REPRESENTATIVE GOVERNMENT IN ENGLAND

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ITS FAULTS AND FAILURES

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INTRODUCTION.

THE value of a remedy depends very much upon the facilities for obtaining it, and the promptitude with which it can be applied. A remedy which is obtainable only by great effort, or at great expense, or after long delay, is a comparatively useless one; and if this be true of a remedy in the ordinary sense, much more is it true in the legal or constitutional sense. A legal remedy is not only negatively useless, but, to all who cannot avail themselves of it, positively injurious. A remedy in the constitutional sense stands in the same relation to the nation as a legal remedy to the individual; and if it be wrong to deprive an individual of his legal rights it is equally wrong to deprive a nation of its legislative rights. Nay, the nation, or the majority of a nation, which cannot apply a constitutional remedy for a social wrong, suffers an injustice greater in proportion as the

aggregate of units composing that majority is greater than the individual unit. Whether laws are made for the people or by them, whether they are the expression of the will of the select few or of the majority, there should be no difficulty in promptly providing them whenever they are required ; there should be no failure of justice by costly and tedious preliminary proceedings ; no friction in the legislative machinery, which should move smoothly, noiselessly, and expeditiously in the work of producing adequate measures for acknowledged national grievances. Wise legislation should be prompt, not dilatory ; it should provide remedies for prospective as well as for existing evils ; it should, in fact, be preventive rather than curative in its aim and tendency.

Not so has legislation proceeded with us in the past. The history of British legislation is a record of wasted forces and disappointed hopes, of party wranglings and mangled measures. The work accomplished has been in an inverse ratio to the time and labour expended upon it. There has been a maximum of friction and a minimum of results. Parliament has responded languidly to the wishes of the nation. It has seldom acted promptly and decisively. It has never done to-day what it could put off till to-morrow ; and what it has done, it has done grudgingly. Piecemeal legislation has been the rule rather

than the exception. Reforms have come by instalments rather than in the lump. Questions have been compromised rather than settled. Nor can it be said that the country has been satisfied with the manner in which Parliament has done its work. No doubt there have been times when there was little or no demand for the redress of grievances, when there was no agitation for reforms. But it does not follow that there were no grievances to be redressed, that no reforms were required. In periods of great prosperity we seldom hear of any kind of agitation. During the fifty years of Whig rule in the last century, and especially during the twenty-one years that Walpole held office, the country was quiescent. But quiescence is not contentment. Quiescence may be the result of indifference, of disappointment, or of despair. The nation was quiescent after the passing of the Reform Bill of 1832, but any one acquainted with the history of that period knows that the country was bitterly disappointed with the reformed Parliament. The people were quiescent after the collapse of the Chartist movement, but this was because they saw how utterly hopeless was the attempt, as Parliament was then constituted, to carry any one of the numerous reforms that were required.

The amount of labour required to carry a reform through Parliament is something enormous. No

matter if the measure placed before it were obviously proper and necessary, every obstacle is put in the way of carrying it. There never was a subject that more urgently demanded the attention of the Legislature than parliamentary reform, before Earl Grey carried his Reform Bill. The evils complained of were notorious and scandalous. A majority of the seats were in the nomination of ministers of the Crown, of the territorial magnates, or of the resident gentry. It was asserted that upwards of 97 members of the House of Commons were actually nominated, and 70 more indirectly appointed by peers and the Treasury, and that ninety-one commoners procured the election of 139 more. The facts were not disputed; they were almost universally acknowledged to be indisputable. Yet to abolish this iniquitous state of things required an amount of outside pressure, of moral and physical display of force on the part of the people, that is difficult to comprehend at the present day. Parliamentary reform had been forced on the notice of the Legislature by long and persistent agitation out of doors, and from the day when the Reform Bill was introduced into the Commons till it passed the Lords, the whole nation was kept in the wildest state of excitement. Public demonstrations in favour of the bill were unprecedented in extent and unanimity. It would

have been impossible for the people to declare more emphatically for any measure than they did for this. Everywhere the country was unanimously in favour of it, and gave expression to its feelings in no half-hearted way. There were mass meetings, tumultuous assemblies, and riotings all over the country. At Birmingham from 150,000 to 200,000 people assembled and declared unanimously in favour of the measure, and at other large centres of population public meetings were proportionately numerous, enthusiastic, and unanimous. A deputation, numbering 60,000, consisting of delegates from every parish in the metropolis, presented a petition to the king in favour of the bill; the City council petitioned the Commons to refuse supplies till the bill was passed through the Lords; the same prayer was received from Leeds, Birmingham, Manchester, and almost every town in the kingdom. When the bill met with opposition in the Lords, public indignation vented itself in numerous acts of violence in various places. There were riots in Bristol, Derby, Nottingham, Bath, Worcester, Coventry, Warwick, and other places; the military were called out, and many lives were lost before the riotings could be suppressed. But nothing could damp the enthusiasm of the country. For a while the Reform question occupied public attention to the exclusion of almost everything else.

Business was at a standstill ; nothing was talked of but the prospects of the bill. Even women and children took up the question of reform. Every one felt as if a great national crisis were impending ; and Mr. Molesworth, in his history of this period, has declared it as his conviction that if the Lords had rejected the Reform Bill, there would have been a revolution that would have changed the whole course of English history.

Nor has legislation proceeded much more smoothly under a reformed Parliament. The Chartist agitation of 1838–39 caused nearly as great a ferment in England for a while as did the Reform Bill. The mass meetings, strikes, and riotings of 1832 were repeated, though on a somewhat smaller scale. The agitators were thoroughly in earnest, and showed by many acts that they were capable of self-sacrifice. There can be no doubt that the great majority of the people were on the side of the reformers, and the movement might have succeeded had it been in abler hands. The agitation suddenly collapsed, and not one of the many reforms demanded was advanced a single step by a movement which produced an amount of excitement unparalleled in recent times. Yet there was nothing ridiculous or even unreasonable in the demands of the Chartists. Four out of the six reforms which they demanded have since been conceded, wholly or partially, by Parliament, namely,

vote by ballot, the abolition of property qualification for members, equalization of electoral districts, and manhood suffrage; and the shortening of the duration of Parliaments, or something equivalent thereto, will doubtless follow before the end of the century.

But the expenditure of labour in abortive attempts at reform has been small when compared with the time wasted upon them. At the present rate of progress it is questionable, indeed, if the generation now living under the British Constitution will be able to enjoy the fruits of any great measure they may set their hearts upon carrying. It is certain, at all events, that very few of those eminent men who devoted their lives to some great reform, lived to see it embodied in law. This may seem small encouragement to patriotic men to labour in the public service, but it is true nevertheless. It took a whole generation to accomplish Catholic emancipation. Mr. Wilberforce devoted a long life to the abolition of slavery, and hardly lived to see it accomplished. The reform of our brutal criminal code was the work of more than a quarter of a century. It took half a century to carry the abolition of religious tests at matriculation and graduation, and to establish a national system of education. Purchase in the army was a public grievance for more than half a century before it was abolished, and its aboli-

tion was at last accomplished by a straining of the royal prerogative. A measure for legalizing marriage with a deceased wife's sister has been bandied between the two Houses of Parliament for over thirty years. Mr. Stuart Wortley's bill on this subject was introduced into the Commons in 1849, when it passed the same year; it was again introduced and passed the Commons in 1851. A similar measure has since been repeatedly passed in one chamber and as often rejected in the other, although there can be no manner of doubt as to the wishes of the country with regard to it. Parliamentary reform was a prominent subject of public and parliamentary discussion for more than a century before the first instalment of it was carried in 1832. As early as 1766, the elder Pitt denounced the system of parliamentary corruption that existed in his day. Four years later, he stated in Parliament that "before the end of the century either Parliament will reform itself from within, or be reformed with a vengeance from without," but the century ended without the much-needed reform. The question of vote by ballot was under discussion in the House of Commons as early as 1708. The subject was again and again brought up, but was only carried in 1872. Not a single new fact was brought to light, or a single fresh argument was presented, at the time it was carried that was not known and applied when

the subject was first discussed, and yet the question occupied the attention of Parliament for more than a century and a half before it was finally settled.

If we have made slow progress in the past, have we any reasonable grounds for believing that we shall proceed more expeditiously in the future? One thing is certain, that the work of legislation is as much in arrear as ever it was. The measures awaiting settlement are as numerous and as important now as they were before the Reform Bill was passed. The country has been waiting a long time for the abolition of the law of primogeniture; for the simplification of the transfer of land; for compensation for tenants' improvements; for a reasonable settlement of the game laws. It still wants the abolition of church rates; an equitable distribution of church funds; an abatement of that public scandal, the sale of advowsons. We have made more than one effort to settle the Irish land question, and we have disestablished the Irish Church, but no attempt has yet been made to settle the land question in Great Britain, or to disestablish the English and Scottish Churches. Parliament has never yet set itself seriously to work to abolish sinecures; to adjust the incidence of taxation; to amend the patent laws; to establish a national system of technical education, or to improve the condition of the agricultural

labourer, notwithstanding that all these questions have been long and prominently before the public.

Does this state of things excite any surprise? For an explanation we have only to look at the difficulties placed in the way of popular legislation by our present mode of parliamentary procedure. In the first place, any important scheme of reform must be adopted by the government of the day, and there is always a great difficulty in getting any government to commit themselves to any scheme of the sort, no matter how desirous they may be to secure popular favour. The reason of this is not far to seek. Why should ministers jeopardize their position by taking up a scheme that will be sure to alienate not a few friends, and give a rallying-point to their enemies, if they can manage to rub along without it? It is more in their line—

> To promise, pause, prepare, postpone,
> And end by letting things alone;
> In short, to earn the people's pay
> By doing nothing every day.

In the second place, a measure of this kind must have the unanimous approval of all the members of the ministry. Government by Party does not permit differences of opinion on the part of ministers on any great questions; and the difficulty of finding unanimity on all the essential points of

any important measure is enormous, has often proved insurmountable, and even when it has been overcome it has usually led to a break up and reconstruction of the government. Macaulay had once occasion to explain the difficulty I refer to. In 1839, when the Melbourne Cabinet, at a loss for something that might bring it popularity, agreed that the more liberal of its members might vote in favour of Mr. Grote's Ballot Bill, the opposition took an obvious objection to such a proceeding. On that occasion Mr. Macaulay said, "I rejoice to see that we are returning to the wise, the honest, the moderate maxims, which prevailed in this House in the time of our fathers. If two men were brought up together from their childhood; if they follow the same studies, mix in the same society, and exercise a mutual influence in forming each other's minds, a perfect agreement between them on political subjects cannot even then be expected. But governments are constructed in such a manner, that forty or fifty gentlemen, some of whom have never seen each others' faces till they are united officially, or have been in hot opposition to each other all the rest of their lives, are brought at once into intimate connection. Among such men unanimity would be an absolute miracle." And the difficulty is further increased by two circumstances. The first is that all ministers, as such are, for the time being, consciously

or unconsciously, more or less under the influence of the Crown, which is always conservative; the second is, that a large proportion of the members of every ministry, Liberal as well as Conservative, are more or less intimately connected with "the great governing families," and are, therefore, by family ties and associations, naturally disinclined to any change in a popular direction. A popular scheme of reform, therefore, runs a great chance of being rejected, or at least mutilated, at the very outset, and by the very men to whom it has been entrusted, and who alone, according to the existing practice, can be permitted to take charge of it. But supposing the members of the ministry are unanimously in favour of a measure, and will zealously support it, they must, in the third place, be kept in office till it is carried. Of course a measure of this sort would only be introduced by a Liberal government, and if they were turned out of office there would be no likelihood of their successors taking up the bill. The ministry must therefore be retained in office till the measure is carried, and this involves a general support of their whole policy and all their acts of administration, as the government may be turned out on a variety of pretexts altogether unconnected with the measure in question. They may be defeated on a question of administration, or on their home, foreign, or colonial policy; and their defeat may come

quite suddenly and from an unexpected quarter. They may have been carrying on negotiations with some foreign Power, for instance, and all the world may know the direction in which they are proceeding, and the opposition may apparently acquiesce in what ministers have done; but no sooner have the government fairly committed themselves, than—such are the ethics of party warfare—the opposition, who never dropped a hint to put ministers on their guard, all at once discover that the whole negotiations are an atrocious blunder, a scandal and disgrace to the English nation, and a vote of censure or want of confidence is forthwith carried against them. Not only is the fate of the measure bound up with the ministry, but, in the fourth place, the very fact of the ministry having become responsible for it makes the measure itself the object of attack on the part of the opposition. The whole forces of the opposition are at once concentrated on the bill which the government have introduced. Had the measure not been introduced by the government, it would have escaped all this; but now it will receive support from one side only, sometimes lukewarm enough, and the most strenuous opposition from the other. As a neutral vessel sailing under a belligerent flag draws upon itself the whole guns of the enemy, so a bill brought in under ministerial auspices is exposed to a combined attack from

all sections of the opposition. Such a measure is never once discussed on its merits. If there is the smallest flaw in it, neither side will make any attempt to improve it; its defects, whether few or many, trifling or serious, will be exaggerated by the one side and defended by the other with all the bitterness of party spirit. Then follow weeks or months in dreary debates, in first, second, and third readings, in postponements and adjournments without end, till the public become sick of delay, their enthusiasm dies out from sheer exhaustion, and the measure is left to be mutilated by the House at its leisure, or to be disposed of in a more summary fashion at the close of the session.

So far I have only enumerated a few of the dangers which beset a popular measure in one branch of the Legislature only; and if it was difficult to carry such a measure safely through the popular assembly, where it was amongst professed friends, what chance is it likely to have in the hereditary chamber, where it would be amongst avowed enemies, where a Liberal ministry is always in a minority, where even the principles of party government are not recognized, and where no responsibility attaches to any vote whatever, no matter what the consequence of that vote may be? As a matter of fact, popular measures have always been treated with scant courtesy by the

members of that House, and if they have not rejected them off-hand, or mutilated them beyond recognition, it was only the fear of evil consequences to themselves that prevented them. Is it then to be wondered at that the work of legislation proceeds otherwise than slowly, or suddenly stops altogether, when attempted to be carried on under such conditions?

Perhaps enough has been said to show the practical working of our Constitution. We cannot say that results justify any extravagant amount of admiration. That it is such an exquisite piece of mechanism as Earl Grey pronounces it to be,[1] we confess we believe to be a delusion. It is at best a cumbrous and unwieldy piece of machinery. What little work it does, it does slowly and badly. In order to start it, there is sometimes required an amount of external force which is sufficient to overturn it. The machine moves, certainly, after a time, if sufficient force be steadily applied; but the friction of its parts is enormous, and the work it produces is out of all proportion to the labour and time expended in putting it in motion. Whether the machine has been constructed on a wrong principle, or has simply got out of order, we shall discover when we come to examine the working of our early parliamentary institutions.

[1] *Parliamentary Government*, p. 67.

CHAPTER I.

EARLY REPRESENTATIVE PARLIAMENTS.

THE history of representative government in England may be divided into three periods. The first extends from the assembling of the first representative Parliament in 1295 to the close of the third quarter of the fourteenth century; the second, from the beginning of the fourth quarter of the fourteenth century to the Revolution; the third, from the Revolution to the present day. In the first period, the representative body had little or no influence on the government, which was almost a pure despotism; in the second period, the Commons had acquired great power, and we had government by king and Parliament; in the third period Parliament was supreme, and we had Government by Party.

During the first period the functions of the newly constituted Parliament were not clearly defined. The

Commons appear to have been a consultative rather than a legislative body. They exercised little or no control over the administration. The sovereign was supreme. All legislative and administrative power centred in the Crown. The barons, and not the Commons, took the initiative in actively resisting the power of the Crown, which was often exercised in an arbitrary and despotic manner. The Commons were too weak to be aggressive. Their attitude towards the Crown was that of passive resistance. Their position as a third estate of the realm was, as yet, scarcely recognized by either king or barons. They had not yet made themselves a power in the State, and they could hardly have felt that they possessed any power. But although they did not at this time exhibit an aggressive spirit, the Commons showed that they were as tenacious of their rights as the sovereign was of his, or the peers were of theirs. Good Catholics and loyal subjects as they were, they nevertheless boldly resisted the encroachments of the Holy See; they protested against "the men of the Church" monopolizing the high offices of state to the exclusion of laymen; they complained of the delay in the assembling of Parliament; they evinced a dogged determination to uphold national independence and to maintain the legislative functions of Parliament by withholding aids from the Crown till their grievances

were redressed. But the Commons did not long remain in the subordinate condition assigned to them. A body of men who speak and act for others, speak and act boldly and with authority; it is in the nature of things that a representative body should be aggressive, and this the Commons soon proved themselves to be.

In the second period the Commons were no longer passive. Instead of being led by the Lords they became their leaders. The history of Parliament during the first and second periods is the story of a series of aggressions on the prerogatives of the Crown, first on the part of the Lords, and afterwards on the part of the Commons. In the first period the Commons were used by the Lords in order to restrict the power of the Crown; in the second period the Lords were used by the Commons in order to extort further concessions from the sovereign. It was the Commons who, in the first Parliament of Richard II., demanded that the great offices of state should be appointed in Parliament, and they made three subsequent attempts, namely, in 1380, 1381, and 1383, to secure that object. They failed in their first attempts at administrative reform, it is true, but they did not despair. If they could not succeed in one way they might in another. If they could not appoint ministers, they might at all events punish them when they were

guilty of misconduct. It was the Commons who proposed impeachment as a remedy for misgovernment. It was the Commons who impeached Latimer, Neville, and the courtiers of Edward III. It was also chiefly through the action of the Commons that Parliament succeeded in controlling the alienation of crown land, in curtailing the expenses of the royal household, in diminishing the abuse of commissions of array, in restraining and ultimately abolishing the king's power of legislation, of purveyance, of the exacting of customs, and of the raising of loans, and in establishing checks on the appropriation of supplies. But they did not stop here. They had used the Lords in order to wrest power from the Crown, and now, with the aid of the Crown, they proceeded to restrict the influence of the barons. They succeeded in passing laws against the abuse of livery, the maintenance of suits, and for the suppression of armed retainers. Thus gradually the Commons encroached on the prerogatives of the Crown and the privileges of the barons; step by step they forced their way to the front rank in the Legislature and to a predominant position in the State.

An individual who is placed in a new position, and remains in that position till he becomes thoroughly acquainted with his duties, usually passes through three mental stages. At first he is awkward

in the discharge of his duties, diffident in appreciating his performance of them, and is content if he is barely tolerated; when he has occupied his position some time he has a less modest opinion of his abilities, and begins to think himself extremely useful; when he has been longer accustomed to his duties, and perhaps discharges them no better, he begins to believe that his services are really indispensable. At the time of the Revolution the Commons had arrived at this last stage. At first they were awkward and diffident. They were his majesty's "poor Commons;" they quietly submitted to the tutorship of the Lords;[1] and they showed, in a variety of ways, that they had a due appreciation of the subordinate position which they occupied. On the assembling of each Parliament they commenced proceedings by a recital of their rights and privileges under various royal charters, a practice which they kept up long after it was necessary. They were quite content to hold what they had got without demanding more. So far from wishing any extension of their power, or the acquisition of new influence, they distinctly refused, on more than one occasion, to accept it when offered them. Gradually, however, their attitude changed; their confidence in themselves increased with the acquisition of power, till at length

[1] The Lords frequently appointed a few of their members to confer with the Commons, "for their better direction and information."

they began to think that they were really indispensable. In the third period the Commons threw off all restraint on their ambition. They were not content with being legislators; they were not satisfied with merely exercising control over the administration. They wanted to be administrators themselves. They clamoured to have a division amongst them of all the lucrative offices of state. They encroached on the liberties of the people. They openly set their constituents at defiance. They became factious, self-seeking, corrupt. They passed the Septennial Act, which made representatives practically independent of their constituents for seven years; they claimed unheard-of privileges for themselves, individually and collectively; they constituted themselves prosecutors and judges in their own actions against the people, and when they had condemned the offenders they executed their own judgment against them. Having emancipated themselves from all control, they gave themselves up to the pursuit of place and power, and there was then established that system of Government by Party which exists at the present day. Speaking of the House of Commons at the beginning of this period, Macaulay says that it had "abused its gigantic power with unjust and insolent caprice, browbeat the Lords and the constituent bodies, violated the 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 of the hereditary aristocracy, from the tyranny of the Assembly which had been chosen by themselves."[1]

Under the early Norman kings the representative elements found no place in the legislative and judicial assemblies of the realm. I assume, of course, that the peers were not in any proper sense a representative body. Curiously enough, however, they frequently asserted their claim to such a character. It had long been a matter of complaint with the Commons that the knights of the shires had not received their full wages for their attendance in Parliament, owing to the fact that many tenants of peers, and many towns over which the peers claimed manorial rights, had refused to contribute their share, having no doubt been put up to do so by their lords. To all these complaints the Lords invariably replied that they were in Parliament "for themselves and their men" in proper person, and that therefore the latter should not be called upon to pay any share of the wages of the knights. In other words, the Lords claimed to represent their tenants, and the tenants claimed exemption from payment of wages because the knights were not their representa-

[1] *History of England*, vol. v. p. 168.

tives.[1] It is true that the Lords sometimes made a grant to the Crown on behalf of their tenants as well as on their own behalf; and that the claim of the former to be exempt from contribution was at length formally acknowledged by statute; but as the tenants had no voice in the nomination of a peer, and there is no case on record of a peer ever formally appealing for advice or authority to his tenants, and as their claim to a representative character was never asserted except under the circumstances referred to, we have a right to assume that it was only put forward for the purpose of evading the just demands of the Commons.

The first Parliament, constituted as it now is, dates from the famous Assembly which met at Westminster on the 30th September, 1295. We had Assemblies before this at which representatives were present, but no properly constituted Parliaments, meeting at stated periods for the transaction of the ordinary business of state. On several previous occasions, extending over a period of eighty years, representatives from the townships of the royal demesnes, or from the shires, or from the shires cities and boroughs, had been summoned to meet the king and his barons at the Great

[1] See proceedings in Parliament of 28 Edward III., 2 Richard II., and elsewhere in Lords' *Reports*, vol. i. pp. 325–6, 336–7. Parry's *Parliaments*, pp. 124 and 142.

Council of the nation. For instance, a reeve and four legal men from each township of the royal demesne were summoned to meet the king, archbishops, bishops, and magnates at St. Alban's, on the 4th August, 1213. On the 15th of the same month and year, four knights from each county were summoned to a Parliament at Oxford. Two representative knights from each county were summoned to the Parliament of 38 Henry III. Three knights from each shire were summoned by the barons, then at war with the king, to a Council or Parliament held at St. Alban's, on the 21st of September, 1261 ; and the king ordered the same knights to be in attendance on him at another Parliament, to be held on the same day at Windsor. Four representative knights from twenty-nine counties were ordered to attend a Parliament at London, on the 24th of June, 1264. Next we had the Parliament of Simon of Montfort, held at London on the 20th of January, 1265, to which representatives from the cities and boroughs, as well as from the shires, were summoned simultaneously for the first time. Two knights for each county, two citizens from each city, and two burgesses from each borough, were summoned on this occasion. At another Parliament held at Westminster in 18 Edward I., the sheriffs were commanded to return "two or three" knights from each county, and it appears that five counties returned three, and all the

rest two knights each. This is the first Parliament of which we have any record of the names of the representatives present.

These were the first Parliaments to which representatives were admitted, but they were altogether of an exceptional character, having been called together for special purposes and at irregular intervals. Up till this time the ordinary Parliaments or Councils of State, consisting of prelates, magnates, and judges, transacted all the legislative, judicial and administrative business of the kingdom. The Lords were the only original members of these councils long before any knights, citizens or burgesses were admitted to participate in their deliberations.

The first representative Assembly in which the legislative, judicial and administrative functions of our modern Parliaments were combined was, as already stated, that which met at Westminster on the 30th of September, 1295. This Parliament voted the supplies to the Crown, took part in the work of legislation and controlled the administration. In addition to the Lords there were summoned to this Assembly two knights from each county, two citizens from each city, and two burgesses from each borough within the kingdom. The writs for this Parliament have been preserved, and they show that ample legislative and administrative powers were conferred upon

it.[1] The powers now for the first time conferred on the representative body in common with the peers, were at a subsequent period confirmed by the valedictory Statute of York, which enacted that henceforth all ordinances were to be void except such as were made by the king "by the assent of the prelates, earls, barons, and the commonalty of the realm." The general body of the people were at length admitted to a share in the government, and Parliament, thus broadened in its basis and fairly representative of all classes of the community, became the great controlling power in the State.

For some time subsequent to this, however, the Commons played a very subordinate part in the proceedings of Parliament. Their presence was tolerated rather than welcomed by the hereditary legislators. The judicial functions, then as now, belonged exclusively to the Lords; but even in matters of legislation the powers of the Commons were not regarded in the first instance as co-extensive with those which belonged to the hereditary chamber. They were expected to assent to what the Lords proposed rather than to initiate legislation themselves. We learn from the record of their own

[1] The writs to the Lords set forth that they were summoned: ad tractandum, ordinandum et faciendum nobiscum et cum cæteris Prælatus et Proceribus et alius incolis regni nostri; and to the sheriffs: ad faciendum quod tunc de commune consílio ordinabitur.

proceedings that the Commons were, for a long time, the victims of something like very sharp practice on the part of the king and the other branch of the Legislature. In Parliament of 22 Edward III., they complain of many charges having been put upon them without their consent; that answers granted to their petitions were often altered without their knowledge or consent; that the king and Lords took it upon themselves to alter the answers given to their petitions after the Commons had retired from Parliament. We also learn from the proceedings in 2 Henry IV. that these practices were continued notwithstanding the protests of the Commons, and that in order to prevent their recurrence the Commons pray "that the business done, or to be done in Parliament, may be enacted and engrossed before the justices take their departure, while they have them on their memory." They also complain that in many Parliaments their petitions have not been answered before they made their grants, that is to say, that evasive replies had been made to them, and they pray that they "may know their answers first." No wonder that after this they held over the supplies, and made the Appropriation Bill the last measure of the session.

The Assembly of 1295 also marks the commencement of Annual Parliaments. From this time forth

one Parliament at least was held every year, sometimes two or three. The custom of holding sessions of Parliament was not introduced for a long time subsequently. When mention is made therefore of a "Parliament" being summoned or held, it is a new Parliament that is meant, not a new session of an old Parliament. In 3 Edward II. it was ordained that the king shall hold a Parliament "once a year, or twice, if there should be need," and the average of once a year was well kept up and even exceeded in early times. Thus during the twelve remaining years of the reign of Edward I., dating from 1295, eleven Parliaments were held; in the following reign there were twenty-two Parliaments in twenty years; in the next reign fifty-eight Parliaments in fifty-one years, and in the next succeeding reign twenty-four Parliaments in twenty-one years. It appears from the dates of the writs, and from the frequent complaints of the Commons,[1] that Parliament was not summoned regularly every year during the two last reigns, some years there being no Parliament held and in others more than one. It was during the last of the reigns referred to, that the practice of proroguing Parliament commenced, and which has been continued to this day.

Certain qualifications were required of represen-

[1] *e.g.* in 4 and 50 Edward III., 1 Richard II., and elsewhere.

tatives in the early Parliaments, but these were neither hereditary nor territorial, nor even pecuniary. They were simply personal and topical. The writs directed the sheriffs or mayors to return "discreet," "honest," or "able and discreet persons," and none others, for the shires, cities and boroughs alike ; the representatives for the shires, however, were to be knights or freemen (liberi homines), but otherwise there was no distinction between the representatives of the different kinds of constituencies. These were the personal qualifications ; but in addition to these a residential qualification was required. The representative had to be a resident within the shire, city, or borough which elected him. This condition was regarded as an essential one, and for a long time it was strictly enforced. In the reign of Henry VIII. the rule began to be relaxed, and in 13 Elizabeth a bill for the "Validity of burgesses non resient" was introduced into the Commons and read a first and second time and committed after much debate, but was not proceeded with beyond this stage. From this time, however, non-resident representatives began to be common, but the law was not altered till the statute of 14 George III. c. 58, formally repealed the restriction of residence both as to voters and members. Sometimes members were required to have special knowledge of shipping and

commerce,[1] and a statute provides against apprentices, lawyers and sheriffs being elected.[2] It appears from more recent writs that it had been common at one time to elect few or any but yeomen or persons of inferior rank as representatives. Originally no qualifications were required for electors beyond what entitled them to take rank as citizens or burgesses in the cities and boroughs respectively, and for a long period none whatever were required for voters in the counties. It was enacted in the Parliament of 8 Henry IV. that "all who shall be present at the proclamation in full county, as well as suitors in any case, as others, should attend the election of their knights, and those in the county shall go to the elections freely and indifferently, notwithstanding any prayer or command to the contrary." It has now been thoroughly established that the Act of 8 Henry VI., limiting the franchise in the counties to 40*s.* freeholders, was a reactionary measure, which was passed in consequence of a petition presented by the Commons, praying "that whereas knights of the shire had of late been chosen by outrageous and excessive numbers of people of small substance."[3]

The freedom of elections was guaranteed by

[1] See writs for 47 Edward IV., for instance.

