

3. **The Cinema**—The Cinema came into use as a means of public education and enlightenment after the conclusion of the First World War. Newspapers influence the opinion of a minority, namely, the literates only but the most effective means of disseminating facts supported by visual proofs to the vast majority of the illiterate and ignorant masses is the Cinema which enables them to form their opinion not only by hearing but also by seeing things with their own eyes. But it is a matter of regret that the cinema today is used more as a means of recreation than as an agency for educating the people. Many governments too utilise the cinema for purposes of propaganda in their favour. Businessmen also take advantage of this agency for advertisement with a view to increasing their profits.

4. **The Radio and the Television**—The Radio like the cinema is another means for the formation and dissemination of public opinion. The radio is also used more for catering to the recreational needs of the people than for the growth of healthy public opinion. The radio of course supplies some facts and comments on the political atmosphere of the country. In most of the countries as in India, the radio is wholly controlled by the State which utilises this agency in support of its policy. Though the radio is an important means of public education its fullest utilisation for that purpose cannot be made because of government monopoly.

In recent times, the television has been very helpful in the matter of forming public opinion. It has enabled the people not only to hear but also to see with their own eyes incidents that are taking place at a distance. Its use is widespread in the U.S.A. where the President of the U.S.A. delivers his weekly messages to the people through television.

5. **Educational Institutions**—Seats of learning are the places where the future citizens pick up interest in various matters. The education which young boys and girls receive from their educational institutions exerts a tremendous influence upon their after-life and the opinion formed by them during the course of their learning becomes very difficult to get rid of. Leaders of society and fathers of different schools of opinion are usually the product of their early education. It is for this reason that in totalitarian states, the ideologies and principles pursued by the state are infused into the young learners so that they may be inspired by totalitarian ideologies.

6. **Political Parties**—Of all the agencies discussed above, the influence of political parties is perhaps the most important. The masses of the people in a country constitute the backbone of a democratic government but these masses are mostly unorganised and incapable of forming independent opinion of their own. It is the political parties, which by means of effective propaganda make even the most apathetic and ignorant citizen politically conscious and active and thereby enlists his support to gain political power which today is impossible without popular support. Political parties by means of propaganda through meetings, processions and pamphlets convert otherwise indifferent voters into enthusiastic supporters of parties. The activities of political parties though mainly directed to the training of the people often degenerates into means rivalries between parties which indulge in mutual recrimination resulting in a lowering of public decency and decorum.

7. The Legislature—The legislature consists of representatives of different political parties and naturally therefore it is a forum where different shades of opinion are ventilated. The party-in-power and the opposition parties by their debates and discussions, by their arguments and counter-arguments enlighten the people and these debates arouse great political interest among the people. The leaders of different parties speak from different points of view on the same question and these reports when published in the newspapers are read by the people who form their opinion by a comparative study of the views expressed by different party leaders.

Public Opinion in India. There hardly existed any such thing as public opinion in India. The illiteracy and ignorance of the Indian people were hindrances to the formation of a vigorous public opinion in our country. The people did not possess that much of knowledge of facts which would enable them to draw correct conclusions therefrom. They were so poor that they had neither the time nor the willingness to devote their time and energy to questions of public interest. Furthermore the growth of political parties on communal lines prevented the people from thinking of common good which is regarded as the basis of public opinion. But with the dawn of independence, people have become more and more conscious of their rights and responsibilities and this consciousness has induced them to think about matters of common interest. It is hoped that a sound public opinion will grow in India with the spread of liberal education among the masses which will elevate their character and will enable them to rise above their petty group interests. The formation of innumerable party groups with self-appointed leaders coupled with the malady of defection is a hindrance to the growth of a steady and strong public opinion in India.

Influence of Public Opinion on Legislation.

State which were so long dynastic, oligarchical or dictatorial in their character and organisation are fast drifting towards the democratic form, the basis of which is the will of the people and not force of the ruling authority. Although the consent of the governed is now universally recognised as the basis of the state, yet it is not possible for the entire body of the governed to express their consent directly in the affairs of the government. Hence they or the more capable of them periodically elect their deputies who make laws, levy taxes and in general supervise the work of administration on their behalf. If the deputies act contrary to the will of those whom they represent or fail to promote the interest of the people, they are either subject to recall or liable to lose their membership at the time of the next election. A law which fails to reflect public opinion correctly or a law which is pernicious in its effect is honoured more in the breach than in the observance. Public opinion can bring pressure to bear upon the government in many ways. It influences legislation through the press, the platform and in countries like Switzerland, public opinion becomes active through devices like the referendum, initiative and recall. If the legislature turns a deaf ear to the demand of the public, the latter can, as an extreme measure, resort to the exercise of their right to revolution.

The legislature should therefore feel the pulse of the nation before enacting a particular piece of legislation. In doing so, it may often be necessary on the part of the legislature not only to be influenced by public opinion but also to influence public opinion itself which very often requires a correct lead for its proper formulation and expression. So popular government and public opinion go hand in hand.

Nature and Role of Public opinion in different Political Systems.

An informed, organised and alert public opinion is a force to reckon with which no government can ignore except at its peril. Even a despotic ruler dares not flout public opinion for an indefinite period. But public opinion in order to be effective must be well-organised and must have the support of a greater majority of the people behind it.

In despotic and fascist states, the rulers or the ruling coterie stifle public opinion by controlling all media of formulation and expression of public opinion. In such states, the will of the ruler is imposed upon the people who are not only ignorant but also suffer from a fear-complex.

In liberal democracies, the public are not only well-informed and well-organised but are in a position to express their opinion individually and collectively through mass-media and through various pressure groups which have come into existence to safeguard their group interest. But it is not always true to say that full and free opportunity for formulation and expression of public opinion is available to the people. Liberal democracies are also run on party basis and party organs by publishing false news and views often try to mislead the people. The government being a government by a class seeks to make its opinion pass for public opinion through government controlled mass-media like the radio and television. The effective character of public opinion in liberal democracies may be looked at from a different point of view. In liberal democracies the rich who are naturally the most influential class control almost all the media of public opinion. To safeguard their interest, this class disseminates such news and views which are taken to be public opinion. Nevertheless, public opinion has a greater scope for its formulation and expression in a liberal democracy than in an autocracy and a fascist state where the ruler himself has the monopoly of all powers.

In a socialist society, society as a whole is supreme. All the mass-media of public opinion are under strict state control. There is one party, the communist party and necessarily one opinion which is taken to be public opinion. The supporters of this system argue that in liberal democracies the existence of more than one party is a proof positive of the fact that there are conflicts of opinion among the parties about the ends of the state and hence class conflicts arise. Each class seeks to promote its own class interest at the expense of national interest. But in a socialist state, the end of the society being a common one, that common end is pursued by all and hence there is one party and one opinion. It is not true to say, that the socialist system does not tolerate criticism. Self-criticism and party-purging are frequent there. Adverse criticism of socialist public policy and public programme of work is allowed during the period of their formulation but once the policy has been formulated

and programme of work undertaken, no criticism is allowed. It is said that the draft constitution of the soviet union was circulated even to the remotest village and was discussed and opinions expressed by collective farms, co-operatives, trade unions, students' organisations and the like.

The soviet system works well in the soviet union.

SUMMARY

PARTY SYSTEM

I. *Meaning and Necessity.* A number of persons acting as a unit for promotion of national interest is called a political party. A party functions only in a democracy. It is formed to control the affairs of the government.

II. *Organisation and Functions.* A political party must formulate a policy by means of which it endeavours to promote national interest. The party selects candidates for election and persuades voters to vote for party candidates by propaganda through the press and the platform. There are four natural divisions of political parties. The Right Wing comprises the Reactionaries and Conservatives who are opposed to reform. The Left Wing consists of the Liberals and the Radicals who are in favour of change.

III. *Merits of party system.* (i) It is essential to democracy. (ii) It organises public opinion. (iii) It checks the arbitrary power of the government. (iv) It gives every party group an opportunity to prove its worth. (v) It stimulates public spirit. (vi) In some states as in the U.S.A., the party acts as a link between the executive and the legislature.

IV. *Demerits.* (i) It destroys individuality. (ii) It excludes honest men from public life. (iii) It creates bitterness of feeling and degrades the moral tone of society. (iv) It sometimes places the interest of the party above the interest of the nation. (v) It is exposed to the danger of being dominated by cliques which seek to promote their selfish interests.

Party Government in modern Democracies. In England, there is the tradition of a bi-party system which has been broken by the emergence of the Labour party in the early twentieth century. Each of the three parties in England, the Liberal, the Conservative and the Labour, has its own local organisations affiliated to its central agency in London. In England the party system works inside the government. In the U.S.A., there are two parties—the Democrats and the Republicans. The American parties work outside the government. They serve as a connecting link between the different organs of the government and also as agencies for selection of candidates for filling in certain offices. The Party system in the U.S.A., has given rise to serious evils like the 'boss', the 'ring', the 'spoils system', etc. In France, political parties are not so developed as in England or in the U.S.A. There are too many parties with-

out any recognised leader to guide them. The ministry in France is formed by the coalition of several parties holding different views and as such ministries are short-lived in France. The lack of continuity in French political history coupled with a highly individualistic temperament of the people is responsible for multiplicity of parties in France. In continental Europe, party system has not been successful. The post-war history of continental Europe, notably of Germany, Italy and Russia, is marked by the dictatorship of a single political party which exterminated all other parties.

Public opinion. Public opinion means the opinion which is shared by a large section of the people and which has for its aim the promotion of the common interest. It is the opinion held not necessarily by the numerical majority but by the effective majority, i.e., those who possess the greatest knowledge of a subject. There is a connection between democracy and public opinion. The essential attribute of a popular government is that it is a form of government in which public opinion controls the political affairs of the state. Public opinion manifests itself through and is influenced by the press, the platform, parties, educational institutions, the radio, the cinema, etc. The illiteracy, ignorance, poverty and communalism are obstacles to the formation of a vigorous public opinion in India.

