

A CONSTITUTIONAL MISFIT.

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AMONG the things which strike a foreign observer of American politics as being among the probable causes of the present troubles, financial and legislative, is the absence of a Parliamentary leadership of party, such as they have in England. The place of the Parliamentary leader of party is here taken, in great measure, by the Boss.

Anglophobia reached its acme and assumed its most grotesque form when a ponderous book was written to prove that American institutions were in their origin not British but Dutch, and had been imported from Holland in the "Mayflower." Of this paradox no proof from institutional peculiarities or political nomenclature was adduced. The only argument was that a nation so barbarous as the England of Burleigh, Walsingham, Sydney, Shakespeare, Bacon, and Hooker could not possibly have been in possession of civilized institutions. A stranger hypothesis it would surely not have been easy to invent than this, that a company of pious peasants in religious exile, with their thoughts absorbed by their spiritual concerns, should have studied the institutions of an alien country, from the social influences of which they seem to have shrunk, with a view of substituting them for their own. That these people clung to their British allegiance the "Mayflower" manifesto shows. Besides, the "Mayflower" Colony had little to do with the political organization of New England; it was absorbed politically in the Massachusetts Colony which came direct from England under the leadership of an English gentleman.

Over one of the cases of the name of a Greek god there is an anomalous accent which formerly puzzled philologists. At last the same accent was found over the same case of the Sanscrit

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name of the corresponding Hindoo divinity. Here was a small but conclusive proof of the connection between the two mythologies. In the American House of Representatives the Chairman, who does not speak, is called the Speaker. So is the Chairman of the English House of Commons, whose original duty it was to speak for the Commons to the Crown.

The Revolutionary fathers would naturally not care to say much about England. But they followed the lines of the British Constitution, substituting, as Republican principles required, for the hereditary King, an elective President, for the hereditary House of Lords an elective, though a comparatively conservative, Senate. They did not see—Blackstone and the constitutional jurists of England did not tell them, the British themselves, even the British politicians were but half aware—that the Constitution had undergone a radical though tacit and informal change; that power instead of being divided among King, Lords, and Commons, had centered in the Commons; that the Crown had been stripped of prerogative and retained nothing but influence; that the House of Lords was no longer a collateral branch of the Legislature, though the Lords still exercised great power through their broad acres, their pocket boroughs, and their control over the county elections. That such was the case, however, had been practically decided when Sir Robert Walpole, the trusted minister and favorite of the Crown, had been compelled to resign office on ceasing to command a majority in the Commons. Thenceforth the government of the country was the political party which was dominant in the House of Commons. The recognized leader of that party chose the Cabinet, and at the same time led the House of Commons either in person or, if he happened himself to be in the House of Lords, through his lieutenant, thus keeping the legislature in harmony with the executive. He and his Cabinet initiated and controlled legislation, managed the finances, regulated the expenditure and determined the taxation, conducted the foreign policy, appointed the judiciary, disposed of all the patronage and answered for the whole administration personally on the floor of the House to the sovereign assembly of representatives of the people. Hamilton, perhaps, had an inkling of the real state of the case when he recognized in patronage—corruption as he called it—a necessary instrument of gov-

ernment. But Washington and all the rest looked upon party not as the regular government, but as a passing disease. In excluding from Congress the heads of the departments of State, they were probably paying a tribute to the purism which had prompted the British Place Bills as well as swayed by the theories of Montesquieu, greater as a prose writer than as a political philosopher, respecting the separation of the executive from the legislative power. "Cabinet" is a term of party government. Washington would not have called the heads of departments a cabinet or recognized them as bearing that character.

Party, however, instead of proving a transient disease, as Washington hoped, had come to stay. It is now the real government of the United States as well as of other countries under the representative system. The British Constitution, as it really was, fitted party government, which had been developed under it. The British Constitution, as it was supposed to be, and in the version in which it was reproduced by the American Constitution-builders, is for party government a misfit.