[2] 5 Henry IV.

[3] See Cox's *Ancient Parliamentary Elections*, p. 80.

numerous statutes. According to an Act passed in 13 Henry VI., if any soldiers or armed persons disturbed the electors, the sheriff might refuse to proceed with the election; and in consequence of several knights, citizens and burgesses returned for the Parliament of 38 Henry VI. not having been freely elected, all the acts of that Parliament were repealed by the Parliament succeeding. Nevertheless, the Commons had frequently to complain of interference with the freedom of elections, and one of the grievances of the rebels under Jack Cade was "that the freedom of election for knights of the shires hath been taken from the people by the great men, who sent letters to their tenants and dependents, to choose such men as the people approve not." The Crown also exercised great influence over the elections. In early times, the king had absolute power in the issuing of writs, and in prescribing the qualifications for members to be elected; and by omitting to issue writs for refractory constituencies, or regulating the qualifications of representatives for others, he could to a great extent control the proceedings of Parliament. In 7 Edward VI. the sheriffs of certain counties were desired to return certain individuals mentioned by name, and the writs issued by Mary direct the sheriffs to return men of the "wise, grave, and *Catholic* sort." It appears also

from a statement made by the Attorney-General during a debate in 12 James I., that the Chancellor of the Duchy of Lancaster had the nomination of one of the borough representatives in one of the Duchy towns, and that "it hath been so in his remembrance, and is ancient."[1]

The place and mode of election was determined by custom and statute. The elections were held at the county court, as being the most convenient place for all classes of electors, who had to attend there on other business. The representatives of the cities and boroughs as well as of the shires were elected there, and usually on the same day as the knights were chosen. It was customary for the mayor of any city or borough, within the county, and a few leading citizens or burgesses deputed for the purpose, to meet at the county court, and then and there elect representatives for their respective cities and boroughs. From the returns collected by Prynne, extending over a period of fifty years (1407–1459), we get a good idea of the manner in which elections were conducted during the first half of the fifteenth century. Thus "twelve persons" elect two knights for the county of Kent, and the same individuals, at the same time and place, choose two representatives for Rochester, and two for Canterbury. "The mayor

[1] Parry's *Parl.*, p. 266.

and three other persons" elect two members for Bath. "The mayor and all the burgesses" elect two members for Reading. "Eight persons, acting as attorneys, and one lady," are the electors for Yorkshire; "fourteen persons" are the electors for Cumberland; "the mayor, bailiff, and nine citizens" are the electors for Carlisle; "the mayor and ten persons" are the electors for Bedford; "the mayor and two bailiffs" are the electors for Northampton; "two coroners, the custos and twenty-four citizens" are the electors for Norwich. It is evident from all this that the mass of the electors took no direct share in the election of their representatives. We shall endeavour farther on to ascertain whether or not they took any indirect share.

Attendance at Parliament was compulsory on the part of the representatives. There does not appear to have been any competition for seats in the early Parliaments. If we are to judge from the precautions taken to secure the attendance of the representatives in Parliament, we may indeed assume that they gave their services grudgingly, and often under compulsion. Plato asserted that the only persons who should be invested with political power were those who were most averse to it; and there is reason to believe that these were the sort of men who were elected to our early Parliaments. The representative was not allowed

to resign his position from any cause whatever, and he was required to give security for his due attention to his parliamentary duties. Even as late as 17 Charles I., a motion "that a member at his own request may decline his election, and a new burgess be chosen in his stead," was negatived after discussion in the Commons. In a debate on the subject of election in 25 Charles II. Mr. Waller quaintly describes the difficulty of obtaining representatives for the early Parliaments. "Formerly," he says, "the neighbourhood desired him to serve; there was a dinner, and so an end. But now it is a kind of an empire. Some hundred years ago many boroughs sent not. They could get none to serve."

Compulsory attendance rendered it necessary that representatives should be paid. It would have been manifestly unfair to compel a man to attend to public duties, which may have been forced upon him, without making him some recompense for his time, trouble and outlay. We find accordingly that all the representatives in the early Parliaments were paid their "wages" and expenses from the day that they left for Parliament till the day they returned to their constituents. The system of paying members commenced with the Parliament of Simon of Montfort in 1265, and continued in full force till about the middle of the 16th century. Some time before this latter date,

many representatives had ceased to accept payments, and from a debate in the Parliament of 27 Charles II. we learn that the practice of paying representatives had been generally abandoned, but as no Act had ever been passed for its abolition, the law remains in existence to this day.

The foregoing facts will, I believe, amply support the following conclusions, the bearing of which on our arguments will be obvious as we proceed :—

I. The Parliament of England was an assembly of estates, and it was also, in part, a representative body. One portion of it was nominated by the Crown, and the other portion was elected by the people. The prelates and barons were summoned by special writs, and appeared in Parliament for themselves ; the Commons were summoned by writs issued to the sheriffs, and appeared as delegates or attorneys for others. The prelates were summoned in their capacity as barons,[1] the clergy, as a separate estate, having their own Parliament or convocations where they voted their aids separately ; but latterly their secular charac-

[1] In early times the peerage was strictly territorial. The dignity belonged to the land and passed with it. Hence it was not uncommon for the king to summon peeresses to Parliament. The wives or widows of the barons made prisoners or slain in battle were summoned to the Parliament of 49 Henry III., and four abbesses to the Parliament of 34 Edward I. Women also exercised the franchise in respect of their territorial rights as freeholders, as, for example, Parliament, 13 Henry IV., and 1, 2, 3, 5, 7, 8, 9 Henry V.

ter was merged in their spiritual, and the prelates came to be regarded as the first, and the peers as the second, estate in Parliament. The Commons formed the third estate, and represented all the enfranchised classes not comprised within the other two estates. Representation in the Commons was strictly local in its character. The representatives were chosen, not by the electors generally, but by certain groups of electors in constituent bodies scattered over the country. Each county, city, and borough was a separate constituency, and each constituency elected its own representatives. But the representative body were something more than local delegates. They were also class representatives. The constituencies were divided so as to preserve as far as possible class distinctions; and the representatives were required not only to reside in the constituency, but to belong to the particular class which elected them. There were three classes or estates in Parliament—the upper, the middle, and the lower class, and these classes, or estates, found their proper places, or representation, in Parliament. If we eliminate the tenants and bondsmen whom the barons claimed to represent (a claim which the Commons repeatedly refused to recognize, and on which the Crown, when appealed to, as it often was, always shirked pronouncing a decision), there remain first

the barons; secondly, the freeholders of the counties; and thirdly, the merchants and handicraftsmen of the cities and boroughs. The barons corresponded to the upper class of to-day, and were in Parliament for themselves; the freeholders of the counties corresponded to the middle class, and were represented by the knights of the shire; the merchants and handicraftsmen corresponded to the lower middle classes, and were represented by the citizens and burgesses.

There was therefore a marked distinction in the system of representation in those days from ours. These three classes were not only represented in Parliament, but each class was there in proper person, or was represented by members belonging to itself, the barons being there for themselves, the freeholders by the knights of the shires, and the citizens and burgesses, by citizens and burgesses. No lordling represented a yeoman; no knight represented a citizen or burgess in the early Parliaments. The representatives of the freeholders of the shires were actual freeholders; the representatives of the citizens and burgesses were actual citizens and burgesses. The early writs were very particular on this point. They directed that as far as possible the representatives should belong to the same class as their constituents, but superior men of their class.

The cities were to elect honest and discreet "citizens," the boroughs, honest and discreet "burgesses," and the counties, "knights or freemen" of the better sort. This distinction of classes was long maintained even within the walls of Parliament. The Lords sat apart and voted by themselves, as they do now; and the knights of the shire, who were regarded as belonging to a higher order than the citizens and burgesses, often voted apart from the latter. We read of "knights and Commons" in the early parliamentary proceedings, clearly indicating that the distinction between the two classes was maintained; and as a matter of fact they were often required to give their advice separately.[1] All this was in strict accordance with the ancient law and custom of the kingdom, which provided that every member of the community should be tried and represented by his peers. The Great Charter provided[2] that earls and barons should even be amerced by their peers; freemen by a jury of their neighbourhood; merchants by juries of merchants only; and knights, burgesses, and clergymen alike were entitled to the same privilege, and often exercised it.[3]

[1] As in 6 Edward III. See Lords' *Reports*, vol. i. p. 321; Parry's *Parl.*, p. 100.

[2] §§ 20–23.

[3] Thus in the case mentioned in the Year Book of Edward I. the accused challenged the jury on the ground that they were not his peers,

II. We may now understand the status of a representative in the early Parliaments. He did not hold the quasi, or wholly independent, and altogether undefinable position claimed for him at the present day. He was not a senator, but a delegate; not a principal, but an agent. He was the spokesman for his constituents. His duty it was to carry their grievances before Parliament, to interpret their wishes, to vote their aids, and to act generally on their behalf. The term "representative" nowhere occurs in the early parliamentary returns. Members of Parliament were "knights," "citizens" or "burgesses," according as they were elected by a county, city or borough. It was also usual to speak of them as delegates.[1] And they had another designation which was sufficiently expressive of their position. They were termed "attorneys" in many of the early returns.[2] The functions of an attorney were familiar enough to the electors from the earliest times, and especially to the suitors at the county courts, where the parliamentary

he being a knight; and knights were accordingly called in and sworn. Amongst the earliest privileges of the citizens of London, was the appointment of a justiciary from their own body, "and that no one else shall be justiciary over the men of London" (Pearson's *History of England*, vol. ii. p. 466).

[1] Stubbs' *Constitutional History*, vol. iii. p. 485. Hatsell's *Precedents*, vol. ii. p. 76.

[2] For instance the community of Scarborough elected two persons as "attorneys" (attornati) for the Parliament of 36 Edward III.

representatives were chosen. Attendances at these courts was made compulsory on all freeholders once a month, but the Statute of Merton (20 Henry III.) empowered them to appear there by their attorneys. The attorneys were simply the agents of the persons for whom they appeared; and the parliamentary representatives were the agents of their constituents in the high court of Parliament, in precisely the same manner as attorneys were the agents of their clients in the lower court of the county. To make the analogy complete, representatives were furnished with letters of commission or powers of attorney by their constituents for presentation in Parliament.[1]

It would be an error to suppose that the electors of those days were either incompetent or unaccustomed to instruct their representatives as to their parliamentary duties, for the electors, and especially the suitors at the county courts, had themselves long exercised the functions which subsequently devolved upon their parliamentary representatives. The county courts had been the local Parliaments before local representation was concentrated in a National Assembly. These courts voted their own aids separately, and had direct access to the king as Parliament has now; and the Crown habitually recognized their corporate

[1] *Parliamentary Writs*, vol. i. p. 21, 22; also pp. 39–41 *et seq.*

capacity by receiving their petitions and consulting them through inquests.[1] The suitors at these courts were therefore quite familiar with parliamentary duties, and would not be likely to permit their representatives to go to Parliament without full and explicit instructions as to how they were to act. Members of Parliament, no doubt, accepted instructions from their electors, much in the same way as the representatives at the church assemblies or convocations were accustomed to receive theirs. All matters that were to be laid before these convocations were first discussed by the clergy or electors in the various localities before they elected their proctors—a term sufficiently expressive of their functions. The law provided, long before parliamentary government was established, that the clergy of each diocese were to be assembled by the bishop at a certain place, "and shall then have carefully expounded to them the propositions made on behalf of the king," and those elected were to be sent off "with sufficient instructions."[2] As the parliamentary writs declared the cause of summons, the electors, if they had any grievances to lay before Parliament, would take good care that their representatives were fully informed with regard to them. So clearly, indeed, was their position as mere agents

[1] Stubbs' *Const. Hist.*, vol. ii. p. 226.

[2] Ibid., p. 296, 297, and *Select Charters*, p. 456.

understood by the representatives themselves, that we find them refusing to act without express instructions from their principals. Thus, in 13 Edward III. a large subsidy was demanded by the king which the Commons refused to grant without the express consent of their constituents. "They dared not give their assent till they had advised and consulted with the Commons of their countries, and would do their utmost to obtain for the king a proper aid;" and the king assented that another Parliament should be called which should come prepared with a definite answer to his demands from the constituencies. The attornatorial functions of the representatives are further shown—

(1) By the residential qualification. The fact that a member belonged to the same class as his constituents was a guarantee that he would not misrepresent their sentiments; but there was a further guarantee in the stipulation that the representative should be a resident within the constituency which elected him.[1] The early writs direct the sheriffs to return "men of knowledge of their own countries and towns." In a proclamation of James I. (1621) the electors are recommended to "make choice of them that best understand the state of their countries, cities and boroughs." In a debate in the Commons on the

[1] 7 Henry IV. c. 15; 1 Henry V. c. 1; 10 Henry VI. c. 2, etc.

return of a non-resident member in the same year, Sir Edward Coke, in interpreting the acts under this head, said that residential qualification was required in order that only such members "should be chosen as know the state of the country and the grievances thereof." It appears therefore that an intimate acquaintance with the requirements of a constituency was considered necessary on the part of a representative, and as residents were more likely to be better acquainted with the affairs of their respective constituencies than absentees, residence was made an indispensable condition of membership.

(2) It was also in accordance with the attornatorial theory that members should be paid for their services. We find accordingly that representatives were reimbursed their expenses in going to and returning from Parliament, and that they received a moderate salary at so much per day during the time they were there; and this salary and these expenses were paid to the representative by the constituency which elected him. The whole arrangement was carried out on the strictest business principles. It was the agent who gave his services who got payment for them; and it was the principal who engaged those services, and benefited by them, who paid for them.

(3) In order that Parliament might be under no misapprehension as to the views of the electors, each

constituency was directed to elect *two* persons to represent them. This number might be exceeded, but it was never less than two, even for the smallest constituency, and the smallest constituency returned no more than the largest. The object of having two representatives for each constituency was, no doubt, for the purpose of securing trustworthy information with regard to the state of the country, two witnesses being considered more reliable than one. There is reason to believe that in the earliest Parliaments representatives did not even reach to the dignity of agents or delegates, but appeared more in the character of witnesses or messengers.[1] This may account for the origin of an otherwise singular practice which undoubtedly existed at an early period of our Parliamentary history, that of taking the votes of representatives *per stirpes* instead of *per capita* as at present.[2]

(4) The relations between a representative and his constituents may also be ascertained from the

[1] Prof. Stubbs is of opinion that the representatives who attended the Parliament of St. Alban's appeared as witnesses as to the sums due to the plundered church which that assembly was called upon to assess. *Const. Hist.*, vol. i. p. 526; see also Green's *History of the English People*, vol. i. p. 238.

[2] The fact that the writs sometimes leave it to the discretion of the sheriffs, as in 18 Edward I., to elect "two or three" knights for each county, shows that questions were not then determined by a majority of votes.

nature of the duties performed. It is the duty of an agent to apprize his principal, with all convenient speed, of all acts done on his behalf. This duty the parliamentary representatives seem to have scrupulously performed. All the transactions of the early Parliaments were regularly reported by the representatives to their respective constituencies, sometimes while Parliament was in session, but always at its close. For example, in the proceedings of the corporation of Lynn Regis there are the following entries under their respective dates :—"April 9th, 1432. Thomas Botesham and John Waterden, elected burgesses to serve in Parliament;" and in July 23 of the same year we read that "John Waterden reported the transactions of Parliament, at which time was granted by the corporation half a fifteenth, to be paid at two several payments, namely, at Martinmas next, and at Martinmas the next following. That the Parliament held for the 12th day of May to the Thursday next before the feast of St. Margret, on which day the Parliament ended, and so Parliament held for seventy days. And so there is owing to them for their appearance for seventy-three days *6d.* and *8d.* for each day, of which they received before their going or passage 100*s.*, and there remains £19 *6s. 8d.*" Again: "February 20th, 1436. The same day was read a letter sent to the mayor by the burgesses of Lyn remaining in Parlia-

ment for the said town, which letter being fully understood, it was appointed, by the assent of the whole congregation, that an answer should be returned to the said letter by the mayor aforesaid, under the seal of the office of the mayoralty of Lyn." And in the year following—"April 4th, 1437. The same day Thomas Burgh and John Warryn, burgesses for the last Parliament for Lyn, did well and discreetly declare those things which were substantially done and acted for the mayor aforesaid in the Parliament aforesaid." And such entries as the following repeatedly occur:—"Oct. 31st, 1449. A letter passed the same day for the burgesses of Parliament." "Oct. 27th, 1450. The letter for the burgesses of Parliament was sealed."[1] The multifarious nature of the duties performed by the representatives in the early Parliaments may here be imagined from the following entry in the records of the same corporation:—"May 2nd, 1572. Agreed that Mr. Pall and Mr. Graves, now at London (members), shall travel for the attaining of the making of clothes of this town, and as much as they may have liberty to ship them by the ancient custom, and to have some place to transport the same clothes beyond the seas, and also for any other thing thought good for the government

[1] *Archæology*, vol. xxiv. pp. 317–327. See also correspondence of Andrew Marvell with the corporation of Hull in *Works*, vol. i.

of this town, as well in the Parliament Houses as also to the Queen's majesty and her honourable council, which we refer to their discretions."

It may be objected that we have no instance of a constituency dismissing its representatives, which it would have the power to do had the relationship been such as I have described. We have no dismissals, it is true, but when we consider the short time that Parliament usually sat, and the slow speed of travelling in those days, this is not to be wondered at, for usually the business of the session lasted only a few weeks, and, so far at least as concerned the country constituencies, the first intimation of what had been done in Parliament would probably have been brought by the representatives who had taken part in its proceedings. Under such circumstances all that a constituency could do when it discovered that a representative had disregarded instructions, or neglected his duties, was to take care that he should not have an opportunity of doing so again. But the fact is that we have no record of any such case. Disloyalty to the constituent body seems to have been unknown in the early Parliaments.

III. Representatives were chosen by an indirect process of election. It would be erroneous to infer from the small attendance at the county court that the electors were few in number, or that they took so

little interest in the election of their parliamentary representatives that they were not at the trouble to attend and record their votes. Of course the electors were not then so numerous as they are at the present day; but that those who attended and voted at the county court constituted the entire body of the electors who took part in the proceedings must by no means be taken for granted. Indeed, it is clear from the returns collected by Prynne, that the electors who voted at the county court were present in a representative capacity, or as delegates from the main body of electors in the constituency. That this was the case as regards the elections for the cities and boroughs is beyond a doubt. Thus, we gather from the returns referred to that two bailiffs, "in the presence of seven electors," elect two members for Dunwich; two bailiffs, "in the presence of the electors and other resident burgesses," elect two members for Ipswich; the mayor and bailiffs, "with the assent of the whole community," elect two members for Portsmouth; four burgesses, "by the assent of the rest," elect members for every borough in Dorsetshire; thirty-five "trustworthy men" (probes homines) are the electors for Newcastle-on-Tyne; and among the Parliamentary writs is a memorandum dated London, Feb. 3rd, 1300, of the election of four citizens, who were chosen "by the mayor, aldermen, and six of the best and most dis-

creet men of each ward." That these elections were indirect, is beyond dispute, in my opinion; the acting electors themselves were evidently representative men, and were selected because they were regarded as "trustworthy," "the best and most discreet" in their respective constituencies. Probably the electors followed the practice of the clergy in this respect, who usually deputed to a small committee of their body the function of choosing the representatives for these assemblies; or the still more ancient practice of electing the sworn knights to nominate the recognitors at the great assize may have been their model.[1]

But we are not left in any doubt as to the mode in which these elections were conducted, as we have the very process described in the record of the proceedings of the corporation of Lynn Regis. From this we learn that the burgesses were in the habit of choosing twelve men as the parliamentary electors for the borough, and the following entry shows how this was done:— "7th Jan., 1436. John Ashden and John Syff of the twenty-four, John Adams and Bartholomew Colles of the common council, were elected by the mayor, by the consent of the whole congregation, who called Edward Mayne and John Springewell, and they called Galfrid Gatele and John Mariat, and the aforesaid eight called William Kyrketon and Thomas

[1] Stubbs, *Const. Hist.*, vol. i., pp. 619 and 635.

Lok; and the aforesaid ten called Thomas Talbot and Martin Wrighte, which twelve were charged (being sworn according to the custom to preserve the liberty of the town) to choose two burgesses for the borough of Lynn, to go to Parliament on the 21st of January next ensuing."[1] This also seems to have been the usual method of electing a jury in those days, as we find from the proceedings of the same corporation on 13th of April, 1442. It also appears from the same record that it was usual for the burgesses to elect their mayor to represent the borough in Parliament on the expiration of his office—a custom which seems to have been followed in other places up to a comparatively recent period, as we gather from the correspondence of Andrew Marvell with the mayor and corporation of Hull. We also learn from the same source that the same representatives were seldom elected for two Parliaments in succession by the same constituency. The representatives in the cities and boroughs usually graduated at the municipal board of their native place. The mayor of one year usually became the parliamentary representative of the next. The records of the borough corporations show a regular graduation from common councilmen to mayors, and from mayors to parliamentary representatives. It was no doubt

[1] *Archæology*, vol. xxiv. p. 317.

the close relationship thus formed between the local bodies and their parliamentary representatives which gave such marked political significance to municipal elections in early times—a characteristic which they have not wholly lost even at the present day.

CHAPTER II.

A NEW DEPARTURE.

THE various changes which from time to time have taken place in the constitution, have been brought about gradually, often without any alteration in the law, and, except when the Septennial Act was passed, without any violent shock to public sentiment. Following the chronological order of events, the most important changes we have to note are:—(1) The abandonment of residential qualification for representatives; (2) the extension of the term of Parliament; (3) the introduction of government by party; (4) the establishment of the corporate responsibility of ministers; and (5) lastly, the substitution of outside pressure for the constitutionally expressed will of the electors.

From the earliest times it was regarded as indispensable that a member of Parliament should reside within the constituency which elected him, and for a long period this rule was rigidly enforced on all

occasions. We have no hint of any relaxation of the law in this respect before the Commonwealth Parliament. In that Parliament the Commons (13th November, 1654), resolved, "that whereas the sheriff was incapable of being chosen for any place, he may be chosen anywhere but as a knight for his own county." Formerly sheriffs were ineligible as representatives for any constituency, but now, according to this resolution, they might represent any place except their own county, clearly implying that non-residence was no longer a disqualification. Subsequently, in the Parliament of 25 Charles II., it is mentioned, in a debate on elections in the Commons, that it was then usual for non-residents to be elected; and again, in the 27th of the same reign, during another debate in the same place on the same subject, it was agreed that "none should be capacitated to be chosen but such as have estates, or reside in the county." From the alternative here presented, we may infer that the possession of an estate within the constituency was now considered as equivalent to residence. At all events we find that from this time forth the residence qualification was practically abandoned, although the law in the case remained, and still remains, unaltered. The immediate results of this change were :—

1. A great increase in the number of candidates seeking election. As long as candidates were re-

stricted to local residents their numbers were necessarily limited, for in many places there were few who cared to serve. When the area of selection was increased, however, the competition was no longer confined to the few constituencies where candidates were plentiful but was generally extended over the whole county. Under the old system it was an easy matter for a constituency to get rid of an undesirable candidate, by pleading the law in the case, as witness the following entry in the proceedings of the corporation of Lynn Regis:—"February 21st, 1613–14. Two letters, one from Sir Robert Hitchen, Knight, the other from Sir Henry Spelman, Knight, desiring to be elected burgesses for the next Parliament, forasmuch as the statute of the 1 Hen. V. c. 1., doth appoint that burgesses should be men residing and free in the borough at the time of their election, it is agreed to answer their letter, the corporation is reminded to choose according to statute." Thirty-five years later, however, when the law began to be relaxed, we find another entry (dated January 19th, 1648), announcing the fact that the borough had elected the Earl of Salisbury, a non-resident, as "a burgess of the Parliament of England."[1]

2. There was also a corresponding increase in the cost of elections. The competition amongst candi-

[1] *Archæology*, vol. xxiv. p. 326.

dates had, in accordance with a well-known economic law, the immediate effect of increasing the cost of obtaining a seat. Thus we find it stated in a debate on elections in the Commons in 25 Charles II., that "the expenses are so vast that it goes beyond all bounds. These changes arise commonly from competitors who live in another county. Some carry their elections by awe and force, and some by ability to expend."

3. The introduction of a system of treating at elections, and other mild forms of bribery followed in due course, as soon as the restriction as to residence was removed. The practice began to be noticed at the time of the Commonwealth, although it was probably not unknown before. Thus we find the Commons, on 28th August, 1650, resolved "that in the case of bribery by any member, such witnesses as shall give testimony shall not be damnified, except in the case of perjury," and that the committee shall have power to examine witnesses on oath. "This bribing men by drinking is a lay simony," is the quaint remark of a member in the debate in 27 Charles II., already referred to, who, while condemning the practice, acknowledged that it had then become quite prevalent; and the result of the debate was a resolution which affirmed that "if any person or persons, hereafter to be elected, shall by himself, or

other in his behalf, or at his charge, at any time before the day of election, give any person or persons having voice in such election, any meat or drink exceeding in their value of £5, in any place, but in his own dwelling-house, or shall, before such election be made or declared, make any other present, reward, or promise," such election shall be null and void. The House seemed to think it had gone too far on this occasion, however, as we find that in the next session of the same Parliament, it was resolved that meat or drink up to the value of £10 might be given by a candidate or his agent without incurring any penalty or disqualification. The practice of bribing electors was getting more common, and was therefore considered not so venal an offence.

4. A great change was brought about in the composition of the representative body. Heretofore local wants and opinions were represented by local residents. The knights or freeholders represented the freeholders of the shire where they resided; the mayors or aldermen, themselves merchants or handicraftsmen, represented their own class in the city or borough where they lived and carried on their business. The representatives of those days may not have been so wealthy, or in so good a position socially, as were those of a later period; the member for the borough may have been a tanner, a tavern keeper, or a tailor,

if discreet and honest; and the representative for the county may not have been much superior in rank, although a higher social status was sometimes insisted on in his case. Indeed, the county representatives seem not to have always come up to the required standard, as we find the Commons sometimes complaining of the inferior social position of the county members. It was in consequence of a petition of the Commons, that an Act was passed in 23 Henry VI., to prevent the election of persons of "mean quality and estates" for the counties, "which the vulgar people in these levelling times were so much inclined to." But if the representatives as a whole did not occupy a high social position in the early Parliaments, they had other qualifications which were of far more service to their constituents. They had local knowledge and local sympathies, and what in some respects was even better, they had class sympathies, as they belonged to the same order which they represented. But all this was changed when the restriction as to residence was removed. The yeoman or freeholder of his shire, the mayor of his borough, or the alderman of his ward, no longer represented his own order in Parliament. A new class of members appeared upon the scene, men of greater wealth and of superior social position, perhaps, to the plain burgesses and citizens of bygone times, but strangers to the place they repre-

sented, and alien to the people in sympathy and interest.[1]

[1] *The Parliament of England* (Part I.) contains a list of the representatives of all the Parliaments in England from 1213–1703, and from the names one can form a pretty good idea of the classes to which they belonged. From the Parliament of 23 Edward I. (1295), I take a few of these names at random: Johannes le Palfrenur, and Nicholaus Baret, were members for the city of Ely; Henricus le Bailly, and Robertus Maynard, the members for Truro; Robertus de Grenesdal, and Andreas le Seler, the members for Carlisle; Willielmus de Barnstaple, and Durant le Cordwaner, the members for Barnstaple; Radulphus de Satchevill, and Walterus le Wise, the members for Tavistock; Johannes le Taverner, the member for Bristol (one member); Henricus le Chaunger, and Rogerus le Heberer, the members for Gloucester borough; Nicholaus Caperown, and Ricardus le Teynturer, the members for Huntington borough; Lambertus le Despenser, and Willielmus le Chaunter, the members for Lancaster borough; Adam fil. Ricardi, and Robertus Pynklowe, the members for Liverpool: Willielmus le Teinterer, and Henricus le Bocher, the members for Wigan; Adam fil. Alani, and Hugo fil. Hugonis, the members for Corbridge; Walterus de la Mare, and Henricus de la Chambre, the members for Axbridge; Andreas le Conestable, and Johannes Nichol, the members for Guildford; Rogerus le Carreuer, and Robertus Sakel, the members for Reigate; and so on. In this Parliament there were representatives from thirty-five counties, two for each, except Bedford and Southampton, which had three and four respectively, and representatives from 110 cities and boroughs, two from each, except Totnes and Bristol, which returned only one each; in all 291 members. On the other hand if we turn to the Parliament of 33 Charles II. (1680), we find only three members without a prefix or affix to their names, namely, John Pollexfen, merchant, member for Plympton; John Dubois, merchant, member for Liverpool; and plain Henry Bertie, member for New Woodstock. There were also two aldermen, representing the city of London, and one doctor of laws, representing Oxford, and one professor of physic, representing Cambridge. All the rest were earls, viscounts, baronets, knights, or esquires. In this Parliament fifty counties were represented, two members being returned for each, and 220 cities and boroughs, two or one member each; in all 516 members.

