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MA POLITICAL SCIENCE

4th Semester

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World Constitution

MA [Political Science]
Fourth semester

MAPOLS – 508

RAJIV GANDHI UNIVERSITY
Arunachal Pradesh, INDIA - 791 112

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About the University

Rajiv Gandhi University (formerly Arunachal University) is a premier institution lor higher education in the state of Arunachal Pradesh and has completed twenty-five years of its existence. Late Smt. Indira Gandhi, the then Prime Minister oflndia, laid the foundation stone of the university on 4th February, 19H4 at Rono Hills, where the present campus is located.

Ever since its inception, the university has been trying to achieve excellence and fulfill the objectives as envisaged in the University Act. The university received academic recognition under Section 2(0 from the University Grants Commission on 28th March. 1985 and started functioning from 1st April. 1985. It got financial recognition under section 12-B of the UGC on 25th March, 1994. Since then Rajiv Gandhi University, (then Arunachal University) has carved a niche for itself in the educational scenario of the country following its selection as a University with potential for excellence by a high-level expert committee of the University Grants Commission from among universities in India.

The University was converted into a Central University with effect from 9th April, 2007 as per notification of the Ministry of Human Resource Development, Government of India.

The University is located atop Rono Hills on a picturesque tableland of 302 acres overlooking the river Dikrong. It is 6.5 km from the National Highway 52-Aand 25 km from Itanagar. the State capital. The campus is linked with the National Highway by the Dikrong bridge.

The teaching and research programmes of the University" are designed with a view to play a positive role in the socio-economic and cultural development of the Slate. The University offers Undergraduate, Postgraduate, M.Phil and Ph.D. programmes. The Department of Education also offers the B.Ed, programme.

There are fifteen colleges affiliated to the University. The University has been extending educational facilities to students from the neighbouring states, particularly Assam. The strength of students in different departments of the University and in affiliated colleges has been steadily increasing.

The faculty members have been actively engaged in research activities with financial support from UGC and other funding agencies. Since inception, a number of proposals on research projects have been sanctioned by various funding agencies to the University. Various departments have organized numerous seminars, workshops and conferences. Many faculty members have participated in national and international conferences and seminars held within the country and abroad. Eminent scholars and distinguished personalities have visited the University and delivered lectures on various disciplines.

The academic year 2000-2001 was a year of consolidation for the University. The switch over from the annual to the semester system took off smoothly and the performance of the students registered a marked improvement. Various syllabi designed by Boards of Post-graduate Studies (BPGS) have been implemented. VSAT facility installed by the ERNET India, New Delhi under the UGC-lnfonet program, provides Internet access.

In spite of infrastructural constraints, the University has been maintaining its academic excellence. The University' has strictly adhered to the academic calendar, conducted the examinations and declared the results on time. The students from the University have found placements not only in State and Central Government Services, but also in various institutions, industries and organizations. Many students have emerged successful in the National Eligibility Test (NET).

Since inception, the University has made significant progress in teaching, research, innovations in curriculum development and developing infrastructure.

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Halt*

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INTRODUCTION

Since ancient times, scholars, thinkers and political scientists have been studying various models of governance . The study so far may not have been conclusive but it draws upon a general systemization of socio-economic and political Victors at play. The focus has been the government and political process, institution and their behaviour, and political thoughts, Comparative government covers many of the same subject but from the perspective of parallel political behaviour in different countries and regions.

In the study of political science, while it is certainly important to learn about the facts pertaining to the institutions of three or more countries, it cannot be called comparative pohtics until it is a comparative study. What are the useful types of comparisons? The earliest and the most original form of comparative government is the study of constitutions. The base of this study is Aristotle's compilation of the constitutions and practice of 158 Greek city-states. Of these, only the *Constitution of Athens* is still existent. Although undeniably, the comparative study of different city-states consolidates a few of the generalizations in Aristotle's *Politics.* This is similar to the manner in which the comparative study of different living organisms constitutes his biological writing. However, since Aristotle, biology scaled new heights, but the comparative study of constitutions has not achieved such heights. This is partly because it is not easy to achieve the optimum balance of generality. A few research studies have compared countries all over the world. These studies provide some useful statistical generalizations. However, no academic agreement has been found on basic questions like the relationship between the economic development of a country and its level of democracy. A different way of looking at it is by considering all cases of a common phenomenon—such as revolutions, totalitarian states, or transitions to democracy. In few of the cases, this point of view is difficult to define, for instance, revolution.

The most popular form of comparative government is still the elaborate study of selected policies in two or more countries. Researchers are always focused on the **isues of 'too few cases' or** 'too many variables'. There may be a large number of **factors** which cause a country to become a corporatist nation and other factors which influence the rate of growth of economy. Yet, the present-day researchers are more **Sensitive to the'** problems pertaining to generalization and correspondingly more **cautious in** their conclusions, than the researchers of ancient times.

This book - *Comparative Political Systems* - has been designed keeping in ;Mnd the self-instruction mode (SIM) format and follows a simple pattern, wherein each unit of the book begins with the **Introduction** followed by the **Unit Objectives** jfpr the topic. The content is then presented in a simple and easy-to-understand manner, apd is interspersed with **Check Your Progress** questions to reinforce the student's undertanding of the topic. A list of **Questions and** Exercises is also provided at the end,pf each unit. The Summary, Key Terms and Activity further act as useful tools for students and are meant for effective recapitulation of the text.

This book is having five units:

Unit 1: Explains the law-making bodies of countries like UK, USA, Switzerland and China.

Unit 2: Deals with the executive bodies of UK, USA and Japan.

Unit 3: Recognizes the role of judiciary in countries namely, UK, USA and China.

Unit 4: Identifies the different kinds of party system existing in USA, Japan, Switzerland and China.

Unit 5: Elaborates the electoral process in UK, USA and Switzerland.

UNIT 1 RULE MAKING

Structure

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Structure, Function and Process of Law-Making in China
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INTRODUCTION

In the previous unit, you studied about the various structures namely, parliamentary, presidential, unitary and federal.

In this unit, you will study about the legislative bodies of the UK, USA, Switzerland and China.

America is a big superpower. In America, the legislative powers vest with the US Congress. The long history of Britain has been interspersed with many ups and downs. China is often referred to as the sleeping dragon. It is a mystical land with the most astounding history of culture and traditions. But, China has come a long way in the last twenty year and is an emerging superpower. Switzerland is one of the oldest Republics ofEurope. In Switzerland, the law-making function is performed by the federal legislature which consists of the National Council and Council of State.

UNIT OBJECTIVES

After going through this unit, you will be able to:

- Explain the origin of the British parliament
- Identify the procedure and practice of the senate
- Describe the functioning of the House of Representatives
- Identify the legislative procedure in Switzerland
- Describe the functioning and powers of the National People's Congress of

China List the responsibilities of the State Council in China

STRUCTURE, FUNCTION AND PROCESS OF LAW-MAKING IN THE UK

In the beginning, the British parliament was an aristocratic and feudal assembly of the king's tenants-in-chief. It met at intervals of perhaps two or three times a year, to advice, sometimes to control or pressurize the king on important matters. Its work was not ' primarily legislative, still sometimes an ordinance or statute did emerge. Business might include matters of state-war and peace, administration, assessment and completion of feudal obligations, arguments over fiefs, points of feudal law and the trial of one of its own members who were accused of treason or felony. In contrast to such a large i council, there was a small council, a group of household servants and public officials, ever present with the king to assist the actual day-to-day business of government. The evolution of the parliament involved two great processes, both of which began in the 13th century but belong more particularly to the 14th century. There was gradual but fundamental change in the personnel of the great council from that of feudal tenants-in-chief to a select group of hereditary peers. When the change was completed, the body had become the House of Lords. At the same time certain new representative elements were being added, which were finally to constitute the House of Commons.

In modern times, it is hard to realize that the term parliament did not always indicate the August assembly at Westminster or other assemblies later devised in its image. The word derived *parler* (to speak or parely) and the more impressive Latin *parliamentum,* was used loosely to indicate a conversation, a parley or an interview. The 13th century French writer, De Joinville, uses it in three ways: an informal gathering of barons; a judicial session of the king's court and a tryst between the young king and his Queen Marguerite.

In England, *Parliamentum* creeps into official records as an offensive subject for colloquium that appeared on the Close Roll in 1242 and on the Memoranda Rolls, of the Exchequer in 1248. Quite naturally it was used in domestic parleys, such as those between Alexander II of Scotland and Richard, Earl of Cornwall, in 1244, and the meeting of the kings of France and Castile. Thus a parliament, quoted by Maitland 'is rather an act than a body of persons. One cannot present a petition to colloquy, to a debate. It is only slowly that this word is appropriated to colloquies of a particular kind, namely those which the king has with the estates of his realm, and still more slowly that it is transferred from the colloquy to the body of men whom the king has summoned... .the personification of the Parliament which enables us to say that laws are made, and not merely in parliament, is a slow and subtle process.'

It was the noted English chronicler Matthew Paris of St. Albans, who first applied the term to a great council of prelates, earls and barons in 1239 and again in 1246. From this time on it was used gradually though not exclusively for such an assembly. The term did not necessarily signify the presence of the Commons. Due to the writings of some historians, we are led to believe that any great council, without the Commons is not a council at all. Professor Plucknett has convincingly demonstrated that this theory is unsustainable: he asserts that 'there was a verbal dissimilarity, but no actual difference: and this objection seems fatal.' In writing the history of parliament as an institution, all the assemblies which contained the later parliamentary elements must evidently be considered.'

It is helpful to be reminded that the 'number of people interested in politics and the size of the "political nation" has varied from time to time. This has increased with the growth of population, the progress of education and in general with the expansion of democratic sentiment.' Historians have elected to call Edward Fs assembly of 1295, the model parliament because of its complete embodiment of all elements of parliament These elements were bishops and abbots, earls and barons, invited individually; elected representatives; knights and burgesses, summoned through the sheriff and even representatives of the lower clergy.

The House of Lords

The House of Lords emerged as a result of the feudal system, which was not fully developed in England, until after the Norman Conquest. **But** even though **'the** conqueror' remodelled the English government on the foreign pattern, he was cautious enough to do so with a **distinction.** In making grants of lands to his victorious followers, he created several small baronies in favour of each grantee. These baronies were distant from one another, instead of one large fief. He also exacted the oath of allegiance to the crown from all free holders, whether holding directly from the crown or from the tenant-in-chief. These measures prevented the tenants-in-chief from developing into petty sovereigns, practically independent and owning only a titular commitment to the king.

. These tenants-in-chief of the king were entitled to be summoned by writ to the king's council, which is the origin of the modern British parliament. It was the virtue of the duties forced upon them by the feudal system of government that they obtained this right. They were responsible as far as their own fiefs were concerned, for the military defense of the realm; through them the exchequer was replenished. From them evolved the maintenance of order and the administration of the law in their several baronies.

The interests of their feudatories were their interests, the prosperity of their **feudatories** were their prosperity. The idea of a 'Lord of Parliament' would have appeared bizarre to those old barons as it is beginning to appear presently. By reason of this identity of interest between the barons and their feudatories, the former were always forward in resisting the encroachments of the crown on the freedom of the people. One can say that they were the radical reformers of their time. The Magna Carta/cdncerning which Bishop Stubbs remarks that 'the whole Constitutional history of England is a commentary on tins Charter' and the subsequent confirmations of the rights thereby secured, were wrung by the great Peers from unwilling monarchs by force, or threats of force. The policy which the conqueror pursued towards his tenants-in-chief had this salutary effect. It forced them into the position of defenders of the :; liberties of a great nation.

Such being the relation between the nobles, it followed almost inescapably that ;the chief personal right was the right to a writ of summons to the king's council. This was originally, no doubt a matter of discretion for the king. The tenants who held small fiefs of the crown were willing to ignore summons and in time ceased to receive it. This gave rise to the distinction between the greater and the lesser barons. The crown, in its struggle with the Peers, was tempted to refuse the summons to those who opposed its wishes. Hence one of the rights established by the Magna Carta was the right of the greater barons **to** be summoned by writ, personally. The lesser barons were to be summoned by a writ addressed to the sheriff of the county.

The greater barons became the nucleus of the House of Peers, the lesser barons being ultimately represented in the Commons by the Knights of the Shires. In course of time the crown exercised the right of summoning other persons to the council. These were not necessarily

barons by tenure. These persons were not considered hereditary peers in the first instance, nor did a summon even confer a right to atjtend the council for life. The records show that many persons were summoned once only, others more frequently. But in process of time the right to a writ became hereditary. Since the 5th year of Richard II, a writ of summons, coupled with proof that the person summoned actually sat in the House of Lords, conferred a hereditary peerage. In this respect a peerage by wit, differs from a peerage created by patent. There was another method of creating peers which is of significant interest because it shows an inclination to admit the influence of a popular voice in the selection of peers. The creation of peerages by statute was at once confined to the granting of steps in the peerage. But the patent which was created by Sir John Cornwall Lord Fanhope in 1432 states that the grant was made by the consent of the lords in the presence of the three estates of the parliament. In many patents, the assent of the parliament is more clearly expressed and in some cases it is stated on the roll of Parliament.

It must be remembered that the creation of the first peerage in 1382, when Richard II, raised Sir John Holt to the House of Lords by the title of Lord Beauchamp of Kidderminster, was looked upon as an unconstitutional and arbitrary act and Sir John Holt was consequently impeached as a commoner. But no such statement occurs in any patent after the accession of Henry VII. The strengthening of the royal authority, during the early Tudor period enabled the sovereign to do away with even the formality of consulting the parliament for creation of the peers.

Another class of men nearly established a right to sit in the House of Lords by virtue of their office. In early times the judges were summoned to the House by writ as advisors or assistants, but without the right of voting. Their functions were merely consultative. If the bench had possessed such overwhelming influence as was at the command of the church, it was probable that the judges would have succeeded in sitting in the house as life peers. But it was not the case. The judges of those days were men of little personal influence. They had no security of tenure in their offices: they could be removed at the sole will of the crown. The subordinate position which they achieved is still in some sort recognized by the constitution. The House of Lords has the right to consult the judicial bench, which it exercises on rare occasions and the judges go to the house in full robes to deliver their opinion.

The following statements maybe accepted as fairly representing the formative processes for moulding the constitution of the House of Lords:

1. The feudal baron by tenure was summoned to the king's council in virtue of his responsibility for the good government of a portion of the kingdom.
2. The progress of the nation and the growing complexity of the questions presented before the house made it necessary to summon capable persons to its councils; even although they were not supportive to the Crown, these persons originally attended only the parliament to which they were summoned and there was no intention on the part of the crowri to confer either a hereditary dignity or a hereditary right to legislate; but a comparatively modern doctrine, attributable to legal astuteness, had declared that obedience to the writ conferred a hereditary dignity in the family of any person so summoned.
3. The modem method of creating a peerage by patent, which undoubtedly conferred a hereditary right, was in its inception an act of arbitrary power. For a long period this usurped right was observed by the parliament who later found it necessary to be declared by the consent of the parliament. This custom was rendered useless after the Tudor dynasty gained access to the throne.
4. Originally the House of Lords was composed of a majority of life members. It is clear therefore, that the conception of a peer of parliament, with a hereditary right to legislate without any corresponding hereditary duties to perform, is not based upon ancient constitutional doctrine; that the tendency to recruit the Upper House by life members, or members for a given parliament, was first checked by civil commotion and that the modern method of creating peers had its origin . in an arbitrary act of the crown.
5. The history of the House of Lords has revealed facts which are important in dealing with this subject. History shows that there has been a constant numeric increase in the

membership of that house until it has become the most cumbersome upper chamber in the civilized world. As Lord Roseberry said in 1888, 'Hardly a squadron or a regiment of peers would redress the balance in certain contingencies.' It also shows that since 1832 that unrelenting numerical increase has been accompanied by a persistent decline of influence. This decline has been due to the steady establishment of the House of Commons on an ever-extending democratic basis.

Current Composition

Table 5.1 *The House of Lords, as on 1 November 20 JO*

Affiliation	Life peers	Hereditary peers	Lords spiritual	Total
Labour	230	4	-	234
Conservative	145	48	-	193
Liberal Democrats	74	5	-	*19*
DUP	4	0	-	*4*
UKIP	1	1	-	*2*
Crossbenchers	149	32	-	181
Lords Spiritual	-	-	25	25
Other	*16*	1	-	17
Total	**619**	**91**	**25**	**735**

4

House of Commons

The history of the House of Commons is in fact the history of England, during the last 600 years. The journal of its deeds fills 120 folio volumes. No writer on the historic course of action of the House of Commons can fail to point out its most prominent feature - the great antiquity of forms and rules on which it is based. Sir Reginald Palgrave, in his preface to the tenth edition of Sir Thomas Erskine May's classical treatise on 'Parliamentary Practice', introduces his retrospect of the half century since the first appearance of the book with the words, 'The parliamentary procedure of 1844 was essentially the procedure on which the House of Commons conducted business during the Long Parliament' The most recent historian of parliament, Mr. Edward Porritt, takes his readers even further back than Sir Reginald Palgrave. In his most informative work, he says: 'the most remarkable fact with regard to the procedure of the house is the small change which has taken place since, in the reign of Henry VII, enactment by bill superseded enactment by petition. Following in its main lines the procedure which the Journals show to have been in use when in 1547, the House migrated from the Chapter House of Westminster Abbey to the famous Chapel which Edward VI then assigned to the Commons for their meeting place.'

The beginning of the order of business in the House of Commons is traced back to yet another century. This step was the adoption of the bill as the exclusive technical form for the exercise of the great functions of parliament and procedure by bill. To this day *it* is the characteristic mark of the English parliamentary system and all its descendants. From the point of view of procedure, this change may well be called the boundary between two great eras in parliamentary history. With the advent of bill the individuality of the English parliament as a constitutional and political creation became complete. However many favoured its application and however extensive the orb of its undertakings, the development of the procedure moved on within the fixed form given to it by the bill.

Three periods can be distinguished in the growth of the historic order of business in the House of Commons, which, speaking approximately, are successive, but which cannot be sharply divided from each other.

(i) The first period is that of the estates. It begins with the meetings under Henry III and Edward I and continues until the beginning of the journals of the house and the first contemporary reports of the debates and proceedings, i.e., till the middle of the 16th century. In this period again, we have to distinguish between two parts: the period in which petition is the sole form of parliamentary activity and the period, from the first quarter of the

15th century in which bill becomes its normal form.

(ii) hi the second, the parliament regularly meets the order of business and the procedure as a whole appears on its permanent fundamental lines. It covers the reign of Queen Elizabeth and the first four sovereigns of the house. The framing of the whole historic order of business, by the practice of the House of Commons, was carried out in this period. The only essential qualification is that there can be no doubt that most of the fundamental elements of procedure date back much further than our knowledge of the proceedings of the house. In other words, their inception and earliest development belongs to our first period.

(iii) The opening of the third period is marked by the great political landmark in the constitutional history of England - the Revolution. This ushers the age of conservative parliamentary rule, which the governing classes strove to retain and develop, for the maintenance of their own supremacy in the state. **The** period closes with the carrying of the first extension of the franchise in 1832. With the meeting of the reformed House of Commons, begins another era in the development of the order of business and procedure of the house. This is connected with the political transformation of parliament.

House of Commons—Relationship with the Prime Minister

The parties in the House of Commons do not elect the prime minister but still their position is of dominant importance. The prime minister must maintain a good relationship and should support and be answerable to the members of the House of Commons. Ironically, in modern times, the prime minister is always a member of the House of Commons and not of the House of Lords.

Members and Election

Each member of the parliament stands for a single constituency. There always remains a procedural difference between county constituencies and borough constituencies, which lies in the difference of the amount of money, the candidates are allowed to spend during their election campaign. As mentioned earlier, the timing of the election is in the hands of the prime minister. Thus, the parliament is dissolved by the sovereign and the tirning is chosen by the prime minister. Traditionally, all elections in United Kingdom are held on Thursdays. A nomination paper must be signed by ten registered voters of a constituency for a member to stand up for elections. Though there are many qualifications that apply to the members of the parhament, the most important one is that the individual must be 18 years old and must be a citizen of the United Kingdom.

Current composition

Table 5.3 *MPs Elected in the UK General Election, 2010*

Affiliation	Members
Conservative	**305**
Labour	**253**
Liberal Democrat	**57**
Democratic Unionist	**8**
SNP	**6**
Sinn Fein	**5**
Plaid Cymru	**3**
SDLP	**3**
Alliance	**1**
Green	**1**
Independent	**3**
Speakers and Deputy Speakers	**4**
Vacant	**1**
Total	**650**

Actual government majority	83

Source: *BBC News*

53 STRUCTURE, FUNCTION AND PROCESS OF LAW-MAKING IN THE USA

In 1787, when the founding fathers of the US crafted the constitution (a constitution which still carries on today), they chose the US Congress for the very first article. The constitution gave the Congress the power to make laws for the federal government, the capability to check the actions of the president and the duty to stand for the American people.

Constitutions are never written in vacuity. They reflect the beliefs, goals and aspirations of their authors and in many cases, the values of society. In this way, the American constitution is no exception. To be able to understand the principles on which the US Congress was established, one must first understand the politics which surrounded the formation of the United States of America.

The founding of British colonies in what was known as the 'new world' is only one part of the history of America, but it is fundamental to the history of the United States. It was from the British colonies that, in 1776, a new nation was born. The first British colonists landed in 1585, in what is now Virginia. Life was difficult in the new world and many of the early colonies surrendered to disease, famine and attack by native 'Indian' tribes. The first colony to conquer these difficulties and endure was established in Jamestown, Virginia, in 1607. Their success was due to two reasons: surviving the first winter with the aid of friendly native Americans and an ability to grow tobacco. The colonists had discovered a mix of Caribbean and mainland American tobacco leaves which was appealing to the European taste and trade with the 'old world' had become both, possible and lucrative. By 1732, thirteen colonies had been established up and down the eastern seaboard of North America. These colonies began to thrive through trade and soon found a degree of autonomy from the British government Colonial assemblies were established in America and these began to check the power of resident royal governors, often taking control of characteristics of taxation and expenditure. Steadily, the principles of self-government were becoming ascertained in the minds of the colonists.

As the 18th century progressed, the British crown and parliament once again began to look to the west. The colonies had proved to be a success and Britain wanted to expand their control in the west. Their efforts directed at west-ward expansion, however, meant clash with French forces who had established a powerful position in North America. The 'French Indian War' lasted from 1754 - 1763, until the French forces were defeated. This left the British in control of a large area. At present, this large area is Canada and the US. The cost of the war and the resources needed to control their recently expanded western empire put a strain on British finances and led the parliament to look for new ways to raise revenue. Having decided that the colonies should pay more for their own defense, the British parliament passed a series of acts which levied taxes on colonial trade. The British actions had endangered the ability of the colonies to trade freely and given the historical importance of trade of colonies' existence, caused a great deal of bitterness. Over the next ten years, protest over British taxation and oppression grew, occasionally breaking into violence. Matters came to a head in Lexington, Massachusetts in 1775 when a raid by British troops on colomafmilitias led to full-scale fighting. This marked the beginning of the American Revolution.

A formal declaration of independence was issued on 4 July 1776. Largely written by Thomas Jefferson of Virginia, the declaration set the grounds on which the colonies claimed their right to throw off the British rule. Behind the declaration, were the ideas of the 18th century philosophers and writers such as, Thomas Paine and John Locke. .These ideas were widespread among the aristocracy of that time. These ideas would go on to play a large part in writing the constitution.

The war of independence formally ended in 1783 with the signing of the treaty of JParis, in which

the British crown recognized the independence, freedom and sovereignty of thirteen former colonies. With victory certain, the thirteen states were faced with the 4ask of devising a system of government. Having just conquered what they viewed as tyrannical power, the leaders of the new states had no intention of replacing the British crown with their own monarch, or creating a central government. However, it was recognized that some form of central administration was inevitable for a newly founded independent nation. '

There was never an issue that the new US would be anything other than federal. A federal state maintains more than one level of government, with each having their own rights and independence. Unlike in Britain, where the government in London is paramount and can create, alter or abolish local governments as it sees fit, the new US Constitution maintained the autonomy of individual states. They created a central, or federal, government with certain powers and responsibilities that rose out of necessity.

As the failure of the articles of confederation showed, there were certain jobs, necessary for the success of the new nation that could not be carried out by the state governments alone. On the other hand, under the new constitution, the state governments intended to be the primary level of government, with responsibility for their own affairs and those of their citizens. The federal government was to be restricted to those areas which fell outside the individual state: regulating trade between states, establishing a national currency, conducting foreign affairs and controlling the national military forces. This ideal, where each level of government had its own separate areas of influence, was known as dual federalism. Such a pure form of federalism was [1]going to be short lived, but for the early years of the US it was the state governments **which** seized power.

The constitution established a system whereby each branch of government would be checked by another. A bicameral legislature was chosen so that the Congress could act as a check upon itself in effect. For any law to be passed, the approval of both chambers would be considered necessary. These two chambers which make up the US Congress were the senate and the House of Representatives.

The Senate

The senate of the US is generally known as the greatest deliberative body in the world for a number of reasons. Right from its beginning, the senate chamber has been the setting of some of the most moving, influential and consequential debates in American history.

First, the senate is mainly a legislative body. It has the power to pass legislations that may become law or to prevent legislations from becoming law. Moreover, it is responsible to approve or deny consent to ratify treaties, to approve and advice on presidential nominees and to try impeachments. Till date, it is more powerful and significant than any upper chamber across the world. Those who framed the constitution wanted the senate to be an incomparable legislative body, such that it should be both, unique in its structure and superior as an institution. They believed this was essential for the republic to endure. So the framers provided for the following, among other things, in the senate: equal representation of every state; terms extending six years, beyond those of the house and the president; elections in which only one third of members would stand before the people every two years; and a minimum age requirement to attract 'enlightened citizens' to serve the body. These characteristics. lent an exclusive character to the senate; a small, stable, stately, thoughtful, independent, experienced, and a deliberative body. With equal legislative authority for the House of Representatives, the framers expected that the senate would remain steady in a representative democracy. This, along with its duties specified in the constitution, was the framers' design for the senate. However, the senate required a structure to operate. And that structure has for more than two hundred years taken the form of senate procedure: standing rules, rule making statutes and precedents.

In 1789, the first senate assumed twenty standing rules. Surprisingly, sixteen of those rules still form the core of the senate procedure today. Since 1939, the senate has assumed twenty-five rule-making statutes. The presiding officer has established a quantity of

precedents over the course of the senate's history to fill nearly 1600 pages in the seminal reference work, known as the 'Riddick's Senate Procedure'.

The senate's rules and the precedents are nothing less than the institution's genetic material: they have evolved over a period of time; they are entwined and complex. Those who unlock and understand and apply the senate's procedure have an edge over their colleagues and the course of the senate's negotiations, But **most** of all, together, the senate faithfully reflects the framers' design and ambition for the body. The senate has two paramount values: unlimited debate and minority rights.

Procedure and Practice of the Senate

Great scholars have anticipated that to understand the senate procedure, is to understand the greatness of America in many respects. The senate procedure rests on three pillars:

(i) The standing rules of the senate, which have adopted pursuant to the senate's right under Article 1, Section 5, of the constitution to make rules governing its own proceedings.

(ii) Special procedures found in rule-making statutes, also written under the senate's rule-making power.

(iii) Precedents that interpret the standing rules, interpret provisions in rule-making statutes and interpret other precedents.

Distinguishing Characteristics of the US Senate

Senate procedure also embraces two features that differentiate the senate from other parliamentary bodies of the" world:

(i) Debate rules are fundamentally unrestricted.

(ii) Amendment opportunities are fundamentally unrestricted.

As mentioned earlier, the US senate is the most powerful upper chamber on earth. Unlike many upper chambers that have limited authority, the senate has equal legislative jurisdiction with the house and is authorized to address two areas which the house does not possess: nomination and treaties. The senate's authority is grounded in the constitution and is improved by the rules and precedents, through which the body elects to govern itself.

The Text of the Standing Rules

There are forty-three standing rules of the senate, ten of which are code of ethics. The origin of certain rules can be found in the twenty rules of.the first senate in 1789, sixteen of which have considerably carried over until till date. The rules and their history reflect the solidity and uniqueness of the senate. They represent strong fibres in the fabric that binds the institution together.

Senate rules grant considerable power to individual members, minority coalitions arid the minority party. Individuals with knowledge of procedure and willingness to employ it can exert influence far beyond their single vote. A disciplined and organized minority can sometimes be disrupted by a filibuster, a measure or matter favoured by the majority of senators. An individual senator can ruin many situations in which unanimous consent is a practical precondition for action. Unlike the House of Representatives, which adopts new rules at the beginning of each Congress; the rules of the senate continue from one Congress to its successor and remain in force until amended. The standing rules provide that 'the rule of the senate shall continue from one Congress to the next, unless they are changed as provided in these **rules.***

Changes to the standing rules can me made but they have not been recurrent. Before changes can be proposed, Rule V requires **a** one day notice in writing. Amendments to the text of the standing rules are adopted customarily by simple majority passage of a senate resolution. However, such a measure is debatable and subject to a special cloture requirement. Normally, a vote of three-fifths of all senators who are duly chosen and sworn, or

sixty senators, is sufficient to invoke cloture. To end a debate on a rules change resolution requires an affirmative vote of two-thirds of all senators who are present. This rule has remained unchanged since the crude amendment of 1959.

Recodification of rules has happened only seven times in the history of the senate, the first being in 1806 **and** the most recent occurring in 1979, under the leadership of senator Robert Byrd. After Senator Byrd proposed the 1979 adjustments, the rules have not been recodified since 1884. Execution of the rules is often restricted by unanimous consent orders. Under consent orders, senators voluntarily agree to forgo or adjust some aspect of their rights. A single objection bars agreement and forces reliance on senate rules and precedents.

The Senate Parliamentarian

The senate parliamentarian is procedural counselor to the presiding officer. Since it has become the practice to rotate the chair hourly among majority party senators, the parliamentarian's authority becomes central. Few senators have the knowledge or experience to manage the procedure of the senate, so they often rely heavily on the advice of the parliamentarian.

It is often wrongly stated that the parliamentarians make rules. The presiding officer rules after having received the parliamentarian's counsel. Even though the presiding officer has the power to take no notice of the parliamentarian's advice and simply rule on his own, it would be extraordinary for him to do so. If the senate wishes to break new ground, divergent to the parliamentarian's outlook, it will vote for against an appeal to overturn the presiding officer's ruling. The presiding officer's is not frequently upturned.

Senator

The constitution states that a senator must be a citizen of the US for at least nine years, be at least 30 years old and be a resident of the state that he or she represents. For more than a century, senators were selected by their state legislatures, not directly by the voters. Mutually, in law and practice, this excluded many groups, some of whom were Africanr-Americans.

The election of the senators by the people was not necessary until the seventeenth amendment to the constitution was ratified in 1913, one year before the election year of 1914. Until the middle of the 19th century, the system in which the state legislatures selected senators worked proficiently, even though it may have benefited special-interest groups in the state. By 1870, the US Senate had its first African American senator, republican Hiram Rhoades Revels of Mississippi. The first woman senator, Rebecca Latimer Felton of Georgia, was appointed to fill up the term of her husband, who died in office. She was sworn in on 21 November 1922.

Senate Officers

The constitution states that the president of the senate shall be the vice-president of the US, who supervises over the sessions but votes only in case of a tie. For many years, that remained the vice-president's chief responsibility and his offices were in the US capital. On the other hand, stipulations had to be made for an officer who could take the chair in the vice-president's absence thus the constitution provided a second presiding officer, the president pro tempore, also known as the president pro tern.

Party secretaries, elected both by the majority and the minority parties, are employees who are seated at either side of the senate chamber. Their everyday responsibiUties include making sure that the pages are in place, schedulinglegislation and keeping senators informed about pending business in the **session.**

Current Compositions

Table 5.4 The Party Composition of the Senate after 3 January 2011

Affiliation	*Members*

Democratic Party	**51**
Republican Party	**46**
Independent	**3**
Total	100

,2 House of Representatives

The legislative processes on the floor of the House of Representatives are governed by numerous rules, practices as well as precedents that are also complex in nature. The House rules mentioned in an official manual run into more than a thousand pages. Additionally, there exist more than 25 volumes of precedents that complement the official rules. Yet, compared to the Senate, the House applies its rules in a more moderately conventional fashion. The rules in themselves are multi-faceted; some are naturally complex and thus difficult to interpret. Therefore, the House does tend to follow parallel procedures under somewhat similar circumstances. Even in cases where, for instance, the House can follow similar pattern of rules tend to differentiate with each other and have limited number of recognizable patterns.

Yet, the fundamental importance of the rules the representatives of the House follow, including its many procedures, cannot be undermined. With time, majority of members are able to use their will on the floor of the House. As per the rules of the House, the minority members cannot intentionally delay voting in the House, for instance by making long speeches or using such devices, to prevent the majority from making the decisions.

Modes of **Procedure**

While dealing with a Bill or passing a resolution, the House does not restrict itself to following a single course of action. Different Bills or sets of Bills require usage of certain kinds of House rules and they need to be considered in a particular manner. It is the members who decide which rule will fit the discussion of a particular Bill. This depends on factors like the imminence and estimated cost of the Bill and the contention and arguments over its merits and provisions. The difference between these choice of rules depends on the many factors, like the time members had to debate over the Bill, the amendments proposed and how promptly the House is able to act on these matters.

Legislative Procedures and Comparisons with the Senate

The constitution has imposed restrictions on national legislature and on the Congress's legislative agenda. The Congress has the authority to create laws that provide it with the power that is required for carrying out its numerous functions, apart from the I authority that is allocated by the constitution to the federal government.

In constitutional powers, the two houses of Congress are almost equal; each has unique privileges. Both houses must agree on a bill before it becomes a law. Neither house consistently dominates the other; nor is there any authority other than an electorate, to which both are accountable. Each chamber has the constitutional power to select its own officers, devise its own rules and by implication, set its own agenda. There are no Congressional

leaders; there are only house leaders and senate leaders, with no formal mechanisms for coordination between them. For many functional reasons, each house is autonomous. The house and the senate classically refer to each other as 'the other body', reflecting a sense of separateness between the two. When representatives and senators meet in a conference committee to decide specific legislative differences between them, their discussions can take a characteristic of bilateral treaty negotiations.

A typical Congressional agenda does not exist Both the houses are authorized to set priorities for matters, which they need to decide upon. The freedom of action is restricted to a certain extent. Certain laws must be passed each year; the activities of the federal government must be funded before the new fiscal year begins. The presidential influence, popular sentiment and national and international emergencies can incite the house and the senate, to give priority to the same matters. In such cases, however, the two houses respond independently to the same requirements, pressures and developments. Neither house has the constitutional power to force the other to act. There is no Congressional agenda; there is a house agenda and a senate agenda, both of which do not always coincide.

Table S.5 2013 Election Results and Current Party Standings

Affiliation	Members	Delegates/Resident Commissioner (non-voting)	Number of state majorities
Republican Party	**234**	**0**	**30**
Democratic Party	**201**	**6**	**17**
Total	**435**	**6**	

STRUCTURE, FUNCTION AND PROCESS OF LAW-MAKING IN SWITZERLAND

The Federal Legislature of Switzerland is called the Federal Assembly. It is a bicameral legislature consisting of two Houses - the National Council and Council of State. Article 71 of the Constitution vests supreme power of the Constitution with the Federal Assembly, though subject to the rights of the people and of the Cantons. In fact, the laws passed by the Assembly can neither be vetoed by the President of the Swiss Confederation, nor can be declared unconstitutional by the Swiss Federal Tribunal. They can, however, be rejected by the people or the Cantons at the polls. Rappard has very correctly said that the Federal Assembly enjoys supremacy, 'as long as it retains the confidence and performs the will of the electorate.' The supremacy of the Federal Assembly is further established by the fact that the other branches of the Swiss Government do not coordinate and are independent and subordinate to the Assembly subject to the provisions of the Constitution.

Composition of the National Council

The National Council is the Lower House of the Legislature. The total strength of the House is not fixed by the Constitution and varies from time to time according to the growth in the population of Switzerland. In the initial stages, one representative used to be elected from 20,000 people but that figure was later on raised to 22,000. In actual practice, after every ten years, there is a census and on the basis of that census the number of representatives to be

returned by any Canton is fixed according to the population of the Canton. It has, however, been made specifically clear that every Canton or half Canton must be represented by at least one representative in the National Council. This is done in order to safeguard the interests of the people of every Canton. Before 1930, it consisted of 198 members, one member representing approximately 20,000 people. Since later on, the basis of representation was changed to one member for every 22 thousand people; the number of members of the House was reduced to 194 from 1947. Since 1963, the House has fixed membership of 200 members. Twenty-four thousand people constitute an Electoral Constituency and fractions greater than 12,000 are counted as 24,000. Every Swiss citizen who is 20 years or above of age, not otherwise disqualified, has a right to vote. Prior to 1971, women were not given the right to vote. Only male citizen used to exercise the right to vote. It was a stigma on Swis$ Democracy. However, since 1971, women have been enjoying parity with men in this respect. The members of the National Council are elected by secret ballot and since 1910 by the Proportional Representation. Qualifications for the members are to be the same as that of the voters. Clergies, executives and principal administrative servants of confederation, Federal Councillors and members of the Council of States are not eligible for election.