QUESTIONS

1. "Far from being in conflict with the theory of democratic government, party government is the only thing which renders it feasible."

—Discuss.

(Bombay, 1930)

2. Discuss the advantages and disadvantages of party government. Can you suggest any practical working alternative?

(C. U. 1949, Gauhati, 1948)

3. What are the advantages and disadvantages of party government? What safeguards should be provided in the constitution to mitigate its evils

(C. U. 1947)

4. Discuss the use, abuse and the true role of the Party System in Democracy.

(C. U. 1953)

5. Define a political party. What are the functions of a political party?

(C. U. 1955)

6. Discuss the use and limitations of the party system. Answer with special reference to the conditions in this country.

(Gauhati, 1957)

7. "A political system is the more satisfactory, the more it is able to express itself through the antithesis of two great parties." (Harold Laski)

Discuss this statement, with special reference to the merits and defects of the "two-party system" versus "a multiplicity of groups" in a country.

(C. U. Hon. 1957)

8. Discuss the nature of public opinion and point out its importance in popular government.

(C. U. 1964, 1981)

9. Explain the meaning of multiple-party system and examine its advantages and disadvantages.

(C. U. 1965)

10. What do you mean by public opinion? Discuss the role of the political parties, the press and the platform in moulding public opinion.

(C. U. 1974)

11. Point out the functions of Political Party. Can there be democracy in a country with one-Party rule? Give reasons for your answer. (C. U. 1976)
12. Discuss the nature of "interest groups." Define and distinguish between interest groups and political parties. (N.B.U. 1980)
13. Explain the nature of Public opinion and indicate its role in a democratic state. (C. U. 1981)
14. How do the interest groups influence the decisions of a Government? (C. U. 1983)
15. Distinguish between political parties and pressure groups. What are the functions of political parties in a democracy? (C. U. Law 1989)
16. Enumerate the functions of the Political Party and its merits and demerits. (C. U. Law 1988)

CHAPTER 21

THE ELECTORATE

References :

Garner—Political Science and Government, Ch. XIX.

Mill—Representative Government, Chs. VIII-XII.

W. F. Willoughby—Principles of Legislative Organisation and Administration.

H. Finer—The Theory and Practice of Modern Government, Vol. I, Part IV.

Universal Franchise. In every modern state, there is an electorate consisting of the people who are qualified by the law of the state to elect members of the legislature. The modern tendency in all states is to confer the right of voting on all adult citizens, irrespective of sex, religion, nationality, residential or educational qualification and possession of property. But in actual practice, suffrage is confined to a section of the population of the state who can satisfy the conditions prescribed by the electoral rules of the state. In recent times, a number of states like the U.K., the U.S.A. and India have extended the right to vote to all adults of the age of 18. The reason why states restrict the right to vote is not far to seek. Suffrage is no doubt a natural and inherent right of every citizen. But it is also the fundamental duty of every citizen to exercise the right for public good. The state therefore reserves to it the power to grant the privilege only to those who know what they are voting about. A wise exercise of the right requires a high degree of honesty, intelligence, political training and public spirit from the citizens. Those who possess the above qualities are allowed to exercise the right to vote.

Generally speaking, every state denies the right to many either because they are incapable of taking any interest in public affairs or because they do not possess the necessary intelligence to understand public questions and therefore incapable of wisely exercising the right. Thus every state excludes minors, idiots, lunatics, paupers, vagrants, foreigners and persons convicted of serious crimes. Some states exclude holders of certain offices while others deny the right to those who are illiterate or those who possess neither property nor pay any direct tax to the State. Some states exclude women also. Thus the privilege is not absolutely universal.

Arguments for universal franchise.

The advocates of universal franchise argue that modern governments rest on the consent and co-operation of the people and as such the popular will is the only basis of modern governments. This popular will is expressed through the right to vote. The right to vote enables the citizens to participate in the affairs of the state and makes them politically conscious of their rights and duties. To deny this right to the people is the very negation of the principle of popular government.

Secondly, no government can be said to be a really popular government unless the people have the right to vote. The will of the people which is the

basis of popular government is expressed through representatives elected by them. In order to make the government really democratic in character, the people must possess the right to vote so that they may act through their chosen representatives.

Thirdly, the right to vote is an effective means by which the people can change an inefficient and irresponsible government by refusing to vote for them. The right to vote is therefore an effective check upon despotic government.

Lastly, political equality of all citizens is an accepted dogma in modern political science. There is therefore no reason to vest this right upon some and to deny it to others. Such a discriminatory treatment is inconsistent with true democratic principles which proclaim liberty and equality for all. A state which makes such an invidious distinction between man and man cannot claim the allegiance of all its citizens. Such a state cannot be called a welfare state.

Arguments against universal franchise.

J. S. Mill, Henry Maine and Leckey have opposed the introduction of the system of universal franchise. They argue that the right to vote should be denied to those who are incapable of exercising the right correctly. In opposing the system, Mill has laid great emphasis on the educational qualification of the voter. According to him, 'universal teaching must precede universal enfranchisement'. He says, "I regard it as wholly inadmissible that any person should participate in the suffrage without being able to read and write.....and perform the common operations of arithmetic." It is very difficult to agree with Mill's views inasmuch as it is also inadmissible to regard men who are not acquainted with reading, writing and with the elementary principles of Arithmetic as inferior as voters to those who are simply acquainted with the three R's. The exercise of the right to vote requires some amount of common sense and a sense of social good from the voter and these qualifications are to be found among the illiterates as much as among the more literates. Besides, an illiterate voter is more unsophisticated than a literate one and as such he is less amenable to outside influence through the press, platform and other modern means of propaganda. Even in his own country, the extension of franchise did not follow the principle laid down by Mill. The rate of enfranchisement moved far ahead of the rate of literacy in England. But all these arguments do not certainly mean that literacy is not necessary. Literacy, of course, entitles a man to vote, irrespective of any other qualification but it should be remembered that literacy should not be regarded as the sole criterion of the right to vote.

Ownership of property and payment of a tax used to be regarded as necessary qualifications for franchise. But in modern times possession of property is regarded as one of the necessary qualifications of the right to vote but not as the sole criterion of franchise. Voting which is a political right should not be made absolutely dependent on the possession of property. In that case, democracy will degenerate into oligarchy. Payment of a tax is an argument which stands to reason. The principle that taxation and representation should go together has long been accepted and in modern times, all classes of people are made to pay taxes—direct or indirect.

The right to vote is therefore regarded as an inherent right of every citizen provided he is capable of knowing what he is voting for.

Qualification of a Voter.

Suffrage was at first confined to a very small proportion of the total population of a state. The right to vote was a special privilege of the nobility and the clergy and was completely denied to the common man. With the gradual strengthening of the idea of human equality and of popular sovereignty, the demand for universal suffrage gained ground and the French Revolution transformed the right into a practical one exercisable by the people. The new state of the U.S.A., was quick in extending the right to vote to the people. But the three Reform Acts of the nineteenth century, England also introduced the principle of wider and more equal suffrage by extending it to agricultural and industrial workers. Other states gradually recognised the principle and in the present century in almost all the democratic states, the battle for universal suffrage has been won. But universal suffrage does not mean that all persons have the right to vote and the restrictions arise out of considerations of expediency. All states have prescribed certain qualifications which a voter must possess in order that he or she may exercise the vote only for public good. The qualifications may be summarised as follows :

Age. It is the common practice of all states that they prescribe certain minimum age when a person is considered eligible for voting. A certain maturity of age at which men are considered capable of exercising their intelligence and judgement is a requisite to the exercise of franchise. The age qualification varies between twenty and twenty-five in different countries. In India, it has been fixed at twenty-one; in the U.S.S.R., it is the lowest. The minimum has been fixed at eighteen. Nearly half the entire population of a state is disenfranchised by the enforcement of this qualification.

Sex. For a long time women were denied the right to vote on the ground that they were economically and legally dependent on their male relations and also on the ground of their incapacity for military service. But women proved their worth in different spheres of life and now women have won not only political rights but also equal political rights with men. This is indeed a move in the right direction.

Citizenship. Most states require that the voters should be natural-born citizens of the state or naturalized citizens. But it should be noted here that the state reserves to itself the right to withhold franchise from a citizen or to confer the right upon a resident alien.

Property. For a long time, the right to vote was confined to those who possessed a property of a minimum value or who paid a certain amount of tax. Although property qualification in general has been abandoned, some of its elements still persist in the electoral rule to the extent that paupers do not enjoy the right or in some states property-holders are given the right to additional votes.

Other qualifications. It is absolutely necessary that persons exercising the right to vote should be of sound mind, capable of exercising their intelligence and judgment in deciding questions of public interest. So all states agree that lunatics, criminals and idiots should be debarred from the right of voting. This brings us to the question whether a minimum educational test, involving the ability to read and write, should be adopted in determining the intelligence of a voter. Although a number of states has adopted this principle, it cannot be definitely asserted that the knowledge of the three R's is the sole criterion of the right to vote. It has been rightly pointed out that "Where propaganda is

used through the press deliberately to misinform the voters, ability to read may even be an obstacle to the forming of sound opinions.' So it is not always true to say that universal teaching should precede universal enfranchisement. What is necessary is that the voters should possess that much of common sense and judgment which will enable them to exercise their right intelligently. Education generally sharpens a man's intellect and extends the horizon of his outlook beyond the range of his immediate surroundings. From this point of view, an educational test of the voter may be justified.

Qualifications of a Representative.

