

constitutions, a large fraction--a fifth or a third--go out at once.

The reasons for allowing to the executive the power of dissolution will be considered in a subsequent chapter, relating to the constitution and functions of the executive in a representative government.

Chapter XII

Ought Pledges to be Required from Members of Parliament?

Should a member of the legislature be bound by the instructions of his constituents? Should he be the organ of their sentiments, or of his own? their ambassador to a congress, or their professional agent, empowered not only to act for them, but to judge for them what ought to be done? These two theories of the duty of a legislator in a representative government have each its supporters, and each is the recognized doctrine of some representative governments. In the Dutch United Provinces, the members of the States-General were mere delegates; and to such a length was the doctrine carried, that when any important question arose which had not been provided for in their instructions, they had to refer back to their constituents, exactly as an ambassador does to the government from which he is accredited. In this and most other countries which possess representative constitutions, law and custom warrant a member of Parliament in voting according to his opinion of right, however different from that of his constituents; but there is a floating notion of the opposite kind, which has considerable practical operation on many minds, even of members of Parliament, and often makes them, independently of desire for popularity or concern for their re-election, feel bound in conscience to let their conduct on questions on which their constituents have a decided opinion be the expression of that opinion rather than of their own. Abstractedly from positive law, and from the historical traditions of any particular people, which of these notions of the duty of a representative is the true one?

Unlike the questions which we have hitherto treated, this is not a question of constitutional legislation, but of what may more properly be called constitutional morality--the ethics of representative government. It does not so much concern institutions as the temper of mind which the electors ought to bring to the discharge of their functions, the ideas which should prevail as to the moral duties of an elector; for, let the system of representation be what it may, it will be converted into one of mere delegation if the electors so choose. As long as they are free not to vote, and free to vote as they like, they can not be prevented from making their vote depend on any condition they think fit to annex to it. By refusing to elect any one who will not pledge himself to all their opinions, and even, if they please, to consult with them before voting on any important subject not foreseen, they can reduce their representative to their mere mouthpiece, or compel him in honor, when no longer willing to act in that capacity, to resign his seat. And since they have the power of doing this, the theory of the Constitution ought to suppose that they will wish to do it, since the very principle of constitutional government requires it to be assumed that political power will be abused to promote the particular purposes of the holder; not because it always is so, but because such is the natural tendency of things, to guard against which is the especial use of free institutions. However wrong, therefore, or however foolish, we may think it in the electors to convert their representative into a delegate, that stretch of the electoral privilege being a natural and not improbable one, the same precautions ought to be taken as if it were certain. We may hope that the electors will not act on this notion of the use of the suffrage; but a representative government needs to be so framed that even if they do, they shall not be able to effect what ought not to be in the power of any body of persons--class legislation for their own benefit.

When it is said that the question is only one of political morality, this does not extenuate its importance. Questions of constitutional morality are of no less practical moment than those relating to the constitution itself. The very existence of some governments, and all that renders others enduring, rests on the practical observance of doctrines of constitutional morality; traditional notions in the minds of the several constituted authorities, which modify the use that might otherwise be made of their powers. In unbalanced governments--pure monarchy, pure aristocracy, pure democracy--such maxims are the only barrier which restrains the government from the utmost excesses in the direction of its characteristic tendency. In

imperfectly balanced governments, where some attempt is made to set constitutional limits to the impulses of the strongest power, but where that power is strong enough to overstep them with at least temporary impunity, it is only by doctrines of constitutional morality, recognized and sustained by opinion, that any regard at all is preserved for the checks and limitations of the constitution. In well-balanced governments, in which the supreme power is divided, and each sharer is protected against the usurpations of the others in the only manner possible, namely, by being armed for defense with weapons as strong as the others can wield for attack, the government can only be carried on by forbearance on all sides to exercise those extreme powers, unless provoked by conduct equally extreme on the part of some other sharer of power; and in this case we may truly say that only by the regard paid to maxims of constitutional morality is the constitution kept in existence. The question of pledges is not one of those which vitally concern the existence of representative governments, but it is very material to their beneficial operation. The laws can not prescribe to the electors the principles by which they shall direct their choice, but it makes a great practical difference by what principles they think they ought to direct it; and the whole of that great question is involved in the inquiry whether they should make it a condition that the representative shall adhere to certain opinions laid down for him by his constituents.