The next change was the substitution of first triennial and subsequently of septennial for annual Parliaments. This was a far more serious innovation than the abolition of the residential qualification. When the Crown became alarmed at the encroachments of the Commons it endeavoured to neutralize the influence of that body, first, by prolonging a subservient House beyond a single session; secondly, by discontinuing annual sessions, and only summoning Parliament when it became absolutely necessary to do so; thirdly, by boldly, as was done by Charles I., refusing to summon Parliament at all under any circumstances. It was felt that there was no chance of the House of Commons becoming a mere assembly for registering the will of the sovereign as long as it was elected annually, and therefore the first attack was made on annual Parliaments. It was clearly impossible for the sovereign to exercise any undue influence over the House so long as its members had to appear before their constituents every year. Annual Parliaments placed the representatives in the hands of the constituent body; the irregular summoning of Parliament placed them at the mercy of the Crown; septennial Parliaments rendered them practically independent of both the Crown and the constituent body.

For a long period Parliament existed only for a

single session, every session having been preceded by a general election and followed by a dissolution. And the same course was followed even when Parliament met more than once within the year. On one occasion only during nearly four centuries were the same members elected for two consecutive Parliaments, and even then they had to go through the formality of a fresh election each time. In the second Parliament, 45 Edward III., the sheriffs were directed to return certain knights, citizens, and burgesses who had been in the first Parliament of that year, but they had to undergo a fresh election notwithstanding. The reason why the same members were elected was because certain matters had been left unfinished by the first Parliament, and it was considered desirable to summon the same representatives to finish the work which they had begun. The first instance we have of a Parliament being extended beyond a single session occurs in the reign of Henry IV. The Parliament which met in the 7th of that reign held three sessions, and existed 297 days. For the remainder of this reign, and during the whole of the next, a new Parliament was summoned regularly every year, and sometimes oftener, and it was not till the 23rd Henry VI. that any intermission took place. The Parliament which was summoned in that year held four sessions, and

existed 411 days. From this time, with one or two exceptions, a new Parliament was regularly summoned every year till the time of Elizabeth, when the system was introduced of keeping Parliament in existence from year to year, and only summoning it when absolutely necessary. Thus, the Parliament of 5 Elizabeth held only one session in four years; and that elected in 14th of the same reign held only two sessions in eleven years. The same system was continued by James I., although it was not carried out to the same extent as it had been by his predecessor. A new and a bolder policy was however adopted by Charles I. This sovereign commenced his reign by calling three Parliaments within three years; but finding them not to his taste he attempted to carry on without a Parliament at all. The Parliament of 3 Charles I. was dissolved on 10th of March, 1628, and no new Parliament was summoned till the 13th of April, 1640, a period of twelve years, and the Parliament that was summoned in that year was also dissolved after existing for three weeks. Next came the Long Parliament, which was summoned 3rd of November, 1640, and continued sitting almost continuously till the 20th of April, 1653, a period of thirteen years.

It was during the first year of this Parliament that an Act was passed "For preventing any incon-

veniences happening by the long intermission of Parliament." This is not what is known as the Triennial Act, nor is it an Act for abolishing annual Parliaments; on the contrary, it was rather intended to confirm that practice. The preamble of the Act sets forth that "by the laws and statutes of this realm a Parliament ought to be holden at least once every year. . . it be enacted therefore that the said laws and statutes shall be henceforth duly kept." The Act, which was almost revolutionary in its character, provided for the summoning of a new Parliament, "by any twelve peers of the realm," without the consent of the king, and in defect of their acting, "by the sheriffs, mayors and bailiffs" in case the Lord Chancellor should fail to do so within three years from the last meeting; and to prevent a merely nominal compliance with the law the Act provided that "no Parliament henceforth to be assembled shall be prorogued within fifty days after the time appointed for their meeting." This Act was repealed by the Pensioner Parliament of 16 Charles II., "as derogatory to the honour of the Crown, serving to discredit Parliament, and make the Crown jealous of Parliament, and Parliament of the Crown."

With the Restoration there was a recurrence to the former state of things which commenced under the Stuarts. The Parliament of 13 Charles II. was kept

in existence by continual prorogations and adjournments for a period of seventeen years, which was the longest Parliament which ever existed. The prorogation of Parliament at the convenience of the Crown had now become an established practice. If a Parliament was insubordinate it was either immediately dissolved, or it was prorogued from year to year without being summoned; while, on the other hand, if it did the king's bidding it was retained in favour and might count on a long tenure. With penal dissolutions on the one side, and royal favours on the other, it is easy to see what would be the result. Under this process of manipulation Parliament lost all sense of self-respect, and became the mere instrument in the hands of the sovereign for the attainment of his own ends. At length it became apparent that if something more than the shadow of a Parliament was to be preserved, some effort must be made to curb the royal power and compel the sovereign to summon Parliament at regular periods. It was hardly to be expected that the Commons would take the initiative in this matter, however, as they were to a far greater extent under court influence than the Lords. It was accordingly left to the Lords to bring in a measure for this purpose, and they were strongly supported in their action by the people out of doors. On the 16th of January,

1692, the Lords introduced a Triennial Bill, rapidly passed it through all its stages, and sent it to the Commons. Here it encountered violent opposition from the placemen and court party in the House, ostensibly because the measure had emanated from the Lords, but really because it provided for the early dissolution of the existing Parliament. Sir Charles Sedley, who opposed the bill, said :—"It is argued we are the people's ambassadors, or attorneys, as others say ; and they ought to have power to change us, if they find we act contrary to the nature of the trust reposed in us, or are corrupted to a court interest, that they are any way dissatisfied with our prudence or integrity ; and therefore be it enacted that a new Parliament shall be chosen every three years. Truly I cannot see any security for the people against an ill Parliament in this act. . . . But my main objection," he continues, "lies against the clause which requires the dissolution of this present Parliament, by an act of the legislative power." Mr. Goodwell opposed the measure because "the dissolution of the present Parliament is to revive animosities in new elections, and punish the king, by making it not his grace to call a Parliament." Sir Edward Seymour, Sir John Lowther, Sir Joseph Tredenham, Mr. Finch and others objected to the bill as coming from the Lords, or as being an interference with the

prerogative of the Crown. The principal speakers in favour of the bill were Mr. Harley, Mr. Pelham, Colonel Titus and Mr. Herbert. Mr. Harley said that "a standing Parliament can never be a true representative. Men are much altered after being sometime here, and are not the same men as sent up." Mr. Pelham said, "A present member of this House, and also of the Pensioner Parliament, told me that he by order paid pensions to thirty members in that House. The like by a long sitting may be done again." Colonel Titus said, "I never saw long Parliaments good ones. A picture now drawn may be like the person it represents; but in time the colours will fade, and it so alter from itself, that no one can know what it represents. If we would have a picture like, it must be new drawn." Mr. Herbert defended the dissolution clause, and said he "would rather have a standing army than a standing Parliament." The bill was ultimately carried by a majority of 200 to 164, but was vetoed by the king.

A bill for the same purpose was introduced the following session into the Commons, but as there was no serious attempt made to pass it, it was rejected by 146 to 136. The Lords again took the matter up, brought in a bill to the same effect as their last one, passed it through all its stages and sent it to the Commons, where it met with the same fate as the

last, being rejected by 197 to 172. The Commons, pressed on by public opinion out of doors, at length took the matter up in earnest, and at the opening of the next session instructed Mr. Harley to prepare a measure on the subject. Mr. Harley's bill was introduced on the 19th November, 1694, passed the third reading in three weeks; was sent to the Lords, who passed it without amendment, and it received the royal assent before the end of the year.

This is the measure which is known as the Triennial Act of 1694. The intention of the framers of the Act is apparent from the preamble, which sets forth that "whereas by the ancient laws and statutes of the kingdom frequent Parliaments ought to be held; and whereas frequent and new Parliaments tend very much to the happy union and good agreement of the king and people, we, &c." The Act provides that from henceforth "a Parliament should be held once in three years at least;" that "within three years at furthest after the dissolution of the Parliament then subsisting, and so from time to time for ever after, legal writs under the great seal should be issued by the direction of the Crown, for calling and assembling another new Parliament;" and that "no Parliament whatsoever shall continue longer than three years, to be counted from the first day of the first session."

The Triennial Act was a wise and a moderate measure, and probably the best that could have been carried at the time. But moderate as it was it was far from being acceptable to a large section of the Commons, who were quite ready to make laws to restrain other people, but had no desire to be controlled themselves. So long as the sovereign could call Parliament together or not just as he pleased, the position of a representative was not a desirable one, as all his trouble and expense in getting elected might be thrown away if Parliament never met, or met only to be prorogued or dissolved. It was of little use his being elected if Parliament was never summoned, or was never allowed to exercise its functions. So far, therefore, as the Act compelled the sovereign to summon Parliament at fixed periods, it was acceptable enough to the Commons; but so far as it controlled themselves, it was the reverse of agreeable. They approved of the proviso which compelled the sovereign to hold a session of Parliament once every year, but they had a decided objection to be sent to their constituents every third session, as provided by the Act. To cut short their career at the end of three years was to deprive members of the opportunity of aggrandizing themselves at the public expense. They accordingly soon found an occasion for altering that part of the measure which compelled

them to appear before the electors every third year. On the accession of the House of Hanover a good deal of dissatisfaction existed throughout the country, especially in Scotland, and the king's supporters in the House pretended to believe that the dynasty might be overthrown if a general election took place while the country was in this state of disquietude. They accordingly introduced a bill for the lengthening of the duration of Parliament from three to seven years. This bill was introduced into the Lords on the 10th of April, 1716, and rapidly passed through all its stages by large majorities. In the Commons the third reading was carried by 284 to 162, nothwithstanding that public opinion strongly condemned the measure. Almost all the speeches on this debate which have been preserved are against the bill, so that we must conclude either that the supporters of the measure preferred giving a silent vote on the occasion, or that they have been unfortunate in their reporters. The bill as introduced had the appearance of being a merely temporary measure to set aside the Triennial Act for a short period till public excitement had subsided, and although it contained no clause limiting the time it would be in operation, the preamble set forth that if the provisions for holding triennial Parliaments should remain, the consequences might probably "at this juncture, when a

restless and Popish faction are designing and endeavouring to renew the rebellion within the kingdom, and an invasion from abroad, be destructive to the peace and security of the government." There was, however, no greater disaffection at the time the bill passed through Parliament than there had been at any period since the Revolution ; and even had there been, the danger was not immediate, for the existing Parliament had still two years to run, and the disaffection might have passed away before the expiration of that time. Be that as it may, however, it is now certain that all danger to the House of Hanover from this quarter had passed after the battle of Culloden, when the Jacobite party was almost annihilated, but no attempt was made to repeal the Act after that event. The whole transaction was as manifestly unconstitutional as it was immoral. The Parliament which passed the Septennial Act not only assumed the power of prolonging the existence of future Parliaments, but even its own. This Parliament had been elected for a term of three years, and it deliberately passed a measure to prolong its existence for a period of four years more without appealing to the constituent body. There can be no justification of the conduct of Parliament under the circumstances, and no justification has been seriously attempted. The same right that would enable this

Parliament to prolong its existence for four years, might enable another Parliament to extend its existence for forty or four hundred.

This unconstitutional Act has proved more pernicious in its operation, has done more to degrade parliamentary government and retard the progress of legislation, than any proceeding on the part of any previous Parliament. But the Commons had now got what they longed for. The Triennial Act, by making annual sessions compulsory, freed them from the control of the sovereign, and the Septennial Act, by extending the duration of Parliament, placed them practically beyond the control of the people. Free from all restraint, they now commenced a career of profligacy unexampled in our parliamentary history. No doubt we had corrupt Parliaments before the Septennial Act came into operation. Parliaments were bad enough under Charles II.; they were worse under William and Mary; but they reached their last and worst stage under the three Georges, when the Septennial Act began to bear its legitimate fruit. Nor is it difficult to account for this. If a seat in Parliament was worth competing for when the tenure was a short one (and we know that it had been an object of keen competition for more than a century before this), it stands to reason that the competition would not be diminished when the tenure

was lengthened. The prolongation of the term had, indeed, the immediate effect of increasing the previously existing demand, and with the increased demand there was a corresponding increase in the value of the seats. The electors, finding that there was a keen competition for their votes, increased their demands; while the representatives, having now no longer the fear of the constituents before their eyes, immediately set about making the best of the opportunity which a seat in Parliament afforded them of turning their own votes to account. Members who had bought their seats would have little scruple in selling their votes. The men who offered bribes were not likely to be scandalized at being asked to accept them. That members were bribed is beyond all question. The evidence on this head is pronounced by all competent authorities to be overwhelming. Ministers could carry on the government only by having the support of the majority in Parliament, and this majority they openly purchased by the free use of state funds. The pay office, as Macaulay tells us, was turned into a mart for votes, and it was not an uncommon thing for £20,000 of secret service money to be paid to members in a single morning.[1] It was estimated that out of 550 members who were in the first Parliament of George I., there were no less than

[1] *Essays*—Chatham.

271, and in the first Parliament of George II., there were no less than 257 members, who were dependent on the bounty of the government in one shape or another.[1]

It is needless to say that such a body as this was not likely to care much for the liberties of the people; we know, in fact, that the representatives of those days were selfish in their aims, insolent in their bearing, and arbitrary and tyrannical in their acts. At first the servants of the constituencies, they soon assumed the air of masters; from being the protectors they became the oppressors of the people. They were intolerant of criticism in any shape, and the public they treated with sovereign contempt. After they had secured themselves by the Septennial Act, they began to exercise a severe censorship over the press, and to persecute public writers without mercy. Steele was expelled the House for writing political libels; Defoe was prosecuted for writing his *Shortest Way with the Dissenters;* Tutchin was whipped by the common hangman, and many other writers and editors were subjected to the grossest indignities. The House claimed for its members, individually and collectively, complete immunity from hostile criticism, and any word uttered against a member was voted a

[1] May's *Const. Hist.*, vol. i. p. 317. In 1727 there was no less a sum than £250,000 on the estimates as secret service money.

breach of privilege. They expelled and imprisoned one of their own members for printing without permission a collection of his own speeches. A report of a debate in the House of Lords, written by the celebrated John Lock, was ordered by the Privy Council to be publicly burnt by the hangman. Cave, the bookseller, was imprisoned for having furnished a friend with notes of the proceedings of the House of Commons. During a debate in 1738, on the subject of reporting the proceedings of Parliament, one member said :—"If we don't put a speedy stop to this practice [of reporting], you will have the speeches of this House every day printed, even during your session; and we shall be looked upon as the most contemptible assembly on the face of the earth." Even Pulteney and Walpole expressed their condemnation of the practice in unqualified terms, and the same House unanimously resolved that the reporting of the proceedings of Parliament "is a high indignity to, and a notorious breach of, the privileges of this House," and "that this House will proceed with the utmost severity against all such offenders."[1] The representatives of those days did not consider that their constituents had any right to criticise their proceedings in Parliament, and therefore had no claim to information as to what was said or done there. Even the

[1] *Parl. Hist.*, pp. 800–811.

publication of the division lists was prohibited. Thus the secrecy of debate, originally intended as a safeguard against the Crown, was used as a pretext for protecting members from their constituents. In this manner did Parliament treat their constituents and flaunt their independence before the world.

And this Act is still the law of England. Numerous attempts have been made to repeal it, but they have all failed. For one hundred and fifty years, off and on, has the question been debated in Parliament. Resolutions without number have been brought before the House for shortening the duration of Parliament, but they have all been defeated by large majorities, although they have been supported by the most eminent statesmen in the country. Among the names of those who voted with the minority on this question are to be found Earl Grey, Lord Brougham, Sir F. Burdett, Sir James Mackintosh, C. Buller, George Grote, Joseph Hume, Serjeant Talfourd, Col. Thompson, C. P. Villiers, and, when first seeking election, Benjamin Disraeli. But notwithstanding the prolonged and vigorous agitation against the Act, no progress whatever has been made towards repeal. Of late years, indeed, no attempt has been made in this direction. We have made progress in most matters since the beginning of the last century when this Act was passed, and Parliament has been driven

forward with the times; but the Septennial Act still remains on the statute book. The political creed of to-day is very different from what it was in the time of the three Georges; but on the question of the duration of Parliament, and of the relation of the representative to his constituents which is involved in it, there has been literally no progress. The spirit of the eighteenth century stills pervades the Parliament of to-day; members have the same distrust of their constituents, the same impatience of control; and if they do not express their feelings so offensively, they show the same inclination to assert their independence of the constituent body as did their predecessors at the beginning of the last century.

CHAPTER III.

GOVERNMENT BY PARTY.

THE passing of the Septennial Act prepared the way for a complete change in the Constitution. Being practically free from the control of their constituents, the Commons proceeded to assert their independence in a very practical way. Agents they no longer pretended to be; they only used their procuratorial position in order to promote their own private ends as principals. Instead of devoting their services to the affairs of their constituents, they openly went into business on their own account. On entering Parliament they found that there was a demand for their votes; and as they wanted office or place or pay what more natural than that they should endeavour to make an exchange? But the great offices of state were already filled, and there was a limit to the dispensation of ministerial favours, the latter being reserved for the friends of the govern-

ment. That those who were out of office, or who had been excluded from a share of ministerial favours, should clamour for a change of administration and should combine for such a purpose, was only what might be expected. Accordingly they formed themselves into an organized band, called the Opposition, and held themselves in readiness to oppose the government on every possible occasion. Ministers, on the other hand, being thus attacked, had also to organize their supporters, and so we had two hostile bodies, ranged on opposite sides of the House, each under its own leader, the one fighting to retain, and the other to seize, possession of the treasury benches. Here we have the beginning of a new system of government. This is what is now called Government by Party.

In carrying out such a system as this it is evident that the good of the country is likely to be sacrificed for the benefit of party. If the government be carried on purely in the interests of party, it is very certain this cannot be to the advantage of the country. The motives and aims in the one case are distinct from, if not incompatible with, the motives and aims in the other, unless we are to assume that the interests of party and of the country are identical, which would be as correct as to assert that an individual in following his own selfish interests was acting disinterestedly

or that a pickpocket was a useful and patriotic member of society.

Let me not be understood as objecting to the existence of party spirit in politics. I think it is neither possible nor desirable that party spirit should be eliminated from politics, or from anything else. By party I mean a body of men who are bound together by common views, principles or policy. No great reform was ever carried without party organization, because in every country there is an inert mass of humanity who are opposed to all change whatsoever, and who can only be moved by the united and persistent efforts of the party of progress. But once the policy of a party has been carried there is no longer a reason for the existence of the party, which should therefore be dissolved. There is a wide distinction between a party which exists solely as the advocate of certain principles, and a party which subordinates all principles to office. Unfortunately the two great political parties in the English Parliament belong to the latter category. Neither of them has ever been distinguished for honesty of purpose, or for strict adherence to any principles. Both of them, on the contrary, have made themselves notorious by their fickleness, by their greed of office, and by their unscrupulous use of means to attain it. They have been trimmers and time-servers; they have been

everything by turns and nothing long. If they have supported a good cause it has generally been from a bad motive. They are ready to advocate one set of principles to-day and another to-morrow, if by so doing they may hope to trip up their opponents. At the beginning of the last century the Tories were in favour of short Parliaments, and the Whigs supported the Septennial Act. At the same period the Tories were in favour of the Place Bills and the Pension Bills, and the Whigs were opposed to them and to every measure which tended to restrict the corrupting influence of the government. In the eighteenth century the Whigs carried the penal laws against the Catholics, and the Tories opposed them. In the nineteenth century the Whigs abolished the same laws, and the Tories strenuously opposed their abolition. In 1711 the Tories swamped the House of Lords by the creation of peers, a proceeding which the Whigs strongly condemned; in 1832 the Whigs threatened to do the same thing in order to carry their Reform Bill, and the Tories professed to be horrified at the bare proposal. The Tories advocated and the Whigs opposed free trade at the peace of Utrecht; the Tories opposed and the Whigs advocated free trade at the time of the corn law agitation. Mr. Pitt denounced and overturned the government of Mr. Fox chiefly because it was a coalition, and imme-

diately proceeded to form a coalition ministry of his own.[1] In 1859 Mr. Disraeli introduced a Reform Bill and Lord John Russell managed to defeat it because it did not go far enough; the same year Lord John Russell brought in a Reform Bill, and Mr. Disraeli opposed it because it went too far. At the beginning of last year (1880) the Conservatives (being in office) assured us that Lords Beaconsfield and Salisbury had placed England at the head of the nations by the Treaty of Berlin; at the end of the same year the Conservatives (being out of office) assailed Mr. Gladstone with the coarsest abuse because he had pressed Turkey to submit to this same treaty. In the same year the Duke of Argyle and others of his recent colleagues (being out of office) assailed Lord Salisbury and the Conservative government for sacrificing the

[1] Speaker Onslow relates a conversation he had with Walpole, on the subject of the king's (George II.) partiality for his Hanoverian subjects, which shows the lengths to which party feeling ran in his day. "A little while before Sir R. Walpole's fall," he writes, "and as a popular act to save himself (for he went very unwillingly out of his offices and power) he took me one day aside and said: 'What will you say, Speaker, if this hand of mine shall bring a message to the House of Commons declaring his consent to having any of his family after his own death to be made by Act of Parliament incapable of inheriting and enjoying the crown and possessing the electoral dominions at the same time?' My answer was: 'Sir, it will be a message from heaven.' He replied, 'It will be done;' but it was not done, and I have good reason to believe it would have been opposed and rejected at this time because it came from him, and by the means of those who had always been most clamorous for it."—Cox's *Walpole*, vol. ii. pp. 571, 572.

interests of India to those of Lancashire in the matter of the cotton duties; immediately on acceding to office, Lord Hartington, speaking on behalf of all his colleagues (not excluding the Duke of Argyle) in reply to a deputation of Lancashire manufacturers, stated that the government were determined to abolish all which Lord Salisbury had left of the import duties on cotton. The conduct of neither of the two great parties in the State appears to have been regulated by any principle whatever. Their politics changed with the hour and the opportunity. What one party approved of the other opposed; whatever action one party took the other condemned. If the Whigs were in office and brought in a measure, the Tories would oppose it as a matter of course; if the Tories succeeded to office and brought in a similar measure on the same subject, the Whigs would pronounce it to be utterly worthless. And their successors follow precisely the same course. With Liberals and Conservatives alike everything is fair in party warfare. Truth, honour, and fair dealing are alike sacrificed to the exigencies of party. The end justifies the means, according to the ethics of either party, and the supreme end of both parties is to secure or maintain possession of the treasury benches.[1]

[1] The following description of how the system of party government is worked in the interest of the great governing families is amusing, as coming from a Conservative party journal :—

"No game of whist in one of the lordly clubs of St. James's Square

Government by Party is of a comparatively recent date. It was the outcome of a long series of corrupt Parliaments dating back from the Restoration. There is no trace of its existence till after the Revolution, and it was not till long after that event that it was organized as it now is. Macaulay tells us that political parties had their origin in the Long Parliament. It is true that there were two political parties in the Long Parliament, and that is all that can be said on the matter. They were not parties in the sense understood by the term at the present day. They were not organizations for the mere purpose of securing or holding office. The parties of that day had not become mere place-hunters. Previous to the Revolution the sovereigns of England chose their ministers on personal grounds alone, and often in defiance of Parliament. The king's ministers were the king's friends. William III. was the

was more exclusively played. It was simply a question whether his Grace of Bedford would be content with a half or a quarter of the cabinet; or whether the Marquis of Rockingham would be satisfied with the two-fifths, or whether the Earl of Shelbourne would have all, or share his Power with the Duke of Portland. In those barterings and borrowings we never hear of the name of the nation; no whisper announces that there is such a thing as the people; nor is there any allusion, in its embroidered conclave, to its interests, feelings and necessities. All was done as in an assemblage of a higher race of beings, calmly carving out the world for themselves, a tribe of Epicurean deities with the cabinet for their Olympus."—*Blackwood's Magazine*, No. 350, p. 754.

first sovereign who formed a ministry on a purely political basis, and his example was generally followed during the subsequent reigns. But this was not always the case, and it was not till the present reign that ministers were regularly chosen from the majority in Parliament. The last memorable instance of a sovereign dismissing a ministry which had a majority in Parliament was during the short reign of William IV. Taking advantage of the accession of the premier, Lord Althorp, to the peerage, the king suddenly dismissed his Whig ministers, and entrusted the Duke of Wellington with the formation of a government from the Tory party, who were in a minority in the House of Commons. The defeat of the ministry at the general election which followed showed that they were in a minority in the country as well as in Parliament, and from that time forth the premier, on whom now devolved the task of forming a cabinet, has invariably been chosen from the party which for the time being had a majority in Parliament.

Government by Party is usually spoken of as if it were the same thing as government by the majority. This is a great mistake. It is true, as I have said, that the government of the day is now chosen from the majority in Parliament, but it by no means follows from this that the government is carried on by a parliamentary majority; on the contrary, we know

that Government by Party is not government by the majority, but government by the majority of the majority; that is to say, the majority of the party which has a majority in the House. And this majority of a majority may be, and often is, really a minority of Parliament Let me explain what I mean by an illustration. Suppose a party in the House brings about a ministerial crisis which results in the leader of the party forming a cabinet. Suppose also the new cabinet has a large majority in the House, and that in attempting to carry out the policy of their party, they introduce a measure which is based on that policy. But the measure may not be acceptable to all the members of the party; indeed, it would be strange if it were, for there is almost invariably a dissentient minority in every party on some question or other. Party organization however, we shall suppose, triumphs over the dissentients, who vote, if they do not believe, with the majority on their own side of the House, and the bill is carried. Now what I wish to point out is that it is quite possible that the minority among the government supporters who were secretly opposed to the bill together with the whole of the opposition might make a majority of the House. In such a case the majority of the majority would be a minority of Parliament. Take another case. The government introduce a bill, some of the

details of which are not acceptable to more than a bare majority of their supporters. The ministerial minority wish to amend it, and the amendments which they desire would also be acceptable to the whole of the opposition. But ministers refuse to give way, and the bill is eventually carried, the whole of the ministerial following voting for it rather than break up the ministry. In this case the majority of the majority would be a very small minority of the whole House.

Government by Party and government by the majority are therefore two very different things. Indeed party interests are often antagonistic to parliamentary government, or government by the majority. The most truly representative Parliament, and, on the whole, probably the best that ever existed in England, was the Parliament which carried the Reform Bill of 1832 ; and Earl Grey, the leader of the party which carried that measure, was (for a while) probably as earnest a reformer as ever held office in any Government. Here, then, a favourable opportunity was afforded of showing the advantages of party government. Yet if we are to believe contemporary opinion at least one other very important reform might have been carried through that Parliament had Earl Grey been guided by his parliamentary majority. "There could be no doubt that the great

majority of that assembly," says Mr. Molesworth, speaking of the Parliament referred to, "were perfectly prepared to welcome and to carry any measure against the church that might have been brought forward by the government, and that in the temper in which men's minds then were, the nation would have received such a proposal with an enthusiasm little or at all inferior to that which had been excited by the introduction of the Reform Bill." [1] But the wishes of the majority were overruled for party reasons, as they have been many times before and since, and the question of disestablishment remains for settlement to this day.