In England each party has its recognized leaders, who, when it is in power, form the Cabinet; when it is out of power are still its leaders, conserve its principles, regulate its action, and, as the chiefs of Her Majesty's Opposition, with return to office always in view, are hardly less under a sense of responsibility to Parliament and the country than Her Majesty's Ministers. But party in the United States has no such leadership. The President, even if he is a man qualified to lead, not a mere availability, is lifted as the head of the nation out of constitutional connection with his party, the action of which he can control, if at all, only by back-stairs influence. Men of distinction of course there are in both parties, but they are not recognized or responsible leaders; they do not authoritatively shape and control the policy; there are no headquarters like the Carlton and Reform clubs, where the party chiefs are to be found, and are consulted at any crisis by their following. Somebody, however, there must be to keep the organization on foot and to operate the party machine. The Boss becomes a melancholy necessity. There is little sense in reviling him; unspeakable he may be, but he is also indispensable. The Independents—Mugwumps, as the scoffers call them—are eloquent in their denunciation of the Boss. But suppose, instead of being a flying squadron of critics, they were a party

struggling for power and place, how do they think their game could be carried on? That capacity for leadership is not wanting, the marshalling of forces in the different States for such a struggle as the last Presidential election satisfactorily shows. But the status of a permanent and Parliamentary leader is wanting, and the party system of government, questionable enough at best, suffers manifestly in its working by the defect.

In the Legislature no one in particular has legislation in charge; there is no one to initiate it with authority and control its course. The consequence, apparently, is much legislative confusion. Just now we see the railroad arrangements of the country in danger of being thrown out of gear and all railroad property imperilled by a legislative slip, into which it would be hardly possible that a parliamentary leader in England, with the government draftsman at his side, should have been betrayed. The Speaker, it is true, in the House of Representatives acts as a makeshift by nominating the legislative committees; but, to say nothing of the consequences to the impartiality of the Chair, this is an indifferent substitute for a responsible Minister in charge of a bill, framing it, moving it in the name of the government, conducting it through its legislative stages, and defending it against criticism on the floor of the House. Nor is the Speaker or any one else empowered to answer questions and give information in the name of the government, as the Cabinet Ministers in their several departments are in England. The use of the Speaker as a party leader betrays the misfit, against which it is a struggle for adjustment.

It is in the Department of Finance, however, that the defect is most apparent and serious. In England the Chancellor of the Exchequer, representing the government, states the needs of the public service for the coming year, frames the estimates and regulates the appropriations. He only can originate a tax. At Washington expenditure and the tariff are thrown to the crowd. Thus, after thirty-two years of peace, active industry, and productive development, with cheap establishments, a very small army, and almost no navy, in a nation unrivalled for its general faculty of administration, we behold a financial scene of deficit and almost of disaster; while in an old country heavily burdened, we see financial prosperity, surplus, and reduction of debt.

For part of this no doubt the currency mania, or raid, has to

answer; though in England the currency mania itself would probably have been met at the outset with resolute resistance on the part of the Chancellor of the Exchequer and forced to a decisive issue, in which it would most likely have met its doom. For part also, as the Free Traders think, Protectionism has to answer, not only because by limiting imports it diminishes revenue, but because, unless it is much belied, it has prompted a lavish expenditure for the purpose of baling out the surplus and averting the reduction of duties. The Pension Arrears Act under which the country is now paying in pensions for wars, the last of which ended thirty-two years ago, a sum exceeding the cost of the largest standing army in Europe, one hears ascribed not so much to the pressure of the Grand Army or the desire of capturing the soldiers' vote, as to the desire of getting rid of the surplus. It cannot be supposed that the framers of the Act foresaw the fabulous expenditure into which they were plunging the country; but they seem to have legislated blindly where a Parliamentary Finance Minister would have been constrained by his personal responsibility to proceed on a careful calculation.

Some Americans are so sensible of all this that they propose to adopt party government according to the true British model, bringing the heads of the departments, now mis-called Cabinet Ministers, into Congress. But how is this to be done? You would have to recast the whole Constitution and to bring into Congress not the heads of departments only, but the President, who corresponds to the head of the Cabinet in England. The Constitution of the United States is practically unchangeable. Sixty years passed without any amendment. Not only is the process one of extreme difficulty, but there is a lack of any authority strong enough to initiate organic change. In the case of the anti-slavery amendments passed at the close of the Civil War, the initiative was taken by a political earthquake. Constitutions, like every other work of man, wear out, and, as Bacon says, what men do not alter for the better, Time, the great innovator, alters for the worse. But you might almost as well invoke an Avatar of Vishnu as call for an organic amendment of the American Constitution. The article which gives Nevada an equal representation in the Senate with New York is practically immutable.

