from the particular case before them, and have assumed that the head of an Imperial Realm must be such a one as Queen Victoria was, so virtuous in private life, so careful of her subject's rights in the conduct of public affairs.

This points to one of the regions in which the royal authority may perhaps be expected to increase rather than diminish. The King is the head of the Empire, and there is no other; for if the Prime Minister, or the Secretary of State, of the United Kingdom of Great Britain and Ireland is

* See Todd's *Parliamentary Government in the British Colonies*. Apart from its many other merits this standard work derives special value from the fact that the author was a distinguished Canadian publicist.

allowed to act as his responsible adviser in that capacity, it is only on sufferance. There is no disposition on the part of the Colonies to strengthen their relations with the English Cabinet and Parliament. The tendency is the other way. Federation, if its numerous difficulties could be surmounted, might give us a real "Imperial" Ministry and Council of State. In the meanwhile, the fact remains that, for administrative and political purposes, the Commonwealth of Australia, Canada, South Africa, New Zealand, are all but independent nations, linked to one another, and to the other members of the Empire, by the personal union of the Crown.

The Sovereign of England is not only the head of the Empire, but he is also the head of Society. The importance of this position was somewhat obscured through the retired life led by Queen Victoria for nearly forty years. Yet no judicious historian underrates the benefit conferred upon the nation by the Queen and Prince Albert in setting the highest possible standard of private and domestic decorum. The most exalted household in the land was the most exemplary and the best regulated. Great as the influence was which radiated from Windsor and Balmoral it might have been even more extensive if the Court had been closely in touch with the various elements that make up our social life. It is impossible, in any case, that the association of the Court with high society should fail to have a strong indirect influence upon politics. For in Great Britain, as in an earlier chapter I have endeavoured to show,* whatever may be the case in other countries, the connection between London

* See Chap. X. *supra*.

society and the business of Government is close and constant. Clever men and wealthy men go into Parliament, and aspire to an influential position there, very often in order that they may make good their footing in that circle to which nearly all the members of one House, and many of those in the other House, belong.

But of this circle the Court is the natural and official centre. Round it the whole social firmament revolves. That body of well-to-do persons, in whose luxurious life so many millions of other people are interested, is itself interested in Royalty. What the King and the Queen, and the other members of their family say, and do, and think, constitutes for them a kind of minor ethical code, a rule of manners, and conduct. If the King were not allowed to sign another proclamation, or to receive another report from his Prime Minister, this circumstance alone must continue to render him an active force in affairs.

Political action is not, and cannot be, limited to the making of laws and the management of the public departments. Denied the control of these matters, the Sovereign has been encouraged to pay attention to other branches of national activity. Art, literature, science, and the stage, he is expected to patronise with judgment. He has been permitted to assume the position of Chief Almoner to the nation, to be the directing mind in the sphere of charitable beneficence. Many of the great movements for improving the condition of the masses, for supplying them with better dwellings, hospital attendance, good nursing, and relief in distress, are supervised or inspired by the Royal Family.

The great constitutional statesmen of the Victorian period regarded this development of monarchical activity with complaisance. Government and law-making being the concern of ministers and Parliaments, it was thought that this outlet should be allowed for the royal energies. It was considered a harmless and tranquil region, undisturbed by friction and partisanship. But the play of natural forces cannot be easily controlled. This business of social amelioration is politics in the highest sense, and may be so recognised more clearly, with every fresh failure of "private effort" to fulfil the public needs. How the people are fed and housed is more important than how the people should vote.

To solve these and kindred problems, a policy, constructive and assertive, and perhaps attacking many interests and prejudices, may be evolved. The Sovereign's interest in social reform cannot always be limited to a vague benediction of the altruistic spirit. He may have to take a side, in order to assist the efforts of those who are trying to "make men moral by act of Parliament," which is likely to be among the main functions of the legislature, and of all executive authorities, in the future. And the nation might approve his programme even though it did not happen to be that of his Prime Minister.

Foreign Affairs.