What Earl Grey did with the question of disestablishment Lord Palmerston attempted with the question of reform. It is well known that Lord Palmerston differed from his party, and even from some of his colleagues, on the reform question; but in the session of 1860, his government, in order to satisfy his followers, brought in a bill on the subject. It is probable that he had no ardent desire to see it carried; indeed, it is generally believed that he was all along secretly opposed to it; at all events, by absenting himself from the debates on the question he left the impression that he was not favourably disposed towards it. That the measure was not

[1] *Hist. of Eng.*, vol. i. p. 275.

carried was entirely due to the lukewarmness or secret opposition of the premier, for it was well known that there was a majority in the House in its favour. But it suited Lord Palmerston's policy to overrule the majority, and that policy he had no difficulty in carrying out in this instance.

Notwithstanding the fact that the Reform Bill in 1832 was carried as a party question, the history of constitutional reform since that time shows that its settlement has been retarded rather than advanced by party organizations. So evident did this appear to be the case, that in 1867 many of the leading members on both sides of the House, notably Mr. Disraeli and Mr. John Bright, expressed their opinion that the question never would be settled until it had ceased to be a party one. And more than one attempt was made to divest it of a party character. On introducing his Reform Bill in that year Mr. Disraeli expressed it as his deliberate opinion that the reason why the question of reform had not been settled by previous Parliaments and previous ministries was, because it had always been treated from a party point of view; and he referred to the remarkable fact that no less than six successive governments had brought in Reform Bills, not one of which had been carried. Mr. Disraeli had always been a staunch advocate of party government; yet what

stronger condemnation of the system could we have than is furnished by these facts, and by his appeal to the forbearance of both parties in the House on this occasion? The six Reform Bills referred to were those introduced in 1852, 1854, 1858, 1859, 1860, and 1866, Mr. Disraeli's own bill making the seventh; and this measure would undoubtedly have experienced the same fate as the others on the same subject had not Mr. Gladstone, the opposition leader, in the spirit of true patriotism, refused to oppose it on party grounds, although he was extremely dissatisfied with the bill as it left the hands of the ministry. Unlike other party leaders Mr. Gladstone determined to use his utmost endeavours to amend the measure, and by so doing, and thus removing it out of the category of party questions, he succeeded in carrying a greatly improved Reform Bill through the House.

If Government by Party is not government by majority, on what ground can it rest its claims? It cannot be that party government is necessary to the progress of legislation, as we have seen six Reform Bills rejected in succession because they were made party questions, and the seventh only carried because both sides of the House agreed to withdraw it from the sphere of party politics. Nor can it be that party government is necessary for the support of the government of the day, for it is in order to get

at the government of the day that ministerial measures are rejected, the opposition preferring to sacrifice even good measures rather than allow ministers to remain in office. Nor can it be said that party government is an essential part of the representative system, because it is evident that representative institutions would work far better without it. Representative institutions flourished in England for centuries before party government was ever heard of. Indeed, party government is a positive hindrance to the effective working of the representative system. The fundamental idea of the representative system is responsibility to the constituent body; the leading principle of party government is loyalty to party organization. The representative owes allegiance to his constituents and to them only; the party man sinks the representative in the partisan and votes and acts as his leader directs him.[1]

The advocates of party government do not indeed deny that their system is at variance with the principle of representation. Nay more, they frankly admit the fact, though, strangely enough, they never-

[1] We have a curious illustration of party spirit in a remark made by one of the rank and file of a party to the effect that he made it an invariable rule never to be present at a debate, or absent on a division, and that he only once, during the course of a long Parliamentary life, ventured to vote according to his conscience, *and on that occasion he had voted wrong.—Mirror of Parliament*, p. 2376.

theless cling tenaciously to their theory. "Parliamentary government," says Earl Grey, "is essentially a government by means of party. . . . The House of Commons owes its success as an active part of the supreme authority, and its peculiar excellencies, to what are regarded as defects and departures from the principle in our representative system. . . . and it is chiefly through these defects that the ministers of the Crown have been enabled to obtain the authority they have exercised in the House of Commons."[1] Parliamentary Government and party government are here represented as synonymous, a mistake which runs throughout Earl Grey's book on the subject. But what we have here more particularly to note is, first, the admission that party government owes its success to "defects and departures" from the principle of representation; and, secondly, the statement that it is owing to these very defects and departures that "the ministers of the Crown have been enabled to obtain the authority they have exercised in the House of Commons." According to Earl Grey, therefore, party government has had the happy effect of enabling ministers to obtain "authority" in the House, and it is carried on for the benefit of ministers, and in order to enable them to coerce Parliament. And no

[1] *Parl. Gov.*, pp. 49, 67, 68; see also Todd's *Parl. Gov.*, vol. i. pp. 9, 13.

doubt, in this respect, the system has succeeded admirably. Party government has placed Parliament at the feet of the ministry of the day. We have already seen how a ministry, by means of a party vote, may coerce a majority; we may also see how a ministry may exercise authority and openly set the House at defiance.

In 1844 the government of Sir Robert Peel was defeated in Committee of the House of Commons on the Factories Bill, the House having affirmed by three separate votes, each of which were opposed by ministers, the expediency of reducing the hours of labour in factories from twelve to ten. Not satisfied with this, however, ministers tried the question a fourth time, and succeeded in reversing the former decision by a majority of seven. The Home Secretary, Sir James Graham, subsequently moved for leave to withdraw the bill and introduce another, which, while it embodied various points which the House had affirmed, nevertheless upheld the principle of twelve hours' labour. In the committee on this new bill, Lord Ashley moved to insert a clause restricting the hours of labour; but Sir Robert Peel stated that if this motion were carried, ministers would resign, and it was accordingly negatived by a large majority.[1]

[1] Todd's *Parl. Gov.*, vol. ii. pp. 303, 304; *Hansard*, vol. lxxxiii. pp. 1482–1493; lxxiv. pp. 899, 1094, 1104.

Again in 1866, under Earl Russell's administration, an instruction was carried in the House of Commons in opposition to ministers to make provision against bribery in the new Reform Bill. Nevertheless the government proceeded with the measure, ignoring the instruction with regard to the bribery clauses. This course was objected to by the opposition, who contended that it was the duty of ministers to embody the clauses in the bill; but as the government was soon afterwards defeated on another portion of the same bill, and having thereupon resigned, the measure was lost.[1]

But ministers do not usually act in such an openly hostile and defiant manner towards Parliament. These are simply instances of gross ministerial blundering. The same end may be attained by more conciliatory means. As a rule, ministers profess great consideration for the opinions of Parliament. It is only the opposition minority that they treat with contempt. Where an important vote is pending they first try to make sure of their majority. If there are any signs of disaffection in the ministerial rank and file, they rally their party, an appeal is made to party feeling, the disaffected have to stand out, all the influence at the command of ministers is employed to conciliate them, and when all else fails, a threat of resignation

[1] *Hansard*, vol. clxxxiii. pp. 1348, 1589.

or of a dissolution of Parliament will generally bring them to terms. The ministerial ranks are then closed, and the re-united majority behind the treasury benches are used to crush the opposition minority. To the outside public all seems fair and square, but none the less effectively have ministers exercised their influence and authority to silence the voice of the majority.

But is it really desirable that ministers of the Crown should exercise authority over Parliament? Is it not desirable rather that Parliament should exercise authority over ministers? Is it not an essential principle of parliamentary government that ministers should be held responsible to Parliament, instead of Parliament being held responsible to ministers? What, may I ask, would become of the authority of Parliament if the principle enunciated by Earl Grey were carried out in its integrity? The theory that ministers of the Crown, who shape their policy and prepare their measures in secret, should be permitted to force that policy and these measures on the representative body, whose ministers they virtually are and to whom alone they are responsible, is so monstrous that it is difficult to understand how it can find acceptance amongst intelligent men at the present day.

But, say the advocates of party government, the

business of the country cannot be carried on without a strong ministry. It is necessary, we are assured, that a government should have a large and pliant majority behind them to enable them to retain their position and to carry their measures through Parliament. We are left in no manner of doubt as to how this majority was got together in the pre-reform era. "The adherents of the ministry," says Todd, "were obtainable from the first by means of various small boroughs which were under the direct control of the Treasury, and of other boroughs which were subject to the influence of certain great families or wealthy proprietors, who were willing to dispose of the same in support of an existing administration."[1] And this majority was, according to the candid admission of another friend and advocate of party government, retained in a still more objectionable manner. "Parliamentary government," says Earl Grey, "derives its whole force and power from the exercise of an influence akin to corruption. The possession and exercise by the ministers of the Crown of a large measure of authority in Parliament is the foundation upon which the whole system of government rests, while the authority was from the first time maintained principally by means of the patronage of the Crown, and of the power vested in the administra-

[1] *Parl. Gov.*, vol. i. p. 9.

tion of conferring favours of various kinds on its parliamentary supporters."[1] Thus the rotten borough system, the control of the Crown, and the influence of great families were all necessary to the existence of party government; and it was only natural that a system which owed its origin to such agencies should resort to corrupt means in order to maintain its existence.

A strong government, however, is not necessarily a good one. A large following is not essential to either good administration or to wise legislation. We have had numerous strong governments in the past, but, as a rule, they were not good ones, in the sense of being either honest or efficient. If we are to test the strength of a ministry by the length of time it has held office, then the strongest government that ever existed in England was that of Walpole's. But that government was strong because it was corrupt, and it was inefficient because it was strong. It was corrupt because it purchased its support; it was inefficient, because firmly secure in its position it was under no obligation to strengthen itself by attempting any legislation that was not absolutely necessary to its existence. The twenty-one years of Walpole's rule are absolutely barren of legislative results. Legislative activity abruptly ceased when

[1] *Parl. Gov.*, vol. i. p. 38.

he entered office, and was only resumed when he left it. Year after year passed and nothing was done, and nothing attempted.[1] The opposition was so weak that for a time they ceased to attend Parliament, so powerless did they feel themselves before the overwhelming majority behind the treasury benches. The next strong ministry was that of the second Pitt. Pitt's policy was the very reverse of Walpole's. He displayed great legislative activity. He attempted to solve almost every problem that Walpole shirked. He conducted the government of England during a long and critical period of her history, but his administration was as barren of legislative results as that of Walpole's. And his failure in this respect was not due to the want of opportunity or of support. His ministry lasted seventeen years, and so strong was it that it was said that at one time the entire opposition could have been held in a hackney coach.

The advocates of strong governments who deplore the decline of the old nominee and close borough system which the Reform Act of 1832 abolished, should compare the legislative results of Walpole's

[1] It is a remarkable fact that though he was at the head of affairs during more than twenty years, not one great measure, not one important change for the better or for the worse in any part of our institutions, marks the period of his supremacy.—Macaulay's *Essays*; Walpole's Letters to Sir Horace Mann.

and Pitt's administrations with those of two other ministries which have held office since the passing of that measure.

The ministry of Earl Grey and Mr. Gladstone's first administration were neither of them long lived, but the measures passed by them during their short tenure of office are in marked contrast with the beggarly results of the two administrations referred to. Thus, during the first session of the Reformed Parliament, there were passed—a Bill for the Abolition of Slavery, thus settling a question which had occupied the attention of many previous Parliaments; a Bill for the Regulation of Factories, the first of a long series of measures in the interests of labour, and several important law reform bills. It was during this session that the first step was taken towards the establishment of a really national system of education. Perhaps no single session of any Parliament ever produced so many important measures as this. Mr. Gladstone's first administration was also prolific of important legislative results. We have only to mention the Irish Church Disestablishment Act, an Irish Land Act, the present Education Act, the Abolition of Purchase in the Army Act (abolished also during the same session by royal prerogative), and Vote by Ballot Act, which settled a controversy of 150 years' standing. No government, either before or since the

Reform Act, achieved results at all corresponding to those accomplished by the two administrations referred to.

A really strong government is a government that is firm, self-reliant, and courageous; and a government will usually exhibit these qualities when it has public opinion on its side, and not otherwise. It was because Earl Grey and Mr. Gladstone were resolute and determined, and were strongly supported in the country, that they were able to accomplish so much. A numerically weak government, strongly supported in the country, can generally carry its measures when a government numerically stronger, but without that support, almost invariably fails. The reason of this is obvious enough. The adherents of the government are bound together by purely party ties; ministers will therefore always endeavour to avoid bringing in measures that may tend to break up their party, and reform measures, and more particularly reforms of an important and comprehensive character, are especially dangerous in that respect. On the other hand, a government that is weak in the House but strong in the country will attempt, and will often succeed, in carrying measures through Parliament, because if it fails it has nothing to lose but everything to gain by a dissolution, which it can always claim, while the prospect of an appeal to the country imposes a wholesome

restraint on the opposition, and often induces them to pass measures that are obnoxious to them. A government that is only popular in the House is usually averse to legislative action, for the more active it is the more it is likely to alienate some section of its numerous supporters; a government, on the other hand, that is popular out of doors is generally active and aggressive, as a dissolution, if precipitated by its action, would have the effect of increasing its influence in the House. George III. used to say that he could always manage a weak ministry, but that a strong one was too much for him; in like manner has the country often had good cause to congratulate itself on having a weak ministry at the head of affairs.

But there is another consideration which the advocates of strong governments have altogether lost sight of. There is a danger in strong governments. Enormous administrative powers have been conferred on ministers under the Constitution, and strong governments are far more likely to use these powers than weak ones. Speaking of an administration supported by a large and faithful majority in the House, Mr. Sheldon Amos says:—"When a government is thus supported, there is no legal limit, and it is difficult to find a political or a moral limit, to the lengths they may go in asserting the most extreme, far-fetched, and even absolute claims of the royal prerogative; and it

is always open to them and their loyal adherents in both Houses, to affix what interpretation they please on all doubtful points of law and practice."[1] What these enormous powers are, an eminent constitutional authority has recently pointed out. "I said in this book," writes Mr. Bagehot, "that it would very much surprise people if they were told how many things the Queen can do without consulting Parliament, and it certainly has so proved, for when the Queen abolished purchase in the army, by an act of prerogative (after the Lords had rejected the bill for doing so), there was a great and general astonishment. But this is nothing to what the Queen can by law do, without consulting Parliament. Not to mention other things, 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

[1] *Fifty Years of the English Constitution*, p. 359.

servants; she could pardon all offenders. In a word, the Queen could, by prerogative, upset all the action of civil government within the realm, could disgrace the nation by a bad war or peace, and could, by disbanding our forces, whether land or sea, leave us defenceless against foreign nations."[1] If ministers have a legal right to do all this (for of course the Queen can only act through her ministers), a bold, unscrupulous, and strong ministry may some day carry it out, to the general astonishment of all parties in the State.

But the days of strong governments, in the old sense of the term, are passed, never to return. The Reform Act of 1832, which abolished the close borough system, has effectually disposed of them. It is only in a Parliament elected during a period of great excitement, which occurs but rarely, that a government hopes to secure a large majority. The weakness of modern administrations is, accordingly, a standing complaint amongst the advocates of party government.[2] In this respect party government has failed

[1] *English Constitution*, Introduction.

[2] "In this age the elements of governing are daily diminishing, the power of governing nations is every day weakening."—*Speech of Mr. Disraeli, Hansard*, vol. clxx. p. 430.

"In order that the ministry may be in a position to devise and recommend to Parliament a policy that shall commend itself to the highest intelligence of the country, it is essential that they should have sufficient strength in the popular assembly to enable them to withstand the pres-

according to their own showing, and there is no salvation for them except by returning to the state of things which existed in pre-reform times. But if they want really strong governments they must go further back still. Under the Tudors it was not an uncommon thing for a minister of the Crown to hold office for twenty years, or even longer. Burleigh held office uninterruptedly for forty years. Sir Walter Mildman, Sir Nicholas Bacon, Sir Thomas Walsingham, and Sir Thomas Smith, were ministers of the Crown for periods varying from fifteen to twenty-three years each, and all of them died in office. Governments are not so long-lived nowadays, and we seldom or ever hear of a minister dying in harness.

The fact is, that when there is no great question agitating the country, parties in the House are, as a rule, evenly balanced, and ministries are continually changing. A succession of weak administrations is the inevitable result of such a state of things. A

sure of temporary political excitement. Prior to the passing of the Reform Bill, in 1832, there was no impediment of this kind; but thoughtful politicians foresaw, as an inevitable consequence of that measure, that parliamentary government would become more and more difficult and embarrassing. . . . At the same time, by increasing the weight and influence of the House of Commons in public affairs, while it diminished the means previously at the disposal of the Crown for exercising a constitutional control over the proceedings of Parliament, it has served to render parliamentary government a more onerous undertaking."—Todd, *Parl. Gov.*, vol. i. pp. 14, 15.

notable illustration of this we have in the condition of political parties in the Italian Parliament for some time past. The Parliament of Italy is modelled on the English system of Government by Party, and there have been no less than twenty-five new administrations in that country in eighteen years, or an average of one every eight or nine months. In New Zealand, also, where the worst features of the parliamentary system of the mother country have been adopted, there were in 1872 no less than nine changes of government within seven months.[1] A general election, and a good cry to go to the country with, would have put an end to this state of things. Party government in England has only been saved from merited contempt by the party leaders on either side adroitly seizing on every question of public interest, and turning it to account for party purposes.

The position taken up by the advocates of party government is, indeed, an altogether extraordinary one. They assume that strong governments are desirable; but by a strong government they mean a strong party government, that is to say, a government supported by an organized party and opposed by another organized party with a proper balance of power between them; and they assign as a reason for having an organized opposition, that it is neces-

[1] Todd's *Parliamentary Government in the British Colonies*, p. 544.

sary there should be a check upon strong governments.[1] In other words they want party government, because by that means they hope to have a strong government; and they want a party government, because by that means a strong government may be kept in check. They want, in fact, to do and to undo at the same time and by the same means; they desire a strong government, and no sooner have they got a strong government than they want to get rid of it, and the method they propose for attaining both ends is one and the same.

Under the system of Government by Party, Parliament exercises no permanent control over the government, and as we have seen, its advocates profess that it exercises none. That it exercises none in matters

[1] "On the other side we find that government without party is absolutism; that rulers without opposition may be despots."—May, *Const. Hist.*, vol. ii. p. 93.

"But Mr. Pitt united all these classes in one irresistible phalanx of power. Loyalty and patriotism, fears and interests, welded together such a party as had never yet been created; and which, for the sake of public liberty, it is to be hoped will never again be known."—Ibid., vol. ii. p. 38.

"Where the balance of power between the component parts of the supreme authority is duly preserved . . . Parliament will be able to fulfil its proper function, of exercising a vigilant control over every act of administration, and being prompt to interpose upon every occasion of abuse or misgovernment."—Todd, *Parl. Gov.*, vol. i. p. 24.

Nay, what says the brilliant and versatile author of *Coningsby?* "No government can be long secure without a formidable opposition. It reduces their supporters to that tractable number which can be managed by the joint influence of fruition and hope."

of administration is certain, for of nothing are ministers more jealous than of any interference in departmental arrangements; that it exercises none in legislation is also certain, as we have seen that the theory of party government, in fact its *raison d'être*, is that the government, to use the words of Earl Grey, shall "guide the decisions" of Parliament in such matters. It is assumed throughout by the advocates of this system that if the government did not exercise authority in this respect the legislative business of the country could not be carried on. On the other hand, I contend that it is solely because ministers exercise their authority that it is so difficult to get any legislation out of Parliament. So far from being of any assistance, in my opinion, party government is a positive hindrance to legislative action. If a private member bring in a measure the government will, either openly or covertly, oppose it, and in that case it is doomed; on the other hand, if the government introduce a measure of its own, no matter how necessary or important it may be, it will have to encounter the whole forces of the opposition, which, combined with the defections from the ministerial ranks, will, in nine cases out of ten, succeed either in emasculating it, or in defeating it, or what practically amounts to the same thing, in delaying it indefinitely; for there is no denying the fact that a measure disposed of in

this way at once becomes unpopular in the House. It is looked upon henceforth as a troublesome and dangerous question to deal with, and no ministry, present or future, will take it up again unless it is forced upon them by the country, as was the case with the reform question.

Like the dogma of the divine rights of kings and passive obedience, party government came to the front during the stormy period of the Revolution. The system is indeed so monstrous, that it could only have found acceptance at a time when national animosities ran high, and the people were in an abnormal state of excitement. Under no ordinary circumstances is it conceivable that the English people would have tolerated a political system so entirely different from that to which they had been so long accustomed, and so opposed to their practice in the affairs of everyday life. To the mass of the people it was, and always will be, a matter of utter indifference as to who were in office or who out of it, so long as the country is well governed. They had been accustomed to send their representatives to Parliament to confer together and co-operate for the common good of the whole community. It must therefore have shocked their moral sensibilities when they discovered that their representatives, instead of attending to the business of the country for which they

had been elected, were devoting themselves to far other purposes; that no sooner did they come together than they immediately ranged themselves on opposite sides of the House; that they openly avowed hostile intentions towards one another; that they at once proceeded to open acts of hostility; that they spent their time and energies in vilifying one another, in misrepresenting one another's motives, opinions and actions, and in attempting to ruin one another's reputations, to defeat one another's plans, and to delay and mutilate, when they could not reject, one another's measures. And that men eminent for their talents, their eloquence and even their uprightness in other relations of life, should do all this without any sense of its impropriety and its injustice, was a sight not calculated to raise parliamentary institutions in the estimation of right thinking men. Had it been the design of its authors to demoralize the public mind, to impede the public business, to create natural animosities and general anarchy, they could not have better accomplished their end than by the introduction of such a system as this. Nothing can be more obvious to common sense than that the representatives of a great nation could be bound together by the same interests, aims and aspirations as the people themselves, and that they should co-operate with them for the common good of the whole country; and nothing can be more absurd than

to suppose that the common good could be achieved by a system that tends to create and perpetuate party strife and national animosities. We might as well create discord in order to produce harmony, or provoke quarrels for the purpose of promoting friendship and cordiality. The most extraordinary part of the matter is that there are still men to be found who believe such a vicious system is essential to parliamentary government.

This species of party warfare, too, is peculiar to parliamentary life, I had almost said to English parliamentary life, for it has not fairly established itself in any non-English speaking races, and even in England itself it has found no place in any other departments of public or private service. It is unknown in the Church. Ecclesiastical assemblies, whether established or dissident, have not adopted it, and I am not aware that these assemblies are more disorderly, or that their business is worse conducted on that account. It is also unknown in municipal life, where the representative system is in full vigour. The local representatives do not range themselves in hostile camps and spend their time and energies in faction fights. On the contrary, they meet, discuss and vote on civic matters, and absolutely ignore parliamentary precedent in their mode of conducting business. Party organization is equally unknown in commercial life, where the repre-

sentative system also exists. The board of directors is a miniature parliament elected by the shareholders to manage their business for them. But no one ever heard of party organizations in the board-room of a joint stock company. A commercial undertaking conducted on the approved parliamentary model would be doomed to certain ruin. Had Government by Party not come into existence under exceptional circumstances; had it not been the slow growth of generations; had it not been associated with the names of our most eminent men and with some of the proudest events of our history and had almost become a part of our natural life, it would find few defenders amongst us at the present day. The system is tolerated because of old associations, and because we have come to think that it is in some way an essential part of our time-honoured Constitution; but if it were now, for the first time, proposed for our acceptance, I venture to say that it would not recommend itself either to the intelligence or to the moral sense of the community.

CHAPTER IV.

OUTSIDE PRESSURE.

OUTSIDE pressure is a new force in politics. In former times, the only means of communication between the general public and Parliament was through the electoral body. Until within a century ago, public meetings, at all events for political purposes, were almost unknown, political organizations were unheard of, and the platform and the press were not recognized as organs of public opinion. Parliament was then regarded as the sole exponent of the wishes and opinions of the country, and any reference in either House to what had been said or done outside of it with a view to influence its decisions was considered as derogatory to its dignity, or as an interference with its rights and privileges, and was resented accordingly. Public meetings, the practice of petitioning Parliament on national questions, and organizations for political purposes, all originated about the

close of the last century. The first public meeting of note of which we have any record was the famous assembly of the freeholders of Middlesex, and afterwards of Yorkshire, to protest against the proceedings of the House of Commons for expelling John Wilkes. About the same time, petitions began to be presented to Parliament in favour of constitutional reform, and the abolition of the slave trade. The first political organization was the "Society for supporting the Bill of Rights," which was followed by the "Protestant Association," "The Repeal Association," "The Anti-Slavery Association," and the "Catholic Repeal League," and others of a similar character.

These various movements marked the commencement of a new era in English politics. They were the indications of the changed attitude of the people towards parliamentary institutions. Public meetings and political organizations grew out of the abuses of our representative system. Parliament had now ceased to represent the people, and the people began to look elsewhere for redress. As long as Parliaments were of short duration, the House of Commons was fairly representative of the great body of the people. Public grievances were rapidly cleared off by each Parliament as they arose, and were not allowed to accumulate for indefinite periods as they do now. When the term of Parliament was length-

ened, however, the Commons were relieved from the control of their constituents. Members who held their seats for seven years were not under any obligation to deal promptly with, and, as a matter of fact, did not trouble themselves about, the grievances of their constituents. Much-needed reforms were accordingly put off from year to year; public grievances accumulated beyond hope of redress; the old channel of public opinion got blocked up, and the obstructed stream overflowed its banks and formed for itself new channels. It is along one of these new channels that we are now proceeding.

In order to prevent the accumulation of public grievances greater promptitude is required in disposing of them on the part of Parliament. The necessity for this is now beginning to be recognized. Matters of importance are discussed out of doors, on the platform and in the press, as they arise, and Parliament is sometimes greatly influenced by the opinions so expressed. Thus, the attitude of Parliament towards the general public has completely changed. Demonstrations of opinion, which, a century ago, would have been treated with contempt, and those who took part in them probably punished for sedition, are now accepted as the voice of the country. The general public have been taken into favour. Public opinion, or outside pressure, has become a

great fact. It is the new force in politics which it is the fashion to prate about.

What is this new force? It is easier to say what it is not than to define what it is. It is not a plebiscite. It is not the verdict of the electors at the ballot box, or the constitutionally expressed voice of the country. It is not a formal vote of any kind, either of the whole people or of any part of those entitled to act on their behalf. But it is difficult to say what it is. It is as variable in quality as it is in quantity. It changes with the place, time, and circumstances, and what is regarded as public opinion by one man is something altogether different in the estimation of another. Macaulay is the only one I have met with who has attempted to describe it. "Public opinion," he says, "is expressed by the measured voices of all classes, parties, and interests. It is declared by the press, the exchange, the market, the club, and society at large."[1] Public opinion of this sort can hardly be said to be expressed by "measured voices" at all, for this can only be done by a vote. This description is only applicable to public opinion when it is unanimous. But in politics there is no unanimity. Except when some great political crime or blunder has been committed there

[1] *Hist. of Eng.*, vol. iii. p. 543. See, also, something to the same effect in Todd's *Parl. Gov.*, vol. i. p. 14.

are always two or more parties who view things in two or more different aspects. When one speaks of the opinion of society, or of a club, or of the press, we should therefore want to know What society, What club, and What section of the press was referred to. The very indefinableness of public opinion has its advantages, however. It leaves full scope for the play of the boldest imagination. The thing we speak of is all around us. It seems as universally diffused as the air we breathe, and almost as imperceptible. All parties in the state claim to represent it, and yet each imagines it enjoys a monopoly. The most unpopular minister that ever held office has never been without the comforting assurance that public opinion was on his side. No doubt the three tailors of Tooley Street at length became to believe that they were the country.

It cannot be asserted that it is a desirable thing for a representative chamber to be influenced by any force whatsoever outside the constituent body which called it into existence. Yet there can be no doubt that the House of Commons has been repeatedly influenced by what is called public opinion or outside pressure. While professing to have the greatest respect for the verdict of the country constitutionally expressed, the House of Commons has, nevertheless, required, nay insisted—and continues to require and

insist—that that opinion shall be endorsed by public meetings and other demonstrations of the same kind, and without that endorsement, it has on numerous occasions refused to proceed with the business before it. In the following pages I shall endeavour to show (1) that Parliament has rejected measures which the constituent body have approved of, because their approval had not been endorsed by what is called public opinion; (2) that it has rejected measures which the constituent body were in favour of, because public opinion was supposed to be adverse to them; (3) that it has passed measures to which it was itself opposed, because public opinion was believed to be in favour of them, or because they were enforced by outside pressure.