All states prescribe certain conditions necessary for election as representatives. *First*, the qualification of *citizenship* is universally recognised as essential to eligibility to hold office. A person seeking election to the legislature must either be a natural-born or a naturalised citizen of that state. Foreigners are always excluded. *Secondly*, in some states *residence* within the district from which a candidate seeks election is insisted upon. In Great Britain residence is the sole test of national suffrage. *Thirdly*, *age* qualification is considered by every state as vitally necessary for election to the legislature. This stands to reason because it is only persons of mature age who are fit to be elected as representatives. Generally the age qualification is higher in the case of membership in the Upper House and lower in the case of membership in the Lower House. *Fourthly*, property qualification is sometimes necessary for election in some states. In England, property qualification is the distinguishing characteristic of municipal suffrage. With the spread of democratic ideas, property qualification is fast disappearing in modern times. *Lastly*, the holders of certain offices are excluded from eligibility to the legislature.

Women Suffrage. Up to the end of the 19th century, participation in politics was considered to be the monopoly of men alone. Women were deliberately excluded from the right to vote. John Stuart Mill was one of the principal advocates for extension of franchise to women. The arguments that were usually advanced against woman suffrage were not only puerile but one-sided as well. It was argued that the active participation of women in political affairs would destroy their effeminate virtues and introduce discord and dissension in the family. Difference of opinion between husband and wife with regard to their political views might destroy domestic peace. It is still argued that as women are physically less capable and depend on men for their protection, they should not claim the right to vote separately. *Lastly*, suffrage was denied to them on the ground that majority of women did not want the right to vote.

The old controversy has almost died down now. The legal and moral character of women's right to vote has been admitted on all hands. An occasional exercise of franchise cannot be said either to unsex them or to divert their attention from family duties. Besides, child-bearing and child-rearing should not be considered to be the sole functions of women. Given a proper education and training women may prove equally fit and problems affecting their interests like maternity benefits or education of women etc. may be solved in a better way by women themselves than by men. The participation of women in political affairs will enable them to safeguard their own interests against unjust class legislation by men alone. The admission of women in the political

arcas will introduce into public life a healthy influence which may go a long way in improving political conditions in society and ensuring better government.

The right to vote has been conferred on women in almost all the progressive countries of the world. Women have proved their worth in the exercise of civil privileges and also in holding high and responsible offices. Even in the conduct of foreign affairs, women of several countries, notable among them being the Soviet and the Indian women, have played their part. There is no reason therefore why women should be excluded from franchise. Women of several countries and more particularly, the Soviet women played an important part during the Second World War and the services rendered by them during the war have altogether removed the old bias and prejudice against women franchise. Women in England won the right to vote in Parliamentary elections as early as 1918 and the Equal Franchise Act, 1928, placed them on a footing of equality with their male compatriots. The Indian constitution also recognises the right of women to vote provided they are the wives of voters or they themselves possess the necessary property or educational qualifications. The U.S.S.R. is the most advanced in this respect where all women who have attained the age of eighteen have the right to vote.

In the light of the present position of women franchise, it may be safely asserted that the enfranchisement of women is an accomplished fact and time is not far distant when it will be difficult for any government worth the name to resist the just claim of women to franchise.

Plural or Weighted Voting. Plural voting is a system which allows certain persons to receive more than one vote. In those places where property is a qualification of suffrage, persons with sufficient property in more than one electoral district are given the right to vote in each district in which they are qualified. In India, a person could vote in the general constituency in which he resided and he was also entitled to vote as a registered graduate in the university constituency and in the teachers' constituency.

Weighted voting is a variant of plural voting which is based on the assumption that persons who are better qualified to vote by reason of their education or property should receive more votes than those who are less qualified.

The system is justified on various grounds. *First*, it is pointed out that men who are wiser and better educated are naturally expected to make correct choices for public offices. Their votes should therefore be given a greater weight in the choice of public officials than those of the rest. *Secondly*, plural voting enables the propertied class and the educated section of the community to safeguard their interests against those who are less capable but numerically larger. *Thirdly*, as has been pointed out by Mill, it is unjust to regard all voters as equal. Men who are better qualified to vote and who contribute most to the advancement of civilisation and culture should have greater voice in the determination of national policy than that of ordinary men.

But the system is criticised on the ground that it is impossible to find out a practical standard by which votes may be weighted. *Secondly*, property test cannot be justified inasmuch as possession of property is more due to heredity and accident than to personal capacity. Besides, the system of plural voting runs counter to the democratic principle of 'one man one vote' which is the foundation of modern democratic governments. *Lastly*, the system is con-

demned because it gives rise to oligarchy, a form of government in which the propertied class thrives at the expense of the propertyless class.

Direct and Indirect Election. Direct election is a method whereby the voters themselves choose their representatives. Direct election is in keeping with democratic principles inasmuch as the electors directly participate in electing members to the legislature. It rouses the political interest of the voters and makes them conscious of their rights and responsibilities. The representatives are also brought into close touch with the voters and this strengthens mutual dependence. But with the introduction of the principle of universal suffrage increasing difficulty is being experienced in the matter of electing right type of representatives. Besides, the average voter cannot always choose for himself the able man. He is invariably influenced in his choice by interested persons or parties. Thus in order to get rid of the evils of direct election, many writers have advocated the system of Indirect Election.

In Indirect Election, the primary voters elect a number of secondary voters—a body of intermediaries—who ultimately elect the representatives. The President of the U.S.A. is indirectly elected by the people. The great merit of indirect election is that it checks passion by limiting the number of electors and thus eliminates the evils of universal franchise. This is supposed to secure election by qualified persons. But the system of indirect election is not in harmony with the principle of modern democracy. It is practically an election by middlemen and as such, the voters lose much of their interest in political affairs. The system is complex and involves trouble and expense. Finally, it encourages corrupt practices at the time of election because the ultimate electoral body being a much smaller one, a candidate may easily influence it by underhand means.

Electoral Constituencies : Single-Member or Multi-Member Constituencies.

One of the essential conditions for the successful functioning of democratic governments is that the electoral districts from which representatives are to be elected should be properly constituted so as to enable the voters to elect representatives of their own choice. The constituencies should be so formed as to give the voters an opportunity to assess properly the comparative fitness of candidates seeking election from that constituency. This requires that the candidate seeking election and the voters must have intimate knowledge of each other and in fixing the area of a constituency, this factor must be taken into consideration. There are usually two methods, namely, the Single-member constituency and the Multi-Member constituency. According to the former method, the whole country is divided into as many territorial constituencies as the number of representatives to be elected, each constituency returning one member only and each voter having one vote only. Great Britain, U.S.A., and India follow this method. In France, the system is known as *Scrutin d'arrondissement*. According to the latter, the country is of course parcelled into a number of constituencies but not into as many as the number of representatives to be elected but much smaller than that and the number of representatives to be elected from each of these constituencies is determined by the size of the constituency, the voters having as many votes as the number of candidates to be elected from each constituency. The system is known as the *General Ticket System* or as the French call it *Scrutin d' Liste*. The General Ticket System or the system of Multi-Member constituency was adopted by many countries including France, and the U.S.A., but later on, it was abandoned.

Advantages and Disadvantages of Single Member Constituency.

First, the one great advantage which the system claims is its simplicity and convenience due to which even an average voter finds no difficulty in casting his single vote in favour of a particular candidate.

Secondly, the constituencies under this system being smaller, the representatives may come in close touch with the voters and *vice-versa* and this mutual knowledge of each other ensures co-operation between the voters and their representatives.

Thirdly, it also enables the various minorities in a state to elect some of their representatives from constituencies where they form a majority of the electorate. Under the Multi-Member system, the minorities practically go unrepresented because the party having a slight majority will capture all the seats.

But the greatest defect of this method is, *first*, that the voters' choice being limited to a particular constituency which may not contain any suitable candidate, inferior types of men may be elected. *Secondly*, in a single-member constituency, the candidate securing a bare majority of voters is generally elected. If there are three or four candidates contesting a single seat, the votes are divided among the three or four and the candidate securing a relative majority of votes is declared elected but the candidate thus elected may not secure even half of the total number of votes. Thus the system cannot claim to be truly representative in character. *Thirdly*, under this system the number of seats captured by a party may not be proportionate to the number of votes secured by it. This anomaly was found at the time of the 1952 general election in India. The Congress party succeeded in capturing nearly seventy per cent of the total number of seats although it polled a little over forty per cent of the total votes cast. *Fourthly*, the system tempts the party-in-power to rearrange frequently the constituencies having a unity in social and economic life in such a way as to ensure the election of its own party members. *Lastly*, the election of a representative from a very small area is apt to restrict his outlook and it tends to make him apathetic to national interest which, it is the primary duty of the representative, to promote.

Advantages and Disadvantages of the Multi-Member Constituencies.

The chief advantage of the Multi-Member constituencies is, *first*, that the electoral area being pretty large, voters can have greater freedom of choice of candidates from amongst a large variety of candidates. *Secondly*, the system provides greater facilities for the representation of the different shades of opinion prevailing in the constituency.

But the disadvantages of the system outweigh its advantages. As the constituencies are large returning more than one member, it is not possible for the ordinary voter to make proper assessment of the comparative fitness of numerous candidates. *Secondly*, in a big constituency, it is not possible for a candidate to come in personal contact with the individual voters and so the advantage of mutual knowledge and understanding is lost in this system. *Thirdly*, the system is really undemocratic in view of the fact that a political party having a bare majority can win the election, thus depriving the minority parties of their legitimate claim to proportional representation. *Lastly*, the system tends to multiply party-groups in the legislature, thus making it neces-

sary to form coalition governments which are inherently unstable and incapable of formulating any policy calculated to promote national interests.

A critical examination of the two methods reveals the truth that none of them singly can claim perfection. Dr Garner opines that a combination of both the methods is likely to have advantages over either by itself. In England, in the U.S.A. and even in India, where single-member constituency is the rule, provision has been made for multi-member constituencies as well. In India during the last general election, quite a large number of double-member and three-member constituencies were formed both for election to the House of the People and the Legislative Assemblies of the State. This was done with a view to giving effect to the constitutional provision, viz., reservation of seats for the scheduled castes and scheduled tribes.

