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RECENT EXPERIMENTS IN GOVERNMENT.¹

Every form of government is really experimental. It is the result of an attempt to erect machinery for the management of the common affairs of a smaller or larger group of people under the conditions existing at the time. The important factors may be either external or internal. A form of government which will work satisfactorily when the group has no warlike neighbours and is under no necessity to protect its corporate existence against outside aggression may be exceedingly ill-adapted to handle properly the common affairs of a group whose chief concern is to ensure its continued existence as a group in face of the desire of other groups to dominate it and enslave its members. A form of government adapted to manage the common affairs of a group among whose members communication depends upon horse transport over mere tracks is not likely adequately to serve the interests of a group within which communication is carried on by railway, motor car, telegram and radio, not to speak of the aeroplane or airship. A form of government which will efficiently meet the needs of a group 95 per cent. of whose members can neither read nor write will probably break down if it is sought to perpetuate it without radical alteration when the percentage of illiteracy has fallen to 1 per cent or 2 per cent., and the percentage of literate persons has risen correspondingly. There are thus physical, psychological factors and environmental factors which determine the effectiveness of a given form of government, and a governmental machinery which has given entire satisfaction at one time and under one set of circumstances may be insupportable when these circumstances have changed. Moreover, an experiment in government cannot be repealed like a chemical or physical experiment. The factors upon which success or failure depends cannot be

¹ An address delivered before the University Club of Ottawa, February, 1926.

reproduced, and discussion of constitutional questions can go on, and will go on as long as human beings continue to try to live in association. Such discussions will always turn, consciously or unconsciously, upon the effect of new factors—of changes in environment, in control over natural forces, or in the intellectual or psychological outlook of the members not only of the group in question, but of other groups with whom it has points of contact.

It is a commonplace that in the last one hundred and fifty to two hundred years there has been an enormous advance in man's knowledge and control of physical forces. Dr. Garnett, the Secretary of the League of Nations Union in England, in a recent address before the Canadian Club at Ottawa, gave a striking illustration of this advance. He said that the fastest recorded trip of a Roman courier between London and Rome, such a courier, for example, as might have carried despatches from Julius Caesar in the last century before Christ, was fourteen days, but that one of the most eminent classical scholars in England had told him that the journey could probably have been made in twelve. This was exactly the time a journey from Rome to London took Sir Robert Peel eighteen hundred years later, when his presence in England was very urgently required for the purpose of forming a government, and every facility for travel the time afforded was at his command. Moreover, there was nothing whatever he could do before his actual arrival in London to pave the way for the action he would take when he arrived; he had to wait until he had completed his journey before he could communicate with his friends or with the King.

Probably during about fifteen hundred of the preceding eighteen hundred years, Sir Robert Peel could not have made even so rapid a journey as he did. In 1834, what made it possible for him to reach London in twelve days was primarily an improvement in roads which had been going on for about a century, and in that interval there had also been other developments which had increased the ease of communication and the points of contacts between separated individuals and nations. Since 1834 the material advance has been still more remarkable, but if we take the beginning of the last quarter of the eighteenth century as the date by reference to which we compare the forms of government then existing with those of the world of to-day, we find that there is not a single country of any importance whose present constitution even remotely resembles that then in force. It may fairly be said that the constitution of the United States is the oldest important constitution in the world. Though

there have been minor changes in 137 years, the United States Constitution in its main lines remains unchanged, and this cannot be said of any other country. The United States constitution was framed with the intention of getting away from what were considered to be the objectionable features of the British constitution as it was then understood, and the British constitution has since undergone revolutionary changes. The King's prerogative has almost disappeared, and the extensions of the franchise in 1832, 1867, 1885 and 1918, as well as the limitation of the privileges of the House of Lords in 1910, have made of it something completely different from what it was in 1789. And the same is true of the rest of the world. Speaking in the broadest possible terms, and without going into the details, the pre-war constitutions of most of the other important and some of the most unimportant states of the world may be said to have been adopted in the following years: Sweden, 1809; Norway, 1814; Switzerland, 1848; Denmark, 1863; Canada, 1867; France, Germany and Italy, 1870; Spain, 1875; Japan, 1890; Australia, 1900; South Africa, 1906, and China, 1911. Since the war not only have many new states come into existence, but the constitutions of many pre-existing states have been radically altered. For example, Russia, 1918; Germany and India, 1919; Poland, 1921; Ireland, 1922. Perhaps to this list Italy might also be added. It will be seen that the Canadian constitution may by comparison be looked upon as an ancient one, notwithstanding that it is only recently that its semi-centenary was celebrated.