I. The House of Commons has repeatedly rejected measures which had been approved of by the constituent body because public opinion had not endorsed them. The history of Lord John Russell's three Reform Bills will serve to illustrate what I mean under this head. His first Reform Bill, introduced into the House of Commons in 1852, was a great advance upon the Reform Act of twenty years before. It proposed the enfranchisement of several large towns, the disfranchisement of certain small boroughs, and the lowering of the borough and county qualification for electors. It is not disputed

that the constituents were in favour of reform on the lines here laid down at the time that this measure was introduced; and it admits of no doubt that this measure owed its introduction to positive pledges given by ministers to their constituents at the previous general election. The premier, Lord Palmerston, had on that occasion distinctly pledged himself to parliamentary reform, and the Queen's speech at the opening of the session showed that he had not forgotten the circumstance, as it intimated that the government intended to propose "such amendments in the act of the late reign relating to the representation of the Commons in Parliament as may be deemed calculated to carry into more complete effect the principles upon which the law is founded." This was distinct enough. Here, then, was a bill which one might suppose would be certain to be carried: the country had pronounced in favour of it at a general election; a majority of members had expressly or tacitly given their adherence to it at the hustings; and the ministry had pledged themselves through their chief to carry it into law. It was not carried into law, however, and no serious attempts were even made to discuss its provisions. Its rejection was a foregone conclusion. It was laid aside by general consent of all parties, and for no other reason than because there was an absence of enthusiasm in favour of it out of doors. The House

would not bother itself about a measure when there was no violent agitation out of doors in favour of it.[1]

Lord John Russell's second Reform Bill, introduced in 1854, was in many respects an improvement on the first. It provided for the extension of the franchise in counties and boroughs, for the disfranchisement of boroughs having fewer than three hundred electors; boroughs not having more than five hundred were to return only one member, and cities and counties having a population of one hundred thousand, and returning only two members, were to return three under the bill. The measure appears to have been carefully prepared, and its provisions were fully and ably discussed by its author; but like the previous bill on the same subject, the House would not entertain it. The bill was objected to as inopportune (owing to the impending war with Russia) and uncalled for, there being, it was alleged, no agitation in favour of it out of doors. To these objections Lord John Russell very forcibly replied:—"I cannot think," he said, "there is any danger in discussing the question of reform during the excitement of a foreign war. The time that is really dangerous for such a discussion is the time of great popular excitement and dissension at home. It is said there is no feeling on the subject; that there is a complete apathy about

[1] Molesworth's *Hist. of Eng.*, vol. ii. p. 371.

reform. If that is really the case," he went on to say, "is it not the proper time to discuss questions of reform, lest in the course of the war there should be times of distress, when the people should become excited, and large meetings should be assembled in every town, partly crying out for more wages and cheaper food, and partly crying out for an increase of political power? Supposing we should have the calamity of war, and with it the necessity for increasing the public burdens, is it not," he continued, alluding to the Whig doctrine of representation and taxation going together, "a fitting time to enlarge the privileges of the people when Parliament is imposing fresh taxes; that in imposing them we may as far as possible impose them on those who have elected us?" Notwithstanding urgent important considerations such as these, the bill was withdrawn without being allowed to go to a division.

Lord John Russell's third Reform Bill was introduced on the 1st of March, 1860, and experienced the same fate as the two previous ones. Some time before this, the Derby ministry being in office, Lord John Russell moved an amendment on Earl Derby's Reform Bill as follows:—"That it is neither just nor politic in the manner proposed in the government bill with the freehold franchise as hitherto exercised in the countries of England and Wales,

and that no re-adjustment of the franchise will satisfy the House or the country which does not provide for a greater extension of the suffrage in cities and boroughs than is contemplated in the present measure." This amendment was carried, in a full house of 621, by a majority of 39. The Derby ministry thereupon dissolved Parliament, and the result of the appeal to the country was 302 Conservatives and 350 Liberals, or a majority of 48 against ministers. On the assembling of Parliament the ministry was defeated on the address by a majority of 13. Lord Derby thereupon resigned, and the Palmerston ministry took office. Soon afterwards, Lord John Russell, who was a member of the new administration, introduced a new Reform Bill in accordance with the term of his amendment. Having by that amendment defeated the late ministry, and the country having subsequently marked its approval of the policy of the opposition by returning a majority in their favour, the new ministry were in honour, as well as by constitutional usage, bound to stand or fall by their measure. The new bill provided for a £6 franchise for boroughs and a £10 franchise for counties; and it proposed to take one member from each of the twenty-five boroughs which returned two members each, and to increase the representatives of the counties and of certain large cities enumerated.

The measure was introduced by Lord John Russell in a speech which occupied an hour in delivery, and which was said to have been listened to "with a decorous calmness that almost amounted to indifference." The debate was adjourned no less than six times before the 3rd of May, when it was read a second time without a division. Its consideration was again postponed till the 11th of June, when it was finally withdrawn. These repeated adjournments and postponements plainly indicated that the ministry had no sincere desire to carry their bill. It was believed by many that the measure would have passed had it received the cordial support of the government, but ministers had no wish to proceed with it, and it was therefore quietly allowed to drop. The conduct of the ministry is easily explained. "The bill," says Sir Erskine May, "was received with coldness in the House, and by indifference out of it. It had not been hailed by popular acclamation. The cause of reform, which once had aroused enthusiasm, now languished from general neglect. The press was silent or discouraging; petitions were not forthcoming; public meetings were not assembled; the people were unmoved."[1] In extenuation of the conduct of the government in the matter, Mr. Molesworth says:—"The people, though by no means

[1] *Const. Hist.*, vol. i. p. 390.

indifferent, did not feel strongly on the subject, and did not give the government any very warm support;" and, referring to the absence of excitement out of doors on questions of this nature, he adds, "unfortunately it is only when a very strong feeling on the subject prevails that Parliament can be induced to deal with them." The very strong feeling was not forthcoming in this instance, and the bill was accordingly lost. Yet there had been two appeals to the country on this very question, and the result of these appeals proved beyond a doubt that the country was in favour of the policy embodied in the ministerial measure. Nevertheless, as we have seen, the bill was withdrawn, and solely because there was an absence of outside pressure in favour of it; and notwithstanding the terms upon which they obtained office, the ministry made no further attempt to carry out the wishes of the country in this direction.

But bad as this conduct was, worse remains behind. Not only did the ministry make no further attempt to redeem their promises to the country and to justify their retention of office, but they subsequently opposed a Reform Bill introduced by a private member. Four years after the withdrawal of the last-mentioned Reform Bill, Mr. Edward Baines brought in a very short and effective measure for lowering the franchise in boroughs. The bill was an exceedingly modest

one, and we can find nothing to justify a ministry, pledged as that one was to reform, in treating it with hostility. But ministers not only opposed Mr. Baines' bill, they also spoke against it. Even Lord Palmerston made a speech on the occasion in which he attacked the measure, and brought out the stale argument that the people were not agitating for reform.[1] Mr. Gladstone, who was at the time a member of the ministry, had the courage to reply to this argument of his chief. "We are told," he said, "that the working classes do not agitate; but is it desirable that we should wait till they do agitate? In my opinion, agitation by the working classes upon any political subject whatever is a thing not to be waited for, not to be made a condition previous to any parliamentary movement; but, on the contrary, to be deprecated, and, if possible, prevented by wise and provident measures. An agitation by the working classes is not like an agitation by the classes above them, having leisure. The agitation of the classes having leisure is easily conducted. Every hour of their time has not a money value; their wives and children are not dependent on the application of those hours to labour. But when a working man finds himself in such a condition that he must abandon that daily labour on which he is strictly dependent

[1] Molesworth's *Hist of Eng.*, vol. iii. p. 240.

for his daily bread, it is only because then, in railway language, the danger-signal is turned on, and because he feels a strong necessity for action, and a distrust in the rulers who have driven him to that necessity. The present state of things, I rejoice to say, does not indicate that distrust; but if we admit that, we must not allege the absence of agitation on the part of the working classes as a reason why the Parliament of England and the public mind of England should be indisposed to entertain the discussion of this question." The argument was unanswerable, but it failed to convince the House, and the bill was defeated by a majority of 272 against 216.

But these are not the only reform bills that were sacrificed to what is called public opinion. Mr. Gladstone next tried his hand at reform, and was served in the same way as previous reformers had been. His bill, which was introduced on the 13th March, 1866, proposed to reduce the county franchise from £50 to £14; to place copyholders and leaseholders on the same footing as forty-shilling freeholders; to enable a man having £50 in a bank to claim a vote for a county or borough; to confer the franchise on compound householders in boroughs, and tenants of separate parts of a house, and lodgers paying £10 a year for their lodgings; and to lower the borough franchise from £10 to £7. These were the only changes pro-

posed by the bill, which was evidently a compromise, and therefore not likely to rouse any enthusiasm in the country in its favour. In the House it was not only received with coldness by the Liberals, but, which was somewhat significant, it also met with the most uncompromising opposition from the Conservatives and from a certain section of the Liberal party. The old stock arguments were reproduced which had done good service against previous reform bills; the House was again informed that the question was inopportune, that the country did not want reform, and that, at all events, there was no agitation in favour of it out of doors, which was true enough at that time, but, as we shall see further on, that argument may be used once too often. It was determined that the measure should be got rid of in a very summary fashion, and without any discussion on its merits. Earl Grosvenor, a steady supporter of the ministry, gave notice that on the question of the second reading he would move that it would be inexpedient to discuss any bill for the reduction of the franchise until the House should have before it the entire scheme of the government for the amendment of the representation of the people. The government thereupon became alarmed, and, on the night before the commencement of the Easter recess, in moving that at its rising the House should adjourn to the

9th of April, Mr. Gladstone entered into certain explanations, showing, among other advantages, that the bill would confer the franchise on no less than 400,000 persons, and concluded by calling upon his supporters to stand by it. The appeal was responded to by the friends of reform out of doors in a somewhat lukewarm manner. The only noteworthy circumstance connected with the discussion of the measure, was a remark made by Mr. Bright at a reform meeting in Birmingham, when he told his audience that their representation in the house was a sham and a farce; and that if the people wanted an effective Reform Bill, they must take the matter into their own hands, and bring a strong pressure to bear on the Legislature. But the strong pressure was not forthcoming, and after a protracted discussion extending to the 18th of June, the bill was shelved like the others before it.

II. The House of Commons has rejected measures which the constituencies were in favour of because public opinion was supposed to be adverse to them. Probably one illustration will suffice under this head. The question of church rates has been under discussion for a long period, and more than one motion for their abolition has been carried in Parliament. As far back as 1832 Lord Althorpe carried a resolution in favour of abolition by 256 to 140, but nothing

came of it. Since then various proposals for their modification or entire abolition have been made from time to time, and were always received with favour by the House. In 1861 Sir John Trelawney, thinking the time had at length arrived for the settlement of the question, brought in a bill for their entire abolition. It was no sooner apparent that the measure was likely to be carried, however, than a determined set was made against it. Mr. Disraeli took a prominent part in the movement, and organized a strong opposition to it both inside and outside the House. At a combined meeting of the clergy and laity of the rural deanery of Amersham, Bucks, he stated that, in his opinion, the question of the maintenance of church rates involved the very existence of a State Church. This was made the key-note to the agitation which immediately commenced. The old cry was raised that the Church was in danger; meetings were convened in all parts of the country, at which resolutions against the bill were carried, petitions got up for presentation to Parliament, and true churchmen were everywhere recommended to communicate with their representatives and urge them to oppose the Bill, or, at all events, not to vote in favour of it. The agitation was a complete success. The second reading was carried, it is true, but by a majority of only 281 to 266, which was a great falling

off compared with previous divisions in favour of the principle of the measure. This result greatly encouraged the opposition, and more strenuous efforts were made to defeat the bill on the third reading. When the division on the third reading took place it was found that the numbers for and against the measure were exactly equal, and on the speaker giving his casting vote against it the bill was lost. It was again brought up the following session, when the result was, for the bill 286, against, 287, or a majority of one against it. One more attempt was made the next session (1863) to carry the bill, when the majority against it rose to 10, a result which settled the question from that day to this.

III. Not only has the House of Commons rejected measures which the constituent body approved of because their approval had not been subsequently endorsed by public opinion, and rejected measures which the country was in favour of because public opinion was supposed to be adverse to them, but it has also passed measures to which it was itself opposed when sufficient outside pressure was brought to bear in their favour. We have already referred to the extraordinary agitation which prevailed in this country in 1832, when the Reform Bill was under discussion, and to the effect which this agitation had in securing its passage through Parliament. In 1867

we had a repetition of the same result from a similar cause. When the Gladstone ministry resigned in 1866, on being unable to carry their Reform Bill, Earl Derby took office and brought in a new Reform Bill, which he probably hoped or expected would be disposed of in the same manner as the previous bills on the same subject. In this, however, he was disappointed. This was the seventh Reform Bill that had been introduced into the House of Commons since 1832, the whole of the previous six having been rejected or withdrawn, and this would undoubtedly have shared the fate of the others but for one circumstance. The country was getting tired of being trifled with. The rejection of the six previous measures had taught the people a lesson they were not likely to forget. They saw plainly that Parliament would not pass any Reform Bill unless it were compelled to do so by strong outside pressure. Accordingly they commenced to organize; associations, of which the Reform League was the most important, were formed throughout the country, pledged to a thorough reform of the Constitution. By means of public meetings and out-door demonstrations, an agitation was commenced which soon attracted general attention. A monster gathering in favour of reform, to be preceded by a procession, was to take place in Hyde Park, of which due notice had been

given; but the government determined that no meeting should be held at that place, and a notice forbidding it was issued by the head of the police. The Council of the League, however, believed that they had a right to hold their meeting there, and accordingly resolved to disregard the prohibition. What followed are matters of current history. The crowd that had assembled at the Marble Arch to witness the procession pulled down the park railings, and rushed over them into the park, bearing down by their numbers the police who were there to prevent their entrance. The League had nothing to do with this part of the proceedings, but, curiously enough, it was the only part that was really effective. The demonstration at the park gates, and the disorderly conduct of the mob, convinced the House that the people were no longer to be trifled with. "As we said with regard to the Reform Bill of 1832," remarks Mr. Molesworth, "that it was really carried by the mob of Birmingham and the other parts of the kingdom, so we may say with equal truth of the Reform Bill of 1867, that it was mainly carried by the Hyde Park rioters. Parliament had trifled with the question till the people showed in an unmistakable manner that it could not be trifled with any longer without serious danger."[1] From that moment the question

[1] *Hist. of Eng.*, vol. iii. p. 291.

of reform was taken up in earnest by the House. Mr. Disraeli immediately tabled a series of resolutions, which he proposed making the basis of a Reform Bill. While his resolutions were being submitted to the House, Mr. P. A. Taylor, M.P., explained the purport of them to 20,000 working men, representatives of various trades unions, assembled at the Agricultural Hall, Islington. Mr. Disraeli's resolutions were considered unsatisfactory by the meeting, and counter-resolutions were passed in favour of "direct and real representation." The meeting pressed upon the Liberal members in the House "the absolute necessity, as they regard the peace and prosperity of the country," of not consenting to any measure of reform designed to evade full and just rights of the people to be directly represented in their own branch of the legislature; and brought proceedings to a close by declaring their opinion that the statements made in the House of Commons were "complete proof of the present government being unworthy of the confidence of the country." The earnest attitude of the people convinced the government that a make-believe reform would no longer be tolerated. Accordingly the bill founded on the government resolutions was speedily withdrawn, and Mr. Disraeli announced that he would bring in a new bill on the subject. But it appeared that the Cabinet were not agreed on the terms of the

new bill, and this led to the resignation of three members of the ministry who were not prepared to concede so much as their colleagues in the direction of real reform. The new bill was brought in on the 18th of March. It proposed a two years' occupation and payment of rates for the borough franchise; a twelvemonth's occupation of premises valued at £15, and previous payment of rates for the same period for the county franchise. It provided an educational franchise, also a pecuniary franchise of not less than £50 deposited in the bank for two years previous, and double voting was permitted for ratable property. Provision was also made for the disfranchisement of certain small boroughs, for an increase in the number of members for larger boroughs and certain counties. Altogether Mr. Disraeli estimated that his bill would confer the franchise on 237,000 additional persons, and that the result of his whole plan would be that one-half of the voting power would belong to the middle classes, one quarter to the working classes, and one quarter to the aristocracy. But even this was considered unsatisfactory, and the Liberal members in the House, acting under Mr. Gladstone's leadership, determined that they would amend it. At a meeting of his followers, it was agreed to allow the bill to pass the second reading, but Mr. Gladstone

enumerated a series of ten amendments, which he proposed should be incorporated in the bill when in committee. Mr. Gladstone and his party worked indefatigably to get the bill improved; and in spite of the Conservative majority and the defection from the Liberal camp, he managed to get nine out of the ten amendments carried in committee. But his success was due entirely to the fact that the agitation out of doors was kept up during the whole of the four months that the bill was under discussion. Public meetings were held all over the country. A great demonstration was held at Birmingham, at which Mr. Bright spoke, and denounced the conduct of the Liberals who had deserted their party. The Reform League also held several meetings in Hyde Park, as since the riot it had been discovered that the government had no right to prevent them being held there. The consequence of all this agitation was that the government had to give way on almost every point. The ministry and the House were, in fact, overawed by the attitude of the people. A measure was forced on them which they did not like; amendments were carried on that measure which they protested would have the effect of destroying it, but which they nevertheless accepted. The Conservative surrender was complete all along the line. There was nothing now left for the op-

ponents of reform but to abuse one another for being the first to give way, and this they did in a very hearty and edifying manner.

The same means which proved so effectual with the Lower House, have been equally successful with the Upper. Outside pressure carried the Irish Church Disestablishment Bill through the Lords, in the same way as it carried the first Reform Bill through the same Chamber. The bill for the disestablishment of the Irish Church was introduced into the House of Commons on the 1st of March, 1869, and it rapidly passed the second and third reading by the large majorities of 118 and 114 respectively. But the bill had still to run the gauntlet of the Upper House, and there it was understood it had no chance of passing unless it was materially altered. Indeed it was believed that the majority against the measure would have been as great in that House, as the majority in favour of it had been in the other. But the Lords were baffled by the earnest attitude of the people out of doors. They accordingly thought it prudent to pass the second reading, which they did by a majority of 33, but with the full intention of disposing of the measure in committee. Great and numerous amendments were accordingly made in committee, which had the effect of giving better terms to the

Irish clergy than the bill proposed, and of relegating the disposal of the surplus revenue of the Church to some future period. The bill thus amended passed the third reading by a majority of seven. As soon as it was known what the Lords had done, a strong agitation was got up in favour of the bill as it originally stood. At London, Leeds, Bradford, Sheffield, Edinburgh, and other places, large, important and enthusiastic meetings were held, at which the amendments of the Lords were condemned and denounced. At Manchester, the Executive Committee of the National Reform Union met and resolved that all the branches of the union should be invited to hold meetings and pass resolutions against the amendments of the Lords. Indeed there was no mistaking the temper of the people on this occasion; they showed that they were thoroughly determined to have the bill in an unmutilated shape. Mr. Gladstone was not slow to avail himself of the assistance which this expression of feeling afforded him, and when the bill came down to the Lower Chamber he refused to accept a single material amendment. Meantime there was no abatement of the excitement out of doors. The press warmly condemned the action of the Lords; public meetings in favour of the bill as it originally stood continued to be held in various parts of the country, and deputation

after deputation waited upon the government urging them not to give way. The ministry were firm, the Commons supported them in their resolution, and the bill was returned to the Lords with the amendments struck out. The result was that the Lords made some trifling alterations in the bill, more for the purpose of saving the honour of their House than for any benefit they would be to the Irish Church, and, with the best grace they could, they passed the measure without further discussion.

These illustrations, I venture to say, go far to prove the truth of the propositions laid down. They also show—(1) that public opinion may, and has been made a convenience of by Parliament, and that (2) when forcibly expressed, it may exercise, as it often has exercised, an undue influence over the Legislature. Where Parliament is adverse to a measure, and there is the smallest semblance of an agitation against it outside, this may be made the excuse for rejecting it; while, at the same time, the very moderation with which a favourable opinion is expressed may be alleged as a proof that the public are not in earnest, or that they do not really want the measure. On the other hand, when there is a violent agitation of the public mind, this may become outside pressure, which may prove a menace to the Legislature and a

source of serious danger to the State. If the people come to learn that their reasonable demands will not be listened to unless they are forcibly expressed, they will soon learn to express them forcibly enough; and if demands forcibly made are always conceded, there will soon be no limit to these demands, or to the form in which they will be expressed. For you cannot arbitrarily draw the line at moral force. The greater the pressure, the more forcible the demonstration, it will be argued, the more likely will it effect the desired object. If moral force is not sufficient then physical force may be resorted to. If the platform and the press prove inadequate, these agencies may be supplemented by riotings and physical force demonstrations.

But why should Parliament seek for guidance or instruction outside the constituent body? The Constitution has already provided the most complete and elaborate machinery for ascertaining the opinion of the country. Immense time and labour have been expended by the Legislature in altering and improving that machinery, in deciding who should be entitled to vote and who should not, in arranging the time, place and circumstances under which votes should be recorded; is it to be said that all this time and labour is to be wasted, and that the electoral machinery is to be laid aside as useless just when we are supposed to have got it into nearly perfect working

order? Is the verdict of the constituent body, solemnly and deliberately taken, to be superseded by the desultory opinions expressed on the platform, the press, and even the club and the market? and is this verdict to be set aside by the very body which it called into existence? By all means let public questions be fully and fearlessly discussed in any manner that will throw the fiercest light upon them; but we require something more than mere discussion. We must have tangible and accurate results; we must have the verdict of the country distinctly pronounced in accents that cannot be disputed; and when the verdict is pronounced we must also have it recorded in legislative enactments.

The platform and the press have no doubt been useful as organs of public opinion, but they have proved far more valuable as public instructors. As public instructors they stand unrivalled. Almost all the progress we have made during the present century is due to their influence. But for the platform and the press not one of the great reforms of recent times would have been carried. The newspaper press has been especially useful as an educating agency, particularly of late years. Its ramifications now extend in every direction; its influence is felt in every village and hamlet through the length and breadth of the land. It brings every day to every fireside in-

formation on every subject that can interest mankind, and on every event that transpires throughout the civilized world. It grasps every question, social, political or scientific, that concerns itself with humanity at large. Every discussion in Parliament is anticipated, and every debate is reviewed in its columns. The press at once forms and expresses public opinion. It performs all the functions of a deliberative assembly. There is not a question of home or foreign policy that is not as fully and ably discussed in its columns as in the debates of either House of Parliament. And in these discussions every newspaper reader participates, becomes as it were, a member of that vast assembly which may be said to embrace the whole nation, so widely are newspapers now read. Had we only the machinery for recording the votes of that assembly we might easily dispense with Parliament altogether.

But while admitting to the fullest extent the value of these agencies, we must be careful not to make an illegitimate use of them. While it would be difficult to exaggerate their importance as educators, it would be quite possible to over-estimate their value as organs of public opinion. Take the newspaper press, for instance. What means have we of testing the representative character of any newspaper? What its circulation is, amongst what class its readers

are to be found, in what estimation it is held by them, and how far it represents their views on any question of the day, we have no means of ascertaining. And yet it is absolutely necessary we should be in possession of all these particulars before we can even make an approximate estimate of its representative value. Mere circulation by itself, for instance, even if it could be ascertained, is no test, for some papers of small circulation have a greater influence than others with five or ten-fold their issue. Papers are also taken for various reasons, some for their business announcements, others for general information, a few only on account of their politics, while many well-to-do people take more than one newspaper holding different and even opposite views. It is now evident that the newspaper press did not represent public opinion in England at the last general election. All the metropolitan papers of large circulation were opposed to Mr. Gladsone, and the great majority of newspapers, both metropolitan and provincial, gave a general support to the government of Lord Beaconsfield.[1] The signal defeat which this government

[1] It is amusing to read, by the light of recent events, the speeches, newspaper and review articles of the Conservative party during the discussion on the Reform Bill of 1832, as to the effect which the extension of the suffrage would have upon the time-honoured institutions of the country. We were then told over and over again that the new electors would come to exercise their franchise instigated "by an incendiary newspaper press." The same sort of prognostications

suffered at the hands of the constituencies on that occasion, was therefore a surprise to that section of the public that put their faith in newspaper opinion. Even the Liberal press never anticipated such a victory, and the Liberal party as well as the Conservatives were altogether unprepared for it. We are too apt to forget that newspaper readers are quite capable of forming an independent opinion on the questions of the day, and are therefore not disposed to take for gospel all that their newspaper tells them.

Public meetings are even more unreliable than the press as indications of the real feeling of the country. In the first place, only a small portion of the people ever attend public meetings at all, and, in the second place, they are not fairly representative even to the extent that the public patronize them. Public meetings, as a rule, are got up by the wire pullers of a party, and only the more active politicians of the party attend them. No doubt they are admirable devices for working up an agitation, and they make good party demonstrations, but for that very reason they are useless as a test of public opinion. Public

preceded the abolition of the Newspaper Stamp Act, and were again indulged in when proposals were made to abolish the duty on paper. But the "incendiary newspaper press" has not yet made its appearance. The fact is notorious that even the penny press in England is distinctly conservative in tone, and no doubt it will always be so more or less as long as the chief profits of newspapers are derived from advertisements.

meetings are of value only when they are spontaneous. If due notice has not been given when and where they are to be held; if the public generally, and not a section of it only, have not been invited; if they have not been carefully packed beforehand so that only one side is represented; in a word, if they have been got up to suit party purposes, they are perfectly useless as demonstrations of public feeling. But even supposing them to be spontaneous, what are we to make of them? How are we to distinguish between one meeting and another, and how many meetings will it take to constitute public opinion? Will the carrying of a resolution, or a series of resolutions, at such meetings be considered conclusive, or will other measures require to be resorted to in order to convince Parliament that the country is in earnest? In London, for instance, will it be necessary to supplement public meetings by a procession through the principal streets; will a few hundred roughs be required to pull down the park railings, or to hoot and yell before the residence of an obnoxious party leader? If that is not enough, will outside pressure in the shape of tumultuous assemblies be required, or must a riot or two be thrown in and a few lives lost in order to make a really effective demonstration?

With Parliament public opinion may be anything

according to the humour it is in for the time being. If it is in favour of a measure, a very mild demonstration in support of it is called public opinion; while, if adversely disposed, a much stronger demonstration, a large amount of outside pressure, sometimes nothing short of threats and signs of revolution, will be accepted as an indication that the public really mean what they say. People of a certain class when asked for a favour which they do not intend to grant but which they do not like openly to refuse, often resort to a mean and dishonest subterfuge. A person of this class will in such a case pretend that he requires to consult his colleague, or his partner, or some person whom he represents to be interested in the matter before he can give an answer, well knowing all the time what will be the result of the consultation should any take place. In the same way members of Parliament when asked by their constituents to support a measure immediately profess the greatest anxiety to know what the public think about it. They express their readiness to do all that lies in their power to pass it into law if the public will only pronounce emphatically in its favour, knowing full well all the time that the probabilities are against the public speaking out strongly on the matter. For the public are not equally in earnest on every question that comes before Parliament. It

is only on rare occasions that the people can be roused to excitement, and it would be strange if it were otherwise. On ordinary occasions the public make no sign. We have seen reform bill after reform bill rejected or laid aside and no excitement evoked, although the country was all the time in favour of reform. Moderate measures, as a rule, call forth no enthusiasm in their favour; and it is just such measures that are sacrificed under the present system. The absence of any popular agitation in favour of a bill obnoxious to Parliament serves an excuse for rejecting, or at all events for modifying or delaying it, while the slightest adverse criticism is eagerly seized upon for the same purpose. The *modus operandi* is very simple. If there is no excitement in favour of a popular measure, reject it without ceremony, no matter how useful or necessary it may be from a public point of view; if there is a strong feeling in favour of it, a more cautious course of proceeding is necessary however. In such a case the bill must be delayed, the people must be made weary of the subject, and when they are in this frame of mind the measure may without danger be "amended" and mutilated in such a way as to neutralize any advantages that the public might have derived from it. That is the whole theory of parliamentary government as understood and practised at the pre-

sent day. Sir Erskine May, no mean authority on such a subject, has stated the case with his usual candour. In describing the course followed by the House of Lords when a popular measure comes up before it, he says: "If the people are indifferent to a measure the Lords can safely reject it altogether; if too popular in principle to be so dealt with, they may qualify, and perhaps neutralize it, by amendments, without any shock to public feeling."[1]

[1] *Const. Hist.*, vol. i. p. 266.

CHAPTER V.

THE POLITICAL UNITY OF THE CABINET.