That the Sovereign ought to exercise an extensive and direct influence over the management of foreign politics was not denied by the vindicators of Cabinet privilege in Queen Victoria's reign. Parliament has only a very limited and imper-

fect control over the treaty-making prerogative of the Crown; and it is admitted that in the exercise of this power by the ministry the Sovereign should participate at every stage. In the famous memorandum, written after Lord Palmerston's indiscretions in August, 1850, it was stated that the Queen required to be made cognisant of the details of negotiations conducted by the Secretary of State:—

"She expects to be kept informed of what passes between her and the Foreign Ministers, before important decisions are taken, based upon that intercourse; to receive the foreign despatches in good time; and to have the drafts for her approval sent to her in sufficient time to make herself acquainted with the contents before they are sent off." *

The Queen did a great deal more than merely advise and warn the Foreign Office during the earlier part of her reign. No doubt her authority was much exaggerated by her Royal relatives and connections abroad, and by foreign potentates generally. Yet there were occasions when she intervened directly with important results. It was at her request—on the suggestion and by the advice of the Prince Consort—that the peremptory despatch, originally drafted by Lord John Russell on the *Trent* affair, was so softened and modified that it could be accepted by the United States Government without loss of self-respect. Many well-informed Americans † believed that but for this action of the Queen and the Prince it would scarcely have been possible to avert a war. Nor can it be doubted that the Queen's visits to Louis Philippe, in 1843 and in 1845, had

* Martin, *Life of the Prince Consort*, ii. 306.

† See the statement of Mr. Thurlow Weed in Martin, v. 424.

much to do with promoting, and maintaining, the *entente cordiale* between Great Britain and France during this troubled period.

We have had a later example of the emollient effect on international relations of Royal attentions. When King Edward VII. came to the throne, Great Britain, in consequence mainly of the feeling aroused by the war against the South African Republics, was very coldly regarded in nearly all the European countries, great and small. The King paid a series of visits to various continental courts and capitals, and it was presently seen that the whole situation had altered. The *entente* with France was restored, and a valuable convention arranged for the settlement of outstanding questions between the two Powers. The ancient amity with Italy and Portugal was revivified; a good deal of the friction which had insensibly grown up between England and Germany was removed, and an Anglo-German Treaty of arbitration concluded. There is no warrant for assuming that the diplomatic formalities were transacted otherwise than in the regular course between Downing Street and the various foreign Cabinets. But no doubt has ever been entertained, or expressed, as to the part played by the King's courtesies in bringing about the results. International alliances and arrangements are not merely an affair of protocols. They derive their force from public sentiment; and on this a Sovereign can work more easily than any ministry.

Foreign affairs are likely to become more, rather than less, important in the future, and the change will not diminish the influence of the Crown. During the period between the accession of

George IV. and the death of Queen Victoria, international politics, though at times exciting enough, were on the whole less absorbing than domestic legislation. This is the special sphere of Parliament and of a parliamentary Cabinet. It is a region from which the Crown must keep clear, for fear of becoming entangled in party politics. But foreign policy is the concern of a nation as a whole. Parliament cannot be constantly in touch with it, and no statesman can have that delicate personal relationship with ruling dynasties abroad on which so much depends.

The causes which tend to support the monarchical principle may be offset by the rising tide of opposition to all privilege and inequality of status, perceptible in most countries, even in "deferential" Britain. There is no active republicanism; but there is undoubtedly a feeling that hereditary rank, and advantages of any kind which are the mere accident of birth, are somewhat irrational. The throne is likely to feel the shock of this levelling impulse, far later than the aristocracy or the plutocracy. But the old jealousy of royal ascendancy, though dormant, might easily be revived. No wise Sovereign would take any step that would induce his subjects to examine the foundations on which the mysterious institution of kingship is based, or to reanimate controversies which for long have seemed to bear only an historic interest. If the monarchy gains, as perhaps it may, a certain accession of influence and even of direct authority, the result will come about naturally and insensibly, and rather by the irresistible pressure of events than by any personal initiative.

CHAPTER XVI

ASPECTS OF CHANGE

REPRESENTATIVE Government, like the constitutional Monarchy, is still on its trial. The problems before it are novel, and it has yet to prove its complete capacity to deal adequately with them. In England we have a set of conditions, which are, at present, without parallel elsewhere, and have never found their exact analogue in the past. There have been great Empires, and there have been great Democracies. But we alone have essayed the experiment of combining the two, and vesting the control of territories scattered over the world and of a vast subject-population, in the committee of a representative chamber elected by the popular vote.

The Imperial Parliament is—nominally and legally, at least—the sovereign authority in the Empire. It is also the sovereign authority, in the same sense, of the United Kingdom of Great Britain and Ireland. Its executive is supposed to manage the public business of forty-five millions of English, Scotch, Welsh, and Irish people, in a group of European islands; it is the quasi-despotic ruler of hundreds of millions of Asiatics and Africans; and it is understood to direct the common affairs, and the international relations, of a loose

confederacy of self-governing communities under the British Crown. It is asking too much of human nature to suppose that a single set of officials should cope with all these duties, or that a single "big public meeting" should see that they are adequately performed.