No reader of this treatise can doubt what conclusion, as to this matter, results from the general principles which it professes. We have from the first affirmed, and unvaryingly kept in view, the coequal importance of two great requisites of government--responsibility to those for whose benefit political power ought to be, and always professes to be, employed; and jointly therewith, to obtain, in the greatest measure possible, for the function of government, the benefits of superior intellect, trained by long meditation and practical discipline to that special task. If this second purpose is worth attaining, it is worth the necessary price. Superior powers of mind and profound study are of no use, if they do not sometimes lead a person to different conclusions from those which are formed by ordinary powers of mind without study; and if it be an object to possess representatives in any intellectual respect superior to average electors, it must be counted upon that the representative will sometimes differ in opinion from the majority of his constituents, and that when he does, his opinion will be the oftenest right of the two. It follows that the electors will not do wisely if they insist on absolute conformity to their opinions as the condition of his retaining his seat.

The principle is thus far obvious; but there are real difficulties in its application, and we will begin by stating them in their greatest force. If it is important that the electors should choose a representative more highly instructed than themselves, it is no less necessary that this wiser man should be responsible to them; in other words, they are the judges of the manner in which he fulfils his trust; and how are they to judge, except by the standard of their own opinions? How are they even to select him in the first instance but by the same standard? It will not do to choose by mere brilliancy--by superiority of showy talent. The tests by which an ordinary man can judge beforehand of mere ability are very imperfect; such as they are, they have almost exclusive reference to the arts of expression, and little or none to the worth of what is expressed. The latter can not be inferred from the former; and if the electors are to put their own opinions in abeyance, what criterion remains to them of the ability to govern well? Neither, if they could ascertain, even infallibly, the ablest man, ought they to allow him altogether to judge for them, without any reference to their own opinions. The ablest candidate may be a Tory, and the electors Liberals; or a Liberal, and they may be Tories. The political questions of the day may be Church questions, and he may be a High-Churchman or a Rationalist, while they may be Dissenters or Evangelicals, and *vice versâ*. His abilities, in these cases, might only enable him to go greater lengths, and act with greater effect, in what they may conscientiously believe to be a wrong course; and they may be bound, by their sincere convictions, to think it more important that their representative should be kept, on these points, to what they deem the dictate of duty, than that they should be represented by a person of more than average abilities. They may also have to consider, not solely how they can be most ably represented, but how their particular moral position and mental point of view shall be represented at all. The influence of every mode of thinking which is shared by numbers ought to be felt in the Legislature; and the Constitution being supposed to have made due provision that other and conflicting modes of thinking shall be represented likewise, to secure the proper representation for their own mode may be the most important matter which the electors on the particular occasion have to attend to. In some cases, too, it

may be necessary that the representative should have his hands tied to keep him true to their interest, or rather to the public interest as they conceive it. This would not be needful under a political system which assured them an indefinite choice of honest and unprejudiced candidates; but under the existing system, in which the electors are almost always obliged, by the expenses of election and the general circumstances of society, to select their representative from persons of a station in life widely different from theirs, and having a different class interest, who will affirm that they ought to abandon themselves to his discretion? Can we blame an elector of the poorer classes, who has only the choice among two or three rich men, for requiring from the one he votes for a pledge to those measures which he considers as a test of emancipation from the class interests of the rich? It will, moreover, always happens to some members of the electoral body to be obliged to accept the representative selected by a majority of their own side. But, though a candidate of their own choosing would have no chance, their votes may be necessary to the success of the one chosen for them, and their only means of exerting their share of influence on his subsequent conduct may be to make their support of him dependent on his pledging himself to certain conditions.

These considerations and counter-considerations are so intimately interwoven with one another; it is so important that the electors should choose as their representatives wiser men than themselves, and should consent to be governed according to that superior wisdom, while it is impossible that conformity to their own opinions, when they have opinions, should not enter largely into their judgment as to who possesses the wisdom, and how far its presumed possessor has verified the presumption by his conduct, that it seems quite impracticable to lay down for the elector any positive rule of duty; and the result will depend less on any exact prescription or authoritative doctrine of political morality than on the general tone of mind of the electoral body in respect to the important requisite of deference to mental superiority. Individuals and peoples who are acutely sensible of the value of superior wisdom are likely to recognize it, where it exists, by other signs than thinking exactly as they do, and even in spite of considerable differences of opinion; and when they have recognized it they will be far too desirous to secure it, at any admissible cost, to be prone to impose their own opinion as a law upon persons whom they look up to as wiser than themselves. On the other hand, there is a character of mind which does not look up to any one; which thinks no other person's opinion much better than its own, or nearly so good as that of a hundred or a thousand persons like itself. Where this is the turn of mind of the electors, they will elect no one who is not, or at least who does not profess to be, the image of their own sentiments, and will continue him no longer than while he reflects those sentiments in his conduct; and all aspirants to political honors will endeavour, as Plato says in the *Gorgias*, to fashion themselves after the model of the Demos, and make themselves as like to it as possible. It can not be denied that a complete democracy has a strong tendency to cast the sentiments of the electors in this mould. Democracy is not favorable to the reverential spirit. That it destroys reverence for mere social position must be counted among the good, not the bad part of its influences, though by doing this it closes the principal *school* of reverence (as to merely human relations) which exists in society. But also democracy, in its very essence, insists so much more forcibly on the things in which all are entitled to be considered equally than on those in which one person is entitled to more consideration than another, that respect for even personal superiority is likely to be below the mark. It is for this, among other reasons, I hold it of so much importance that the institutions of the country should stamp the opinions of persons of a more educated class as entitled to greater weight than those of the less educated; and I should still contend for assigning plurality of votes to authenticated superiority of education were it only to give the tone to public feeling, irrespective of any direct political consequences.