GOVERNMENT by Parliament, we have seen, has degenerated into Government by Party, and if we follow the course of Government by Party we shall find it again degenerates into Government by Cabinet, to be further resolved into Government by a Single Person. The cabinet has appropriated to itself all the executive and legislative functions of state. It is the cabinet that arranges the business of Parliament, prepares the measures that are laid before it, and determines the domestic and foreign policy of the country. And in the cabinet the premier is supreme. He is the chief officer of state, the actual head of the government, the leader and controller of Parliament, and the ruler of the destinies of the nation.

Government by Cabinet is another of those institutions which came in at the Revolution. Previous

to that time ministers were simply the administrators of the government. Their functions were purely executive. They were in reality what they now are only in name, the ministers of the Crown. It was none of their duties to prepare measures for the consideration of Parliament, or to control its decisions. The business of legislation was left entirely to Parliament. All important measures which are now prepared by ministers were formerly undertaken by the House itself, at its own instance and on its own responsibility. Indeed, had the early Parliaments depended on ministers initiating and carrying through important, and more especially popular measures, it would have been impossible to have secured those legislative safeguards of public liberty which the nation now enjoys. The leaders of the Parliaments of those days were not the king's ministers but private members, men distinguished for their eloquence or their patriotism, and it was to them that Parliament usually entrusted the preparation of its measures. It was Harley, while he was a private member, who, at the request of the Commons, prepared the Triennial Bill; it was Somers, before he was a minister, who drew up the Bill of Rights; and it was to a committee of the House of Commons that we owe the Habeas Corpus and the Great Remonstrance. In early times, as a rule,

ministers of the Crown were not members of Parliament; and when ministers desired any measure to be passed they had to secure the services of some private member to introduce it. Subsequently such members as undertook the government business were called "managers." Middleton and Sir Dudley North, in the time of James II., for instance, were so designated.

It took a long time for Parliament to become reconciled to Government by Cabinet. On the first introduction of the system, and before it was known by its present name, cabinets were highly unpopular both inside and outside of Parliament. The giving of secret advice to the sovereign, or what is practically the same thing, the political unity of ministers, now considered an essential feature of parliamentary government, was at first strongly condemned; and Parliament, foreseeing the evils to which such a system would inevitably lead, insisted that ministers should be held individually responsible for the advice they gave to their sovereign. With this view a clause was introduced into the Act of Settlement, which provided that "all matters and things relating to the well governing of this kingdom, which are properly cognizable 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."[1] The system of corporate responsibility was first formally recognized in 1693; but there is no instance of the dismissal or resignation of a whole ministry, and its replacement by another, till the reign of George I.; and the change which then took place was due to the personal objection of that sovereign to the ministers of his predecessor rather than to any difference in their public policy. Even when Walpole resigned, in consequence of a vote of want of confidence being carried against him in the House, his colleagues still continued to hold office under his successor. The first instance of a simultaneous change of a whole cabinet on political grounds was that of the Rockingham ministry in 1782; and even in this instance Lord Chancellor Thurlow did not go out with his colleagues. It thus appears that nearly a century elapsed before the political unity of ministers could be said to be established. Up till this period, and for some time subsequently, there were administrators of the government, but no cabinet, no ministry. Townshend, for instance, and others, used to set their colleagues at defiance. The government was carried on by departments, but the ministers at the head of these departments were held to be less responsible to

[1] 12 & 13 William III. c. 2.

Parliament than to the sovereign. The king was in fact the head of the ministry. He exercised the same influence over his ministers as the premier now does over his colleagues. He appointed or dismissed them at pleasure, and it was from him that they took their policy. When the system was changed, the general control of the departments was transferred, not to Parliament, as it ought to have been, but to the premier. When the famous coalition ministry was formed in 1783, Mr. Fox, at a private meeting which took place between his new allies, objected to the king acting as his own minister, to which Lord North replied: "If you mean there should not be government by departments, I agree with you; I think it a very bad system. There should be one man, or a cabinet, to govern the whole, and direct every measure."[1] Lord North's suggestion has been acted upon ever since. But the modern practice of leaving it to the cabinet to initiate and carry through Parliament all important and public measures was not established for a long time afterwards. In 1782, for example, Mr. Burke carried his Bill for Economical Reform, a measure which no government at the present day would leave to a private member; in 1819 Mr. Peel, when a private member, carried his Currency Bill; and in 1830 Lord Brougham, in his

[1] Russell's *Correspondence of Fox*, vol. ii. p. 38.

private capacity, introduced his measure for the establishment of Local Courts of Justice without consulting with his colleagues in the government.

The position which the cabinet holds in the Parliamentary system of the present day is thus laid down by Earl Grey: "It is the distinguishing feature of parliamentary government that it requires the powers belonging to the Crown to be exercised through ministers, who are held responsible for the manner in which they are used, who are expected to be members of the two Houses of Parliament, the proceedings of which they must be able generally to guide, and who are considered entitled to hold their offices while they possess the confidence of Parliament, and more especially of the House of Commons."[1] The doctrine of the unity of the cabinet and of its internal relations, is thus stated and explained by another high authority:—"The nicest of all the adjustments involved in the working of the British government," says Mr. Gladstone, "is that which determines, without formally defining the internal relations of the cabinet. On the one hand, while each minister is an adviser of the Crown, the cabinet is a unity, and none of its members can advise as an individual without, or in opposition actual or presumed to his colleagues. On the other hand, the

[1] *Parl. Gov.*, p. 4.

business of the State is a hundred times too great in volume to allow the actual passing of the whole under the review of the collective ministry. It is therefore a prime office of discretion for each minister to settle what are the departmental acts in which he can presume on the concurrence of his colleagues, and in what more delicate, or weighty, or peculiar cases he must positively ascertain it."[1] Thus any action, departmental or legislative, taken by any minister with the consent of his colleagues, is regarded not as the action of the individual minister, but of the cabinet or of ministers collectively. Each minister is supposed to be directly responsible to Parliament for his own ministerial acts so long as he proceeds on his own authority; but if he consults his colleagues beforehand and acts with their consent they share his responsibility, and in that case they would be jointly responsible for his acts. This joint consultation and responsibility is what is called Responsible Government.

In all this, be it observed, no account is taken of Parliament in the first instance. The cabinet consult, act, and incur responsibility, and then ask the sanction of Parliament for what they have done. If the action of the cabinet is approved of, they hold their places; if not, they must resign. Parliament is

[1] *Gleanings*, vol. i. p. 242.

thus placed in an awkward dilemma: it cannot express disapproval of the action of the government without bringing about their downfall; and it cannot pass over their offence without condoning it. There is no third course open for it; Parliament has no option but to accept the cabinet and its policy together, or reject both. If Parliament were made the judge in the first instance, the arrangement would be more in accordance with the theory of parliamentary government, and the House would be more likely to arrive at a sound decision on the merits of the case submitted to it. On the other hand, if the cabinet decides first, and afterwards asks Parliament to confirm its decision, it is not in the least probable that ministers will supply any information that might lead Parliament to condemn their own conduct. Besides, the fact of ministers having committed themselves to an issue, the question before the House immediately becomes a party one, is no longer discussed on its merits, but is overshadowed by the, from a party point of view, more important question of the existence of the government. Of course, corporate responsibility is an immense advantage to ministers. A minister with a weak case is then supported by the whole cabinet, and the cabinet in turn are defended by their whole party. Individual responsibility, on the other hand, is far more favourable

to good government, as a bad or incapable minister could be got rid of without difficulty; and where there is a difference of opinion among ministers on any question of policy, the public are more likely to get at the truth of the matter if the issue were made an open one.

The other side of the question has been very forcibly put by Sir G. C. Lewis. In a letter to Mr. W. R. Greg, he points out what he conceives would be the consequences which would follow from any attempt to break up the political unity of the cabinet. "You appear," he writes, "to assume that the government would be a government by departments; that each man is to do what seems best to himself in his own department, provided he can carry it in Parliament, even against the opposition of his colleagues. You put the case of a foreign minister in favour of continuing the war, and a chancellor of the exchequer in favour of making peace. Now, in the first place, it seems to me that your system would render meetings of the cabinet useless or mischievous. Ministers would meet to dispute, and part to differ. Besides, how would it be safe to read confidential despatches before persons who were in communication with men of an opposite party, and would immediately go and disclose the information? However, I will suppose that no cabinets were held, that each minister acted

for himself according to the best of his judgment. What I do not understand is, how a war could be conducted by a warlike foreign minister, if the chancellor of the exchequer was peaceful. He would say, I am against war; I think it impolitic and mischievous, and I shall propose a peace budget. When the estimates came in from the War Department to the Treasury for approbation, he would withhold it, unless they were reduced to a peace scale. The same argument might be extended to every department in succession."[1] Sir G. C. Lewis here supposes that if government by cabinet were abolished we should have to fall back upon government by departments. But there is another obvious alternative which has not yet been tried. I mean, of course, Government by Parliament. We have had government by prerogative, government by the army, government by departments, government by party, and now we have government by cabinet; but we have never had government by Parliament. When government by departments was in operation, the heads of departments were controlled by the sovereign; we have not yet had government by departments directly controlled by Parliament. Yet this is precisely the kind of government that the Constitution provides for. The functions of ministers are, or ought to be, simply

[1] *Life and Letters of Sir G. C. Lewis*, p. 284.

administrative. Ministers are the executive committee of Parliament. It is their duty to carry on the departmental business of government, and nothing more. And there is no more reason to anticipate that the members of a committee of this kind would meet only to differ and dispute, than would any select committee of the House appointed for any other purpose. If a select committee do not agree, the minority may submit a separate report setting forth the reasons why they differ from the majority, and when the question submitted to them comes up before the House the fullest light will be thrown on the whole matter in dispute. There is no reason why ministers should not follow the same rule. The remark that it would be unsafe to read confidential despatches before persons who might be in communication with men of an opposite party is beside the question, because I am assuming a state of things altogether different from what at present exists. Sir G. C. Lewis professes not to be able to understand how a war could be conducted by a warlike foreign minister if the chancellor of the exchequer was inclined for peace, as the latter, in such a case, would withhold appropriation for war purposes. There need, however, be no difficulty in the case, if we assume it to be the duty of ministers simply to advise Parliament, and the duty of Parliament to instruct ministers. Sir

G. C. Lewis's whole argument rests on the assumption that ministers are independent of parliamentary control.

But, say the advocates of party government, a popular assembly like the House of Commons must be brought under discipline; there must be some one to guide it, or nothing but hasty and ill-advised results will follow from its deliberations. According to the system of party government the head of the ministry is the recognized leader of the House, who brings it under his discipline and guides its decisions. The dread of the resignation of ministers, we are told, will induce their followers to support the measures they bring forward, while their opponents will, at the same time, be deterred from the factious opposition by the fear entertained by its leaders that in succeeding to office they might find insuperable difficulties in the way of acting differently from their predecessors. "Ministers," says Earl Grey, "could not be held answerable for the conduct of a Parliament they had no power to direct, and the only responsibility left would be that of the House collectively. Experience, as I have already remarked, proves that a responsibility shared amongst so many is really felt by none; and that a popular assembly, which will not submit to follow the guidance of some leader, is ever uncertain in its conduct and unstable in its decisions. After the

Revolution of 1688, when the House of Commons had by that event acquired great power, and had not yet been brought under the discipline of our present system, these evils were grievously felt. They would be far more so in the present state of society, and we must expect to see the House of Commons arriving at many hasty and ill-judged decisions, and its members giving their votes much oftener than they now do contrary to their judgment in deference to public clamour, if they were relieved from the apprehension of creating the difficulties that arise from a change of government. Those who have watched the proceedings of Parliament cannot be ignorant how many unwise votes have been prevented by the dread of the resignation of ministers, and that the most effective check on factious conduct on the part of the opposition is the fear entertained by its leaders of driving the government to resign on a question upon which, if they should themselves succeed to power, they would find insuperable difficulties in acting different from their predecessors." [1]

Now, in the first place, it is not ministers that should be held answerable for the conduct of Parliament, but Parliament that should be held answerable for the conduct of ministers. In the second place, Government by Party necessitates the existence not of one

[1] Grey's *Parl. Gov.*, p. 102.

but of two leaders, not of one party, but of two parties; and these two leaders and two parties are supposed to be in direct opposition to each other—an arrangement not conducive to unity of action on the part of the House, but the reverse. In the third place, the dread of ministers resigning if defeated on their measures will, it is true, induce their followers to support them; but their support will be of an indiscriminating character, that is to say, they will support the bad measures as well as the good ones. The argument therefore proves too much, unless we are to assume that ministers are infallible. In the fourth place, for the same reason that the ministerial following will give ministers an indiscriminating support, will their opponents give them an indiscriminating opposition, that is, they will oppose the good measures as well as the bad ones. As for the opposition being deterred from factious conduct by dread of the resignation of ministers, the idea cannot be seriously entertained for a moment. The resignation of ministers is the very thing the opposition want; instead of dreading it, it is what they desire above all things. It is the function of the opposition to oppose, and the rules of party warfare will justify them in opposing any and every measure proposed by the government. And if the opposition succeed to office, no matter by what tactics, they could find no difficulty

in adopting a policy different from that of their predecessors; indeed they would be bound to do so by the mere fact of having ousted them. To do otherwise would be to stultify themselves, and to override the majority which supported them in their opposition and placed them in office.

The statement that "a popular assembly, which will not submit to follow the guidance of some leader, is ever uncertain in its conduct, and unstable in its decisions," is open to question as a matter of fact, and even if it were true it would be an argument in favour of a system of pure despotism. The reference to the period of the Revolution is also an unfortunate one for the advocates of party government, for the disorderly conduct of Parliament in those days was entirely due to the violence of party spirit. If Parliament failed at that particular time, it was because party feeling ran riot. At no period of our history was it more headstrong, more vindictive, more implacable, than immediately after the Revolution. "From the Commonwealth to the Civil War troubles of the seventeenth century down to the Revolution," says Macaulay, "every victory gained by either party had been followed by a sanguinary proscription. When the Roundheads triumphed over the Cavaliers, when the Cavaliers triumphed over the Roundheads, when the fable of the Popish plot gave

the ascendency to the Whigs, when the detection of the Rye House plot transferred the ascendency to the Tories, blood, and more blood, and still more blood had flowed. Every great explosion, and every great recoil of public feeling, had been accompanied by severities which, at the time, predominant faction loudly applauded, but which, on a calm review, history and posterity have condemned." And speaking of the mood in which the Whigs returned to Parliament in 1690, he describes them as "smarting from old sufferings, drunk with recent prosperity, burning with implacable resentment, confident of irresistible strength, they were not less rash and headstrong than in the days of the Exclusion Bill. Sixteen hundred and eighty was come again. All compromise was rejected. Again the voices of the wisest and most upright friends of liberty were drowned by the clamour of hot-headed and designing agitators. Again moderation was despised as cowardice, or execrated as treachery. All the lessons taught by a cruel experience were forgotten. The very men who had expatiated, by years of humiliation, of imprisonment, of penury, of exile, the folly with which they had misused the advantage given them by the Popish plot, now misused with equal folly the advantage given them by the Revolution. The second madness would in all probability, like the first, have ended in

their proscription, dispersion, decimation, but for the magnanimity and wisdom of that great prince, who, bent on fulfilling his mission, and insensible alike to flattery and to outrage, coldly and inflexibly saved them in their own despite."[1] Party rancour was carried to such an extent as to render any kind of government all but impossible. William tried each party in turn, but failed to manage either. He was so disgusted with the conduct of both parties that he resolved to abdicate, and had actually made preparations for leaving the country. At length he discovered a way of managing Parliament. He resorted to bribery. Macaulay tells us that he had an aversion to this mode of influencing Parliament; that he had resolved to abstain from it, and during the first year of his reign that he kept his resolution. But had to abandon it at last. Burnet ventured to remonstrate with the king on the subject. "Nobody," William answered, "hates bribery more than I. But I have to do with a set of men who must be managed in this vile way or not at all. I must strain a point, or the country is lost."

It is admitted on all hands that the practice of holding the cabinet responsible for their legislative measures is attended with great inconvenience. In 1841, Lord John Russell protested against the prin-

[1] *Hist. of Eng.*, vol. iii. p. 509.

ciple that a government should be expected to carry all the measures they may submit to Parliament. "If," said he, "on the one hand new duties have been imposed upon ministers, and you require them to carry through Parliament measures which they deem of essential importance, so, on the other hand, you must make fair allowance for the effect of discussion and the expression of the deliberate opinions, first of members of this House, and secondly of our constituents, which will inevitably occasion the alteration of some measures and the rejection of others."[1] Again in 1844, Sir Robert Peel, in the course of a discussion on the Factories Bill, said that "with respect to many great measures, the sense of the Legislature ought to prevail; and that if no great principle be involved, and very dangerous consequences are not expected to result, the government ought not to declare to Parliament that they stake their existence as a government on any particular measures."[2]

If the principle here laid down by Sir Robert Peel be correct, namely, that with measures of an ordinary character the sense of the Legislature should prevail, it surely cannot be contended that Parliament is to have no voice in regard to measures which

[1] *Mirror of Parliament*, 1841, pp. 2120–21.
[2] *Hansard*, vol. lxxiii. pp. 1482, 1493, 1638.

involve great principles or dangerous consequences. I should imagine, on the contrary, that it is precisely on questions of great importance that the Legislature should be consulted, and that to contend that it should confine its attention exclusively to small matters is equivalent to saying that Parliament is unfit for its duties.

It has, indeed, been contended that if ministers cannot rely on being able to pass their measures without substantial alteration, "they will naturally refrain from bestowing the necessary pains to render them perfect and complete."[1] It is evident, however, that if ministers will only bestow the necessary pains upon their measures, on the understanding that Parliament will not alter them, their measures will not get any benefit from the deliberations of Parliament. The contention strikes at the very root of parliamentary government, for if Parliament has simply to endorse such measures as ministers are pleased to submit to it, and in the manner they please, it is difficult to see what advantage there is in having a Parliament at all. But the argument has a grotesque as well as a serious aspect. What would be thought of a bank manager, for instance, who, whenever he made a proposal to his directors, insisted that they should either accept that proposal in its entirety or

[1] Todd's *Parl. Gov.*, vol. ii. p. 312.

his resignation? Would the directors not say that they were entitled to his best advice in any case, and that it was for them to accept or reject that advice as they thought proper? Suppose the manager went further, and said, "I have a scheme to lay before you which I believe would benefit the institution, but that scheme I decline to carry out, unless you tell me beforehand that you will not alter it in any way whatever"—would not the directors consider it was time to get rid of such a manager? Yet this is exactly the attitude which the cabinet assumes towards Parliament, if we are to accept the arguments put forth by the advocates of the present system.

The theory of the corporate responsibility of the ministers almost invariably breaks down when it is put to the test of experience, and breaks down, be it observed, precisely when great principles are involved and when dangerous consequences are expected to result. When ministers are defeated on a question of great importance to the country, one that cannot be made the plaything of a party, the opposition who take their places are under an obligation to bring in a new measure on the same subject, which shall be accepted by the House in the place of the one which they rejected. But the new ministers almost invariably endeavour to shirk their responsibility in this respect; for they know that if they have

not a large majority behind them, they are almost certain to be defeated. They therefore decline to proceed with the question in the ordinary way, namely, by a bill, and adopt what is undoubtedly the safer course—but an altogether irregular one from a party point of view—that, namely, of proposing certain resolutions which, if approved of by the House, will form the framework of a bill to be afterwards embodied into a ministerial measure. This course has been followed in numerous instances, but I shall only refer to two of recent date.

In February, 1858, Lord Palmerston introduced a bill to transfer Her Majesty's possessions in India to the British Government, but a change of ministry took place before the second reading came on. In the following month, Mr. Disraeli, the new Chancellor of the Exchequer, brought in a bill for effecting the same purpose; but this bill was not any more acceptable to the House than the one introduced by Lord Palmerston. On its becoming apparent that ministers would be defeated on their bill if they persevered with it, and the question, which was pressing for settlement, would be indefinitely postponed, Lord John Russell, a member of the opposition, suggested that they should consent to allow the question to be discussed in committee of the whole, upon general resolutions, in order that the principles might be

determined on which should form the basis of a new bill. The House accepted the suggestion, and Mr. Disraeli subsequently tabled fourteen resolutions, which, after much debate, were ultimately reduced to five, and reported to the House; and a new bill, in conformity with these resolutions, was introduced and accordingly passed into law. Had this unusual course not been adopted, we should probably have had a repetition of the occurrences which took place in 1784 over the India Bill of Mr. Fox. No less than three changes of ministries and one general election, the most severely contested election on record, took place over that measure, and all other business was completely suspended while it was under discussion.

The other instance occurred in 1867 in connection with the question of parliamentary reform, and to which reference has already been made. The Russell ministry having resigned the previous year owing to their inability to carry their Reform Bill, they were succeeded by the Derby ministry, who, finding themselves compelled to take up the question left unsettled by their predecessors, and feeling certain at the same time that if they made it a cabinet question they would immediately be defeated, proposed a series of resolutions, with the view of eliciting from the House its views upon the question. On this occasion Lord Derby

announced that his object was "not to pledge the government to a specific point upon any one of these resolutions, but to endeavour to obtain the general opinion of the House as to what measure would be likely to meet with general assent."[1] The proposal was received in a friendly spirit by both sides of the House; but the resolutions when submitted were considered too indefinite, and it was suggested that the subject of reform should only be dealt with in a ministerial bill. In accordance with the wish of the House, both sides being of opinion that the question of reform could no longer be postponed, Mr. Disraeli withdrew his resolutions and brought in his Reform Bill. The bill, which was introduced on the 25th February, however, failed to satisfy the House, and the government withdrew it without waiting for an adverse vote, and immediately introduced a second bill of a more liberal character. Even this bill was not liberal enough for the House, and it was materially altered in committee notwithstanding the strenuous opposition of ministers, who nevertheless accepted the amendments, and the bill ultimately passed. Thus on such a vital question as constitutional reform, ministers not only took their instructions from the House in the first instance, but even the second bill which they introduced when they found that their first

[1] *Hansard*, vol. clxxxv. p. 1285.

was not acceptable, they permitted to be materially altered by the House. Had ministers defiantly told Parliament that it must accept the measure as they presented it, there can be little doubt but that it would have gone the way of the other six Reform Bills which had preceded it.

Notwithstanding all the learned treatises which have been written on parliamentary government, will it be believed that no rule, principle, or constitutional usage has yet been discovered whereby it can be determined what should, or what should not, be regarded as a cabinet question? It would appear that questions are not declared ministerial or non-ministerial because of their importance or non-importance, as one would expect, but are deemed ministerial only if ministers are agreed upon them, and open ones if they disagree. Thus important questions like Parliamentary Reform, Vote by Ballot, the Abolition of the Slave Trade, Roman Catholic Emancipation, and Free Trade, have severally been considered as open questions by some administrations and not by others.[1] The cabinet, it would appear, hold themselves responsible for just what they please and for nothing more. If they cannot come to an agreement on any

[1] Todd's *Parl. Gov.*, vol. ii. p. 327.

question, they quietly leave it an open one; but if they do agree, it forthwith becomes a cabinet question, and their followers are directed to vote for it. The whole matter is left absolutely to the discretion of the cabinet. There is nothing to guide ministers in such a momentous matter but their own sweet will.

It is generally believed, however, that there is one recognized rule, and that is, when a change of ministry takes place the incoming ministry shall be held responsible to Parliament for the policy which occasioned the retirement of their predecessors.[1] But if there be such a rule, all I can say is that it is seldom put in practice, and it would not be difficult to find instances where it has been glaringly set aside. Thus, when the first Portland administration succeeded to office, in consequence of Parliament having expressed its dissatisfaction with the manner in which they had negotiated the terms of peace, the new ministry, on the assembling of Parliament, announced in the king's speech that they had signed the treaty of peace, leaving it to be understood that the terms were different from what their predecessors were prepared to accord. But Mr. Pitt, the leader of the opposition, informed the House that the treaty was substantially identical with the preliminary articles upon which ministers had turned

[1] Todd's *Parl. Gov.*, vol. i. p. 223.

out their predecessors.[1] Again, on the 7th of April, 1835, Sir Robert Peel's first administration was defeated on a motion of Lord John Russell in regard to the temporalities of the Irish Church and the adjustment of the Irish tithe question, and the motion was accepted by them as a vote of want of confidence. On the 18th of the same month Lord Melbourne accepted office, but he brought in no bill in accordance with the terms of his motion, although he subsequently held office for nearly six and a half years altogether.

On two occasions only within the last hundred years has the incoming cabinet assumed the responsibility of the policy on which they obtained office. The first was in 1783, in Pitt's first administration. Mr. Pitt had, as already stated, succeeded to office on the dismissal of the first Portland ministry on account of the rejection of Mr. Fox's India Bill, and a measure on that subject being extremely urgent, the new ministry took up the question, and after a long struggle and a general election, succeeded in passing a bill through both Houses. In this case, however, Mr. Fox's bill had been rejected by the Lords and not by the Commons, where it had passed by a large majority. The second occasion in which the same course was followed was in 1867, to which I have

[1] *Parl. Hist.*, vol. xxiii. p. 1140.

already referred, when the Derby ministry took up the reform question on which they had defeated the government of Lord John Russell.

Still more extraordinary is the absence of any rule, principle or established usage in respect to an appeal to the country on a question on which ministers have suffered a defeat in Parliament. One should certainly expect that when ministers appealed from Parliament to the country, they would appeal on the issue on which they had been defeated, and on no other; or, at all events, if there were several issues put before the constituencies, that this would be one of them. This, however, is by no means the course usually adopted. During the last hundred years (from 1780 to 1880), there have been twenty-two dissolutions of Parliament, and of them eight have been on account of the near approach of its natural term of existence; five on account of defeats of ministers, owing to their not being able to command a majority in the House; four on matters personally affecting the sovereign, or on his demise; and one to admit of an enlarged system of representation being put into immediate operation. Of the remaining four, one was on a want of confidence motion carried against the administration of Lord Melbourne; one was a vote of censure on the administrative policy of Lord

Palmerston in connection with the war in China; and two on account of the rejection of measures introduced by ministers, the first being the Reform Bill of Earl Grey, rejected by the Lords, and the second, the Reform Bill of Lord John Russell, rejected in the Commons. In only one, out of the last four cases mentioned, was the appeal to the country made on the question on which ministers had been defeated in Parliament. When Earl Grey obtained a dissolution on the rejection of his Reform Bill, the appeal was made to the country on that bill, and there was no other issue. In none of the other three cases, however, was the appeal made to the country on the question on which ministers had been defeated. At the dissolution which followed on a vote of want of confidence being carried against the Melbourne administration in 1841, the appeal to the country was not that of confidence in ministers, but on a proposal for a modification of the corn laws. When Lord Palmerston obtained a dissolution on a vote of censure on his policy in connection with the Chinese war being carried against him, that subject was scarcely even mentioned, the question that was kept prominently before the electors being that of confidence in ministers. Again, when Earl Derby obtained a dissolution after defeating Lord John Russell on his Reform Bill in 1859, he distinctly

stated on that occasion that he would not appeal to the country on that question, but on a totally different one. The appeal, he said, would be on "a much larger and broader question," namely, as to whether or not the country would support his ministry.[1]

It thus appears that on four occasions within a century have ministries obtained a dissolution on being defeated on a distinct issue, and on only one of these occasions has the issue put to the country been the true one, that is, the same as ministers were defeated on in Parliament. It is a significant fact, also, that out of twenty-two dissolutions which have occurred altogether within the period referred to, at only one of them could it be said that the appeal made was on a distinct question of policy altogether disentangled from personal or party considerations. That one occasion was when Earl Grey appealed from the House of Lords to the country on the Reform Bill of 1832. The issue put to the electors on that memorable occasion was "The Bill—yes or no;" and the answer to that issue, since become household words, was unmistakably clear and emphatic. It was, "The Bill, the whole Bill, and nothing but the Bill," by an overwhelming majority.

[1] *Hansard*, vol. clxii. pp. 1286–1291.

CHAPTER VI.

THE TRUE PRINCIPLES OF REPRESENTATION.

THERE was no ambiguity as to the position of a representative in the early days of our parliamentary history. His functions were both clearly defined and well understood. He was the attorney, delegate, or agent for his constituents. The relation between a representative and his constituents was of the closest and most intimate kind. Their interests were identical; they were residents in the same locality; they belonged to the same class in society; they knew each other's wants, and they suffered under the same grievances. It was then almost an impossibility for a constituency to be saddled with a member who did not truly represent them. The representative was chosen for a single session which then constituted a Parliament, and he went straight from his constituents to Westminster with his instructions fresh in his memory. And this close relationship was never

interrupted; representation was continuous from the day of election till the day that Parliament was dissolved, when the representative returned to his constituents and related to them the results of his parliamentary labours on their behalf.