Payment to Members. John Stuart Mill condemns the system of payment of remuneration to members of the legislature. In his opinion, the system of payment will make the legislative business a source of income. Mill is further of opinion that payment of a petty sum is likely to attract only greedy and second-rate men to legislatures as able and conscientious men will consider it beneath their dignity to accept petty sums. Moreover, the system of payment is likely to increase the expenditure of the government, leading to additional taxation.

But in modern times, the outlook has changed and if J. S. Mill would have been alive now, perhaps he would have supported the system of payment to members. The function of a modern legislator is not only complex but is also of a highly exacting nature. If the legislator is to discharge his duties conscientiously, he will have to devote the greater part of his time, attention and energy to legislative business. He has a duty not only to his own constituency but also to the country at large. He has to attend meetings, travel from place to place for seeing things personally and discussing matters with all parties concerned. Only when he is well posted with facts that he can contribute his opinion to a proposal. Considering the magnitude of the task and the responsibility attached to it, it is highly desirable that members should be paid. In modern times, most of the legislators come from the Labour and Socialist parties and unless they are paid, it is not possible for them to render gratuitous service to the state. Besides, if the members of the executive and the judiciary be paid, there is no reason why the members of the legislature should not be paid especially in view of the fact that it is the most important organ of the government. The system of payment, in spite of certain defects, has now received almost universal support. In England, the members of the House of Lords are not paid but those of the House of Commons are paid.

Functions of a Representative: His relation with his Constituency.

There is a good deal of controversy regarding the proper functions of a representative. The question is—should the representative act strictly in accordance with the instructions given to him by his constituency or should he act according to his own judgment, guided only by considerations of public welfare? There is also the third view that as the modern representative is the spokesman of a political party, he is bound by the decision of the party. His primary allegiance is to the party and not to his constituency or to the country at large. Thus the elected representative is faced with conflicting claims of allegiance which reduces him to an embarrassing position.

Formerly, the representative was looked upon as the agent of a particular constituency or of the class which chose him and thus he was bound by instructions from those whom he represented. But the idea of representation has undergone important changes in modern times. Representation is now carefully distinguished from delegation. Delegation implies that the delegate should act according to the will of the governed. but representation means the carrying out of the will of the governed. Representation requires the fulfilment of their will. The representative is elected not so much for his individual capacity, character or views as on the ground of the policy which he pursues or upholds. The voters also vote for a particular policy and not for any individual. His vote indicates his attitude towards a particular policy, not towards individual measures. A representative, therefore, need not receive any instruction from his constituency, so long as he is faithful to the cause which he upholds.

Besides, the modern representative is regarded more and more as a representative of the entire nation with full freedom of thought and action. He may be elected from a particular territorial constituency but that does not mean that his sole obligation is to the territory or group which he represents. The modern theory of representation is that a member of a legislature represents the whole community. He is elected because he is supposed to be a man of superior knowledge and is more familiar with public affairs than an average voter. He may have occasional exchange of views with his constituency but he should not be bound by their instructions. The views of his constituency should always be given proper consideration but the decision must be made by the representative himself in conformity with the best interests of the nation. He should never surrender his right of independent judgment even at the risk of not being re-elected. He is paid out of the national exchequer and not by his constituency and therefore he has no special obligation to his constituency. Edmund Burke expressed his views on the office of the representative when he addressed the voters in British in 1780. He said, "You choose a member indeed, but when you have chosen him, he is not a member of Bristol but he is a member of Parliament." In another place, he expressed similar views. "The representative owed his constituency both industry and judgment, and when he sacrificed these to the opinion of the constituents, he betrayed rather than served them."

Representation of Minorities. One of problems with which democratic governments are confronted is how to secure adequate representation of minorities in the legislature. While majorities have an inherent right to rule, the minorities have an equally solemn right to be heard. No real democracy is therefore, possible without it. Various devices have been suggested to guarantee adequate representation to minorities. Mill advocated a system of *Proportional Representation* which seeks to safeguard the interests of minorities in the legislature by enabling the minority of voters to elect a minority of representatives. Under this system, every political party can secure representation according to its voting strength. Thus if two-thirds of the voters vote for one party and one-third for the other, it is just that two-thirds of the representatives should go to the majority and one-third to the minority. The system has the great merit of securing representatives to all parties and sections, however small they might be. It is thus based on really democratic principles.

Forms of Proportional Representation. There are two variations of proportional representation, viz., *Hare Scheme of single transferable vote* and the *List system*.

The system is known as Hare Scheme as it was propounded by an Englishman named Hare. It is otherwise known as the *Androe* system after the name of one Androe who introduced it in Denmark. Under this system, the constituency is a multi-member one, returning up to 15 members. A candidate, in order to be declared elected, is required to secure the 'quota', i.e., a minimum number of votes. The quota is ascertained by one of the two methods, viz., the number of votes cast is divided by the number of representatives to be elected. or, in order to make the result more accurate, by one more than the representatives and the quotient is also increased by one. The quota required for the election of any candidate is determined in accordance with the following formula :

$$\frac{\text{Valid votes}}{\text{Number of candidates} + 1} + 1 = \text{Quota.}$$

Each voter can cast one vote only but he is allowed to signify his preferences by placing the numbers 1,2,3,4, etc., against the names of candidates. At the first counting of votes only voters' first choices are counted and as soon as a candidate secures the quota, he is declared elected. No more votes will be counted for him and if there be any surplus votes for him, these will be transferred to other candidates in the order of preferences till the required number of persons have been elected. Votes, it should be remembered, are transferred in accordance with the order of preference indicated not only from candidates securing a surplus but also from those who have secured few votes and consequently have no chance of being elected at all.

The system secures representation of every minority group in proportion to its number. The voter is assured that if the candidate of his first choice does not require his vote, his second or other choices will gain by his vote. He knows that his vote will not be wasted. The system also ensures the election of better type of men and thus tends to elevate the character of the legislative body.

Complexity is the greatest drawback of the system. It is also expensive and not intelligible to the ordinary voter.

List System. According to this system, each party offers a list of candidates and each voter is allowed to cast as many votes as there are seats to be filled but cannot cast more than one vote for one candidate. The electoral quota is determined, as in the Hare Scheme, by the total number of votes cast divided by the number of seats vacant. The number of seats to which a party is entitled is decided by total votes secured by a party divided by the electoral quota. The deficiency, if there be any, is made up by the party having the maximum fractional quota.

The system recognises the party system and provides for proportional representation to a very large extent. It is less complex and less expensive. But it tends to increase party influence and minimise the importance of individual candidate. The system had a trial in France but was abandoned in 1927.

Limited Vote System. Under this system, voters in each constituency are allowed fewer votes than there are seats to be filled. Thus if there are three seats in a constituency, each voter shall vote for one or two of them. The minority parties are therefore assured of some seats in the assembly. The defect of the system is that it can give only proportional but not adequate representation to minorities, among whom the smaller minorities may not get any chance at all.

Cumulative Voting. This method allows a voter to cast as many votes as there are seats in the constituency with the right to distribute his vote according to his will. He may cast all his votes in favour of one candidate or give two votes to one and one vote to another. Thus the method enables minorities to secure election of candidates by concentrating their votes on one or few candidates in each constituency.

The system does not ensure proportional representation to minorities. It leads to huge waste of votes as a more popular candidate may get more votes than necessary for his election, while a less popular one fails to secure enough votes.

Second Ballot System. Another scheme for securing an absolute majority in election is the second ballot. When more than two candidates contest for one seat, the votes are divided and the candidate securing a relative majority of votes among the three or more candidates is usually elected. Thus in a constituency it might happen that a candidate securing less than half the total number of votes—say, 1,900 out of a total of 5,000, may be elected while the remaining two candidates may secure 1,700 and 1,400 votes respectively. The representative in such an election represents only a minority of voters. In such a case the candidate securing the minimum number of votes is asked to withdraw his candidature and a second ballot is held between the other two candidates. The votes cast for the retiring candidate will now be redistributed between the two remaining candidates and the candidate securing an absolute majority of votes is elected.

The system increases the election expenses of candidates and interposes delay in the election of representatives.

Arguments for and against Proportional Representation.

There is much to be said for and against proportional representation. It may, *first*, be said in favour of the system that it secures representation to all political parties in the state in proportion to their voting strength. When all parties embracing all shades of opinion in a country are represented on the legislature, the legislature becomes truly representative in character. The system also gives satisfaction to the minority parties and thus government really becomes a government of the people. Under the Hare Scheme, every voter knows that one of his votes will be valid and thus he feels that he has a voice in electing his representative. Thus the system increases the civic interest of a voter and makes him more responsible in the matter of his choice of representative. The system also ensures the election of better types of representative and thus tends to elevate the character of the legislative body.

But the political efficacy of the system of proportional representation has been challenged from the practical point of view. The system is not only expensive but also not intelligible to the average voter. It fosters small groups which destroy the national character of the legislature making it impossible to pursue a policy of national well-being. It breeds sectionalism which in its turn paralyses legislation. The result is that the government becomes weak and a weak government becomes the centre of nepotism, jobbery and corruption.

Minority Representation in India. The existence of a large number of minority groups, mainly religious, made the problem of minority representation in India, a difficult and almost a baffling one. The two major communities in India, namely, the Hindus and the Muhammadans, were not able to solve the problem to the satisfaction of the parties concerned. In the absence of a com-

promise, the British government forced upon them the system of communal representation through separate electorate. The system was introduced in India for the first time by the Morley-Minto Reforms Act, 1909. It was then confined only to the Muhammadan Community. The Montague-Chelmsford Act, 1919, extended it to a variety of directions by making provision for the separate representation of the Sikhs, the Indian Christians and other classes. The Government of India Act, 1935 of which the 'Communal Award' by Prime Minister Ramsay Macdonald, was an integral part, further extended it to other classes, viz., the Depressed classes. The provision for the separate representation of the Depressed classes, had it been accepted unopposed as in the case of the Muhammadans, would have cut at the very root of the unity of the Hindu Society. But thanks to the Great Mahatma that his resolve to fast unto death prevented the disintegration of the Hindu Society. An agreement reached at Poona between the leaders of the Caste Hindus and the Depressed classes modified the provisions of the award. Depressed classes were given more seats on the basis of joint electorate with reservation of seats.

