



ALAGAPPA UNIVERSITY

[Accredited with 'A+' Grade by NAAC (CGPA:3.64) in the Third Cycle
and Graded as Category-I University by MHRD-UGC]
(A State University Established by the Government of Tamil Nadu)

KARAIKUDI – 630 003



DIRECTORATE OF DISTANCE EDUCATION

B.A. [HISTORY]

III – SEMESTER

10834

CONTEMPORARY POLITICAL SYSTEMS

Author:

Dr.AR. Saravanakumar

Head i/c

Department of History

Alagappa Univeristy

Karaikudi

"The copyright shall be vested with Alagappa University"

All rights reserved. No part of this publication which is material protected by this copyright notice may be reproduced or transmitted or utilized or stored in any form or by any means now known or hereinafter invented, electronic, digital or mechanical, including photocopying, scanning, recording or by any information storage or retrieval system, without prior written permission from the Alagappa University, Karaikudi, Tamil Nadu.

Reviewer:

Dr. S. Rajavelu

Adjunct Faculty

Department of History

Alagappa University

Karaikudi

SYLLABI-BOOK MAPPING TABLE

10834 - CONTEMPORARY POLITICAL SYSTEMS

	Syllabi	Mapping in Book
BLOCK I :	EVOLUTION OF CONSTITUTION	
UNIT I :	Constitution-Classification of the Constitution	Pages 1-5
UNIT II :	Written – Unwritten Rigid.	Pages 6-11
UNIT III :	Flexible-Typology of Governments: Parliamentary.	Pages 12-16
UNIT IV :	Presidential-Quasi Presidential-Council form-Assembly form.	Pages 17-30
BLOCK II :	COMPARATIVE GOVERNMENTS	
UNIT V :	Legislators of U.K.	Pages 31-37
UNIT VI :	Legislators of U.S.A. - France and Switzerland	Pages 38-50
UNIT VII :	Executives of U.K.	Pages 51-67
UNIT VIII :	Executives of U.S.A. France and Switzerland	Pages 68-86
UNIT IX :	Judiciary of U.K.	Pages 87-90
UNIT X :	Judiciary of U.S.A. – France and Switzerland	Pages 91-105
BLOCK III :	CONTEMPORARY POLITICS	
UNIT XI :	Political parties-Pressure.	Pages 106-116
BLOCK IV:	DEMOCRACY	
UNIT XII :	Groups-Direct Democracy	Pages 117-124
UNIT XIII :	Representation Democracy	Pages 125-130
UNIT XIV :	Merits and Demerits	Pages 131-135

CONTENTS

BLOCK I : EVOLUTION OF CONSTITUTION

UNIT I	CONSTITUTION	1-5
1.0	Introduction	
1.1	Objectives	
1.2	Constitution	
1.3	History and Development	
1.4	Classification of the constitution	
1.5	Answers to Check Your Progress Questions	
1.6	Summary	
1.7	Key Words	
1.8	Self Assessment Questions and Exercises	
1.9	Suggested Readings	
UNIT II	WRITTEN – UNWRITTEN	6-11
2.0	Introduction	
2.1	Objectives	
2.2	Written Constitution	
2.3	Unwritten Constitution	
2.4	Difference between Written And Unwritten Constitution	
2.5	Answers to Check Your Progress Questions	
2.6	Summary	
2.7	Key Words	
2.8	Self Assessment Questions and Exercises	
2.9	Suggested Readings	
UNIT III	RIGID - FLEXIBLE CONSTITUTION	12-16
3.0	Introduction	
3.1	Objectives	
3.2	Rigid Constitution	
3.3	Flexible Constitution	
3.4	Answers to Check Your Progress Questions	
3.5	Summary	
3.6	Key Words	

3.7	Self Assessment Questions and Exercises	
3.8	Suggested Readings	
UNIT IV	TYOLOGY OF GOVERNMENTS	17-30
4.0	Introduction	
4.1	Objectives	
4.2	Typology of Governments	
4.3	Parliamentary	
4.4	Presidential	
4.5	Quasi Presidential	
4.6	Other forms of Government	
4.7	Answers to Check Your Progress Questions	
4.8	Summary	
4.9	Key Words	
4.10	Self Assessment Questions and Exercises	
4.11	Suggested Readings	
BLOCK – II COMPARATIVE GOVERNMENTS		
UNIT V	LEGISLATORS OF U.K	31-37
5.0	Introduction	
5.1	Objectives	
5.2	Legislators of U.K	
5.3	Powers of the House of Common	
5.4	The House of Lords	
5.5	Kinds of Committees in the British Parliament	
5.6	Answers to Check Your Progress Questions	
5.7	Summary	
5.8	Key Words	
5.9	Self Assessment Questions and Exercises	
5.10	Suggested Readings	
UNIT VI	LEGISLATORS OF U.S.A, FRANCE AND SWITZERLAND	38-50
6.0	Introduction	
6.1	Objectives	
6.2	Legislators of U.S.A	
6.3	Legislators of France	
6.4	Legislators of Switzerland	

6.5	Answers to Check Your Progress Questions	
6.6	Summary	
6.7	Key Words	
6.8	Self Assessment Questions and Exercises	
6.9	Suggested Readings	
UNIT VII	EXECUTIVES OF U.K	51-67
7.0	Introduction	
7.1	Objectives	
7.2	Executives of U.K	
7.3	Distinction between King and Crown	
7.4	Answers to Check Your Progress Questions	
7.5	Summary	
7.6	Key Words	
7.7	Self Assessment Questions and Exercises	
7.8	Suggested Readings	
UNIT VIII	EXECUTIVES OF U.S.A. FRANCE AND SWITZERLAND	68-86
8.0	Introduction	
8.1	Objectives	
8.2	Executive of U.S.A	
8.3	Executive of Switzerland	
8.4	Executive of France	
8.5	Answers to Check Your Progress Questions	
8.6	Summary	
8.7	Key Words	
8.8	Self Assessment Questions and Exercises	
8.9	Suggested Readings	
UNIT IX	JUDICIARY OF U.K.	87-90
9.0	Introduction	
9.1	Objectives	
9.2	British Judiciary	
9.3	Rule of Law	
9.4	Answers to Check Your Progress Questions	
9.5	Summary	

9.6	Key Words	
9.7	Self Assessment Questions and Exercises	
9.8	Suggested Readings	
UNIT X	JUDICIARY OF U.S.A. – FRANCE AND SWITZERLAND	91-105
10.0	Introduction	
10.1	Objectives	
10.2	Judiciary in U.S.A.	
10.3	Organisation of Supreme Court	
10.4	Judiciary in France	
10.5	Federal Judiciary of Swiss	
10.6	Answers to Check Your Progress Questions	
10.7	Summary	
10.8	Key Words	
10.9	Self Assessment Questions and Exercises	
10.10	Suggested Readings	
	BLOCK III : CONTEMPORARY POLITICS	
UNIT XI	POLITICAL PARTIES	106-116
11.0	Introduction	
11.1	Objectives	
11.2	Party Systems	
11.3	Party System in France	
11.4	Political Parties in U.S.A.	
11.5	Political Parties in Switzerland	
11.6	Answers to Check Your Progress Questions	
11.7	Summary	
11.8	Key Words	
11.9	Self Assessment Questions and Exercises	
11.10	Suggested Readings	
	BLOCK IV: DEMOCRACY	
UNIT XII	PRESSURE GROUPS AND DIRECT DEMOCRACY	117-124
12.0	Introduction	
12.1	Objectives	
12.2	Pressure Groups	
12.3	Direct Democracy	

12.4	Answers to Check Your Progress Questions	
12.5	Summary	
12.6	Key Words	
12.7	Self Assessment Questions and Exercises	
12.8	Suggested Readings	
UNIT XIII	REPRESENTATION DEMOCRACY	125-130
13.0	Introduction	
13.1	Objectives	
13.2	Representative Democracy	
13.3	Powers of Representatives	
13.4	History	
13.5	Definition and Examples	
13.6	Characteristics of a Representative Democracy	
13.7	Answers to Check Your Progress Questions	
13.8	Summary	
13.9	Key Words	
13.10	Self Assessment Questions and Exercises	
13.11	Suggested Readings	
UNIT XIV	MERITS AND DEMERITS	131-135
14.0	Introduction	
14.1	Objectives	
14.2	Representative Democracy – Merits	
14.3	Representative Democracy – Demerits	
14.4	Answers to Check Your Progress Questions	
14.5	Summary	
14.6	Key Words	
14.7	Self Assessment Questions and Exercises	
14.8	Suggested Readings	

INTRODUCTION

A constitution is a cumulative body of fundamental principles and established precedents which constitute the legal foundation of a polity or entity and defines the governing principles of that polity or entity. These principles are written as a single document or sets of legal documents, and those documents said to embody a written constitution. If they are written as a single aggregate document, it typifies a codified constitution. Some constitutions are uncodified. The best example is the constitution of the United Kingdom. However, such constitutions are written in the form of various fundamental Acts of a legislature and court cases or accords. A constitution defines the principles and ideologies, upon which the state is founded, and the procedure in which laws are made and also act as limiters of state power. The Indian Constitution is the lengthiest written constitution in the world, which contains 22 parts, 444 articles, 12 schedules and 124 amendments, whereas the Constitution of Monaco is the shortest written constitution which contains 10 chapters with 97 articles.

This book focuses on *History and Evolution of Constitutions and Comparative Government and Politics*, as well as *the Constitutions of various countries*.

This book follows the self-instruction mode or the SIM format wherein each unit begins with an 'Introduction' to the topic followed by an outline of the 'Objectives'. The content is presented in a simple and structured form with 'Check Your Progress' questions for better understanding. At the end of each unit a list of 'Key Words' is provided along with a 'Summary' and a set of 'Self-Assessment Questions and Exercises' for effective recap.

BLOCK – I EVOLUTION OF CONSTITUTION

UNIT I CONSTITUTION

Structure

- 1.0 Introduction
- 1.1 Objectives
- 1.2 Constitution
- 1.3 History and Development
- 1.4 Classification of the constitution
- 1.5 Answers to Check Your Progress Questions
- 1.6 Summary
- 1.7 Key Words
- 1.8 Self Assessment Questions and Exercises
- 1.9 Suggested Readings

1.0 INTRODUCTION

A constitution defines the principles and ideologies, upon which the state is founded, and the procedure in which laws are made and also act as limiters of state power.

In this unit you study about the about the Constitutions its Historical Developments and the Classification of Constitution.

1.1 OBJECTIVES

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

- To understand the need for a constitution.
- To Explain the role of constitution in a democratic society.

1.2 CONSTITUTION

A constitution is a cumulative body of fundamental principles and established precedents which constitute the legal foundation of a polity or entity and defines the governing principles of that polity or entity.

These principles are written as a single document or sets of legal documents, and those documents said to embody a written constitution. If they are written as a single aggregate document, it typifies a codified constitution. Some constitutions are un codified. The best example is the constitution of the United Kingdom. However, such constitutions are written in the form of various fundamental Acts of a legislature and court cases or accords.

The Indian Constitution is the lengthiest written constitution in the world, which contains 22 parts, 444 articles, 12 schedules and 124 amendments, whereas the Constitution of Monaco is the shortest written constitution which contains 10 chapters with 97 articles, and a total of 3,814 words.

1.3 HISTORY AND DEVELOPMENT

Archaeological excavations in modern-day Iraq in 1877 found references to the earliest known code of law, issued by the King of Sumeria, Urukagina of Lagash (c.2300 BCE), possibly the earliest prototype for a law of government. The oldest such document still known to be existent seems to be the Code of Ur-Nammu of Ur (c.2050 BCE). Some of the well-known ancient law codes include the code of Lipit-Ishtar

of Isin (1900 BCE), the code of Hammurabi of Babylonia (1754 BC), the Hittite code(c.1650 - 1500 BCE). In 621 BCE, a scribe named Draco codified the punishing oral codes of the city-state of Athens. This code prescribed the death penalty for several offences. Nowadays, rigorous rules are often called as “Draconian”. In 594 BC, the ruler of Athens, known as Solon, has created the new Solonian Constitution.

Aristotle (c.350 BCE) was the first person to make a proper distinction between common law and constitutional law, beginning ideas of constitution and constitutionalism, and also attempting to classify different forms of constitutional government. The simple definition he used to define a constitution in overall terms was “the arrangement of the offices in a state”. Aristotle, in his works, *Politics*, *Constitution of Athens* and *Nicomachean Ethics* explores some different constitutions, including those of Athens, Sparta, and Carthage. He classified those constitutions as good as well as bad constitutions and concluded that the best constitution was a mixed system, which includes monarchic, aristocratic, and democratic components. He also differentiates between citizens, who had the right to partake in the state, and slaves and non-citizens, who did not.