Devolution.

The separation of imperial, from purely local, functions seems the obvious method of relief. Whether the former can be handed over to a true Imperial Council, in which all the states and territories of the Empire shall be represented, is an interesting question. It remains, for the present, purely academic. Much has been written and spoken of Imperial Federation during the past thirty years. It has been the ideal of some able statesmen, and the goal towards which many, who take pride in the Empire, hope that we are tending. But it cannot be said that any practicable scheme has yet been formulated, nor that the movement has so far roused an enthusiastic sentiment, among either the democracies of the Colonies or the electorate in the Mother-Country.

Even without waiting for the establishment of federal institutions on the imperial scale, the attempt may be made to render the central Legislature more efficient by releasing it from some of its burdens. The House of Commons is not so much overworked, as overwhelmed, by the multiplicity of its nominal duties. No other legislative body in the world—none of which history has given us any account—had to attend to so many things, at once so weighty and so trivial. We are endeavour-

ing to get our one Legislature to do that which, in Germany, in the United States, and even in Canada and Australia, is done by many Legislatures. There is no distinction between great and small: between subjects merely local and transient and those of imperial and enduring importance. The same steam-hammer is raised and lowered to break an egg or to pound an armour-plate. An Act to alter the succession to the Throne, or to legalise slavery, would be prepared by the same machinery, and it would go through the same stages, as one empowering District Councils to examine milk-pails.

The members of the House of Commons, in their casual hours of comparative leisure, are expected to discuss the high policy of an Empire greater than that of Alexander, Charlemagne, and Napoleon Bonaparte, taken together. From a famine in Asia, a campaign in Africa, they turn to a row with the police in Ireland, a squabble with the Post Office in London. The men, who on Monday afternoon are holding in their hands the issues of peace and war, and pronouncing a decision that will change the course of history, may on Tuesday be dividing over tramways in Camberwell or gas-works in Gravesend.

The difficulty and the danger are present to the mind of many able public men. Such expressions as the following are not uncommon:—

"To the thoughtful Imperialist there appears to be great and growing danger that the working classes of this country may be thrown into an attitude of hostility to the Empire, by the absorption of so large a proportion of the time of the House of Commons on Imperial questions and the failure to give adequate attention to those questions which affect

them in their homes. To the determination that these questions shall be adequately considered is due the rise of a Labour party, which will almost certainly be much more numerous in the next Parliament than in this." *

The tendency is to find a remedy in the method known as Devolution—that is, devolving internal business upon national or provincial councils. The Imperial Parliament would devote itself to those things which are really imperial, such as the Army and the Navy, international trade, and the mutual relations of the various constituent states of the Empire. Purely local affairs would be delegated to purely local assemblies.

This proposed creation of National Councils would be no more than an extension of the principle of subordinate government. Just as the city of Glasgow, for instance, is entrusted by Parliament with the management of certain matters which directly affect its own area, so the inhabitants of that part of the United Kingdom called England, or that part called Scotland, would have their own legislature, empowered to make local statutes or by-laws, and their own executive committee. The model is that of the federal constitution of Canada in its relations with the provincial governments. Under the Dominion Act of 1867 there is no such assertion of state-rights as is embodied, either in the American Constitution, or in the Australian Commonwealth Act. In Canada only those powers are exercised by the provinces which have been expressly granted by statute; all other rights and functions belong to the Dominion. Under

* Mr. T. A. Brassey, in the *Times*, July 6, 1904.

any feasible system of devolution in Great Britain there could be no question as to the Imperial Parliament retaining its sovereignty. It could not surrender the right of revising any law of the provincial authorities, or that of revoking such powers as it may have granted them.

There is nothing revolutionary in the proposed change. It is, in fact, the natural development of the system of local government, which we have been gradually building up through the municipal corporations and the county councils. Our legislation has long recognised a common identity of interests, among the peoples of each of the respective nationalities which constitute the kingdom.

The separate interests of Scotland have been acknowledged, in the Acts of 1885 and 1887, by the creation of a Scottish Secretary of State, to whose department has been transferred all purely Scottish administration, and by a separate system of procedure in Scottish private legislation.*

In Ireland we had already gone much further long before the Home Rule Bill of 1912 was introduced. The Irish Agricultural and Technical Instruction Act of 1899 creates a statutory Council of Agriculture for the whole of the island. This board, which is partly nominated and partly elected by the County Councils, exercises a variety of functions conferred upon it by Parliament; and it is worth noticing that the Act empowers the Government to transfer to it by Order in Council

* An adaptation of the Scottish system to Wales has been recommended by the Select Committee, appointed in the Session of 1904 to consider the question of Welsh Private Legislation procedure.

any other suitable administrative powers held by any public department in Ireland.