The method adopted in India to secure the representation of minorities was unique in character. It was introduced because an influential section of the Muhammadans demanded it, although the authors of the system were at first opposed to it on principle. Separate electorate did not exist anywhere except in India. The proposal for special representation in the legislature by certain minorities in Europe was turned down by the League of Nations after the conclusion of the World War I. The system when introduced produced its disastrous effect on the national life of the country. The system is both anti-democratic and anti-national. It cuts at the very root of nationalism by driving a wedge between different communities. Under this system, group or sectarian interest is pressed for and promoted while national interest is allowed to suffer. The different groups in the state, in seeking their own sectarian interests, fly at one another's neck. It tends to perpetuate communal conflict and breeds self-seeking leaders. Merit is no longer considered as a test of fitness for public services. Vacancies in public service are filled up on the basis of communal ratio and thus it impairs the efficiency of administration. The system is incompatible with the principle of responsible government inasmuch as decisions on questions of public policy are not made from the national point of view through discussion and compromise. The legislative assembly loses much of its importance as the system restricts the voter's choice to a narrow circle, namely his own community. The system is also antagonistic to the interests of the minorities themselves. A minority which enjoys special privileges will have little urge to shake off its inferiority complex in order to gain an honourable position in the community as a whole.

The only argument that may be advanced in favour of the system is that it can safeguard the interests of the minorities in the presence of a hostile majority. Joint electorate with reservation of seats for the minorities is considered to be the best method. The New Constitution of India has abolished the system of communal representation through separate electorate and has introduced joint electorate with reservation of seats for members of the scheduled castes and tribal people and that also to be in force only for the next ten years and to be extended thereafter, if necessary. It is a move in the right direction.

Methods of Protection of Rights of the Minorities in different countries.

Minorities exist in small or large proportion in many countries. Under

ideal conditions of democracy, minority and majority communities enjoy equal rights. In order to secure minority rights, various devices have been adopted, such as, special provision in the constitution or by special method.

England.—There is practically no minority problem in England. All classes of citizens in England are highly politically conscious and are nationalistic in their outlook. They have the training to rise above petty personal or sectional interest in times of national emergency. The rights of all citizens in England, irrespective of caste, colour or creed is protected by such constitutional laws as the *Magna Carta*, Bill of Rights, petition of Rights, and the Habeas Corpus Act, besides these, an independent and impartial judiciary acts as a bulwark of the rights of citizens in that country.

U.S.A.—In the U.S.A. all citizens enjoy equal rights which have been protected by the 'Declaration of Rights of Man' in the constitution. The Supreme Court of the U.S.A. also acts as the custodian of individual rights by its power of interpretation. So far as the rights of minorities are concerned, the Supreme Court has formulated certain special principles by means of which minority rights are safeguarded.

India—The rights of minorities in India have been protected by the provision of fundamental rights in the constitution. The rights to language, culture and religion have been included in the fundamental rights. Constitutional provision has been made for the protection of these special rights. The Supreme Court and the High Courts act as the custodian of the rights of minorities in cases of encroachment upon these rights. The President has the power to nominate members from the minorities to secure representation of these special classes.

Vocational or Functional or Occupational Representation. Closely allied with the problem of minority representation is the question of the representation of interests which is gradually coming to the forefront. The existing system secures representation of minorities which are politically organised but it cannot secure the representation of various classes and interests in the state. The idea is gradually gaining ground that representation in order to be real must be on a functional basis. A legislative assembly should represent the various shades of opinion such as religious, social, economic cultural, professional and similar other organisations of a non-political nature. The question, therefore, is: what should be the basis of representation? In almost all the countries, the usual basis of representation is territory, i.e., people are asked to elect their representatives on a geographical basis. The voters of a particular territory,—a ward, a district, a county or a division,—are given the right to choose their representatives in the legislature. All the voters of a constituency vote together, no matter, what their avocations may be. Thus a member of the West Bengal legislative assembly may represent a district in which there are men of different occupations of life, such as, cultivators, miners, railwaymen, teacher, physicians and others. The territorial system of representation assumes that a man's locality-consciousness is more important than his class-consciousness and naturally therefore the voter's interest is influenced more by the place of residence than by the occupation

in which he is engaged. Hence it is presumed that a physician is quite fit to represent the interest of other classes like peasants, teachers and others provided he lives in the same electoral district, with them. But a physician will not be considered eligible to represent if he lives outside the constituency.

In sharp contrast to the territorial system of representation stands the other system which seeks to establish a vocational basis of representation. Persons of different occupations vote separately although they may live together in one district. Each of the groups elects representatives from among its own class. Thus an ironworker under this system does not represent the town from which he happens to come but represents a particular occupation irrespective of his residence. The underlying principle of this theory of representation is that a man's class-consciousness is more important than his locality-consciousness and therefore the attitude of the voter of questions of public policy is largely determined by the occupation of his life. According to this principle, a physician is not considered fit to represent the interests of other classes with whom he may live in the same constituency. There is, no doubt, some truth in the same constituency. There is, no doubt, some truth in the assertion that under modern conditions of life, a man's class allegiance usually proves far stronger than his allegiance to the place of his residence. In forming his views on public policy, a person is more often guided by the interests of his social and economic fellowship. Besides, it is not always possible for an individual to understand the view-point of others when they belong to different occupations of life. The interests of his group may at times run counter to those of other groups. It is therefore far better that a person should represent only those who pursue the same occupation in life. The above analysis therefore suggests that occupation is a better basis of representation than territory. Though not accepted in principle, the system is gradually creeping into the electoral system of other countries. In England, the educational interest, i.e., the universities had special representation in the legislature. The system found place under British rule in the organisation of the Indian legislatures, especially in the provincial legislatures in the form of special representation of universities, landholders, labour, Commerce and industries, etc. It had a special message for India inasmuch as it was likely to counteract the tendency to extreme communalism in Indian politics.

But it is pointed out that it is not always true to say that men of the same occupation will think alike on questions of public policy. Even if they do so, their grouping in the same constituency should not be allowed or encouraged. If the class-consciousness of a person is encouraged, it is likely to undermine the very basis of political organisation. A man is a citizen first, peasant or physician afterwards. The vocational basis of representation also militates against the true theory of representation which regards a representative not merely as the representative of the district which he represents, but the representative of the entire people. The representative is paid out of the national treasury by the whole people and as such his duty is to promote general rather than any particular interest. The system tends of circumscribe

the horizon of the representative to the limited sphere of his group and multiply praty factions in the legislature. It is likely to increase the spirit of antagonism between the different classes with the result that the legislature is reduced to the position of a debating society with considerable loss of its prestige and efficiency.

The legislature, therefore, should not be composed exclusively on a vacational basis of representation. Representation should be accorded on a territorial basis but provision should be made for the adequate representation of different classes in order that their interests do not suffer. This may be done by providing for the separate representation of these classes and interests in the legislature or by setting up a consultative council on the pattern of the French Economic and Social Council which might be consulted from time to time for making laws affecting the interests of those special classes.

Essentials of a Good Electoral System. The most important requisite of a good electoral system is to have a body of good citizens who regard voting more as a sacred duty than as a right. The success of a democratic government depends, in no small measure, on the character of its public officials and the choice of the public officials must be made in such a way that it ensures the right man in the right place. It is therefore the duty of the voters to choose the best men for public offices. In giving their votes, the voters must not be influenced by any other considerations save and except the interest of the country. It is only honest and conscientious citizens who can ensure the stability of a democratic government. *Secondly*, direct election is another important essential of a good electoral system. Direct election is the only method by which the responsibility of the representative may be easily enforced to those by whom he is elected. The system secures co-operation between the rulers and the ruled and thus ensures good government. *Thirdly*, secret voting is preferable to open voting which prevents the voters from exercising their franchise freely. *Fourthly*, the electoral districts should be, as far as possible, equal in respect to the number of voters. *Fifthly*, political training and education of the voters in public affairs are important conditions necessary to good electoral system. *Lastly*, purity in election must be enforced at all costs. In the last analysis, it is evident that the success of political institutions depends on the character of the citizens and if the citizens are inspired by a high civic ideal, it is only then that democracy may have a smooth sailing.

Functions of the Electorate.

The word *Electorate* is comparatively of recent origin as under absolute monarchy and dictatorship, the entire population of a state irrespective of their age, sex or social status were silent spectators of the great game of politics. The nature of the then state becomes palpable from the utterance of the French King Louis XIV—"I am the state." The people had practically no share in the administration of the country.

But with the growing political consciousness among the masses, the idea is gaining ground that all governments are of the people, for the people and by the people. As soon as this idea was firmly established dynastic states were transformed into democratic states and the *demos* began to control the affairs of the state which was considered to exist for them. So the electorate, i.e., that portion of the community which is mature in age and otherwise not considered unfit, has a great part to play in the life of the modern state. As a

matter of fact, the very existence of the state and due discharge of its functions depend largely on the efficiency of its electorate who can make or mar the future of the state.

First, the electorate is to choose members of the legislature and the executive. This is regarded as the most important function of the electorate who determines as to who should rule and the democratic character of the state can be preserved only by a class of rulers who are not only efficient but also responsible to those by whom they are elected.

Secondly, the electorate should always watch the activities of the government lest it might turn into an oligarchy or dictatorship. It should hold the executive and the legislature to account in case they want only to flout public opinion. The electorate exercises control over the government directly through devices like frequent election, the referendum, initiative and recall and indirectly, through the press, platform and lastly, through the right of revolution. This, of course, requires an alert and intelligent electorate.

Lastly, modern democracies are governments by parties. It is the duty of the electorate to examine the policy and programme of each and every party and to give its support only to that party whose political programme is calculated to promote the best interests of the nation. Hence it is said that an alert and intelligent electorate is the first requisite of a democratic government.