In 450 BCE, the Romans first codified their constitution as the Twelve Tables. The famous edicts of Maurya King Ashoka established constitutional principles for the 3rd century BCE. The first Germanic law codes to be written was the Visigothic Code of Euric, which was compiled by roughly 480 CE. In c.893, Alfred the Great, the kind of Anglo-Saxons, compiled the Doom book code of laws for England. Japan’s Seventeen-article constitution written in 604 CE, by Prince Shōtoku, is an early specimen of a constitution in Asian political history. The Constitution of Medina, also identified as the Charter of Medina, was created by the Islamic prophet Muhammad, shortly after the Hijra (622 CE). It established a formal agreement between Muhammad and all of the significant tribes and families of Medina and set up a number of rights and responsibilities for the Muslim, Jewish, and pagan communities of Medina.

Check Your Progress

1. Define the term Constitution?
2. What is Great Law of Peace?
3. Define Aristocracy?

The Cyfraith Hywel, also known as Welsh law, was codified by a highly esteemed medieval Welsh ruler Hywel Dda during c.942–950 CE. In England, Henry I’s declaration of the Charter of Liberties in 1100 made inevitable the king for his treatment of the clergy and the nobility. Magna Carta, which means ‘The Great Charter’, is a charter of rights agreed to by King John of England on 15th June 1215 CE. It is one of the essential documents in history as it recognised the principle that every person is subject to the law, even the king, and assures the right to justice, the rights of individuals and the right to a fair trial. It paved the way for the system of Constitutional Monarchy, with further reforms by shifting the power to the House of Commons from the monarchy and nobility.

In 1222 CE, Hungarian King Andrew II issued the Golden Bull of 1222 CE, an edict, which was one of the first examples of constitutional limits being placed on the powers of a European monarch. The Golden Bull of 1356 CE was a decree issued by a Reichstag headed by Emperor Charles IV that fixed, an essential aspect of the constitutional structure of the Holy Roman Empire. In China, the Hongwu Emperor created a document called Ancestral Injunctions in 1375 CE, which served in a genuine sense as a constitution for the Ming Dynasty for the next 250 years.

During the American Revolution, all of the 13 British colonies in America which were became the United States adopted their constitutions in 1776 and 1777. The United States Constitution, ratified in 21st June 1788, became a benchmark for republicanism and codified constitutions written thereafter. Another landmark document was the French Constitution of 1791, the first written Constitution of France adopted on 3rd September 1791, which established the Kingdom of the French, a constitutional monarchy, and the Legislative Assembly. On 19th March, parliament ratified the Spanish Constitution of 1812, which served as an example for other liberal constitutions of a number of South-European and Latin American nations like, for example, Portuguese Constitution of 1822, the Norwegian constitution of 1814, the Mexican Constitution of 1824.

In Brazil, the Constitution of 1824 stated the option for the monarchy as a political system after Brazilian Independence. The first Swiss Federal Constitution was placed in force in September 1848. On 1st July 1867, the Constitution of Canada came into force as the British North America Act, an act of the British Parliament.

The Constitution of India, the supreme law of India, was adopted by the Constituent Assembly of India on 26th November 1949 and became effective on 26th January 1950, as the longest written constitution of any country on earth.

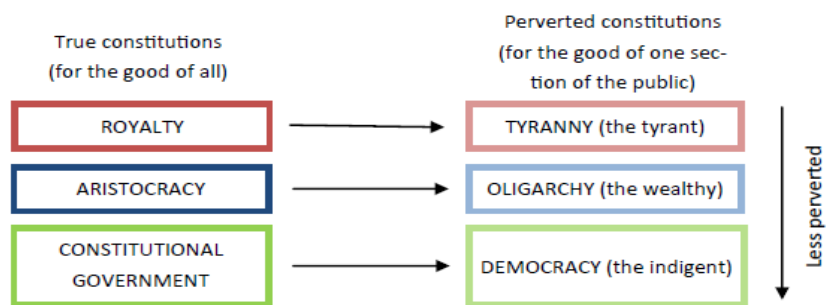
Babylonian King Hammurabi's Code of Laws



1.4. CLASSIFICATION OF THE CONSTITUTION

Constitutions are widely classified into two categories, firstly written and unwritten ; and secondly, rigid and flexible.

NOTES



Constitutions considered by Aristotle and his school:

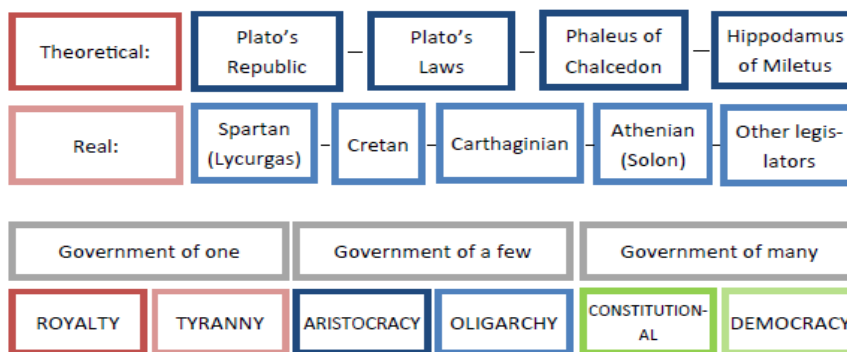


Diagram illustrating the classification of constitutions by Aristotle.

Type	Form	Example
Codified	In single act (document)	Most of the world (first: United States)
Uncodified	Fully written (in few documents)	San Marino, Israel, Saudi Arabia
	Partially unwritten (see constitutional convention)	Canada, New Zealand, United Kingdom

Check Your Progress

- Name the codified form of Constitution with examples?
- Name the uncodified form of Constitution with examples?

1.5. ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

- A constitution is an aggregate of fundamental principles or established precedents that constitute the legal basis of a polity, organisation or other type of entity, and commonly determine how that entity is to be governed.
- The *Great Law of Peace* is the oral constitution of the Iroquois Confederacy. ... The laws called a constitution are divided into 117 articles
- Aristocracy is a form of government that places strength in the hands of a small, privileged ruling class. The term derives from the Greek aristocratic, meaning 'rule of the best'.

4. It's an single act (Document) e.g. Most of the worlds (first in United States of America)
5. It's a partially unwritten e.g. Canada, New Zealand, United Kingdom.

1.6. SUMMARY

- A constitution is a cumulative body of fundamental principles and established precedents which constitute the legal foundation of a polity or entity
- Archaeological excavations in modern-day Iraq in 1877 found references to the earliest known code of law, issued by the King of Sumeria, Urukagina of Lagash (c.2300 BCE), possibly the earliest prototype for a law of government.
- Aristotle (c.350 BCE) was the first person to make a proper distinction between common law and constitutional law, beginning ideas of constitution and constitutionalism, and also attempting to classify different forms of constitutional government.
- The Constitution of India, the supreme law of India, was adopted by the Constituent Assembly of India on 26th November 1949 and became effective on 26th January 1950, as the longest written constitution of any country on earth.

1.7. KEY WORDS

Constitution - A constitution is an aggregate of fundamental principles or established precedents that constitute the legal basis of a polity, organisation or other type of entity, and commonly determine how that entity is to be governed.

Great Law of Peace - The *Great Law of Peace* is the oral constitution of the Iroquois Confederacy. ... The *laws* called a constitution are divided into 117 articles

Aristocracy - Aristocracy is a form of government that places strength in the hands of a small, privileged ruling class. The term derives from the Greek aristokratia, meaning 'rule of the best'.

1.8. SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. Write a short note about the definitions of Constitution?
2. Explain about the ancient period development of Constitution?
3. Explain briefly about the classification of Constitution?

Long Answer Questions

1. Critically examine the various medieval period Constitutional developments?
2. Evaluate the democratic Constitution?

1.9. SUGGESTED READINGS

J. C. Johari. (2011). *Comparative Politics*. Sterling Publishers Pvt.Ltd.
 J.C. Johari. (2012). *Major Modern Political Systems*. Shoban Lal & Co.
 O.P. Gauba. (2016). *Indian Political Thought* . Mayur Paperback.
 Kapur A.C. , Mishra K.K.(2016). *Select Constitutions*. S Chand.

UNIT II WRITTEN – UNWRITTEN

Structure

- 2.0 Introduction
 - 2.1 Objectives
 - 2.2 Written Constitution
 - 2.3 Unwritten Constitution
 - 2.4 Difference between Written And Unwritten Constitution
 - 2.5 Answers to Check Your Progress Questions
 - 2.6 Summary
 - 2.7 Key Words
 - 2.8 Self Assessment Questions and Exercises
 - 2.9 Suggested Readings
-

2.0 INTRODUCTION

In the previous unit you studied about the about the Constitutions its Historical Developments and the Classification of Constitution.

In this unit you study about the written and unwritten constitution.

2.1 OBJECTIVES

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

- To understand the need for a written constitution.
 - To understand the disadvantages of an unwritten constitution.
-

2.2 WRITTEN CONSTITUTION

On the basis of the above mentioned definitions it can be laid down that the constitution of a state determines the organization of its government. It specifies the various organs of the government their respective powers and inter-relations. It also states the general principles on which their powers are to be exercised. Constitution came into existence may be classified as written or unwritten. A constitution is called written if its fundamental provisions are embodied in one or several documents. It would be better to call it an enacted constitution. It is always the result of a conscious and deliberate effort to lay down the fundamental principles under which the government of people is sought to be organized.

A written constitution is the work of a either a constituent assembly or a legislature body. It is usually promulgated on a specific date. The constitution of United States of America was drafted by a special convention of delegates at Philadelphia. Like that, constitution of India is proclaimed on a particular date i.e. 26th January 1950. It provides certain fundamental rights to the people. It also provides a method of amendment.

As the written constitution is the work of either a constitutional assembly or a legislative body. It is superior to an unwritten constitution which is based on customs and conventions.

The written constitution provides a special process for amending the constitution and thus it make the constitution rigid. The process of amendment being difficult it is more stable than a flexible constitution or an unwritten constitution.

- **Demerits**

The written constitution has some demerits:

1. The written constitution provides a special process for amending the constitution thus it makes the constitution rigid. The process of

amendment being difficult it is more stable than a flexible constitution on unwritten constitution.

2. Clarity and unambiguity are the two essential pre-requisites of a written constitution. But most of the written constitution lacks these two principles. The Indian constitution has been called the lawyer's paradise as it provides a fertile ground for litigation.
3. But every written constitution has unwritten elements for example there are unwritten conventions in the constitution of U.S.A. and India.

2.3. UNWRITTEN CONSTITUTION

An unwritten constitution is one which has not been enacted by constituent assembly or by any sovereign body deliberately authorized by the people for the purpose. It is a product of history and result of evolution. It is based on customs and conventions which have ground for a long time.

According to C.F. Strong that a constitution is generally called unwritten if it has grown up on the basis of customs rather than of written law.

According to Gettel, "An unwritten constitution of governmental organization has not been reduced to definite written form to embodied in basic document. It consists of rather mass of certain usages, judicial decision and statutes enacted at different times". The British constitution is the sole example of such constitution in the modern world.

An unwritten constitution is one which the fundamental principles of government organization are not comprised in one document or a few documents. It has developed on the basis of customs, usages, and judicial decisions. It is a product of evolution.

Check Your Progress

1. Define the term Statutory?
2. What is Merit?

- **Merits of an Unwritten Constitution**

The unwritten constitution is flexible. Flexibility and adaptability are two important advantages. A flexible constitution is one which can be easily changed through the process of ordinary legislation. It avoids a lot of complications and formalities as it requires no special process to amend the constitution.

The unwritten constitution is that its roots are embodied deep in the past. It paved the way for its continuity in growth.

- **Demerits**

The important demerit of an unwritten constitution is that it lacks stability. The flexibility of the constitution and the supremacy of the parliament should be used carefully there is the possibility. The people should be politically aware and the leaders should be welfare minded. Hence written constitutions are not suitable for a country with people of different ideas and leaders of the different attitude of the executive strengthening its power. It may change the constitution to suit their own will and wish.

Every written constitution has certain unwritten elements. For example there are unwritten conventions in the constitution of U.S.A. and

India. The unwritten constitution of England has mass written element and other agreement made between the people and the king were written.