This important statute practically concedes the principle of devolution. If Parliament can devolve upon one National Council the control of waste lands and inland fisheries, it could similarly delegate to the same body, or to others, the supervision of education, local government, locomotion, the poor law, the control of licensing, telephones, railways, factories, and workshops, and private-bill legislation.

The relations of the subordinate to the paramount legislature and executive should present no difficulty with the experience of foreign countries, and our own colonies to guide us. Some of the most energetic and advancing communities in existence, such as the United States of America, the German Empire, the Dominion of Canada, and the Commonwealth of Australia, are organised on the basis of a separation of local and central functions; and we are justified in inferring that the progress of these countries is due, in part at least, to the suitability of this method of government for societies in a high state of industrial development.*

The advantages claimed for this long-foreshadowed change are that it will set free the Central Parliament, and give it leisure and energy to attend steadily to imperial interests. The House of Commons will gain in dignity, as well as efficiency, if it is in a position to discuss these large questions, without being harried and disturbed by the constant pressure of minor legislation. On the other hand, the various National Councils would be able to devote

* See the admirable discussion of the whole subject in Hollands's *Imperium et Libertas*.

themselves, with undivided aims, to those subjects which intimately concern their constituents, without being involved in the vortex of general party politics.

It has been seen that measures of social reform, or of merely municipal interest, cannot be considered on their merits, because the fate of a Cabinet and the destinies of the Empire may be associated with them. In the course of the Session of 1901, when vital issues of war and peace were engaging public attention, the House of Commons was invited to discuss, for several hours, the propriety of allowing the London County Council to run tram-cars along the Thames Embankment. The proposal might have been right or it might have been wrong; but it was surely ridiculous that the supreme Legislature of the Empire should have been compelled to meddle with it at all, in the midst of its graver preoccupations. Mention has been made above of the debate, in the same session, on the agreement between the Postmaster-General and the National Telephone Company, when an amendment, brought forward by the supporters of the Government, was defeated because it was treated as a vote of censure.* If the matter had come before a Provincial, instead of an Imperial Parliament, it is possible that an English Ministry might have been overthrown upon it; but London members would at least have been able to condemn a piece of departmental mismanagement, without incurring the odium of being called pro-Boers.

It has long been evident to many observers that systematic devolution would go far to deal with the standing difficulties of Irish administration

* See Chap. VIII, p. 148, *supra*.

without really paving the way for secession or separation. The establishment of a strictly subordinate Provincial Legislature is not in any way opposed to the principles of national unity. It was indeed the remedy suggested by leading members of the Unionist party before Mr. Gladstone brought forward his more revolutionary proposals in 1886. There is little doubt that Lord Carnarvon during his Viceroyalty in 1885, and Lord Randolph Churchill in the House of Commons, were actually considering a measure of this kind.

Mr. Chamberlain, in the Home Rule debates of 1886 advocated the Federal method. "I say," he declared, "that in my view the solution of this question should be sought in some form of Federation, which should really maintain the Imperial unity, and which would at the same time conciliate the desire for a national local government, which is felt so strongly by the constituents of Irish members opposite." And he suggested as an alternative to the Gladstonian policy "the present Constitution of Canada—not, however, in the relations between Canada and this country; those are the wrong lines, and lines against which I protest, and which mean separation—but in the relations *inter se* of the Provinces of Canada and the Dominion Parliament. Those are the relations which I for one am perfectly prepared to establish to-morrow between this country and Ireland." Similarly the Duke of Devonshire :—

"The necessities of the case are not limited merely to the creation of County Boards or Municipal Councils. But some larger provincial, perhaps even national, organisations and co-ordination of local authorities, may be required in England,

Scotland, Ireland, and Wales. When that time comes, let Ireland share in whatever is granted to England, to Scotland, or to Wales. But when it comes it will, in my opinion, be the outgrowth of institutions which have not yet been created."