When there does exist in the electoral body an adequate sense of the extraordinary difference in value between one person and another, they will not lack signs by which to distinguish the persons whose worth for their purposes is the greatest. Actual public services will naturally be the foremost indication: to have filled posts of magnitude, and done important things in them, of which the wisdom has been justified by the results; to have been the author of measures which appear from their effects to have been wisely planned; to have made predictions which have been verified by the event, seldom or never falsified by it; to have given advice, which when taken has been followed by good consequences--when neglected, by bad. There is doubtless a large portion of uncertainty in these signs of wisdom; but we are seeking for such as can be applied by persons of ordinary discernment. They will do well not to rely much on any one indication, unless corroborated by the

rest, and, in their estimation of the success or merit of any practical effort, to lay great stress on the general opinion of disinterested persons conversant with the subject matter. The tests which I have spoken of are only applicable to tried men, among whom must be reckoned those who, though untried practically, have been tried speculatively; who, in public speech or in print, have discussed public affairs in a manner which proves that they have given serious study to them. Such persons may, in the mere character of political thinkers, have exhibited a considerable amount of the same titles to confidence as those who have been proved in the position of practical statesmen. When it is necessary to choose persons wholly untried, the best criteria are, reputation for ability among those who personally know them, and the confidence placed and recommendations given by persons already looked up to. By tests like these, constituencies who sufficiently value mental ability, and eagerly seek for it, will generally succeed in obtaining men beyond mediocrity, and often men whom they can trust to carry on public affairs according to their unfettered judgment; to whom it would be an affront to require that they should give up that judgment at the behest of their inferiors in knowledge. If such persons, honestly sought, are not to be found, then indeed the electors are justified in taking other precautions, for they can not be expected to postpone their particular opinions, unless in order that they may be served by a person of superior knowledge to their own. They would do well, indeed, even then, to remember that when once chosen, the representative, if he devotes himself to his duty, has greater opportunities of correcting an original false judgment than fall to the lot of most of his constituents; a consideration which generally ought to prevent them (unless compelled by necessity to choose some one whose impartiality they do not fully trust) from exacting a pledge not to change his opinion, or, if he does, to resign his seat. But when an unknown person, not certified in unmistakable terms by some high authority, is elected for the first time, the elector can not be expected not to make conformity to his own sentiments the primary requisite. It is enough if he does not regard a subsequent change of those sentiments, honestly avowed, with its grounds undisguisedly stated, as a peremptory reason for withdrawing his confidence.