2.4. DIFFERENCE BETWEEN WRITTEN AND UNWRITTEN CONSTITUTION

S.No	Written	Unwritten
1.	A constitution is called written if its fundamental provisions are embodied in one or several documents.	A constitution is called an unwritten constitution if its fundamental provisions are not embodied in one or several documents.
2.	A written constitution is the work of either a constituent assembly or legislative body.	An unwritten constitution is one which has not been enacted by constituent assembly or any sovereign body.
3.		
4.	It is legally promulgated on a specific date. Written constitution is not based on customs or convention.	It is product of evolution. But an unwritten constitution is based on customs or convention.
5.	It is rigid. Each written constitution provides a method to change itself.	It is a flexible constitution. Amendment can be easily made when a constitute is called flexible.
6.	Judiciary is supreme. Judiciary has the power of Judicial review. Constitution of U.S.A is a good example.	Judiciary is not a supreme one. Judicial review is not granted to the Judiciary. Constitution of Britain is a good example.

The Difference Between Written and Unwritten Constitution of Degree not of Kind

But this distinction between the written and unwritten constitutions has rather been exaggerated and in reality it is not genuine. In short there is no constitution in the world which is wholly written or entirely unwritten. A constitution has to keep pace with the changing circumstances and as such must provide scope for growth and expansion. The customs and conventions and supplement the written constitution and provide life and movement to it. Similarly in unwritten constitutions, in course of time, certain customs and conventions tend to assume a written shape and are reduced to writing. To understand these points we must go into the working of the American and British constitutions and analyze how these fare contain written and unwritten elements.

In the U.S.A numerous extra-constitutional developments have supplemented the original constitution. The most notable of these extra

constitutional developments is the rise of political parties. The farmers of the constitution wanted to provide for a mechanism of government free from party-factions. But in the President election in 1796 there emerged two political parties supporting the rival candidates. By 1800 the party-system, had firmly caught roots in U.S.A and the necessary amendment (12th) was made in the constitution. Since then the political parties from the hub of national to assist the President. President Washington started the practice of having a small group of advisers to assist him. The succeeding Presidents followed this example. As a result today it is impossible dispense with this body known as Cabinet. The other important extra-constitutional developments in U.S.A. include Senatorial Courtesy, presidential nominating conventions, and residence requirements for election as member of House of Representatives etc. Similarly the Committee System in U.S.A is based on customs and usages. The Supreme Court of U.S.A has also played an important part supplementing the written constitution by liberal interpretation of the constitution and by assigning it new meanings according to the requirements of time.

The English Constitution, which is the only example of an unwritten constitution, also includes a considerable portion in statutory or written form. The succession to the throwing problems regarding suffrage, elections, judiciary, duration of parliament etc. have been subject to parliamentary regulation for centuries. Some of the former customs now enjoy statutory status. For example before the passage of famous Parliament Act of 1911, it was customary for the House of Lords to concede supremacy to the House of Commons in the financial sphere. The conflict over the budget of 1909 led to the passage of Parliament Act of 1911, which gave exclusive powers to the House of Commons to pass money bills and enact ordinary bills without the consent of the Lords. The supremacy of the House of Commons was further confirmed and extended by the Amending Act of 1949. Likewise, the Ministers of the Crown Act gave legal status to the Cabinet, to the office of the Prime Minister, the political parties and even to his Majesty's opposition. Thus even in England the statutory (written) element seems to be gaining in relative strength.

Thus Strong has opined that "the distinction sometimes drawn between written and unwritten, or, as we have called them, documentary and non-documentary constitutions, is a false one. For constitution is nonetheless a constitution even though it is not set out in documentary form. To deny this is to fall into the error of de Tocqueville, the great French expositor of American democracy, who, because Britain lacked a constitutional documents, asserted that the "British constitution did not exist". He further argues that the distinction between the unwritten and written constitutions is triply misleading. First, it misleads us by suggesting that while the force of custom and precedent is the sole ground of development in an unwritten usage no constitutions are either written or unwritten in this absolute sense. Second, the distinction between unwritten and written constitutions is misleading because it implies that there can be no laws of the constitution except those which are all brought together in one document called the constitution. If no such document exists, this argument seems to say, then there is no law of the constitution. Thirdly, this distinction is misleading because thereby we are persuaded to believe that law must necessarily be in a written form. This is certainly not

true. Even if we could point to a constitution which had developed solely upon custom, we might still assert that it had law, for custom can have the force of law.

Prof. Garner has observed: “A so-called written constitution is one in which most, but not all of the provisions have never been reduced to writing and formally embodied in a document or collection of documents A written constitution, on the contrary, is one in which most of the provisions are embodied in a single formal written instrument or instruments”.

The above discussion leads us to the conclusion that the distinction between written and unwritten constitution is really one of degree rather than of kind. All written constitutions, with the passage of time, are overlaid with unwritten elements just as the unwritten constitutions, in course of time, come to have substantial written element.

Check Your Progress

4. Name the written Constitution with examples?
5. Name unwritten Constitution with examples?

2.5. ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. Statutory means relating to rules or laws which have been formally written down.
2. The quality of being particularly good or worthy, especially so as to deserve praise or reward.
3. A fault or disadvantage.
4. United States, India.
5. Canada , United Kingdom.

2.6. SUMMARY

- A written constitution is the work of a either a constituent assembly or a legislature body.
- An unwritten constitution is one which has not been enacted by constituent assembly or by any sovereign body deliberately authorized by the people for the purpose
- But this distinction between the written and unwritten constitutions has rather been exaggerated and in reality it is not genuine
- The English Constitution, which is the only example of an unwritten constitution, also includes a considerable portion in statutory or written form.

2.7. KEY WORDS

Satutory - Statutory means relating to rules or laws which have been formally written down.

Merit - The quality of being particularly good or worthy, especially so as to deserve praise or reward.

Demerit - A fault or disadvantage.

2.8. SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. Write a short note about the written constitution in the world?

2. Explain about the unwritten constitution in the world?
3. Explain briefly about the difference between written and unwritten constitution?

Long Answer Questions

1. Critically examine the various examples of written and unwritten constitutions in the world?
2. Evaluate the need for the written constitution for the man kind?

NOTES

2.9. SUGGESTED READINGS

J. C. Johari. (2011). *Comparative Politics*. Sterling Publishers Pvt.Ltd;
J.C. Johari. (2012). *Major Modern Political Systems*. Shoban Lal & Co.
O.P. Gauba. (2016). *Indian Political Thought* . Mayur Paperback.
Kapur A.C. , Mishra K.K.(2016). *Select Constitutions*. S Chand.

UNIT III RIGID - FLEXIBLE CONSTITUTION

Structure

- 3.0 Introduction
- 3.1 Objectives
- 3.2 Rigid Constitution
- 3.3 Flexible Constitution
- 3.4 Answers to Check Your Progress Questions
- 3.5 Summary
- 3.6 Key Words
- 3.7 Self Assessment Questions and Exercises
- 3.8 Suggested Readings

3.0 INTRODUCTION

In the previous unit you studied about the written and unwritten constitution.

In this unit you study about the Rigid and flexible constitution.

3.1 OBJECTIVES

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

- To understand the meaning of rigid constitution.
- To describe the salient features of the Indian Constitution

3.2 RIGID CONSTITUTION

A constitution can be classified as rigid and flexible, according to the difficulty of the case with which amendments may be made.

A rigid constitution is one which needs a special procedure for amendments which is quite different from the procedure for amending the ordinary laws of the land. The difference in procedure is due to the fact that constitutional law is considered to be superior to the ordinary law. Each written constitution provides a method to change itself.

According to C.F. Strong there are mainly four methods for constitutional amendments in vogue in different countries.

- 1) By the ordinary legislature but under certain restrictions.
- 2) By a majority of all the units of a federal state.
- 3) By a special convention.

Since a rigid constitution is usually the result of the deliberation of a special body of persons and its provisions are prepared with great care and intelligence it is expected to be clear and definite. Being always written its provisions can be easily ascertained by reference to the legal document. The process of amendment being difficult it is more stable than a flexible constitution less liable to be affected by temporary popular passions. Thus the greatest merit of a rigid constitution is that it possesses stability and permanence.

A rigid constitution which normally contains chapters for fundamental rights. Thus it safeguards the fundamental rights of the people. If it also safeguards their rights of the people. It acts as a check for the legislatures' encroachment.

• Merits of Rigid Constitution

1. A rigid constitution possesses the qualities of stability and performance. 'A rigid constitution is essentially a written constitution

which is the creation of experienced and learned people. Thus it is the symbol of national efficiency. People regard it as a sacred document and they are ready to work according to its provisions.

2. A rigid constitution safeguards legislative violation, Constitution should not be a plaything in the hands of legislatures.
3. A rigid constitution safeguards fundamental rights effectively. Fundamental rights are part of constitution. No legislature can tamper them, because they are superior to ordinary law.
4. A rigid constitution protects the rights of minority. Minorities cannot be expected to agree to their rights being endangered by a majority action. If the majority ventures it, the judges perform their function of guardianship.
5. A rigid constitution is free from dangers of temporary popular passion. Because of complex amendment procedure the constitution may not be swept away by the emotions of the people which in most of the cases are not based on wisdom and reasoning.
6. A federal set up of government essentially needs a rigid constitution for the safety of the rights of the units as well as for the strength and integration of the federation.
7. Under rigid constitution units of a federation feel secure and at the same time there is a check on their activities also in order to stop them from violating each other's jurisdictions.

- **Demerits**

The important demerit of a rigid constitution is that cavity adaptable and may even break under changing constitute.

Another important demerit of a rigid constitution the judiciary is given too much power to decide the constitution of law.

Its constitutes are wholly rigid, it is harmful and if it is fully flexible, it is equally harmful hence certain advocate a blend of rigidity and flexibility as a feature of a good constitution.

Check Your Progress

1. Define the Rigid constitution?
2. What is flexible constitution?
3. List the Demerit of rigid constitution?

3.3. FLEXIBLE CONSTITUTION

The division of constitution into rigid and flexible was properly by Lord Bryce. Its basis lies in the relations of the constitutional law to the ordinary law of the land and to the authority which maps them. If the constitution of a state can be made, amend a repealed by the same authority which is empowered to make, amend or repeal the ordinary laws according to which the relation of the citizens to one another are governed it is said to be flexible. In such a constitution there is no distribution between constitution authority and the ordinary law making authorities. No special procedure need by adopting for embody the constitution. The British constitution is the classical example of this type.

The main features of the flexible constitution are its places the constitutional and statutory law on a basis of equality. There is no difference made between the constitutional majority authority and the law

making authority constitutional law is ended in the same way as an ordinary law is. Judiciary has no power of judicial law.

- **Merits of Flexible Constitution**

Elasticate and adaptability are the two important merits of a flexible constitution. The flexible constitution can also change with the time. According to Bryce flexible constitution can be started on bend so as to meet emergencies out dragging them from work and when the emergency has passed, they slip back into their old form like a tree whose outer branches have been pulled on one side to let a vehicle pass.

- **Demerits of a flexible constitution**

Due to its flexible nature the constitution keeps on changing. The constitution may be changed just to satisfy the people who are in majority ignoring the welfare of minority.

It fails to provide a stable system in administration, which results in the poor performance of the government.

When the procedure of amendment is simple and easy, it is liable to be seriously affected by ever changing popular passion. And popular passions are guided by emotions, not by reasons. These decisions, which are based on emotions, may disturb the harmony and balance of a nation. It may divide the society and there may be a possible threat to the integration of the nation itself.

Flexible constitution is not suitable for a federal system, because the rights of constituent units are not guaranteed due to flexible nature of the constitution.

The flexible constitution lacks stability and permanence as it can be easily changed. The leader may change it according to their personal will and wish. A flexible constitution may not safeguard the rights of the people.

The following are the differences between the flexible constitution and the rigid constitution

Flexible Constitution	Rigid Constitution
Written constitution is found in legal documents duly enacted in the form of laws.	An unwritten constitution consists of principles of the government that have never been enacted in the form of laws.
It is precise, definite and systematic. It is the result of the conscious and deliberate efforts of the people.	It is unsystematic, indefinite and unprecise. Such a constitution is not the result of conscious and deliberate efforts of the people.
It is framed by a representative body duly elected by the people at a particular period in history.	It is not made by a representative constituent assembly. So, it is sometimes called an evolved or cumulative constitution.
It is always promulgated on a specific date in history.	It does not have a specific date, as it is evolved in course of time.
The Constitution of India is the best example of written	The constitution of England is the best example of an unwritten con-

Flexible Constitution	Rigid Constitution
constitution (promulgated on 26th January 1950)	stitution.
A written constitution is generally rigid and its amendments need constitutional laws. In other words a distinction between constitutional law and ordinary law is maintained. The first is regarded as superior to the second.	Unwritten constitution is not rigid and its amendments DO NOT need any laws. In other words a distinction between constitutional law and ordinary law is NOT maintained.
A written constitution may also be termed as an enacted constitution.	Unwritten constitution may also be termed as an un-enacted constitution.
The evolution of Indian constitution started during the British rule in India. Indian constitution was framed by constituent assembly with a group of members who pursued to improve the existing conditions prevailing in India and other countries	The foundation of the English Constitution was laid in the 13th century by King John, who issued the first charter of British freedom known as the Magna Charta. Since then it has been in the process of making through conventions and usages.