In practically all of these constitutional changes two characteristic trends are to be detected. Of these the first is the enlargement of the area of which the inhabitants have discovered common interests requiring to be controlled by a single government. The United States itself, Switzerland, Canada, Germany, Italy, South Africa and Australia are instances of this tendency, and while at first the post-war application of the principle of self-determination seems to be a contrary indication, it is balanced by the institution of the League of Nations, which constitutes the first recognition by practically the whole world that all the inhabitants of this planet have some common interests which will suffer unless machinery is provided to deal with them. It is not unreasonable to suppose that the independence or semi-independence of Ireland, Poland and some of the other new states which have emerged since the war, is in the last analysis nothing more than an extended application of the federal principle, and that these states might not have secured the measure of independence they have if it had not been for the existence of the League of Nations.

The other of the two general tendencies to be observed is the distribution among a constantly increasing proportion of the inhabitants of the territorial area controlled by a given government of a legal right to take some part in the government of the area. A century and a half ago that right was very generally the privilege of a few only of the inhabitants, as indeed it was in what we sometimes regard as the typical democratic states of Greece, which were in fact, without exception, oligarchies in which great numbers of the inhabitants were slaves who had no right to share in the activities of government. Speaking generally, the tendency before the war and to some extent since has been towards the admission of the right of every sane adult not under punishment at least to vote, and indeed this principle has been carried to its logical conclusion in most of the important states of the world.

By increasing the political rights of the mass, the application of this principle has had the inevitable result of reducing the political power of the individual. In a despotism legal political power is concentrated in a single person, who can lawfully do anything he from moment to moment desires to do. There is no one who has a legal right to be consulted, no one who has a right to interpose an objection to any proposed course of action. In the result, a despot can, generally speaking, get things done, if he is not assassinated, that is, if no one objects sufficiently strongly to the execution of a particular policy to resort to the only kind of political protest which is open to him. Every extension, however, of political rights means the extension of the right to be consulted, of the right to object or protest in a lawful manner. The power of any individual to legislate or administer according to his own ideas is correspondingly restricted, and his power to get things done correspondingly reduced. The principle might conceivably be carried to the point of the *liberum veto* and every inhabitant given the right to prevent the adoption of any course of action, legislative or other, by interposing his personal objection. Government would then become impossible, as indeed it did become impossible under a former Polish constitution, even though the *liberum veto* was a strictly limited right. Nowhere now, except in the Council and Assembly of the League of Nations, is there anything approaching a *liberum veto*, but even without it there is perhaps some danger that the extension of political rights may result in governments being so weak as to produce a reaction in the direction of the concentration of political power. Luckily this has never yet become a practical question in any British country, although under the stress

of war conditions there was in Great Britain and Canada a considerable concentration by practically unanimous consent. It was found that decisions had to be reached without consulting all those who would ordinarily have the right to express their views, and legislative authority very wide in its scope was vested in the government of the day. The right of Parliament to be consulted was suspended, and the government was relieved from the necessity of complying with parliamentary forms. Upon the return of peace these extraordinary powers lapsed, but on the Continent of Europe conditions continued to be such that many people continued to feel that parliamentary government was necessarily too feeble to cope with the difficulties which constantly arose. In the case of the Spanish Directory, power was concentrated, extra-constitutionally but peaceably, in a despotic individual, really, as in our case, for the purposes of the conduct of a war. In Italy, on the other hand, the concentration of power was effected not only in times of peace, but under threat of violence, and to Mussolini it appears to be a matter for congratulation, perhaps in the circumstances quite properly, that he and his government have "trampled on the Goddess of Liberty." To express an opinion whether the trampling has been unnecessarily violent or has continued too long, an intimate knowledge of conditions as they were and are is essential. So also in France, where resort to a dictatorship has been suggested because divergences of view among the people entitled to be consulted are so deep that it seems impossible to hope for general concurrence in any given course of useful action, and any possible government is consequently so weak that it cannot do anything effective. In Russia the dictatorship of a comparatively small group seems to be well established, though some of its supporters say they regard the dictatorship of the proletariat as a temporary measure and as justifiable only for the purpose of securing stability pending the extension of political rights to new elements in the community.