Even supposing the most tried ability and acknowledged eminence of character in the representative, the private opinions of the electors are not to be placed entirely in abeyance. Deference to mental superiority is not to go the length of self-annihilation--abnegation of any personal opinion. But when the difference does not relate to the fundamentals of politics, however decided the elector may be in his own sentiments, he ought to consider that when an able man differs from him there is at least a considerable chance of his being in the wrong, and that even if otherwise, it is worth while to give up his opinion in things not absolutely essential, for the sake of the inestimable advantage of having an able man to act for him in the many matters in which he himself is not qualified to form a judgment. In such cases he often endeavours to reconcile both wishes by inducing the able man to sacrifice his own opinion on the points of difference; but for the able man to lend himself to this compromise is treason against his especial office--abdication of the peculiar duties of mental supremacy, of which it is one of the most sacred not to desert the cause which has the clamor against it, nor to deprive of his services those of his opinions which need them the most. A man of conscience and known ability should insist on full freedom to act as he in his own judgment deems best, and should not consent to serve on any other terms. But the electors are entitled to know how he means to act; what opinions, on all things which concern his public duty, he intends should guide his conduct. If some of these are unacceptable to them, it is for him to satisfy them that he nevertheless deserves to be their representative; and if they are wise, they will overlook, in favor of his general value, many and great differences between his opinions and their own. There are some differences, however, which they can not be expected to overlook. Whoever feels the amount of interest in the government of his country which befits a freeman, has some convictions on national affairs which are like his life-blood; which the strength of his belief in their truth, together with the importance he attaches to them, forbid him to make a subject of compromise, or postpone to the judgment of any person, however greatly his superior. Such convictions, when they exist in a people, or in any appreciable portion of one, are entitled to influence in virtue of their mere existence, and not solely in that of the probability of their being grounded in truth. A people can not be well governed in opposition to their primary notions of right, even though these may be in some points erroneous. A correct estimate of the relation which should subsist between governors and governed does not require the electors to consent to be represented by one who intends to govern them in opposition to their fundamental convictions. If they avail themselves of his capacities of useful service in other respects at a time when the points on which he is vitally at issue with them

are not likely to be mooted, they are justified in dismissing him at the first moment when a question arises involving these, and on which there is not so assured a majority for what they deem right as to make the dissenting voice of that particular individual unimportant. Thus (I mention names to illustrate my meaning, not for any personal application) the opinions supposed to be entertained by Mr. Cobden and Mr. Bright on resistance to foreign aggression might be overlooked during the Crimean war, when there was an overwhelming national feeling on the contrary side, and might yet very properly lead to their rejection by the electors at the time of the Chinese quarrel (though in itself a more doubtful question), because it was then for some time a moot point whether their view of the case might not prevail.

As the general result of what precedes, we may affirm that actual pledges should not be required unless, from unfavorable social circumstances or family institutions, the electors are so narrowed in their choice as to be compelled to fix it on a person presumptively under the influence of partialities hostile to their interest: That they are entitled to a full knowledge of the political opinions and sentiments of the candidate; and not only entitled, but often bound to reject one who differs from themselves on the few articles which are the foundation of their political belief: that, in proportion to the opinion they entertain of the mental superiority of a candidate, they ought to put up with his expressing and acting on opinions different from theirs on any number of things not included in their fundamental articles of belief: that they ought to be unremitting in their search for a representative of such calibre as to be intrusted with full power of obeying the dictates of his own judgment: that they should consider it a duty which they owe to their fellow-countrymen, to do their utmost toward placing men of this quality in the Legislature, and that it is of much greater importance to themselves to be represented by such a man than by one who professes agreement in a greater number of their opinions; for the benefits of his ability are certain, while the hypothesis of his being wrong and their being right on the points of difference is a very doubtful one.

I have discussed this question on the assumption that the electoral system, in all that depends on positive institution, conforms to the principles laid down in the preceding chapters. Even on this hypothesis, the delegation theory of representation seems to me false, and its practical operation hurtful, though the mischief would in that case be confined within certain bounds. But if the securities by which I have endeavoured to guard the representative principle are not recognized by the Constitution; if provision is not made for the representation of minorities, nor any difference admitted in the numerical value of votes, according to some criterion of the amount of education possessed by the voters--in that case, no words can exaggerate the importance in principle of leaving an unfettered discretion to the representative; for it would then be the only chance, under universal suffrage, for any other opinions than those of the majority to be heard in Parliament. In that falsely called democracy which is really the exclusive rule of the operative classes, all others being unrepresented and unheard, the only escape from class legislation in its narrowest, and political ignorance in its most dangerous form, would lie in such disposition as the uneducated might have to choose educated representatives, and to defer to their opinions. Some willingness to do this might reasonably be expected, and every thing would depend upon cultivating it to the highest point. But, once invested with political omnipotence, if the operative classes voluntarily concurred in imposing in this or any other manner any considerable limitation upon their self-opinion and self-will, they would prove themselves wiser than any class possessed of absolute power has shown itself, or, we may venture to say, is ever likely to show itself under that corrupting influence.

Chapter XIII

Of a Second Chamber.

Of all topics relating to the theory of representative government, none have been the subject of more discussion, especially on the Continent, than what is known as the question of the Two Chambers. It has occupied a greater amount of the attention of thinkers than many questions of ten times its importance, and has been regarded as a sort of touchstone which distinguishes the partisans of limited from those of uncontrolled democracy. For my own part, I set little value on any check which a Second Chamber can apply