Whatever merits and demerits a rigid constitution has the fact is that modern tendency is to have a written and a rigid constitution. There is a future for rigid constitution having some elements of flexibility in it. As the constitution of India is having elements of flexibility as well as rigidity, this may provide an ideal path for forth coming generations.

Check Your Progress

4. List the Demerit of flexible constitution?
5. List the merit of rigid constitution?

1. A rigid constitution is one which needs a special procedure for amendments which is quite different from the procedure for amending the ordinary laws of the hand
2. Elasticated and adaptability
3. The important demerit of a rigid constitution is that cavity adaptable and may even break under changing constitute.
4. It fails to provide a stable system in administration, which results in the poor performance of the government.
5. A rigid constitution safeguards legislative violation, Constitution should not be a plaything in the hands of legislatures

3.5. SUMMARY

- A constitution can be classified as rigid and flexible, according to the difficulty of the case with which amendments may be made.

- The division of constitution into rigid and flexible was properly by Lord Bryce
- The flexible constitution lacks stability and permanence as it can be easily changed. The leader may change it according to their personal will and wish. A flexible constitution may not safeguard the rights of the people.

3.6. KEY WORDS

Rigid constitution– A rigid constitution is one which needs a special procedure for amendments which is quite different from the procedure for amending the ordinary laws of the land.

Flexible constitution - Elasticated and adaptability

Magna Carta – is a charter of rights agreed to by King John of England at Runnymede, near Windsor, on 15 June 1215.

3.7. SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. Write a short note about the rigid constitution?
2. Explain about the merits of rigid constitution?
3. Explain briefly about the difference between rigid and flexible constitution?

Long Answer Questions

1. Critically examine the merits and demerits of rigid constitution?
2. Evaluate the flexible constitution merits and demerits?

3.8. SUGGESTED READINGS

J. C. Johari. (2011). *Comparative Politics*. Sterling Publishers Pvt.Ltd;
J.C. Johari. (2012). *Major Modern Political Systems*. Shoban Lal & Co.
O.P. Gauba. (2016). *Indian Political Thought* . Mayur Paperback.
Kapur A.C. , Mishra K.K.(2016). *Select Constitutions*. S Chand.

UNIT IV TYPOLOGY OF GOVERNMENTS

Structure

- 4.0 Introduction
- 4.1 Objectives
- 4.2 Typology of Governments
- 4.3 Parliamentary
- 4.4 Presidential
- 4.5 Quasi Presidential
- 4.6 Other forms of Government
- 4.7 Answers to Check Your Progress Questions
- 4.8 Summary
- 4.9 Key Words
- 4.10 Self Assessment Questions and Exercises
- 4.11 Suggested Readings

4.0 INTRODUCTION

In the previous unit you studied about the Rigid and flexible constitution

In this unit you study about the typology of governments such as presidential and Parliamentary forms of Governments and also about the Quasi presidential and other forms of government.

4.1 OBJECTIVES

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

- To understand the forms of presidential and Parliamentary forms of Governments
- To describe the Quasi presidential and other forms of government.

4.2 TYPOLOGY OF GOVERNMENTS

As a society, we have always have flourished when we lived together in communities. A country is nothing but one giant community, and like every community, it must be governed. Let us study about the main purpose and functions of the government. A government is an institution or a system made of a group of people that takes care or manages a country or a state. Every government has its own constitution or a set of fundamental principles that it follows to ensure effective governance.

- **Rule by Man**

Countries whose CITIZENS are governed by the absolute decisions of the ruler have not necessarily been unhappy. A government whose king or queen rules justly and wisely may enjoy a great deal of legitimacy as long as the ruler's AUTHORITY is accepted. Sometimes people may accept their leader because they are afraid of the consequences if they don't. In the words of MACHIAVELLI, "It is better to be feared than loved." As long as the feared ruler is seen as bringing about prosperity or protecting the lives of his subjects, it is entirely possible that his people will be happy.

An absolute ruler may be accepted because the people believe or accept the idea that God gave him/her the right to rule. This belief is known as divine right, which often has been associated with a MONARCHY, a form of government in which the power of the king or

queen is hereditary. A similar idea legitimized the Chinese emperor, whose rule was threatened if his subjects perceived that he had lost the "mandate of heaven."

Rule by man can also take the shape of an OLIGARCHY, or rule by a few elites whose right to rule is based on possession of wealth, social status, military position or achievement. A little more broadly based rule is by ARISTOCRACY (literally, "rule of the highest"), but if the type of government is "rule by man", their decisions are still ARBITRARY and absolute.

- **Rule by Law**

RULE BY LAW exists in any political system in which those with power cannot make up all their own rules, but must follow an established CODE OF LAW. In ancient times a Byzantine emperor established JUSTINIAN'S CODE, a set of laws named after him that lived on long after he died. We still follow parts of that code today. The Romans were also known for codifying laws, as was NAPOLEON, Emperor of France, many centuries later.

Today most governments at least claim to be ruled by law. The most common indication is the existence of a written constitution, but the most important question to ask is whether or not the constitution actually is the "blueprint" that determines how and what policies are made. For example, Nigeria officially is a democracy with a written constitution that one dictator after another has ignored. On the other hand, Great Britain has never had a constitution as a single written document, but has for centuries been governed by law. For much of their history, the English had a limited monarchy, or a king or queen who has followed rule of law.

So whether a king can order "off with his head!" depends on the type of government that is accepted in his country. If he sets the rules (rule by man), or if the accepted outside rules allow (rule by law), the victim doesn't have a chance.

Check Your Progress

1. Define the OLIGARCHY?
2. What is JUSTINIAN'S CODE?
3. Who was Napoleon?

4.3. PARLIAMENTARY FORM OF GOVERNMENT

The Executive Constitution is another great organ or branch of government. On the basis of the principles governing the relations between the executive and the registration the governments excluding are classified as parliamentary or presidential under a parliamentary system of government the executive is taken from the legislature and is accountability for its working.

In a parliamentary form of government there are two types of executive known as nominal and real. The nominal executive is the head of the State. For example in Britain the King or Queen is the nominal head. In India the President is the nominal head. All powers are exercised in the name of the nominal head. The real executive power is vested in the Cabinet. The Prime Minister is the real head. The real executive is drawn team from the Parliament. Only Member of Parliament can be Ministers. Nominal executive is not a Member of Parliament. In the parliamentary

form of government there is fusion of powers. The legislature and the executive are fused. The Prime Minister occupies an important position. He is the head of the cabinet. He is the leader of the parliament and leader of the majority in the lower house. Another important feature of this form is the political homogeneity of the members of the cabinet. All the ministers belong to the ruling party. This helps them to work well. In this form the cabinet is responsible to the parliament. By many non-confidence motions the lower house of the parliament can end the cabinet out of power. The cabinet members have to attend the meetings of the parliament and answer the questions of its members. The government is formed by the political party which enjoys majority in the lower house. In parliamentary form there is an opposition party which plays an important role in cabinet.

- **Merits**

There is fusion of executive and legislature. This helps to develop good relationship between the legislature and the executive. The cabinet government is responsible. In the parliament the Minister has to face the opposition party. So they try to be responsible.

The parliamentary form of government is flexible. Good leadership is also possible in this system. Men with ability get chance. They contribute their ability for the betterment of the people. The cabinet members and members of the parliament have decisions collectively. Hence much care is taken before a decision is taken.

- **Demerits**

The parliamentary form of government violates the theory of separation of powers. Stable majority and collective responsibility give strength to the cabinet. It assumes dictatorial powers. If other cabinet members are weak the Prime Minister ensures all the powers. Cabinet government is government by amateurs. In experience cabinet members become members of the parliament. Due to their position in the party time inexperienced persons become ministers. They are new to the administration. Often these amateurs move themselves inefficient. In countries having multi-party system as in India, there is the problem of instability of the cabinet. The instability of the cabinet would affect the administration. If the ruling Cabinet parties enjoy a big majority they won't care the opposition party. They become the demerits of the parliamentary form of government.

4.4. PRESIDENTIAL FORM OF GOVERNMENT

The system of democratic government, in which the executive is constitutionally independent of the legislature, is known as the Presidential form of government. In this form of government, the head of the state who is also the head of government is designated as the President and hence the phrase, Presidential form of government.

In presidential countries, the executive is elected and is not responsible to the legislature, which cannot in normal circumstances dismiss it. Such dismissal is possible, however, in uncommon cases, often through impeachment.

The Presidential form of government is based on the principles of separation of powers. The legislature and executive branches of government are independent in their spheres subject to the checks each

power exercises over the other. The head of the State under this system is not a nominal head but real head of the executive. The United States of America has adopted the Presidential type of government where executive powers of the State are vested with the President. In this system the chief executive may act through the agency of minister or secretaries, as they are called in the U.S.A. but they are not responsible to the legislature. Ministers are, thus merely his assistants and are usually chosen by him from his own party. They are not members of the legislature and have no right to sit or speak in it.

The chief executive too is neither a member of the legislature nor has the right to participate in its proceedings. He is also not dependent upon the legislature for the continuity of his tenure which is special procedure of impeachment is provided to remove him on grounds specified in the constitution. The legislature and the executive may, in fact be under the control of different political parties at the same time. Under such circumstances the two branches may find themselves at logger's heads. The executive, thus, does not provide leadership to the legislature by preparing, initiating and piloting legislative projects.

Thus the ministers under this system are politically, not to the legislature, but solely to the chief executive who may dismiss them at his own will. There are only administrative heads and not legislative leaders. They do not resign if their measures are defeated in the legislature.

A presidential system contrasts with a parliamentary system, where the head of government is elected to power through the legislature. Presidentialism is the dominant form of government in the continental Americas, with 19 of its 22 sovereign states being presidential republics. It is also prevalent in Central and southern West Africa and in Central Asia. There are no presidential republics in Europe (except for Belarus and Cyprus) and Oceania.

In a full-fledged presidential system, a politician is chosen directly by the public or indirectly by the winning party to be the head of government. Except for Belarus and Kazakhstan, this head of government is also the head of state, and is therefore called president. The post of prime minister (also called premier) may also exist in a presidential system, but unlike in semi-presidential or parliamentary systems, the prime minister answers to the president and not to the legislature.

The merits and demerits of the presidential government are exactly opposite of the merits and demerits of the parliamentary form of government.

• **Distinction between Parliamentary and Presidential Governments**

The main differences between the parliamentary and presidential system of government are as follows:

Firstly, under a Parliamentary system of government there is a nominal executive head in whose name the entire administration carried on. However, actually these powers are exercised by Prime Minister and other Ministers. Thus in Britain the Queen, the nominal executive head while the real powers are exercised by Prime Minister and his Council of Ministers. Same is the case with the President and the Council of Ministers in India. On the other hand in Presidential system of government the head of the state is also the head of the government. He enjoys all powers. No doubt there is a Council of Ministers to assist him, but the real

authority vests with the President. Thus the President of USA enjoys all the executive powers and his Cabinet Ministers are his personal servants who are directly responsible to him.

Secondly, the Parliamentary system of government is based on close co-operation between the legislature and the executive. The Prime Minister and his other ministers are taken from the Parliament. A person who is not a member of parliament does not remain minister beyond a period of six months. The Council of Ministers is also accountable to the legislature for its working but the latter can oust it from office by passing vote of no confidence against it. In fact the Cabinet is a hyphen which joins the legislative part of the state with executive part of the state.

On the other hand in Presidential system of government the legislature and executive are completely separated from each other. Neither the legislature can oust the executive from its place before the expiry of its term, nor the executive dissolve the legislature before the expiry of its normal term. Under this system the government the Ministers are not members of the legislature and they do not participate in its deliberations. Thirdly, under Parliamentary system of government the real executive (Council of Ministers) is collectively responsible to the legislature and stays in office as long as it enjoys the confidence of the legislature. The legislature can criticize its policies and seek clarifications through questions and supplementary questions. In case the legislature's dissatisfied with the executive it can oust it from office by passing a vote of no confidence.

On the other hand, under the Presidential system the executive is independent of the legislature. It is elected for a fixed term and cannot be removed from its office earlier by the legislature. Likewise the executive under Presidential system also cannot dissolve the legislature before the expiry of its normal term. In short, the executive under Presidential system enjoys a fixed term.

Fourthly, under Parliamentary system the Council of Minister holds offices as long as it enjoys the confidence of the legislature. When a vote of no confidence is passed against the Council by the legislature it must either tender resignation or seeks dissolution of the legislature it must either tender resignation or seek dissolution of the legislature. This implies that the executive can get the legislature dissolved before the expiry of its normal term. On the other hand under Presidential system the executive is neither removable by the neither legislature nor can it dissolves the legislature before the expiry of its normal term.