Modern Instruments of Control over the Representatives by the Electorate.

Representatives in modern times are elected on a territorial or geographical basis, i.e., by the voters of a definite area called constituencies. A representative, generally a party nominee, holds out to his constituency a number of policies and programmes of his party which would be implemented in case he is elected by his constituency. Therefore the elected representative has a moral obligation to his constituency to fulfil his promises and as such the electorate also has a moral right to demand of him the fulfilment of his promises. If the representative fails to fulfil his promises after his election the electorate will have to wait till the time of the next election when the electorate gets the chance of punishing such undependable representative by withholding their support. The question may be discussed from another point of view. The modern theory of representation is that a representative is not a mere delegate and it cannot always be expected from him that he will look after the interest of the constituency only which has returned him. True it is that he has been elected by a particular constituency but he is not merely the representative of that constituency, he is a representative of national interest. He must look after national interest and not particular interest. He is paid by the national exchequer and not by his constituency. So it is not always possible for him to be obedient to his constituency only. He may from time to time consult his Constituency and represent their views in the legislature but he should not be bound by pledges.

Nevertheless a representative has his duty to his constituents and if he fails to discharge his minimum duty various devices are adopted to control him. These are (i) Referendum, (ii) Initiative, (iii) Recall, and (iv) Plebiscite. For a detailed discussion, please see Chapter 12.

SUMMARY

I. *Universal Suffrage*. The right to vote is regarded as the foundation of representative democracy. The modern tendency is to confer the right to vote on all

citizens who possess the necessary qualifications for exercising the right for public good. Universal suffrage, in practice, means restricted suffrage as every state excludes minors, lunatics, criminals, idiots, and such others.

II. Woman Suffrage. The opponents of woman suffrage argue that the home is the proper sphere of woman's activity. Participation in politics will destroy their feminine virtues and will create dissension within the family. The advocates of female franchise argue that the exercise of voting right will enable women to safeguard their own interests against unjust laws by men alone. It will improve political conditions in society. Many states like England, Soviet Russia and others have conferred the rights on their women, many of whom have made their mark in the political life of the country.

III. Direct and Indirect Election. In direct election, voters directly choose their representatives. In indirect election, voters elect their representatives indirectly through middlemen voters. Direct election induces the citizens to take interest in political affairs and makes them conscious of their rights. But direct election may not ensure the election of better types of representatives. Indirect election secures the election of better type of men but it is undemocratic and the voters under this system lose their interest in political affairs. It also encourages corrupt practices.

IV. Plural or Weighted Voting. Plural voting allows a person to cast more than one vote on the basis of property or educational qualification. The system of weighted voting also allows a person to receive more votes by reason of his higher qualification. Although the system attaches importance to quality, it is not in keeping with democratic principle.

V. Payment to Members. Formerly, payment to legislators was looked upon with disfavour. The modern practice is to pay remuneration to members as legislative business has come to be a whole time job of the legislators who have to devote much of their time and energy to legislative work.

VI. Functions of a Representative. A representative is no doubt elected by the voters of a particular constituency. But he should not be regarded as the representative of that particular constituency alone bound solely by the instructions of his constituents. The modern idea is that his first and last duty is to the nation although he may have occasional consultations with his constituency.

VII. Representation of Minorities. It is an essential condition of democracy that all classes and interest should be adequately represented in the legislature. The methods suggested or adopted for the adequate representation of minorities are (i) Hare Scheme, (ii) Limited Vote plan, (iii) Cumulative voting, etc.

VIII. Minority Representation in India. The different minorities in India were represented in the legislature through separate communal electorate. The system is anti-national and anti-democratic.

IX. Functional Representation. It is desirable that the various classes and interests should be represented in the legislature. Functional representation allows each separate group of occupations to be represented separately by the members of their own group. The system is likely to multiply parties, aggravate rivalry between numerous groups with the result that national interest will suffer.

X. Essentials of Good Electoral System. The first thing necessary for a good electoral system is a band of honest and conscientious citizens who can exercise their

right to vote properly. Other requisites are direct election, secret voting and purity in election.

XI. Functions of the electorate:—

The electorate had no function in the days of dynastic rule. The advent of democratic government conferred great powers on the people for whom the state is believed to exist.

(i) The electorate elects the rulers and the democratic character of the state depends on the type of men whom it elects.

(ii) The duty of the electorate is also to keep an eye on the activities of the government and to enforce responsibility so that they may not act contrary to the will of the people.

(iii) Lastly, the electorate after careful consideration of different party programmes, is to decide as to which party should rule.

QUESTIONS

1. State the case both for and against Female Suffrage and give your own opinion. (C. U. 1929)
2. To what extent, if any, should a member of a legislature be bound by instructions of his constituents? (Gauhati, Hons. 1948)
3. Distinguish between territorial representation and functional representation. Which of them would you recommend, and why? (C. U. 1960, 1967 Hons.)
4. Discuss critically the system of Proportional Representation as a method of minority representation. (C. U. Hon. 1961, 1963)
5. Examine the importance of the right to vote. What are the qualifications of a voter in a modern democracy? (C. U. 1965)
6. Discuss the problem of *instructed vs. uninstructed* representation in the theory of representation in democracies. (C. U. Hons. 1966)
7. Argue the case for and against 'Proportional Representation' as a method of minority representation. (Visva-Bharati, 1968)
8. Discuss the relation between the representative and the voters in his constituency in modern democracies. (C. U. 1976)
9. Determine the effectiveness of the modern instruments of control over the elected representatives. (C. U. 1984)

PART III

CONSTITUTIONS

**[UK, USA, JAPAN, SWITZERLAND,
PEOPLE'S REPUBLIC OF CHINA AND FRANCE]**

GOVERNMENT OF THE UNITED KINGDOM

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- W. B. Munro—The Governments of Europe—Chs. 1, 3-7, 9, 10, 12 and 14.
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United Kingdom—It is imperative to acquaint ourselves with some essential facts about Great Britain before we go into the details of its administrative system. This group of islands in the Atlantic occupies a distinctive place in the history of the world. Three principalities viz., England, Scotland and Wales go to constitute the country and of these England comes to the forefront for her unique achievements in arts and science, civilization and culture, trade and commerce and also in the art of war. The union of England, Scotland, Wales and Northern Ireland constitutes the state which usually goes by the name of the United Kingdom of Great Britain and Ireland. Ireland was partitioned in 1922 and as a result of the vivisection twenty-six counties of Ireland separated themselves from the former union of England, Scotland, Wales and undivided Ireland. This southern part of Ireland comprising 26 counties constituted a new state called the Irish Free State (EIRE). The northern part of Ireland still remains a part of the former union but got some autonomy. It has its own parliament to which its executive is responsible. Adjacent to the United Kingdom, there are two other tiny islands called the Isle of Man and the Channel Islands with their separate executive, legislature and judiciary. Though they enjoy some amount of autonomy, yet they form parts of the larger Great Britain and the British Parliament exercises an overall control over all these territories. The greater United Kingdom is a multinational state. Scotland and Wales have no separate parliament of their own but there are two Cabinet Ministers to look after their respective affairs. Moreover, the judicial and local administration—of Scotland are distinct from those prevailing in England.

Introduction. The study of modern governments should begin with the British constitution in view of the fact that the art of representative government is a distinct contribution made by the Anglo-Norman races to the advancement of civilisation. The British Constitution is not only the oldest among the existing constitutions of the world which has profoundly influenced the character and contents of other constitutions but the process of political evolution in Great Britain has also been one of almost unbroken continuity and relatively free from civil disturbances. In other countries, the history of constitutional development is mainly a history of breaks or of new establishments, while in Great Britain, it has been one of gradual modification and of almost unconscious development. The smooth growth of free institutions in

this country is mainly due to *three* factors. The geographical isolation of Great Britain from the mainland of the European continent has enabled her to develop her political system in her own way free from any outside influence. *Secondly*, the love for free institutions is an inborn characteristic of the British people who represent a fusion of three different racial stocks: Celt, Saxon and Norman. *Lastly*, the racial genius of the people has never allowed the free growth of their political institutions to be impeded by a rigid constitution. The constitution is therefore marked by a singular continuity from the very beginning to its present form and has come to be a model to imitate.

Nature of the British Constitution. The key to an understanding of the true nature of the British constitution lies in the fact that the British constitution has not been made but it has evolved and has been evolving over a period of many centuries. The British constitution is truly a living thing which is ever growing in the light of changes that are taking place in national life as well as in international relations. It is embodied not in one single document or series of documents. It has not even been created at any particular period of history. Out of a grossly imperfect beginning from the Anglo-Saxon period and making its way through numerous changes according to the needs and circumstances of the age, it has come to be what it is today. It is not a completed thing but ever in a state of flux. It is to be gathered not from one source but from various sources. Though largely based on conventions, precedents and understandings, it is not free from the influences of legislative enactments, executive decrees and judicial decisions. There is therefore no wonder that the American and the French writers will deny the existence of a British constitution.

The word *Constitution* is sometimes used in a narrow sense to mean only written constitutions. When De Tocqueville, the celebrated French writer, declared that England did not possess any constitution, he meant by constitution only a mass of written laws, embodied either in a single document as in the U.S.A. or in a series of documents as in his own country. But this is not the only sense in which the word *Constitution* is used in political science. In the broad sense, the "Constitution means all those rules, principles and conventions, *written* or *unwritten* which govern the organisation and function of a state." In this sense, all states possess a constitution. No constitution is wholly written or wholly unwritten. The U.S.A., or the French constitution is mainly written while that of Britain mainly unwritten. But nevertheless, unwritten constitutions contain written elements and written constitutions contain unwritten elements. The difference between written and unwritten constitutions is rather one of form and not of substance. The failure to recognise the existence of the British constitution is therefore due to the undue importance which these writers attached to the written character of the constitution. The British constitution, quite unlike that of the U.S.A. or of France is not a tangible thing rather an idea which exists in the minds of the people who are working it out.