By degrees, however, the relationship between electors and representatives became less and less intimate, till at length a complete estrangement took place. This was brought about (1) by the relaxation of the rule with regard to residence, thereby permitting non-residents to become representatives; (2) by the violation of the law and custom of payment of members, which placed representation exclusively in the hands of men of wealth; (3) by the introduction of the system of nomination by the Crown and by the territorial magnates, thus thrusting upon the electors representatives they did not approve of; (4) by the purchase of seats, which demoralized alike both constituencies and representatives; (5) by the lengthening of the duration of Parliament, which practically placed representatives beyond the control of their constituents. This last change rendered the breach between the representative and constituent bodies complete.

The close relationship formerly existing between members and their constituents has now been so long interrupted that we have almost lost sight of

the true principle of representation; indeed, the very meaning of the word may be said to have been lost to us. The idea of delegation or agency is no longer associated with the term. The representative is not identified with his constituents by class feelings and local interests, and he is no longer supposed to represent their sentiments or opinions. He is still called a representative, indeed, but the term is used in a new and peculiar sense. He is supposed to be a representative in the same sense as the Queen is the representative of the British nation, or as an elector is the representative of the non-electors in a constituency; that is to say, he is not a representative at all, but a trustee. This, so far as I can ascertain, is the new meaning attached to the term representative; and if it is difficult to reconcile it with the ancient, and till recent times, the acknowledged functions of a representative, it seems not to be the less acceptable on that account.[1]

It was probably some such idea as this which Edmund Burke had in his mind when he wrote his celebrated letter to the electors of Bristol. "Parliament," says he, "is not a congress of ambassadors, from different hostile interests, which interests each must maintain, as an agent and advocate against all agents and advocates; but Parliament is a delibera-

[1] Hearn's *Gov. of Eng.*, p. 465.

tive assembly of our nation with one interest, that of the whole, where not local purposes, local prejudices ought to guide, but the general good resulting from the general reason of the whole. You choose a member indeed; but when you have chosen him, he is not the member for Bristol, but he is a member of Parliament." The fallacy of this view is condensed in the last sentence. So far from the member for Bristol ceasing to be the member for Bristol as soon as he is elected, he is never anything else during the whole time he is in Parliament. It is from Bristol that he derives his authority, and though it cannot dismiss him it may refuse to reappoint him when his term expires. A member does not divest himself of his procuratorial character when he takes his seat in Parliament. He is a member of Parliament in virtue of being a representative, and he enters Parliament solely with a view to carry out his representative functions. The mere transfer of his person from Bristol to Westminster does not affect his position in the least. True, the member for Bristol may be said to represent the whole nation, but only in the same sense as Bristol may be said to represent the whole kingdom. It is the collective voice that represents the nation, and the individual voice which represents the constituency. The member for Bristol is a member of Parliament because he

represents Bristol; and as long as he represents Bristol he continues to be a member of Parliament and not a day longer. But whether as a representative or as a trustee he is equally bound by his pledges or instructions. The trustee is no more at liberty to act as he pleases than is a delegate or an agent. He is bound, and very strictly bound, by the deed of trust under which he acts, and any deviation from the strict letter of it lays him open to severe punishment. The same eminent authority presents us with another picture of a representative, which is totally different from that given above. In a speech to the electors of the same constituency, Edmund Burke thus describes the duties which he performed in his capacity of representative:—"My canvass of you was not on the 'Change, nor in the county meetings, nor in the clubs of this city. It was in the House of Commons; it was at the Custom House; it was at the Council; it was at the Treasury; it was at the Admiralty. I canvassed you through your affairs, and not your persons. I was not only your representative as a body, I was the agent, the solicitor of individuals; I ran about wherever your affairs would call me; and, in acting for you, I often appeared rather as a ship-broker than as a member of Parliament. There was nothing too laborious or too low for me to undertake." In this case where the theory is not con-

sistent with the practice, I prefer the practice to the theory. The duties here enumerated were not exactly such as pertain to a national representative, but were clearly those of the member for Bristol. They were the duties of an agent, and they were of so extensive and laborious a character that only a man who entertained a high sense of his responsibility to his constituents could have undertaken them with any satisfaction to himself.

The analogy between the position of a representative and an agent or a delegate is complete, but there is no analogy between the position of a representative and that of a trustee. A representative takes his instructions direct from his principals, for whom he acts; a trustee receives his authority from a testator, and acts not for him, but for a third person. A representative is appointed for a terminable period and his appointment may be renewed from time to time; a trustee's appointment is for life, and is usually irrevocable. No doubt a representative is in a position of trust; but so is a delegate, so is an agent, so is any one who carries a message from one person to another.

The position of a representative or delegate I hold to be a highly honourable and responsible one. He is entrusted with vast power for good or for evil. He has to carry out the instructions of his constitu-

ents so far as he can; but there is a large field outside the limits of his instructions where his constituents can exercise no control and offer no advice. He is free to speak and vote, even on the strictest procuratorial principles, on a thousand questions on which it is impossible for his constituents to give him any directions. But it is not so much in what he is permitted as in what he has in his power to do that makes his position so responsible. He may abuse the trust reposed in him. He may violate every pledge he has made; he may neglect the interests of his constituents; he may refuse to carry out their instructions; he may make a corrupt compact with ministers; and by his aid the nation may be plunged into war, the treasury impoverished and the country brought to the verge of ruin. All this he has in his power to do because he is trusted by his constituents. But because he is trusted it does not follow that he is only a trustee, or that he has abandoned his functions as a representative. His responsibilities are not incompatible with his position as representative but are inseparable from that position.

It is difficult to discover the exact views entertained by members of Parliament at the present day in regard to their relations with their constituents. In their parliamentary and extra-parliamentary utterances they are particularly reticent on this subject.

But they almost to a man repudiate the idea of being delegates or agents. Some of them even go further and refuse to give pledges to their constituents. Even Macaulay took up this position. In a letter addressed to the electors of Edinburgh he tells them distinctly that he will not pledge himself in any way. "I wish," he says, "to add a few words touching a question which has lately been much canvassed; I mean the question of pledges. In this letter, and in every letter which I have written to my friends at Leeds, I have plainly declared my opinions. But I think it, at this conjuncture, my duty to declare that I will give no pledges. I will not bind myself to make or to support any particular motion. I will state as shortly as I can some of the reasons which have induced me to form this determination. The great beauty of the representative system is that it unites the advantages of popular control with the advantages arising from a division of labour. Just as a physician understands medicine better than an ordinary man; just as a shoemaker makes shoes better than an ordinary man, so a person whose life is passed in transacting affairs of State becomes a better statesman than an ordinary man. In politics, as well as every department of life, the public have the means of checking those who serve it. If a man finds that he derives no benefit from the prescription of his physi-

cian, he calls in another. If his shoes do not fit him, he changes his shoemaker. But when he has called in a physician of whom he hears a good report, and whose general practice he believes to be judicious, it would be absurd in him to tie down that physician to order particular pills and particular draughts. While he continues to be the customer of a shoemaker, it would be absurd in him to sit by and mete every motion of that shoemaker's hand. And in the same manner it would, I think, be absurd in him to require positive pledges, and to exact daily and hourly obedience from his representative. My opinion is, that electors ought at first to choose cautiously; then to confide liberally; and, when the term for which they have selected their member has expired, to review his conduct equitably, and to pronounce on the whole taken together."[1]

The position here taken up is a peculiar one. A person seeks election, or permits himself to be put forward as a candidate for a constituency, and the electors naturally ask him to show his credentials or to state his qualification for the position to which he aspires. In reply they are told that their request is an improper one, and are refused any information on the subject; and as a reason for such refusal it is explained that a man may dismiss his

[1] G. O. Trevelyan's *Life and Letters of Lord Macaulay*, vol. i. p. 277.

physician if he found he derived no benefit from his prescriptions, or he may change his shoemaker if he made shoes which did not fit him, and so they must deal with their representative and elect him without asking any impertinent questions. Unfortunately the electors cannot change their representative as they can their physician when his prescriptions fail, or their shoemaker after his first misfit. If they could the parallel might hold good; but the present system does not permit the electors to take their representatives on trial or to dismiss them on the first occasion that they show their unfitness for the position which they occupy.

Pledges at the hustings are considered objectionable, because they are supposed to interfere with the exercise of the independent judgment of the representatives. But the claim to independence is incompatible with the representative character, while pledges of some kind are absolutely indispensable at every election. If no pledges were given an appeal to the country would be a meaningless ceremony. Every such appeal is made on some issue or issues more or less distinct, or the whole proceeding is an absurdity. The constituencies are asked, and they are assumed to express, their opinions on the questions submitted to them, and candidates are supposed to put these questions before them. No

doubt a candidate may shirk the real issue before the country. He may appeal on a side issue, or he may put a false one before the electors, but nevertheless appeal he must on some question or other, or he cannot be elected; and that view of the question, whatever it may be, which he places before the electors, and which meets with their approval, to that view of the question he pledges himself, and so far as that view of that particular question is concerned he, if elected, is delegated by his constituents to do his best to carry into effect.

But whatever may be the position of a representative, there is one qualification which it is absolutely indispensable he should possess. He must reflect the opinions of his constituents on all questions of public policy which come before Parliament. There is a vague idea afloat that in some sort of way a member may represent his constituents without reference to their opinions. The notions of trust, responsibility, and personal character of the representative have got so mixed up in some people's minds that the principle of representation is completely lost sight of. To gain what is called "the confidence of the electors" is considered the main thing, no matter by what means this may be secured. But it would be a burlesque upon representative institutions to suppose that a member can possess the confidence of his constituents

and not reflect their opinions. Representation is a mental act; it is the presentation or reproduction of the state of mind of another person; and before one person can represent another person he must first know what the opinions of that other person are. A representative is a substitute; he stands in the place of, and acts for another person. But one man cannot act for another unless he knows what that other would do were he acting for himself. In other words he requires to know the motives which actuate that other person, or what influences his motives, namely, his principles and beliefs. The House of Commons is a representative body, not because every individual member of it represents the opinions of the whole nation, but because members in the aggregate represent those opinions. "The virtue, spirit, and essence of the House of Commons," says Burke, "consists in its being the express image of the feelings of the nation"; and where the House does not express the feelings of the nation, it does not represent it. In the same way when a member of the House misinterprets the feelings of his constituents, it cannot be said that he represents them in any proper sense of the term.

But a representative must not only represent opinions, but he must represent existing opinions. Representation, if it exists, is in the present, not in the past tense. It is not enough for a representa-

tive to hold the opinions that his constituents entertained at the time of his election if the latter do not hold the same opinions now; or for the latter to hold the same views now as at the time of election if the former has abandoned them. In neither case could there be any proper representation. Representation must be co-extensive with membership. It must be uninterrupted and continuous. A representative should represent his constituents not once in seven years, but every year and all through the year. If the electors can exercise the franchise only once in seven years, and if they are powerless to influence the votes of their representatives in Parliament in the interval, representation must be regarded as practically suspended during that period. There must therefore be some means of bringing members under the control of their constituents, of dismissing them when they cease to be representatives, in the same way, in fact, as a man would change his physician or his shoemaker when his pills or his shoes turned out to be failures. If the electors could dismiss those members who had violated their pledges, or who had refused to carry out instructions, or who misrepresented them on any question, it would be a matter of comparative indifference how long a Parliament lasted, as, be its duration longer or shorter, it would always be in accord with the opinion of the electors.

But the constitutional functions of the electors may also be suspended, or held in abeyance, when there has been no change of opinion either on the part of a representative or of his constituents. The world does not stand still in the interval between two general elections. New questions turn up every day that require to be disposed of, and some of these may be of vast importance. On these questions it may, therefore, be necessary that the views of the electors should be known and represented in Parliament. But on these the electors may never have had an opportunity of pronouncing an opinion. At the general election which gave Lord Beaconsfield a majority, the Eastern question was not heard of, there was no disturbance in South Africa, and no demand for a scientific frontier for India. All these questions arose during Lord Beaconsfield's administration, and on not one of them were the constituencies consulted. How, then, could it, with any appearance of truth, be said that the Parliament which supported the Beaconsfield government on these questions represented the country? So far as concerned these questions, at all events, representation was practically suspended till the following general election which replaced Mr. Gladstone in office. True, the Constitution is supposed to provide a remedy for this state of things. The sovereign

may dissolve Parliament before the expiration of its ordinary term of existence if he has reason to believe that it is not in accord with the opinion of the country on any question of policy. But as the sovereign acts on the advice of ministers, and ministers never recommend the dissolution of a Parliament in which they have a working majority, the value of the remedy may be easily understood. If, however, members were held responsible to their constituents during the whole term for which they were elected, there would be no difference of opinion between them on any important question, nor would there ever be any urgent necessity for an extraordinary appeal to the country, as Parliament and the country would always be in accord.

This right of appeal is itself a recognition of what I contend for, as the Crown, whenever it dissolves Parliament because it is not in accord with the country, by that very act acknowledges the principle of the continuity of representation. Parliament itself also practically acknowledges the same principle on every occasion that it defers to public opinion or gives way to outside pressure; and the fact that this pressure is applied in an unconstitutional manner rather strengthens my argument than otherwise, as we must assume that Parliament would prefer this pressure to be applied in a constitutional manner if provision

were made for the purpose. The same thing may be said with regard to extra-parliamentary utterances. Every member of Parliament who asks for a vote of confidence at a public meeting recognizes the right of the electors to control their representatives. He says, in effect, "this is a question on which you have not been consulted, and as I cannot wait till the general election in order to ascertain your opinion in a constitutional way, I shall take the next best thing—the opinion of this meeting." Earl Derby put this view of the matter very clearly on a recent occasion. In returning thanks for the House of Lords at a dinner of the Civil Engineers in March, 1880, Earl Derby said—"Only a generation ago Parliament had, not merely the legislative power, which it still necessarily retains, but also a practical monopoly of the discussions conducted on all important national affairs. Now that monopoly has gone under the yearly increasing competition of the platform and the newspaper press. I have often thought how it would astonish a politician of the days of Canning and Castlereagh if he could rise from his grave and see what has been going on now for some years past. He would see ministers and ex-ministers, and all the most notable politicians of the country attacking one another, and defending themselves not merely at election times, but every year, and all the year

through, on provincial platforms, discussing most difficult and the most important questions of foreign and domestic policy before electors and non-electors, and addressing not a limited public, but the nation as a whole. There may be abuses attending upon the system, but I have no doubt that in the main it is an enormous advantage. We do not speak merely to Parliament or to the public once in seven years, but to the whole nation continually, and we are, to a great extent, guided by their judgment as to the course which shall be followed. For my part, I rejoice at that, because the larger proportion of the public that is called in to deliberate and to actively participate in the discussion of public affairs, the more nearly we approach to that which in the idea of all is a benefit, namely, a self-governed country." The great advantage of the system to which Lord Derby calls attention lies in the fact that it affords the public an opportunity of discussing important questions from day to day as they arise ; and if the opinions expressed in this manner were really the opinions of the country, and Parliament were really guided by them, we should have a system, although an altogether unconstitutional one, of continuous representation. If septennial elections are practically useless for ascertaining the current public opinion, which Lord Derby tacitly admits, it is evident no

great advantage would be gained by shortening the term of Parliament unless important public questions could be held over. But questions of this nature, as a rule, cannot be held over, and in these days of telegraphs, railways, and ocean steamships, they are always coming to the fore. There is no reason, however, why such questions should not be dealt with as they arise, and in a constitutional way. If we wish to preserve the Constitution, we must amend it as soon as its defects have been discovered ; and as far as it is defective in the present instance it can very easily be remedied. What is wanted is a system of continuous representation ; and one very simple and efficient way of obtaining it is by providing that the constituencies shall have the same power over their representatives which the Crown exercises over Parliament, namely, the power of dismissal.

There is another objection to periodical elections held at long intervals. It is almost impossible to determine with anything like certainty the meaning of a verdict pronounced at such an election, as there are invariably several issues, and one and the same answer is returned to all of them. We know which side gets the votes, but we do not know, and we have no means of ascertaining, why they were given. And the explanation is obvious enough. At every general election, and especially at an election held after a

long interval, there is necessarily a large accumulation of questions of various kinds and of greater or less importance, which are usually presented in different aspects to the electors by the several candidates who solicit their votes. One candidate may make one subject the main issue, while another candidate may ignore that and give prominence to another question which the previous candidate thought of no importance. Even the leaders of the opposing parties may present different issues to the country, as on the occasion of the last election when Lord Beaconsfield put forward one and Lord Hartington another. But in addition to all this, another element of confusion invariably presents itself. The question of the personal fitness of candidates will obtrude itself in a manner more or less prominent at every contest, and the electors will always favour a candidate who is personally popular, who is a fluent speaker, who has influence in the House or with the government of the day; and a certain proportion of them will vote for him on these grounds alone, quite irrespective of his views on any question of state policy. The consequence is that the verdict of every election is a matter of dispute. Scarcely two persons can be met with who are agreed as to the causes which led to the defeat of the Gladstone ministry in 1874. It is only when a single issue can be put before the country, and the

personal element evolved altogether, that anything like an accurate opinion can be arrived at. But this is clearly an impossibility under the present system, when an almost infinite variety of questions are all jumbled up together. Fortunately a single issue can be put before the electors as easily as before a public meeting. The personal element can also be eliminated on these occasions by reserving for periodical general elections the choice of candidates, who could then be selected on account of their personal fitness alone. In appointing a representative to a foreign court personal qualifications are alone taken into consideration. An ambassador is not appointed because his opinions accord with those of his minister, for the minister would of course assume that the representative would be guided by his instructions. The appointment is made first, the instructions come afterwards. If the same principle were adopted in electing parliamentary representatives there could be no confounding of personal qualifications with questions of state policy; and if the latter were left to the constituencies to be dealt with singly, each question as it arose, there would then be no doubt as to the meaning of the votes recorded, as the electors would be able to give a distinct answer to each question on the voting papers while the subject was fresh in their memory and at the precise time their decision on it was re-

quired. In order to carry out an arrangement of this kind, however, some organization would be necessary on the part of the electors.

At present the electors have no system of organization. There is no central body in any constituency for the purpose of conducting elections, or for acting as a medium of communication between electors and candidates or constituencies and their members. Each elector acts by and for himself in choosing a candidate, without reference to any other elector; and each candidate appeals directly to each individual elector, without previous consultation with any organization appointed on behalf of the constituents. Electors and candidates are alike free to act as they please, and they usually make the fullest use of their freedom in this respect. There are no means of stopping sham candidates from being put forward. There is no care taken to prevent unsuitable candidates presenting themselves, and no attempt is made to prevent such candidates from being elected. There is also no board or committee through which the constituency may communicate with their representatives, or representatives with their constituency; there is therefore no means whereby the constituents can, as a body, officially convey instructions to their representatives.

A different state of things prevailed in the early

days of our parliamentary history. We have seen that in the borough and city constituencies, at all events, a complete system of organization existed both for electing parliamentary representatives and for communicating with them after election. The borough representatives were chosen by the borough council acting on behalf of the general body of electors; and the borough council was also the medium of communication between the general body of electors and their parliamentary representatives. But all this is now changed. The village community, the old system of concentration of functions in the local body inherited from our Aryan forefathers, is gone and can never be revived. One by one the political and administrative functions of these local bodies have been taken from them, till the mere shadow of their former selves only remains. The police are now under the control of the county authorities; the management of the poor has been handed over to the poor-law guardians; the board of waywardens maintain the village roads; and questions of health and education have been remitted to separate boards each of which has its own special duties allotted to it. This is the new system that has taken the place of the old. Instead of concentration there has been differentiation of functions; instead of one body performing a multiplicity of duties, the various duties are

now performed by a multiplicity of bodies who have no relation to each other. But if we are to have differentiation in local matters, why not have it in politics also? We want local political organizations to supply the place of the old village and borough system. The framework of such an organization is to be found in the system of indirect election which was practised in the earlier period of our political history. It was by indirect election that the recognitors of the grand assizes were chosen; it was by indirect election that the Church chose its representatives for convocation; and it was by the same process, as we have seen, that the burgesses and citizens elected their mayors and their parliamentary representatives. An analogous system exists in Scandinavia and nearly all the German States at the present day. In these countries the mode of election is indirect; the general body of electors first choose delegates, and the delegates elect the representatives for their national assemblies. In Norway, for instance, one in fifty voters in towns, and one in a hundred in rural districts, choose a delegate, and the delegates afterwards meet and elect the representatives for the Storthing. Some such delegated power as this, which can speak on behalf and with the authority of the whole body of electors, is what is required. Both the English and the continental systems are objectionable as they

stand; the first, because the delegated body were elected primarily for local purposes, and it is not advisable to combine local and political functions in the same body; the second, because it is a temporary organization, whose functions are restricted to the election of parliamentary representatives and becomes defunct as soon as the elections are over. An organization to act on behalf of the electors generally, not only at election times but during the whole term that Parliament is sitting, is what is wanted. A body of delegates, chosen by the electors of each constituency, could perform all the political functions of the early borough and city councils, while it would be free from the objections which have been urged against them. Such a body would be a medium of communication between candidates and electors for arranging times and places of meeting and for advising the sitting member as to the views of the constituency on the leading questions of the day. But it should exercise no control over the representatives. That power should rest with the electors alone, and provision should be made whereby their votes might be taken when the member disputed the judgment of the board.[1]

[1] The advantage of a body of the kind referred to, even when it is non-official, was strikingly shown by an episode which occurred during the debate on the Reform Bill of 1832. On this occasion the Conservatives had recourse to their usual tactics, when in a minority, of

I have entered into these details because they may help to solve a difficulty which to many persons may seem insuperable. For my part, I can see no means of reconciling representative institutions with popular government, unless on the supposition that the constituents exercise uninterrupted control over their representatives. Independence on the part of the representatives is not only incompatible with the representative idea but with the principle of popular

moving innumerable amendments in committee, and Mr. Alderman Thompson, one of the reforming members for the City of London (then a thoroughly Liberal constituency), spoke and voted in favour of an amendment to save the borough of Appleby from disfranchisement. His constituents, however, regarded his vote on that occasion as an act of treason against his party; and the livery of London, acting on behalf of the whole constituency, summoned him before them, and distinctly informed him that he was sent into Parliament to support the bill as it stood, and not such portions of it only as he approved of. The result of the meeting was, that Mr. Thompson expressed his sincere regret for his vote, pleading that such a prostration of body and mind had seized him, owing to the fatigues arising from his close attendance at the House, that he had committed an inadvertence, and promised that in future he would vote against every proposal to alter the bill which was not sanctioned by the government. The meeting accepted his protestations and promises, and concluded by passing the following resolution :—"That the meeting of the livery of London, after a full and complete inquiry into the vote of Mr. Alderman Thompson relative to the borough of Appleby, and his explanation of the same, are of opinion that he acted therein inadvertently, and Mr. Alderman Thompson having renewed his pledge to give entire support to the Reform Bill, this meeting feel themselves called upon to continue their confidence in Mr. Alderman Thompson as one of the representatives of the City of London in Parliament." The action of the livery had the desired effect. Neither Mr. Thompson nor any other member of the reform party after this ventured to support any amendment on the bill not sanctioned by the government.

government. Popular government can only exist where the people can exercise control over their representatives at all times and under all circumstances. It has therefore been my endeavour to present some scheme which would combine the principle of representation with the principle of the sovereignty of the people; and in no other way can this be done, in my opinion, than by recognizing to the fullest extent the right of the constituent body not only to elect, but to instruct, and, if necessary, to dismiss their representatives at any time they may think proper.

Is it considered hard on a member to be taken to task in this manner by his constituents? It is not the member that has to be considered so much in such a case, however, as his constituents. What is he if he does not truly represent them but an impostor? What little sympathy there may be to spare, therefore, in such a case, should be bestowed on the victims and not on the victimized. The marvel to me is that any member should desire to hold his seat if he had even a suspicion that he had no moral right to it. That there are many members in every Parliament that suspect, and many more that know, that they do not honestly represent the views of their constituents is, unfortunately, a matter beyond dispute.

But it would not follow that a member and a

constituency would part company whenever there was any difference of opinion between them. Absolute uniformity is, of course, out of the question. Even on the leading question of the day, a constituency might not insist on uniformity. I can imagine a case of a member being retained even when he differed from his constituents on a very important question. If a member has rendered good service to his country and his views in the main are in accordance with those of his constituents, there can be little doubt as to what the result would be. All that I insist upon is that the constituency should have the option of retaining their member or his vote.

I shall no doubt be told that it would be derogatory for a representative to hold a position of dependence such as I have described. But how it would be derogatory is a question to which no explicit answer is ever forthcoming. We hear a great deal about the dignity, but very little of the duties of a representative. The position of an ambassador is surely as dignified as that of a representative—he is, in fact, a representative in the true sense of the term; yet an ambassador holds his appointment at the pleasure of his minister. The authority to dismiss is the complement to the power to appoint; if it is not derogatory for a representative to receive his appointment from his constituents, it cannot be derogatory to be called upon

by the same authority to resign it. A representative can suffer no indignity in submitting himself to his constituents ; on the contrary, he would suffer both in dignity and in honour if he retained his seat in defiance of their wishes. It can be no discredit to a representative to hold his seat on the same terms as ministers hold office. Ministers do not consider it derogatory to be called upon to resign their portfolios whenever they have lost the confidence of Parliament. Even Parliament itself may be dismissed at a moment's notice, although elected for a definite period; but no one ever heard of a dissolution being derogatory, although it may be both inconvenient and expensive. A representative cannot reasonably complain if he is treated no worse than a minister of the Crown, or no better than the Assembly to which he considers it an honour to belong.

It may also be objected that electoral control would interfere with the exercise of the deliberative functions of the representative. But we have already seen that the representative has full scope for the exercise of his judgment within as well as without the limits of his instructions. A parliamentary representative cannot be converted into a machine because he is bound by his instructions, any more than can an agent or an ambassador under similar circumstances. His instructions may be definite as to the ends, but

not as to the means to obtain them. He may not be able to do all that is required of him, but he must do the best he can, leaving his constituents to be the judge of his conduct. His instructions extend only to his general policy; the framing of measures for embodying that policy will be left to himself. Outside the scope of his instructions there is also ample room and verge enough. Only as far as they are known to him is he bound to carry out the wishes of his constituents; in all else he must follow what his judgment dictates. The cabinet is an executive body, but it is also deliberative. Nevertheless its executive acts must be approved of by Parliament. The practice we have seen is common enough for ministers to take the sense of the House by a resolution, or a series of resolutions. But ministers do not resign if their resolutions are condemned. They in effect ask for instructions when they present their resolutions; and if they did not accept them when offered they would immediately be met by a vote of want of confidence. If ministers, therefore, are not prevented by instructions from Parliament from exercising their judgment, why should ordinary members be considered to be placed in a false position by instructions from their constituents?

The advantages of the system proposed are numerous and manifest. It would secure continuity

of representation ; it would prevent sudden changes in the composition of Parliament ; it would reduce the cost of elections, and it would certainly make members more truly representative of their constituents than they now are, or pretend to be.

In the first place, it would secure continuity of representation. It would give us all the advantages of annual Parliaments without the worry and inconvenience of them. There would be no necessity for dissolving Parliament before its usual term had expired, whatever that might be, for as members would be always in accord with their constituents so would Parliament be always in accord with the country. I can understand the objection to annual Parliaments on account of their trouble and expense. But the same objection holds good against periodical elections generally if they are not necessary, and some other objections as well. Why, for instance, should all the members of the House be turned adrift whenever a few have proved, or are suspected of having been, unfaithful to their trust? Why should the innocent suffer with the guilty, the many punished for the misconduct of the few? It would be far better if the constituencies who were dissatisfied with their members called upon them to resign and quietly replaced them by men whom they could trust. In this manner the constituencies would keep Parliament in accord with public opinion, by re-

moving from time to time those members who did not possess their confidence and replacing them by others who did. Instead of an inanimate machine which had to be periodically set in motion Parliament would become a living organism in which the process of secretion and accretion would be continually going on, an organism in which there could be no decay as all its parts would be in a perpetual state of renewal.