Fifthly, the position of the Cabinet under Parliamentary and Presidential system of governments also greatly differs. Under Parliamentary systems the members of the Cabinet are taken from the same political party and possess political homogeneity. The Prime Minister has to pick up members of its Cabinet from amongst his won party. On the other hand under Presidential system the Cabinet is only an advisory body of the President and he can include any one in it.

Sixthly, under Parliamentary system of Government the Cabinet works on the basis of the collective responsibility and acts as a team. On the other hand the minister in Presidential system does not work as a team and are individually responsible to the head of the state.

Finally, under Parliamentary system the ministers are accountable to the legislature and hold office during its pleasure. The head of the state

cannot remove them at will. On the other hand under Presidential system the ministers are personally accountable to the President and he can remove them at discretion.

- **Merits and Demerits of two Forms of Governments**

The Parliamentary as well as Presidential Governments have their respective merits and demerits. It may be noted that the merits of the one are the demerits of the other. Therefore we can make a study of their respective merits and demerits simultaneously.

- **Merits of Parliamentary and Demerits of Presidential System**

In the first place the Parliamentary system ensures close co-operation between the executive and the legislature. The members of the Council of Ministers are taken from the legislature and take active part in the proceeding of the legislature. Most of the important bills are introduced in the Parliament by the Ministers and it gets these bills enacted into law without any difficulty on account of majority backing in the Parliament. This close co-operation between the legislature and the executive ensures administrative efficiency.

On the other hand the Presidential system is based on the system of separation of power and the legislature and executive work independent of each other. There is every possibility that the legislature and the executive may be controlled by two different political parties. As such there is every possibility of deadlock between the two wings of the government which effects the efficiency of the government.

Secondly, Parliamentary system of government is highly responsible. The Executive is accountable for its policy and day-to-day working to the Parliament. The Members of the Parliament can seek information about the working of various departments through questions and supplementary questions. They can criticize the policy of the government and in case they are dissatisfied with this policy they can oust the ministry by passing a vote of no confidence. On account of this accountability the executive always tries to act for general good.

On the other hand the executive under Presidential system of government is in no way accountable to the legislature nor can it be easily removed from office for its lapses. The legislature does not in any way restrict its power and there is every possibility of executive becoming despotic under this system.

Thirdly, the Parliamentary government is highly flexible and is most suited to deal with emergencies. Under Parliamentary system of government if the Ministry is not working effectively it can be replaced by new ministers and the government can be reconstituted. Even national government, consisting of representatives of various political parties, can be constituted (as was done in United Kingdom during the Second World War) to deal with the exceptional conditions. On the other hand under Presidential system of government the executive enjoys a fixed term and no change is possible to deal with the exigencies of emergency till the next election. In this respect the Presidential system lacks the flexibility of the Parliamentary system to deal with emergencies.

Fourthly, under Parliamentary system of government since the policies and actions of the government are constantly watched and criticized in the parliament and outside, there is very remote possibility of government assuming dictatorial powers. The opposition party also plays an active role in keeping the government under restraint through constant

criticism of its policies. On the other hand, under Presidential system since the executive is elected for a fixed term and there is no provision for its removal before the expiry of its normal term, there is every possibility of executive becoming despotic. In this sense the parliamentary government is more responsive and democratic.

Fifthly, the Parliamentary systems of government have great educative value. The Government in order to win the confidence of people for its policies highlights its various achievements. On the other hand the opposition tries to focus public attention on the lapses of the government with a view to win their support. This enables the people to have full idea about the achievements and lapses of the government. The debates on various issues facing the country on the floor of the parliament also greatly contribute to the political education of the people and make them politically conscious. The Presidential system, on the other hand, does not arouse the political consciousness of the people to that extent because it lacks lively debates.

Sixthly, the parliamentary system of government makes available to the country the advice of an impartial head of the state. The head of the state – he may be known by any name viz., President or Monarch – is an impartial person and is not connected with any political party. As such he can give impartial advice to the government. On the other hand under Presidential system the head of the state is a political person. He tends to view everything from a political angle and cannot expect to be an impartial person.

Parliamentary system of government checks despotism. The constant criticism of the policies of the government in the Parliament and outside prevent it from becoming despotic. The opposition party also seriously restricts its powers by highlighting its lapses. On the other hand under the expiry of due terms. Hence there is every possibility of government acting in a despotic manner.

Finally, under Parliamentary system of government an alternative government is easily available. When the ruling government is voted out of power, the opposition steps in its shoes and provides an alternative government. As Jennings has observed with regard to Britain, “The leader of the opposition is the alternative Prime Minister. Only a slight shift in the public opinion is necessary to give His Majesty’s Opposition a majority in the House, and to convert them into the Majesty’s Government”. In the Presidential system an alternative government can be formed only after the expiry of the term of the present government as a result of fresh general elections.

- **Demerits of Parliamentary and Merits of Presidential Government**

On the other hand the Parliamentary government suffers from number of shortcomings which are not there under Presidential form of government.

Firstly, Parliamentary Government gives rise to partisan gangs. Under it the Parliament gets divided into two hostile groups which are constantly involved in struggle. The opposition parties under Parliamentary system indulge in unnecessary and useless criticism of the policies of the government with a view to credit it in the eyes of the voters. This leads to wastages of notable time.

According to Lord Bryce, “The Parliamentary system classifies the spirit of party and keeps it always on the boil. Ever there are no important

issues of policy before the nation there always the offices to be fought for. One party holds them; the other desires them as going in the blood vessels between the red muscles and the invading microbes”.

On the other hand under Presidential system there is a comparative absence of party spirit. The political parties try to pull down the other only at the time of the election but once the elections are over all the political parties tend to co-operate with the head of the state. The main reason for this attitude of the political parties is that the executive is not accountable to the legislature and cannot oust from office by vote of no confidence. This absence of party spirit cannot be imagined under Parliamentary system.

Secondly, under Parliamentary system of government the Cabinet is formed by the party which has majority in the Parliament is being sure of the majority support; there is always an apprehension of Cabinet dictatorship. No doubt, in theory the Cabinet is in office only as long as it enjoys the confidence of the legislature, but in reality the accountability of the Cabinet towards legislature is only a formality. Most of the important bills are produced in the Parliament by the Cabinet, which also enjoys complete control over finances. On account of rigid party discipline the Cabinet finds no difficulty in getting its legislative and financial measures through the Parliament without difficulty. The power to seek dissolution of the legislature also adds to the powers of the Cabinet and paves the way for its dictatorship.

On the other hand under Presidential system the legislature and executive are independent of each other. They act as a check on each other's authority and thereby prevent the possibility of executive dictatorship. Further, under Presidential system, the President cannot dissolve the legislature before the expiry of the normal term.

Thirdly, under Parliamentary system of government the Ministers have to perform multifarious duties such as looking after of departments, participation in parliamentary proceedings. Participation in party activities etc. which inevitably leads to the neglect of administration. On the other hand under Presidential system the ministers are in no way connected with the legislature and they devote all time to the management of their respective departments. This greatly promotes administrative efficiency. According to Marriot, “In this form of Government (Presidential) there is a more gain of efficiency of administration because ministers are distracted by the necessity of constant attendance in the legislature, because the minds of the legislature are concentrated upon the special functions”.

Fourthly, the Parliamentary government contributes to the increase in the influence of bureaucracy. As the Ministers heading the various departments are laymen they have to rely on the civil servants for necessary guidance and advice. In fact under Parliamentary government most of the powers of the ministers are exercised by the civil servants. On the other hand the ministers under Presidential system are appointed by the President on the basis of their ability. The President's choice is in no way restricted by the condition that these ministers must belong to this party or must be members of Parliament as under Parliamentary system of government. This naturally leads to the establishment of a government by experts.

Fifthly, the Parliamentary government is highly instable in so far as its continuance in office depends on the sweet will of the legislature and it can be ousted from office any time by a vote of no confidence by the latter.

As a result the government is never able to adopt long term plans and has to formulate its policies in accordance with the wishes of the legislature. Under Presidential system the executive has a fixed tenure and can adopt a policy in the interest of the country without bothering about the wishes of the legislature.

Sixthly, Parliamentary government is not suitable to do with the emergencies. Under Parliamentary system decisions are taken after long deliberations which inevitably lead to delay in decisions, which can prove suicidal during emergencies. On the other hand the Presidential system is better suited to deal with emergencies. Under Presidential system all the authority is concentrated in the President who take prompt decisions can greatly contribute to the effective handling of the emergent situation.

Finally, Parliamentary government leads to neglect the national interests. The various political parties try to capture through all kinds of methods. In case the interests of the political parties come in conflict with the national interests they even willing to neglect the same. In contrast to this under confidential system there is comparative absence of party spirit there is a greater possibility of national interests being given confidence over party interests.

In view of the fact that both Parliamentary and Presidential governments have their respective merits and demerits, it is easy to say for creation as to which of these two form of governments is better. However, Prof. Bryce says that on basis of the experience gained so far it can be said that Parliamentary system of government is better for medium term countries. On the other hand the Presidential system of government is better suited for countries which posses large statutory and population and are faced with complex problems. In both these forms of governments are working successfully in United Kingdom and United States of America respectively. However, recent years political scientists have shown preference for Parliamentary system of government which is regarded by them as democratic because the executive is constantly accountable to legislature and through it to the people.

4.5. QUASI-PRESIDENTIALISM

The standard features of both Presidentialism and parliamentarism are constitutional. Under Presidentialism, the president is directly elected, or at least popularly elected by way of a US-style electoral college; the president is both the head of state and head of government (i.e., there is no separate office of prime minister); and both the president and the legislature serve for a fixed term. In contrast, under parliamentarism the head of state is not directly elected, being either a monarch or an indirectly elected president; there is a separate office of prime minister; and the prime minister and cabinet are collectively responsible to the legislature (i.e., the legislature has the power to approve the appointment of the prime minister and/or to remove the cabinet from office). The standard elements of semi-Presidentialism are equally and no less constitutional. Under semi-Presidentialism there is a directly elected, or popularly elected, president who serves for a fixed term; there is a separate position of prime minister; and the prime minister and cabinet are collectively responsible to the legislature. A country can be identified as presidential, parliamentary, or semi-presidential simply by referring to the most basic features of its constitution.

The necessary conditions enabling a political system to become a semi-presidential system are (i) the existence of a dual executive power (ii) that the President of the Republic be directly elected by universal suffrage, (iii) that the Constitution confer wide powers on the President, (iv) that the President appoint the prime minister and chair the ministerial council and (v) that the government be accountable to the Parliament.

A semi-presidential system or dual executive system is a system of government in which a president exists alongside a prime minister and a cabinet, with the latter being responsible to the legislature of a state. It differs from a parliamentary republic in that it has a popularly elected head of state, who is more than a mostly ceremonial figurehead, and from the presidential system in that the cabinet, although named by the president, is responsible to the legislature, which may force the cabinet to resign through a motion of no confidence.

While the Weimar Republic (1919–1933) exemplified an early semi-presidential system, the term "semi-presidential" was introduced by a 1959 article by journalist Hubert Beuve-Méry and popularized by a 1978 work by political scientist Maurice Duverger, both of which intended to describe the French Fifth Republic (established in 1958).

There are two separate subtypes of semi-Presidentialism: premier-Presidentialism and president-parliamentarism.

Under the premier-presidential system, the prime minister and cabinet are exclusively accountable to parliament. The president may choose the prime minister and cabinet, but only the parliament may approve them and remove them from office with a vote of no confidence. This system is much closer to pure parliamentarism. This subtype is used in Burkina Faso, Cape Verde, East Timor, Lithuania, Madagascar, Mali, Mongolia, Niger, Poland, Romania, São Tomé and Príncipe, Sri Lanka and Ukraine (since 2014; previously, between 2006 and 2010).

Under the president-parliamentary system, the prime minister and cabinet are dually accountable to the president and the parliament. The president chooses the prime minister and the cabinet but must have the support of a parliamentary majority for his choice. In order to remove a prime minister or the whole cabinet from power, the president can dismiss them, or the parliament can remove them by a vote of no confidence. This form of semi-Presidentialism is much closer to pure Presidentialism. It is used in Guinea-Bissau, Mozambique, Namibia, Portugal, Russia, Senegal and Taiwan. It was also used in Ukraine, first between 1996 and 2005, and again from 2010 to 2014, Georgia between 2004 and 2013, and in Germany during the Weimarer Republik (Weimar Republic), as the constitutional regime between 1919 and 1933 is called unofficially.