Their creation may perhaps be deemed within reasonable distance. The setting up of a National Council has been advocated by a party among the Irish landlords and "loyalists" themselves, not as a preliminary to Home Rule, but because they hope it will prove an antidote to the larger Separatist agitation.*

* "While firmly maintaining that the Parliamentary union between Great Britain and Ireland is essential to the political stability of the Empire and to the prosperity of the two islands, we believe that such union is compatible with the devolution to Ireland of a larger measure of local government than she now possesses. We consider that this devolution, while avoiding matters of Imperial concern and subjects of common interest to the kingdom as a whole, would be beneficial to Ireland and would relieve the Imperial Parliament of a mass of business with which it cannot now deal satisfactorily, and which occupies its time to the detriment of much more important concerns" (*Manifesto issued by the Irish Reform Association*," August 30, 1904). The organising Committee of the body included Lord Dunraven, Lord Louth, Sir Algernon Coote, and other noblemen and gentlemen connected with the ownership of Irish land.

Simultaneously with the appearance of this statement Mr. Lloyd George, as leader of the Welsh members in the House of Commons, put forward Devolution as the chief item in the political programme of his party: "Wales wants to get on with its national work, and it finds itself delayed and hindered at every turn by the interference or actual hostility of a Parliament knowing but little of the local conditions of which the Constitution has made it the sole judge." *Independent Review*, September, 1904.

A Foreign Affairs Committee.

With, or without, Devolution, something might also be done to confer on Parliament a closer supervision over the management of external affairs. It has been shown that the opportunities of the private member of Parliament to intervene in these matters are even more restricted than in other departments of policy. He can, of course, question ministers; but if the Minister answers evasively, or declines to answer at all, on the plea that to do so would be detrimental to the national interests, the questioner is helpless. He can call attention to the subject in Committee on the Estimates, or even, if he pleases, move a regular Motion in the full House. But this in either case, if he is seriously supported by his party, would be equivalent to a vote of censure, "You do not happen to approve of a particular step we have taken," Ministers might say, and practically do say, to their followers. "Very well; but recollect that, if you join Mr. Blank of the Opposition in saying so, we may have to go out of office, and you know what that means. How will your constituents like you to jeopardise the 'Programme' you were sent up to support, because we have drawn a wrong boundary in Asia, or sacrificed some leagues of swamp and desert in Africa?"

The argument is strongest when applied to foreign policy, because here the private member has the least certainty that he is right and that his leaders are wrong, and he knows, at any rate, that he would have the greatest difficulty in persuading his constituents that his motives have

been patriotic and his action prudent. Besides, he is aware that it is hardly possible for him to have all the facts before him. The solemn ministerial hint about information, which is vitally important but cannot be disclosed, is one not easily waved aside. It may be, and often is, a mere pretence; but, on the other hand, it is frequently quite genuine.

No Government can carry on important negotiations with success, or act with the swiftness and decision which diplomacy may occasionally require, if every step taken has to be submitted to a public assembly and reported in the public press. Even blue-books cannot tell everything; and the real history of some of the most complicated transactions of our time may be sought in vain in the official papers laid before Parliament. It will not be known in its completeness till private letters and memoranda and confidential documents, not likely to see the light in our generation, are published. It is, indeed, very obvious that the conduct of foreign policy must be in the hands of a small and private body. It cannot be entrusted to a popular chamber. A fool, or a coward, Macaulay says, has sometimes commanded an army with success; but a debating society, never. And if this be true of war, it is equally true of that veiled conflict of nations which is called diplomacy.

But the present system is obviously very little in harmony with the spirit of representative government. We are almost as much at the mercy of two men, so far as foreign policy is concerned, as if we were the inhabitants of a continental country, where foreign affairs are

personally directed by a quasi-autocratic Emperor and a Chancellor not responsible to Parliament. The long and successful tenure of the Foreign Secretaryship by Lord Salisbury, coming at a moment of transition, did something to stereotype the practice. When Lord Salisbury left the Foreign Office in 1892, Lord Rosebery entered it, as "Prime Minister for Foreign Affairs," with an understanding, accepted by both parties, that he was not to be interfered with in the conduct of his department. Thus there was more one-man rule; and it was hardly broken by the retirement of Mr. Gladstone, since it was known that Lord Rosebery continued to act as a sort of superior Foreign Minister or Imperial Chancellor of State himself, even after his former office had been transferred to Lord Kimberley. When the Liberals returned to power in 1906 the tradition was revived; and it was steadily maintained under a Foreign Secretary, who had the confidence of the Opposition as well as of his own friends, and was so persistently supported by the majority of both parties that his policy was rarely criticised and not often seriously discussed.

When the Foreign Secretary is a peer it will frequently happen that the Foreign Office will be represented in the House of Commons by a young gentleman, of ability indeed, but of no great experience or authority. It would appear that in such a case it is not deemed necessary to set a statesman of weight and influence to advise with the People's Chamber on foreign policy. It is enough to have there a fluent and accomplished young official to act as the transmitting agency from the greater powers above, and to convey with neatness

and point such limited information as it is thought occasionally desirable for the nation's representatives to possess.