Besides, we have now to ask the momentous question whether party government after any model, British or American, is the right mark at which to aim, and whether it is destined to be the polity of the future. Men born and bred under the system have learnt to believe that party is an ordinance of nature immemorial and everlasting. The fact is that as a mode of government it dates from the struggle between the Hanoverian constitutionalists and the adherents of Stuart prerogative in the Parliament of England, which again was the Parliamentary continuation of a civil war. A new ground for party was subsequently found in the division of opinion produced in England and other countries by the French Revolution, and by the general struggle between receding monarchy or aristocracy and advancing democracy which ensued. But in ordinary times political opinion is not bisected any more than opinion on other subjects. Party then ceases to have any rational foundation, or to afford any moral justification for the submission of conscience to its yoke. It becomes mere faction, subversive of civil duty, and must be sustained by unreasoning devotion to a shibboleth, or, as it generally is, by corruption of some kind. In legislation and government it allows passion, the most violent and tyrannical, to usurp the place of judgment. In England it has led to reckless extension of the franchise, the two parties bidding against each other in a sort of Dutch auction for the popular vote, and has even, by its influence in regard to the question of Irish Home Rule, brought the United Kingdom to the very brink of disruption. But parties are now being everywhere broken up by the effacement of rational lines of division, by the increase of intelligence and of independence of thought or eccentricity, which multiplies political sects and makes them impatient of party discipline, as well as by the diminution of those means of corruption by which Walpole and Newcastle held their following together. In America the party organizations, owing partly to the influence of a vast patronage, have hitherto been very strong, but they appear now to be giving way. Till last year there had been only eccentric secessions, such as those of the Prohibitionists, the Populists and the Silverites, or revolts against misguidance, such as the revolt of the Liberal Republicans. But at Chicago one of the great organizations was captured by a section at variance with the other section on fundamental principles; for nothing

could be more opposed to the Jeffersonian belief in individual liberty than the German Socialism of Mr. Altgeld. Democratic reunion seems hopeless ; and how without a Democratic party, or a second party of some kind nearly equal to the Republican party in strength, can the political balance be preserved and the system, which postulates the continued existence of two great parties dividing the nation between them, be carried on ?

A most dangerous result of sectionalism is the power given to self-seeking or fanatical sections, which, when the regular parties are nearly matched in strength, can, by playing on the balance between them, "hold up" the Legislature till their own evil will is done. A gang of political banditti may in this way turn a legislature into its engine. This is a malady newly developed in representative government ; it is manifestly spreading, and no antidote to it at present appears.

The political world generally seems, in fact, to have come to a curious pass. In order to make government by the people, in other words representative government, practicable, there must be an organization of some sort to marshal and direct the popular vote ; since the disconnected atoms have in themselves no power of combination, of interchange of sentiment, or of collective choice. The only organization at present known or discernible is party ; and party, always equivocal, always half condemned by public morality and by its own fruits, is now apparently in a state of final disintegration. What is to come next ? Representative government may be the ideal, but is it capable of being worked ? That is the momentous question to which the next generation may be called upon to give a decisive answer.

To revert to the special case of the United States. We are in the habit of thinking that popular government in America has stood the test of a hundred years and has come well out of the trial. The first member of the proposition at all events requires qualification. During the Washingtonian era the government was not "by the people" ; it was that of a social and political aristocracy, as Jefferson was always complaining. Then Jefferson himself was king. There followed war which always throws power into the hands of government. Presently Jackson was king. Then came the rule of the Democratic party, doubtfully so named, since it was the reverse of democratic and not so much a party as a great economical and social interest, while politically

it was an oligarchy of planters, carrying with it a strong commercial connection in the North and the populace of the Northern cities, which it enlisted by the attraction of the spoils. Its powerful representatives in the Senate held their seats not by popular arts, but by social position, on condition of their fidelity to slavery; they were able to devote themselves to politics; after their kind they were statesmen. They, at all events, governed the country. There were few keener observers than Robert Lowe, who after his return from a visit to America, describing to the present writer what he had seen, and speaking of the Democratic party, deplored its connection with slavery, its violence, and its complicity with corruption at the North, but ended by saying: "However, the Democratic party has governed the country, and I do not see what else there is that could."