It is necessary to distinguish between the two different senses in which the concept of *unconstitutionality* is used in England and in the U.S.A. In England no court of law is competent to declare a law passed by the King-in-Parliament as unconstitutional because the King-in-Parliament is a sovereign law-making body. A law may be regarded as unconstitutional in the sense that it is a departure from the existing tradition of the British Government. If, suppose, Parliament enacts a law providing for the trial of civilians by court martial in time of peace, public opinion in England will certainly denounce it as unconstitutional but cannot call upon a court to nullify it as *ultra vires*. But in the

no legal authority

U.S.A., both the Executive and the Legislature derive their powers from the constitution which is the supreme law of the land. An act of the Congress or of the President may be declared unconstitutional by the Federal Courts, if it is at variance with any provision of the constitution. Acts declared *ultra vires* by the courts will become inoperative. Hence in the U.S.A., an unconstitutional act is *ipso facto* an illegal act, but in England it is absolutely legal though it may be unjust or untraditional.

causes that
Sources or Components of the British Constitution. The elements of the British constitution, according to Dicey, may be classified under *two* distinct heads—'The law of the constitution' and 'the conventions of the constitution'. The former includes a body of legal rules which are recognised and enforced by courts of law while the later are not laws at all and cannot therefore be enforced by any court. The law of the constitution is made up of the following *four elements*:

(1) *Certain charters and constitutional landmarks.* These comprise the Magna Carta (1215), the Petition of Right (1628), the Bill of Rights (1689), the Act of Settlement (1701), the Act of Union with Scotland (1707) and with Ireland (1800). These form only a fraction of the whole.

The first three are considered as important landmarks in the constitutional development of the United Kingdom in view of the fact that these not only imposed effective checks upon the arbitrary exercise of powers by the king but also forced him to grant a number of rights to the people. Thus the Magna Carta debarred the king from levying any taxes except the usual feudal dues without the consent of the Common Council and he had also to promise that no freeman could be seized or imprisoned or dispossessed of his property except by legal procedure. The Petition of Right also made the king yield to the demand of the commons that no person could be imprisoned by order of the king and no new tax could be levied except by an act of Parliament. The Bill of Rights abolished for all times to come certain prerogatives of the king, such as the king's right to suspend laws, the right to maintain an army in peace time, etc. Certain rights like freedom of speech, freedom of proceedings in Parliament and the right to petition the king were reaffirmed. All these firmly established the principle that even the king is not above law—he is also subject to law as much as any other man.

(2) *Statutes.* There is a large number of ordinary statutes passed by Parliament from time to time. They relate to methods of election, and governmental powers or procedure, as for examples, the Habeas Corpus Act of 1679, the Reforms Act of 1832, 1867 and 1888 and the Representation of the People Act of 1918.

(3) *Judicial decisions.* The third element of the British constitution is to be found in the judicial decisions which have nourished the constitution by interpreting charters and statutes and also by explaining their scope and limitations. Some of the important constitutional rights are the outcome of judicial decisions.

(4) *Common Law.* This refers to that body of legal rules which grew up in England apart from Parliamentary enactments. The right to a jury trial in criminal cases is an example of Common law. The Common law, like all other laws, is continually in the process of development by judicial decisions and is enforced by courts of law.

(5) *Conventions of the Constitution.* A constitution is a living insti-

tution ever growing according to the needs of the time and as such the provisions of a constitution however detailed and elaborate may prove to be inadequate for the working of government. The provisions of the constitution must therefore be supplemented by other factors, such as, conventions which are nothing but constitutional practices regarded as binding. These consist of the unwritten rules of political ethics, as sacrosanct as law but not enforceable by the law-courts. "They include various political customs or usages which regulate ordinary conduct of the Crown, of the ministers, and of public authorities under the constitution." These conventions are generally grouped under three heads: (a) The first group of conventions relates to the system of the Cabinet. In fact, the whole cabinet system, its responsibility to the Legislature, the position of the Prime Minister, etc., are governed by conventions. (b) The second group of conventions relates to Parliament and includes such important rules, as the collective responsibility of the Cabinet to Parliament as a body, a ministry outvoted in the House of Commons must resign or appeal to the Electorate or Parliament must be summoned once a year. (c) The third group of conventions regulates the relation between Great Britain and the Dominions. As a matter of fact, Dominion Status, as it is ~~enjoyed by the Dominions~~, is the outcome of a series of agreements entered into by the representatives of the mother country and the Dominions and as such a product of conventions, some of which were codified into law by the passing of the *Statutes of Westminster, 1931*.

Sanction behind the Conventions. The question then arises why these conventions are scrupulously obeyed in the absence of any legal force. These conventions are not laws, nevertheless, they have the force of laws and are always acted upon. Two sanctions have been suggested: (a) The fear of impeachment and (b) the force of public opinion. The rule of impeachment has fallen into disuse and is not likely to be revived. Dicey is of opinion that conventions are observed because a violation of any of them will almost immediately bring the offender into conflict with the courts and the law of the land. For example, if Parliament be not summoned once a year, the Annual Budget will not be voted and the whole administration will collapse. If the Executive sanction expenditure for current expenditure without the approval of Parliament, its illegality can be proved in courts of law and the supply can be stopped. Thus, according to Dicey, Conventions cannot be violated without colliding with statutes or coming in conflict with public opinion. Conventions are obeyed not for any apprehension of violation of law—for law itself can be changed—but out of respect for public opinion. These conventions are in fact so many codes of honour, the breach of which is likely to create so many complications in the working of the governmental machinery that no government would willingly violate them. The real sanction behind the conventions is therefore the force of public opinion which no statesman with foresight can afford to disregard.

The very fact that conventions are obeyed prove their utility to the nation in many ways. They are useful, *first*, because they have lent elasticity to the constitution without which the constitution would have been almost unworkable. Thus the convention that Royal Veto should no longer be exercised upon legislation has made monarchy quite compatible with democracy. Monarchy need not be abolished to satisfy the age of democracy. *Secondly*, they have enabled the electorate, the ultimate political sovereign, to determine as to who shall govern. The convention that the King can dissolve the House of Commons is a democratic device adopted to ascertain the will of the people

who elect the legislature. *Thirdly*, some of them have secured that co-operation between the executive and the legislature without which the smooth working of the parliamentary system would have been impossible in Britain. *Lastly*, they have also helped bring the self-governing Dominions into closer relations with the mother country without impairing their autonomous status. The role of conventions has been described by Ivor Jennings as follows: "They provide the flesh which clothes the dry bones of the law: they make the legal constitution work; they keep it in touch with the growth of ideas."

Law and Conventions. In England, a distinction is drawn between laws and conventions. *First*, laws are enacted by Parliament while conventions grow independently of Parliament. But what are conventions today may be enacted into laws tomorrow. Thus the conventions which used to regulate the relations between the Mother country and the Dominions previously were codified into laws by the Statute of Westminster, 1931. *Secondly*, laws can be enforced by courts of law but conventions cannot be enforced as such. *Thirdly*, laws are made by the legislature abruptly while conventions grow gradually. Laws once enacted are more or less static but conventions are always in a state of flux. They keep on changing. But it should be remembered that although conventions grow strictly in conformity with the existing laws, these conventions ultimately serve the basis for new laws. The two supplement each other.

Conventions and Common Law. Conventions and common law belong to the same category in the sense that neither of them is enacted by the legislature. Common laws may be enforced by law-courts but conventions are not enforceable. Conventions grow out of the customs of a country while common law is the product of judicial decisions of a country. Thus the foundation of one is custom while that of the other is the decision of law-courts.

Characteristics of the British Constitution. (1) The main characteristic of the British Constitution is that it is unitary, unwritten and flexible in character. It is unitary because there is one central authority and the sole authority to make laws for the whole of Great Britain is vested in Parliament at Westminster. The constitution is mainly unwritten, though there are certain written portions like the Parliament Act of 1911, the Representation of People Act, 1918, etc. But the bulk of the fundamental laws rests on customs, usages, common law and conventions which are as binding as the written laws. The constitution is also an example of extreme flexibility/inasmuch as constitutional changes can be effected as easily and in exactly the same manner as ordinary laws. The British Parliament is both a law-making and a constituent authority.

(2) **Sovereignty of Parliament** is another leading characteristic of the British constitution. Legally speaking, Parliament is supreme and it knows no limitations to its power. The sovereignty of Parliament has two aspects—positive and negative. In its positive aspect, it implies that Parliament can pass, amend or rescind any law of the land; and negatively, it means that there is no other authority above Parliament which can override its decisions. It should be noted here that Parliament means King-in-Parliament including the Crown, the House of Lords and the House of Commons. But in spite of its legal omnipotence, there are two main limitations to its sovereign power. The first limitation is an external one which consists in the fear of public disapprobation of its laws. The second limitation arises from the very nature of the sovereign power itself—its composition, character, etc. To these may be added a third one, namely, the present Parliament cannot bind any future Parliament.

(3) **Unreality** is another characteristic of the British constitution. It

means that there are great differences between theory and practice, i.e., between the actual terms of the constitution and the actual practices. In other countries, there is at least a rough correspondence between constitutional provisions and the actualities of government but in England, "nothing is what it seems, or seems what it is." The theory is that the Crown is the source of all authority; the ministers are appointed and dismissed at Royal pleasure, but in practice, the powers are exercised by the ministers. Similarly, in theory, the King-in-Parliament is the supreme legislative authority but in practice the House of Commons exercises virtual control over legislation.

(4) Fourthly, the British constitution is characterised by unbroken continuity, the link between the past and the present never being wholly severed. The constitution is the result of gradual growth and has reached its present stage by gradual process of development.

(5) Another unique feature of the British constitution is the rule of law which implies three things. First, it means legality of law. No man can be detained or punished except for a distinct breach of law which must be proved before a legally constituted court. Secondly, it means impartiality of law. All persons, irrespective of their rank or social status, are subject to the ordinary law of the land and amenable to the jurisdiction of the ordinary courts of law. Law is thus no respecter of person. Thirdly, it means that the general principles of the constitution are the result of judicial decisions determining the rights of private persons in particular cases brought before the courts.