Tenure and Sessions

The House is elected for a period of four years. It is not subject to dissolution except for total revision of the Constitution when the Houses do not agree with each other. Elections to the House are held after every four years on the last Sunday in October. Generally, the elections take place in the churches. The House meets regularly four times a year in the months of March, June, September and December. Special sessions also may be convened by the Federal Council, if emergency arises. Sessions are generally short, lasting for about three weeks at a time. The House meets at 8 a.m. in summer and 9 a.m. in winter. The members very punctually attend the meetings of the House.

Debates in the House

The Swiss Assembly is a business-like body doing its work very quietly. The Debates are orderly. Rhetoric is unknown. Neither the loud applause, nor the cries of shame, approval or dissent are heard. Division on the bills are very rare. In the words of Andrae Siegfried, 'The sessions of the National Council are more like meetings of an administrative body affecting only indirectly those who are not immediately concerned-but what an efficient administration!'A Swiss Deputy is not at all prone to emotions. He is known for shrewdness and practical sagacity. He adopts a middle path and does not take sides. Hence, Debates in the House hardly attract much attention of the nation. There are no official stenographers in the House. The Debates are scantily reported in the leading newspapers. The Deputies are allowed to speak in any of the prevalent languages. Every public document is published in German, French **and** Italian. All decisions are made by majority of those voting, quorum being 101 in case of the National Council. However, in the case of urgent matters, majority of all the members is required.

President of the Council

The National Council elects its own President and Vice-President for one year. They are not eligible for the same office in the next consecutive year. Generally, the Vice-President succeeds the outgoing President. The President performs the functions, which a Chairman is expected to perform in the House. He regulates the business of the House, maintains decorum and protects the privileges and dignity of the members of the House. He possesses a casting vote in case of a He. **He votes** like any other ordinary member when the House elects various committees and bureaus. He is **not** paid any salary. **He** is not spectacular either, unlike that of the Speaker of the House of Commons in the UK who is known as an impartial dignitary. He does not even command influence, which is usually associated with the Speaker of the House of Representatives in the USA.

No Official Opposition

Unlike that of Great Britain, where opposition is recognized as 'Her Majesty's opposition' and the

leader of the opposition gets a cabinet minister's salary and status, Switzerland has not given recognition to the opposition. In fact, the role of political parties in Swiss legislature is hardly of any significance, firstly, because the National Council is not vested with the power of ousting the Federal executive by a vote of no-confidence; secondly, because the Federal Assembly does not possess the supreme legislative power, as the people can negate its decisions at Referendum. The Federal Councillors cease to be members of the Federal Assembly on their election. They do, however, appear on the floor of the Legislature, though they do not have the right to vote. The Councillors are assigned seats on a dais right and left of the Chairman of the House. Since they are no longer the members of the House, they are not the leaders of the parliamentary majority, no matter howsoever great influences they may otherwise command. In the absence of any ministerial party, opposition is out of question. The deputies usually sit in the House by Cantons, irrespective of their party labels. In the words of Bryce, 'There is no bench for a Ministry or for an opposition, since neither exists. The executive officials... have seats on a dais right and left of the President but not being members they are not party leaders.'

Council of States

The Council of States happens to be the Upper Chamber of the Swiss Legislature. It stands for the concept of Cantonal sovereignty and personality. As such like that of American Senate, it gives equal representation to all the units irrespective of then-size and population. Every Canton sends two representatives and every half-Canton only one representative to the Council of States. Its total membership is 46 representing 23 cantons, three divided into half cantons. Unlike that of the USA, the mode of election and the tenure of these members of the Swiss Council of States is not uniform. Each Canton, by its own laws, determines the method of election of the deputies and their tenure. In some of the Cantons, the deputies of the Council of States are elected by the Cantonal Legislatures. The tenure of these members varies from one to four years. Three years is, however, the most common tenure. In **two** of the Cantons, recall of these members before expiration of their tenure is allowed. The deputies vote without instructions from their Cantons. In other words, the members of the Council of States do not represent separate Cantonal interests. As such, they are not briefed by their respective cantons to vote for or against particular issues. The members vote according to their conscience and not any instructions from the Cantonal party head.

The deputies of the Council of States are paid salaries and allowances, etc., by their respective Cantons, according to their own means.

Sessions

It meets once a year in an ordinary session on a day fixed by standing orders. Special sessions of the Council can also be convened either by the Federal Council or on the request of the deputies or of five Cantons.

Chairman

It elects its own Chairman and a Vice-Chairman for each ordinary and extraordinary session. Article 82, however, specifics that the Chairman and the Vice-Chairman may neither be chosen from the deputies of the same Canton, nor any of these officers be elected* from among the representatives of the same Canton for two consecutive sessions. Conventionally, however, the Vice-President of the year is promoted to the office of the President the next year. The President presides over the meetings of the House and determines the order of business to be transacted everyday. He possesses a Casting Vote in case of **a tie.**

Functioning of the House

The business of the House is transacted by an absolute majority of the total number of members of the House. The deputies do not dance to the tune of their Cantons, as is generally the case in federations. It implies that the deputies hailing from the various Cantons do not represent the Cantonal interests. They do not vote as directed by the Cantons. In the words of

Christopher Hughes, 'The programme which the Article implies is that members should vote according to their conscience and not as per the instructions.'

The Council of States, though a weaker Chamber, is not subservient to the National Council. The Swiss Constitution keeps these two Chambers at par with each other as regards their powers. In the words of C. F. Strong, 'The Swiss legislature like the Swiss executive is unique; it is the only legislature in the world, the powers of whose upper House are in no way different from those of the lower House.' The legislative measures must be passed by both the Houses. In case of a disagreement between the two Houses over aBill, if the Committee fails to reach an agreement, the Bill is dropped. Both enjoy parity even in financial matters. The fathers of the Swiss Constitution were keen to make the Council of States analogous to the American Senate and enable it to enjoy the position of precedence over the National Council. However, with the passage of years, the Council of States appeared in the true colours. It foiled to come up to the expectations of its authors. Due to the non-uniformity of tenure and practice of recall in some of the Cantons, the men of energy and ambition are not attracted towards it It is devoid of any special executive and judicial power unlike that of the American Senate, which is equipped with important executive and judicial powers. Moreover, the Constitution vests co-equal and coordinate authority with both the Chambers. Naturally, outstanding statesmen will like to become the members of the National Council, which apart from sharing powers equally with the Council of States is more representative in character.

The Council of States, though is not as powerful as the American Senate, is not as weak as the House of Lords in England or the Senate in Canada. It does not command a subservient position like the Upper Chambers in. the Parliamentary Governments. It is not a submissive body either. It often disagrees with the Lower Chamber on the measures passed by the latter. On rare occasions, it has not only insisted on the disagreement with the Lower Chamber, but has also persistently adhered to it. Such a dogged persistence has eventually led to the dropping of the Bill. Moreover, parity of powers between the two Houses in legislative, constitutional and financial matters has saved it from getting reduced to a subservient position like that of the **British** House of Lords and the Canadian Senate. Annual business as Budget is initiated one year in the Lower Chamber and the next year in the Upper Chamber. Thus, the Council of States has been able to preserve its distinctive entity.

Its small membership, which enables it to finish its work very promptly, has, however, earned it the reputation of being an idle Chamber, which in fact, it is not. '

Joint sessions of the Houses

Though normally speaking, both the Houses meet separately to ,transact their daily business, there is a provision for their joint session for certain definite purposes mentioned below:

(a) For the election of the Federal Council and its President the judges of the Federal Tribunal, the Chancellor of the Confederation and of the General-in-chief of the Federal Army;

(b) For resolving a conflict of jurisdiction between federal authorities, i.e., the conflicts between the Federal Council and the[1] Federal Tribunal or Insurance Tribunal or between the latter **two;**

(c) For granting pardons (It may, however, interest the reader that while pardon is to be granted, both the Houses meet in a joint session. In case of granting amnesty both the Houses meet separately);

In case of joint sessions, the Chairman of the National Council presides and the decisions are arrived at by a majority vote. Here too, the superiority of the numerically stronger Chamber stands **out.**

Legislative Procedure

The process of 'law-making' in Switzerland is of a peculiar type. Neither of the twoHouses have any special rights of priority. Unlike that of the other democracies of **the**world, every bill including the money bills is initiated in both the Houses simultaneously; which ensures independent and separate consideration of the bill by both the Chambers. The most important bills are introduced by the Federal Councillors though othfer members can also initiate the bills. At the commencement of every session, the Federal:Council presents **a list of** Bills to the President of both the Houses of the Legislature. The President thereafter mutually agree to assign each proposed measute; to one or the other House. Introduction of a Bill or a measure in one House isjtajc&i; for an automatic introduction of the same Bill in the other House as **well.**

In both these Chambers, the measures are referred to the Committees, wftfch' consist of representatives of parties in proportion to their strength in the House.; **Ttb** Presidents of the two Chambers and the 'Scrutaleurs' nominate these members **unless** they are elected by the House itself. Generally, these Committees unanimously agree on a decision, which is communicated to the House through an elected reporter. In case, the members of the Committees have divergent opinion on a Bill, they may communicate the same to the House through two or more elected reporters.

Relation between the two Houses

Complete equality of status is the most remarkable feature of the Swiss Legislature. The Chambers of the Swiss Legislature possess co-equal and coordinate authority in every respect. As already said, bills can be initiated in either of them. This is unlike that of India and the UK, where money bill must be initiated in the Lower Houses.

Even the Federal Councillors are accountable to both the Houses. They have to answer the questions in both the Houses. For electing the members of the Federal Council, the judges of the Federal Tribunal, the Chancellor and the Commander-in-Chief, of both the Houses hold a joint session. For granting of pardons and resolving of disputes amongst the federal authorities, both the Houses sit together. Hence, as already said, Dr. C. F. Strong views Swiss Legislature as the only Legislature in the world in which the functioning of the upper house is similar to the lower house.

Addressing the conflicts between the Houses

In fact, the Swiss Constitution does not make any provision for resolving conflicts, if at all they occur between the two Houses. This is a lacuna in the Swiss Constitution. Though it appears to be a serious drawback in the Constitution, in actual practice, it is not a serious handicap. Deadlocks between the two Houses are very rare. Even if they sometimes occur, they 'have not been pushed to a point of aconstitutional crisis.' It is due to the following three reasons:

(a) The control of **legislation** in Switzerland ultimately lies with the people.

(b) The Swiss Council of State is no more conservative than the National Council.

(c) Neither of the two Houses is prepared to adopt an uncompromising attitude.

However, there exists an elaborate procedure for sorting out differences of opinion between the Councils. If the procedure for resolving differences fails, the whole project is dropped. If it is reintroduced, it is to be started afresh. If it is essential to arrive at a decision, the two Chambers meet in a joint session and decide by a vote. In such a case, the will of the. Lower House, which is much bigger in size than the Upper Chamber, is apt to prevail.

,4 Powers of the Federal Assembly

In the words of Zurcher, 'There are few Parliaments which exercise more miscellaneous duties.' In fact, the Federal Assembly has been vested with all kinds of functions—the Legislative, the Executive, the Judicial and the Constitution-amending.

Legislative powers

The supreme authority of the Confederation is vested with the Federal Assembly. According to Article 84, the Federal Assembly is competent 'to deliberate on all matters which this Constitution places within the competence of the Confederation and which are not assigned to any other federal authority.' Following are its legislative and financial powers: .

(a) It passes all federal, laws and legislative ordinances;

(b) It passes the annual budget, appropriates the State accounts and authorizes public loans floated by the federal government;

(c) It determines and enacts necessary measures to ensure the due observance of the Federal Constitution, the guarantee of the Cantonal Constitution and the fulfilment of federal obligation;

(d) It enacts measures ensuring the external safety of the country, its independence and neutrality;

(e) It adopts measures ensuring the territorial integrity of the Cantons and their Constitutions, the internal safety of Switzerland and the maintenance of peace. It may, however, be said that all laws whether urgent or not, passed by the Assembly are subject to the ratification of the people, if 30,000 Swiss citizens or 8 Cantons so demand it. The urgent bills become inoperative one year after their adoption by the Assembly, if they are not approved by the people within this period.

Executive powers

The Executive powers are as follows:

(a) Both the Houses in a joint session elect the Federal Councillors, the judges of the Federal Tribunal, the Chancellor, the members of the Insurance Tribunal and the Commander-in-Chief.

(b) The right of election or confirmation, as regards other officers, may be vested with the Assembly by the Federal Council.

(c) It supervises the activities of the Civil Service.

(d) It decides administrative disputes and conflicts of jurisdiction between federal officials.

(e) It determines salaries and allowances of members of federal departments and of federal Chancellery and the establishment of permanent federal offices and their salaries.

(f) It controls the federal army.
(g) It declares war and concludes peace.
(h) It ratifies alliances and treaties. The treaties concluded by the Cantons between themselves or with the foreign States are to be ratified by the Federal Assembly provided that such Cantonal treaties are referred to the Federal Assembly either on the appeal by the Federal Council or another Canton.
(i) It supervises even the Federal Tribunal.

Judicial powers

Though the judicial powers of the Federal Assembly were considerably curtailed by the Constitutional Revision of 1874, they are not less significant:

(a) The judges of the Federal Tribunal are elected by the Federal Assembly.
(b) It also hears appeals against the Federal Council's decisions on administrative **disputes.**
(c) It deals with conflicts of jurisdiction between different federal authorities.
(d) It exercises prerogative of pardon and amnesty. Pardon is granted in the joint session of the two Houses; whereas, amnesty is granted by the two Chambers meeting separately.

Amending powers

As already discussed, both the Chambers of the Federal Assembly participate in the amendment of the Swiss Constitution. If both the Houses agree **to** amend the Constitution, either wholly or partially, the proposed revision is submitted to the people for their acceptance or rejection. In case the Houses disagree with each other, the matter is referred to the vote of the people for their decision whether they need such a revision or not. If the majority of the Swiss people vote for revision, new elections to the Federal Assembly take place. The newly constituted Houses pass the requisite amendment, which is finally placed before the people and the Cantons for their Approval.

The amendment is effected through initiatives too. Here too, the Assembly plays **a** conspicuous **role.**

General Supervision over Federal Administration

The federal Assembly exercises general supervision over the federal administration. It issues instructions to the Federal Council in the form of postulates. The members of the Assembly can elicit information from the Executive through 'Interpellations'. Besides, the members of the National Council can also ask 'minor questions' from the Federal Councillors who are supposed to give written answers.

Keeping in view these multifarious powers of the Federal Assembly, Zurcher remarked, 'The makers of the Swiss Constitution conferred upon the Federal Assembly all kinds of authority, legislative, executive and even judicial'. However, **a** critical analysis of these powers reveals that the Legislature controls neither the legislation, nor the purse. It does not have a hold on the executive. Thus, the powers conferred upon the Assembly are more nominal than real. Codding correctly remarks, 'The Federal Assembly has been reduced to a certain extent to the position of an advisory body with the electorate exercising the real decision-making power. However, the legislative, executive, judicial and constitution-amending functions of the Swiss Legislature make it crystal clear that the principle of Separation of Powers is not embodied in the Swiss Constitution, Secondly, the Assembly apparently seems to be a powerful body, which in fact it is not. The adoption of devices like Referendum and Initiative has enabled the people to exercise final power of accepting or rejecting a Bill. They can even ask the Assembly to pass a bill, which it has ignored.

Thirdly, the Assembly cannot oust the Councillors by a vote of no-confidence. **Still** its miscellaneous powers appear to be impressive.'

1.4 STRUCTURE, FUNCTION AND PROCESS OF LAW-MAKING IN CHINA

The National People's Congress (NCP) is an essential part of the central government system of the People's Republic of China. Due to its exclusive nature and importance, it is treated as one of the organs of the Central People's Government. The constitution of 1954 places the National People's Congress as the highest wing of the state authority and the only legislative authority of China. The deputies to the Congress, from provinces, autonomous regions, municipalities directly under the central authority, the armed forces and overseas Chinese are prescribed by the Electoral Law of China for the National People's Congress and Local People's Congresses, at all Levels. This was propagated on 1 March 1953.

The term of office of the deputies is four years, which may be extended in case **the** election of deputies to a new Congress is not completed. When a deputy is incapable to perform his **duties,** his electoral unit will hold a by-election to fill the vacancy. The new deputy so elected is to serve the remainder of the unexpired term. The deputies are not arrested or put on trial without the approval of the Congress or else its standing **committee,** when the Congress **is** in recess. Moreover, they are supervised by the units which they represent and may be replaced in harmony with law. The deputies may attend the meetings of the people's Congresses or of their local units.

The National People's Congress has a standing committee as well as other committees. The annual session of the Congress is to be convened by the standing committee, which may also call for special sessions of deputies. The meetings of the Congress are controlled by an executive chairman of the presidium, who is elected by the deputies at the beginning of the session. For each session, the Congress sets up a secretariat, under the direction of a secretary general. He conducts the routine business of the Congress.

Functions of the National People's Congress

The National People's Congress has the following authorities and responsibilities:

1. To administer the enforcement of the constitution and amend it.
2. To enact laws.
3. To elect the chairman and vice-chairman of the People's Republic of China, the president of the Supreme People's Court and the procurator general.
4. To decide on the choice of the premier of the state council, vice-chairman and members of the council of national defense, on recommendation of the chairman of the People's Republic of China.
5. To decide upon the members of the state council, on recommendation by the premier.
6. To remove the officials who are elected or appointed by the Congress, from the office.
7. To examine and approve the state budget and the financial report.

8. To suspend the responsible officials of the state council or of its ministries and **commissions.**
9. To decide on national economic plans, general amnesties and questions of war and peace.
10. To ratify the status and boundaries of provinces, autonomous regions and municipalities which are directly under the central authority.
11. To exercise other functions and powers that the Congress may consider necessary.

As the highest state authority, the power of the National People's Congress would be almost unlimited; yet, in fact, it is dominated by the Commumst Party which actually exerts the ultimate authority of the state.

The Standing Committee of the National People's Congress

The standing committee is a permanent body of the National People's Congress to which it is responsible and answerable. It is composed of a chairman and a number of vice-chairmen and members, as well as a secretary general. They are elected by the Congress to perform its functions. The Chairman supervises over the meetings of the standing committee. Resolutions may be adopted by a vote of simple majority. The standing committee, elected by the First National People's Congress on 27 September 1954, comprised a chairman, 13 vice-chairmen and 65 members. Liu Shao-chi was elected as its chairman. Political leaders of different parties and groups were represented at the Committee.

The standing committee exercises the following authority and responsibilities:

1. To elect deputies to the National People's Congress.
2. **To** convene the next National People's Congress.
3. To construe laws and issue decrees.
4. To administer the work of the state council, the Supreme People's Court and athe Supreme People Procuratorate.
5. **To** annul decisions and orders of the state council, which are in conflict with the constitution, laws or decrees.
6. To amend inappropriate annual decisions of the government authorities of provinces, autonomous regions and municipalities which fall directly under the central authority.
7. To decide on the appointment or elimination of the vice-premiers, ministers, heads of commissions or secretary general of the state council, when the Congress is not in session.
8. To appoint or remove vice-presidents, judges, deputy procurators general, procurators and other members of the judicial committee of the Supreme People's Court and the procuratorial committee of the Supreme People's Procuratorate.
9. **To** make a decision on the appointment or to recall diplomatic representatives to foreign states.
10. **To** introduce military, diplomatic and other special titles and ranks.
11. To institute and decide on the award of state orders, medals and titles of honour.

12. **To** make a decision on the granting of pardons.

13. To make decisions on behalf of and when the National People's Congress is in - **recess.**

14. To decide on the proclamation of a state of war in the event of foreign invasion or due to treaty obligations for collective defense.

15. To decide on general or partial mobilization or enforcement of martial law.

16. To exercise such other functions and powers which are authorized by the National People's Congress.

Other Committees and Commissions of Inquiry

Besides the standing committee, the National People's Congress has a nationalities committee, a bills committee, a budget committee, a credentials committee and other necessary committees. Commissions of inquiry for the investigation of specific matters may be instituted by the National People's Congress, or if not in session, by the standing committee. All state organs, people's organizations and citizens concerned are needed **to** supply necessary information to these commissions, if requested. When the National People' Congress is not in session, the nationalities committee and the bills committee are under the direction of the standing committee. Each committee is composed of a chairman and a certain number of vice-chairmen and other concerned members. Whereas the nature of the committees on bills, budgets and credentials are self-explanatory, the work of the nationalities committee requires additional embellishment; two of the functions of the committees are as follows:

(i) To examine provisions of the bills that concern the affairs of nationalities, which . are referred to it by the Congress or its standing committee.

(ii) To examine laws and regulations concerning the exercise of autonomy, submitted by different autonomous units for approval by the standing committee.

The State Council

The state council is the chief administrative authority of the People's Republic of China. Despite the fact that the general organization of the state council is similar to that of the government administrative council, there are certain differences between the two organs. The intermediary committees between the premier and ministers were abolished. Also, their was no provision for council members without portfolio. Differences can also be found in the number of vice-premiers, ministries and commissions. The state council resembles the Soviet council of the people's commissars in some respects, but the Chinese communist government chooses to retain the traditional pattern of ministries **and** commissions.

Even though the premier directs the work of the state council, any resolution has to be deliberated and adopted at the Council's plenary or executive meetings. Plenary meetings are usually held once a month. They are attended by the premier, vice-premiers, the secretary general, ministers and heads of commissions. The members who attend the executive meetings are limited to the premier, vice-premiers and the secretary general, who constitute a so-called 'inner cabinet.'

Authority and Responsibilities of the State Council

The authority and responsibihties of the state council are as follows:

1. To adopt measures pertaining to administration and to issue and implement decisions and

orders.

2. To submit bills to the National People's Congress or its standing committee.
3. To organize and direct the work of the ministries and commissions under the council as well as that of local bodies of administration, all over the country.
4. To amend or cancel improper directives and instructions issued by ministries, commissions, as well as local administrative organs.
5. To implement the national economic plans and provisions of the state budget.
6. To direct the external affairs as well as international and national trade.
7. To direct cultural, educational and public health work, as well as the affairs concerning national minorities and overseas Chinese.
8. To protect the interests of the state, ensure law and order and protect the rights of the citizens.
9. To strengthen the national defense forces.
10. To sanction the stages and limits of autonomous prefectures, districts, autonomous districts and municipalities.
11. To hire or eliminate administrative staff according to the provisions of law.
12. To execute other authority and responsibihties that are vested in the state council by the National People's Congress or its standing.committee.
13. According to the Organic Law of State Council of 1954, the state council has the power to appoint and remove the administrative personnel under the following groupings:
    (a) Deputy secretaries general of the state council, vice-ministers and assistants to the ministers, deputy heads and members and commissions, heads and deputy heads of departments and directors and deputy directors of bureaus under ministries and commissions.
    (b) Heads and deputy heads of boards, directors and deputy directors of bureaus under the people's councils of provinces and municipahties directly subject to the central authority.
    (e) Commissioners and special administrative offices.
    (d) Officials in autonomous regions with the rank corresponding to those listed under categories a and b.
    (e) Counsellors of diplomatic missions and consul generals.
    (f) Presidents and vice-presidents of national universities and colleges.
    (g) Other officials corresponding to the above ranks. .

Even though the state council has the vast power of appointment and removal of officials, those on local levels are practically decided upon by the local government fpuncils, which submit them to the state council for verification as a matter.of iffocedural requirement.

***Table** 5.6 Membership of previous National People's Congresses*

Congress	Year	Total Deputies	Female Deputies	Female %	Minority Deputies	Minority %
First	1954	1226	147	12	178	14.5
Second	1959	1226	150	12.2	179	14.6
Third	1964	3040	542	17.8	**372**	**12.2**
Fourth	1975	2885	653	22.6	270	9.4
Fifth	1978	3497	742	21.2	381	10.9
Sixth	1983	2978	632	21.2	403	13.5
Seventh	1988	2978	634	21.3	445	14.9
Eighth	1993	2978	626	**21**	439	14.8
Ninth	1998	2979	650	**21.8**	428	**14.4**
Tenth	2002	2985	604	20.2	414	13.9

ACTIVITY

Find out about the latest law passed by the UK and US government.

DID YOU KNOW

When the Queen leaves Buckingham Palace to attend the State Opening of Parliament every year, an MP is ceremonially 'held hostage' at the Palace to ensure that the monarch is not kidnapped or executed by any treasonous MP.

SUMMARY

In this unit, you have leamt that:

- In 1787, when the founding fathers of the US crafted the constitution (a constitution which still carries on today), they chose the US Congress for the very first article.
- As the 18th century progressed, the British crown and parliament once again began to look to the west.
- The senate of the US is generally known as the greatest deliberative body in the world for a number of reasons.
- **The** senate's rules and the precedents are nothing less than the institution's genetic material: they have evolved over a period of time; they are entwined and complex.
- Great scholars have anticipated that to understand the senate procedure, is to understand the greatness of America in many respects.
- There are forty-three standing rules of the senate^ ten of which are code of ethics.
- The senate parliamentarian is procedural counselor to the presiding officer.
- The constitution states that the president of the senate shall be the vice-president of the US, who supervises over the sessions but votes only in case of a tie.
- A complex body of rules, precedents and practices governs, the legislative process on

the floor of the House of Representatives.

- The constitution has imposed restrictions on national legislature and on the legislative agenda of the Congress.
- hi the beginning, the parliament was an aristocratic and feudal assembly of the king's tenants-in-chief. It met at intervals of perhaps two or three times a year, to advice, sometimes to control or pressurize the king on important matters.
- The parties in the House of Commons do not elect the prime minister but still their position is of dominant importance. The prime minister must maintain a good relationship and should support and be answerable to the members of the House of Commons.
- The Federal Legislature of Switzerland is called the Federal Assembly. It is a bicameral legislature consisting of two Houses - the National Council and Council of State.
- The Swiss Assembly is a business-like body doing its work very quietly. The Debates are orderly. Rhetoric is unknown.
- The National Council elects its own President and Vice-President for one year. They are not eligible for the same office in the next consecutive year.
- The Council of States happens to be the Upper Chamber of the Swiss Legislature. It stands for the concept of Cantonal sovereignty and personality.
- The process of 'law-making' in Switzerland is of a peculiar type. Neither of the two Houses has any special rights of priority.
- The National People's Congress (NCP) is an essential part of the central government system of the People's Republic of China.
- The National People's Congress has a standing committee as well as other committees. The annual session of the Congress is to be convened by the standing committee, which may also call for special sessions of deputies.
- The standing committee is a permanent body of the National People's Congress to which it is responsible and answerable.
- The state council is the chief administrative authority of the People's Republic of China.

KEY TERMS

- House of Commons: The part of parliament whose members are elected by the people of the country (in Britain).
- House of Lords: The part of parliament whose members are not elected by the people of the country (in Britain).
- House of Representatives: The largest part of Congress in the US, whose members are elected by the people of the country.

- **Republican Party:** One of the two main political parties in the US, usually considered to support conservative views and desires limit the power of central government.
- **Cabinet:** A group of chosen members of a government, which is responsible for advising and deciding on government policies.
- **Council of States:** The Council of States happens to be the Upper Chamber of the

Swiss Legislature. It'stands for the concept of Cantonal sovereignty and personality.

- **State Council:** The state council is the chief administrative authority of the People's Republic of China.

ANSWERS TO 'CHECK YOUR PROGRESS'

1. (a) Member (b) Prime minister (c) House of Lords (d) House of Commons
2. **(a) True (b)** False **(c) True (d) True**
3. **(a)** Senate (b) President (c) Woman (d) Constitutions
4. **(a) True (b) True (c) True** (d) False
5. (a) Federal Assembly (b) National Council (c) National Council (d) Both
6. (a) False (b) True (c) True (d) False
7. (a) Permanent (b) State council (c) Highest (d) Communist Party
8. (a) **True (b) False (c) True (d) True**

QUESTIONS AND EXERCISES

Short-Answer Questions

1. Write a short note on the mode of procedure of the House of Representatives.
2. Write a short note on the organization and functions of the National People's Congress of China.
3. Describe the composition of the National Council in the Federal Legislature of Switzerland.
4. What are the powers of the Federal Assembly of Switzerland?

Long-Answer Questions

1. Explain the working of the Senate in US.
2. Give a brief overview of the origin and development of the House of Lords and the House of Commons.
3. **Discuss** the authority and responsibilities of the state council in China.

FURTHER READING

Hall, Stuart H.; *Britain Against Itself: The Political Contradictions of Collectivism,* **New York: 1982.**

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UNIT 2 RULE APPLICATION

Structure

Introduction
Unit Objectives
The Cabinet System of United Kingdom
The Executive
The Cabinet
The Prime Minister
The US President
Powers and Functions of the President
The Presidential Cabinet
Executive Body in Japan
Local Government
Summary
Key Terms
Answers to 'Check Your Progress'
Questions and Exercises 6.9.- Further Reading

2.0 INTRODUCTION

In the previous unit, you studied about the legislative bodies of countries namely, United Kingdom, United States of America, Switzerland and China. In England, the prime minister is the head of the government. In United States of America, the real executive power lies in the hands of the president. However, in Japan, the chief of the executive branch, the prime minister, is appointed by the Emperor.

In this unit, you will learn about the executive bodies of countries namely, the United Kingdom, United States of America and Japan.

61 UNIT OBJECTIVES

After going through this unit, you will be able to:

- Analyse the cabinet system of the United Kingdom
- Interpret the functioning of the Prime Minister in United Kingdom
- Explain the powers and functions of the American president
- Recognize the organize of the presidential cabinet
- Identify the structure of the local government in Japan

THE CABINET SYSTEM OF UNITED KINGDOM

The British governmental system is being acknowledged as a parliamentary monarchy' which means that the country is ruled by a monarch whose powers are governed by constitutional law. The monarch is a powerless symbolic figurehead of the country but in reality, the country is governed by its legislature. Thus, it can be said that the monarch is the head of the state while the

prime minister is the head of the government

England has an unwritten constitution consisting of historic documents such as the Magna Carta, the Petition of Right, and the Bill of Rights (1689); statutes; judicial precedents (common law); and customs. The constitutional monarch, Queen Elizabeth II, is the head of the state. The British constitution is not defined in a single written document, unlike those, as we can see in most countries of the world. Instead it is made up of a combination of laws and practices which are not legally enforceable, but are regarded as imperative to the working of the government. The constitution is flexible and may be changed by an Act of Parliament.

- The British Constitution, the oldest of all the constitutions in the world, is considered as 'the mother of all parliaments'. Unwritten in character, the British Constitution, has grown with time. Although it is partly grounded in law, it is largely based on conventions.

The salient features of the British Constitution could be summarized as below:

1. An unwritten constitution - partly written and mostly unwritten
2. An evolved constitution
3. The gap between theory and practice of its curious divergence between constitutional form and the actualities of government
4. Flexible constitution, i.e., there is no distinction between ordinary law and constitutional law
5. Parliamentary sovereignty
6. Parliamentary form of government
7. A unitary form of government, i.e., no distribution of governmental powers
8. Bi-party system
9. The Rule of Law

2,2.1 The Executive

Executive power in the United Kingdom is exercised by the Sovereign, Queen Elizabeth n, via Her Majesty's Government and the devolved national authorities which consist of the following:

(i) The Scottish Government
(ii) The Welsh Assembly Government
(iii) The Northern Ireland Executive

Parliamentary form of government: A responsible executive

Great Britain is the classic home of parliamentary form of government. The most characteristic feature of the parliamentary form of government is the responsibility of the executive to the legislature. The cabinet as the head of the executive is answerable to the parliament for its acts of omissions and commissions. The Monarch is the nominal head of the State. He acts on the advice of the ministers, who are responsible to the parliament. The Prime Minister, as the head of the Cabinet, is the most powerful ruler in a parliamentary system of government.

The cabinet remains in power as long as it enjoys the confidence of the House of Commons. Whenever the Cabinet loses the support of the majority members, it resigns or advises the King to dissolve the House of Commons in order to have a fresh election. In the new election, if the Cabinet gets the majority it continues in office; otherwise it resigns in favour of a new government. The cabinet dominates in this system. In the words of British political analysist Bagehot, the Cabinet is like a 'hyphen that joins the buckle that binds the executive and legislative departments together'. Due to the cabinet's dominant role in the parliamentary form of government, it is also described as a. cabinet form of government. Collective responsibility and political homogeneity are also essential features of the Cabinet system. All the ministers are collectively responsible to the House of Commons. They swim, or sink together. The ministers are also preferably from a homogeneous political party, or a combination of political parties having identical views and policies. The latter course is known as coalition, but it is very

rare in the British political history.

Absence of strict separation of powers is another important feature of the parliamentary form of government. There is harmonious cooperation between the executive and the legislature and both work hand-in-hand. British historian Ramsay Muir has rightly observed, 'that separation of powers is the essential principle of the American constitution, concentration of responsibility is the essential principle of the British Constitution'. Parliamentary forms of .governments are not based on strict separation of powers. The theory has been accepted in principle in Gre'at Britain, but in practice the Cabinet being omnipotent and aU powerful in executive as well as legislative arena, denies the theory in principle. The cabinets in England and America play different roles. In the US, the role of the cabinet is not as dominating as that in England. While the American cabinet is dependent on the legislature, the British cabinet dominates both in the executive and legislative fields. Concentration of authority therefore, is a cardinal principle of the British constitutional system. It has led critics to allege that there is cabinet dictatorship in a parliamentary system. As the prime minister dominates on the plank of the cabinet dictatorship, it is often said to be a prime ministerial form of government.

Unitary form of Government

On the basis of concentration of distribution of powers, the form of government maybe classified as unitary or federal, A government is said to be unitary, when there is concentration of power in one and only one centre. British constitutional theorists A. V. Dicey defines unitary government as one, where there is the habitual exercise of the supreme legislative authority by one central power. According to Finer, unitary government is one in which all the authority and power are lodged in a single centre whose will and agents are legally omnipotent over the whole area. England is again a classic example of unitary form of government In a federal form of government where there is distribution of powers, a written constitution is absolutely necessary. As England has an unwritten constitution, the unitary form of government is considered to be more congenial and conducive to the British soil.

There are no independent units or states in England. All governmental authority is concentrated in the national government situated in London. Of course, for administrative convenience, regional units like counties and boroughs exist. But they do not enjoy any original or independent power. On the contrary, they are subordinate to the central government, and they enjoy only delegated and derivative powers. The local governments in England are the only agents of the national government and work completely under the guidance and the control of the national government.

Bi-party System: An Effective Opposition

Party system in all democratic constitutions of the world is an extra constitutional growth. In Great Britain which has an unwritten constitution, party system is not only an extra-constitutional growth; it also provides a key to the understanding of some of the prominent features of the British constitutional system. Parliamentary government means party government and no democracy can work without parties.

The chief characteristic of the British party system is the existence of two well-organized and more or less equally balanced parties which dominate the political arena. The bi-party system has been deeply rooted in the British political system. Disraeli once remarked, 'England does not love coalition'. The essence of this statement is that the British people prefer two well-organized parties like the Conservative Party and the Labour Party as they are existing today. Minor parties may exist, but they do not do well in the elections. Bi-party system provides stability in government. It also ensures strong opposition and enables the electorate to express their views in clear terms. The opposition in Great Britain is strong enough to take up administration at any time, when the ruling party fails. A responsible government with a responsible opposition is the fundamental basis of the British constitutional system. L. A. S. Amery has rightly observed, 'The combination of responsible leadership by government with responsible criticism in parliament is the essence of our constitution'.

The Cabinet

The cabinet is 'the core of the British constitutional system.' It is the most important single piece of mechanism in the structure of the British government. It is the supreme directing authority of the government and the real ruler of Great Britain. It has been **described** as the central fact and the chief glory of the constitution.

The entire cabinet system is a product of convention. Great Britain is also known as a classic home of the cabinet system. Like its constitution, the cabinet has grown into its present form over the past three centuries or so and is largely a child of chance rather than that of wisdom. No one meticulously planned its development and yet it has grown and without it the British constitutional system is incomplete, today.

Evolution of the Cabinet

The British cabinet is not recognized by law. It is a product of conventions and it has a long historical growth. The system of cabinet government is said to have emerged when the King was excluded from the meetings of the cabinet. This happened by accident in 1714, when George I ascended the throne. George I and George II did not know English language and therefore, were not much interested in the English affairs. Hence, George I ceased to attend the meetings of the cabinet and nominated Sir Robert Walpole to preside in his place. The cabinet discontinued the practice of meeting at the Buckingham Palace. It met at the House of the First Lord of the Treasury and the First Lord became the Chairman of the Cabinet. As chairman of the Cabinet, Walpole presided over the cabinet meetings, directed its deliberations and reported the decisions arrived at the cabinet meetings to the sovereign. He was not only a link between the cabinet and the sovereign, as a member of the Parliament, but he was also a link between the cabinet and the parliament This new position and responsibility of Walpole, in effect, resulted in the origin of the office of the prime minister, though he himself hesitated to accept such a title. Simultaneously this had given rise to collective responsibility of the cabinet. Differences among the members of the Cabinet were resolved inside the cabinet and unanimous decisions were conveyed.to the Sovereign. For twenty years, Walpole headed the government and his administration gave birth to all the essential characteristics of the present day cabinet system. It was Walpole who first administered the Government in accordance with his own views of political requirements. It was Walpole who first conducted the business of the country in the House of Commons. It was Walpole who in the conduct of that business first insisted upon the support for his measures of all servants of the Crown who had seats in the parliament. It was under Walpole that the House of Commons became the dominant power in the State, and rose in ability and influence as well as in actual power above the House of Lords. And it was Walpole who set the example of quitting his office while he still retained the undiminished affection of his King for the avowed reason that he had ceased to possess the confidence of the House of Commons. It was again Walpole who used No. 10, Downing Street as his official residence and it continues till today as the official residence of the British Prime Ministers.

