

A CONSTITUTIONAL GOVERNOR.

Mr. Alpheus Todd, the librarian of Parliament and author of "Parliamentary Government in England" has published for private circulation a brochure "On the Position of a Constitutional Governor under Responsible Government," which will be most useful to Canadian politicians of all shades of party. No reference, whatever, is made in the pamphlet to the recent ministerial crisis in Quebec, but Mr. Todd's authority, wholly impartial as all must admit it to be, will be very generally accepted as that by which we should be guided in forming our opinions on that transaction. There can be little doubt that Mr. Todd, has in one of his earliest paragraphs, which we shall copy, given a true statement of what has been "a general impression" among the masses of the people, who, owing to the secrecy which necessarily shrouds all the communications between the representative of the Crown and his advisers, do not clearly comprehend the extent of the influence of that representative under a monarchical system of government. We shall quote at some length from Mr. Todd:

There is, no doubt, a general impression abroad, amongst persons who have not bestowed much thought upon the matter, that the Governor of a British colony, or province, is little else than an ornamental appendage to our political system; necessary, to fulfil certain ceremonial duties; useful, to represent the community at large upon public occasions, or as the mouthpiece of public sentiment; and of unquestionable service to society, in the discharge of a dignified and liberal hospitality, to be freely extended to whoever may be a suitable recipient of vice-regal favour, without distinction of creed or party.

The gradual but vital change which the present generation has witnessed, in the relations of Executive authority in the self-governing Colonies of the British Empire, to the people, in their local legislatures, has led to the impression that no political duties remain to be fulfilled by a Constitutional Governor, save only such as are of a formal and ceremonial kind.

This idea has been fostered by the assumption that the Sovereign herself, whose Commission the Governor holds, has ceased to be anything but a cipher in the state, without any measure of political power. That, in fact, the Cabinet of the day is an oligarchy, exercising an uncontrolled power in the administration of public affairs; subject only to the necessity of obtaining a majority in the popular branch of the legislature to approve their policy, and to justify their continuance in office. Such a form of Government, however theoretically defensible in the abstract, in the estimation of some political thinkers, is not that of the British Constitution.

The unsoundness of such an idea, and its contrariety to existing constitutional practice, in the Mother Country, will be readily apparent to those who take the trouble to refer to the opinions expressed by leading statesmen in Great Britain, on this subject, within the past thirty years. Brougham, Grey, Russell, Derby, Gladstone and Disraeli, representative men of diverse parties, have each taken opportunity to testify to the vital and influential position which appertains to the Sovereign, in a Parliamentary Government.

The recent publication of Martin's Life of the Prince Consort, written under Her Majesty's

own auspices, has contributed largely to our knowledge of the present practical operation of British Institutions. Apart from the attractive picture which it presents to us of the Prince himself, as a zealous and accomplished fellow-labourer with the Queen, in fulfilling the arduous duties of royalty, this book is exceedingly instructive, in the glimpses it affords of the inner workings of the state-machine.

We are all familiar with the true doctrine of Constitutional Monarchy. We know that personal government by royal prerogative has given place to parliamentary government; and that under our parliamentary system the personal will of the Sovereign can only find public expression through official channels, or in the performance of acts of state, which have been advised or approved by responsible ministers. But we must not lose sight of the fact, that what has been termed the Impersonality of the Crown only extends to direct acts of government; that the Sovereign is no mere automaton, or ornamental appendage to the body politic,—but is a personage whose consent is necessary to every act of state, and who possesses full discretionary powers to deliberate and determine upon every recommendation which is tendered for the royal sanction by the ministers of the Crown. As every important act,—that is to say, everything which is not ordinary official routine, but which involves a distinct policy, or would commit the Crown to a definite action, or line of conduct, which had not previously received the royal approbation,—should first be sanctioned by the Sovereign, the Crown is thereby enabled to exercise a beneficial influence and an active supervision over the government of the empire; and an opportunity is afforded to the Sovereign for exercising that "constitutional criticism" in all affairs of state, which is the undoubted right and duty of the Crown, and which, in its operation, Lord Grey and Mr. Disraeli, amongst living statesmen, have concurred in declaring to be most salutary and efficacious.