That the direct management of foreign affairs should remain in the hands of responsible ministers, need not be disputed. Parliament, however, might be admitted, to some extent, to their confidence. In more than one foreign country, this has been attempted. In France, the bureaux of the Chamber are almost executive bodies, and their activity, and the continuity of policy they are able to secure, do a good deal to counteract the administrative instability produced by frequent ministerial changes. In America the control of foreign policy is one of the special functions of the United States Senate. The Constitution allows the Senate the right to confirm or reject all engagements made with alien Powers. Its Committee on Foreign Relations is regularly informed of every important step taken or meditated by the Executive. The Committee sits with closed doors, so that difficult negotiations are not likely to be embarrassed by being prematurely divulged.

This Committee can do two things. In the first place, it can remonstrate with the President if it considers that his ministers are taking an impolitic step. Thus it can bring to bear, not indeed the whole weight of a popular assembly, but that of some of its most influential representative members, on the conduct of foreign affairs. And, secondly, it can act as a link between the Executive and Congress, and can provide that the two authorities are in touch with one another. Since the American Constitution requires that all treaties and interna-

tional conventions must be ratified by the Senate, it is necessary that this Chamber should be seised of their purport and meaning before they are provisionally concluded.

There is something to be said for constituting a similar Committee on Foreign Relations in the Imperial Parliament. There might be one for the House of Commons and one for the House of Lords or other Second Chamber; but probably the better arrangement would be to form a joint Committee selected from the two Houses. The Committee should be a small one—say twenty members, of whom twelve might be chosen from the Lower Chamber and eight from the Upper. It would include members of both parties, and would be appointed, not for the session but for the duration of the Parliament. It would not be in any sense an executive body: that is to say, it would not be supposed to take the actual conduct of foreign affairs out of the hands of the Cabinet. Its functions would be to advise, to discuss, to investigate, and generally to act as the eyes and ears of Parliament, where its particular department is concerned. It would sit with closed doors, and *its divisions should not be made public.* This last-named provision, in which the proposed conclave would differ radically from the existing Grand Committees, is of the utmost importance. Deliberating *in camera*, the members of the Committee would be able to express their independent opinions, and would not be afraid (since they would neither jeopardise their own individual position nor that of their party) to oppose their leaders, if they deemed opposition necessary.

Such a bureau should have power to call for papers, documents, correspondence, and drafts of conventions and agreements with foreign states, before these were laid upon the table of the House; and it would be entitled to request the Secretary of State, or his immediate subordinate, to explain the details of the policy which the Government proposed to pursue. The Cabinet would be under no compulsion to adopt the opinion of the Committee. But when ministers differed from it, they would do so under a grave sense of responsibility; for they would have the full knowledge that this weighty little council, composed of the most competent and influential private members of both chambers, was against them. On the other hand, Parliament and the country would have more confidence in the conduct of the most critical department of state, if they knew that its intricate and mysterious recesses (necessarily mysterious so far as the mass of the public is concerned) had been explored by a comparatively impartial, and reasonably well-informed, body of investigators.

The objection to any such arrangement is that it might interfere with the secrecy desirable for the conduct of international negotiations. A secret told to twenty persons, it is said, is a secret no longer. But, as a matter of fact, the most confidential matters are frequently discussed in cabinet councils, and the risk that they will be prematurely divulged is considered so slight that it is habitually disregarded. Moreover, it may be urged that the occasions when absolute secrecy and silence must be maintained are not numerous, and possibly it would be no bad thing if they were lessened. A

Cabinet, supposed to lie under the obligation of vindicating its conduct before a representative Assembly, should be given as little temptation as possible to enter upon concealed conventions and private understandings. Its opportunities would not disappear absolutely. The Secretary of State might refuse information to the Committee, as he now does to the House, in the alleged interests of the public service; but the Committee would be in a far better position than the House to decide whether the excuses were genuine or not.

It would be foreign to the purpose of these chapters to discuss the larger problems which a ruling Democracy may have to face, when it is concerned not so much with the government, as with the organic life, of the community. We live in an age of change, of scepticism, and of scientific inquiry. In all the civilised and progressive societies of the world thoughtful people are asking themselves whether their political institutions are suited to the conditions of modern existence. It is recognised that the art of government has not kept pace with the march of knowledge and scientific effort in other fields. Social change and industrial evolution have moved in the past few decades at a rate unequalled during any period of which we possess the records. Small wonder if the political organism has not adapted itself to this breathless advance.