As between the concentration and diffusion of political power, what is in question is only liberty in the political sense, and such liberty is important only in a comparatively narrow range of human activities and interests. The extension of political rights may make possible courses of action which would not be open to a despot. Sir Henry Maine refers to eastern despots who could not, or at least did not, dare to make any laws whatever; they could not legislate, because they could not enforce their legislation: an attempt to change the customary law would no doubt have resulted, in spite of every precaution, in the assassination of the ruler, an event he was anxious to avoid. When, however, political rights are universally distri-

buted, a majority becomes king, and it is impossible, perhaps unfortunately, to assassinate a majority. In many countries to-day there are in existence laws which, if a despot attempted to enforce them, would unquestionably involve him in serious risk of death. On the other hand, however, the citizens of countries said to be "suffering" from a despotism may actually enjoy in many respects wider liberty than in others in which political liberty is unfettered. During the Directory, Alphonso of Spain, in the course of a discussion with two French journalists on the effect and purpose of Primo de Rivera's government, is reported to have said: "I know few countries where the police are less troublesome than here. After midnight you can have as many drinks as you like in the cafes—which is more than you can in New York and London, those strongholds of liberty. In Madrid you can shout, yell and sing until five o'clock in the morning, if you want to."

The diffusion of political power has, on the other hand, a very substantial advantage. In any despotism provision for a change of government is an extremely serious problem. A despot being human, he must die some time, and necessarily provision for his replacement is either wholly lacking or of very doubtful validity, unless the hereditary principle has been accepted. Even where it is recognized, orderly succession is often difficult to achieve. The prize of power is so tempting that social disorder—the disappearance of ordinary liberty—is very often hard to escape. And the same problem presents itself in varying degrees in every form of government intervening between an absolute despotism and a complete democracy. Except in the complete democracy it is always possible that there will develop so deep a divergence of view between those who have political rights and those who have not that no possible selection of individuals among the former can be satisfactory to the latter, who must therefore rebel to secure the adoption of the course of action they desire. This cannot happen in a complete democracy where, *ex hypothesi*, there is a right in every one to take such political action as he sees fit, and all that is necessary is that he must be willing to subscribe to the doctrine of government by majorities. Granted that changes of government are effected without social disturbance, that is, without loss of ordinary liberty so far as it affects the daily activities of life, the conclusion seems to be that this kind of liberty in a democracy ultimately depends upon the reasonableness of the average man. his willingness, when he is a member of the majority, not to insist too harshly upon limiting the freedom of action of others who do not agree with him, and, when he is a member of the minority, not to

resort to violence to loosen the bonds with which the majority, or several different majorities, have succeeded in fastening upon him.

There are then two entirely different questions, viz.: first, the extent to which legal political rights can, in given circumstances, be distributed among the inhabitants of the area in question, and, second, the machinery by which the actual legislative and administrative work of government can, consistently with the existing distribution of political rights, be confided to persons who, while they remain in control, have such a reasonable degree of freedom of action that they can effectively perform their functions.

On the first point there can hardly in these days be two opinions. Having regard to the practical universality of literacy and the ease of movement and communication throughout the world, the extension of political rights to the limit of the capacity of individuals to exercise them is almost axiomatic. As Bernard Shaw puts it in his dedication to *Man and Superman*: "Civilized society is one huge bourgeoisie; no nobleman now dare shock his green-grocer." In a society thus constituted there is no room for a classification of its members into grades, of which only one is to be entrusted with political rights under the law. On the second point, we have not perhaps yet come to finality. The effects of literacy and of the development of communications are as yet far from having run their course, and the next hundred years, like the last hundred, are not unlikely to see far-reaching changes in institutions which will, it may be hoped, be brought about constitutionally and without social disturbance. As the parliamentary correspondent of one of the principal London weeklies said not long ago of the Imperial Parliament: "There are many years to come when perhaps this Parliament will endure, or perhaps there will be a general break-up and chaos of parties, and no one but a maniac would prophesy what the future may be."

Of one thing we may be reasonably, although perhaps not entirely sure, and that is that we shall not see the adoption of the whimsical suggestion made not long ago in a tale by Mr. Osbert Sitwell, who suggested that the Prime Minister or Dictator from time to time should be the proprietor of that daily newspaper which had "the largest daily (net) circulation," provision being thus made for a daily general election, in which the voters, instead of being persuaded to vote by promise of reward or otherwise, or fined for not voting, would day by day voluntarily pay for the privilege of exercising the franchise.

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