The powers that are divided between president and prime minister can vary greatly between countries.

In France, for example, in case of cohabitation, when the president and the prime minister come from opposing parties, the president oversees foreign policy and defense policy (these are generally called *les prerogatives présidentielles* (the presidential prerogatives) and the prime minister domestic policy and economic policy. In this case, the division of responsibilities between the prime minister and the president is not explicitly stated in the constitution, but has evolved as a political convention based on the constitutional principle that the prime minister is

appointed (with the subsequent approval of a parliament majority) and dismissed by the president. On the other hand, whenever the president is from the same party as the prime minister who leads the conseil de government (cabinet), he/she often (if not usually) exercises de facto control over all fields of policy via the prime minister. It is up to the president to decide how much "autonomy" is left to "their" prime minister to act on their own.

Semi-Presidentialism is the situation where there is a directly elected fixed-term president and a prime minister and cabinet responsible to the legislature. This definition of semi-Presidentialism is based upon a small set of constitutional features and allows the reliable identification of countries with semi-presidential constitutions and, for that matter, the reliable identification of countries with presidential and parliamentary constitutions as well. There was a dramatic spread of semi-Presidentialism in the early 1990s. However, countries continue to adopt semi-Presidentialism for a variety of political reasons, suggesting that the current number of countries with semi-presidential constitutions may increase further over time. A key feature of semi-Presidentialism is the extreme variety of political practice within the universe of semi-presidential countries. However, to say that Ireland is semi-presidential or that Russia is semi-presidential is not to imply that Ireland and Russia operate in the same way or that they both operate like France. To operationalize a concept that incorporates countries where the constitutional situation is as varied as in France, Ireland, and Russia requires the identification of sub-types of semi-Presidentialism. There are various ways in which such sub-types can be identified. By identifying the institutional variation within semi-Presidentialism, comparisons can be made solely within the universe of semi-presidential countries or between the different types of semi-Presidentialism and countries with presidential and parliamentary constitutions. This strategy provides a way of systematically introducing the concept of semi-Presidentialism into the research agenda and advancing our knowledge of the effects of the institutional variety both within this increasingly popular form of government and between countries with this form of government and those with other forms.

The incorporation of elements from both presidential and parliamentary republics brings some advantageous elements along with them but, however, it also faces disadvantages related to the confusion from mixed authority patterns.

- **Merits**

Providing cover for the president — it can shield the president from criticism and the unpopular policies can be blamed on the prime minister as the latter runs the day-to-day operations of the government and carrying out the national policy set forth by the president, who is the head of state that is focusing on being the national leader of a state and in arbitrating the efficiency of government authorities, etc.

Ability to remove an unpopular prime minister and maintain stability from the president's fixed term — the parliament has power to remove an unpopular prime minister;

Additional checks and balances — while the president can dismiss the prime minister in many semi-presidential systems, in most of the semi-

presidential systems important segments of bureaucracy are taken away from the president.

- **Demerits**

Confusion about accountability — parliamentary systems give voters a relatively clear sense of who is responsible for policy successes and failures; presidential systems make this more difficult, particularly when there is divided government. Semi-presidential systems add another layer of complexity for voters;

Confusion and inefficiency in legislative process — the capacity of votes of confidence makes the prime minister responsible to the parliament.

4.6. OTHER FORMS OF GOVERNMENT

Many constitutions with elected presidents do not meet the criteria of a presidential system outlined above. If the president must share—or, in some cases, cede—executive authority to a prime minister and cabinet who depend on parliamentary confidence, then the system is neither presidential nor parliamentary but rather a hybrid. Such a system has been in place in France since the establishment of the Fifth Republic (1958). According to the terms of a constitutional amendment adopted in 1962, the president of the republic is elected by direct vote of the people for a seven-year term (shortened by referendum to five years in 2000). This mandate gives the president significant moral power because he is the only leader elected directly by the entire voting population. Although the exercise of some presidential powers requires the signature of the prime minister or of some other minister, the president is invested with broad powers of his own: he appoints the prime minister; he dominates the management of foreign relations; he may dissolve the National Assembly, though not more often than once a year; he may call a referendum; and he possesses vast emergency powers. In addition, he presides over the cabinet, known as the Council of Ministers. Members of the council cannot be members of the National Assembly or the Senate, but they have access to both chambers; they may speak there, though they do not vote. The cabinet is responsible to the National Assembly and can be dismissed by a motion of censure. Thus, the French system of government is not presidential, because the president cannot maintain in office a cabinet that is opposed by a legislative majority. Although the president has the power to appoint the prime minister, he usually chooses the leader of the opposition party or coalition if it is in control of the National Assembly. Such periods of divided government are known in France as cohabitation.

Constitutions similar in key respects to that of France have been adopted in several countries, including Finland, Poland, Portugal, and Romania. Although the president's precise powers vary, in each of these countries he is popularly elected and has more than merely ceremonial powers, and the cabinet and prime minister are politically responsible to the legislature. In still other hybrid systems—including those of Peru, Russia, Sri Lanka, and Taiwan—the president retains more formal authority than the French president possesses during periods of cohabitation.

Assembly, deliberative council, usually legislative or juridical in purpose and power. The name has been given to various ancient and modern bodies, both political and ecclesiastical. It has been applied to

relatively permanent bodies meeting periodically, such as the ancient Greek and Roman assemblies, the Germanic tribal assemblies, the French National Assembly, the legislative houses called assemblies in certain states of the United States, and the UN General Assembly. It has also been applied to groups sitting only for special purposes and for limited periods, such as the Westminster Assembly, which met in 1643 to draft a new constitution for the Church of England.

The Swiss executive is unique, having neither an elected presidency nor a cabinet responsible to the parliament. The executive is a Federal Council that consists of seven members elected for four-year terms by the legislature (the Federal Assembly). They are elected as individuals and are never forced to resign. Indeed, disagreement with the Federal Assembly leads neither to resignation of the Federal Council nor to dissolution of the parliament; the ministers simply adjust their positions to conform with the wishes of the parliamentary majority. This does not mean that the Federal Council is an unimportant body; as a group it originates most new legislation, and its members, as individuals, direct the major departments of government. Each year the legislature appoints a member of the Federal Council to serve as president of the confederation. The president is chairman of the Federal Council and titular head of state.

Although members of the Federal Council are formally elected as individuals, seats on the council have informally been apportioned according to a formula that gives each major party a certain number. From 1959 to 2003 the party composition of the Swiss executive remained the same, despite the shifting electoral strengths of the parties. Even after 2003 the Federal Council continued to consist of members of the four largest parties, which together regularly controlled more than four-fifths of the seats in the Federal Assembly.

Check Your Progress

4. List the Demerit of Parliamentary form of government?
5. List the merit of Presidential form of government?

4.7. ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. Rule by a few elites whose right to rule is based on possession of wealth, social status, military position or achievement
2. A set of laws named after him that lived on long after he died. We still follow parts of that code today
3. He was the Emperor of France
4. The parliamentary form of government violates the theory of separation of powers. Stable majority and collective responsibility give strength to the cabinet.
5. The Presidential system is based on the system of separation of power and the legislature and executive work independent of each other.

4.8. SUMMARY

- A country is nothing but one giant community, and like every community, it must be governed.
- The chief executive too is neither a member of the legislature nor has the right to participate in its proceedings.

- Confusion about accountability — parliamentary systems give voters a relatively clear sense of who is responsible for policy successes and failures

4.9. KEY WORDS

Oligarchy - Rule by a few elites whose right to rule is based on possession of wealth, social status, military position or achievement

Justinian's Code - A set of laws named after him that lived on long after he died. We still follow parts of that code today

Napoleon - Emperor of France

4.10. SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. Write a short note about Rule by Law?
2. Explain about the merits of Presidential form of Government?
3. Explain briefly about the Quasi presidential form of Government?

Long Answer Questions

1. Critically examine the merits and demerits of Parliamentary form of Government?
 2. Evaluate the merits and demerits of Presidential form of Government?
-

4.11. SUGGESTED READINGS

- J. C. Johari. (2011). *Comparative Politics*. Sterling Publishers Pvt.Ltd.
J.C. Johari. (2012). *Major Modern Political Systems*. Shoban Lal & Co.
O.P. Gauba. (2016). *Indian Political Thought* . Mayur Paperback.
Kapur A.C. , Mishra K.K.(2016). *Select Constitutions*. S Chand.

BLOCK – II COMPARATIVE GOVERNMENTS

Legislators of U.K

NOTES

UNIT V LEGISLATORS OF U.K

Structure

- 5.0 Introduction
- 5.1 Objectives
- 5.2 Legislators of U.K
- 5.3 Powers of the House of Common
- 5.4 The House of Lords
- 5.5 Kinds of Committees in the British Parliament
- 5.6 Answers to Check Your Progress Questions
- 5.7 Summary
- 5.8 Key Words
- 5.9 Self Assessment Questions and Exercises
- 5.10 Suggested Readings

5.0 INTRODUCTION

In the previous unit you studied about the typology of governments such as presidential and Parliamentary forms of Governments and also about the Quasi presidential and other forms of government.

In this unit you study about the Legislators of United Kingdom such as House of Commons and House of Lords as well about the kinds of committees in British Parliament.

5.1 OBJECTIVES

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

- To understand the importance of Legislators of United Kingdom.
- To explain the role of House of Commons and House of Lords.

5.2 LEGISLATORS OF U.K

Traditionally legislation is considered the only share of representative assemblies. The representative assemblies are in fact regarded to as the legislation although it is always agreed that assemblies do not have exclusive control over legislation nor are they concerned only with legislation.

Parliament in the Britain consists of the King, the House of Commons and the House of Lords. The House of Commons is the lower house in the British Parliament. It is the centre of the British system. It is a unique honour and prestige to be a member of a parliament.

It consists of 630 members. The members are elected on the basis of unilateral adult franchise. Each citizen who is 18 years of age is eligible to contest the election to the house. However in some bankrupts, criminals are not permitted to contest. The term of office of the house if five years. It may be dissolved earlier by the non confidence bill. Its life may also be extended in times of way emergency.

The members of the House of Commons enjoy certain privileges. They have full freedom of speech in the house. They cannot be tried in a court of law far what they say inside the house. If a member talks non-parliamentary words they may be punished only by speaker. The members also enjoy freedom from arrest. No member may be arrested during 40 days prior either or after the session of the House of Commons. The

Self-Instructional Material

members have right to approach the king through the speaker. The members of the house have right to frame rules for their own disciplines. The house may punish the members for breach of any privileges.

5.3 POWERS OF THE HOUSE OF COMMON

The most important powers and function of the house of common is law making. Mercy bill originate only in House of Commons. A money bill passed by the commons but registered by the Lords would automatically become law after the lapse of one month. In regard to ordinary bills, if rejected by the House of Lords they would become law after the lapse of one year. The House of Commons is the custodian of the public purse and as such control of finance.

The cause of commons can control the executive. The Prime Minister belongs too his house. Many of the important ministers are also members of this house. The members of the house can question the ministers. The cabinet is responsible to this house. If a non-confidence motion is passed in this house the cabinet is removed from office. The house has the power to condemn a particular minister for his policies and action. The House of Commons has control over finance. The House of Lords has very limited power in this matter. In fact the House of Commons is the parliament in action.

In judicial aspect the house of common is less important than the House Lords. It has the power of impeachment of judges. The judges may be removed from office by resolution passed by it.

As the house of common is the evolved body it reflects the public opinion. It is the mirror of the nation. It is said that the British parliament can do anything except making a man into woman and a woman into man. The judiciary has no power of judicial review and there is no written constitution. Hence the house of common is said to be response.

Though the House of Commons is said to possess immense powers. It is so in reality. The cabinet commence the support of the majority. The majority is controlled by the party. Hence the dictatorship of the cabinet was weakened powers of the House of Commons. Delegated legislation has become necessity. It is increasing day by day. It strengthens the heads of the cabinet. However the importance of the House of Commons and its ultimate sovereignty cannot be denied.

Check Your Progress

1. Define House of Commons?
2. Define House of Lords?
3. Who was Ramsay Muir?

5.4. THE HOUSE OF LORDS

The British House of Lords is upper chamber of the parliament. It is the elder of the two houses. Being the direct descendants of the Magnum Councilors of Norman Angavioutinnes.

The House of Lords is a large body consisting of about nine hundred upper of lords. These lords are of six different classes as mentioned below:

First there are princes of royal blood. Their membership is something nominal and they seldom attend the meetings of the house. Moreover they do not take part in the consideration of controversial members.

Secondly there are hereditary peers consisting of five ranks viz., barons, viscount, earl, marquess, and duke in ascending order. They are either descendants of peers in some courses or newly created peers. Their number is about eight hundred.