George II followed the footstep of his predecessor. George HI (1760-1820) made a frantic attempt to revive the glory of the monarchy. Although he was partially successful in the initial stage of his reign, people strongly resisted his attempt. His insanity towards the last part of his reign, made his attempt futile and the Cabinet acquired its supremacy once and for all. In that century, the Cabinet system became well-established and crystallized. Collective responsibility, political homogeneity and accountability to the House of Commons have developed as major features of the Cabinet system during the 19th century. The 20th century has marked a climax of this system. It has developed the convention of appointing the Prime Minister from House of Commons since 1923. The Ministers of Crown Act of 1931 legally recognized the institution of the Cabinet. It is today an omnipotent body-an institution of expanding powers.

The cabinet and the ministry

Sometimes a distinction is made between the cabinet and the ministry. To an ordinary man both the terms are synonymous, but these two terms denote two distinct parts of the government. Both are different from each other in their composition and functions. The cabinet is only an inner circle of the ministry. A ministry is a large body consisting of all categories of the ministers who

have seats in the parliament and are responsible to the parliament. The cabinet, on the other hand, is a small body consisting of the most important ministers. In other words, all the members of the ministry are not the members of the Cabinet

There are ministers of different ranks. They vary in nomenclature and in importance. First, there are some sixteen to twenty of the most important ministers, who are known as the cabinet ministers. They stand at the head of the executive and decide policies and issues of the government. Second, there are certain ministers who are designated as the ministers of cabinet rank. These ministers are not the members of the Cabinet, yet they are given the status of the Cabinet ministers. They are the heads of administrative departments and are invited to attend cabinet meetings when affairs of their respective departments are under consideration. The number of this category of ministers varies from government to government and it is left to the prime minister's discretion to decide.

Third, there are ministers of states who act like deputy ministers and they may be appointed in those departments where the work is particularly heavy and involves frequent visits abroad. These ministers usually work under the cabinet ministers.

Lastly, there are parliamentary secretaries or junior ministers that are appointed almost in every department. Technically they are not the ministers of the crown because constitutionally they do not enjoy powers. Their sole function is to help and relieve their senior ministers of some of their burdens by taking part in the parliamentary debates and answering parliamentary questions. They also assist their senior members in their departmental works. They are also known as 'parliamentary under secretaries' who are different from permanent under secretaries. A permanent under secretary is a senior member of the civil service in the government and he is non-political, permanent and paid.

All the above categories of ministers constitute the ministry and they are members of parliament and preferably belong to the majority party in the House of Commons.

They are individually as well as collectively responsible to the House of Commons and continue in office as long as they enjoy its confidence. The ministry may consist of about sixty to seventy members. It does not meet as a body for the transaction of business. It does not deliberate on matters of policy. The duties of a minister unless he is a cabinet minister, are departmental and individual confined to the respective departments. Policy formulation is the business of the cabinet. The cabinet meets in a body but the ministry never meets so.

The cabinet is said to be the 'wheel within the wheel.' It consists of only a small number of senior ministers who, in addition to being incharge of important departments of the state, formulate the policy of the government and co-ordinate the working of all departments. The ministry is always a larger body, whereas the Cabinet is only a smaller one. The latter is an inner circle within the bigger circle of the former. The Cabinet officer deliberates and advises; the privy councillor decrees; and the minister executes. The three activities are easily capable of being distinguished, even though it frequently happens that the cabinet officer, privy councillor, and minister are one and the same person'.

Organization of the Cabinet

Laski, British political theoristist, observes, 'The key-stone of the cabinet arch is the prime minister. He is central to its formation, central to its life and central to its death'. The first step in the formation of the Cabinet is, therefore, the selection of the prime minister. It is now a well-established convention that the prime minister must be the leader of the majority party in the parliament.

As there is bi-party system, the choice of the prime minister is practically made by the electorate. From the legal point of view, the monarch has to select the leader of the majority party in the House of Commons as the prime minister. In earlier days, the monarch was likely to have real choice in the matter but with the development of the bi-party system his choice became practically limited and he has no alternative but to invite the leader of the majority party in the House of Commons to be the Prime Minister. Once the Prime Minister is appointed, all other ministers are appointed by the Monarch on the advice of the Prime Minister. The Prime Minister has a free hand to form the ministry. Neither the Monarch nor the parliament can influence him in

the choice of his colleagues. Legally he may not consult anyone except himself. Practically, he consults some of his leading parry colleagues and followers. He should include the senior members of his party in the Cabinet. He must see that various age groups and interests are represented.

Further, the members of the Cabinet as well as the ministry must be taken from both the Houses of Parliament. According toAmery, 'No dictator, indeed, enjoys such a measure of autocratic power as is enjoyed by the British prime minister in the process of making up his cabinet'.

It may be pointed here that the prime minister is legally under no obligation to include any particular person in his cabinet. But in practice, some members of his party have such status and prestige that their inclusion in the Cabinet is most automatic. In 1929, James Ramsay McDonald did not want Arthur Henderson to be the Secretary for Foreign Affairs but when Henderson refused to accept any other office, McDonald had to yield. Another difficult task that the Prime Minister faces is the allocation of portfolios among his colleagues. There may be more than one claimants for the same post. The Prime Minister has to satisfy all shades of opinion in his party. He has a right to reshuffle his cabinet, when he likes.

In case of conflict between the prime minister and any of his colleagues, the latter has to yield before the former. There are no fixed rules regarding the size of the Cabinet. No two cabinets either have the same size or consist of exactly the same ministers. As a general rule, the ministers in charge of important departments, such as the Chancellor of Exchequer, Lord Chancellor, the Secretary of State for Foreign affairs, the President of the Board of Trade the ministers of defence, labour and agriculture, are invariably included in the Cabinet.

In addition to these, a number of other ministers are also included in the Cabinet. The strength of the Cabinet varies, usually, from fifteen to twenty. It is alleged that a twenty-member cabinet is too large a body to make prompt and quick decisions. The idea of the war-cabinets during the last two world wars has substantiated the above argument, hi both the World Wars, the Prime Ministers, Lloyd George and Winston Churchill created the war-cabinet consisting of five ministers. The five-member war-cabinet was not merely, a Committee of the Cabinet but the final authority regarding the prosecution of the Wars. Churchill said that 'all the responsibility was laid upon the five-war cabinet ministers. They were the only ones who had the right to have their heads *cut* off on Tower Hill, if we did not win. The rest could suffer for departmental shortcomings but not on account or the policy of the State'.

The idea of an inner-cabinet as a prototype of the war-cabinet was first proposed in the report of the Haldane Committee on the machinery of government. It would consist of a few members, four or five, and act like central nucleus within the Cabinet structure. In practice often the Prime Minister consults a few important members of the Cabinet, instead of all the members in all important matters. This type of inner cabinet is a mere informal body. It is different from the 'war-cabinet'. The latter had official recognition and it was responsible for the conduct of war. The inner cabinet is only an informal institution. It neither supersedes the war-cabinet nor is responsible for any policy.

It4is based more on expediency than on law. It is more an advisory body than a policy-making organ. Some of the recent writers, like L. A. S. Amery, have suggested to reduce the size of the Cabinet to half a dozen members or nearly so. These members will constitute a smaller cabinet consisting of important members of important departments. It will work more efficiently and quickly than a bigger body. This suggestion, however, has not found favour with others. There is apprehension that it may be a' Super cabinet' and its members maybe described as 'Over-Lords'. Herbert Morrison strongly repudiated the idea and concluded that 'a cabinet of a moderate size, say, sixteen to eighteen, which contains a limited number of non-departmental ministers and the rest departmental ministers, is probably the best'. A cabinet cannot discharge its function well without departmental ministers.

Features of the Cabinet system

The cabinet system, as it is found in Great Britain, is based on certain recognized principles. The principles have been developed in course of time and these are based more on conventions than on law. The British cabinet is rightly described as 'one of the parts of the

governmental machinery least governed by law'. However, the Cabinet occupies the most important place in the British constitutional system. The essential features of the Cabinet system are discussed below.

1. Exclusion of the monarch from the Cabinet

The first essential feature of the British cabinet system is the exclusion of the monarch from the Cabinet. The Monarch stands outside the Cabinet and he does not attend its meeting. He is neutral and above party-politics. Hence, he should not be involved in political matters. Although all executive actions are taken in the name of the monarch, the monarch practically does nothing. The decisions are taken by the Cabinet and the monarch acts on the advice of the Cabinet. This is a fundamental principle of the working of the Cabinet system in Great Britain and any deviation from it, would render the system unworkable. The practice of the exclusion of the monarch from the Cabinet had developed since the reign of George I.

2. Combination of the executive and legislative functions

The second essential feature of cabinet system is the close cooperation between the executive and the legislature. All ministers are the members of Parliament. The Prime Minister and the members of the Cabinet belong to the majority party. As Heads of the Departments, the members of the Cabinet control the executive and as leaders of majority party, they also control the parliament. There is absence of strict separation of powers in a cabinet form of government. The situation is different in the American system which is based upon the principles of 'separation of powers' and where the executive is made independent of the legislature. In a parliamentary system, the ministers are not only the members of the legislature but also control the legislature. The cabinet, therefore, occupies a very important place and without close cooperation between the Cabinet and parliament, the governmental system cannot work. 'The whole life of British polities', rightly observed Bagehot, 'is the action and the reaction between the ministry and the parliament'.

3. Collective responsibility

In the third place, the Cabinet system is based on the principle of 'collective responsibility', which is said to be 'the corner-stone of the working of the British Constitution'. All ministers swim or sink together. For the wrong policy of the government, the entire cabinet is held responsible. The cabinet is responsible to the House of Commons and it continues in office as long as it enjoys the confidence of the latter. The cabinet works like a team and meets the parliament as a team. Its members stand or fall together. The collective responsibility of the Cabinet is enforced in the parliament through various methods like the vote of no-confidence, vote of censure and refusal to pass government bills. Whenever the Cabinet ceases to enjoy the confidence of the House of Commons, it may resign or advise for the dissolution of the House of Commons. In case of dissolution of the House of Commons, a fresh election takes place. Thus, the collective responsibility has strengthened the solidarity of the Cabinet in the British constitutional system.

4. Ministerial responsibility

In the fourth place, the British cabinet system is also based on the principle of the 'ministerialresponsibihty'.L.A. S. Amery writes, 'The collective responsibility of ministers in no way derogates from their individual responsibility'. A minister is responsible to the House of Commons for his acts of omission and commission. Every act of the Crown is countersigned by at least one minister, who can be held responsible in a court of law, if the act done is illegal. The cabinet as a whole may not resign on the mistake of an individual minister. There are many instances when individual ministers have resigned for their personal errors. In the Attlee Government in 1947, Hugh Dalton, the then Chancellor of Exchequer, resigned because of his indiscreet revelation of some facts of the budget to a journalist.

5. Political homogeneity

In the fifth place, political homogeneity is another essential feature of the Cabinet system. The

members of the Cabinet are preferably drawn from the same political party. The party which gets majority in the House of Commons is given the opportunity to form the Cabinet. The ministers belonging to the same political party hold similar views. The cabinet consisting of like-minded persons with similar objectives can work efficiently with more vigour and greater determination. Coalition ministry is also a rare phenomenon in the British constitutional system. Due to the bi-party system, coalition ministry is not much favoured in England. Though there have been occasional coalitions just like the National Government of 1931, yet these are few in number and are formed in extraordinary circumstances. Further, the coalitional government does not last long. Thus, political homogeneity adds strength to the principles of collective responsibility on which rests the entire structure of the British cabinet system.

6. Leadership of the prime minister

The sixth essential feature of the Cabinet system is the leadership of the Prime Minister. 'The Prime Minister' according to John Morley, 'is the key-stone of the Cabinet- arch.' Although the members of the Cabinet stand on an equal footing, yet the Prime Minister is the captain of the team. Other members are appointed on his recommendation and he can reshuffle his team whenever he pleases. He is the recognized leader of the party. He acts like an umpire in case of differences of opinion among his colleagues. He coordinates and supervises the work of various departments in the government. His resignation means the resignation of the entire cabinet as well as the ministry.

7. Secrecy of cabinet meetings

The last feature of the British cabinet system is the secrecy of the meetings of the Cabinet. The entire cabinet proceedings are conducted on the basis of secrecy. The members of the Cabinet are expected to maintain complete secrecy with regard to the proceedings and policies of the Cabinet. They take the oath of secrecy as per the Official Secrets Act. Legally, the decisions taken by the Cabinet are in the nature of advice to the monarch and cannot be published without his permission. Although meetings of the Cabinet may be held anywhere and at any time, they usually take place each Wednesday | in the Cabinet room at 10, Downing Street. In extraordinary circumstances, there may be frequent meetings of the Cabinet. Emergency meetings may be summoned at any time.

The establishment of a permanent cabinet Secretariat by Lloyd George III in 1917 has helped to write down the minutes of the proceedings and maintain secrecy. The secrecy of the proceedings of the Cabinet meeting helps to maintain collective responsibility and cabinet solidarity. Further, in order to strengthen the solidarity of the Cabinet its decisions are not arrived at by voting for or against a proposal. The Prime Minister tries to know the views of the members and uses his influence to reach a common decision. The members of the Cabinet are free to express their views, but once a decision is taken, they solidly stand behind it. Thus, secrecy and party solidarity may be considered to be the last but not the least essential feature of the British cabinet system.

Functions of the cabinet

The cabinet occupies a unique position in the British constitutional system. Writers of the British Constitution have used colourful phrases to describe the position of the Cabinet in the political system of that country. 'It is described as the key-stone of the political-arch, the steering wheel of the ship of the State, the central directing instrument of government and the pivot round which the whole political machinery revolves. Bagehot is the first constitutional authority to emphasize the importance of the Cabinet in Great Britain. It occupies the central place in the political field and plays a dominant role in the governmental system. It has many functions and we may subdivide them for our convenience under the following headings.

(i) It decides the national policy: The cabinet decides the major national policies to be followed in both home and abroad. All kinds of national and international problems are discussed in the Cabinet and decisions with regard to various policies are arrived at. It is the real executive of the State. As the real executive, the Cabinet defines the lines of the National Policy and decides how every current problem which may arise at home or abroad

is to be treated. The individual ministers remain in charge of administrative departments. The cabinet decides policies and the respective departments execute them.

(ii) It is the principal custodian of executive powers: The cabinet not only formulates and defines policies, it also executes them. It exercises the national executive power subject to the approval of the parliament. The fundamental requirement of a good administration is that a policy should be clearly formulated and efficiently executed. The cabinet formulates policy as well as sees its execution. All the ministers, whether they are members of the Cabinet or not, have to execute the policies formulated by the Cabinet and implement laws enacted by the parliament. It is the duty of a minister to see that his department works well. He supervises the work of senior civil servants working under him and guides them in the implementation of government policies.

The cabinet is also responsible for the appointment of high officers of the State. The King is a mere nominal executive head, whereas the ministers are the real executive heads. Thus, the Cabinet is held responsible for every detail of the administrative work

(iii) It controls and guides the legislative work: Absence of strict separation of powers is a fundamental principle of the British Constitution. The members of the Cabinet are responsible to the House of Commons. The Prime Minister is the leader of the Cabinet as well as the leader of the House of Commons. The cabinet guides and largely controls the functions of the parliament. The ministers prepare, introduce and pilot legislative measures in the parliament. They also explain and urge the members to pass the bills introduced by them. Practically, most of the time of the parliament is spent in consideration of the legislative proposals made by the Cabinet. All bills introduced by the Cabinet are generally passed due to the support of the majority party in the parliament. If a government bill is rejected, the entire cabinet resigns or seeks dissolution of the House of Commons. Abill opposed by the Cabinet, has no chance of becoming an Act. In fact, **the Cabinet has become a miniature** legislature **and it is said** that, **today it is the Cabinet mat legislates with the advice and consent of the parliament.**

(iv) **It controls the national finance: The cabinet controls the national finance. It is responsible for the entire expenditure of the nation. It decides as to what taxes will be levied and how these taxes will be collected. It finalizes the budget before it is introduced in the House of Commons. The Chancellor of Exchequer is an important member of the Cabinet. He prepares the annual budget and generally the budget** is **discussed in the Cabinet before** its presentation in the **parliament. Of** course, **he** is not **bound to reveal** new taxation proposals to all the members of the Cabinet. However, the entire cabinet works as a team and the Cabinet maintains secrecy in this matter. The cabinet has a right to examine the pros and cons of various financial measures. ;

(v) **It coordinates the policies of various departments:** The government is divided into several departments and it cannot be a success unless all the departments work in harmony and cooperation. That is why a careful coordination is required in administration. The cabinet, in fact, performs this task. Proposals of various departments may be sometimes conflicting and contradictory. Hence, it is the responsibility of the Cabinet to coordinate the policies of various departments. While some measures of coordination can be achieved at lower levels by the departments concerned, the broad aspects have to be achieved at the Cabinet level. The cabinet, therefore, prevents friction, overlapping and wastage in departmental policies and programmes. It co-ordinates as well as guides the functions of the government.

The Prime Minister

According to John Morley, the Prime Minister is the keystone of the Cabinet-arch. He holds one of the most powerful political offices in the world. His leadership, as stated earlier, is one of the essential features of the Cabinet form of government. Sir Ivor Jennings went a step further to describe the Prime Minister as the 'keystone of the constitution'. According to him, all roads in the constitution lead to the Prime Minister, from the Prime Minister to the queen, parliament, the ministers, the other members of the commonwealth, even the Church of England and the

courts of law. The Prime Minister is by far the most important man in the country. He is also described as the master of the government. It is the peculiarity of the British Constitution that the man who holds such a high office has, strictly speaking, no legal sanction. The English law is very much silent with regard to the office of the Prime Minister.

Origin of the Office

The office of the Prime Minister, as stated earlier, is the result of a mere accident. Sir Robert Walpole was the first Prime Minister of England. As George I did not know English language, and was not interested very much in British politics, he asked Walpole to preside over the Cabinet meetings. His successor, George II also followed the same precedent. The man who presided over the Cabinet meetings came to be known as the 'Prime Minister'. Of course, Walpole refused to accept the term 'Prime Minister' as he considered it as a derogatory one. It was only in 1878, for the first time, the term Prime Minister, was mentioned in the Treaty of Berlin, where Lord Beaconsfield was described as the *First Lord* (9/"Her *Majesty's Treasury, Prime Minister of England.* This was the first public document which contained the term.

It was only in the parliamentary Act of 1906, the term Prime Minister was officially mentioned. This Act gave a definite rank to the Prime Minister by fixing the order of precedence in the State functions and made him the fourth subject of the realm. The Ministers of the Crown Act, 1937, gave a formal recognition to his office and allowed him to draw a salary of £ 10,000 per annum as the first Lord of the Treasury. Even today, the Prime Minister draws the salary as the first Lord of Treasury— a position without any function. The power and authority of the Prime Minister, therefore, much depends on constitutional conventions. The office has little legal status. It has more extra-legal sanction behind it. What Gladstone pronounced is true to a great extent that, nowhere in the wide world does so great a substance, cast so small a shadow; nowhere is there a man who has so much power, with so little to show for it in the way of formal title or prerogative'.

Selection of the Prime Minister

The selection of the prime minister depends essentially on the Monarch. During the 18th century, the royal choice was playing an effective role in such an election. It was a well established rule that the Prime Minister must be either a Lord or a member of the House of Commons. All Prime Ministers since Sir Robert Walpole have been appointed from one of the Houses.

A convention has been developed since 1923 that the Prime Minister should belong to the House of Commons. In 1923 the King had to select either Lord Curzon or Stanley Baldwin as the Prime Minister. The former was a member of the House of Lords and the latter belonged to the House of Commons. Lord Curzon had greater cabinet experience than Stanley Baldwin. But the King finally selected Baldwin as the Prime Minister after due consultation with the prominent members of the party. As the Cabinet is responsible to the House of Commons and the House of Commons is more powerful than the House of Lords, it is natural to expect the leader of the majority party of the House of Commons to be appointed as the Prime Minister.

Further, the prime minister is responsible for the party organization and in the ultimate analysis; he is responsible to the electorate. Party activities are seen only in the House of Commons but not in the House of Lords. The precedent that the Prime Minister should belong to the House of Commons seems to be a sound one. It has become a well established convention in England in the twentieth century.

Functions of the Prime Minister

The whole position of the Prime Minister, as stated above is based, not on law but on convention. The constitution is silent with regards to the office of the Prime Minister. His functions are many and varied. He has immense powers and considerable amount of prestige, which can, be seen from the following description of his functions.

(i) Formation of the ministry

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The Prime Minister forms the ministry. With the appointment of the Prime Minister, the essential function of the Monarch is over, for it is left tdthe 'Prime Minister to select his ministers and present the list to the Monarch. The Monarch has no other alternative but to appoint the ministers as recommended by the Prime Minister. Laski has rightly observed, 'He is central to its formation, central to its life, and central to its death'. The Prime Minister also has to select his cabinet colleagues. If the Prime Minister resigns or dies, it means the resignation or death of the whole ministry. The Prime Minister can change the members of the ministry at any time.

Although the Prime Minister has the sole authority to select any person as a minister, he rrjay be influenced practically by many considerations. He has to accommodate the plaims of the influential members of his party and include them in the Cabinet. He can request any of his colleagues to resign if he thinks that his presence in the ministry is prejudicial to^pither efficiency or stability of the government. He can also advise the King to dismiss a minister. Thus, the Prime Minister is the keystone of the Cabinet-arch and can make or unmake the Cabinet in any way he likes.

(ii) Distribution of portfolios

Distribution of portfolios is another important task of the Prime Minister. He has a free hand in allocating various departments to his colleagues. It is for him to decide the size of the Cabinet and the ministry. He has to select the ministers who are to be included in the Cabinet. Rarely his final selection is rejected. Of course, while distributing portfolios, he has to see that important members of the party do get important portfolios. He has to see that persons from different age groups are included. He has to satisfy the aspirants for the important portfolios. He has to look to amity and party solidarity in the formation of the ministry and in the distribution of portfolios. On the whole, his task is a real difficult one. As Lowell points out that, 'his work is like that of constructing a figure out of blocks which are too numerous for the purpose and which are not of shapes fit perfectly together'.

(iii) The chairman of the Cabinet committee

The Prime Minister is the Chairman of the Cabinet Committee. He convenes the meetings of the Cabinet and presides over them. He is to fix the agenda of the meetings and it is for him to accept or reject proposals put by its members for discussion in such meetings. The ministers are individually responsible to him for good administration of their respective departments. He may advise, warn or encourage them in discharging their functions. He is the head of the Cabinet. 'He acts as the Chairman of various standing and *ad hoc* Committees of the Cabinet. In short, he acts as the chief guide to the Cabinet.

(iv) Leader of the House of Commons

It is now an established convention that the Prime Minister should belong to the House of Commons. He represents the Cabinet as a whole and acts as the leader of the House. He announces the important policies of government and speaks on most important bills in the House of Commons. He is responsible for the arrangement of business of the House through the usual channels. He may delegate this power to anyone of his colleagues and in that case, the concerned member acts as the Leader of the House. It is often done in order to relieve him of much of his burden. But this delegation does not deprive the Prime Minister of his function as the Leader of the Government. The members of the House look to him as the fountain of every policy.

(v) Chief coordinator of policies

The Prime Minister is the chief coordinator of the policies of several ministries and

departments. He has to see mat the government works as an organic whole and activities of various departments do not overlap or conflict with one another. He has to keep an eye over all the departments. The functions of the government have expanded so widely and its activities have become so complex that tins work of coordination has become a very difficult task for the Prime Minister. Unless he has sharp intelligence and great perseverance, he cannot exercise the function of coordination as well as supervision effectively. In the case of conflict between two or more departments, he acts as the mediator. He irons out conflicts among various ministries and various departments. Thus, he plays a major role in coordinating the policies of the government.

(vi) Sole advisor to the Monarch

The Prime Minister is the sole adviser to the Monarch. The Prime Minister communicates decisions of the government to the monarch. He is the only channel of communication between the Monarch and the Cabinet. If the Monarch does not accept the advice of the Prime Minister, the Prime Minister may resign. As long as the Prime Minister enjoys the confidence of the majority of House of Commons, it is not possible for the Monarch to dismiss him. On certain occasions, he may act as a personal advisor to the Sovereign. He also carries the opinion of the King to his colleagues and thus acts as a link between the Sovereign and the Cabinet. He advises the Sovereign in matters of appointment and in other matters of national importance. He recommends the names of persons on whom the honours can be conferred. He is also responsible for a wide variety of appointments and exercises considerable patronage. He also has the power to advice the King to create peers. Thus, he has a legal right to access the Sovereign which other members of the Cabinet ordinarily do not possess. For this reason, he frequently visits the Buckingham Palace to meet the Monarch. He acts as the sole link between the Cabinet and the Sovereign.

(vii) Leader of the nation

The Prime Minister is not only the leader of the majority party but also the leader of the nation. A general election in England is in reality an election of the Prime Minister. He should feel the pulse of the people and try to know the genuine public opinion on matters which confront the nation. He is the chief spokesman of the government policies in the House of Commons. He is the recognized leader of the nation and his appeal to the people in critical times saves the nation. Sometimes in emergencies, he may take action without consulting the Cabinet. To cite an example, the Disraeli Government purchased the Suez Canal shares and consulted the Cabinet later. People look at 10, Downing Street, the official residence of the Prime Minister, with great expectations particularly in critical periods.

(viii) Power of dissolution

The Prime Minister possesses the supreme power of dissolution and it is his sole right to advise the Monarch to dissolve the House of Commons. In other words, the members of the House of Commons hold their seats at the mercy of the Prime Minister. No member likes to take the risk of elections and the threat of dissolution rather compels the members to be subservient to the Prime Minister. The controversy whether the Monarch can refuse a dissolution has already been referred to. It is difficult to imagine a situation in which the monarch can refuse dissolution to a prime minister. During the last one hundred years, there has been no instance of a refusal of the dissolution by the Monarch when advised by the Prime Minister. Laski is of the opinion mat this royal prerogative is as absolute as the royal veto power. Of course, the Prime Minister should consult the Cabinet before advising for dissolution.

(ix) Other powers

The Prime Minister possesses wide powers of patronage, including the appointment and dismissal of ministers. A large number ofimportant political, diplomatic, administrative, ecclesiastical and university appointments are made by the Monarch, on his recommendations. He may occasionally attend international conferences. He meets the Commonwealth Prime Minister in

regular conferences. He may meet the Heads of other Governments at the summit talks and discuss the international problems. The Prime Minister often discharges these functions without consulting the cabinet. To give an example, during the Second World War, Winston Churchill made a speech in 1941 offering assistance to the Soviet Union without consulting the Cabinet and he pleaded that consultation with the Cabinet was not necessary. When the Prime Minister acts as such, the Cabinet finds it difficult either to accept or to reject the policy announced by the Prime Minister. If the cabinet rejects, there is risk of losing its leader and the final risk of having a general election. The practice of non-consultation with the Cabinet in announcing an important issue by the Prime Minister is against the principle of collective responsibility and solidarity of the Cabinet. Both the extremes should be avoided. The above example is a rare phenomenon in the British cabinet system. The solidarity of the Cabinet and the prestige of the Prime Minister should be always reconciled.

Position of the Prime Minister

The Prime Minister holds akeypositionin the British Constitutional system. The description of the abpve functions and powers makes it crystal clear that the Prime Minister is 'the pivot of the whole system of the government'. The general accepted theory as Lord Morley observed, is that, the Prime Minister is just like *'primus inter pares'or* 'first among equals'. He writes, 'Although in cabinet all its members stand on an equal footing, speak with one voice, and on the rare occasions when a division is taken, are counted on the fraternal principle of one man and one vote, yet the head of the Cabinet is *primus inter pares* and occupies a position which so long as it lasts is one of the exceptional and peculiar authority'.

Lord Morely also describes him as 'the key-stone of the Cabinet-arch'. Both these descriptions of Lord Morley seem to be inadequate. Ramsay Muir considers the first description as nonsense, when 'applied *to* a potentate who appoints and can dismiss his colleagues. He is, in fact, though not in law, the working head of the State induced with a plentitude of powers as no other constitutional ruler in the world possesses, not even the President of the United States'. The *phrase primus inter pares* is too modest to describe such a powerful office.

In relation to other members of the Cabinet, the Prime Minister occupies a superior position, a position of an undisputed leader. Even the description of the Prime Minister as 'the key stone of the Cabinet-arch' is considered inadequate by Sir Ivor Jennings. He rather regarded the office as 'the key-stone of the constitution'. Sir William Harcourt used the Latin phrase when he described the Prime Minister as *luna inter Stellas minores,* i.e., 'moon among lesser stars'. Although this description explains the position of pre-eminence of the Prime Minister of England, Sir Ivor Jennings goes a step further and describes him as 'a Sun around which other planets revolve'.

In fact, the prime minister is like the sun around which other planets revolve, and without him the ministers have no existence. He is considered to be the most important person in the government and nothing can take place without his knowledge. Nothing can also happen against his will. His personality is felt in every department of the government. Very few persons in the world can carry with them greater powers than the British Prime Minister. The Prime Minister is considered to be an acknowledged and undisputed leader of the nation. His office gives him a national standing which none of his colleagues assume.

As Laski has observed, 'A general election is nothing so much as plebiscite between I two alternative Prime Ministers.' In fact, elections in England have become an issue of personalities and voters are asked to choose the Prime Minister of the nation. The result of this type of elections has added strength and vitality to the office of the Prime Minister. There is a tendency for the increase of the powers of the Prime Minister. The root cause of this can be traced back to the Reform Act of 18 67, which had democratized the House of Commons and put emphasis on election.

With the growth of the party system and rigidity in party discipline, the Prime Minister has become both the leader of the nation and the leader of the party. He appeals to the electorate not as an individual but as a leader of the party. No minister or no member of the

party can take the risk of challenging the authority of the prime minister as it may be suicidal to the political ambitions of the former. This has enabled the Prime Minister to dictate his policy within reasonable limits.

Recent developments in the field of science and international relations have also increased the importance of the Prime Minister. Radio and television focus maximum attention on the Prime Minister than any other politician. In the international field, the Prime Minister attends various summits and conferences and has a very significant i position in the implementation of policies. Ultimately, when the Cabinet office and cabinet committees were created, they helped to increase the powers of the Prime Minister. Most of the important administrative work is carried out through the cabinet office. As the Chairman of various cabinet committees, the Prime Minister is in a position to know various problems.

On the whole, he is now in a greater position to supervise and to control the administrative machinery of the country. Considering all these facts, Sir Ivor Jenning observes, 'A Prime Minister wields an authority that a Roman Emperor might envy or a modern dictator strives in vain to emulate'. Undoubtedly, the Prime Minister holds a position of an undisputed supremacy. But it is said by Lord Oxford and Asquith in 1921, 'The office of the Prime Minister is what its holder chooses to make it'. Defined powers legally conferred do not always determine the position of an officer. The personality of the incumbent of the office is more important. If the Prime Minister is dynamic, efficient, capable, strong and possesses exceptional qualities, it is difficult for his colleagues to oppose him. He may exercise immense powers by virtue of his dynamic personality. When asked what are the qualities required for a good Prime Minister, Pitt, the Younger (a former British Prime Minister) replied, 'Eloquence first, then knowledge, thirdly toil and lastly patience'.

With similar views, Laski suggested 'dexterity and the power to rule men' are the additional qualities needed for an efficient Prime Minister. Further, he should have a dynamic personality to appeal to the people. Jenning rightly observes, 'Since his personality and prestige play a considerable part in moulding public opinion, he ought to have something of the popular appeal of a film actor and he must take some care over his makeup like Mr Gladston with his collars, Mr. Lloyd George with his hair, Mr Baldwin with pipes, and Mr Churchill with his cigars. Unlike a film actor, however, he ought to be a good inventor of speeches as well as a good orator. Even more important perhaps is his microphone manner, for few attend meetings but millions look to broadcast'. The actual position of the Prime Minister varies according to his personality and the extent to which he is supported by his colleagues.

The office of the Prime Minister, to quote Jennings again, is necessarily 'what the holder chooses to make it and what other ministers allow him to make it'. As he is not a Caesar or a God whose authority cannot be challenged. He is just like the captain of the Cabinet team. Just like a game cannot be played by the captain alone, likewise the game of politics cannot be played by the Prime Minister alone. He has to work with the cabinet. Palmerstone once said that 'the Premier's practical power and importance in his government inevitably tend to be diminished when the principal offices are filled by conspicuously energetic and able men'. There have been Prime Ministers like Pitts, Peel, Disraeli, Gladstone, Lloyd George and Churchill who had possessed dynamic personalities and exercised tremendous influence in administration. On the other hand, there have been mediocre Prime Ministers like New Castle, Liver Pool, Campbell, Banner Man and Attie. These Prime Ministers had little influence in administration. Thus, the office is actually what the holder makes it.

Often a question is raised, 'Canthe Prime Minister beadictator'? Ashepossess a vast -amount of powers in his hand his position can be compared to that of a dictator. He effectively controls not only the Cabinet but also the House of Commons. In a bi-party system when the Prime Minister is assured of a stable majority in the House of I Commons, he can easily get his legislative and administrative measures approved in the parliament. In war and emergencies, he arrogates himself many special powers which | may noj: be inferior to that of a dictator. It may be contended that he forms a temporary

dictatorship after getting the mandate from the people. The above contention, though seems logical, is not possible in a classic well-established democratic system like Great Britain. The House of Commons has been a citadel of British liberty. Public opinion is i very strong in England. The activities of the Prime Minister are subject to serious criticism both inside and outside the parliament. Her Majesty's Opposition acts as an effective force to check the dictatorial ambition of the Prime Minister. Outside the parliament, the Prime Minister's activities are also subject to serious criticism from free press and free people. Finally, the election acts as a deterrent on the dictatorial path of the Prime Minister. But in view of the tremendous powers enjoyed by the Prime Minister, he may be described as a constitutional dictator or a dictator by consent. To conclude with Finer, the Prime Minister,' is not a Caesar, he is not an unchallengeable oracle, his views are | not dooms, he is always on sufferance and its terms are whether he can render undoubtedly ; useful services. At any time a rival may supplant him'.

Prime-ministerial government

In view of the vast powers exercised by the Prime Minister, some critics observed that there is Prime Ministerial form of Government in England. R. H. S. Crossman writes, 'The post-war epoch has seen the final transformation of the cabinet government into Prime Ministerial Government. Under this system the "hyphen whichjoins, the buckle which fastens, the legislative part of the State to the executive part" becomes one single man. Even in Bagehot's time it was probably a misnomer to describe the Premier as Chairman, and *'primus inter pares'.*

His right to select and remove Ms own cabinet, his power to decide the agenda of the Cabinet, his right to announce the decisions of the Cabinet, his right to advice the Monarch for dissolution, his power to control the party members for the sake of discipline-all this has given him near presidential powers. Every cabinet minister has become, in fact, the Prime Minister's agent or his assistant. No minister can take an important move without consulting the Prime Minister. It maybe said that the Cabinet has become a Board of Directors and the Prime Minister, a General Manager or a Managing Director. Important policy decisions are often taken by the Prime Minister alone or after consulting one or two cabinet ministers. The repeal of the Corn Law in 1846 was done by the personal initiative of Peel. The invasion of Suez in 1956 was decided by Eden in consultation with his few colleagues and the Cabinet was informed in the last moment before Israel attacked Egypt. Harold Wilson reached the final decision to dissolve the House of Commons in 1966 without consulting the Cabinet. Once the Prime Minister announces his policy or takes a step, his followers have little chance to oppose him, for it may endanger party solidarity and stability of the government. Herbert Morrison and some other critics refute the thesis of establishment of Prime Ministerial Government in England. They hold the view that 'the Cabinet is supreme' and the Prime Minister is not the master of the Cabinet. He cannot ride roughshod over the desire of the Cabinet. As the captain he must carry the whole team with him. A team is weak without a captain and there can be no captain without a team. Bom should work in mutual cooperation and perfect harmony. Hence, tibe Prime Minister is like an executive chairman.

The above two views seem to be extreme and the real truth lies in between these two views-Prime Ministerial powers with political circumstances and with personalities of the persons concerned. The Prime Minister is, no doubt, more powerful than any cabinet minister. However, it cannot be said that he is more powerful than the whole cabinet. He has to carry the whole cabinet with him.

THE US PRESIDENT

The US constitution has bestowed all executive powers in the hands of the President. The

President is the Chief Executive Head of the state in the US. His powers are so vast and supreme that he is often considered to be the most dominant ruler in the world. There are presidents in parliamentary democracies also, but those presidents are nominal executives. They have to work as per the advice of the cabinet and are answerable to the legislature. India is a great example of one such democratic nation. The president in the US is the real executive. He and his cabinet are not answerable to the legislature. He is the supreme authority in the executive vicinity. His cabinet is actually a personal team to advise him. This team is neither responsible to the legislature nor does it have any collective responsibility. The constitution has given powers to the President and made him the real executive.

Harold Joseph Laski, an English political theorist, has rightly remarked. 'There is no foreign institution with which in any sense, it can be compared because basically there is no comparable foreign institution. The President of the US is both more or less than a king; he is also both more or less than a prime minister'.