The Southern statesmen passed away, and when Lincoln's war dictatorship had come to an end, universal suffrage had a fair trial. The House of Representatives is now composed of men owing their seats to popularity in their several districts, which it must be the first object of each of them to retain. Their tenure is far too short for training in statesmanship, nor can they ever be free to render undivided service to the country at large, local election with its electioneering necessities being ever before their eyes. During a part even of their short term they are practically sitting under the projected shadow of the incoming House, which, if the pendulum of party has swung, practically annuls their legislative power. It is not likely that under such conditions the men will be of the most statesmanlike class. Probably few of them have room in their minds for anything beyond the party game or time to read anything except the newspapers, even the political history of their own country. The position of a Senator is better; but party in its heat has, by the admission of unqualified territories as States for the sake of their Senatorial votes, introduced such elements that the popular House, at least with a strong Speaker, is now the more statesmanlike of the two, while the Senate, instead of restraining excesses, needs itself to be restrained. Mr. Hoar's authority is great, but it cannot cancel recorded facts.

Of the results to statesmanship and to the conduct of legislation and finance since the system of universal suffrage has really prevailed, it rather beseems an American than a foreigner to

speak. But no observer can hesitate to say that since the subsidence of the tidal wave of patriotism which flowed at the time of the Civil War there has been a growing prevalence of local over national feeling and interests. "We are becoming instead of a nation a collection of potato plots and cabbage grounds," was the wail of a patriot whose meaning, at all events, it was not difficult to understand. The people have chosen to impose upon themselves strict localism in elections, so that the ablest and best citizen, if he happens to live where his party is in the minority, is excluded from the councils of the nation. Slavery, though narrower than national, was broader than parochial interest.

In Great Britain the Cabinet, which guides and controls Parliament, is national. Its members, if they are in the House of Commons, are practically sure of seats without limitation of residence. By its influence over the action of Parliament the ascendancy of national interest in legislation, fiscal as well as general, is preserved. In America the President, it is true, is national, especially if he is not a candidate for re-election; and the exercise of his veto has been most wholesome. But his influence is chiefly negative; he can do little to impress his loyalty to national objects upon Congress. National sentiment will hardly regain its ascendancy till some new national aspiration is evolved.

With such conservative and recuperative forces as were shown in the late struggle, anything like despondency would be out of place; but it seems less likely that the nation will be saved by the legislature than that the legislature will be saved by the nation.

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NOTES AND COMMENTS.

PROGRESSIVE INHERITANCE TAXES.

As might have been expected, Comptroller Roberts' modest proposal to make the New York inheritance tax progressive has been attacked in many quarters as dangerous and revolutionary. In reality, it is not revolutionary at all, but a thoroughly sensible proposition, justified both by the theory of justice in taxation as worked out by the best economists, and by the actual experience of several countries. The particular schedule of rates proposed by Mr. Roberts, with its abrupt increase from 5 to 10 and from 10 to 15 per cent., is fairly open to criticism, and has been improved upon in the bill which recently passed the Assembly by unanimous vote. The principle which the Assembly so emphatically indorsed is thoroughly sound.

The theory of progressive taxation has been systematized by Professor Seligman*, who shows that there are several ways of justifying progression, only one of which is at all open to the charge of socialism. The socialists have indeed proposed progressive taxation as a means of securing greater equality of wealth; and in this they have the support of that eminent socialist of the chair, Professor Wagner. But other writers, among whom may be mentioned the late General Walker, have regarded progressive taxation as merely a compensation for those acts and omissions of the State which produce or accentuate inequalities of wealth. This is closely related to the theory that taxation should be progressive because the benefits of government accrue more largely to the rich than to the poor; and it leads naturally to the less general proposition that some taxes at least should be progressive to counterbalance the effect of others which are really in inverse ratio to wealth. Finally, there is the convincing argument upon which economists of the present day chiefly rely, which may be expressed in terms of the Austrian theory of value, or in John Stuart Mill's maxim of "equal sacrifice," or may be put in the simple proposition that ability to pay taxes increases more rapidly than wealth or income. This statement is true both from the standpoint of equal sacrifice, and as a result of the simple rule that the more a man has the more he can get. If we suppose three families with incomes of \$50,000, \$5,000 and \$500 respectively, it is evident that a uniform tax of five per cent. would deprive the first of none but superfluous luxuries, while it might really interfere with the happiness of the second family, and would certainly rob the third of some of the common necessities of life. It is plain that the sacrifice will be very unequal unless the tax is progressive.

* "Progressive Taxation in Theory and Practice," 184; "The Theory of Progressive Taxation," *Political Science Quarterly*, 8:220.