Thirdly there are sixteen representatives, peer of Scotland elected at the beginning of each session by hereditary peers of Scotland from among themselves.

Fourthly there are representatives peers of Ireland elected for life. Until the creation of Irish Free State in 1922, the peers of Ireland had the right to elect 28 peers for life to be House of Lords.

Fifthly there were twenty six ecclesiastical or spiritual peers. They represent the Church of England.

Sixthly there are nine law lords. They constitute an important part of the house and their presence is necessary as the House of Lords is the highest court of appeal in Great Britain.

- **Importance of House of Lords and Reason for its Existence**

Two kinds of views are prevalent in regard to the House of Lords. According to the scholars of first category, House of Lords is against democratic principles, and since its members do not perform any important functions, it should be abolished. The second categories of scholars do not favour this view. We will now briefly discuss the said two views:

1. **The House of Lords should be abolished**

The scholars who are of the view that the House of Lords should be abolished put forward the following arguments to support their views:

- a) *Symbol of Undemocratic Principles:*
- b) *A centre of vested interests:*
- c) *Lack of Impartiality:*
- d) *Opponent of Development:*
- e) *Indifference of Members:*
- f) *Waste of Money:*
- g) *Powerless House:*
- h) **House of Lords should be retained**

There is a class of scholars who are of the opinion that it is not wise to abolish the House of Lords. They are of the view that it should be retained. The scholars who are of this view put forward the following points in support of their views:

- a) *Protection of Democracy*
- b) *Check on Haste of the House of Commons.*
- c) *Saving of Time and Power of the House of Commons*
- d) *Services of Able Persons*
- e) *Independent Discussion*

- **Importance of the House of Lords**

The above discussion clearly indicates the importance of the House of Lords. It is true that in the modern period, in practice, the powers of the House of Commons are wider, than the House of Lords and latter cannot openly oppose the former, yet the importance of the House of Lords has not decreased. Regarding its importance, Prof. Laski has written:

“There have been fairly continuous efforts to reform the House of Lords for something like forty years. That is a tribute at once to the pivotal position it occupies our constitutional system and to the delicacy of the problems raised by its very existence”.

Thus, we may conclude that in England, the House of Lords is still important and therefore, it should not be abolished. However, it needs to be reformed.

- **Powers and Functions of the House of Lords**

Originally the powers of the House of Lords and the House of Commons from colonial. But in due course of time the house of common acquired a supreme position and the House of Lords become the second chamber. The parliament act of 1911 went a long way in reducing the power of the lords.

All bills except money bills can be introduced in the House of Lords. The House of Lords can delay a money bill for a month then it receives a money bill from the House of Commons it had be taken decision within a month. If it fails to do so the bill is submitted to the king for the assent. It would become without the consent of the upper house. An ordinary bill may be introduced in either house. In matter of ordinary bills the House of Lords can delay them for only one year. A bill passed by the House of Commons is sent to the upper house. If the upper house sends beach the bill the House of Commons can pass it again. If it is passed for the second time it would be sent for royal assent. Thus the legislative deadlocks between the two houses are resolved. The House of Lords is only a delaying chamber.

- **Executive Powers**

The ministers attend the meetings of this house also. They answer the question asked by the members of this house. The members of this house may also be appointed as ministers. The House of Lords cannot remove the cabinet out of power by a non-confidence motion. The cabinet need not command the support of majority in this house.

The House of Lords is the highest court of England. It hears appeals on civil cases. However only the Law Lords attend its meeting when it function as the highest court. This is the only power which maps House of Lords little more powerful than the lower house. The lower house does not function as the Court.

The House of Commons may not have sufficient time to discuss all the bills in detail. The House of Lords analyse them. It avoids hasty legislation. The House of Lords normally takes non-controversial matters. This helps the House of Commons to reduce its burden. The delay caused by the upper house is helpful in one way. The people can know about the bill. The public opinion may be assessed. Thus the people are given more opportunities. The members of the upper house have no need of experience and vast knowledge. They have no need to satisfy voters. Hence they can speak in the house frankly. It functions as a useful second chamber.

5.5 KINDS OF COMMITTEES IN THE BRITISH PARLIAMENT

There are six types of committees in the British Parliament as under:

1. Committee of the Whole House

This is a unique feature of British Constitution. The Committee of the Whole House is appointed for the consideration of some types of bills and legislation proposals.

The House of Commons resolves itself into Committee of Whole House. In fact, it is the House of Commons meeting whole with some important differences. For instance, when it as a Committee of the Whole House, the chair is occupied not by the Speaker but by an officer known as the Chairman. Moreover, the mace which is the symbol of authority of Speaker, is put under the table instead of being kept on the table. Besides, the process in the Committee of the Whole House is much less formally restricted, and more flexible than in the House of Commons, helps in greater freedom of debate and, therefore, for a thorough discussion of a measure. When the Committee of the Whole House meets to discuss the Finance Bill, it is known as the “Committee of the Whole House on Ways and Means” and when it meets to discuss the Appropriation Bill, it is known as the “committee of the Whole House on Supply”. The Committee of the Whole House acts –

- I. for the consideration of money bills;
- II. for the discussion of ordinary public bills when so desired by the House on grounds of urgency;
- III. for the consideration of controversial bills, or
- IV. for the consideration of bills confirming provisional orders.

2. Standing Committee on Public Bills

Public bills are the above – mentioned type, are generally entrusted by the House of Commons on Standing Committee after the second reading. The present number of this committee is five, including the Committee on Scottish Affairs. Each Standing Committee consists of 20 members and some additional members which should not be more than 30. The total strength of a Standing Committee of House of Commons can be fifty. Usually, the members of these committees varies between thirty and forty.

3. Select Committees on Public Bills

In addition to the above mentioned committees, the House of Commons sometimes sets up a committees to consider public bills on which it is necessary to collect evidence, examine witnesses and obtain information. Such committees are known as Select Committees on Public Bills. A Select Committee is set up by the House for a specific purpose and it comes to an end after having completed its work. This committee usually consists of about 15 members who are experts and are fully familiar with the matters referred to them.

4. Sessional Committees

Sessional Committees are a king of select committees with this difference that whereas the latter come to an end after completing their work, the former continue to be in existence for the duration of the session. They are appointed at the beginning of a session by the House and are charged with the performance of specific functions. As a rule eight or ten of them are set up for an entire session. The Committee of Selection is one of the sessional committees. The sessional committees choose their own Chairmen from among their members.

5. Private Bills Committees

These committees are appointed by the House for the consideration of Private Bills. The number of Private Bills Committees depends upon

the number of Private Bills introduced in the House. The same committee may be entrusted with the care of more than one private bill. The members and the chairman of a Private Bill Committee are appointed by the Committee of Selection. The strength of such a committee is four.

6. Joint Select Committees

If, in a bill, both the Houses are interested they set up a Joint Committee for the consideration of such a bill. These Committees are not a normal feature of the British Parliamentary procedure and are constituted only on rare occasions.

Check Your Progress

4. Name the powers of House of Commons?
5. List any two committees of British Parliament?

5.6. ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. The House of Commons is the lower house in the British Parliament. It is the center of the British system
2. The House of Lords is a large body consisting of about nine hundred upper of lords.
3. John Ramsay Bryce Muir was a British historian, Liberal Party politician and thinker who made a significant contribution to the development of liberal political philosophy in the 1920s and 1930s through his work on domestic industrial policy and his promotion of the international policy of interdependency.
4. The most important powers and function of the house of common is law making. Mercy bill originate only in House of Commons.
5. Committee of the Whole House, Standing Committee on Public Bills and so on.

5.7. SUMMARY

- Parliament in the Britain consists of the King, the House of Commons and the House of Lords
- Though the House of Commons is said to possess immense powers. It is so in reality
- The British House of Lords is upper chamber of the parliament. It is the elder of the two houses.
- The House of Commons resolves itself into Committee of Whole House.

5.8. KEY WORDS

House of Commons - The House of Commons is the lower house in the British Parliament. It is the center of the British system

House of Lords - The House of Lords is a large body consisting of about nine hundred upper of lords.

Democracy- a system of government by the whole population or all the eligible members of a state, typically through elected representatives.

5.9. SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. Write a short note about the House of Commons?
2. Explain about the powers of House of Lords?
3. Explain briefly about the other committees of British Parliament?

Long Answer Questions

1. Critically examine the Legislature of United kingdom?
2. Evaluate the powers of House of Commons and House of Lords?

5.10 .SUGGESTED READINGS

J. C. Johari. (2011). *Comparative Politics*. Sterling Publishers Pvt.Ltd;
J.C. Johari. (2012). *Major Modern Political Systems*. Shoban Lal & Co.
O.P. Gauba. (2016). *Indian Political Thought* . Mayur Paperback.
Kapur A.C. , Mishra K.K.(2016). *Select Constitutions*. S Chand.

UNIT VI LEGISLATORS OF U.S.A, FRANCE AND SWITZERLAND

Structure

- 6.0 Introduction
- 6.1 Objectives
- 6.2 Legislators of U.S.A
- 6.3 Legislators of France
- 6.4 Legislators of Switzerland
- 6.5 Answers to Check Your Progress Questions
- 6.6 Summary
- 6.7 Key Words
- 6.8 Self Assessment Questions and Exercises
- 6.9 Suggested Readings

6.0 INTRODUCTION

In the previous unit you studied about the Legislators of United Kingdom such as House of Commons and House of Lords as well about the kinds of committees in British Parliament.

In this unit you study about the Legislatures of USA, France and Switzerland

6.1 OBJECTIVES

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

- To understand the importance of Executive of United Kingdom.
- To explain the role of King and Crown

6.2 LEGISLATORS OF U.S.A

Parliament in America is known as the Congress. It is a bicameral body consisting of the House of Representatives and the Senate. The House of Representatives represent the nation and the Senate the states. The American legislature is not sovereign like the British legislation.

- **The House of Representatives**

The House of Representatives, the lower chamber consists of 435 members elected directly by the people for two years on the basis of universal adult suffrage. All the states are given representation according to their population.

A candidate to the House of Representatives should be a citizen of USA. He should have completed 25 years of age. He must have resided at least for 7 years in the state in which he contests.

- **Powers and Function**

- **Legislative**

The House of Representatives enjoys equal powers with the Senate. Ordinary bills can be introduced in either house. But money bills can be introduced only in the lower house. However the Senate has the power even to amend money bills. In case of disagreement between two houses the same is referred to a conference committee consisting of 3 to 9 members from each house. The conference committee discusses over disagreements and resolves them. Generally the Senate has been able to dominate over the lower house.

- **Executive**

But the American lower house no control over the executive. The lower house shares the control over budget with the Senate.

- **Judiciary**

The house of representative may initiate the money bill. It may discuss proposals. If the proposals posted by this house the Senate conducts the trial. All the federal courts below the Supreme Court have been the House of Representatives.

- **Other Power**

The proposals for amendment are to be approved by 2/3 majority of both the houses. It decides the election of the President when no candidate secures an absolute majority of electoral voters. It elects the President from among the first three candidates. The house is the final judge of the election returns and qualification of its members.

- **The Senate**

The Senate is the upper house of the Congress. Being a federation, the constitution of the USA has given an important position to this second chamber. The Senate is said to be the most powerful second chamber.

- **Composition**

In a federation the upper house should give equal representation the units based on each state is represented by two members. There are hundred senators. Each state is divided into two equal sensational constituencies. Once they were indirectly elected, the seventeen amended made their election direct. Now the senators are directly elected by the people. 1/3 of the members retired every two years. Hence the house is any citizen of the particular state may contest to the Senate. He should completed 30 years can of age and should have been a citizen of USA at least for nine years. The Vice President of the USA is the President Officer of the Senate. As the President Officer, the Vice President has limited powers. The members have absolute freedom of speech. The Senators can break for a full day i.e. 24 hours. It is called filibustering. The Vice President does not enjoy the power of opportunity committee. The Senate usually sits in session along with the House of Representatives. But it may be convened for special sessions to do certain business in which the lower house has no share.

- **Powers of the Senate**

- **Legislative**

The Senate shares legislative powers equally with the House of Representatives. All the bills are to be passed in both the houses before the assent of the President. Many bills cannot be introduced in the Senate. However the Senate has the power to amend money bills. Even in case of disagreement between the two houses, the Senate manages to have an upper hand. The legislative deadlocks are resolved by conference committee consisting about more members from each house.

- **Executive**

The executive powers of the Senate are important. No other second chamber in the Lord posses too much power. It contains all the appointment made by the president. The treaties made by the President are to be ratified by the Senate. The president is checked by the Senate. On many occasions the Senate has disapprove the actions of the President. The USA could not become a member of the League of Nations due to the

NOTES

disapproval of the Senate. The President manages to get the approval of the Senate by adopting means life senatorial courtesy.