Election Procedure

The President is indirectly elected by an electoral college of each state. Each state elects the electors who are equal to the number of senators and representatives in the Congress, from the state concerned. The presidential electors are elected directly by the people. They meet in each state and cast their votes on the day fixed for presidential election. The election of the President of America goes by the calendar.

The presidential electors (Electoral College) are elected on Tuesday after the first Monday, in November of every leap year. These electors meet in the capital ol each state, on the first Monday after the second Wednesday in December. They record their votes for their presidential candidate. Then each state sends a certificate of election to the chairman of the Senate. On 6 January, the Congress meets in a joint session and votes are counted. The candidate, securing absolute majority gets elected. The new president is sworn to office on 20 January. In case no candidate secures an absolute majority of votes, then the House of Representatives is authorized to elect one among the top three candidates, who have secured the highest number of votes. If this method does not succeed, then after 4 March the vice-president will automatically succeed to the presidential office.

Qualification for US Presidency

The constitution states that a candidate for presidency should have the following qualifications:

- He should be a natural born citizen of the US.
- He must be at least 35 years of age.
- He must be a resident of the US for 14 years.

(a) Executive Powers

Some of the executive powers of the president, as per the constitution, by interpretation of the Supreme Court and by customs and conventions, can be summed up as follows:

1. **As chief administrator:** The President is the chief administrative head of the nation. All administrative functions are carried out in his name. He is responsible to implement the federal laws in the country. He is accountable to see that the laws of the constitution and the decisions of the courts are enforced and implemented. He must see to it that the constitution, life and property of the

people of US are protected. He executes treaties with the consent of the senate and agreements with other countries and protects the country from foreign invasion.

He is also responsible for maintaining peace and order in the country. In case there is breakdown in the governmental machinery in any state, he can act on his initiative and bring the state back to normalcy. In the discharge of these enormous responsibilities, he can make use of the defense forces, civil services, police, etc. For example, John F. Kennedy sent federal troops into the University of Mississippi in 1962 to prevent non-compliance with the order of a federal court, on reconciliation of Black students.

2. **As commander-in-chief:** The president is the supreme commander-in-chief of the armed forces of the US. He is, as a result, accountable for the defense of the country. He appoints high officials of the army with the support of the senate and can also remove them at will. He cannot declare war because this power is in the hands of the Congress but he can create a situation with his administrative insight, where the declaration of war becomes inevitable.

   Once war is declared, the military powers of the president increase tremendously. He is given enormous funds to look after the military operations. Many times, presidents have taken advantage of this power and involved US troops in undeclared wars with other countries.

(b) Delegated Legislation

As it is, the President is constitutionally very powerful. He has legislative authority in the form of executive power. He can make many rules through the passing of executive orders. Many presidents have made widespread use of this authority. In addition to this, the recent entry of delegated legislation has empowered the president absolutely. Delegated legislation is when the Congress makes laws in a skeletal form, creates a general outline and leaves the details to be filled in by the executive.

(c) Financial Powers

The Congress is the custodian of the nation's finances. However, the President also plays a central role in the financial matters of the country. The budget is prepared under his supervision and directions by the bureau of budget. High level technicalities are applied by the bureau while preparing the budget. After, the budget is presented before the Congress, it has the power to amend the budget, but normally they avoid disturbing the budget with amendments because of the technicalities involved. Another reason for avoiding amendments is that the Congress does not have any skilled person to set right the disturbed budget; therefore the budget is passed as it is presented.

Term

The US President is elected for a term of four years. He can be re-elected for another term and according to the convention, no president can contest an election for a third term. Earlier, George Washington, the first President of US was elected twice and the third time he refused to contest election though there was no restriction on re-election in the constitution at that time. After this incident, it became a convention but this convention was broken during World War II when President Roosevelt was elected four times. His fourth term was in 1944. In 1945 he expired. However, the 22nd amendment of the constitution (1952) fixed the total term for any president at ten years. Normally, a candidate cannot be re-elected for the third time. In case a

candidate (vice-president) has succeeded a president after two or more than two years of his term, the vice-president succeeding him will have two chances to contest an election. In any case, the term should not exceed ten years.

The Succession

The constitution has no say on the issue of succession to presidency, in case the office falls empty due to death or resignation of the president and the vice-president. In 1947, an act that was passed says that under such circumstances, the succession after the vice-president would be in the following order:

(i) The speaker of the House of Representatives.

(ii) The president pro-tempore (for the time being) of the senate.

(iii) The secretary of the state followed by other members of the cabinet.

In case the office of the president falls vacant due to his incapacity or disability, either the president should have given in writing that he is incapable of managing the office or the vice-president and the majority of heads of executive departments should have sufficient reasons to believe that the president is disabled to discharge his duties. This declaration should be sent to the Congress to that effect.

Removal of the President

The President of the US can be removed only by impeachment on the ground of gross misconduct or high crimes. Impeachment is not a very easy task. The Lower House frames the charges and the senate acts as a judicial tribunal for impeachment. Its meetings are presided over by the Chief Justice of the Supreme Court. The penalty cannot be more than the removal of the President from office and his disqualification from holding any office of trust and responsibility under the American government.

Immunities

In the US, the President cannot be arrested for any offence and he cannot be summoned before any court of law. He loses all immunities only when he is impeached.

Powers and Functions of the President

The President of the US is the most powerful authority. He commands high respect and backing in the country. The constitution has given limited powers to the President but in course of time, due to several factors, this office assumed boundless powers in all areas of administration. The President enjoys enormous executive, legislative, financial and judicial powers, which can be discussed as follows:

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(d) Power of Patronage

The President has huge powers of patronage. He appoints a large number of federal officers in superior and inferior services. The senators and the representatives would always like to be in the good books of the President.

Limitations on the Powers of the President

The vast powers and liberties have made the presidency in America quite magnificent and it looks as if he can become a dictator at any time but the situation is not so. The fathers of the constitution adopted the doctrine of Separation of Powers while framing the constitution; hence

there are lots of checks on the powers of the president to balance the situation. Some limitations of his executive powers are as follows:

Harmonious working is difficult

The President of America does not have the power to initiate a bill or participate in the deliberation of a bill in the legislature. The ideology of Separation of Powers has kept the executive and legislature in separate impermeable compartments.

Difficulty in executing his policies due to dependence on the Congress

The Congress is the only law-making body and the president has to depend on it for laws to be passed. At times, he is helpless as the Congress may not pass the necessary legislation for the smooth running of his administration. Therefore, he has to struggle a lot and alternate to other areas of power to get his things done. Furthermore, he depends on the Congress for finances. It is the Congress which is the custodian of the national revenue. Though, the budget is prepared under the supervision of the President, but nonetheless, the Congress has the power to bring changes in the budget and the President has to accept it.

Senatorial approval

Senatorial approval is a big obstacle in the president's administration. The constitution has provided that all federal appointments made by him are to be ratified by the senate, before they come in to the forefront. Here also, the president does not have exclusive powers; he is under the check of the senatorial courtesy.

His veto can be nullified by the Congress

(i) The President can use his veto power against a bill that is sent by the Congress. He can veto a bill within 10 days and send it back to the Congress. However, if the vetoed bill is resent with 2/3rd majority, then the President has to approve it.

(ii) When the Congress is in session and the President does not send the approved bill back to the Congress in ten days, then the bill is considered to be passed without his signature.

(iii) The President has the power for pocket veto. Even here, the Congress has more power. It will not send any important bill to the President for his signature during the last ten days of the session as the President cannot use pocket veto in these situations.

Limitations of Holding an Elected Office

The President of America is not an inherited authority; he is elected by the people because of his good qualities. He has to follow the democratic values and sustain his image to be re-elected for the second term.

Limited Tenure

The President is elected for a short term of four years or at the most for one more term. He cannot contest election for the third term. Due to this limitation, he cannot execute a long-term programme, which according to him will be good for the nation.

Constitutional Limitations

The President has to act within the structure of the constitution, which also puts limitations on his free exercise of powers.

The Presidential Cabinet

The American constitution does not make any provisions for the cabinet. The so called cabinet is the product of the customs and the laws that are passed by the Congress. The term 'cabinet' came into use during president George Washington's term, in 1793. He used to seek advice from his four secretaries, whom he called his confidential advisors and later this body came to be called the cabinet.

The American cabinet is totally different from the parliamentary cabinets in other countries. It is an extra constitutional and extra statutory body. It is an advisory body to aid and advice the president in the discharge of his duties. Eventually, separate departments of the administration were made under the charge of one advisor each. They are called secretaries and these secretaries are the heads of the departments and at the same time, the president's advisers. They are collectively known as the President's cabinet.

The secretaries are appointed by the President on the advice of the senate. Generally, the senate does not hinder the President's selection of secretaries. The President has exclusive authority to remove the secretary, if the former is not happy with his work. Initially the cabinet started with three departments. State, treasury and war departments; now, there are twelve such departments. All these departmental heads comprise the cabinet. Their appointment is made by the President. He does not have any restriction on the selection of secretaries. While selecting a secretary, he gives preference to experience, ability and geographical situations. He can even appoint people from opposition if he feels they can be the best advisors. George Washington tried it but failed because the advisors from the opposition created many hassles for him in his administration and finally he had to reject them and select people from his own party. Since then, it has become a convention that president selects advisors from his own party for political homogeneity.

Meetings

The cabinet ordinarily meets once a week. There are no formal rules for the meetings. The President only decides the matters to be discussed in the meetings. Meetings are held in his room in the White House. There are fair and frank discussions in the meetings but no official record of these meetings is maintained. The proceedings are kept confidential. The decisions of the cabinet are announced as the decisions of the President only.

Responsibility of the cabinet

The cabinet in America is called the official family of the President. It does not have any independent powers or prestige. It is not a policy making body. The cabinet does not have individual or collective responsibility. The President cannot give any responsibility to the cabinet. He is the creator and destroyer of the cabinet. The cabinet does not have any legal sanction. It is dissolved with the departure of the President.

Responsibility of the Secretaries

As the heads of different departments, the secretaries are individually accountable to the

President for their functioning in the departments. Consecutively, for efficient administration in their individual departments, they are assisted by junior secretaries.

Organization of the Department

Each department is divided into bureaus which are headed by a commissioner or a bureau chief. The bureau is further divided into divisions. It is the duty of the secretary of the department to see that his department works competently with full assistance and harmonization between bureaus and units of division. They are not accountable to the legislature for their actions. They are only answerable to the president. But, Congress can summon any secretary for explanation, when there is a need to do so, or when the Congress constitutes an investigation committee to investigate the complaints received against any department. The secretary is called to get information or clarification and not for accountability.

Position of the Cabinet

The position of the American cabinet is what the President makes it. It is formed only to assist and advice the President but it is up to the President to accept the advice or not.

ACTIVITY

Make a list of the individuals who have served as the President of America and find out which president has served the longest period of presidency in America.

Dm You Know

Barack Obama is the first African-American President of the USA.

EXECUTIVE BODY IN JAPAN

The legislative organ of Japan is the National Diet, which refers to a bicameral parliament. With 480 seats, the Diet comprises a House of Representatives which is elected by popular vote every four years or till it is dissolved. The House of Councillors, on the other hand, has 242 seats where the popularly elected members serve a six-year term. Secret ballot is held for all elective offices and the age of universal suffrage is 20 years.

While it is a constitutional monarchy, the power of the Emperor is limited to only ceremonial duties. The Constitution of Japan, which was adopted in 1947, defined the role of the Emperor as "the symbol of the state and of the unity of the people". The Japanese legal system is historically influenced by the Chinese law and was developed during the Edo Period through usage of texts like *KujikataOsadamegaki.* It was modified in the 19th century on the basis of civil law of Europe, mainly those of countries like France and Germany. In 1986, for instance, the government of Japan introduced a civil code influenced by Germany. It was modified after the World War II and remains into effect till present. The Diet makes statutory laws, which are also approved in form of rubber stamp by the Emperor. As per the Constitution, the Emperor is required to promulgate a legislation passed by the Diet but has no power to oppose such a legislation. The statutory law is comprised in a collection called the Six Codes. Judicially, the country's system is divided into four basic tiers headed by the Supreme Court and then the lower courts.

The head of the government is the prime minister who is appointed by the Emperor. The prime minister is chosen by the Diet from among its members and needs to enjoy the support of the House of Representatives to remain in office. The head of the Cabinet is also the PM; in fact, the title of the PM in Japanese can be translated as the 'Prime Minister of the Cabinet'. Thus, the PM appoints and even dismisses the ministers of the state, who are also the Diet members. At

present, Shinzo Abe is the PM of Japan. It was in the year 2009 that the Social Liberal Democratic Party of Japan came to power after 54 years.

Sovereignty lies in the people of Japan while power is with the PM. The Emperor, on the other hand, acts as the head of the state in diplomatic matters as part of his ceremonial duties. The current Emperor of Japan is Akihito while Naruhito, who is the Crown Prince of Japan, stands next in line to the throne.

The Diet is in charge of the executive branch, whose chief is the prime minister. As mentioned earlier, the PM is appointed by the Diet on the directions of the Emperor. The PM is required to be both a civilian and a member of the Diet. Even the Cabinet organized by the PM has to be civilian. As per the Constitution, the majority of the Cabinet must comprise of members of both the Houses of the Diet, even though non-elected officials are appointed from time to time.

However, the judiciary of the country is independent of its executive or legislative branches and the judges are appointed by the Emperor on the directions of the Cabinet. The judiciary is headed by the Supreme Court and there on comprises several lower courts. As per the Bill of Rights drawn up on May 3,1947, the Supreme Court was given the power of judicial review. This was on the lines of the similar Bill in the United States. There, however, exist no administrative courts or claims courts in Japan and the jury system has been recently introduced in the country. The decisions of the courts are final as based on the judicial system.

2.4.1 Local Government

While Japan has a unitary system of government, the local jurisdiction is dependent on the financial support of the national government. Like other ministries, the **Ministry of Internal Affairs and Communications** makes regular interventions in the working of the local governments. This intervention is mostly financial as local governments are always in the need of financial backing of the national ministries. This system is also called the**'thirty-per cent autonomy'.**

This system gives different local jurisdictions high level of organizational and policy standardization, in turn allowing them to preserve the unique qualities of their prefecture, city, or town. In the past, collective jurisdictions like Tokyo and Kyoto have introduced independent policies in areas like social welfare which were later adopted by the national government.

Local authority

There exist 47 administrative divisions in Japan. These include the prefectures comprising one metropolitan district (Tokyo), two urban prefectures (Kyoto and Osaka), forty-three rural prefectures, and one 'district', Hokkaido. Wards are names given to divisions within large cities; there are also further split into towns or precincts, or sub-prefecture and counties.

Cities in Japan are recognized as self-governing units and are independent of the larger jurisdictions within which they are located. A Jurisdiction needs to have at least 30,000 citizens to attain a city status. Of these, at least 60 per cent are required to be engaged in urban occupations. Outside of cities too, there exist self-governing towns and precincts of urban wards. These too have their own elected mayor and an assembly, just like a city. The smallest of all self-governing entities are villages in rural areas. These comprise numerous rural hamlets where several thousand people live and who are connected with each other through a formal village administration framework. Villages too have mayors and councils who are elected for a four-year term.

Structure of Local Authority

The prefecrural and municipal governments in the country are organized under the Local Autonomy Law, which was introduced in the year 1947. As per this law, each jurisdiction has a chief executive, also known as a governor in prefectures and a mayor in municipalities. While most jurisdictions have a unicameral assembly, towns and villages can choose direct governance by citizens in the general assembly. Nonetheless, executive and assembly are elected every four years by popular vote.

A modified version of power separation rule is used by the local governments in contrast to that of the national government. As per these, an Assembly can pass a no-confidence vote in the executive, in the case of which the executive is required to either dissolve the assembly within ten days or lose their office automatically. The executive remains in office till the next poll and until the new assembly passes another no-confidence resolution.

Local governments make their laws primarily through local ordinance and local regulations. Ordinances are similar to statutes in the national system. The Assembly is required to pass them and it can impose certain penalties for violations like up to 2 years in prison and/or 1 million yen in fines. Regulations, on the other hand, are similar to cabinet orders in the national system. They are passed by the executive unilaterally and superseded by any conflicting ordinances. Through them, a fine of up to 50,000 yen can be imposed.

Multiple committees are also a feature of local governments. These include school boards, public safety committees (responsible for overseeing the police), personnel committees, election committees and auditing panels. As per law, they can be directly chosen, be elected by the Assembly or both. Prefectures are also required to have departments like the general affairs, finance, welfare, health and labour. Departments like agriculture, fisheries, forestry, commerce, and industry are created as per local needs. The governor is responsible for the activities of the departments which are in turn supported by local taxation or financed by the national government.

SUMMARY

In this unit, you have learnt that:

- The British governmental system is being acknowledged as a parliamentary monarchy which means that the country is ruled by a monarch whose powers are governed by constitutional law.
- The British Constitution, the oldest of all the constitutions of the world, is considered as 'the mother of all parliaments'.
- Great Britain is the classic home of parliamentary form of government. The most characteristic feature of the parliamentary form of government is the responsibility of the executive to the legislature.
- Absence of strict separation of powers is another important feature of parliamentary form of government.
- The chief characteristic of the British party system is the existence of two well-organized and more or less equally balanced parties which dominate the political arena.
- The cabinet is 'the core of the British constitutional system.' It is the most important single piece of mechanism in the structure of the British government.
- The British cabinet is not recognized by law. It is a product of conventions and it has a long historical growth.
- There are ministers of different ranks. They vary in nomenclature and in importance.
- It maybe pointed here that the Prime Minister is legally under no obligation to include any particular person in his cabinet.
- The cabinet system, as it is found in Great Britain, is based on certain recognized principles. The principles have been developed in course of time and these are based more on conventions than on law.
- The cabinet occupies a unique position in the British constitutional system. Writers of the British Constitution have used colourful phrases to describe the position of the Cabinet in the political system of that country.
- According to John Morley, the Prime Minister is the key stone of the Cabinet arch. He holds one of the most powerful political offices in the world.
- The office of the Prime Minister, as stated earlier, is the result of a mere accident. Sir Robert

Walpole was the first Prime Minister of England.

- The selection of the prime minister depends essentially on the Monarch. During the 18th century, the royal choice was playing an effective role in such election.
- The entire position of the Prime Minister, is based, not on law but on convention. The constitution is very much silent with regards to the office of the Prime Minister. His functions are many and varied.

- The Prime Minister holds a key position in the British Constitutional system.
- hi view of the vast powers exercised by the Prime Minister, some critics observed that there is Prime Ministerial form of Government in England.
- The US constitution has bestowed all executive powers in the hands of the President. The President is the Chief Executive Head of the state in the US.
- The President is indirectly elected by an electoral college of each state. Each state elects the electors who are equal to the number of senators and representatives in the Congress, from the state concerned.
- The US President is elected for a term of four years. He can be re-elected for another term and according to the convention, no president can contest an election for a third term.
- The President of the US is the most powerful authority. He commands high respect and backing in the country.
- The American constitution does not make any provisions for the cabinet. The so called cabinet is the product of the customs and the laws that are passed by the Congress.
- The position of the American cabinet is what the President makes it.
- Japan's legislative organ is the National Diet, a bicameral parliament. The Diet consists of a House of Representatives and a House of Councillors.
- The government of Japan is a constitutional monarchy where the power of the Emperor is limited, relegated primarily to ceremonial duties.
- The Prime Minister of Japan is the head of the government. The position is appointed by the Emperor of Japan after being designated by the Diet from among its members and must enjoy the confidence of the House of Representatives to remain in office.
- Japan has a unitary system of government in which local jurisdiction largely depends on the financial backing provided by the national government.
- Japan is divided into forty-seven administrative divisions, the prefectures: one metropolitan district (Tokyo), two urban prefectures (Kyoto and Osaka), forty-three rural prefectures, and one 'district', Hokkaido.
- All prefectural and municipal governments in Japan are organized following the Local Autonomy Law, a statute applied nationwide in 1947.
- Local governments follow a modified version of the separation of powers used in the national government.
- The primary methods of local lawmaking are local ordinance and local regulations.
- All prefectures are required to maintain departments of general affairs, finance, welfare, health and labour.

KEY TERMS

- **Legislature:** A group of people who have the power to make and change laws.
- **Monarch:** A person who rules a country, for example a king or a queen.

- **Constitution:** The system of laws and basic principles that a state, a country or an organization is governed by.
- **Cabinet:** A group of chosen members of a government, which is responsible for advising and deciding on the government policy.
- **Senate:** One of the two groups of elected politicians who make laws in countries like the US.
- **House of Representatives:** The largest part of Congress in the US, whose members are elected by the people of the country.
- **House of Commons:** Is the lower house of the Parliament of the United Kingdom.
- **National Diet:** It is the bicameral parliament of Japan.
- **Prefectures:** It is the name given to administrative divisions in Japan.

ANSWERS TO 'CHECK YOUR PROGRESS'

1. Monarch is the head of the state in Great Britain.
2. The Prime Minister is the head of the government in Great Britain.
3. The British Constitution is known as the mother of all parliaments.
4. The first step in the formation of the Cabinet in UK is the selection of the Prime Minister.
5. In UK the Prime Minister is the sole advisor to the Monarch.
6. The President is the Chief Executive Head of the state in the US.
7. The President is indirectly elected by an electoral college of each state.
8. The Congress is the custodian of the finances in USA.
9. The President is elected for a short term of four years or at the most for one more term.
10. The term 'cabinet' came into use during president George Washington's term, in 1793.
11. The Prime Minister is appointed by the Emperor of Japan after being designated by the Diet from among its members and must enjoy the confidence of the House of Representatives to remain in office.
12. The executive branch reports to Diet.
13. The judges are appointed by the Emperor as directed by the Cabinet.
14. Aprefecture is an administrative jurisdiction or subdivision in a country. Japan is divided into forty-seven administrative divisions or prefectures.

QUESTIONS AND EXERCISES

Short-Answer Questions

1. List the salient features of the British constitution.
2. Write a short note on the parliamentary form of government that exists in Britain.
3. Analyse the importance of the Cabinet in the British constitutional system.
4. What is the procedure for the selection of the Prime Minister in the British constitutional system?
5. What is the composition of the National Diet in Japan?
6. Write a short note on (a) judiciary (b) prefectures.
7. What is the role ofthe cabinet in the US government?

Long-Answer Questions

1. Explain the evolution ofthe Cabinet in Britain.
2. Explain the feature ofthe cabinet system in Britain.
3. What are the functions ofthe cabinet system in Britain?
4. Describe the functions ofthe Prime Minister of Britain.
5. Explain the formation ofthe local government in Japan.
6. Discuss the powers and functions ofthe American president.

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UNIT 3 ROLE OF JUDICIARY

Structure

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Unit Objectives
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Rule of Law: A Citadel of Liberty
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INTRODUCTION

In the previous unit, you studied about functioning of the executive bodies in the United Kingdom, the United States of America and Japan.

The judiciary administers justice according to law. For the judiciary to position itself properly in the fight against corruption, it must first purge itself of corruption, m the United Kingdom, judiciaryperforais an unportant function, mat is, administering Rule of Law. In the USA, judicial review *constituents* an important function performed by the Supreme Court of America. In China, committed judiciary is the essence of what is required from the judiciary functioning in the country.

In this unit, you will study about the indispensable role played by the judiciary in the United Kingdom, the United States of America and China.

UNIT OBJECTIVES

After going through this unit, you will be able to:

- Analyse the salient features of the British judicial system
- Interpret the judicial committee of the privy council
- Explain the rule of law
- Recognize the working of constitutional courts and legislative courts in the USA
- Evaluate the concept of judicial review
- Explain the working of the Supreme People's Court in China

JUDICIARY IN THE UNITED KINGDOM

The judiciary occupies a place of pride in a democratic country. If a democratic government is to be effective, it is essential that laws passed by the legislator should be applied and upheld without fear or favour. Professor Laski has said that the Acts of Parliament are not self-operative and, hence there is need for a judicial organ to see its operation. Hamilton opined that 'laws are a dead letter without courts to expound and explain their true meaning and;operation'. Thus, there are courts of law in all democratic countries and England is no exception to it.

The present day organization of the British judiciary is relatively modern. Though the courts themselves are much older, yet they are entirely reconstituted by the Judicature Acts of 1873-1876, as amended by the Act of 1925. Prior to 1873 the judicial organization of England was in a state of chaos, with numerous courts possessing special functions, following procedure and overlapping jurisdictions. The Acts of 1873 reorganized the courts and simplified the judicial procedure:

The Rule of Law is the basis of the British constitutional system. There are three kinds of law in England namely, common law, statute law and equity. The courts in Britain administer these three types of law without any fear or favour. Except for statutes, common law and equity are based on traditions; customs and morality as decided by the judiciary. It is an accepted principle of the British judicial system that a decision given by a judge shall be applicable in all similar cases, unless it is set aside by a judge of a higher court or until an Act of Parliament settles the issue.

Salient features of the British judicial system

The salient features of the British judicial system are as follows:

1. Impartiality and independence of the courts

The first thing to be noted in British judiciary is high reputation for fairness, impartiality and incorruptibility. The judges are free to pronounce judgment without fear and favour. The Act of Settlement of 1701 provides that the judges in Great Britain hold office on account of good behaviour and not due to the pleasure of the executive. Thus, there is a great tradition of administration of justice without fear or favour.

2. Absence of judicial review

In England there is no judicial review and as such the judiciary cannot declare any act of Parliament as *ultra vires.* The case is just the opposite in America. Due to parliamentary supremacy in England, the parliament can pass any law and no court can question its authority.

3. Absence of separate administrative court

There are no separate administrative courts in England, as found in France and other continental countries. In France, there are two types of law, ordinary and administrative, and two types of court, administrative and ordinary respectively. The administrative persons are tried by administrative law in administrative courts. There is no such distinction between officials and ordinary citizens in England and all are subject to the same court of law.

4. Absence of uniform judicial organization

There is no uniform judicial system throughout the country. There is one set of court in England and Wales, another for Scotland and still another for Northern Ireland. Sometimes each court has its

own peculiar procedure and practices. The Judicature Acts of 1873-76 tried to bring uniformity, but failed to achieve a uniform judicial organization throughout the country.

5. **Jury** system

The prevalence of jury system is a salient feature of the British judicial system and in the trial of grave crimes; a jury trial maybe demanded in all courts of England except the lowest and highest court. England is the classic home of the jury system. The charge in a case is framed by the judicial official and the trial is held by the judge with the assistance of jury. The juries have revealed impartiality, fearlessness, knowledge and common sense and have given decisions against the government.

6. Integration of courts in England and Wales

The courts of England and Wales were different organizations having different conflicting procedures and jurisdiction. Now the entire judiciary has been reconstructed and brought under the control of the Lord Chancellor. Thus, mere is integration of the judicial systems of England and Wales. The judicial system has been made simple and inexpensive as far as practicable.

7. Guardian of individual liberty

The courts in England are the custodians of the liberty of the people. Liberties of the people are guaranteed not by parliamentary acts but by the common law of the land. The concept of rule of law pervades in all spheres of judicial organization.

8. High quality of justice

English people are proud of the high quality of justice dispensed by their courts. Cases are heard and decided in open court. The judges show a high order of independence, ability and integrity. There is a quick disposal of cases. The rules and procedures are also simple and logical. Independent attitude of a judge is deeply rooted in the British judicial system. The judges are not influenced by any consideration except that of justice and impartiality. Courts in England 'do not tolerate the pettifogging dilatory, hair splitting tactics which lawyers are so freely permitted to use in American halls of justice. The judgesinles his court room, pushes the business along, and declines to permit appeals from his rulings unless he sees good reason for doing so'.

Organization of the British judiciary

The Anglo-Saxon judicial system is the oldest in the world. It has been influenced very much by other judicial systems of the world. Just as there is no written constitution in England, there is no rigid written code of law. The British judicial system has evolved and as such there is no single form of judicial organization throughout the country. In recent times, attempts have been made to reorganize the judicial system to a certain extent. The Judicature Acts, 1873-76-were the first attempt to organize the judicial system in modern times. These Acts set up a Supreme Court of Judicature consisting of the High Court of Justice and the Court of Appeal. The Act of 1925 and the Court Act, 1971, made few changes in its organization.

The courts in Great Britain are broadly divided into two categories—civil and criminal. This division is almost common in all judicial systems of the world.

1. Criminal court

(i) Justices of Peace

The lowest criminal court is the Justices of the Peace. When a person is charged with a crime he is brought before one or more Justice of the Peace (J. P.) or in the large towns, before a Stipendiary Magistrate for trial. The Justices of Peace are honorary persons and are appointed by the Lord Chancellor. They do not have legal training. They are layman appointed from all classes of people in society. The Stipendiary Magistrates are not honorary persons. They are appointed by the Secretary of States for Home Affairs and they receive regular salaries or stipends from their respective boroughs or urban districts. They are required to be barristers of seven years standing and they are appointed in the name of the Crown.

The Justices of the Peace and Magistrates have jurisdiction over minor crimes which are punishable by a fine of not more than twenty shillings or by imprisonment for not more than fourteen days. Serious cases are tried by a Bench of two of more Justices who work in a Bench. It is called a Court of Petty Session which can impose a fine, of not more than 100 pounds or in some specified cases 500 pounds or a period of imprisonment upto six months and in some cases one year. If the punishment is more than three months imprisonment, the accused may demand a trial by jury.

(ii) Court of quarter session

The Court of Quarter Session is the next higher court in civil matters. Appeals from the lower court may be taken to this court. It consists of two or more justices from the whole country. In a large town it is presided over by a single magistrate. As this Court meets four times a year, it is known as the 'Quarter Session'. It exercises original jurisdiction over serious criminal cases and, in fact, is the court in which most of the serious cases are tried.

(iii) Court of assizes

The Courts of Assizes are held in county towns and some big cities thrice in a year. These courts are branches of High Court Justice. Each such court is presided by a judge or often two judges of the High Court of Justice who go around on circuits. The entire country has been divided into eight circuits. The Court of Assize functioning in London is called 'Central Criminal Court' and in popular language it is known as 'Old Bailey'. The jurisdiction of the Assizes includes all the grave offences like armed robbery, kidnapping, murder, etc. The Assize Court is assisted by a Jury of twelve countrymen and the Jury gives its verdict. Whether the accused is guilty or not if the jury finds the accused is not guilty, he is forthwith discharged. If he is, on the other hand, found guilty, the Judge decides the punishment.

The accused may appeal to the Court of Criminal Appeal against the judgment of Quarter Sessions or the Assizes. This Court was set up in 1907, and before that there was no provision of appeal in criminal cases. This court consists of Lord Chief Justice and not less than three judges of the Queen's Bench. The Court meets without a jury in London. If the Court finds that there has been a serious lapse of justice, it can modify the sentence or even quash the conviction altogether. The Judgment of the Court of the Criminal Appeal is final except in rare instances when an appeal can be made to the House of Lords upon a point of law and when the Attorney General gives a certificate that the case is set for appeal.

2. Civil court

(i) County court: The county court is the lowest court on the civil side. It decides cases in which amount involved is not more than 500 pounds. It is presided over by a judge who may take assistance of a jury, if necessary. Its procedure is very simple. At a place where a county court sits, there is an official known as the registrar who disposes of the great majority of cases by influencing withdrawals or effecting compromises, without ever referring them to the Judge at all. It maybe noted that the county courts are not the part of county organizations and the area of their jurisdictions is a district which is small than a county and bears no relation to it. The Judges and Registrars of the country courts are paid their salaries out of the national treasury and hold office during good behaviour.

(ii) Supreme Court of Judicature: The next tier above the county courts is the Supreme Court of Judicature which is divided into two branches:

(a) High court of justice

(b) Court of appeal

High court of justice

The high court of justice has three divisions

- The Queen's Bench Division

- The Chancery Division
- The Probate, Divorce and Admiralty Division or the Family Division as renamed in 1971

In each of these divisions, judgment is made by a bench, consisting of one or more than one judge. The Queen's Bench is presided over by the, *Lord Chief Justice* of England having twenty other judges. It hears majority of cases including the common law cases which are referred to the high court.

The Chancery Division is presided over by the Lord High Chancellor having five other judges. It hears the cases which formerly belonged to the Courts of Equity or it deals with such cases in which the remedy or law is inadequate.

The probate, divorce and admiralty division is presided over by a president with severurther judges. They hear particular type of cases involving above three subjects. This division is known as the family division since 1971.

Any of the judges mentioned above may sit in any, division and all may apply common law or equity with restriction to their sphere of duty.

(iii) The Court of Appeal: The court of appeal is an appellate authority against the judgments of the county courts and three divisions of the high court. Appeals are made only on substantial questions of law and not on mere facts. The court of appeal meets in two or three divisions or occasionally all Lord Justices sit together in very important cases. In the Court of Appeal no witness is given and there is no jury also. For appealed cases the Court sits in trial. The Lord Chancellor is its president. The House of Lords may hear appeal against the judgment of the Court of Appeals. Thus, in the civil side there are county court, high court, court of appeal and house of lords which are the highest court of appeal.

(iv) The House of Lords as the Highest Appellate Court: The House of Lords is not only a legislative body but also a powerful judicial organ. It is the highest court of appeal both in civil and criminal cases in England. When the House of Lords exercises its judicial function, the whole House never sits as a court. It is a convention that the appeals are heard by the Lord Chancellor and nine Law Lords. The Lord Chancellor is the presiding officer. He is also member of the Cabinet. The Law Lords are men of high judicial calibre who are made Life Peers by virtue of judicial eminence. These ten Lords exercise highest appellate judicial' power in the name of the House of Lords. They sit and give judgment at any time, regardless whether Parliament is in session or not;

The Judicial Committee of **the** Privy **Council**

The discussion on the British judicial system would be incomplete without reference to the judicial committee of the privy council, which is the final court of appeal in cases which come from the courts of the colonies and from certain of the dominions, as well as from the ecclesiastical courts in England. The judicial committee of the privy council is not a court in the usual sense of the term but only an administrative body to advise the Crown on the use of its prerogative regarding appeals from the courts of the colonies and Commonwealth. It consists of the Lord Chancellor, former Lord Chancellors, nine Law Lords, the Lord President of the Privy Council, the Privy Councilors who hold or have held high judicial offices and other judicial persons connected with overseas higher courts. As it is a committee consisting of eminent persons, it is best competent to hear appeal on legal matters and advises the Crown on such matter. It consists of about twenty jurists but most of its work is done by the Law Lords of the House of Lords. The appeal goes straight forward to the judicial cofrimittee which advises the Crown to accept or reject it. There is no appeal against its decision. The committee has a special function. In time of war it acts as the highest court in naval prize cases.

The British Judicial System has earned a high reputation, both at home and abroad for its excellence, impartiality, independence and promptness. Legal profession in England is held in high esteem and attracts the best talents of the country. The concept of the Rule of Law pervades in

their legal system and the people have not forgotten the dictum that 'where law ends, tyranny begins'.

Rule of Law: A Citadel of Liberty

One of the outstanding features of the British constitution is the concept of the rule of law. Human dignity demands that the individuals should have certain rights and freedom. In most democratic countries, rights and freedoms are guaranteed and protected by the constitution. In the USA and India the constitutions work like watch-dogs and protect the individual freedom and rights. In England there is neither a written constitution nor a bill of rights to act as a safeguard of individual liberty. However, England claims to be the classic home of democracy and British people enjoy their rights and freedom without any fear or favour like all free citizens of democratic countries.

The citadel of liberty of the people in Great Britain is the rule of law. John Locke, a kberal.British political philosopher of the 17th century, wrote, 'where law ends, tyranny begins.'

British history is replete with tyranny and absolutism and, hence people and Parliament are always eager to preserve the hberty of the people through the rule of law. Though there are no written constitutions and bill of rights, the concept of the rule of law is carefully maintained and scrupulously adhered to by the people in Great Britain.

Prima facie, the rule of law means that it is the law of England that rules and not the arbitrary will of the ruler. Lord Hewart defines the Rule of Law as 'the supremacy of predominance of law as distinguished from mere arbitrariness.' Towards the end of the 19th century, Prof. A. V. Dicey gave the famous exposition of the idea of the rule of law. He considered it to be the fundamental principle of British constitutional system and gave a lucid and vivid description of the concept rule of law.

According to Dicey, rule of law involves the following three distinct propositions:

(i) 'No man is punishable or can be lawfully made to suffer in body or goods, except for a distinct breach of the law established in the ordinary legal manner before the ordinary courts of the land.' It implies that nobody in England can be punished arbitrarily simply because the authority wants him to be punished. A person can be punished only on the distinct breach of law. It also implies that nobody will be deprived of his life, liberty and property except by the verdict of the courts of law. The courts of law are the custodians of life, liberty and property of the people. England Courts are open in England and judgments are delivered in open courts.

(ii) 'Not only is no man above the law, but every man, whatever his rank or condition, is subject to the ordinary law of the realm and amenable to the jurisdiction of the ordinary tribunals. 'Here according to Dicey, the Rule of Law means equality before the law or equal protection of law. Nobody is above the law. All citizens irrespective of any distinction are equal in the eyes of law and are subject to the same courts of law. Dicey observes, 'With us every official from the Prime Minister down to a constable is under the same responsibility as any other citizen. This minimizes and checks the tyranny of the government. This perfect equality before law is in contrast to the system of administrative law that prevails in France and other countries of the continent. There are no separate administrative courts to try the administrative officials in England.