Commenting upon the exercise of these constitutional powers, Prince Albert (in a memorandum which is given in Martin's Life of the Prince, vol. 2, p. 159,) remarks that the Sovereign "should be, if possible, the best informed person in the empire, as to the progress of political events, and the current of political opinion, both at home and abroad." "Ministers change, and when they go out of office lose the means of access to the best information which they had formerly at command. The Sovereign remains, and to him this information is always open. The most patriotic Minister has to think of his party. His judgment, therefore, is often insensibly warped by party considerations. Not so the constitutional Sovereign, who is exposed to no such disturbing agency. As the permanent head of the nation he has only to consider what is best for its welfare and its honour; and his accumulated knowledge and experience, and his calm and practised judgment, are always available in council, to the ministry for the time, without distinction of party."

A constitutional ruler is, in fact, the permanent president of his own Ministry; with liberty to share in the initiation, as well as in the maturing of public measures: provided only, that he does not limit the right of his Ministers to deliberate, in private, before submitting for his approval their conclusions in council: and that they, on their part, are equally careful to afford to their Sovereign an opportunity of exercising an independent judgment upon whatever advice they may tender for his acceptance.

In subjecting that advice to the scrutiny of a mind intent only upon promoting the public good, an experienced and sagacious Sovereign is able (should the necessity unfortunately arise) to detect and rebuke selfish and unworthy aims, unmask the character of measures which may have been prompted by party motives rather than by a regard for the interests of the state, and exert towards his Minister, on the public behalf, a healthy moral suasion, capable of correcting the injurious operation of partisan or sectional influences.

Should it be needful for the Sovereign to

proceed to extremity, and reject the advice of his Ministers, upon a particular occasion, it is for them to consider whether they will defer to the judgment of their Sovereign, or insist upon their own opinion; and, as a last resort, they must decide whether they will yield the point of difference, or tender their resignations. For, in the words of Lord John Russell, a minister, in such a position, "is bound either to obey the Crown, or to leave to the Crown that full liberty which the Crown must possess of no longer continuing that Minister in office."

In such an emergency, of course, the personal will and opinions of the Sovereign are, for the time, apparent and predominant. But these occasions are of rare occurrence in the practical operation of parliamentary government. And when they do happen, all possible abuse is prevented by the necessity which then arises for the Sovereign to find other Advisers, who are willing to accept his views, and become responsible for them to parliament and to the country. Should he fail in this endeavour, then comes into operation one of those salutary checks, which the practice of the constitution has imposed upon the exercise of the royal prerogative, and the Sovereign is compelled to abandon a line of conduct for which he cannot find any statesmen who are willing to become responsible.

Ample security is thus obtained, that no changes of administration will be effected, by the intervention of the Crown, but such as would ultimately commend themselves to the judgment of parliament.

Moreover, it is a constitutional maxim, that whenever a change of ministry takes place, pursuant to an act of the Crown, the incoming ministers are responsible to parliament for the policy which occasions it, and for the acts of the Sovereign which brought about, the resignation or dismissal of their predecessors.

The right of a Sovereign to dismiss his Ministers is unquestionable; but that right should be exercised solely in the interests of the state, and on grounds which can be justified to parliament. By the operation of this principle, the personal interference of the Sovereign in state affairs is restrained within reasonable limits. It is prevented from assuming an arbitrary or self-willed aspect; and is rendered constitutional and beneficial.

From the secrecy which properly enshrines the intercourse between the Crown and its advisers, it rarely happens that the opinions or conduct of the Sovereign in governmental matters become known to the public at large. Accordingly, those functions of the Crown which are most beneficial in their operation are apt to be undervalued; because, whilst strictly constitutional, they are hidden from the public eye. But no attentive reader of English political history, since the accession of Queen Victoria, can fail to have noted frequent instances of timely action, wise interposition, or valuable suggestion upon affairs of state, which have emanated from Her most gracious Majesty, or her Consort; and which, being approved and endorsed by the existing Administration, have contributed largely to the promotion of the public good. In Martin's Life of Prince Albert, especially, repeated mention is made of valuable memorandums upon public questions, prepared by the Queen, or by the Prince, on her behalf, and submitted for the consideration of Ministers. These papers were often of great service, and sometimes contained the germs of practical administrative reforms, which, sooner or later, were advantageously accomplished. And this was in addition to the unceasing exercise, by the Sovereign, of that "constitutional criticism" over all state papers, already referred to; and which on one memorable occasion (during "the Trent affair" in 1861,) led to the modification of terms of remonstrance addressed in a despatch to the United States Government, and largely contributed to avert a threatened rupture between Great Britain and that power.

* Hans, Deb. vol. 119, p. 90.

† See Lord Russell's statement, in Hans. Deb. vol. p. 178, p. 72.