In England, there is no *Droit Administratif* of the continental type according to which public officials are tried by separate courts known as administrative courts set up for the trial of officials for offences committed in their official capacity. But in England; law is no respecter of person. Everyone, from the Prime Minister down to the Police constable in the street, will have to answer for illegal acts as any other citizen. The principle of legal equality of all citizens is so deep-rooted in England that barring the King who 'can do no wrong', all others including even the King's ministers have to shoulder the responsibility for every act done without legal justification and for which they are amenable to the ordinary law of the land. In England, the rights of citizens are not protected by the provision of a written constitution, nevertheless Englishmen are as free as the Americans or the Frenchmen in their own lands. Thus 'Rule of Law' ensures to Englishmen the enjoyment of their civil liberty by limiting the authority of the executive which cannot easily encroach upon the liberty of the people in any manner. But it should be noted here that this admirable analysis of the Rule of Law by Dicey is subject to so many exceptions that it cannot be accepted *in toto*. True it is that in England, there is no *Droit Administratif* of the continental countries but there are laws like the Public Authorities Protection Act of 1893 and similar other provisions which give special protection to officials and thus limit the applicability of the Rule of Law. Thus when an official has done any wrong to a private citizen in the discharge of his official duty, the official will no doubt be hauled up before an ordinary court. But if the official is found guilty and is fined or asked to pay damages to the private citizen, it is the state and not the guilty official who is to pay such damages. This and similar other provisions have considerably weakened the check of 'Rule of Law' on the arbitrariness of persons in authority. The system of delegated and subordinate legislation has also strengthened the hands of the executive.

(6) Another important feature of the constitution is that the government is typically parliamentary in form. Although the King is the legal sovereign, the

actual work of administration is run by the ministry who belong to the majority party in Parliament and they continue in office so long as they command the confidence of the legislature. Thus in Great Britain there is no separation of powers between the executive and the legislature, the executive being an integral part of the legislature. *

(7) Another feature of the constitution is that it is largely based upon a number of conventions which have not only enlarged the scope of the constitution but have also modified the nature of the constitution to some extent. It is for the presence of these conventions that the British constitution is said to be mainly unwritten and it is on account of their presence that in Britain there is a wide divergence between constitutional theory and constitutional practice.

(8) The constitution is also said to be essentially a judgemade constitution inasmuch as the rights enjoyed by English citizens have not been guaranteed by any bill of rights as in the U.S.A. or in India but by judicial decisions given from time to time.

(9) The system of mutual checks and balances also form a noticeable feature of the British constitution. The executive in England is balanced against the legislature and the legislature is also balanced against the executive. The Ministry in England is responsible to the legislature but the legislature can also turn the Ministry out of office by various methods. In the same way, the judges though appointed by the executive hold office after appointment during good behaviour and can control executive action.

(10) *Dr* Lastly, the constitution is an example of limited monarchy. He reigns but does not govern.

Mention must also be made of the two-party system which rule the United Kingdom alternately. The government of the U.K. is of the parliamentary type which implies party government which cannot function properly for a fairly long period if the party-in-power is formed of the coalition of multiple parties. In the absence of a stable government, no long-term programme of progress can be undertaken by the government. The existence of a two-party system helps the expression of public opinion more effectively and also makes the government more stable than under the multi-party system. From the seventeenth century right up today, two principal parties are ruling the country alternately. One of the two main parties rules and the other plays the part of the opposition. This alternation of power keeps public opinion vigilant and improves the quality of administration.

The Executive. The Executive in England consists of three parts, viz., the Crown, the Cabinet and the Civil Service. The Crown is the nominal or the formal executive; the Crown and the Cabinet together constitute the political executive; the Cabinet is the real executive and the Civil Service is the permanent executive as its tenure of office is permanent.

The King and the Crown In the British constitution, a distinction has been made between the King as a person and the Crown as an institution. The King is an individual in his personal capacity while the Crown is an impersonal body—a legal idea which has been very aptly described by Sir Sydney Low as "a convenient working hypothesis". The distinction has been more effectively expressed by the saying, "The King is dead; Long live the King." It means that the King as a person may die but the Crown which represents a bundle of sovereign powers and prerogatives survives. The powers and functions of the Crown belong not to a person but to an office which, when vaca- (C)

ted by one, is assumed by another. The King is only the physical representative of the Crown and on the demise of the King, the crown passes on to his successor. Thus Blackstone has rightly remarked "Henry, Edward and George may die but the King survives." The King never dies. ✓

Title and Succession to the Crown. The Glorious Revolution of 1688 shifted the centre of political gravity from the King to Parliament as representatives of the popular will. Parliament passed an Act in 1719 regulating succession to the throne. According to this law, the eldest son of a king can succeed to the throne if he is a Protestant by faith. In the absence of a male issue, the eldest daughter of the king will be entitled to succeed to the throne. If the king has no Protestant successor, Parliament may create a new Royal dynasty by conferring kingship on a new family. After the passing of the Statute of Westminster, 1931, Parliament of Great Britain cannot singly amend the law of succession. The consent of the other members of the Commonwealth is also necessary.

Jm **The King can do no wrong.** This is an important maxim of the British constitution. It means First that the King cannot personally be held responsible for any act done by him and cannot be prosecuted in any court. But if the King is above law, there must be somebody to account for an illegal act done in the name of the King. The Rule of Law in England will not permit any wrong-doer going unpunished. Hence as the King can do no wrong, somebody must be legally responsible for the acts of the Crown. The outcome of this maxim is the principle of ministerial responsibility which requires that an act of the Crown must be countersigned by a minister who is responsible for the consequences of the act. Secondly, the maxim means that as the King can do no wrong, he cannot also authorise any wrong. No one can plead the authority of the King in justification of any wrongful act done by him. Nobody can shield himself behind the legal immunity of the King.

In 1679, Earl of Danby, a favourite minister of King Charles II was impeached for treason and other grave offences by the House of Commons. During trial the Earl, in self-defence, sought to shield himself behind the legal immunities of the King and even produced recommendation for pardon from the King. But he was tried, found guilty and punished. The legal maxim was firmly established by the judgment of the impeachment.

Jm **Position and Powers of the Crown.** The supreme executive authority of the state is vested in the Crown which is a hereditary institution. Succession to the throne is regulated by the law of primogeniture, elder sons being always preferred to younger, and male heirs to females. The Statute of Westminster, 1931, provides that "any alteration in the law touching the succession to the throne or the royal style and titles" requires the assent of the Parliaments of all the Dominions as well as that of the Parliaments of the United Kingdom. The Act of Settlement which governs the succession provides that the King must not only be a Protestant but also forbids his marriage with a Catholic. The King is to take a coronation oath which requires him to remain faithful to Protestantism and to promote its cause. To meet his personal and other expenses, the King is paid an annual allowance, i.e., the civil list out of public funds.

The powers of the Crown are derived from two main sources—Royal Prerogatives and Parliamentary Statutes. Prerogatives may best be defined in the words of Dicey as "the residue of discretionary powers left at any moment in the hands of the Crown." Many of these prerogatives—King.

original authority—have either fallen into disuse or have been given up by the Crown on agreements between itself and the people. The abolition of the prerogative courts, the non-exercise of the veto power on legislation are examples of such prerogatives. Of the existing prerogatives of the Crown, mention may be made of his immunity from all political responsibilities as illustrated in the maxim—the King can do no wrong. Statutory powers of the Crown embrace those powers conferred by Acts of Parliament from time to time. Thus every new Act of Parliament that prescribes new duties for the executive authorities adds so much to the powers and functions of the Crown. The powers of the Crown are not therefore fixed but are in a state of flux and are continually increasing. Broadly, these powers are executive, legislative, judicial and miscellaneous.

(1) Executive and administrative powers. The Crown is the supreme head of the Executive. He appoints all the important officers of the state including the Prime Minister and other cabinet members. With few exceptions, he possesses the powers to suspend and dismiss the officers. He is the head of the army, navy and air forces. He can declare war and make peace but the money needed must be voted by Parliament. All foreign affairs are conducted by him. He can even conclude treaties without consulting Parliament provided they do not involve the imposition of a tax or a cession of territory.

(2) Legislative powers. All laws are passed by the King-in-Parliament. No bill will become an act unless it receives the royal assent which will come as a matter of course. The royal veto on legislation has become obsolete. It has never been exercised since the time of Queen Anne, 1707. The Crown also possesses the sole power to summon, prorogue and dissolve the House of Commons. But Parliament, however, must be summoned once a year.

(3) Judicial powers. The Crown is the fountain of justice which implies that the Crown is the distributor of justice. But the Crown does not possess any right either to alter the existing judicial organisation or to change the manner of distribution of justice. The Crown enjoys the prerogative of mercy.

(4) Miscellaneous powers. The Crown is the head of the Established Church of England and appoints the Archbishops, Bishops and other ecclesiastical dignitaries. It is the custodian of public morality. The Crown is also the source of all honour. It confers peerage and grants all titles and honour on the recommendation of the Prime Minister.

The above mentioned powers are formal legal powers of the Crown. But it should be noted that they are not exercised by the King but by his ministers who are answerable to Parliament. The Cabinet exercises these powers in the name of the Crown.

Sources of Royal Powers. The various powers of the crown are derived from two sources, namely, (i) Parliamentary statutes and (ii) prerogatives of the Crown. Parliamentary statutes conferring new powers on the different departments of the government fall within the category of Royal Powers. The control which the central government exercises over the institutions of local government and other organisations forms a part of the powers of the Crown. The system of delegated legislation extensively used in modern times has also led to an enormous increase in the powers of the Crown.

The prerogatives, on the other hand, are the original discretionary powers left in the hands of the Crown. The prerogatives have not been con-