(iii) '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.' The third meaning of the Rule of Law as Dicey explains is that the legal rights of the British people are not guaranteed by any constitutional law, but assured by the Rule of Law. Dicey observes, 'The constitution is the result of the ordinary, law of the land.' He further writes, 'With us, the law of the constitution, the rules which in foreign countries naturally forms part of a constitutional code, are not the source, but the, consequence of the rights of

individuals as defined and enforced by the Courts. The rights of the citizens in * Great Britain are protected not by the constitution, but by the judicial decisions, Free access to the courts of law is a guarantee against wrongdoers.'

Thus, judiciary has a great contribution in the protection of the liberties of the people. It is true that the parliament can at any time put those rights and liberties in statutes. To cite an example, the Habeas Corpus Act of 1679 guaranteed the citizens the right against unlawful arrest and detention. It is equally true that the parliament can, at any time, limit or repeal any right of the people, based on the statute or common law. In times of national emergency, such as war, the parliament limits and restricts the freedom of the people by passing an ordinary law like the Defence of the Realm Act of 1914 or the Emergency Powers Act of 1939.

In the ultimate analysis, rights and liberties of the people in Great Britain are protected not by law, but by the Rule of Law. The Rule of Law is based on long tradition and strongly supported by public opinion. It has been observed that although at first glance, civil liberties seem to enjoy no such sheltered position in Britain as in the United States and some other countries, they are both in law and practice, as secure as anywhere else in the world.

Hence, the rule of law is the product of centuries of struggle of the British people for the recognition of their rights and freedom. In Great Britain, the law is supreme and the constitution is the result of the ordinary law of the land and its general principles have evolved from the rights of persons as upheld by the courts in various cases. This is a great contrast with many a written constitution in which the rights of the citizens are declared. The rights declared and guaranteed by written constitutions in other democratic countries, are well secured and protected in Great Britain.

Criticisms of Dicey's exposition

Dicey's exposition of the Rule of Law is subject to various criticism. He was subjective in his approach and viewed the constitution on the background of the liberal philosophy of the Whigs. His book, *The Law of the Constitution,* was published in 1885. No doubt it is a scholarly work, but it contains the remnants of the Laissez-Faire philosophy. Dicey himself was a liberal and was unaware of planned economy and welfare state. The emergence of welfare state has necessitated the grant of discretion and power to government officials. There is tremendous proliferation of the state activities. The Parliament neither has time nor competence to deal with the immense problems of the modem state. Hence, there is increasing use of delegated legislation, consequently leading to granting more discretionary powers to government officials. Lord Hewart has condemned it as new despotism but it seems inevitable in recent times. Dicey is not aware of emergence of the modem powerful state. Thus, the concept of the rale of law, as interpreted by him, cannot be strictly applicable in modem Great Britain.

Sir Ivor Jennings is also a strong critic of Dicey's concept of the rule of law. He criticized Dicey's concept of equality of law as too ambiguous as well as an ambitious phrase. Perfect equality is neither possible nor desirable. What Dicey suggests by equality, according to Jennings, is .that an official is subject to the same rule as an ordinary citizen. But even this is not true in England. There are certain privileges and immunities granted to the public officials and these are not granted to the ordinary people. For instance, the police have a right to enter an individual's house with the intention to search the premises, if the particular individual is a suspect in a case. However, despite being a citizen, every person does not have the right to do so.

Thus, the powers of the private citizens are not the same as the powers of the public officials. Dicey was not aware of volumes of statutory laws, by-laws and orders which are found today. The members of various groups and associations are often punished by statutory bodies. To cite another example, the General Medical Council, which is the statutory body, can punish any member of the medical profession for unprofessional action and ultimately may remove his name from the medical register. Thus, persons are first subject to group and professional laws and finally subject to the laws of the land.

According to Jennings, the phrase, 'equality before law', implies that among equals the law should be equally administered. Their right to sue and to be sued, to prosecute and to be prosecuted for the same kind of action should be the same for all persons irrespective of any

distinctions. Further, there can be no complete equality before the law, while the rich will engage a better lawyer than the poor. Of course, the Legal Aid Scheme of the British government has done something to help the poor.

Dicey's assumption that the constitution is the result of ordinary law of the land is erroneous. Once the theory of parliamentary sovereignty is admitted, there is no doubt that the parliament can reverse the decisions of the courts. Even the parliament can do it with retrospective effect and there, seems to be no remedy against it to save public opinion. Dicey's exposition of the Rule of Law is only a mere eulogy of the British system, with a view to condemning the French system of administrative law. What Dicey thought was that the Rule of Law should be accepted as a principle of policy. Jennings does not accept even this contention. In his analysis, Jennings does not deny the concept of Rule of Law but he denigrates it. He writes, the truth is that the Rule of Law is apt to be rather an unruly horse. If it is a synonym for law and order, it is a characteristic of all civilized states.

If it is merely a phrase for distinguishing democratic or constitutional government for dictatorship, it is wise to say so. Further, if the Rule of Law means that power must be derived from law, most of the modern states have it. Thus, there is no precise definition of the Rule of Law. Dicey viewed the concept of the Rule of Law in the 19th century liberal background. Dicey was a liberal lawyer. His interpretation of the Rule of Law is much subjective. The Rule of Law does not guarantee democracy; rather it is a feature of democracy. It is *a sine qua non* of free and democratic society.

Great Britain is considered to be a classic home of the Rule of Law. In spite of the above limitations, the Rule of Law is considered to be a democratic embellishment. It is true that its content has undergone some transformation in recent times, yet it acts like a bulwark of the British liberty. Freedom is truly a part of the British way of life and nobody likes to part with it. What the Rule of Law implies today is that freedom of the individual should be restrained only under the authority of law. Justice should be available to all irrespective of any distinction. The Rule of Law is not dead today. It still remains as a principle of the British constitutional system and inspires not only the people of England but also the people of the world. According to a modern critic, it involves the absence of arbitrary power, effective control and proper publicity for delegated legislation, particularly when it imposes penalties, that when discretionary power is granted, the manner in which it is to be exercised should as far as practicable be defined, that everyman should be responsible to the ordinary law whether he be a private citizen or a public officer, that private rights should be determined by impartial and independent tribunals; and that fundamental private rights are safeguarded by the ordinary law of the land. No doubt, the Rule of Law is a prized concept in the British Constitution, and the British people are very proud of it as it acts like the citadel of their liberty. Qf course, in the ultimate analysis, public opinion acts as the protector of liberty.

The rule of law would be valueless, if people do not resist arbitrary and discretionary laws. As Judge Learned Hand in a classic observation said 'Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can even do much to help it'. While it lies there, it needs no constitution, no law, and no court to save it. What is said about liberty is that this classic statement holds equally true in all democratic countries of the world.

JUDICIARY IN THE UNITED STATES OF AMERICA

Judiciary is necessary to interpret laws and punish law breakers. The sound principle in politics is that laws and not whims and caprices of men, should govern. In federalism, judiciary is necessary because there is distribution of power between the Centre and the States and there is also a written constitution which needs protection from the judiciary. The theory of checks and balances also admits the fact that the presence of judiciary is necessary to check the arbitrary power of the legislature and the monarchic ambition of the executive. Judiciary all over the world also possesses the power of interpretation of the constitution and ordinary law. 'Laws are not what the words meant and as Alexander Hamilton said that 'laws are a dead letter without courts to expound and define their true meaning and operation'. Thus, Article IE of the American Constitution provides for the Supreme Court. It reads, 'The Judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time-to-time ordain and establish'.

There are two general types of courts in America, namely the constitutional courts and legislative courts.

Legislative courts

These courts are outside the purview of Article 111 of the Constitution. They do not exercise the judicial powers of the United States but are special courts created to aid the administration of laws enacted by the Congress in accordance with the powers delegated to it or implied in such powers. For example, Article I, Section 8, grants to the Congress power to impose and collect taxes, duties, imports and in order to decide disputes about the valuation of subject to import duties, Congress created the United Customs Court composed of nine judges. Legislatives are, therefore, created to carry into execution such powers as those of regulation of interstate commerce, spending funds, laying and collecting import duties and ruing territories. Judges in the Legislative Courts are selected by the President with the advice and consent of Senate but they can be removed by methods other than impeachment. Appeals may be made to the Federal Courts of appeal against the decisions of legislative courts.

Article 111 creates the Supreme Court and the other federal courts are created by the Congress. The districts are the lowest federal courts in America. There are as many as 89 District Courts in America. Each District court consists of at least one judge and the Districts where the workload is heavy; there may be more than one Judge subject to maximum 24 judges in a District Court as it is found at present. These courts have original jurisdiction in all cases involving federal laws. Appeal against the decision of a District Court can be made in the Circuit Court of Appeal, which is the next higher federal judiciary.

The Supreme Court

The Supreme Court stands at the apex of the federal judiciary. It occupies an important place in the American constitutional system. Munro writes, 'The development of the Supreme Court into a final arbiter of constitutional disputes is one of America's most important contributions to the science of government'. The Supreme Court of the USA was established by the Congress in 1789, as per the provision of the constitution. The Judiciary Act of 1789, which created the federal judiciary and which has been amended various times, constitutes the basis of the federal judiciary. Since 1930, the Supreme Court has been situated in the magnificent and imposing marble structure in the east of the national capital. The constitution has not fixed the number of judges and at first it :;*;;: ted with one Chief Justice and five judges. Its strength was reduced to five in 1801 increased to seven in 1807; increased to nine in 1837 ten in 1863; reduced to seven in 1866; and in 1869 was fixed at nine, where it has remained till today. Now the Supreme Court consists of one Chief Justice and the associate Judges. The judges are appointed by the president of America with the consent and advice of the Senate. According to the protocol, the president first nominates and then appoints according to the approval of the Senate. The constitution, does state what qualifications are demanded from the judges of the Supreme Court in terms of age, citizenship and competence or as to political views and background. Criticism that judges are often political appointees cannot be denied. The judges hold office during good behaviour and can be removed through impeachment only. Ajudge can

retire, if he wishes when he reaches the age of seventy at any time thereafter with full salary provided he has served on the Bench for ten years. Ajudge may retire at the age of sixty-five with fifteen years of service, and receives full pay.

Since the judges do not readily retire even when they reach the retirement age, there has been a criticism of appointments. It is felt that a court made up of life appointees is undemocratic. The Supreme Court holds one regular session at the beginning of every first Monday in October and ending in the following June. Special sessions may be summoned by the Chief Justice when the occasion is of unusual importance and urgency. Six Judges constitute the quorum. Chief Justice presides over all sessions and announces its orders, jurisdictions and powers of the Supreme Court.

Jurisdictions of the Supreme Court of America are both original and appellate. The original jurisdiction extends 'to two type of cases, namely, (i) Cases involving ambassadors, public ministers and consuls and (ii) Cases involving one or more than one States. In all other cases the Supreme Court has appellate jurisdiction. It has power to hear cases already decided in lower federal courts or in State courts. Normally, the Supreme Court has to deal with the federal cases. But the Fourteenth Amendment of the American Constitution which prohibits a State from depriving a person of life, liberty or property except 'due process of law', gives the Supreme Court a good deal of power over the state courts. It is the highest appellate authority of the state higher courts. The appellate jurisdiction of the Supreme Court of America is very wide and comprehensive. In practice, very few cases come to the Supreme Court in its original jurisdiction. Most of the cases which come to the Supreme Court are in the nature of appellate cases which have started somewhere else. It may be pointed out that the Supreme Court of America does not have advisory jurisdiction. It has always refused to advise either to the executive or to the legislator on legal or political matters. Further, it may be pointed out that the Supreme Court is the final authority to decide which cases are tacome within its appellate Jurisdiction. In the exercise of original judicial powers granted by the constitution, the Supreme Court has the authority to issue writs of habeas corpus, mandamus, injunction and certiorari.

A mere description of the jurisdiction of the Supreme Court of America does not give a correct picture of the role it plays in the American constitutional system. According to Munro, 'Without the provision of the Supreme Court, the American constitutional system would have become a hydra headed monstrosity of forty-eight (now fifty) rival sovereign entities. It would have never gained that strengthened regularity of operation which it possesses today'. Today the Supreme Court has assumed more powers than contemplated by the founding fathers of the constitution. But, working out the doctrine of judicial review and the doctrine of 'implied powers', it has assumed tremendous powers and has become the most powerful judiciary in the world. Critics have observed that it is as difficult to think of American constitutional system without the Supreme
Court as to think of solar system without the sun. This state indicates the pivotal role the Supreme Court plays in the Constitutional system. It has been described as the successful institution of the American constitutional system 'not surpassed by any other institution in its influence the life of the United States'. In the famous case of the Marburry vs. Madison, the Chief Justice Marshall upheld the theory of judicial supremacy and first developed the idea of judicial review. His theory of supremacy of the constitution law has still prevailed in the United States of America.

In playing the role of guardian of the constitution, the Supreme Court has greatly contributed to the development of the constitution. The credit goes to the Supreme Court in making the constitution of 1787 workable in the last part of the 20th century. The constitution that was framed in the days of' horses and buggies' is still applicable and working well in the age of jet planes and spaceships. The necessary adoption has been secured not through mere constitutional amendment as the constitutional amendment procedure is too rigid, but through the logical interpretation given by the Supreme Court to the various provisions of the constitution. James M. Beck rightly observed, 'The Supreme Court is not only a court of justice but, in a qualified sense a continuous constitutional convention. It continues the work of the convention of 1787 by adopting through interpretation the greater charter of the government'. The Supreme Court has interpreted the constitution according to the needs of the

time. In expanding federal government's domain of authority and altering a balance of power between the Centre and States in favour of the former, the credit goes to the Supreme Court which used the constitution 'as a point of departure for the construction of a supplementary body of constitutional law'. In increasing the/powers of the central government the Supreme Court has taken the help of the doctrine of implied powers.

The Supreme Court is the protector of the rights of the citizens and has been empowered to issue writs like habeas corpus, mandamus, certiorari and injunction for the protection of the rights of the people. It has kept the various organs of the government within their defined powers and prevented encroachments on human rights. It has declared laws unconstitutional not only on the basis that they are beyond the jurisdiction of a particular organ but also on the ground that they are unreasonable or unjust. It has determined the constitutionality of laws on the basis of *'due process of laws'.* One of the Bill of Rights in the American constitution is that nobody should be deprived of his life, liberty and property except due process of law'. This right is responsible for the doctrine of judicial supremacy. Till 1930, the Supreme Court gave great protection to the right to property and declared governmental regulation of prices as taking away liberty and property without due process of law'. After 1930s the Court has expanded its interpretation of the due process clause for the protection of civil liberties and restricted the protection given to property.

The Supreme Court is the final court of appeal in America. It can hear appeal against the decisions of the state high courts and subordinate federal courts. Though all cases cannot be heard in the Supreme Court and its authority in this is limited, yet its opinion on a question of law is 'unlike acts of the Congress, it is immune from over vetoes and unlike presidential vetoes, it is immune from overriding by the Congress'. In other words, the Supreme Court is the most powerful political institution of America.

Professor Laski described the Supreme Court as a third chamber in the United States. It is not only a judicial body but also a political body as it works 'not in a judicial vacuum but in a whirling political climate. In examining the validity of laws judges may question, the policies framed by the Legislature. When the Supreme Court invalidates a law, it actually validates the policies and principles that are connected with the law. According to Potter, 'To strike down a constitutional law is to drop a pebble in the legislative pool creating disturbance that cut ripples from the point of contact across a considerable surface of potential legislation'. Thus, the Supreme Court acts like a 'super legislature'.

3.3.1 Judicial Review

The Supreme Court of America has the power of judicial review. By judicial review we mean the power of the Supreme Court to declare the laws passed by the legislature or decrees made by

the executive as *ultra vires,* if they come in conflict with the latter and the spirit of the constitution. Whether there was a discussion on judicial review in the Philadelphia Convention, which framed the American Constitution, is a matter of controversy. Professor Beard made a careful study of the proceedings of the Conference and said that its majority of members had such an intention of having judicial review. Professor Crowing does not agree with Beard's thesis and concludes that 'the right of the judiciary to declare laws valid and thus to check the capacity of the Legislative A3semblies was in the opinion of many to be the chief corner stone of a governmental structure plan with particular reference to preserving property rights inviolate and assuming special sanction for individual members'. Federalism often breeds legalism and in written federal constitution there is distribution of powers between the centre and units; judicial review is implicit as the courts are the competent authority to say what is legal and what is not. Thus, Professor Crowing and some other constitutional experts do not agree with Professor Beard as regards the intention of the makers of the constitution for having judicial review. The constitution in its Article VI only upholds its supremacy. It reads, 'This Constitution and laws of the United States which shall be made in parlance thereof shall be the supreme law of the land and the judges in every State shall be bound thereby'. This article does not clearly state that the Supreme Court can invalidate laws passed by the Congress or the State Legislature. Thus, the power of judiciary to consider the validity law, as stated earlier, is technically known as the judicial review. If a law is repugnant to either letter of the spirit of the Constitution, the judiciary will declare it as ultra vires.

As the American Constitution is the father of all written Constitutions, it is also the classic home of judicial review. It is wrong to enquire that judicial review is inevitable of a written constitution. France, Italy and Germany existed for many years with written constitutions and judicial review. Even today France, China, Russia and Australia have written constitutions but no judicial review. Article VI of the constitution says that 'the constitution is the supreme law of the land' and hence the guardianship of the constitution ought to be attributed to the judiciary. Since each man is fallible and apt to be erroneous, laws and not men should govern. Fourthly, it is required 'to settle disputes between different states and between citizens of different states'. It is therefore, proper on the part of the Supreme Court to determine whether the federal legislature has not exceeded its legitimate authority in enacting a particular law and the government in issuing an executive decree.

These are the reasons for which judicial review is necessary in America and in fact, the judiciary has got the power to declare a law of the legislature ultra vires.

It is further argued that the American Constitution is the shortest written constitution and is very elastic. It contains phrases which are very broad, comprehensive and elastic. They can be twisted to different circumstances and can be given different meanings. Interpretation of these phrases should be left to the judiciary. The judiciary should see whether they are properly used. It is not desirable to make the constitution a toy in the hands of the politicians. The judiciary represents the highest intellectuals of a particular age and therefore, they are in better position to consider the matters calmly without passions and emotions. Here the intention of the judiciary is not only legal but also political. In determining the constitutionality of a statute, the judges of the Supreme Court pass judgments on the political wisdom of the measure before them. What they really do to determine is not whether the measure is legally valid but whether or not it is wise according to their own conception of wisdom. As a continuous constitutional convention, the Supreme Court has been able not only to interpret, defend and protect the constitution but also to adopt and adjust the changing social and economic condition of the rapid developing country.

Judicial interpretation in America is one of the important ways in which the constitution has been developed. The words of the constitution are so unrestraint and broad that the judges should give 'judgment not from reading the constitution but from reading life'. The constitution is flexible enough to meet all the new needs of the society. That is why, Beck, a strong supporter of judicial review, says that the Supreme Court is not only a Court of justice but in a qualified sense a

continuous constitutional convention that continues the work of the Philadelphia Convention of 1787.

There has been considerable excitement in the United States over this issue of judicial review. People have claimed that the balance of the constitution has disturbed and both the Congress and the President depend upon the goodwill of the Supreme Court for their successful functioning. The word, it is said, is dynamic and the legislature represents this dynamism. Philosophies of life are ever-changing and laws must correspond to them. The Supreme Court represents conservatism and not dynamism and the nine men sitting in the bench are not likely to be swayed always by modern philosophies. Again as the Supreme Court delivers judgment by simple majority, the result is that the marginal judge is the dictator in the United States. Let him change side, an invalid law becomes valid; and let him again change side, a valid law becomes invalid. This has been experienced in 1895 and 1938. It seems to be arbitrary and undemocratic. Nevertheless, the consequences of judicial review are often exaggerated and misunderstood. In America, judicial review operates in a sporadic rather than a continuous fashion. In America, it is said that the Supreme Court does not look at the constitution 'with the cold eye of the anatomist but as a living and breathing organism which contains within itself the seeds of future growth and development'. For the protection of the civil liberties of the Americans, the Court is playing a very crucial role. The number of cases before the Supreme Court concerning civil liberties has increased in recent times.

Unqualified judicial supremacy is bad. Hence, there is a talk of reforms of the American Supreme Court. The following are the some of the suggestions made to mitigate the pernicious effects of judicial review. The constitution should not be always legally binding upon the Congress. It is a product of 1787 and not of 1990s. What is wilted is that the Supreme Court should accept it merely as a point of reference.

Judgment of the Supreme Court should not be pronounced by simple majority. In reviewing the constitutional cases, at least there should be a prescribed majority, say 2/3 majority or 3/4 majority or the concurrence of 7 out of 9 judges.

Further, the laws declared *ultra vires* by the Supreme Court should not be altogether killed. The Congress should have the power to repass the condemned laws in which case they should again be valid. In other words, the Supreme Court should have suspensive judicial review.

This will rest the centre of gravity back to the Congress. The Congress should re-pass and override a law set aside by the Supreme Court as it may override a Presidential veto. This would of course, require a constitutional amendment. Lastly, judges should retire after a certain age limit. The age of superannuation should be fixed at 70 and an Act of 1938 has provided forjudges above 70 to have the option to retire on full pension equal to their monthly salary. However, this is not binding and a judge can be a judge for life. The appointments of the judges of the Supreme Court are made on political grounds. A democratic president naturally appoints a democrat as a judge.

DID YOU KNOW

Each state in the USA has a court system of its own.

JUDICIARY IN CHINA

The judiciary of China has been massively reformed ever since the New China was founded in 1949 and more so after the reform and other opening up policies were introduced nearly three decades ago. Since then, the country has been making constructive attempts towards building its socialist judicial system but with distinct Chinese characteristics. The judiciary

aims to safeguard social justice and make significant contributions to the rule of law of mankind. A major component of the political system is judiciary while its impartiality guarantees social justice. The country has been vigorously, steadily and pragmatically promoting reforms in its judiciary in recent years as well as its methods of working. As per the Constitution, the Chinese judiciary is aimed as "optimizing the allocation of judicial functions and power, enhancing protection of human rights, improving judicial capacity, and practicing the principle of judicature for the people". Having a strong and impartial judiciary with strict Chinese characteristics is believed to provide judicial guarantee for the country's economic development, social harmony and national stability.

The judicial system of China is at par with its basic national conditions at the primary stage of socialism, its state system of people's democratic dictatorship and its government system of the National People's Congress. However, as the country opens up to the world and continues to introduce a series of reforms related to the socialist market economy, the desire for comprehensive implementation of the fundamental principle of rule of law and clamour for justice among the public has increased. This means that the country's judicial system needs further reformation, improvement and development.

Committed Judiciary

The establishment of the People's Republic of China in 1949 ushered in a new era for the judicial system of the country. The cornerstone for the legal practices in the country were laid by the Common Program of the Chinese People's Political Consultative Conference, which functioned as a provisional Constitution until 1949 and the Organic Law of the Central People's Government of the People's Republic of China, which was promulgated in September 1949. The Constitution promulgated in 1954, the Organic Law of the People's Courts of China, and the Organic Law of the People's Procuratorates of China are among other kind of rules and regulations which defined the organic system and the basic functions of the people's courts and procuratorates. They also help to establish the systems of collegiate panels, defense, public trial, people's jurors, legal supervision, civil mediation and basically lay the framework of country's judicial system.

It was in the 1990s that the idea to bring the socialist country under the rule of the law and govern it as per the principles of the law took firm shape. The judiciary in the country continues to reformulate itself in the process of promotion of social progress, democracy and the rule of law. By the end of 1950s and especially after the culmination of the tumultuous 'culturalrevolution' (1966-1976), the judiciary in the country suffered serious setbacks. In 1978 when reforms were introduced, China summed up its historical experience and in principle vowed to promote socialist democracy and improve socialist legal construction. Thus, the judiciary was restored and rebuilt and a number of fundamental laws were reformulated and amended.

Basic Characteristics of China's Judicial System

The basic judicial organ in China is the people's court. The Constitution also provides for the Supreme People's Court, local courts at different levels as well as special courts such as military courts. Herein, civil, criminal and administrative cases are tried as per the law. Law enforcement activities are also carried out by courts which include execution of civil and administrative cases and state compensation. While it is at the top of the judicial order, the Supreme People's Court are also responsible to supervise the workings of all other courts and special people's courts. Basically, those courts who are above others supervise the working of the one subordinate to it. For litigious activities, the country relies on the systems ofpublic trial, collegiate panels, challenge, people's jurors, defense, and judgment of the second instance as final, among others. Since China is a socialist country and based on principles of people's democratic dictatorship led by the working class and an alliance between workers and peasants, the people's congress system is the most organic form of its state power. A socialist state believes that its judicial powers come from the people, belongs to the people and serves the people.

Thus, people's courts and procuratorates have been created at various levels, which is responsible to them and is supervised by them.

People's procuratorate exercise their powers independently and impartially in accordance with the law. Their activities are supervised by the National People's Congress, the Chinese People's Political Consultative Conference and the general public. The criminal cases are tried by the people's courts, the people's procuratorates and the organs of public security as per their respective functions. However, they are expected to collaborate with each other in order to ensure that laws are accurately and efficiently implemented. Investigation, detention, arrest and pretrial in criminal cases is in charge of the organs of public security. The people's procuratorates, on the other hand, are responsible for procuratorial work, approval of proposals for arrest, investigating cases that they accept directly and also to initiate public prosecution. The people's court only conducts trials.

As one of the three branches of the government, including the executive and the legislative, the judicial branch is about all activities of the people's court system. The Chinese court system is based on civil law modelled after the legal systems of Germany and France, but has its own distinct characteristics. Mainly, even thought the judiciary is independent and free of any interference or influence of other administrative branches or organizations and individuals, yet the Constitution provides for and even emphasizes on the leadership of the Communist Party. Former SPC President Xiao Yang stated in 2007, 'The power of the courts to adjudicate independently does not mean at all independence from the Party. It is the opposite, the embodiment of a high degree of responsibility vis-a-vis Party undertakings.'

With this, one can explore both the broad and narrow meanings of judiciary in China. Broadly, the judiciary refers to law-enforcement activities that are conducted by the judicial organs and organizations in handling prosecuted or non-prosecuted cases. Narrowly, it applies to law-enforcement activities conducted by the country's judicial organs in handling prosecuted cases. The term is thus used here in broader sense as judicial organs here refer to those public security organs that are responsible to investigate, prosecute, try and execute cases; it also includes the prosecutors, the trial institutions and the custodial system. The judicial organizations mean lawyers, public notaries and arbitration organizations. While they are not a part of the judicial apparatus, they remain an integral link to the overall judiciary system. In general thus, the judiciary system points to the nature, mission, organizational setup, principles and procedures of judicial organs and other judicial organizations. It is comprised of sub - systems that are used for investigation, prosecution, trial procedures, jails, judicial administration, arbitration, lawyers, public notaries and state compensation.

The administrative system has one in the form of the security organ. However, the other two are created by the people's congress and legally, they have the equal say as the administrative branch. The people's congresses selects and appoints the presidents of courts and the the procurator-generals of procuratorates on the same level. On the other hand, the judges and procurators are appointed by the standing committees of the respective people's congresses. Their respective courts and procuratorates appoint assistant judges and assistant procurators.

In more than one ways and strict terms, the judicial system of China only refers to the people's court system. The people's court, people's procuratorate and public security organ are required to perform their duties separately as per the Criminal Procedure Law of PRC. Literally taken, this means that people's procuratorate and public security organ are in charge of judicial power even though their judicial powers have a very narrow scope. The judicial system of China thus broadly comprises three parts: people's court system, the people's procuratorate system, the public security system. Therefore, the judiciary in China cannot be said to refer to only courts but it also includes the procuratorates and public security organs.

People's Courts

On behalf of the states, the people's courts are part of those judicial organs that exercise judicial powers. The state of China has a system of courts known as 'four levels and two instances of trials' as defined in the Constitution and the Organic Law of the People's Courts of 1979 which was amended in 1983. The judicial authority in the country is exercised by courts at many levels. These can be broadly categorized into: the Supreme People's Court; local people's courts at various levels; military courts and other special people's courts. The local people's courts can be further divided into higher people's courts, basic people's courts and intermediate people's courts.

As per an article of the Organic Law, the "people's courts at all levels can set up judicial committees" to bring all sort of judicial experience under one roof as well as create a platform to discuss important and difficult cases and even other legal matters. The presidents of different courts appoint members of judicial panels of local people's courts at various levels. They can be removed from their posts by members of the standing committee of the people's congress at the corresponding levels. The chiefs of the people's courts chair important judicial panel meetings at all levels. These can be attended by chief procurators of the people's procuratorates at the corresponding levels but without any voting rights.

To adjudicate matters, the people's courts have a system wherein a case is decided only after two trials. The two trials refer to: firstly, each judgment or order, in the first instance, should be sent from the local people's court and any person who is part of the case can appeal only once in the people's court at the higher level. Protest can be presented by the people's procuratorate in the people's court at the next higher level. At the second level, the judgment or orders of the first instance of the local people's courts at various levels become legally effective only if no party makes an appeal within the prescribed period. At the third level, these judgments or Orders are considered as final decision of the case. However, the orders and judgments given by the Supreme People's Courts even in the first instance become legally effective immediately.

Each court has several divisions where specific cases are heard: these can be broadly categorized into civil, economic, criminal, administrative and enforcement divisions. Each such court has one president and many vice-presidents whereas each division has one chief and many associate chiefs. All courts also have judicial panels comprising presidents, division chiefs and experienced judges. The standing committee of courts at the corresponding level appoints the members of these panels. The judicial panel, which is responsible for discussing significant or difficult cases, give directions concerning other judicial matters and also reviewing and summing up judicial experiences, is the most authoritative body in a court. Judges and collegial panels are required to follow its directions. Where the opinions of the two differ; the view of the majority is adopted.

The basic units in each court are comprised of collegial panels. While not permanent bodies, these are created to adjudicate individual cases. Such panel comprises three to seven judges; the number must always be odd. The president of the court or the division chief appoints the president judge of the panel. An individual judge can try simple cases

pertaining to civil, economic and minor criminal matters. However, the collegial panel of three to five judges hears cases of second trial. In case a president or a division chief participates in a trial, he/she shall be the presiding judge of the panel.

The judge is the most important person during the conduct of a trial and a trial itself is the

significant part of adjudication. The process is highly influenced by the civil law jurisdiction. Efforts are being made to change the process and recently, the reform of adjudication format was introduced to bring adversarial pattern into the Chinese adjudication process. The Criminal Procedure Law which has been revised is also expected to further the reform. The people's assessors can be selected by the standing committee of the local people's congresses; they can then submit their preference to the courts at the corresponding level. On this basis, courts can choose people's assessors to join the trial of a case at the first instance. The collegial panels for the first trial can comprise of judges as well as people's assessors or exclusively of judges. In common law jurisdiction, the people's assessors system is unlike the jury system in the sense that people's assessors are not chosen on the basis of citizenship; they have the powers of judges and authority to decide both the issues of facts and law.

The president can seek upon the judicial panel to accept or reject an appeal after reviewing the complaint. A re-trial started by trial supervision procedure cannot lead to suspension of the enforcement of effective judgment that is challenged under any circumstances. Each case can have two trials as per law. This means that all litigants in a case as well as their legal representatives who challenge a judgment in the first instance in any local court can appeal in the next, higher court only once. The next higher court is required to try the case once an appeal has been filed. Its judgment, however, is final and cannot be re-appealed. The parties to litigation can, however, challenge the final judgment or the judgment that is effective through the trial supervision procedure. An appeal to the appellate or the higher court can be made.

However, such a practice can cause internal interference within the adjudication of collegial panels which are independent. In practice, they have no direct legal grounds except for the judicial panels. Final decisions in cases that are important or complex can be made by a judicial panel of a court rather than the designated collegial panel. Such a mechanism is believed to safeguard the correct and impartial exercise of judicialpowers. However, it can also be misused by panel members to interfere with the functioning of the collegial panel and make favours to one party in a case.

The people's courts have been empowered by the Constitution and the Organic Law of Courts to exercise their powers independently and they are thus free of any intrusion by any organization or individual. The word' court' is significant in the term; as per the authoritative explanation, it means that judicial power dies not rest in individual judges. It is the collegial panels that are the trial units and not the individual judges and thus, the judgments of the collegial panels are considered to be at par with the courts. Thus, it is not in the judges but in courts that the independence power of adjudication is vested. Taking cue from this argument, the presidents and division chiefs of the panels have the right to review and suggest changes in draft judgments prepared by collegial panels.

The Supreme People's Court

The highest judicial organ of the state of China is the Supreme People's Court. The NPC and its standing committee elect the president of the Supreme People's Court. The term of the president is five years and as per law, he/she cannot serve for more than two

consecutive terms. The NPC standing panel is also empowered to appoint or dismiss vice-presidents, head and associate heads of divisions and judges.

The Supreme People's Court has many divisions vis-a-vis criminal division, a civil division, and an economic division. It can also have other divisions that it may deem necessary. In

general, the Supreme Court has jurisdiction over these following cases:

1. Such cases of first instance that are assigned to it by law or other that the court feels should be tried by it;
2. Cases or orders of the higher people's courts and special people's courts that are appealed and protested against their judgments;
3. Protested cases filed by the Supreme People's Procuratorate.

Besides trying cases, the Supreme People's Court also watches over the working of other local people's courts at all levels and that of the special courts. As per the Constitution, the "Supreme People's court gives interpretation on questions concerning specific application of laws and decrees injudicial proceedings". In practice, however, interpretation of laws and decrees by the SPC has only grown in the last few years. This practice is now being referred to as 'judicial legislation' and was not defined earlier in the Constitutional Law. This legislation also needs guidance so that gaps can be duly filled and conflicts resolved. Guidance is also required to remove vagueness among different laws so that they can be duly enforced by the judicial branch.

Presidents and vice-presidents of the court

1949-1954

President: ShenJunru

1954-1959:1st National People's Congress

President: Dong Biwu

Vice-presidents: GaoKeUn, Ma Xiwu, Zhang Zhirang

1959-1965:2nd National People's Congress

President: XieJuezai

Vice-presidents: Wu Defeng, Wang Weigang, Zhang Zhirang

1965-1975: 3rd National People's Congress

President: Yang Xiufeng

Vice-presidents: Tan Guansan, Wang Weigang, Zeng Hanzhou, He Lanjie, Xing Yimin, Wang Demao, Zhang Zhirang

1975-1978:4th National People's Congress

President: Jiang Hua

Vice-presidents: Wang Weigang, Zeng Hanzhou, He Lanjie, Zheng Shaowen

1978-1983: 5th National People's Congress

President: Jiang Hua

Vice-presidents: Zeng Hanzhou, He Lanjie, Zheng Shaowen, Song Guang, Wang Huaian, WangZhanping

1983-1988: 6thNational People's Congress

President: Zheng Tianxiang

Vice-presidents: Ren Jianxin, Song Guang, Wang Huaian, Wang Zhanping, Lin Huai, Zhu Mingshan, Ma Yuan

1988-1993: 7th National People's Congress

President: Ren Jianxin

Vice-presidents: Hua Liankui, Lin Huai, Zhu Mingshan, Ma Yuan, Duan Muzheng

1993-1998: 8th National People's Congress

President: Ren Jianxin

Vice-presidents: Zhu Mingshan, Xie Anshan, Gao Changli, Tang Dehua, Liu Jiachen, Luo Haocai, Li Guoguang, Lin Huai, Hua Liankui, Duan Muzheng, Wang Jingrong, Ma Yuan

1998-2003: 9thNational People's Congress

President: Xiao Yang

Vice-presidents: Zhu Mingshan, Li Guoguang, Jiang Xingchang, Shen Deyong, Wan Exiang, Cao Jianming, Zhang Jun, Huang Songyou, Jiang Bixin

2003-2007:10thNational People's Congress

President: Xiao Yang

Vice-presidents: Cao Jianming, Jiang Xingchang, Shen Deyong, Wan Exiang, Huang Songyou, Su Zelin, Xi Xiaoming, Zhang Jun, Xiong Xuanguo

2008-2013:11thNational People's Congress

President: Wang Shengjun

2013-present: 12thNational People's Congress

President: Zhou Qiang

The Higher People's Courts

This court deals with cases that occur for first time and are assigned to it by laws and decrees, or are transferred to it from court at the level immediately lower to it; or cases of appeals and protests that come from the lower level court or protest cases lodged by people's procuratorates. These courts are directly under the central government and exist in provinces, autonomous regions and municipalities. As per the organic law, their internal structure is nearly similar to that of the Supreme People's Court.

The Intermediate People's Courts

These are courts which are set up in capitals or prefectures in the provincial level. Such courts have jurisdiction in cases that mostly happen for the first time and are assigned to these courts by laws and decrees, or are transferred to it by basic people's courts or those cases that are appealed and protested from the lower courts.

The Basic People's Courts

The basic people's court has been empowered through the Organic Law to decide upon all criminal and civil cases for the first time. Exception is made in cases where the law provides otherwise. The basic people's courts are also empowered to settle civil disputes, hear those minor criminal cases which do not require formal handling and also look over the day-to-day work of the people's mediation committees.

Since they are at the bottom of the hierarchy of the judiciary, the basic courts are mostly located in the counties, municipal districts and autonomous counties. It can also set up as many people's tribunal as per the requirement of a locality, its people or the cases it deals with. Mostly, the tribunals are set up in big towns where there is a concentrated population. Even the tribunals are part of the basic people's court and thus all its judgments are considered to be to at par of basic people's court with the same legal effects.