England is not the only country where it is felt that politics is no longer a business for the well-meaning, public-spirited person, endowed only with an exceptional allowance of vanity or leisure.

With us the tradition will not easily be broken

down. There is no liking for the professional politician. Yet it is seen that administrative and legislative functions cannot be discharged, in a complex society, without something more than good intentions and a respectable character. The finest trained intellects are needed for the nation's service. Can it be said that the nation gets them?

Modern industrial communities have so far not been very successful in bringing to bear on the work of government any large share of the talent which has been devoted to science, commerce, learning, and finance.

The great and sudden increase in the number of Labour members at the general election of 1906 was symptomatic of a change which might have been anticipated. There may be a further enlargement of this group, or it may be weakened by the growth of an obvious tendency on the part of the trade-unions to substitute direct action by their own organisations for legislative intervention. In any case the Labour member must have his place in an assembly which should represent all classes, and express the feelings of every section of society. But while some of these working-class politicians have shown themselves men of exceptional capacity, it is not evident that they will generally bring into our public life that kind of trained intelligence of which it stands most in need. The education supplied by the workshop and the trade society is useful, and so is that of the polo-ground and the hunting-field; but both require to be supplemented by qualities which are not usually acquired in either school.

A great urban constituency could find abundance of varied knowledge and proved ability among its

merchant princes, its masterful captains of industry, its shrewd traders and financiers, its accomplished professional men, its managers, foremen, and highly-skilled artisans and craftsmen. It seems strange that such a microcosm, with its multifarious activities and interests, when it is appointing a representative to the highest council of the nation, should be asked to choose between a middle-aged man of fashion, who never did a week's real work in his life, and a day labourer, who cannot write a grammatical letter, and could not read a serious book. Both may be honest and well-meaning, and even capable; but the one is frivolous, and the other ignorant; and you could hardly throw a stone in the High Street of the town in the middle of the day without hitting a person who would make a better Member of Parliament than either.

It has been pointed out above that the apprehensions of the opponents of Democracy, as to the consequences of the franchise extensions, have not been altogether justified. Sir Henry Maine was greatly afraid of the uninstructed masses and of the presumed "opposition between democracy and science." * But the intellectual difference between the patron and the client, between the governing class and its *protégés*, is less wide than when these suggestions were made, and it is growing narrower. A modern M.P. may be no better equipped, in the things that make for the understanding of practical

* *Popular Government*, pp. 37, 189, &c. Maine refers, with approval, to M. Paul Bourget's remark in *Essais de Psychologie Contemporaine*: "Il est possible, en effet, qu'une divergence éclate entre ces deux grandes forces des sociétés modernes: la democratie et la science."

affairs, than his own chauffeur, or perhaps even his own butler. The distinction is not so much between classes as between individuals. The space that separates the politician from the skilled mechanic may be considerably less wide than that which divides both from a professor of physics, on the one hand, and a bricklayer's labourer, on the other.

Politics never was a monopoly of highly-educated persons. It is not a finished culture that is required, but a general grasp of affairs, and a vigorous, practical comprehension of the conditions which regulate the relations of individual, classes, and communities. The men who were put into the Parliaments and the Cabinets of the nineteenth century were in many respects well fitted to deal with problems that were predominantly political and legislative. But in the future the forces of the state seem likely to be directed mainly into two channels of activity. A constant attention will necessarily be devoted to what are called imperial questions, and to all that concerns the situation of the Empire, as one of a family of powerful, well-developed, and self-assertive nations. This is the business of statesmanship; and it needs not only judgment and firmness of character, but special knowledge which cannot be acquired without study and reflection.

In domestic affairs, another group of subjects will call for attention. Reform has a different meaning at different periods. It is no longer the concession of political power to the body of the people, the abolition of class and religious privileges, the freeing of industry from fetters, and the emancipation of trade. The future will have other cares.

Governments and Parliaments will be compelled

to occupy themselves more closely with tariffs and commercial policy, with industrial organisation, with education and scientific research, with public health, transport, municipal enterprise and control, and with all that concerns the social well-being of the people. The revolution—for it is nothing less—by which the weight of population has been shifted from the villages to the towns has been allowed to run its course almost unnoticed. The problem faces the rulers and thinkers of all civilised communities.* But it is most insistent in Great Britain, where already four-fifths of the inhabitants live in urban or suburban areas; and its solution calls for a high level of public virtue, for sympathy, good sense, and wide intelligence.