In the second place, there would be no sudden or wholesale displacement of members or parties as at present after a general election, to be followed by a reaction and perhaps the replacement of the old members at the next general election. Whatever changes took place would be effected quietly and gradually. At present the country stakes too much on a single issue. A general election sometimes produces startling results and serious embarrassments. The occasion of a general election is also a period of great excitement. The pent up feelings of years then find vent and calm deliberation is out of the question. There are old scores with old members who seek re-election, there are the competing claims of rival candidates, there are local and national questions which had been accumulating for years, all of them demanding immediate settlement. The interest which the public take in politics should be permanent, not periodical. Instead of being spread over the

whole term of Parliament, it is now contracted into as many days as an election lasts; and as soon as the election is over the public immediately relapse into a state of apathy, and often of despondency, till the next general election. If members held their seats during good behaviour all this would be instantly changed. The electors, on the one hand, would feel their responsibilities increased; they would take a keener interest in political events; they would keep a more watchful eye on the proceedings in Parliament and on the votes of their representatives. The representative, on the other hand, would be compelled to cultivate a closer acquaintance with his constituents; he would learn to understand their wishes and consult their interests; and if he differed from them on any important question, he would know that either he must convince them of their errors or they must convert him to their way of thinking. Members would then take good care that their constituents were properly informed on all the leading questions of the day. There would be constant intercourse and exchange of views between them; the old relationship which has been long broken up would be restored, and there would be something like a community of sentiment and opinion between them.

In the third place, the cost of elections would be greatly reduced. A seat in Parliament would not be

worth the money which is now paid for it. It would not pay the territorial and monetary interest to invest large sums in obtaining seats the tenure of which was insecure. A seat in Parliament would be a tenancy at will, not a leasehold, a distinction which many of the present members profess to be unable to understand but which they would keenly appreciate if brought home to themselves.

In the fourth place, the composition of the House would be vastly improved. Representation would not be monopolized by one class of the community as it is at present. There have been many changes in the Constitution since the first Reform Bill was passed. The suffrage has been widely extended; the rotten boroughs have been disfranchised; the large centres of population have a fair share of representation; the ballot has at length become law, and bribery at elections, although still carried on, is severely punished when discovered. But the composition of the representative chamber is much the same as it was before these changes took place. The landed interest still predominates there; "the great governing families" still monopolize all the highest honours and offices of state. The working classes largely preponderate amongst the electors, but there is scarcely a single representative belonging to these classes in Parliament. The Reform Bill of 1867, we

were told by Conservative prophets, would "give a clear majority of votes in a clear majority of constituencies to the men who had no other property than the labour of their hands;" but the prediction has not been verified. The omnipotence of Parliament is not yet theirs. The whole of the lower middle class now enjoy the franchise, but it is of no advantage to them. Their representatives in Parliament are conspicuous by their absence. The tenant farmers are a numerous and ought to be an influential body, but they were able to return only some half dozen members at the last general election. The same stereotyped class of candidates we have been so long familiar with continue to present themselves, and the farmers and tradesmen, and "the men who have no other property than the labour of their hands," continue to elect them as of old. The cost of an election is so great that none but wealthy men can afford to contest a seat. All attempts to introduce the representatives of the struggling classes into Parliament have signally failed. An analysis of the present House of Commons—certainly the most unconservative we have yet had—shows that the great majority of that assembly belong to the territorial and monetary class; two classes, perhaps, in a social point of view, but one politically. It was surely never anticipated that this would be the outcome

of all the agitation for parliamentary reform which has been carried on almost uninterruptedly for half a century. During that time, it is true, the people have vanquished their opponents in many a severe contest; but what advantage has it been to them while the enemy is left in possession of the citadel? They have been running after the shadow and leaving the substance. They have been fighting for the extension of the suffrage, forgetting that the franchise is only a means to an end. If the government is to be carried on for the benefit of all classes, representatives should be chosen from all classes. We had class representation in the early Parliaments, but then all classes were fairly represented. The freeholders were represented by freeholders, citizens by citizens, burgesses by burgesses. It is not pretended that the class which now enjoys a monopoly of parliamentary representation, possesses all the talents and all the virtues of the community. If those constituting this class abandoned their policy of obstruction and honestly attempted to carry on the business of the country with a view to the general good of the whole community, the case would be different. But they give no indication of such a purpose. To them a seat in Parliament is only valued as a means of obstructing popular schemes of reform. To them every change is an innovation; every measure for the

material advancement of those beneath them in the social scale is denounced as class legislation, or confiscation, which means interference with the interests of another class. The experience of all ages and of all countries teaches that government by a class is practically government for a class. If the electors will choose their representatives from the class who have no sympathy with them, whose interests are opposed to theirs, and who have long been accustomed to the possession of power; they cannot expect, and they do not deserve, any other kind of treatment in the future than they have received in the past from the men whom they have shouldered into power.

CHAPTER VII.

THE FUNCTIONS OF MINISTERS.

THE cabinet is, as we have seen, a corporate body and not a mere aggregation of individual ministers. Its members stand or fall together. There is no getting rid of one minister without parting with all. Parliament cannot express its disapproval of the conduct of an individual minister if his colleagues approve of it without, at the same time, censuring the whole administration. The cabinet thus constituted arranges the business of Parliament, selects the measures to be laid before it, and determines what shall be the policy of the country. And all these important matters are transacted in secret. No one outside the cabinet circle knows anything about the intentions of ministers before the assembling of Parliament. The House is not consulted beforehand about the business that is to be laid before it; not even the supporters of the ministry know anything about the measures to

be introduced, although they cannot be carried without their consent. At the opening of each session ministers announce their policy, and their supporters accept what is laid before them, often without a murmur. The opposition will be dissatisfied of course with whatever bill of fare the government may provide, but as they are supposed to be in a minority in the House, they submit to their fate with the best grace they can. The House can get no more or no better measures than ministers are pleased to place before it. Their policy must be accepted or rejected as a whole. There can be no picking or choosing. The ministry may go too far, or not far enough; their policy may be good up to a certain point and bad beyond it, but the House cannot take the good and reject the bad part of their scheme. In all this the supporters of the ministry are as much ignored as the opposition. They may not altogether approve of the measures submitted to them; they may see their way to improve them in many respects, but they dare not touch them. They must accept the ministerial scheme as a whole or adopt the extreme course of joining with their natural enemies and turn out the ministry. Their choice is often between two evils, a bad measure or a bad ministry; and in nine cases out of ten they will sacrifice their convictions rather than turn their friends out of office.

Such is the theory of responsible government as laid down by the best constitutional authorities. Parliament is at the mercy of the government of the day. The House has to submit to all the whims and shortcomings of ministers ; and, as we have seen, the friends of the government are no better off in this respect than the opposition. Although they exist by the favour of their supporters, it is made to appear as if ministers were conferring rather than accepting an obligation by retaining office. Indeed the relation of ministers to their supporters is altogether peculiar. It is a complete reversal of the natural order of things. It reminds one of the friendship between the Duchess of Marlborough and the Princess Anne, where all the loyalty was on the side of the mistress, and all the haughty airs on the side of the waiting-woman. Of course ministers could not conduct themselves as they do were they only ministers, and not also members of a cabinet. Their strength lies in their unity. They can do as a cabinet what they would not dare to attempt as individual ministers. The unity of the cabinet or corporate responsibility of ministers, is the key-stone of the whole fabric of modern parliamentary government. As long as ministers can command a compact majority of the House, they are unassailable. The ministerial rank and file form a well disciplined army, with the premier as leader, in which

every member obeys the word of command. The organization is most effective, whether for purposes of offence or of defence. "The first duty of an English minister," says Mr. Disraeli, "is loyalty to his party,"[1] and loyalty to its chief is the first duty of the party. Ministers need be under no apprehension as to the fate of their measures, therefore, so long as they can manage to keep their party together. Is it to be wondered at that, under such circumstances, ministers pay far more attention to conciliate their friends, than to the preparation of their measures or to the administration of their departments?

But is this servile submission of Parliament to the dictation of the cabinet quite consistent with the principles of representative government? The House of Commons is a representative body, and its members are supposed to meet for the purpose of deliberating on all matters affecting their constituents and the country at large. But they have placed before them on entering the House the business to be done and the measures to be passed, which they are expected to agree to without adding, altering or abstracting anything, and about which they have not even been consulted. They are, it is true, allowed the right of free discussion; but it can scarcely be said that they are free to vote as their consciences may dictate or

[1] *Life of Lord George Bentinck*, p. 390.

as their constituencies may direct. Questions of policy cannot be discussed on their merits as long as they involve the existence of ministers, and the principle which lies at the root of representative institutions, namely, the right of the constituent body to be heard in Parliament, is practically ignored. It is true private members have the right of introducing measures; but the time set apart for private members' business is so limited and is hampered by so many restrictions, that the privilege is of very little use. Private members' nights have come to be regarded as nights when members may freely absent themselves ; and as a rule no business is done on these occasions as both sides of the House agree to ignore measures introduced by private members. If, therefore, the business of Parliament is arranged for it by ministers, and members have only the option of accepting or rejecting what ministers provide for them, what becomes of the deliberative functions of Parliament? It is plain that Parliament plays a very subordinate part in the government of the country. The representative body is elected not by one but by a large number of separate constituencies, each of which has its own particular wants, grievances, and opinions, which can only be formulated after the whole body of representatives have met and conferred together. But now Parliament has its work cut out for it before it has

an opportunity of consulting. It is the function of Parliament not merely to confirm or reject but to deliberate and resolve, on all matters which the constituencies, through their representatives, may think proper to lay before it. But, as we have seen, the representative functions of Parliament are altogether ignored by the cabinet. The wishes of the constituent body are treated with contemptuous indifference. What is the use of our elaborate electoral system if the representatives which the constituencies send to Parliament are to have their mouths closed, or are only allowed to affirm or to negative what ministers are pleased to propose? Ministers have no special facilities for ascertaining the opinion of the country. They know no more than the ordinary members of the House what the country wants. The opinions of the country can only be discovered after Parliament has assembled and the representatives have had an opportunity of expressing their views. In dictating to Parliament the terms on which they will hold office, ministers are, therefore, assuming a position to which they have no manner of right; they are usurping the functions of Parliament itself.

This system of corporate responsibility is not only contrary to the first principles of representative government but it is at variance with constitutional law

and usage. It is contrary to constitutional law, which recognizes the right of Parliament to control administration; and it is at variance with parliamentary usage, which requires that the political head of every important department should have a seat in either House, as a recognition that he is directly responsible to Parliament for its proper administration.

Parliament has the right to control the administration not merely of the government as a whole, but of every department of state. According to the dictum of Earl Russell "the two Houses of Parliament constitute the great council of the King, and upon whatever subject it is his prerogative to act, it is the privilege and even the duty of Parliament to inquire."[1] In conformity with the report of a select committee to search for precedents on the subject, the House of Commons, in 1784, resolved "that it is constitutional and agreeable to usage for the House of Commons to declare their sense and opinions respecting the exercise of every discretionary power which, whether by act of Parliament or otherwise, is vested in any body of men whatsoever for the public service."[2] Four years afterwards, in accordance with this resolution, on a motion for inquiring into the Admiralty on a certain matter, Mr. Pitt, then premier,

[1] *English Constitution*, p. 150.
[2] *Parl. Hist.*, vol. xxiv. pp. 534–571.

said :—"That the House had a constitutional power of inquiring into the conduct of any department of the government, with a view either to censure or punishment, was unquestionable; and whenever a case was made out, strong enough to warrant a suspicion of abuse that deserved either censure or punishments, he should even hold it to be the indispensable duty of the House to proceed to inquire." Mr. Fox on the same occasion observed that "it was the constitutional province and the undoubted duty of the House to watch over the executive departments, and, when they had come to suspect abuse, to institute an inquiry, with a view either to censure or punishment."[1] In 1863, Earl Derby declared it to be an established maxim that "every act done by the responsible ministers of the Crown having any political significance is a fit subject for comment, and, if necessary, for censure in either House of Parliament," and Earl Grey entirely coincided with this doctrine.[2] If the theory of corporate responsibility be correct, then any attempt to institute an inquiry into the conduct of any department would be frustrated at once by the cabinet demanding an expression of confidence in the ministry as a whole.

[1] *Parl. Hist.*, vol. xxvii. pp. 277–281.

[2] *Hansard*, vol. clxxi. pp. 1720, 1728; also Russell's *Eng. Const.*, p. 157.

Corporate responsibility is also inconsistent with established usage. Every important department of state must be presided over by a minister of the Crown, and every such minister must have a seat in either House of Parliament. By this means each department is brought under the purview of either House. The object of this rule is to enable Parliament to interrogate ministers with regard to the administration of the several departments with a view to censure or punishment if necessary. It is obvious, however, that if the cabinet holds itself responsible for the conduct of all its members, there would be no longer any necessity for the ministerial heads of departments being in Parliament, as the presence of one minister to speak on behalf of all his colleagues would be quite sufficient.

Ministers at the present day occupy a peculiarly anomalous position. They try to face both ways, and profess a divided responsibility. They are supposed to be equally responsible to the Crown, and to Parliament.[1] But they cannot be both. They cannot be ministers of the Crown, and at the same time ministers of Parliament. Responsibility must centre somewhere, in some one person or body, not in two. There can only be one supreme and sovereign

[1] "They are responsible to the king on the one hand, and to Parliament on the other." May, *Const. Hist.*, vol. i. p. 12.

power in any state. We might as well say that the king is absolute and at the same time responsible; or that Parliament is responsible and irresponsible at the same time. There can be no difficulty in determining to whom ministers are responsible. Lord Macaulay has clearly defined the relative position of ministers to Parliament in the following oft-quoted passage:— "The ministry," he says, "is, in fact, a committee of leading members of the two Houses. It is nominated by the Crown, but it consists exclusively of statesmen, whose opinions on the pressing questions of the time agree, in the main, with the opinions of the majority of the House of Commons. Among the members of this committee are distributed the great departments of the administration. Each minister conducts the ordinary business of his own office without reference to his colleagues. But the most important business of every office, and especially such business as is likely to be the subject of discussion in Parliament, is brought under the consideration of the whole ministry (or rather, it should be observed, of that section of the ministry which is known as the cabinet council). In Parliament the ministers are bound to act as one man on all questions relating to the executive government. If one of them dissents from the rest on a question too important to admit of a compromise, it is his duty to retire. While the

ministers retain the confidence of the parliamentary majority, that majority supports them against opposition and rejects every motion which reflects on them or is likely to embarrass them. If they forfeit that confidence, if the parliamentary majority is dissatisfied with the way in which patronage is distributed, with the way in which the prerogative of mercy is used, with the conduct of foreign affairs, with the conduct of a war, the remedy is simple. It is not necessary that the Commons should take upon themselves the business of administration, that they should request the Crown to make this man a bishop and that man a judge, to pardon one criminal and to execute another, to negotiate a treaty on a particular basis, or to send an expedition to a particular place. They have merely to declare that they have ceased to trust the ministry and to ask for a ministry which they can trust."[1]

A great deal of the confusion that has arisen with regard to the position of ministers is owing to the fact that they are appointed by the Crown. Nominally, no doubt, their appointment rests with the sovereign, but virtually they are appointed by Parliament. The House of Commons can at any time, by a vote of want of confidence or of censure, compel ministers to resign, and although the sovereign appoints their

[1] *Hist. of Eng.*, vol. iv. pp. 435, 436.

successors, the House may withdraw its confidence from them also, and compel the Crown to seek for new men whom it approves of. Thus by an exhaustive process of rejection the House has practically the appointment of ministers in its own hands. An instance of this kind occurred on a recent occasion which strikingly illustrates the inconvenience of the present system. On the 22nd December, 1851, Lord Palmerston, who seems to have been as popular in the House at this time as he was afterwards in the country, was removed from the office of Foreign Secretary in Lord Russell's administration by command of the Queen, for exceeding his authority in writing an important despatch without submitting it for the approval of the sovereign before forwarding it to its destination. In the following February the House met, and a few days afterwards the ministry were defeated upon an amendment, proposed by the dismissed minister, on a motion for leave to bring in a bill to regulate the local militia, and on the 23rd of the same month their resignation was announced. Instead of sending for the mover of the amendment, however, the Queen instructed Earl Derby to form a ministry. He unfortunately succeeded, and the first Derby ministry then took office, although it was admitted that they were in a minority in the House of Commons on the leading questions of the day. A

dissolution followed, but the new Parliament was not any more favourable to ministers than the old, and after being defeated on their financial policy on the 17th December, they resigned, having held office little more than nine months. On the 27th of the same month Lord Aberdeen succeeded in forming a ministry, which held office till the 1st of February, 1855, when they resigned in consequence of an adverse vote on the Crimean war. Again the Queen had recourse to Earl Derby, and afterwards to Earl Russell, each of whom failed to form a ministry; and, having tried every leading statesman and every possible combination, her majesty at length sent for Lord Palmerston, who became premier in two administrations, which held office altogether for nearly ten years. Had the appointment to the premiership been left with the House there can be no doubt that it would have nominated Lord Palmerston in 1852, and two changes of ministry and one dissolution would have been avoided. The three years during which Lord Palmerston lay under the Queen's displeasure were years of bad administration, as witness the conduct of the Crimean war, and were utterly barren of legislative measures of any kind whatsoever.

The prerogative of the Crown to appoint and dismiss ministers can only be exercised at the present

day within certain clearly defined limits. The sovereign may appoint his ministers, but the ministers he may appoint must receive the approval of Parliament. The sovereign may dismiss his ministers, but Parliament may compel him to re-appoint them. It is with Parliament, therefore, that the real power rests, and Parliament might as well appoint them first as last. Of late years the Queen has waived her prerogative so far as regards the appointment of ordinary members of the cabinet. The usual practice at the present day is for the sovereign to appoint the premier, leaving the premier to select his own colleagues. And, indeed, there would be great difficulty experienced in the forming of a cabinet if the sovereign interfered with the premier in his selection. The Crown has, however, on two occasions abandoned its prerogative even as regards the appointment of the premier.

It was long held as a maxim by the Whigs that ministers, and especially the premier, should be nominated by the chiefs of the Whig party; and owing to his adherence to this maxim the Prince Regent was unable to reconstruct a ministry in 1812. The difficulty of forming a ministry on that occasion was so unsurmountable that the members of the existing ministry were commanded to elect their own premier, which they did, their choice falling on Lord

Liverpool, who was accordingly appointed. Again, on the premiership becoming vacant on Lord Liverpool's death the king forwarded a minute to the cabinet stating, "that his majesty is desirous of retaining all his present servants in the stations which they at present fill, placing at their head in the station vacated by Lord Liverpool some peer professing opinions upon which his majesty's confidential servants may agree, of the same principles as Lord Liverpool." The result of these negotiations was that ministers elected Mr. Canning as the premier.[1]

It may be objected that if Parliament appointed ministers there could be no appeal from Parliament to the country, and in such a case a ministry might be retained in office which the country disapproved of. But an assembly subject to the control of the constituent body could never be at variance with the country; and to appeal from Parliament to the country in such a case would be like asking the country to repeat the verdict it had already pronounced. Under a properly constituted representative system, therefore, the necessity for an appeal would seldom arise. In any case, however, the Crown could exercise its prerogative in this respect in the same way as it does now, although its exercise is always liable to great abuse. A dissolution is a

[1] Todd's *Parl. Gov.*, vol. i. pp. 218, 221, 225.

violent, almost a revolutionary, proceeding. It is an instrument of coercion. It was so used by the Crown in times past to get rid of refractory Parliaments, and ministers occasionally resort to it now in order to punish their parliamentary opponents. A dissolution, moreover, is promised or granted on the advice of ministers, who do not always carry it immediately into execution. A wary minister will sometimes delay an appeal to the country till he thinks the turn of events will secure him a more favourable hearing; and if ministers are all the time lying under a vote of censure, the Crown places itself in an unpleasant and unconstitutional position by thus permitting the government to be carried on in direct opposition to the expressed will of Parliament.

Under the system of Government by Cabinet the real governing power in the state is the premier. He is in fact the government. All the power which was formerly divided between the king and his Parliament is now concentrated in the premier. He selects his own colleagues; he appoints them their several departments; he dictates the policy of the cabinet and of the country. Nay more, he actually nominates his successor, as it is now customary for the sovereign to ask the outgoing premier who should be sent for to form a new ministry. It is the power to appoint his colleagues that gives the premier the

predominating influence that he has in the cabinet, and consequently in Parliament, which compels him to cast in his lot with them when they are attacked, and which gives political unity to the ministry. As Parliament has conceded him the right to select his colleagues, it cannot now interfere between them and him without first depriving him of the power of selection.

Parliament having established its right to control the executive, directly by a vote of censure or a vote of want of confidence, and indirectly by rejecting their measures, it has only now to follow the logical consequences of its action by proceeding to nominate their successors. The king's government must be carried on. If Parliament can signify its disapproval of one ministry, it can surely mark its approval of another. This need not be considered any encroachment on the royal prerogative. In one respect the proposal is rather for an extension than a limitation of the prerogative. At present the sovereign selects the premier only, and it is proposed that he should have something to say about the premier's colleagues also. But at the same time it is desirable that some advice should be offered as to the selection. At present the sovereign takes the advice of the outgoing premier (who by the way is the very last person whose advice should be asked on such occasions),

and all that is now proposed is that he should take the advice of Parliament instead. We can even imagine this to be a proceeding that would be highly acceptable to the sovereign. It would certainly relieve him from a serious responsibility, and at times from great embarrassment. Those who may affect horror at the bare idea of such a thing should remember that there are good Whig and other precedents for such a course. The only objection to the Whig precedents is that they go too far, for it was the members of the Whig party and not the Parliament of England which, in the days of Whig supremacy, nominated the cabinet. They should remember that the "great governing families," Whig and Tory alike, allowed the sovereign no choice in the appointment of ministers outside their own select circle, and that these families practically enjoyed a monopoly of the high offices of state for generations. They should remember that as far back as the 15 Edward III., the Parliament of that day, known in history as the Good Parliament, not only nominated but actually appointed the king's council, the chancellor, and other high officers of state, and also the judges. They should also remember that in more recent times the sovereign has had to surrender a prerogative of infinitively more importance to him, and far dearer to the royal mind, than this. I mean,

of course, the right to dictate the policy of the cabinet and to guide the destiny of the country. George III. clung to this prerogative to the very last day of his life, and nothing would make him consent to forego it. He threatened over and over again to abdicate and leave the country rather than give way one hair's-breadth on this point. The nomination of his ministers was a bagatelle in comparison with this. A sovereign might well forego his right to select and even to appoint ministers so long as he could impose on them his own policy. Having surrendered the substance there need be no difficulty in giving up the shadow. Formerly ministers were really the servants of the sovereign. They were appointed by him, and were responsible to him alone, and his policy was their policy. Not only was the existence of the cabinet formerly unknown to the law, but the individual members of it were not even represented in Parliament till comparatively recent times, and all deliberations in the cabinet were conducted in the presence of the sovereign. But all this is now changed. Cabinet meetings are no longer held in the royal presence. It is even considered necessary that the sovereign should be expressly excluded from its deliberations, in order that the cabinet may be able to arrive at impartial conclusions on matters which come before it.

The nomination of the executive by Parliament would, in my opinion, bring about a vast and beneficial change in the government of the country. It would put an end to the dominating influence of the premier and destroy the unity of the cabinet. Parliament could then remove at pleasure any minister whose conduct it disapproved of. It would have the selection of ministers in its own hands, and the best men from both sides of the House would be eligible for office in the same way as the speaker is now.[1] The selection would not be from one section of Parliament but for all sections, and the ministry would represent all shades of opinion. At present one half of the best men in Parliament are permanently excluded from office.

There would also be a possibility of differentiating the functions of administration and legislation. Both kinds of functions are now exercised by the cabinet. Ministers attempt too much when they undertake to administer the affairs, and at the same time to provide legislative measures, for a great empire. The functions of administration are sufficiently onerous and important to engage their undivided attention. By relieving them of the business of legislation, which

[1] The speakership is no longer a political office. Mr. Brand has been elected speaker by three successive governments, in 1872, 1874, and again in 1880.

properly belongs to Parliament, there would be some chance of obtaining an efficient system of departmental supervision; while by leaving Parliament unhampered by considerations of changes of government, it would be able to devote itself zealously to the work of legislation. If the heads of departments found it necessary to recommend legislation, their proposals would, no doubt, be impartially considered by Parliament. In this as in other matters ministers would take their instructions from Parliament, not Parliament from ministers, as at present. Probably it might be necessary, in order to prevent the time of the House being wasted in discussing the various proposals which might be introduced by private members, to appoint a legislative committee to examine and report, as is now done in France and in several continental states where parliamentary government exists.

The whole system of party government could in this manner be quietly and effectually got rid of. There would then be no striking at ministers through their policy; no rejecting of good measures in order to bring about a change of government. Members would be in a position to discuss measures on their merits, or, at all events, without permitting party questions to influence them. There would be no weak governments, and no danger to the liberties

of the people from too strong ones. As ministers would not be appointed because they belonged to a party, there would be no motive for turning them out of office. They would be in deed and in truth the ministers, not the masters of Parliament.

Parliament would also be able to exercise an effective control over every department of state, as each member of the executive would be directly and exclusively responsible to it. If friendly relations with a foreign power were imperilled by a bellicose minister, if the commissariat were mismanaged, if the army were improperly officered, if unsuitable persons were appointed to the bench or the magistracy, the offending minister would alone be held accountable to Parliament. There would be no secrecy, no screening of colleagues; the public would know, in every instance, who was to blame for the mismanagement; the delinquent alone would be liable to censure or punishment, and the administration of affairs would pass into the hands of efficient and capable men.

Such a change as is here indicated ought to specially commend itself to the conservative mind. The present system is almost too revolutionary in its character and tendencies. A change of ministers is absolutely a change of rulers. It means the retirement, sometimes sudden and always inconvenient, of

one set of masters, and their replacement by another set. It means more than this. It means the overthrow of one set of masters and the substitution of another set holding diametrically opposite opinions on almost every question of the day. It means, therefore, a complete and entire reversal of the foreign and domestic policy of the country. It means also a change in the method of administration. The new ministers bring with them into office new ideas and new habits, and may undo in an hour arrangements for carrying on the business which may have taken their predecessors years to elaborate. What would be thought if the managers of a factory, of a school, of a prison, or of a lunatic asylum, if they changed their officials after this fashion? What method of administration, what kind of discipline, could be carried out under such conditions? Only a nation habituated for centuries to self-government, could withstand the strain of such a vicious system.

In the foregoing pages I have attempted to show that our process of legislation is slow, tedious, and laborious; that some of the most necessary and valuable measures have taken generations of agitation before they were passed into law, and that many useful and urgent reforms still await legislative sanction. I have also endeavoured to point out how our present Constitution differs from the old, and wherein it is

inferior to the latter; how the former relationship between the constituent and representative bodies no longer exists; how the continuity of representation has been interrupted; how annual Parliaments have been superseded, first by triennial then by septennial ones; how useless the latter are as an index to current public opinion, and how, as a consequence, Parliament now looks, or professes to look, for instruction and guidance to outside opinion instead of to the constituent body. I have also endeavoured to explain the inherent defects of the present system of government, and have indicated how these defects may be remedied. And in proposing a remedy I have not lost sight of the fact that this should be simple, effective, of easy application, and in perfect accord with the spirit of the Constitution under which we live. It is, I conceive, no small recommendation to the plan proposed that it professes to meet all these requirements. I have suggested only two alterations in the existing system. The first is that a majority of the electors of any constituency should have authority to change their representatives without waiting for a general election. The second is that Parliament should have the right to nominate the members of the ministry. The first will make the House of Commons as truly representative of current public

opinion as were our early Parliaments when they lasted only one short session; the second will accomplish what we still want, and which our early Parliaments strove with all their might to bring about, namely, an effective control over every department of administration, while at the same time it will destroy party combinations for the sake of office, and terminate the existence of Government by Cabinet.

I do not imagine, however, that we shall ever get rid of party altogether; nor is it necessary or desirable that we should. But it is desirable that we should do away with party as it is; that we should get rid of the bitterness of party feeling, the dishonesty of party tactics, and the evils inherent in the system of party government. It would be a gain to society if we could divest politics of its mean and mercenary character. But wherever men have strong convictions, and are earnest in the propagation of them, they will always combine and organize in order the more effectually to secure their adoption by the public. We shall still have party, therefore; in politics, as in other departments of human knowledge, there will always be at least two parties—the party for things as they are, and the party for things as they ought to be. The spoils for the victors would, however, be no

longer the motto of party warfare. The victory, to whichever side it turned, would be one of principles; the prize of contention would not be place or patronage, but the favour and gratitude of a great nation.

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