The Special Courts

Military, railway and maritime courts are some of the special courts in the country. Set up within

the PLA, the military court is in charge of deciding upon all criminal cases that involve servicemen. Thus, it is a kind of a closed system. Maritime courts were also setup by the Supreme Court in the port cities of Guangzhou, Shanghai, Qingdao, Tianjin and Dalian. Like military courts, these courts have the power to decide upon maritime cases and maritime trade cases, including those between Chinese and foreign nationals, between such organizations and enterprises. However, they have no jurisdiction over cases, whether criminal or civil, that are the prerogative of ordinary courts. But the higher courts located within the territory of a maritime court have the jurisdiction over appeals against the judgment and orders of the maritime court. Similarly, railway and transport courts deal with all cases and disputes related to railways and transportation.

ACTIVITY

What & how did China become a Republic?

SUMMARY

In this unit, you have learnt that:

- Judiciary occupies a place of pride in a democratic country. If a democratic government is to be effective, it is essential that laws passed by the legislator should be applied and upheld without fear or favour.
- In England there is no judicial review and as such the judiciary cannot declare any act of Parliament as *ultra vires.*
- The Courts in Great Britain are broadly divided into two categories-civil and criminal. This division is almost common in all judicial systems of the world.
- The judicial committee of the privy council is not a court in the usual sense of the term but only an administrative body to advise the Crown on the use of its prerogative regarding appeals from the courts of the colonies and the Commonwealth.
- One of the outstanding features of the British constitution is the concept of the Rule of Law.
- Habeas Corpus Act of 1679 guaranteed the citizens the right against unlawful arrest and detention.
- Judiciary is necessary to interpret laws and punish law breakers. The sound principle in politics is that laws and not whims and caprices of men, should govern

- There are two general types of courts in America, namely the constitutional courts and legislative courts.
- The Supreme Court of America has the power of judicial review. By judicial review we mean the power of the Supreme Court to declare the laws passed by the legislature or decrees made by the executive as *ultra vires,* if they conflict with the latter and spirit of the constitution.

- It is further argued that the American Constitution is the shortest written constitution and is very elastic.
- China's judicial system is generally consistent with its basic national conditions at the primary stage of socialism, its state system of people's democratic dictatorship, and its government system of the National People's Congress.
- The founding of the People's Republic of China in 1949 ushered in a new era for the building of China's judicial system.
- In the 1990s, China established the fundamental principle of governing the country in accordance with the law, and quickened the step to build China into a socialist country under the rule of law.
- The people's court is the basic judicial organ in China. The state has set up the Supreme People's Court, local people's courts at different levels and special people's courts such as military courts.
- The judicial branch is one of three branches of government in the People's Republic of China, along with the executive and legislative branches.
- The people's courts are judicial organs exercising judicial power on behalf of the states. According to the Constitution and the Organic Law of the People's Courts of 1979 as amended in 1983, China practices a system of courts characterized by 'four levels and two instance of trials'.
- The Constitution and the Organic Law of Courts allow the people's courts to exercise state judicial power independently, free from interference from any organization or individuals.
- The Supreme People's Court is the highest judicial organ of the State. The president of the Supreme People's Court is elected by the NPC and its standing committee. His term of office is five years and he may serve for no more than two consecutive terms.
- The special courts include military courts, railway courts and maritime courts. The military court that is established within the PLA is in charge of hearing criminal cases involving servicemen.

KEY TERMS

- **Judiciary:** Judges of a country or a state, when they are considered as a group.
- **Rule of law:** It is the basis of the British constitutional system. There are three kinds of law in England namely, common law, statute law and equity.
- **Privy councillor:** (in Britain) a group of people who advise the king or queen on political affairs.
- **Judicial review:** By judicial review we mean the power of the Supreme Court of America to declare the laws passed by the legislature or decrees made by the executive as ultra vires, if they conflict with the latter and spirit of the constitution.
- **People's Courts**: They are judicial organs exercising judicial power on behalf of the states.
- **Supreme People's Court:** It is the highest judicial organ of the State.

ANSWERS TO 'CHECK YOUR PROGRESS'

The Rule of Law is the basis of the British constitutional system.

1. The Act of Settlement of 1701 provides that the judges in Great Britain hold office on account of good behaviour and not due to the pleasure of the executive.
2. The prevalence of jury system is a salient feature of the British judicial system.
3. The Anglo-Saxon Judicial System is the oldest in the world.
4. The Lord Chancellor is the presiding officer of the House of Lords.
5. Legislative courts are outside the purview of Article 111 of Constitution.
6. The judges are appointed by the President of America with the consent and advice of the Senate.
7. The Supreme Court plays the role of guardian of the constitution in USA.
8. By judicial review we mean the power of the Supreme Court to declare the laws passed by the legislature or decrees made by the executive as *ultra vires,* if they conflict with the latter and spirit of the constitution.

10. The people's court is the basic judicial organ in China.
11. China's judicial system institutionally comprises three parts: people's court system, the people's procuratorate system, the public security system.
12. CoUegial panels are the basic units in each court. They are not permanent bodies but organized to adjudicate individual cases. A collegial panel is composed of three to seven judges, the number of which must be odd.
13. The Supreme People's Court is the highest judicial organ of the State.
14. The Intermediate People's Courts are the courts established in capitals or prefectures in the provincial level.

QUESTIONS AND EXERCISES

Short-Answer Questions

1. Write a short note on the privy council.
2. What is the role played by judiciary in the USA?
3. What is the role played by legislative courts in the USA?
4. Write short notes on (a) the Higher People's Courts (b) the Intermediate People's Courts (c) the Basic People's Courts.
5. Which courts are special courts in China?

Long-Answer Questions

1. Describe the Rule of Law that exists in Britain.
2. Explain the Salient features of the British judicial system.
3. Describe the organization of the British Judiciary.
4. Analyse the role played by the Supreme Court of America.
5. Describe the power of judicial review as exercised by the Supreme Court of America.
6. Explain the reform process initiated in the judicial system of China.
7. Describe the basic characteristics of China's judicial system.

8. Analyse the role played by the Supreme People's Court in China.

FURTHER READING

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UNIT 4 PARTY SYSTEM

Structure

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Unit Objectives
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Origin of the Party System
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INTRODUCTION

In the last unit, you were introduced to the significant role played by the judiciary across countries like the UK, USA, Switzerland and Canada. This unit will explain to you 'party system' in various countries.

The concept of party system emerges from comparative political science. It can be defined as a kind of patterned relationships and interactions between different political parties which vie for power in a given political system of a country. Generally speaking, all systems of a country have some common factors in their functioning like methods to control the government, the existing

system of mass popular support as well as creation of mechanisms that control public funding, information and nominations.

This concept traces its roots to the works of European scholars like James Bryce and Moisey Ostrogorsky. Both examined political system in the United States and later used it to study other democracies. Giovanni Sartori's classification method for party systems is, however, most commonly used to study them. Sartori argued that party systems could be divided as per the number of political parties existing in a state and the degree of fragmentation in a state. Therefore, he added, that party systems should be studied as per the number of parties in the state.

UNIT OBJECTIVES

After going through this unit, you will be able to:

- Identify the different kinds of parties that exist today
- Explain the origin of the party system
- Discuss the history of the party system in the USA and its present status
- Paraphrase the party systems in Switzerland and Japan
- Explain the party system in China with a special reference to the Communist Party of China

CONCEPT OF PARTY SYSTEM

Finer has observed that a democracy rests, in its hopes and doubts, upon the party system. As a democracy propounds and supports opposing ideas and opinions and enables their free organization, political parties act as a major political vehicle of differing opinions and ideas; it is the *sine qua non of democracy.* The electorate would be highly diffused and atomized without the existence of political parties and opinions too would be diverse. Party system is what brings to focus public opinion and this encourages development of policies around popular verdict. For students of comparative politics, it is useful to understand the origin, meaning, merits and demerits of the party system.

Classification of Party Systems

Stability emerges at times in a country on the basis of the evolution of its political parties, especially when studied in respect to their numbers, their internal organization, ideology, alliances and also the relationship with opposition parties. This is what is described as a party system. Comparative study of these different systems helps us to delve into political systems of other countries. Many scholars have offered classification of party systems; they differ and are similar on various counts:

Almond's classification of party system is thus patterned:

- Authoritarian Parties: Also known as totalitarian parties or dictatorships
- Dominant non-authoritarian (democratic) parties
- Competitive two parties
- Competitive multi-parties

James Jupp accepted with Almond's classification but also reformulated it to give his own version:

- Indistinct (not very clear) bi-partisan system
- Distinct bi-partisan system

- Multi-party system
- Dominant (one party) party system
- Broad one party system
- Narrow one party system
- Totalitarian system

For Hitchner and Levine, modern party system can be classified as follows:

- Competitive two party systems
- Competitive multi-party systems
- Dominant non-authoritarian systems
- Authoritarian party systems
- States without party system.

Duverger, on the other hand, broadly divided all the party systems into two:

(i) Pluralistic party systems

(ii) One party systems and dominant party systems. In

the first category, Duverger included:

- Multi-party systems
- Two party systems

In the second category, Duverger included:

- One party system
- Dominant party systems

For the sake of this unit, we shall divide the study of the party systems as follows: two-party systems; multi-party systems, and one-party system. Political parties serve as representatives of numerous opinions within a democracy, thus their variety is the characteristic of a democratic system. However, in practice, the number of parties existing in a state differs and exists as per its legal system and the circumstances within the state. For instance in Great Britain and the United States, a two-party system prevails. However, in most countries, like India and France for instance, multi-party system is popular. In authoritarian and Communist countries like China, on the other hand, one-party system operates. It is thus helpful to explore the merits and demerits of the different types of party systems.

1. One-party system

One-party or a single party system is based on the assumption that its leader and political elite are the sole representatives of the sovereign will of the state. It is based on the principles of authoritarianism too, which found expression in monarchies first, then in dictatorships and in the present times, even in some democracies. No political parties exist in this system as dictatorship requires a monopoly of power vested in one authority for its survival. Even under such a regime, polls are held but they serve as a facade of popular support; voters vote but their choice is limited to only one candidate. Not all one-party systems are common; their practice differs from country to country even though some features of dictatorial parties in these countries make them unique. These are:

- Such a party has the monopoly in the country and thus it is its official party. Persons who rule the country also lead it.
- To acquire at least important government jobs, membership of such a party is usually

made an essential requirement.

- Such a party supervises the governmental efforts to ideologically indoctrinate people.
- Its elite personality is its essential characteristic.

It is understandable that the essential principle of one-party system is to ensure discipline and obedience among people than seek their opinions about governance or on politics. The organization of such a system is more like an army than a political party. Thus, it has the characteristics to become necessarily totalitarian. It extends authority in every matter of the country since it is the only operator of a political system. Its policy is dictated by a few and its words are final. It makes all laws, arid no aspect of an individual and social life is immune from its potential control. Therefore, a single party system involves the abolition of freedom of speech and expression, press and association.

Consequently under such a system, the distinction between society and the state is blurred and the latter is completely overshadowed by the former. This type of party system was found in Fascist Italy under Mussolini who assumed power in 1922. Mussolini systematically destroyed all parties except his own. Hitler is another example. In Germany in 1933, he finished all opposition. Arguing that they were resisting arrest, his party shot down some of the prominent members of other parties who dared to dissent in 1934. In former USSR, only the Communist Party ruled and this state too was witness to several purges between 1936 and 1938.

Afro-Asian states in the post-colonial era have also come under single party rule. These countries include Ghana, Kenya, Tanzania, Turkey and Mexico, etc. The People's Republican Party operated in Turkey between 1923 and 1946, but it did not kill democracy. Under Julius Nyerere, who also founded the African National Union, Tanzania remained a single party democracy. Here, while TANU (Tanganyika African National Union) was the only recognized party, voters were given a choice of candidates from within the party. In each constituency, more than one TANU candidate was allowed to contest. In Kenya, the only opposition party, the Kenya African People's Union was banned by the government in 1969, but its members were allowed to compete in elections.

One-party system can thus be divided into two sub-types:

(i) Authoritarian one-party system

(ii) Non-authoritarian one-party system

However, the larger emphasis of a one-party system is mainly on the side of authoritarianism, the ruling party propagates its own philosophy and a peculiar way of life to which the whole society is forced to conform. The monopolization of a single party, which believes itself to be the true custodian of people, is seen as a grave danger for civilization in modern times.

2. Two-party system

In this kind of system, despite existence of other parties, two parties have the support of the electorates. Under this system, the majority of the elected candidates at a given time belong to one of the two parties; this party eventually forms the government while the other remains in Opposition. Other parties exist but the transfer of power happens between the two main parties only. The United States and the United Kingdom provide good examples of two-party system. The UK pohtical spectrum is dominated by the Labour Party and the Conservative Party, for instance. Things work differently in the US. Ideologically, the American parties are not very different but they cease to differ till the point where their political choices can differ. The British parties are also pragmatic but at the same time, ideologically distinct from each other. Thus, the two-party system can be divided into:

(i) Indistinct two-party system in the US (ii)

Distinct two-party system in Britain

3. Multi-party system

In a system where more than two parties exist, it is called a multi-party system. A number of parties struggle with each other under this system for power. However, it is difficult for only one party to secure absolute majority to rule. The system exists in countries like India and several countries of Europe, though its forms differ. From the viewpoint of stability of the government, one can discern two kinds of multi-party systems:

(i) Unstable multi-party system (ii)Working multiparty system

As the name indicates, unstable multi-party system does not ensure stability. One of the best examples of this is India, where due to the presence of a number of large and small parties has caused pohtical instability at the Centre. France, under the Third and Fourth Republics, is another example of this kind of party system. Here, governments formed by coalition of parties rose and fell with dismaying regularity. Italy is yet another example, where hardly any party has been able to win a majority since the Second World War.

The working multi-party systems, on the other hand, are like two-party systems. Thus, they are often able to ensure stability to government even though they are comprised of more than two major political parties. Before the rise of the Social Democratic Party ruling party, former West Germany had the characteristics of a two-party system as two of the three major parties worked together to form government while Social Democrats remained in the Opposition. In Norway, Sweden, Belgium and Israel too, the existence of numerous parties at one go has not caused instability. Democracy has functioned as successfully in multi-party systems as in two-party systems.

Every system has, however, certain advantages and disadvantages. Supporters of multi-party system argue that:

- In a plural society, like India, such a system more effectively corresponds to the division of public opinion.
- It represents and satisfies the aspirations of diverse interest groups.
- Under this system, a voter can choose among more parties and candidates than available under the two-parry system.
- It reduces the fear of authoritarianism and it is more flexible because groups can be freely organized under this system; they can unite and separate in accordance with the circumstances.

It is argued that a multi-party system has principally many factors in its favour that do not really work in practice. In India for instance, no single party has been able to command absolute majority in recent times and coalition governments have always been unstable and at risk of a fall. It creates other problems too.-The Council of Ministers rarely work under the leadership of the prime minister and instead seek guidance from their party bosses. Withdraw of support of even a single member of the Parliament is a threat to the government. Such a government can barely focus on matters of governance or large-scale welfare as it remains in keeping its partners and allies in good humour. This happens even at the cost of national interest. The party who is in majority in the coalition is also forced to abandon its electoral pledges at time to remain in power. Consequently, the Cabinet often represents under such a system, not a cohesive body of different opinions but apatchwork of doctrines. This creates a gap between the electorate and the

government. Despite all attempts to stick together, such a government often falls sooner than later as it is kept hostage by allied elements.

If their demands are not met, even small parties are quick to withdraw support. We have the examples from India in the form of withdrawal of support by the Congress party in 1997 and All India Anna Dravida Munnetra Kazhagam (AIADMK) in 1999. This forces unnecessary elections and causes great loss to the electorate. It is not false to say that multi-party systems and government instability go hand in hand. Since there are numerous parties vying with one another, it cannot be said which party will support in the wake of the fall of the predecessor. Thus, the complexity of choice is intensified in a multi-party system. But their existence can bewilder the general masses. Laski, therefore, concluded that a multi-party system 'is fatal to government as a practical art'.

On the other hand, supporters of two-party system argue that:

- People were able to choose their government directly as they were not confused between an array of candidates and instead choose simply between the available two.
- Since one party in power does not have to depend upon any other party for support, it keep the bond between them strong. This facilitates effectiveness of the government.
- Since each party is vying for the support of maximum number of people, they keep each other in check and prevent either from being too extreme.
- As democracy is to be guided by public opinion, the two-party system provides an ideal condition to debate issues between two opposite camps. Laski, therefore, observed that "a political system is more satisfactory, the more it is able to express itself through the antithesis of two great parties".

The two-party system has to, however, pay a price for the stability it promises. Naturally, this system indicates that only two schools of thoughts prevail in a country. In practice, however, there are always a variety of opinions and ideas that emerge and diffuse within a political system, political thoughts and discussions. The two-party system ceases to realize this. A sense of artificiality inevitably gets seeped into this system of political organization, in turn leading to the establishment of vested interests in public opinion. It is illustrated best by the American system. Moreover, this system leads to a decline of legislature and promotes cabinet dictatorship. The legislature gets underestimated when a party in power is backed by a solid majority inside the legislature.

In view of the above mentioned advantages and disadvantages of the multi-party and two-party systems, it is not prudent to lay down a general rule concerning the desirability of a particular type of party system in all countries. The merits and demerits of all party systems need to be studied in their context and also the social, economic and historical forces at work in a given country. There is no fixed pattern to any political system. Political culture also holds significance in this regard.'

Origin of the Party System

Several theories have been put forward by political scientists to explain the origin of the party system. These explanations can be broadly clubbed under three categories as discussed below:

1. Human Nature Theory: Three explanations have been put forward to understand the Human Nature Theory. Scholars like Sir Henry Main have argued that parties rise when humans move towards combativeness. In other words, parties are formed by human beings to give organized expression to their combative instinct. The second category of explanation under this theory identifies the human temperament as the cause of the emergence of political parties. That is, it is argued that the diverse temperaments of individuals lead them to form different parties. For instance, while people who appreciate the established order join Right of the political divide, others opposing the existing order join the Left of the political spectrum. In other words, those who do not support change in the existing system form one party, and those who want reforms and changes get together in another party. The third explanation runs in terms of the charismatic traits of political leaders.

Since the dormant masses need leadership to articulate their latent feelings, formation of a political party depends upon the availability of dynamic political leadership who can inspire masses to work towards achieving the goals of a particular party.

2. **Environmental Explanation:** Besides the above mentioned explanations, considerable data is available that helps explain the role of socio-economic environment in the evolution of party.system. For instance, research shows that the modern Democratic Party system was the result of at least two significant political developments—(i) the limitation of the authority of the absolute monarchy, and (ii) the extension of the suffrage to virtually all the adult population. The historic roots of the party system can thus be traced to the struggle of the legislature to limit the authority of the king and at the same time, the growth of the groups seeking recognition of their rights and interests and thus taking sides in a political battle. By 1680, the public policy of Britain had become the joint concern of both the King and Parliament, and the terms *Whig* and *Tory* were commonly applied to those who, respectively, attacked and supported the royal policy.
3. **Interest Theory:** While the above mentioned explanations may be true to some cases, none are complete in themselves. Human behavior is motivated by combativeness, but that's only a part of it. m a similar vein, age only partially reflects political attitude. Even the dynamism of a political leader is not permanent. The Interest Theory was forwarded in the wake of the inadequacies of the above-mentioned theories about the origin of the party system. The Interest theory propagates that parties are formed on the basis of their interests. An individual's nature, extent and degree are motivated by the range of interests he/she develops. These grow from his/her interaction with the cultural environment. Birth, education or a chance experience may, thus, determine an individual's interest which, in turn, may determine party affiliations. This theory further identifies a person's economic interests as influencing his/her decision to join a particular party. It also negates the Marxist assumption of economic determinism and its concomitant dichotomy of social classes. Interest theorists argue that people support party that promises to bring about economic change, and gives them hope of a better livelihood.

PARTY SYSTEM IN THE USA

The development of the US's two-party system has been divided into five eras by political scientists and historians. As mentioned earlier, this two-party system comprises the Democratic Party and the Republican Party. The two parties have won every presidential poll since 1852 and have controlled the United States Congress since 1856. Many smaller third parties also operate in the country, and their members are mostly elected for office at the local level. Since the 1980s, the largest third party in the US is the Libertarian Party.

But the American political system is a system of two-parties. The Constitution, however, does not give an insight into the issue. This could be because when the Constitution was being adopted in 1787, political parties did not exist in the US. Those were the days when nowhere in the world elections were fought on the basis of party system. The system was invented in the 1790s as the need to gain popular support a republic grew. New campaign strategies were invented by the Americans that linked public opinion with public policy through the party.

The Democratic Party is the oldest and one of the major political forces in the US. Since its split from the Republican in the polls of 1912, the party has based itself as a labour party, fighting economic issues. The party is influenced majorly be the economic philosophy of Franklin D. Roosevelt and this has also shaped its agenda since 1932. His New Deal coalition in fact ruled the White House until 1968.

The Republican Party is the other dominating party of the country. It is famously known as the Grand Old Party or GOP within the media circles since the 1880s. The party was founded in 18 54 by Northern anti-slavery activists and modernizers. With the election of president Abraham

Lincoln in 1860, the Party rose to prominence. He even used the party machinery to support victory in the American Civil War. Republicans led the American politics during the Third Party System from 1854 to 1896 and the Fourth Party System from 1896 to 1932. In present times, it supports anAmerican conservative platform, and also identifies itself economic liberalism, fiscal conservatism, and social conservatism.

The Democrats registered a decline in popularity as per the 2011 *USA Today* review of state voter rolls in 25 of 28 states. However, with more than 42 million voters, it remains the largest political party. The Republicans have 30 million voters while Independents are at 24 million. As per the review, the Democrats declined to 800,000 and they were down by 1.7 million, or 3.9 per cent, from 2008. In 2004,72 million voters had claimed affiliation to the party. Barack Obama, the present president of the US, is the 15th Democrat to hold the office. The Democratic Party is the majority party for the United States Senate since the 2006 mid-term polls.

As per the same review, the Republicans too registered a decline in 21 of 28 states. In 2011, its registration was down to 350,000. Independents, on the other hand, rose in 18 states that were reviewed. They increased by 325,000 in 2011 and their number was up more than 400,000 from 2008, or 1.7 per cent. The 19th Republican to hold the office of the president was George W Bush. Mitt Romney, former Governor of Massachusetts, was their nominee for the 2012 polls. The Republicans have a majority in the House of Representatives since the 2010 mid-term polls.

Advantages and disadvantages of USA's two-party system

Some of the advantages of the two-party system in US are:

- **Stability:** Compared to multi-party systems, two-party systems are more stable.
- **Moderation:** Parties tend to be moderate under this system as the two must appeal to the middle to win polls.
- Ease: Voters have only to decide between the two parties. Some of

the disadvantages of this system are:

- **Lack of choice:** Voters' options are limited as both parties tend to be very similar.
- **Less democratic:** A percentage of people will always feel marginalized by the system. ■

Realignment

This term is used to refer to the political shifts within a country. To realign means to give a new direction to the party and tp redefine what being a member of the said party means. Old parties realign when faced with new challenges and this often leads to a split in party leadership. Issues often cross-cut each other; for instance, many Democrats often find themselves agreeing with Republicans more than the members of their own party. Parties shift around the axis of the new issue when it becomes a matter of imminent concern and thus, a new system of parties emerges.

Major third parties in the USA

In this sub-section, we will discuss the two major third parties in the US party system. These are (i) Constitution Party and (ii) Green Party.

(i) Constitution Party: This party is a conservative party of the US political system and was founded in 1992. Then, it was called the as the US Taxpayers Party. It is founded on the platform that reflects the original goals of the US Constitution, on the principles advocated in the US Declaration of Independence and the morals of the Bible. Its name was changed to its present name in 1999. Rick Jore of Montana city was the first candidate of the Constitution Party who was elected to a state-level office in 2006. This was despite the fact that shortly before the polls, the Constitution Party of Montana had disaffiliated itself from the national party.

(ii) **Green Party:** This party operates mostly at the local level in the US. Those who are referred

to as Greens have mostly won public offices at the 'non-partisan ballot' polls. This incidcates towards those polls where candidates' party affiliations were not printed on the ballot. In the District of Columbia in 2005 and other states which allow party registeration, the party had 30,5000 registered members. In the polls of 2006, the party had ballot access in 31 states. The Green Party mostly operates as a third party in the US since 1980s. It was in 2000 during Ralph Nader's second presidential run that the party got widespread public attention. At present, the main Green Party is the Green Party of the United States, whose emergence has overshadowed the former Greens or the Green Party USA. The agenda of this party is environmentalism, non-hierarchical participatory democracy, social justice, respect for diversity, peace and non-violence.

History of Party System in the USA

The history of the party system in USA is best understood in the following divisions:

1. **First party system**: Factions in the George Washington administration are believed to have given way to the development of this system. George Washington, the ♦first President of the United States, did not belong to any political party at the time of his election to the top post. In fact, throughout his tenure, he never belonged to any party. Fearing conflict and stagnation, he hoped that political parties would never be formed. Yet, the two-party system in the country was forwarded by two of his advisors—including Hamilton and Madison. The two factions constituted Alexander Hamilton and the Federalists, and Thomas Jefferson and the Democratic-Republican Party. It is pertinent to mention again that the US Constitution does not address the issue of political parties; its founding fathers did not intend for American politics to be partisan. Hamilton and Madison, in Federalist Papers 9 and 10 respectively, wrote about dangers of domestic political factions. Nonetheless, the two-party system saw the Federalists on one side, who argued for a strong federal government with a national bank and a strong economic and industry system. The Democratic-Republicans favoured a limited government and put strong emphasis on farmers and **states' rights.** The Democratic-Republicans rose to dominance after the Presidential polls held in the year 1800 and remained so for the next 20 years. The Federalists were slowly led to twilight.
2. **Second party system:** The inability of one-party system to contain some matters of imminent concern, like slavery, gave way to the development of this system. The Whig Party and Henry Clay's American System emerged out of the second party system. While the moneyed supported the Whigs, the poor supported the Democrats. The Whig Party collapsed during 1850s due to a weak leadership as well as factionalism with the party over slavery as a result of the Compromise of 1850. Fading away of previous economic issues also caused the split within the party. The Democratic-Republican Party also suffered a split in 1829. The faction formed Jacksonian Democrats, a modern Democratic Party led by Andrew Jackson and Whig Party leader Henry Clay. Among major issues of dissent were the Democrats' support to presidency over other forms of governance, its opposition to the Bank of the United States and modernizing programmes that they felt would create industry at the cost of the taxpayer. On the other hand, the Whigs supported the rule of the Congress over the executive as well as the modernization programmes. Issues over Bank and the Spoils System of Federal Patronage were central to this system, which lasted till 1860.
3. **Third party system**: Characterized by the rise of anti-slavery Republican Party, this system went on from 1854 to mid-1890s. The party took on some of the economic policies of the Whigs like those concerning national banks, railroads, high tariffs, homesteads and aid to land grant colleges. Starting from around the beginning of the Civil War, conflicts, differences and coalitions defined this system. **The** issues **of Civil** War as well as Reconstruction created fissures until the Compromise of 1877. Thereafter, both became broad-based voting coalitions. Geography defined the parties. Democrats dominated the South and were opposed to putting an end to slavery. Republicans took on the North, who supported an end to slavery. This issue also brought in the African Americans into the Republican Party while the white southerners or the Redeemers joined the Democratic Party. The Democrats also comprised

some conservative pro-business Bourbon Democrats, traditional Democrats in the North, as well as Catholic immigrants. Businessmen, shop owners, skilled craftsmen, clerks and professionals were part of the Republicans, with the party's modern policies serving as main attraction. Widespread industrial and economic expansion marked this era, which lasted till 1896.

4. **Fourth party system:** Major shift in the issues of debate gave way to the Fourth Party System between 1896 and 1932, which nonetheless included the same primary parties as the Third Party System. Led by the Republican Party, this period corresponded to the Progressive Era. It started off after the Democrats were blamed by the Republicans for the Panic of 1893, resulting in the victory of William McKinley's over William Jennings Bryan in the 1896 presidential polls. Regulation of railroads and large businesses, protective tariff, role of labour unions, **child labour, a** new banking system, weeding out corruption, primary polls, direct election of senators, racial segregation, efficiency in government, women's suffrage, and control of immigration became some of the central issues of debate. The Republicans were supported by Northeastern business while the Democrats had the backing of the South and West. Both parties supported immigrant groups. The system ended around 1932.

5. **Fifth party system:** This system emerged in 1933, beginning the New Deal coalition. As the Republicans lost support following the Great Depression. Democratic President Franklin D. Roosevelt introduced the New Deal policies. Primacy was given to American Liberalism, keeping the interests of the coalition liberal groups in mind, especially ethno-religious constituencies including the Catholics, Jews, African Americans, White Southerners, labour unions, urban machines, progressive intellectuals, and populist farm groups. On the other hand, the Republicans suffered **a split. On** one side was the conservative wing led by Ohio Senator Robert A. Taft and on the other was a more successful moderate wing which was propagated by Northeastern leaders such as Nelson Rockefeller, Jacob Javits, and Henry Cabot Lodge. But they too lost influence after 1964. **This** system worked till 1968.
6. **Sixth party system:** In its developing stage at present, this system is said to have been initiated with the Civil Rights Act of 1964. That was the time when the Democrats lost their dominance of the South, leading *to* the Republicans gaining influence as was evident by the election results.

American Ideology and Polarizing Issues

The dominant political ideology of America is Republicanism, as well a form of classical liberalism. Documents that speak of these ideologies are the Declaration of Independence **(1776), the** Constitution (1787), the *Federalist Papers* (1788), the Bill of Rights (1791), and Lincoln's 'Gettysburg Address' (1863), among others. Some of the core principles of these ideologies are as follows:

- *Civic duty:* American citizens have to understand and support the government, participate in poll process, duly pay their taxes and perform military service if required.
- No space for political corruption
- *Democracy:* Citizens are foremost and the government is responsible to them. Citizens also have the power to change their representatives through polls.
- *Equality before law:* Laws attach no special privilege to any citizen. Government officials are subject to the law just as others are.
- *Freedom of religion:* The government can neither support nor suppress religion.
- *Freedom of speech:* the government cannot restrict through law or action the personal, non-violent speech of a citizen; a marketplace of ideas.

When the foundation of the United States was laid, its economy was mainly agricultural and comprised of small private businesses. Welfare issues were left by the state to the prerogative of private or local initiatives. The ideology of *laissez-faire* was, however, abandoned

during the Great Depression. The fiscal policy between 1930s and 1970s was characterized by the Keynesian consensus. This was the time when economic pohcy was dominated by modern American liberalism and remained unchallenged. The idea of *laissez-faire* once again came to dominate the American politics since the late 1970s and early 1980s. Ironically, America's GDP is at the low of 20 per cent since late 1970s even though the welfare state expanded more than threefold after the Second **World** War.

Yet, central issues have divided the voters since much of the American history. In its early decades, it was about the powers of the federal government. Present polarizing issues include abortion and gay marriages. Nonetheless, they have helped maintain a healthy democracy as well as the two-party system in the United States, with each party supporting one or the other issue.

The Early Republic: Federalists *versus* Anti-Federalists (1792-1800)

Ratification of the Constitution was the first serious political issue that divided the Americans. The Federalists sought the ratification of the Constitution so that a stronger national government could be created while the Anti-Federalists, fresh from the Revolutionary War, felt the Constitution would devoid the people of their hard-won liberties. While the Constitution was eventually ratified, the political division found its way into the first decades of the republic. The Federalists allied themselves with Alexander Hamilton and President John Adams, while Thomas Jefferson rallied with the Anti-Federalists, who started to call themselves Democratic Republicans. None of this faction was a political party in the modern sense of the word and also lacked strong cohesion.

The 'Era of Good Feeling' (1800-1824)

After Jefferson won the presidential polls of 1800, the Federalists were no longerperceived as a political threat. By the time James Monroe came to power, most Americans identified themselves with the ideology of the Democratic Republicans. Since there was no competition or opposition at all, this period is known in the American history as the 'Era of Good Feeling'. The public debate over political matters was common but it ceased to exist within political factions.

The Jacksonian Era: Democrats *versus* Whigs (1824-1850)

Jackson was replaced by Adams in 1828 as Democrats rebounded in four years. The Democratic Party also emerged as the first major grassroots party. Politicians who were opposed to Jackson's policies formed a temporary coalition called the Whig Party. However, after the highly contested presidential polls of 1824, the first modern party to emerge was the Democratic Party. In these polls, Jackson won the popular votes but could not get majority of electoral votes. Thus, John Quincy Adams was elected as the next president by the House of Representatives. The Democratic Party was thus created to oppose the Adams Administration.

The Antebellum Period: Democrats *versus* Republicans (1850-1860)

Slavery erupted as the next major issue over the next few decades. Those in favour of slavery fought intensely with the abolitionists but neither the Democrats nor the Whigs could muster a response on the emerging issue. Consequently, both parties saw internal divisions. Out of those in the favour of abolition, the Republican Party was formed in the late 1840s and early 1850s. The Democrats were left with mainly Southerners and rural Westerners. The Republicans nominated Abraham Lincoln in 1860. Stephen Douglas was nominated by Northern Democrats while John C. Breckenridge was chosen by their Southern counterparts. Lincoln won the polls closely and promised to keep the Union stable. However, with this election, South Carolina and several other Southern states seceded.

The Reconstruction Era (1868-1896)

The power battle continued between the Northern Republicans and Southern Democrats for many decades following the Civil War. Blacks, who were allowed to vote briefly after the War, mainly voted for the Republican, especially since they identified Democrats

with slavery. Emancipation was considered the principle ideology of the Republicans. Blacks were further encouraged to vote for the Republicans since Democrats were making all efforts to dissuade them from voting.

Strong Parties and Patronage

Political parties became strong entities during the nineteenth century. So much so, that a chief of a political party had more influence and power than even the elected officials from within that party. An important source of this power was the power of the chiefs to choose the nominees. Until recently, the nominees were chosen by the party chiefs and the public had a little say. Party leaders met in caucus, or informal closed meetings, not only to choose nominees but also set party guidelines. Disobedient members had the risk of not being re-nominated; this also meant they would be out of job. Many a times, parties gave government jobs and contracts to allies for political favours. This process was called machines because parties sought to transform favours and patronage into votes.

The Gilded Age (1880-1896)

Industrialization, large-scale corporations amassing capital and dominating unregulated marketplace were the next issues of American concern as well as fissures between them. Poor farmers came together to form a powerful third party and challenge the big-business trusts. They were called the People's Party or Populists. However, they were co-opted by the Democratic Parry in the polls of 1896, leading to the death of the Populists as an emerging third party. This was followed by defeat of the Democratic Populist led by William Jennings Bryan by Republican William McKinley. It gave birth to the new era of Republican dominance. Between 1896 and 1932, Republicans won every presidential poll, except the one in 1912.

Progressivism (1896-1932)

Progressivism, a social movement, swept the nation during the first two decades of the 1900s. Progressives, like the Populists, sought regulation of large-scale business enterprises and political power for the American citizens. The movement was bipartisan and Progressives were found both in the Republican Party and the Democratic Party. For instance, Republican Theodore Roosevelt and Democrat Woodrow Wilson were both Progressives. Later, the Repblican party split after an argument between the then President William Howard Taft who was a traditional conservative Republican and a Progressive Roosevelt. Roosevelt later founded the Progressive Party. In 1912, he won by a fleeting majority in a three-way polls. However, it only divided the Republicans, the use of which was made by the Democrats who then elected Woodrow Wilson. The death of the Progressive movement was called by Wilson's attempt to persuade the Senate to ratify the Treaty ofVersailles to end the First World War. Till 1932, the electorate only voted for the conservative Republican presidents.

The Depression and the New Deal (1929-1941)

The domination of the Republicans ended with the Great Depression, which refers to the crash of the stock markets in 1929. The electorate turned to the Democrats in protest against the policies of the Republican president Herbert Hoover. Franklin Delano Roosevelt, who was the Democratic nominee in 1932, offered to energize the economy in the form of a relief and reform legislative package known as the New Deal. Roosevelt won convincingly and also put the country on recovery road.

The New Deal Coalition (1936-1968)

The Democratic successes in the middle of the twentieth century were the courtesy of the New Deal coalition. This coalition comprised groups including workers, labour unions, Catholics, Jews and racial minorities. The Southern part of the US was mainly Democratic and was joined by the African American voters who majorly supported the Democrats after 1932. The Democratic Party was at the helm of the American political system for the next three decades.

With the changing world scenario, a panel of political scientists in the 1950s called upon 'responsible parties' to take upon the US politics. They referred to responsible parties as those who were strong to propose specific and substantive policies and also implement them effectively. They felt the US political parties were not 'responsible' for they failed to force their members to commit to the party platform. Since parties could not control their candidates even till today, as in-other countries, the call for responsible parties seems faraway.

The Civil Rights Movement and Vietnam (1960s)

The civil rights movement by the African American community as well as US's involvement in Vietnam created fissures in the New Deal coalition in the 1960s. The Democratic Party was dominated by Whites, who inarguably felt that the Republicans had invaded their homeland during the Civil War. African-American were also leading towards Democrats by then. These issues led to the Southern Whites switch to the Republican Party and by 1980s, much of the South affirmed with the Republican politics.

The critical 1968 polls were a definite moment in the US politics. The Vietnam War and the civil rights movement deepened the divide. The Democratic governor of Alabama, George Wallace, split from the party and contested as a third-party candidate, which hit the chances of the Democrats. This was followed by a bitterly-fought election, led by Republican Richard Nixon. The chaos of these polls marked the decline of the American political parties.