The governing class has, with some exceptions, not thought it necessary to take up this duty. It leaves it to be dealt with by local boards, largely composed of small shopkeepers. "Society," deeply interested in Parliamentary politics, has treated municipal affairs with well-bred contempt. Parliament itself, while it does nothing to raise the standard of personal efficiency in the municipal bodies, has systematically enlarged their powers and increased their responsibilities. Perhaps, under a system of devolution, the old organic connection between the local and central government may be restored; † and able and ambitious men, trained

* "Our civilisation has become urban within the present generation, almost without our knowing it." Godkin, *Unforeseen Tendencies*, Introd., p. vi.

† "The humble processes, by which men had made their by-laws in the manorial courts and amerced the offenders; by which they had assessed the estates or presented the report of their neighbours; by which they had learned to work with the

to administration in their borough councils and county councils, may ascend to the provincial, or the national, assemblies, and so at length gain a place in the supreme Parliament of the Empire.

The stability of our institutions may be exposed to tests more searching than any they have recently had to encounter. Englishmen, for more than a hundred years, have been able to keep their politics clear of all the deeper issues that touch on ethics, on theology, on religious doctrine, on the relations of the individual to his own soul, and to the visible, and the spiritual, universe. Man, regarded as a "political animal," has been the chief, almost the exclusive, object of interest in our legislation. This convenient simplicity may not be maintained. Man is many things besides a political animal. The problems and the controversies which, in one form or another, have run through European history, are still vital; and we have only to look across the Channel to see how easy it is to bring them back to the political arena. Even in the whirl of adventure and material prosperity a nation does not wholly lay aside the memory of the passions and troubled emotions of its past.

And if we should still be spared such anxieties, there are others we are not likely to be spared. Representative government and modern industrialism have not as yet harmonised the political and the economic forces. Throughout recorded history,

judges of the King's Court for the determination of custom, right, justice, and equity, were the training for the higher functions, in which they were to work out the right of taxation, legislation, and political determination on national action." Stubbs, *Constitutional History of England*, i. 623.

power and wealth have seldom been dissociated; the ruling class was usually that which owned property or held the land.* Under parliamentary institutions and a wide franchise political sovereignty rests with the unendowed multitudes. If they choose to put forth the strength with which the laws have clothed them they hold the riches of the rich, the amenities of the favoured few, at their mercy.

In other ages the fortunate minority have usually lived in their own world apart, shut off by barriers, physical, moral, or racial, from the masses. With us it is otherwise. During the short London season, one may witness, on any warm summer evening, a scene of strange significance. In front of some opulent mansion a long train of carriages and motor-cars will be in waiting after a fashionable entertainment. The opening doors reveal glimpses of sumptuous light and colour, the sparkle of gems on the bare shoulders of women, the shimmer of silk and velvet under the softened radiance of the electric lamps. Outside, on the pavements, clustered about the carriages, so near that they could touch the departing guests with their hands, there will be a little crowd of quietly interested onlookers. Some of them are late workers, going homeward after their day's toil, poor hard-wrought people, to whom a single glittering stone, from one of the circlets uncovered before their eyes, might be worth the pain of a laborious year. "*En effet ils*

* "The great and brilliant achievements of history are wont to be accomplished at times when economic organisation has rested on the same foundations as political power and order." G. Schmoller, *The Mercantile System*.

sont des hommes," wrote La Bruyère, in his bitter sketch of the French peasantry of the old *régime*. They were men, but they were not voters. Our modern wealth, kindlier, more self-restrained, less arrogant than in the past, yet lives under the curious gaze of a giant, always armed, and sometimes hungry. Democracy in England has not used its powers: it has, indeed, scarcely been conscious of them. But that is due to circumstances and conditions, which are not sempiternal, and may not much longer endure.

Whatever difficulties may lie before us, we can be allowed to hope that they will be met by those processes of adaptation and adjustment with which the survey of our annals has made us familiar: if there are great changes to come that they will be accomplished under the ancient usages, and through the established methods of traditional legality. In the foregoing pages it has not been deemed necessary to treat the Constitution with the undiscriminating adulation sometimes bestowed upon it: as though it were the perfection of human wisdom and prescient design, whereas in many of its parts it is no more than the result of fortunate chance and temporary expedient. But it enshrines within its being the principle of Life and the principle of Law. Its capacity for growth, its rhythmical flexibility of movement have not left it; and we may trust that its venerable forms, and salutary conventions, will prove equal to the rending strain of social reorganisation in the future, even as they have withstood the shocks and tempests of political reconstruction in the past.

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