Since then, the Democrats have been trying for an image makeover and changed the ways their party operated. The focus has been on the process of choosing the nominees. Party reform was ushered in the form of opening up of the leadership to new people. More women and minorities were included in the delegations. Primary elections were introduced to allow electorate to directly participate in the party nomination process. Since then, the Democrats use primary polls in order to take decision-making powers from the party chiefs and vest them in the electorate. Republicans followed suit shortly.

8.3.3 Contemporary Party System in the USA

The Republicans havebeendoing very well politically since the polls in 1968, especially in the presidential races. This is evident in the fact that since 1968, only two Democrats — Jimmy Carter in 1976 and Bill Clinton in 1992 and 1996 - were elected as presidents. In the opinion of some scholars, the Republicans dominate the political system after the breakdown of the New Deal coalition, producing a realignment. For others however, it was a sort of de-alignment, i.e. the loosening of the party ties. They cited that since 1970s, American citizens identify themselves as independents rather than with any party ideology. People also cross party lines and vote for different parties in different polls. Split-ticket voting has also become popular in the US, wherein citizens vote for both Republicans and Democrats for different offices in the same polls. This kind of system has led to formation of a number of divided governments wherein one party leads the presidency while the other has control over at least one house of Congress.

The Reagan Democrats

In present times, political parties no longer are able to either dictate their nominees or control massive patronage. Candidates are said to function independently from the party leaders. They make their own strategies, often at the cost of the party. Such activities were synonymous for the Reagan Democrats in the 1980s. These comprised mainly blue-collar workers who conventionally voted for the Democrats. They were, however, to Reagan's social conservatism and toughness; in tune they helped him win two terms in presidents' office.

As parties took a back-turn, this gave rise to candidate-centred politics wherein people

voted for the candidates instead of the parties they were representing. This was especially true to presidential polls. Parties provided services such as financing the campaigns, providing expertise, lists of donors, and name recognition to candidates and campaigns. While they may exactly tow the party line, candidates are often seen maintaining close contact with the party leadership to win favours and larger party support. In cases where voters know little about candidates, the elections are mostly party centric.

The political system of the United States can be differentiated with other developed democracies on some of these major counts. These include significant power in the Upper House of the Legislature, the influence and authority of the Supreme Court, clear division of powers between the legislature and the executive and the domination of two political parties. Smaller parties in the US have low influence in the politics than they do in others democracies of the develop countries.

One of the dominant features of the US governance system is the federal entity created by the Constitution. At the same time, people are also subjects of the state and also of their local governments. The local governments refer to the counties, municipalities and special districts. The American history is reflected in its multiplicity of jurisdiction. As mentioned, state facilitated the creation of the federal government while colonies were separately established and they governed themselves. The local governments, on the other hand, were created by the colonies to carry out their independent functions. More states joined the country as it expanded.

. PARTY SYSTEM IN JAPAN

Japan's political framework can be identified as one of a parliamentary representative democratic monarchy. The prime minister of the country is the head of the government and also the Cabinet that directs the executive branch. The legislative power is the prerogative of the Diet. It comprises House of Representatives and the House of Councillors. The Supreme Court and lower courts hold the judiciary powers. Japan identifies itself with a multi-party system. However, in political science, you will often come across studies that will consider Japan a system of civil law, with constitutional monarchy.

The Emperor of Japan is defined by the Constitution as the "symbol of the state and of the unity of the people". However, his role is ceremonial; he participates in activities that have largely no real power. The Emperor has no emergency reserve powers either. The political power is in the hands of the PM and other members of the Diet. As per the law, the Imperial Throne is succeeded by a member of the Imperial House. The Emperor is also the head of the Japanese Imperial Family. The present emperor is Emperor Akihito. While his status the Emperor hold is disputed, occasionally, like on diplomatic events, the Emperor leads as the head of state, with widespread public support. The constitution vests sovereignty in the people of Japan.

The Emperor also appoints the prime minister, who is the chief of the executive branch, on the direction of the Diet. The PM is required to be a member of any House of the Diet, besides being a civilian. Other Cabinet members are nominated by the PM; they are also required to be civilians. Diet is an important body in the Japanese political system. The Cabinet, comprising the PM and MPs, are responsible to the Diet. On the other hand, it is the PM who can appoint and remove the ministers, even though majority of them are required to be Diet members. At time when the Liberal Democratic Party (LDP) has been in power, its president has automatically assumed the charge of the PM. The LDP, whose leanings are liberal conservative, in power from 1955 to 2009. In between, a short-term coalition had been formed by opposition parties in 1993. Social Liberal Democratic Party (SLDP) has been the largest opposition party of Japan since late 1990s and late 2000s.

Article VI of the Japanese constitution gives some nominal powers to the Emperor. These are:

- Appoint the Prime Minister as designated by the Diet.
- Appoint the Chief Justice of the Supreme Court, as designated by the Cabinet.

- On the advice and approval of the Cabinet, promulgate Constitution, laws, government orders and treaties.
- Convoke the Diet with the advice and approval of the Cabinet.
- Dissolve the House of Representatives, with the advice and approval of the Cabinet.
- Proclaim the general election of the Diet, with the advice and approval of the Cabinet.
- Attest Ministers of State, with the advice and approval of the Cabinet.
- , Grant pardon, with the advice and approval of the Cabinet.
- Award honours, with the advice and approval of the Cabinet.
- Receive foreign ambassadors, with the advice and approval of the Cabinet.

As evident, the Emperor has very superficial powers. In the system, the House of Councillors is also called the Upper House of the Japanese Diet, comprising 242 members. Their term is for a period six years. Most power is the Lower House, also called the House of Representatives, with 480 members. Their term is for four years. The minimum age to be a member of the House of Councillors is 30 years while for the House of Representatives, it is 25 years. Japanese citizens above 20 years are allowed to exercise their right to franchise.

In November 1945, after the Second World War concluded, all significant prewar conservative, moderate and progressive powers came together. This was followed by legitimating of the Japanese Communist Party (JCP). The new constitution was adopted on May 3, 1947 and with that, a cabinet under the parliamentary form of government was established. The' 1955 System' or' 1955 set-up' has played an important role in the development of the country. Under this system, the Japan Socialist Party (JSP) which had split in 1951 was reunified and the merger of two conservative parties
- the Japan Democratic Party and Liberal Party - gave way to the formation of the Liberal Democratic Party (LDP) in November 1955. Two parties dominated the LDP, resulting in the creation of 'one-and-half party system' since the LDP had about two-times more seats than the JSP, which was the opposition party, in the Diet

Since the coming in of this system, the LDP remained the dominating party of Japan till 1993. This is despite the fact that between 1970 and 1983, the opposition parties polled more votes than the LDP in each election for the House of Representatives. While the opposition parties could have cashed in on the opportunity and formed a joint government, it failed to do so. In 1983, elections to the Upper House and Lower House were held twice in June and December. The LDP won the House of Councillors with 68 seats. The JSP could not garner much support and it came to the point where it could lose relevance as the main opposition party. The LDP, however, failed to gain support in the Upper House. Following this, the LDP allied with the New Liberal Club (NLC) and gained 267 seats. The JSP, on the other hand, had to do with 112 seats. This was the first time when the LDP formed a coalition government since 1955.

In August 1993, many scandals, delayed reform programmes as well as factionalism within the party eventually led to the downfall of the LDP since its rule in Japan for 3 8 years. This period is also referred to as the 'collapse of 1955 System or Set-up' in Japanese political history. Between 1993-1994, LDP was out of power. But in 1994-1996, it returned to the coalition government; it was led by a Socialist Prime Minister Tomiichi Murayama. It ruled again till 2009 and it was in this year that the LDP lost majority in the Lower House. It returned to power again in 2012 polls.

Political development since 1990

After the LDP failed to win majority in the Lower House in 1993, a coalition of new as well as opposition parties was formed to rule. The coalition prime minster was Morihiro Hosokawa and he took charge in August 1993. The government promised political reforms, comprising restrictions on political financing and changes in the electoral system. A landmark political reform legislation was successfully passed by the coalition government in January 1994.

Prime Minister Hosokawa gave up his post in April 1994. The next coalition was formed by Tsutomu Hata which was the country's first minority government in nearly 40 years. It was also the

short lived one. Prime Minister Hata put in his paper in less than two months. This was followed by Tomiichi Murayama forming the government in June 1994. This coalition was made with the JSP, the LDP, and a small party called New Party* Sakigake. A coalition comprising JSP and LDP sent shock waves across the country, as the two had always been fierce political rivals.

Between January 1996 and July 1998, Prime Minister Ryutaro Hashimoto was in power. He was the head of a loose coalition of three parties, including LDP. However, in the 1998 Upper House election, the other two parties separated from the LDP and Prime Minister Hashimoto resigned due to LDP's poor electoral performance. This led to LDP party president KeizoObuchi succeed him as PM. He took charge on July 30, 1998. In January 1999, the LDP made a coalition government with the Liberal Party but KeizoObuchi remained the prime minister. New Komeito Party became part of this coalition in October 1999.

Political development since 2000

In 2000, Yoshiro Mori replaced Prime Minister Obuchi. The Liberal Party finally left the coalition in April 2000, following which a splinter group of the Liberal Party called the New Conservative Party joined the coalition. With the coming of this party, the gap left by the LDP was filled and the three coalition partners maintained the government till the 2000 Lower House elections.

Mori's year in office was, however, a turbulent one. His approval ratings fell to single digits, following which he decided to hold early polls for the presidency of the LDP to perk up the chances of his party in crucial July 2001 Upper House elections. However, the country was reverberating with desire for change and this was successfully tapped by maverick politician Junichiro Koizumi. He defeated former Prime Minister Hashimoto and his supporters on April 24,2001, only on issues related to economic and political reform. Koizumi took charge as country's 87th Prime Minister on April 26, 2001. However, despite promises of stability, the Lower House was dissolved on October 11,2003 and Prime Minister Koizumi was re-elected as LDP's president. LDP won the polls held later that year, even though opposition party like the liberals' and social-democratic Democratic Party of Japan did not support it.

Prime Minister Koizumi called for snap polls on August 8, 2005 in the Lower House after his leadership came under challenge from the LDP and the DPJ members of parliament, who rejected his proposal for a large-scale reform and privatization of Japan Post. Japan Post is state-owned postal monopoly and as per estimates, the largest financial institution in the world with over 331 trillion yen in assets. Polls were held on September 11,2005, wherein the LDP registered a landslide victory under the leadership of Koizumi. By 2006, the LDP started losing its hold and no leader except Koizumi held anypublic support. On September 26,2006, the then LDP chief Shinzo Abe was elected as PM. On September 12,2007, Abe was replaced by veteran LDP leader Yasuo Fukuda.

In support of US-led operations in Afghanistan, PM Fukuda called a Bill on January 11, 2008, to allow ships to refuel in the Indian Ocean. PM Fukuda made use of the LDP's majority in the Lower House to ignore the 'no-vote' of the Opposition-controlled Upper House to the Bill. It was for first time in over 50 years of Japanese history that the opinion of the Upper House was ignored to pass a Bill. Under criticism, PM Fukuda resigned on September 1,2008, soon after Cabinet reshuffling. To fill the leadership gap created by PM Fukuda resignation, polls were held within LDP and Taro Aso was elected as the party chief. He was made the PM the House of Representatives voted in his favour in the extraordinary session of Diet.

On July 21,2009, Prime Minister Aso dissolved the Lower House and polls were held on August 30 the same year. This time, the DP J-led opposition won the polls through a majority of 308 seats. Of these, 10 were won by its allies, the Social Democratic Party and the People's New Party. On September 16,2009, DPJ chief Hatoyama was elected by the Lower House as the 93rd Prime Minister of Japan. However, he resigned in June 2010 due to non-fulfillment of his domestic and international policies. Within a week of his resignation, DP J's president Naoto Kan was sowrn in as the PM. However, he lost the House of Councillors polls in 2010, following which DP J's new chief and former finance minister in the Naoto Kan's cabinet, Yoshihiko Noda,

was made Japan's 95th prime minister on August 30,2011.

On November 16,2012, Noda dissolved the Lower House after failing to receive support on various domestic issues like tax and nuclear energy. Polls were held on December 16,2012 and the LDP was again voted to power. It won absolute majority under the leadership of former Prime Minister Shinzo Abe. He was appointed as Japan's 96th Prime Minister on December 26,2012.

PARTY SYSTEM IN SWITZERLAND

Switzerland's political system is embedded in the multi-party federal parliamentary democratic republic framework. The Federal Council of Switzerland is the centre of the government, which also exercises the executive power along with the federal administration. Thus, no power is concentrated in the hands of one person or level of the government. The legislative power too is the prerogative of the government and two chambers of the Federal Assembly. Judiciary, however, is independent of the executive and the legislature. To modify the constitution, it is mandatory to introduce a referendum. On the other hand, if change is sought in a law, then referendum has to be requested. In these ways, citizens can participate in matters of governance. Citizens can challenge any change sought by the parliament and can also seek amendments in the constitution. This makes Switzerland the most leading and closet example of a direct democracy in the world.

The country has a system of governance rarely seen across the world - direct representation—also called half-direct democracy at time. This can be argued because in theory than in practice, the Sovereign of Switzerland is actually its entire electorate. Nonetheless, referendums on significant laws are regularly used since the adoption of the Constitution in 1848. All amendments to the constitution or joining of international organizations or any change to the federal laws that have otherwise no basis in the constitution have to be approved by the majority of both the people and the cantons.

Citizens have been empowered by the constitution to challenge any law that the parliament approves. If a citizen can get 50,000 signatures against a law within 100 days, then the constitution provides for scheduling of a national vote wherein voters have to decide through a simple majority whether the law will remain in force or be rejected. Citizen can also seek others' opinion on an amendment they want to propose to the constitution. For this purpose, they have to gather 100,000 within 18 months. Since this become a wholesome popular initiative, it is prepared as a next text whose wordings cannot be altered wither by the government or parliament.

To counter this initiative, the federal council can make a counterproposal to the proposed amendment. It can be out up for vote on the same day as the original proposal. However, these initiatives on the part of the government are mainly a compromise between the *stafusquo* and some wordings of the initiative. Voters then decide through national polling whether the amendment will be accepted or no. In case both the original and the counterproposal are accepted, voters are required to hint at a preference. Those initiatives that are of the constitutional level need to be accepted by a double majority, i.e. of the voters as well of the cantons. Counter-proposals, on the other hand, can be of two legislative levels and thus require only a simple majority.

The Federal Council of the Swiss government is comprised of seven-member executive council which leads the federal administration. It operates as a joint entity of the cabinet and collective presidency. As per law, any eligible citizen of the country can become a member of the National Council; candidates in fact do not have to register for the polls or to be members of the Council. The Federal Assembly is elected by the Federal Council for a term of four years. The president of the Confederation and the vice-president of Federal Council have largely a ceremonial role to play. They are elected by the Federal Assembly from among the members of the Federal Council. Their terms run concurrently for one year.

Stability is the most important feature that defines and distinguishes the Swiss political

landscape. It has never been renewed completely since 1848, thus giving a sense of long-term establishment. Between 1959 and 2003, the Council is comprised of a coalition of all parties in the fray and in the same ratio: two each from the Free Democratic Party (FDP), Social Democratic Party (SDP) and the Christian Democratic People's Party (CDPP) and one from the Swiss People's Party (SPP). The Council is rehauled only when one of the members puts in his/her papers. In the last over 150 years, only four incumbent members were voted out of the office. Even when shunted out, he/she is replaced by member from the same party and even the same linguistic group.

As mentioned, the government is a coalition of four major parties of the country. Each has the number of seats that reflects its share of voters and representation by members in Parliament. The classic distribution of 2 CVP/PDC, 2 SPS/PSS, 2 FDP/ PRD and 1 SVP/UDC as it stood from 1959 to 2003 was known as the 'magic formula'. The country has a multi-party system and its four largest parties have formed a coalition government since 1959. This has been possible due to the 'magic formula'. As per this arithmetic formula, seven cabinet seats are divided between these representatives of the four largest parties.

This 'magic formula' has often come under severe criticism. In the 1960s, it was put under the banter for allegedly leaving out the Left-leaning opposition parties. In the 1980s, it was criticized for excluding the newly-surfacing Green Party. It was particularly criticized after the 1999 polls, which left the CDPP from being the fourth largest party on the National Council to being the largest. In the 2003 polls, the CDPP was voted a second seat in the Federal Council. This reduced its share to one seat.

Hearings in Swiss parliament are open to anyone, even foreigners. Switzerland has a bicameral parliament, also known as the Federal Assembly. It is made up of:

- Council of States (46 seats. Members serve a four-year term).
- National Council. Members are elected by popular vote on the basis of proportional representation to serve a four-year term.

Swiss politics is dominated by four parties which have been usually represented in the government:

- **Radical Party:** Traditionally, the Centre-Right Radical Party is thought of as being warmed to the interests of the business community. The founding fathers of modern Switzerland made the party in 1848. It recently merged with the Liberal party. It is the third largest group in the House of Representatives at present along with the Christian Democratic Party and is also the second largest group in the Senate.
- **Social Democratic Party:** This is also known as the Centre-Left party. Its influence seems to be waning in the recent years, yet it is the second largest group in parliament. Representatives of French-speaking Switzerland and trade unions make up its influential Left wing.
- **Christian Democrat Party: It is traditionally a conservative** Catholic party. For last few years, it has moved towards the Centre-Right of the political spectrum. The party has lost voters in recent times but still maintains its strength in parliament. The party members are also the biggest group in the Senate.

- Swiss People's Party: This party has redefined the Swiss politics in many ways since the 1960s. This right-wing party has become the strongest political party in Switzerland.

The modern constitution of Switzerland can be traced to 1848 even though the country has a long republican tradition. The present constitution came into effect after the civil war of 1847. The constitution was revised in 1874 and amended as per the needs of the time regularly. It was revised completely in 1999 but it did not change the substance of the constitution, which is to give the constitution a modern and readable structure and language. There have also been other substantial changes made to the constitution in the form of small revisions but none changed the true meaning its holds for the Swiss community. The constitution defines the country as' a federal state composed of 26 cantons with far reaching

autonomy'. Of these, and emerging out of historical reasons, 6 of the 26 cantons are counted as half-cantons. Therefore, other sources that mention 23 cantons in Switzerland are also not wrong. These half cantons only vote arithmetics in referendums and in the small chamber of parliament. However, their status is similar to those of full cantons.

It is on these three levels that Switzerland's government, parliament and courts are organized:

(i) Federal

(ii) Cantonal (based on 26 cantonal constitutions)

(iii) Communal (infew small cantons and about 2,500 villages, citizens' meetings are held instead of cantonal and communal parliaments. Several communities have common local courts)

The confederation has been empowered by the Constitution to decide on matters related to foreign relations, the army, customs examinations and tariffs, value added taxes and the legislation on currency, measures and weights, railways and communications. Only some large cantons and some major cities have police forces of their own and hospitals and universities. Cantons decide on public schooling; this has resulted in 26 different kinds of education system within one country. However, it is the communes that actually run public schools, like many other public services, including water supply and garbage collection. To finance their activities, the confederation) cantons and communes collect their own income taxes.

The Swiss political system is definitely complex because of the details involved. In each state activity, the national legislature tried to establish an honoured balance betwefn itself and the cantons and communes. This commitment is respected by the people too who regularly participate in accepting or rejecting proposal for central laws in the form of referendums.

The right to vote to women was given very late in the country, despite it being known as more participatory democracy than any other in the world as well as its people making the best use of their rights. It was only in 1959 that a canton introduced women's voting right within that canton. The proposal was rejected by 67 per cent of the male population. Then, it was in 1971 that women finally got the right to vote on the national level. The last canton which refused to do so was forced to introduce it by the federal court as late as 1990. The court had referred to the 1981 federal constitution amendment that granted equal voting rights to men and women.

Similar to that of the United States, even the Swiss Constitution does not define or mention political parties. It is said that .in Switzerland political parties have extra

constitutional growth. It was with the adoption of the Constitution in 1848 that political parties came to life in the country. Till that time, all national affairs were the prerogative of politicians of two groups who got their support from the Protestant German Cantons and Protestant French Cantons. Both were later rechristened as Liberals and the Radicals respectively.

Older, experienced politicians were part of the Liberal ranks and they advocated that the party's political philosophy should be based on laissez-faire principles. The Radicals, on the other hands, were relatively younger and, with their progressive outlooks, advocated an advanced form of liberalism. Despite differences, however, the Liberals and the Radicals came together to frame the Federal Constitution of 1874, which had the opinions of both the groups. At the same time, the Catholic Conservative People's Party was not in favour of the either group as it comprised of members which had formed the Sonderbund, which was a League of seven Catholic Cantons formed in 1845. This group also initiated the War of Secession in 1848. By 1874, therefore, the country had three political parties but at present, besides these three, there are more parties that operate in the Swiss political system.

PARTY SYSTEM IN CHINA

The politics of the People's Republic of China (PRC) can be located within the single-party socialist republic system. The single party is called the Communist Party and its leadership is mentioned in the country's Constitution. The power of the government is exercised through the Communist Party within the country, and by the Central People's Government and their partners in the provinces and at the local level.

Under this kind of the dual system of leadership, every local office is jointly managed by the local leader as well as the leader of the corresponding office in the ministry, which exists at the higher level. The members of the People's Congress are elected by people at the county level. The People's Congress holds the responsibility of managing the local government and also chose members for the Provincial, or the municipal, People's Congress, hi turn, the Provincial People's Congress is responsible for electing members of the National People's Congress, This body meets in the month of March every year in Beijing. However, it is the ruling Communist Party which plays the significant role in selecting the 'right' candidates for the polls at both the local and higher level congress'.

China is mainly a multi-party state but under the leadership of the Communist Party of China (CPC). Its system is very similar to some of the popular state systems of the former Communist-era Eastern European countries such as the National Front of Democratic Germany. Under the system of one country and two party, Hong Kong and Macau are categorized as SpecialAdministrative Regions. Earlier, both were the colonies of the European powers. At present, they have a different political system as compared to China and both also run under the multi-party system.

In China, in practice, the Communist Party of China is the only party that holds formidable power the national level. It dominates all levels of governance to the core that China is often mistaken for being a one-party state. There are eight more, through small, parties that operate in China. But, they only have a limited power at the national level. In fact, they have to operate under the Communist Party of China and accept its leading role to be able to even exist. The Chinese system does allow few non-communist party members to participate in the system and also certain smaller parties within the National People's Congress but they are all vetted by the Communist Party of China.

The Constitution of China also allows some Opposition to operate. But the Communist Party of China exercises its control over the political system. In this way, the opposition ceases to exist. For instance, people's congress is elected through popular vote. Any official body above that is appointed by the congress itself. This means that even though independent persons and members of opposition can sometime be elected to the lowest level of the Congress, they may hardly be able to come together or organize themselves to a point where they themselves can elect members to the higher level without the approval of members of the Communist Party. Since they do not really have an effective power, it only discourages outsiders from contesting polls for the people's congress even at the bottom level, which means that mainly the communist members dominate the body.

Also, despite the fact the China has no law that formally bans non-religious organizations, it also has no law which could grant non-communist parties the corporate status. Thus, any opposition party, if it does exist even hypothetically, would not have the legal backing to assemble funds or have any registered property in the name of the party.

Significantly, the Chinese Constitution offers a wide range of laws that have been used in the past against members of opposition parties which those of the Communist Party of China perceived as threatening. These include members of the China Democracy Party. Charges related to subversion, sedition, and releasing state secrets can be slapped on members of opposition parties and, since the Communist Party controls the legislative and the judicial processes, it means that communists can legitimately target any person or group.

Communist Party of China

The Communist Party of China (CPC) is the founding and ruling political party of the country. It is also known as the Chinese Communist Party (CCP). The party was founded in July 1921 in Shanghai. While on paper, the party works alongside the United Front which refers to the

coahtion of all political parties, it is in practice the only political party in China. The party maintains the government and keeps the state matters, the military and the media under it. The Constitution grants them legal power and since it seeks its roots to the Leninist ideology, it officially is even above the law. At present, the leader of the party is Xi Jinping who has the title of the General Secretary of the Central Committee.

The party is committed to the ideologies of communism and Marxism-Leninism. It also *de facto* unrecognized factions. On the one side are consumerist and neoliberal figures like businessmen who support the practice of capitalism while on the other are the me'mbers of the Left, who oppose the Right. There are other factions too. The Right-wing faction has come under many criticisms, including purges and repression in the cultural revolution and after the Tiananmen Square Protests in 1989.

After the civil war concluded in China, the CPC defeated Kuomintang (KMT) which was its prime rival party. Then, it assumed the control of the entire Chinese territory while Kuomintang party shifted base to the island of Taiwan where it remains till date. Even before and long after China was founded, the history of the communist party is riddled with power struggles and battles of ideology, including the much written about movement called the Cultural Revolution. In its earlier days, the CPC was only a conventional member of the communist movement running across the world. It was during the 1960s that CPC broke apart from its counterpart in the Soviet Union over ideological differences. The ideology of the communist party in China was redefined by Deng Xiaoping, who included principles of market economics and ushered in reforms that generated rapid and prolonged economic growth.

Today, the CPC is the largest political party in the world with an estimated 80 million members. This number comprises about 6.0 per cent of the total population of mainland China. Alarge number of military and civil oflBcials of China are members of the CPC. The party has also been trying to institutionalize its power transitions and strengthen its internal structure since 1978. In present times, the party focuses on unity and avoiding public conflict and at the same time, practicing a pragmatic and open democratic centralism within the party structure.

With such huge membership, the party also dominates all matters of government. During liberalization period, the people's as well as groups' influence tends to increase, particularly in the economic matters. The principles of market economy have it that economic institutions can exist independent of a political parly's influence. However, despite the principles, the communist party maintains its powers in all governmental institutions in China and plays the most important role in administration especially when it comes to issues of politics and other such matters.

The party control is most strong and effective in offices of the central government and in economic, industrial and cultural settings, especially in the urban areas. However, the party's influence seems to be waning over government and other establishments in the rural areas where majority of Mainland Chinese people live. The most important role that the CPC plays is in the selection and promotion of party personnel. It also has to ensure that its principles and guidelines are followed and organizations by outsiders that could challenge the party's authority are not created. Small groups of CPC which coordinate the activities of different agencies are also key to the party's functioning. While convention has it that government panels should have one non-party member at least, a party's membership helps while important policy meetings and usually the one outside member are non-existent.

As per the Constitution, the Party Congress is the highest body of the CPC and is expected to meet at least once in five years. These meetings were intermittent before the Cultural Revolution but are duly organized now. In the meeting, the party elects their central panel and all the main organs of power are formally parts of the central panel. The main organs of the CPC are:

- The general secretary, who is the highest-ranking official within the party and the Chinese Paramount leader.
- The Politburo. It comprises 22 members, including members of the Politburo Standing

Committee.

- The Politburo Standing Committee. It comprises 7 members at present.
- The Secretariat, the principal administrative mechanism of the CPC, which is headed by the General Secretary.
- The Central Military Commission.
- .The Central Discipline Inspection Commission, which is charged with discouraging corruption and malfeasance among party cadres.

People's Liberation Army

The People's Liberation Army (PLA) was created by the Communist Party of China and thus the party leads it. After China was founded in 1949, the PLA became the state

military. Since it represents the state, it practices and upholds the communist party's absolute leadership over the military. The Central Military Commission, which has the task of supreme military leadership over the armed forces, was founded jointly by the party and the state.

The Constitution adopted in 1954 empowers the State chairman or the president to direct the armed forces; the state chairman also chairs the defence panel, which is only an advisory body. On September 28,1954, the central panel of the CPC re-formed the Central Military Commission (CMC). Since then, the system of joint party and state military leadership was adopted where the central panel of the CPC leads in all matters of the armed forces. The state military forces are directed by the state chairman and the military forces development is managed by the state council.

The State Central Military Commission was given the charge of all the armed forces in December 1982, with the amendment in the Constitution during the 5th National People's Congress. Now, the chair of the State CMC is both elected and removed by the national people's congress. Nonetheless, the CMC of the communist party leads the military and all other armed forces of the country. It should be noted that in practice, the party CMC consults all democratic parties and then proposes the names of the state CMC members so that NPC members can elect the State Central Military Commission members. Therefore, it can be said that the CMC of the central panel and the CMC of the state are one organization. Organizationally viewed, the two CMCs are subordinate to two different systems — (i) the Party system and (ii) the State system. Thus, the PLA and other forces are under the absolute force of the communist party. Such a system is unique to China where joint leadership of the Communist Party and the state over the armed forces is ensured.

ACTIVITY

Research on the Internet and list the political parties (both regional and national) oflndia.

DID YOU KNOW

Judicial independence from the political branches was emphatically established as a fundamental principle of governance in Article 57 of the 1889 Constitution of Japan.

SUMMARY

In this unit, you have learnt that:

- We may broadly classify all the parties as—two-party systems, multi-party systems, and one-party systems.
- In Great Britain and the United States, for example, a two-party system prevails; but in majority of countries, including India and France, multi-party system has come into existence.

- The one-party or single party system is formed on the assumption that the sovereign will of the state reposes in the leader and the political elite. This authoritarian principle found expression first in monarchies, later in dictatorships and more recently in some democracies.
- A two-party system is one where only two parties, despite the presence of other parties, have substantial support of the electorate and expectation of forming the government. Under this system, the majority of the elected candidates at a given time belongs to any one of the two major parties which form the government, while the other party remains in the Opposition.
- A multi-party system is one in which more than two major parties exist. In this party system, the parties struggle with each other for power but no party can alone secure absolute majority to rule. In countries like India and several countries of Europe, such a system exists, though in a variety of forms.
- The modern Democratic Party system, for instance, is the result of at least two significant political developments—(i) the limitation of the authority of the absolute monarchy, and (ii) the extension of the suffrage to virtually all the adult population.
- While the Interest Theory recognizes the significance of economic interests in influencing an individual or group's decision tojoin aparticular party or combination of parties, this theory does not agree with the Marxist assumption of economic determinism and its concomitant dichotomy of social classes.
- Throughout most of its history, American politics has been dominated by a two-party system.
- The Democratic Party is one of two major political parties in the US. It is the oldest political party in the world. Since the 1930s, the modernAmerican political spectrum and the usage of Left-Right politics have basically differed from the rest of the world.
- Out of the Second Party System came the Whig Party and Henry Clay's American System. Wealthy people tended to support the Whigs, and the poor tended to support the Democrats.
- The Third Party System stretched from 1854 to the mid-1890s, and was characterized by the emergence of the anti-slavery Republican Party, which adopted many of the economic policies of the Whigs, such as national banks, railroads, high tariffs, homesteads and aid to land grant colleges.
- In the Fourth Party System, Northeastern business supported the Republicans while the South and West supported the Democrats.;
- The Fifth Party System emerged with the New Deal Coalition beginning in 193 3. The Republicans began losing support after the Great Depression, giving rise to Democratic President Franklin D. Roosevelt and the activist New Deal.
- The Sixth Party System appears to have begun with the Civil Rights Act of 1964; the Democrats subsequently losing their long dominance of the South in the late 1960s, leading to a Republican dominance.
- The New Deal coalition formed the backbone of Democratic success in the mid-twentieth century. This coalition consisted of groups who supported the New Deal, including workers, labour unions, Catholics, Jews, and racial minorities.
- The federal entity created by the US Constitution is the dominant feature of the American governmental system. However, most people are also subject to a state government, and all are subject to various units of local government. The latter include counties, municipalities, and special districts.

- The politics of the People's Republic of China (PRC) take place in a framework of the single-party socialist republic. The leadership of the Communist Party is stated in the Constitution of the People's Republic of China.
- The People's Republic of China (PRC) is formally a multi-party state under the leadership of the Communist Party of China (CPC) in a United Front; similar to the popular fronts of

former Communist-era Eastern European countries such as the National Front of Democratic Germany.

- The Communist Party of China created and leads the People's Liberation Army. After the PRC was established in 1949, the PLA also became a state military. The state military system inherited and upholds the principle of the Communist Party's absolute leadership over the people's armed forces.
- Switzerland features a system of government not seen in any other nation— direct representation, sometimes called half-direct democracy. Referendums on the most important laws have been used since the 1848 Constitution.
- The Swiss Federal Council is a seven-member executive council that heads the federal administration, operating as a combination of the cabinet and collective presidency. Any Swiss citizen eligible to be a member of the National Council can be elected—candidates do not have to register for the election, or to actually be members of the National Council.
- The politics of Japan is conducted in a framework of a parliamentary representative democratic monarchy where the Prime Minister of Japan is the head of the government and the head of the Cabinet that directs the executive branch.

KEY TERMS

- **Hung parliament:** Situation where no single political party has a majority in the parliament.
- **Non-partisan ballot elections:** Elections in which the candidates' party affiliations were not printed on the ballot.
- **Progressivism:** Asocial movement that swept USA in the first two decades of the 1900s; the Progressives fought for government regulation of big business and more political power for the average American.
- **Realignment:** A major shift in the political divisions within a country; marks a new change in direction for the party that redefines what it means to be a member of that party.
- **Referendum:** Via referenda, citizens may challenge any law voted by the federal parliament and through initiatives introduce amendments to the federal constitution.
- **Sonderbund:** ALeague of seven Catholic Cantons formed in 1845.
- **Split-ticket voting:** A ballot cast for candidates of two or more political parties.

ANSWERS TO 'CHECK YOUR PROGRESS'

1. One-party system can be divided into two sub-types: (i) Authoritarian one-party system, and (ii) Non-authoritarian one-party system.
2. The two-party system may be divided into: (i) Indistinct two-party system in the US, and (ii) Distinct two-party system in Britain.
3. Two kinds of multi-party systems from the viewpoint of stability of government are: (i) unstable multi-party system, and (ii) working multiparty system.
4. While the Interest Theory recognizes the significance of economic interests in influencing an individual or group's decision to join a particular party or combination of parties, this theory does not agree with the Marxist assumption of economic determinism and its concomitant dichotomy of social classes. In fact, to reduce social tensions to two embattled groups of *haves* and *have-nots* all along the economic line is to over simplify a complex. One may,

therefore, argue that the human beings tend to support and vote for the political party mat holds the prospect of achieving their desired economic as well as socio-cultural objectives.

5. The advantages of the American two-party system include:
    - **Stability:** Two-party systems are more stable than multiparty systems.
    - **Moderation:** The two parties must appeal to the middle to win elections, so the parties tend to be moderate.
    - Ease: Voters have only to decide between the two parties.
6. Franklin Delano Roosevelt, proposed to revive the economy with a legislative] package of relief and reform known as the New Deal. Roosevelt won and successfully put America on the road to recovery. The New Deal coalition formed the backbone of Democratic success in the mid-twentieth century This coahtion \ consisted of groups who supported the New Deal, including workers, labour unions, Catholics, Jews, and racial minorities. The South continued to be overwhelmingly Democratic, and after 1932, African American voters moved in large numbers to the Democratic Party.
7. There are major differences between the political system of the United States and that of the other democracies of the developed countries. These include greater power in the Upper House of the legislature, a wider scope of power held by the Supreme Court, the separation of powers between the legislature and the executive, and the dominance of only two main parties. Third parties have less political influence in the United States than in other democracies of the developed countries.
8. The Emperor of Japan is the ceremonial monarch in the Japanese constitutional monarchy, and is the head of the Japanese Imperial Family. According to the Japan's 1947 Constitution, which dissolved the Empire of Japan, he is 'the symbol of the state and of the unity of the people'.
9. The Swiss Constitution, like that of the United States, makes no mention of political parties. Political parties in Switzerland have extra-constitutional growth. The political parties came into existence in Switzerland with the adoption of the Constitution of 1848. At that time, federal affairs were dominated by two groups of politicians whose main support came from the Protestant German Cantons and from the Protestant French Cantons. These groups subsequently became known as the Liberals and the Radicals respectively.
10. The CMC of the Central Committee and the CMC of the State are one group and one organization. However, looking at it organizationally, these two CMCs are subordinate to two different systems—(i) the Party system and (ii) the State system. Therefore the armed forces are under the absolute leadership of the Communist Party and are also the armed forces of the state. This is a unique Chinese system that ensures the joint leadership of the Communist Party and the state over the armed forces.

QUESTIONS AND EXERCISES

Short-Answer Questions

1. What are the different classifications on the party systems?
2. Write a short note on different theories related to the origin of the party systems.
3. What are the advantages and disadvantages of two-party system in the USA?

4. Discuss the formation of the People's Liberation Army in China.
5. What are the benefits of democratic rule in Switzerland?
6. What kind of party system is prevalent in Japan?

Long-Answer Questions

1. Give a detailed account on the polarizing issues in the American political system.
2. 'Political scientists and historians have divided the development of America's two-party system into five eras.' Elaborate.
3. Write a short note on the Communist Party of China.
4. 'The Swiss executive is one of the most stable governments worldwide.' Discuss.
5. Give a detailed account on the party system of Japan.

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UNIT 5 ELECTION AND REPRESENTATION

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INTRODUCTION

The previous unit introduced you to the federal systems of the United States, Switzerland and Canada. The federal system is another way to explain the democratic system across the world. Nonetheless, democracy should the defined as a system of representation— of the people, for the people, by the people. This is a broad definition and has som e more key principal issues attached to it. There are other certain institutional aspects to democracy which make politicians represent their electorate much effectively. Two factors that explain this representation are - mandate and accountability. A mandate is the will or the command or an authorization of the people, who are also called the political electorate, towards their representative. Accountability should be studied as a vertical accountability granted on the capacity of constituents to reward or authorize.

This unit will introduce you to the electoral process in the United Kingdom, the United States and Switzerland. Briefly, in the UK, the House of Commons delegates the assemblies and mayors who are elected using different types of voting system s. The House of Commons and the House of Lords also have their own variety of voting systems for internal polls. As you will now know, the United States has a federal government and the representatives are chosen for the federal (national), state and local levels through elections. On the federal level, the President, who is also the head of the state, is chosen through an electoral college, which is an indirect way of electing people.

As mentioned in the previous unit, Switzerland has a unique political system. It is exclusive to modern democracies as the country had direct democracy, wherein every citizen has the right to question a law passed or supported by the government at any time. The citizens can even ask for adjusting the federal constitution. Also, in most constituencies, the ballots are made of paper and are counted manually.

UNIT OBJECTIVES

After going through this unit, you will be able to:

- Discuss the electoral process in the UK
- Explain the methods of casting vote in the UK
- Discuss people's participation in electing the president of the US
- Asses the voting process in Switzerland

ELECTORAL PROCESS IN THE UK

The parliamentary system of government is derived from the Great Britain where it developed gradually under what is known as a non-coded constitution. This constitution is made up of numerous laws, decisions of courts and many diverse as well as unwritten conventions. Presently, the leader of the party which has the majority in the House of Commons represents the government as the prime minister. Naturally, the members of the PM's Cabinet are drawn from the party in power. The prime minister is also the member of House of Commons and so are most members of the Cabinet. To stay in power, the government requires majority in the House of Commons. In case the government loses the vote of confidence in the House of Commons, it is required to put in its papers or seek the dissolution of the Parliament.

The Upper Chamber of the UK Parliament is represented by the House of Lords, which is composed of the Crown i.e. the Monarch. This House is appointive and the hereditary Upper Chamber as compared to the Lower Chamber or the House of Commons. However, it is the Lower Chamber that reigns over the Upper Chamber. In the past, the powers of the House of

Lords were equivalent to those of the House of Commons but these were reduced considerably in 1911 and 1949 after the non-money (non-fiscal) bills were delayed. Since 1999, it was decided to exclude the country's hereditary peers from membership to the House of Lords. The Monarch was earlier a formidable part of the Parliament. However, since the year 1952, the Monarch plays an almost ceremonial role. The Crown is representative of the unity of the nation and above party politics. The Monarch also does not exercise any royal right of veto over legislation approved by Parliament.

For the purpose of general elections, the UK has 650 constituencies. Each constituency is represented by one Member of Parliament (MP) in the House of Commons. The term of an MP is for a maximum term of five years. Broadly, there are six kinds of elections in the UK:

- UK general elections
- Elections to devolve parliaments and assemblies
- Elections to the European Parliament
- Local elections
- Mayoral elections
- Police and Crime Commissioner elections

Elections are held on the Election Day which is conventionally a Thursday. General elections are also held on fixed dates. It is a rule to call them within five years of the opening of Parliament, following the last polls. Other elections are also held on fixed dates. In the case ofthe devolved assemblies and parliaments, early elections can occur in certain situations.

5.2.1 Electoral Systems

Currently, six electoral systems are in place in the UK:

- The single member plurality system (First-Past-the-Post)
- The multi-member plurality system
- Party list
- The single transferable vote
- The Additional Member System
- The Supplementary Vote

First-past-the-post

This system is used in the election ofthe members ofthe House of Commons and during other local polls in England and Wales. Under this system, the country or local authorities are divided in a number of voting areas, also known as constituencies or wards. During the time of a general poll, voters mark a cross against the name ofthe candidate they prefer on the ballot paper. The papers are finally counted and candidates who receive maximum votes in this manner are selected to represent their constituency or ward.

Supplementary Vote (SV)

This system is used to elect the Mayor of London and others in England and Wales. The process of this system is similar to the alternative vote system. Under this, however, voters can only cast a first and second preference vote. Thus, a voter marks against one column for first preference and in the other, for second preference. The second preference is not compulsory.

„ During the counting, if a candidate receives more than 50 per cent ofthe first preference votes during the first count, then their selection is made. In case this mark is not reached, then those candidates who poll the highest number of votes are retained and the others are eliminated. Thereafter, from those candidates who are eliminated, the second preference is counted and those votes which are polled in the favour ofthe first two candidates are transferred in their names. The candidate who receives most votes in this process is declared the winner.

Alternative Vote (AV)

This system is used to choose the most ofthe committees in the House of Commons as well as for the election ofthe Lord Speaker and during the bypoll for hereditary peers. Under this system, voters 'poll' in the manner of ranking. Candidates are ranked in the form of 1,2 or 3 and so on, on the ballot paper. A voter can rank as many candidates or just one that he/she wants. The final counting is made with the use of these preferences.
In case a candidate is polled more than 50 per cent of first preference votes, he/she is elected.

In case no candidate makes it to this mark of 50 per cent, then those with least number of first preference votes are eliminated. Their votes are given to candidates next in the line, i.e. in the second preference. If a stage is reached where a candidate has more votes than all other put together, then he/she is elected. In case this is not reached, candidates are eliminated in the process and the reallocation of preference votes is repeated till the time one candidate who gets the highest number of votes is selected.

Single Transferable Vote (STV)

This system is used for the election of deputy speakers in the House of Commons. It is also practiced in local polls of Scotland and Northern Ireland; for electing the latter's assembly as well as for European Parliament polls in Northern Ireland. To be able to follow this system, multi-member constituencies are needed i.e. those constituencies which are large and elect several representatives. Under this system, the electors rank the candidates in the series of 1,2,3 and so on, on the ballot paper. A voter is empowered to rank as many candidates as he/she wants or rank just one. The candidates need minimum votes to be elected. Their numbers are computed according to the number of available seats and the votes polled. This is called a quota. Candidates are ranked according to preference marked by the voters and the candidate who gains this quota is declared elected.

If a candidate has been polled more votes than are required to make it to the quota, then his/her surplus votes are transferred to the other candidates. Thus, the winner's votes go to the person on the second of the preference list. In case the quota is not reached, then the candidate with minimum first preference votes is declared out of the race and the votes are transferred to other candidates. This process is repeated until all the seats are filled.

Additional Member System (AMS)

This kind of system is used for the election of the Scottish Parliament, the National Assembly for Wales and the London Assembly. Under this system, electors are given two votes: one is to be cast for an individual and another for a party contesting the polls. In the first category, candidates are selected for single-member constituencies and the method of first-past-the-post or the second ballot or alternative vote is used. In the party vote, additional members for larger region are chosen according to the proportion. In this category, the percentage of votes polled by each party is used to establish the total number of representatives in each region. This includes those members in single member constituencies for whom votes are case.

Closed Party List

Such a system is used to choose members of the European Parliament. Exception is made in the case of Northern Ireland where the system of Single Transferable Vote is used. According to this system, a voter is required to mark (in the form of a cross) against the party they choose to support on the ballot paper. After all papers have been counted, each party is given seats proportionate to the votes it receives in each constituency. For such a List, multi-member constituencies are needed. These are those constituencies which are large and elect several representatives.

In such a system, polls are held locally. The polling procedure is looked after by the Returning Officer and the electoral register is made by the Electoral Registration Officer in all the lower-tier local authority. Exception is made in the case of Northern Ireland, where the electoral office of the country holds both the responsibilities. The election body sets principles and issues guidelines to the returning officers and all electoral registration officers even though it is in charge of the polling process in the entire country. The election commission, for instance, also registers political parties and administers the national referendums.

Entitlement to register

Any person who is above the age of 18 years and a national of the UK, the Republic of Ireland, a Commonwealth country (including Fiji, Zimbabwe and the *whole* of Cyprus) or a European Union member state, can seek to register their names at the Electoral Registration Officer at the district in the UK where they live. Such persons also need to site a 'considerable degree of permanence' in the area's electoral register. People can also register by providing their address even if they will be away at the time of the polls. This provision can be used in instances of being away for work, on a holiday, a person residing in student accommodation or admitted in hospital. Aperson with two homes, for instance, a student living in a hostel and having a permanent residential address, can register to vote in either of the booths under the address as long as they do not fall in the same area.

Additionally, to be able to appear on the electoral register, people who are also Commonwealth citizens, have to either enter or remain in the UK for the purpose. Applicants also cannot be registered as a convicted person in prison or a mental hospital or if found guilty of indulging in corrupt or illegal practices.

Electoral Register

An electoral register is maintained by each district council; it is a compilation of all registered voters. It comprises the names, address and the electoral number of every voter; voter registered under any special category, for instance service voters; as well as the electoral number of every anonymous elector. Voter who had not yet reached 18 years of age at the time of registration also has his/her date of birth on the electoral register. The electoral register of each district is further divided into separate registers for all polling districts.

Within individual voters, their franchise can differ. Thus against the electoral list, a number of markers are made next to a voter's name to identify in which elections he she can vote. For instance, citizens of European Union who are not Commonwealth or Irish citizens, have against their names marked either G, which means they are only entitled to vote in government polls, or K, which refers to their eligibility to vote European Parliamentary and local government elections. Voters who live overseas have against their names marked F, indicating their eligibility to cast ballot in European and UK Parliamentary elections. Those members of the House of Lords who live in the UK have their names prefixed with the letter L, indicating that they can only vote European Parliamentary and local government elections. Members who are overseas have their names marked against letter E, meaning that they can only cast ballot in the European' Parliamentary polls.

The electoral register is printed each year on December 1, following the 'annual canvass' period. Exception is made in case a poll is being held between July 1 and

December 1. In this case the register is published on February 1 the next year. In the year 2012, duetothe scheduling ofthe Police and Crime Commissioner polls onNovember 15, the annual canvass in England and Wales was held between July and October and the electoral register was published on October 16. The registration periods are between January and September. Notice to alter names in the register is published on the first working day of each month wherein voters can add, remove or amend their names. Such a notice is also made five working days before an election any time ofthe year or just before a poll is being closed in order to correct any error or in case such an order has been made by the government. Except a person who has died and is automatically removed from the register, anyone who is added or removed from the register has to be notified by the main electoral registration officer.

Two versions of electoral register exist. One is the full register and the other is the edited register. The full register is required to be scrutinized under the supervision of an electoral registration officer. The Returning Officer of a district has to be supplied the register free of charge as well as to the British Library, the Electoral Commission, the Office for National Statistics (only English and Welsh Registers), the General Register Office for Scotland (only Scottish Registers), the National Library ofWales (only English and Welsh Registers), the National Library of Scotland (only English and Scottish Registers) and the relevant Boundary Commission.

The edited register, on the other hand, is available for sale at the electoral registration officers and can be used for personal purpose. People can also choose to have their names removed from this register after informing their local electoral registration officer.

Plurality Voting and Party Representation

A significant feature ofthe polling system in the UK is not the number of votes garnered by a political party but the numbers with which it beats other parties in the poll race. This is particularly true in marginal constituencies, where seats are held by majorities by less than 10 per cent ofthe vote. Ironically, the final result ofthe polls is dependent on these seats, and most parties focus on securing their own margins and then capturing those that are held by their opponents.

Methods of casting vote

The UK Constitution allows eligible voters to cast their ballot through these different methods:

In person

On the polling day, booths are open from 7 am to 10 pm. The returning officer of each local authority gives voters their poll card which contains details of polling places allocated to them. Voters are not required to flash their voter cards or any other identification document at the polling booth to be able to vote. In Northern Ireland, one identification document is required at the polling station which can either be anNI Electoral Identity Card, a photographic NI or GB driving licence, a UK or other EU passport, a Translink 60+ SmartPass, a Translink Senior SmartPass, a Translink Blind Person's SmartPass or a Translink War Disabled SmartPass.

On verified and marked on the voters' list, the presiding officer or poll clerk at each booth issues the ballot paper to each voter. The voter is given an elector number and polling district reference unless he/she is an anonymous elector. Ballot papers are marked with official mark, which can be a watermark or perforation, and also carry a

unique identifying number. Papers issued without these two are declared invalid and not counted during the final calculation. There is also a separate list, called corresponding number list, where the officer presiding over the polls writes a voter's elector number next to the unique identifying number of the ballot paper. In order to maintain secrecy of the ballot, this paper is sealed and is only opened if the election result is challenged.

The ballot paper is marked in a private corner of the polling booth. In case the paper is spoiled, the official can issue a new one to the voter and cancel the old one. Before submitting the marked paper in the ballot box, a voter is required to show the official presiding the official mark or the unique identifying number given on the backside of the ballot paper. The law also has provision for tendered ballot. This service can be used, for instance, if a voter seeks a ballot paper even though his/her name has been marked on the voters' list. While this will mean that the voter has already cast his/her vote even though he/she may not have done so and been a victim of impersonation, he/ she is allowed to cast a tendered ballot. This provision is also allowed in case a voter, having applied for postal ballot, turns up at the polling booth. In such cases, after having marked the ballot paper, the voter cannot put it inside the ballot box but is required to return it to the presiding official who marks it with the voters' name, elector number and polling district reference. It is then placed inside a special envelope. The voter's details are then noted in the 'List of Tendered Votes'. Tendered ballots are not counted in the final count of votes but they are part of the record that the voter tried and was unable to cast vote. It is also the evidence that the voter is concerned about the polls. In case a voter wants to complain, a tendered ballot needs to be marked first.

After the polling is concluded, the top of the ballot box is sealed by official presiding over the elections and are transported to the central counting location, where the final count is made.

By post

As per law, eligible persons can receive ballot by post either for one election or for all elections for life without citing any reason. In Northern Ireland, however, voters are expected to explain the reason for their absence to get this service. Applications for this service are required to made before 5 pm, 11 working days before the official polling day. This is also the time when the postal ballots can be dispatched. Such ballots can also be sent outside of the country. In case they are not to be sent to the address registered by the voter, a reason needs to be provided to the EC as to why they should be sent to the alternative address.

* Voters are required to return their postal ballots after having filled all the necessary details, including their date of birth, and also put in their official signatures. Then, it is dispatched to the returning officer either by hand or by post on the polling day or at the booth situated within the constituency/ward. The address of the constituency/ward is printed on the return envelope sent to the voter. For the postal ballot to be counted as vote, it has to be received at the polling booth by the person in charge of such an exercise before the polling is wrapped, which is usually 10 pm of the day.

By proxy

A unique feature of UK voting pattern is proxy voting. This means that any person who is eligible to vote but cannot do so appoint anyone else to vote for him/her. However, to appoint a proxy, an application has to filled and dispatched to the local Electoral Registration Officer and it should be received by the EC six days before the polling is due. The proxy

person, on the other hand, can vote in person or apply for a postal proxy vote. The postal proxy vote application should be received by the EC 11 days before the polling is due. A voter who cannot vote, for instance, in case of an emergency, can file an emergency petition with the local EC body anytime before 5 pm on the voting day.

Except in case of a family member, a person is entitled to vote as a proxy for only two voters in each election in the said person's constituency. If a person applies for proxy for more than one election, he/she is required to attach an attested copy and justify his/her case on one of these basis: blindness, disability, employment, out of country on an education course, registered as a service, overseas or an anonymous elector. However, if proxy is being applied for only one poll, the person has to explain reason why he/she cannot appear in person. Attestation is not required in this case. In case the polling booth is approachable only by air or sea, an elector is also eligible to apply for permanent proxy without an attestation.

But this law differs for people in other regions. In Northern Ireland for instance, voters are required to explain their absence from the polling booth if they seek to appoint another person as a proxy.

Accessibility

As per law, all polling booths have to be made accessible to the physically disabled and equipped with PD-friendly devices. One large print display also needs to be kept for the visually impaired. It can be used for reference. Service to the PD and VI is also provided in the form of Presiding Officer to assist in voting or can even bring along a family member for help. If a person cannot enter a poll booth due to disability, the Presiding Officer is required to take out the ballot paper to the voter. Electoral registration forms are provided by the election commission in foreign languages but as per law, all voting material like ballot papers are only printed in English and in Welsh in Wales.

Post-election

Polling generally concludes at 10 pm. In most constituencies, votes are counted immediately. At the earliest, the results are declared by eve within an hour at 11 pm. Results have also been declared well into the night at 3 pr 4 am. Some constituencies declare it the next day. At the time when the declaration and one party achieves absolute majority in the House of Commons, a public statement is made by the outgoing prime minister. In case the majority is received by the same party who had been in power earlier, they continue to hold office without making a reconfirmation or reappointment. The start of their term is not marked. If a new party achieves majority, then the outgoing prime minister submits resignation to the Monarch. Then the Monarch calls upon the leader of the party that has achieved majority to form the government. The constitution gives prime minister the option to attempt to hold power even if his/her party's seats have been lost. This is followed by the *Queen's Speech* , wherein the details of the next legislative programme are presented. This process gives a chance to the House of Commons to give a confidence or a no-confidence motion by either accepting or rejecting the Queen's Speech.

The Queen has the power to dismiss the serving prime minister and seek a replacement since there are no constitutional guidelines on the matter, though precedents are available. The last such incident was the dismissal of Lord Melbourne in 1834. It can trigger a crisis as it did in 1975 and led to the Australian constitutional crisis. Recent prime ministers who chose to not resign despite not winning a majority are Edward

Heath in 1974 and Gordon Brown in 2010. After negotiations with the Liberal Parly failed to culminate into a deal in 1974, Heath put in his papers following which Queen II asked Labour leader Harold Wilson to form the government. Therefore, it is incumbent on the serving prime minster to react to the poll results, either by deciding to resign or to continue. The Monarch plays no role till this point. Only after the prime minister decides to resign, the Monarch asks the leader of the other party to form a government. For instance, despite being prime minister from 1979-1990, Margaret Thatcher was only asked once to form a government. Tony Blair too was asked to form a government once in 1997. While the prime minister can order the reshuffle of ministers anytime, after each election too, a prime minister can engage in a major or minor reshuffle of ministers.

After taking over the government, the largest party who could not achieve majority become the Opposition party. It is also known as *Her Majesty's Loyal Opposition.* All other small parties too who could not form government are known as just 'opposition'. Vacancies in the House created due to death, ennoblement, or resignations of members are filled through by-election. There is no fixed timeframe for by-election and they can be held months after the creation of the vacancy. They cannot be filled at all if the general elections are due in the near time. The dissolution of Parliament means that all seats are vacant and polls have to be held.

How often are general elections held?

As mentioned earlier, under this Act, polls are held on the first Thursday of the month of May every five years. Under the following two provisions, polls can be held on occasions other than the said five years:

- When a no confidence motion is passed in Her Majesty's government by a simple majority and 14 days elapse without the House having passed a confidence motion in any new government.
- When a motion for the general polls is agreed by two-third of the total number of seats in the House of Commons. This includes vacant seats, which stand at 434 out of 650 at present.

Before this Act was put into place, the Parliament was conceived for five years despite the fact that many were dissolved before the said period. This was always done at the request of the PM to the Monarch.

103 ELECTORAL PROCESS IN THE UNITED STATES

Two parties have dominated the US political scene for a long time - the Republican or Democrats. Since 1852, every president elected in the US has belonged to either of the two parties. As per the US system, a 'single-member district system' applies in the country. The candidate who is polled the highest number of votes in his/her state is elected as president. Thus, the voters poll for electors in their state. The leader of the country is thus indirectly elected. In total, there are 538 electors in the Electoral College. To win the presidential polls, it is important to win in most populated states. From all electoral votes cast nationwide, a candidate needs to earn an absolute majority at least 270 of the 538.

There exists a federal government in the US and members are elected at the national, state and local levels. At the federal or the national level, President is the head

of the start and, as mentioned above, is indirectly elected through an electoral college. In the present times, the citizens almost vote with the votes being case in their states. The federal legislature is also called the Congress and all its members are directly elected. At the state level, many elected offices exist and many states have an elective governor and legislature. Similarly at the local level and the counties, there are many elected offices. As per an estimate, nearly one million offices are filled in every electoral cycle in the US.

The elections are regulated through the state laws which often go beyond many constitutional definitions. The state laws decide on issues like the eligibility of the voters, ways in which each state's Electoral College is run and on the local and state elections. Articles I, II and the many amendments of the US Constitution pertain to the federal elections. On its part, the federal government has been trying to stimulate the voters' turnout through measures like the National Voter Registration Act, 1993.

Issues related to the financing of the elections have always been surrounded in controversy because of high amounts provided by the private sector especially towards the federal polls. Cap on public funding from volunteers towards candidates' campaign was introduced in the year 1974 for presidential primaries and elections, hi 1975, a Federal Elections Commission was formed through an amendment to the Federal Election Campaign Act. This body has the responsibility to release all information about financing of campaigns so that legal provisions like the limits and prohibitions on contributions and public funding of the presidential elections are adhered to.

Eligibility

As mentioned above, the eligibihty of a person to vote is mentioned in the Constitution and also decided by the states. As per the Constitution, the right to vote cannot be denied on the basis of sex, race or colour and everyone above 18 years of age can vote. Issues other than these are decided by state legislatures. States can prevent, for instance, convicted criminals, especially felons, from voting for a fixed period or forever. Some states also prevent 'insane' or 'idiot' persons from voting. These terms are generally considered derogatory and steps are on in the US to review these terms or remove them wherever they appear.

Presidential Election

The president and the vice-president of the US are indirectly elected; citizens cast then-vote for a number of members to form the US Electoral College. The College then directly elects the president and the vice-president. Elections for the president are held quadrennial, starting from the year 1792. Votes are polled on the Election Day, which is traditionally a Tuesday between November 2 and 8. Polls are held simultaneously in various states and local counties. The last election was held in 2012 on November 6. The next polls are due on November 8,2016.

The elections are regulated by both the federal and state laws. Each state is given a number of Electoral College electors equal to the number of senators and representatives it has in the US Congress. Washington D.C. is also provided electors equal to the numbers held by the smallest state. Electoral College has no representation from the US territories.

The US Constitution empowers each state to decide how it will choose its electors. Therefore, on the Election Day, the popular vote is held by various states and not the government at the centre. Electors can independently vote once they are chosen; there have been exceptions such as unpledged or faithless elector who vote for their own

candidates. Their votes are confirmed by the Congress who is the final judge of electors, two months after the voting.

The process of nomination, including those for the federal elections, has not been specified in the Constitution and is developed by various states and political parties. This is also an indirect process and voters cast their ballot for a number of delegates who are chosen to represent their states at their party conventions. Delegates then cast their vote in favour of one candidate for the post of the president.

History

It is inArticle U of the US Constitution that the method of presidential elections has been detailed. This includes selection of the Electoral College. Article II and its contents are the result of deliberations and compromises between one section of constitution of framers who wanted to rest the power with the Congress for choice of president even as the other section favoured national voting. Later, each state was given the number of electors equal to the size of its members in the two houses of Congress. The process to choose electors is decided by each state through its legislature. In 1789, when the first presidential elections were held, only six of the then existing 13 states chose electors through voting. Later, however, most states following the method of popular voting to choose their slate of electors. This resulted in a nationwide indirect polling system as it is today.

As established originally under Article II, electors were allowed two votes for two different presidential candidates. The candidate who polled the highest number of votes was elected the president and the second polled candidate was appointed the vice president. However, this system had its own problems. For instance, in the 1880 presidential elections, Aaron Burr was polled the equal number of votes as Thomas Jefferson. Jefferson was allegedly selected for the top post job under the influence of Alexander Hamilton in the House of Representatives. Burr challenged Jefferson's selection and this led to deep rivalry between the two, resulting in their famous duel in 1804.

The 12th amendment to the US Constitution was passed in response to the polls in 1800. It required voters to cast two distinct votes, one for the president and another for the vice president. The amendment also provided rules in case no candidate won a majority in the Electoral College. After the presidential election of 1824, Andrew Jackson registered plurality but not majority. Then, the House of Representatives was given charge of the polls and John Quincy Adams was elected as the president. Again, this led to deep rivalry between Jackson and the then speaker of the House, Henry Clay, who was one of the candidates in the polls.

Electoral College

As an institution, the US Electoral College is in charge of officially electing the president and vice president every four years. As mentioned earlier, people indirectly elect them through popular vote in each state. All states also have own electors which is equal to the number of members they have in the Congress. The 23rd amendment gave the district of Columbia three electors. At present, there are 538 electors in the US. Of these, 435 are representatives and 100 senators, including three electors from the District ofColumbia.

Except the states of Maine and Nebraska, electors are chosen in all others on 'winner-take-air basis. Electors who support the presidential candidate who is polled most votes become electors for Mm/her. The states of Maine and Nebraska use the

'congressional district method' wherein one elector is chosen by popular vote and the remaining two are selected through nationwide voting. The federal law does not seek that an elector honours a pledge but there have been instance where electors voted against the pledge they had taken. As per the 12th amendment, each elector had to cast two votes, one for the president and another for the vice president. The candidate who receives most votes - the current majority is 270 — for both the offices of the president or the vice president is elected to that office.

The 12th amendment also specified on measure to be taken if the Electoral College failed to choose a president or vice president. In case no candidate receives majority for the post of the president, then the House of Representatives selects a candidate wherein each state has one vote each. In case no candidate receives majority for vice president, then the Senate selects him/her, with each senator having one vote.

Critics of the system contend that the system of Electoral College is inherently undemocratic and gives states undue influence in choosing the heads of the country. This is because the Electoral College provides for numerical majority in the presidential election to small states as minimum electors from such states are three. On the other hand, the winner-take-all method of voting favours the larger states. Many constitutional amendments have sought modifications to the Electoral College and its replacement with popular vote.

Presidential Nominating Convention

The country holds a presidential nominating convention every four years. It is held by parties who want to field their candidates in the presidential elections. The purpose of each such convention is to choose a party's nominee for the post of the president. It also seeks to adopt a statement of party principles and goals known as the *platform* and set rules for party's activities, including the process the choose the presidential nominee for the next polls. Owing to changes in the poll laws and the process of running campaigns, such conventions since the latter half of the 20th century have nearly renounced their original goals and are merely ceremonial affairs at present. Today, such conventions refer to the quadrennial events of two dominating parties, and are called the Democratic National Convention and the Republican National Convention. Other smaller parties also hold such conventions. Few examples are those of the Green Party, Sociahst Party USA, Libertarian Party, Constitution Party and Reform Party USA.

Nominating process

The process of nominating a candidate in the present times is divided into two parts: state-wise presidential primary elections and caucuses and the noiriinating conventions held by each political party. This process finds no mention in the US Constitution and has evolved over the time by participating political parties.

T]he primary polls are held by the state and local government. Caucuses are held by political parties directly. While some state organize only primary polls, some hold caucuses while others hold both the processes. These processes are generally held between January and June before the federal elections are due. Traditionally, the states of Iowa and New Hampshire hold the state caucus and primary first.

Presidential caucuses or primaries are indirect elections like general polls. It is at their respective nominating conventions that major political parties vote for the presidential candidate. These are usually held in the summer before the federal elections are due. Each state or political party has a different rule wherein voters cast ballot to choose

presidential caucus or primary. With such an exercise, the voters could be voting to award

delegates who will in turn vote for a particular candidate at the presidential nominating conventions or voters could be only expressing their opinion which a party is not bound to follow at the national convention. Voters in territories are also empowered to choose delegates to the national conventions.

Along with these, political parties also include 'unpledged' delegates who can vote for whoever they want. For the Republicans, top party officials comprise this list while for the Democrats, these are usually the party leaders and elected officials. The presidential candidate for each party also chooses a vice-presidential candidate who runs with him/her on the same ticket. Their choice is always approved by the convention.

ELECTORAL PROCESS IN SWITZERLAND

As mentioned above, Switzerland's political system is different from the rest. The country votes for a head of the state, also called the federal council, on the national level. A legislature is also elected. The federal assembly is represented by two chambers - the national council and the council of states. The national council is comprised of 200 members who are elected for a term of four years by proportional representation in multi-seat constituencies and cantons. On the other hand, the council of states has 46 members who are elected for a period of four years in 20 multi-seat and six single-seat constituencies. These are equivalent to 26 cantons and half-cantons. As per the rules, a member of the federal council holds the title of the President of the Confederation for one year.

Like several other countries, Switzerland too has a multi-party system but its unique feature is that members of main parties are members of the Executive, from the federal to the municipal level. It is plural in the true sense. The citizens vote to elect their officials and take own decisions about governance. Traditionally, voting is held over the weekend and efforts are made to hold it on a Sunday. The process is called *abstimmungssonntag* in German. By noon, the voting is concluded.

As mentioned in the Introduction, any citizen or groups can call for changes in the Constitution. Nearly four times every year, voting is held oyer many different issues. The issues include Referendums, where people directly vote and cast their opinions over new policies. Issues for all federal, cantonal and municipalities are also polled and most of the citizens cast their votes through mail. Elections are also held where citizens elect their representatives.

Despite being a participatory democracy, voter turnout in the elections has been continuously declining since the 1970s. It touched an all-time low at 42.2 per cent in 1995. The turnout has improved in the last few years and was recorded at 48.5 per cent in 2011. For Referendums, the average turnout was 49.2 per cent in 2011. The participation is often issue based. For instance, those matters which have a little public appeal have recorded participation of even less that 30 per cent of the total electorate. However, current and controversial issues like the proposed abolition of the Swiss Army or the accession of Switzerland into the European Union have even recorded participation of over 60 per cent.

Voting Process

Unlike other countries, Switzerland offers voting choices to citizens in the form of hand counts, mail-in ballots, at the polling booths. More recently, internet votes were als0 allowed. Cantons imposed a fine equivalent to $3 until several years ago on citizens who did not vote. Voting is still compulsory in a canton called Schaffhausen. That is why this canton always has the turnout higher than the rest of the country.

No voting machines exist in Switzerland as votes are counted by hand. Citizens are recruited randomly by each municipality and given the duty to count the votes. Earlier, there were penalties imposed for not doing this duty but they have ceased now. After the ballots are sorted, the total number of approvals and disapprovals are counted. This is either done manually or, in large cities, done through automatic counters. Automatic counters are similar to the ones used by banks to count notes. Ballots are also sometime weighed by a precision balance. The counting

of the votes normally concludes in about six hours but those of larger cities like Zurich or Geneva takes much longer.

Mail-in Ballots

As per Swiss rules, voters need not register themselves before polls. Every person living in the country- this rule applies for both Swiss nationals and foreigners - is required to register with the municipality of their area within two weeks of moving in to a new place. Thus the municipalities keep track of all citizens. About two weeks before polls, the municipalities send their citizens a letter titled 'Ballots'. It comprises an envelope, the ballot for each family member eligible for voting and an information booklet to make citizens aware of the changes proposed in the law. When polls are taking place for Referendums, the booklets include texts by both the federal council and their standing on the Referendums to let the citizens know their opinion.

After the voter fills his/her ballot, it is put into an anonymous return envelope that is provided in the package by the municipality. This envelope, which also includes a signed transmission card, is the identification of the voter. All are sent back to the municipality, either by being posted directly into the municipality mailbox or are returned bypost. Once received by the municipality, the voter is identified through the transmission card. The anonymous return envelope is put into the polling booth. Switzerland primarily holds three types of elections. These include the parliamentary elections and executive elections wherein the citizens elect their representatives. The parliamentary elections sees contest between multiple parties to form government while the executive elections are direct elections held for individuals. The third kind of elections is Referendums, which concern policy issues.

Council of States

For'the elections of the members of Council of States, different systems are adopted by different cantons as this body represents the cantons, i.e. the member states, itself. But on the election day, a uniform method is followed for the National Council polls. This is called the plurality voting system or Majorzwahl in German. According to this system, elections take place before the other cantons in the canton of Zug and *AppenzellInnerrhoden.* The canton of Jura is an exception to the system of Majorzwahl. Here, the members of the council are elected through *Proporzwahl.*

Cantonal Elections

Citizens are also empowered to vote for each cantonal government. The voters are also given the power to nominate a candidate - on the ballot, a line where the voters can write the name of any person who they think is fit for the job. He/she is called a write-in candidate. No party votes are held here but only candidate votes; therefore the procedure is called Majorzwahl. Under this, a candidate with maximum votes wins. In other countries like the US, this kind of win is called a win by simple majority. Cantons mostly have a single-chamber parliament which is elected by a proportional representation. They also have many electoral districts of different sizes and varieties so that the seats are calculated in a proper manner.

Referendums

Swiss citizens are also empowered to call for constitutional and legislative referendums. *Legislative* referendums refer to those referendums which are possible on the laws that are passed by the legislature. People cannot move legislations designed by them. *Constitutional* referendums are those which the electorate has the right to initiate. These are introduced on popular initiative and for each proposal, a voter has to just vote in favor of a referendum or against it. The voters are also given a choice in case the number of for and against votes are equal. In the form of a question, the voters are asked: If both proposals are adopted by the people, which proposal do you favour? This is called a subsidiary question, which was introduced in 1987.

Constitutional Referendums

However, changes to the constitution are not only based on referendums. They require a majority of both the votes of the people and of the states. The double majority is also required on the part of the cantons as each canton has one vote. The votes of the canton are decided through the votes of its people: if majority of the people of a particular canton vote in favor of a referendum, then a canton is automatically assumed to support the change in the constitution. The government seeks these votes when changes or modifications to an Article in the constitution are proposed or when citizens seek a constitutional change through a popular initiative which has received over 100,000 signatures.

Municipal Voting

As per the Swiss law, every city, town and even village in the country has a deliberative assembly. Villages, for instance, hold meetings where eligible voters cast their franchise by raising their hands. Citizens can also present proposals, oral or written, on which voting is held in the next meeting. In larger towns, meetings are held. The members for the meeting are elected by proportional representation of one or more districts. Municipal goverjmients are chosen only by the citizens mostly through majority voting. The municipal councils usually comprise five to nine members. Thus, in a small town, less number of party members are represented. The leader of this council is also elected through majority vote. Municipal assemblies can vote for modifications to 'town statutes', which concern issues like water problems, use of public spaces, finance matters between the executive and the legislature and on naturalizations.

ACTIVITY

Make a list of the decisions taken by the US Parliament that have been historical.

DID YOU KNOW

Anew president of Switzerland is elected every year.

SUMMARY

In this unit, you have learnt that:

- The United States is a republic. This indicates that the people have the entitlement and they elect representatives of their choice.
- US also a federal nation, which means that power is shared between the central government and the individual states.
- Federal power is shared by three different branches of government - the president and his cabinet (the Executive), the two chambers of the US Congress (the Legislature) and the courts (Judiciary).

- There are two main types of electoral systems in the UK: o First Past the Post (FPTP)
  o Proportional Representation (PR)
- FPTP is an electoral system used for electing MPs to' seats' in the UK Parliament. It is a procedure in which the 'winner gets everything' and generally gives an absolute majority at both, constituency and national levels.
- In PR systems there are no exhausted votes in elections. Consequently, there is a much higher degree of proportionality, the number of seats more precisely mirrors the number of votes won by each party.
- The voting system of Switzerland allows voters to take time to select individual candidate, while those keen on simply voting for a party, can do so.

KEY TERMS

- **Mandate:** A command or an approval given by a political electorate to its representative.
- **House of Commons**: The lower house of the British parliament.
- **House of Lords**: The upper house of the British parliament.
- **Electoral College:** Abody of electors chosen or appointed by a larger group.
- **Cabinet:** Abody of advisers to the President, composed of the heads of the executive departments of the government.
- **Supplementary vote:** An electoral system used to elect a single winner, in which the voter ranks the candidates in order of preference.
- **Alternative vote:** A voting system designed to elect one winner.
- **Single transferable vote:** A voting system based on proportional representation and preferential voting.

- **Additional member system:** A branch of voting systems in which some representatives are elected from geographic constituencies and others are elected under proportional representation from a wider area, usually by party lists.
- **Electoral register:** A listing of all those registered to vote in a particular area
- **Plurality voting:** A vote of one or more than the number received by any other candidate or issue in a group of three or more.
- **Democrat:** A member of the Democratic Party.

ANSWERS TO 'CHECK YOUR PROGRESS'

1. The parliamentary system of government originated in Great Britain, where it has gradually developed under a non coded constitution defined by a vast body of laws, court decisions and diverse unwritten conventions.
2. The UK ParHament is composed of the Crown that is the monarch, the House of Lords, an appointive and hereditary upper chamber and the popularly elected lower chamber, the House of Commons.
3. There are six types of elections held in UK. These are:

- UK general elections
- Elections to devolved parliaments and assemblies
- Elections to the European Parliament
- Local elections
- Mayoral elections and
- Police and Crime Commissioner elections

4. All together there are 538 electors in the Electoral College of the US.
5. The United States has a federal government, with elected officials at the federal (national), state and local levels.
6. Article Two of the United States Constitution originally established the method of presidential elections, including the Electoral College.
7. The Swiss Federal Assembly has two chambers.
8. The Swiss National Council has 200 members.
9. Switzerland's voting system is unique among modern democratic nations in
 * that Switzerland practices direct democracy (also called half-direct democracy), in which any citizen may challenge'any law approved by the parliament or, at any time, propose a modification of the federal Constitution.

QUESTIONS AND EXERCISES

Short-Answer Questions

1. What is the role of the Queen in the British Parliament?
2. State the functioning of the six electoral systems used in the UK.
3. What is an electoral college?
4. What is the voting process in Switzerland?
5. What is a referendum?

Long-Answer Questions

1. Give a detailed account of the electoral process in the UK.
2. Write a note on the various types of voting systems used in the UK.
3. Discuss the process of presidential elections in the US.
4. Explain the electoral process in Switzerland in detail.

FURTHER READING

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