- **Judicial**

The President of the USA can be removed from power by impeachment. The trial of the impeachment is conducted by the Senate. When the Senate conducts trial, the Chief Justice of Supreme Court presides over it. This judicial power enhanced the position of the Senate. In matters of constitutional amendments, the Senate has equal share of powers with the lower house.

The Senate has ascendance over the lower house. There are certain factors which contribute to the ascendance of the Senate. In USA there is no parliamentary forum of Government. Hence the House of Representatives is not as powerful as the British House of Commons. They are directly elected. Each senator represents half of his state so a senator represents more people than a member of the House of Representatives. Senator enjoys long, each senator has tenure of six years. The house is permanent. The Senate is a compact house with hundred members so the Senate conducts its business more effectively. The senators have full freedom of speech. As there are only hundred senators they can take much time in debate. The American Senate enjoys equal powers. In financial matters the Senate has the power to amend money bills. It enjoys more executive power than the lower house; its judicial power also enhances its importance. Thus the Senate has an ascendance over the lower house due to this reason.

- **Comparison between the American Senate and British House of Lords**

When we compare the House of Lords with the American Senate, we find a sharp contrast between the two. In fact, the reality is that whereas the United States Senate is the strongest; the House of Lords is the weakest of all upper House in the world today.

Composition

1. There is a great difference between the Senate and the House of Lords in regard to their composition. The number of members of the House of Lords is much and it often increases or decreases. On the other hand, the number of total members of the Senate is 100 which always remain constant.
2. The Senate of America is comparatively more democratic than the House of Lords. The members of the Senate are elected by the people, whereas the members of the House of Lords are mostly hereditary and some of them are nominated by the King on the advice of the Prime Minister.
3. There is also a lot of difference between the two from the point of view of the term of the members. Although both of them are permanent houses but while the members of the House of Lords hold their office throughout their lives, the members of the Senate hold their office for a term of six years. $\frac{1}{3}^{\text{rd}}$ members of the Senate retire after every two years.

Powers

From the point of view of powers, the Senate is most powerful and the House of Lords is a very weak House. A brief comparison of the different powers of both the Houses is being made below:

1. **Legislative Powers**
2. **Financial Powers**
3. **Administrative Powers**
4. **Powers in Regard to Foreign Affairs**
5. **Relations with Lower House**
6. **Judicial Powers**

- **American Congress**

American constitution consists of two house viz., the House of Representatives and the Senate. Both together are called with the name of Congress.

- **Powers and Functions of the Congress**

In the United States of America the principle of separation of powers has been adopted. The legislative functions and powers of Congress, the executive powers vest in the President and the mutual powers and functions have been given to the Supreme Court. Thus in accordance with the principle of separation of powers. The main function of Congress is to make laws. The American Constitution has very clearly provided that "Congress have the power to provide for the common defense and the social welfare of the United States". In the words of Munro, the legislative powers of the national Government belong to Congress of United States and are not to be exercised by any other priority, whether executive or judicial. Legislative powers must not be delegated".

It is true that the main function of the America Congress is to make laws but from the point of view of general welfare it has been given some executive and judicial powers. A brief discussion of the different powers of Congress is being made as under.

1. **Power to Make Laws**
2. **Power to Amend the Constitution**
3. **Power to Defend the Nation**
4. **Power to Declare War or to Make Peace**
5. **Power in regard to the Election of President**
6. **Power to Cancel or Invalidate the Election of the Member**
7. **Power to determined and lay down the Time and Rules of Election**
8. **Powers in respect of Appointment of Government Officers**
9. **Control over the Executive**
10. **Power to make Impeachment**
11. **Power to Exercise Control over Government Income and Expenditure**
12. **Control over Coinage system**
13. **Commercial and Trade Rights**
14. **Power to include States in the Union**
15. **Powers to make Territorial Changes in the States**
16. **Powers regarding Judicial Department**

- **Committee System of Congress**

There is no mention of Committee in the Constitution of the United States of America. In the beginning, there was no need of the committees and hence the number of committees was very less. In the beginning of 19th century, there was no committee in the Senate and there were only 5

NOTES

NOTES

committees in the House of Representatives. Slowly and gradually, the legislative work went on becoming more and more complicated. With the constant increase of the members of the Senate and the House of Representatives, the sphere of legislative departments increased so much that it became difficult for the Congress to consider a bill from its initial stages. Consequently, the number of committees increased. In the modern period, these committees increased. In the modern period, these committees of America have become a necessary part of the administration. Because of the presidential system of government, the need of committee system is felt more in America than in any other country. In America, the responsibility of making laws is neither on the Cabinet and nor the Cabinet leads the Congress. This had led to the increase of the importance of the committees. In each session of the Congress, thousands of bill and resolutions are presented in the Congress and the members of the Congress do not have time to consider completely all these bills and resolutions. Therefore, the committees led the Congress in the same way as the Cabinet in Britain leads the House of Commons. Regarding the committees, famous scholar Beard has written that as bills presented in the Congress become more and more complicated due to the development of industrial age, the power and influence of that person is also increasing who have special knowledge and experience of their fields. This is necessary also desirable. The President of America invites the attention of the Congress from time to time through his messages and points out that it is necessary to make laws in regard to particular subjects. Then the committee concerned prepares a bill in connection with that subject.

The basis of the present committee system of America is the Reorganization Act of 1946. Prior to this, the number of permanent committees of the House of Representatives and the Senate were 47 and 33 respectively, but at present there are 19 and 14 permanent committees in the House of Representatives and the Senate, respectively. The name and functions and the Committees of both the House are almost similar.

- **Various Committees**

There are many types of committees in the Congress of America. These committees are briefly described below:

Permanent Committees

- 1) **Agricultural Committee**
- 2) **Ways and Means Committee**
- 3) **Appropriations Committee**
- 4) **Rules Committee**
- 5) **Bank and Coinage Committee**
- 6) **Education and Labour Committee**
- 7) **Foreign Relations Committee**
- 8) **Inter-State and Foreign Trade Committee**
- 9) **Judiciary Committee**
- 10) **Administrative Committee of the House**
- 11) **Committee regarding the Expenditure of the Departments of Executive.**
- 12) **Post Office and Public Service Committee**
- 13) **Public Works Committee**
- 14) **Commercial Shipping and Fishery Committee**
- 15) **Internal and Insular Affairs Committee**

16) Un-American Activities Committee

17) Military Welfare Committee

18) Columbia Province Committee

19) Armed Services Committee

20) Like the Committees of the House of Representatives there are similar Committees in the Senate but the following 5 Committees of the House of Representatives are not in the Senate:

- a) Committee regarding the expenditure of the Departments of Executive.
- b) Administrative Committee of the House.
- c) Columbia Province Committee.
- d) Un-American Activities Committee.
- e) Military Welfare Committee.

It may also be noted that the number of members of the difference committees in the Senate is less than that of the Committees of the House of Representatives. No person can be a member of more than three important committees.

Special Committees

Joint Committees

Conference Committees

Committee of the Whole House

Special Investigating Committee

NOTES

Check Your Progress

1. Define House of Representative?
2. Define Impeachment?
3. Name the Federal Assembly?

6.3. LEGISLATURE IN FRANCE

The constitution of the fifth republic provide for a bicameral parliament. The upper house is the Senate and the lower house is called the National Assembly. The constitution members about popular sovereignty. Its powers are limited. Even the control of the purse by the parliament is not effective as in U.S.A or U.K.

• **National Assembly**

The lower house is called the National Assembly. It is directly elected by the people. Its tenure is 5 years. There are about 577 members in it. Every person who has attained the age of 21 years is eligible to vote and a person who is of 22 years of age is eligible to contest. The election is conducted on two ballot majority system. Each candidate selects a substitute. After the election the successful candidate became the Deputy and his substitute is called Optional Deputy. When the office becomes vacant due to the disqualification or death of the Deputy, the Optional Deputy becomes the Deputy. The National Assembly elects its own president. He presides over the meetings of the National Assembly.

The National Assembly is the more powerful of the two houses. The Government is responsible only to this House and not to the Senate. Money bills originate only in this house. It performs the usual function of a lower house like majority and unmaking a government possibly by laws authority taxes and appropriate in and controlling the government. The right to initiate legislation is entrusted to the premier and the members of

NOTES

the parliament. The National Assembly joins with the Senate in authorizing the declaration of war and the ratification of treaties.

- **The Senate (France)**

The Senate is elected by indirect suffrage. It consists of 317 members. Out of 317 members 296 represents metropolitan France, 13 overseas departments and territories and 8 the French living outside France. They are elected for 9 years by an electoral college composed of the members of the National Assembly. Delegation from the municipal councils delegates from the members of central council of the departments and 1/3 of the members retire every three years. It elects its own President. Money bill cannot originate in the Senate. Bills other than money bills can originate in either house. The Senate joins with National Assembly in authorizing the declaration of war and ratification of treaties. The government is not responsible to the Senate as it was under the Third Republic. To some extent Senate is a satisfactory second chamber.

6.4. LEGISLATURE (SWISS)

The federal legislation of Switzerland is known as Federal Assembly. It is a bicameral legislature. Consisting of National Council and the Council of State.

- **The National Council**

It is the lower house, the constitute is silent regarding the total strength of the council. It changes from time to time according to the population citizen who have completed 20 years and more to elect and deputy for every 24000 people. Now it consists of 200 members. They are not allowed to become members of National Council. It is elected for a period of 4 years and cannot be dissolved earlier except when the two houses differ on an issue of the total revision of the constitution. The home elects its own President and Vice-President every year and the office govern by rotation to other member.

- **The Council of States**

It is the second chamber each fall canton is entitled to send two deutes while every half canton sends the deputy the total strength of the house is 44. The mode of election of these members is determined by the canton according to their own laws. The canton also reserves the right to determine the tenure, gratification and allowances payable to members representing Council of States. Accordingly the members of Council of State are elected through different methods and enjoy different terms of office. In some cantons these members of Council of States are elected by the central legislation while in others they are elected by open meetings of the people viz., through the system landsgemeind. The term of the members of the Council of States are also varies from three to four years. The cantons also enjoys the right of recall their members at any time.

Powers

The Swiss Federal Assembly enjoys very extensive powers. Federal Assembly has the right to legislate on all matters which have been placed under the jurisdiction of the federal government by the constitution and which have not been assigned to any other federal authority. Thus the Federal Assembly can major laws in matters relating to organization and mode of election of federal authorities and institution, their term,

constitution of service, salary and allowance etc. by treatise and alliance with foreign states (c) question of war and peace and mentality (d) enforcement and revision of the federal constitution approved of inter, central etc. Federal assembly also approves the annual budget which is happened by the federal council. Thus Federal Assembly enjoys quite extensive legislative powers.

Executive Powers

The Federal Assembly elect the seven members of the federal council of the President and the Vice-President of the Federal Council judges of the Federal Tribunal members of the chancellor etc., in the case of war or threat of war it also elects commander in chief of the Swiss army. It controls the federal army and is authorized to declare war and conclude peace. It can also direct the executive functions. Federal Council also submits the detailed report about its activities to the Federal Assembly.

The Federal Assembly enjoyed extensive judicial powers before the revision of the 1874 constitution through these powers have considerably restricted, but it still enjoys enormous judicial powers.

It organize the Federal Tribunal by election of its members. It determines the salaries. If the judges of the Federal Tribunal and exercises supervision and control over its working. The Federal Tribunal has to submit an annual report regarding its activities to the Federal Assembly.

Federal Legislature - Switzerland

Like other federal countries, there is a bi-cameral legislature in Switzerland also. The Swiss Legislature consists of two Houses – (a) National Council, and (b) Council of States. Both the Houses of the Swiss Legislature together form the Federal Assembly.

Composition of National Council

The National Council consists of the representatives elected by the people. It is a bigger house than the Council of States. The number of its members is not definite and it increases or decreases with the increase or decrease of the population. For every 24,000 persons, there is a representative for the areas having a population more than 12,000 persons, but areas having the population less than 12,000 persons are not given any representation. For example, if an area has a population of 27,000 then it will have two representatives in the National Council but if the population of an area is 25,000, then it will have only one representative but if a Canton or a half Canton has a population even less than 12,000, then it will have a representative in the National Council. Thus each Canton or half Canton has atleast one representative in the National Council.

At present, the number of members of the National Council is 196. Since the representation is on the basis of population, big cantons have more representatives in the National Council than the small Cantons. However, as mentioned earlier each Canton or half Canton must have at lease one representative in the National Council. For example, big Canton like Berne has as many as 33 representatives in the National Council, whereas the smallest Canton of Switzerland elects only one representation for the National Council.

Appointment and Election of the Members

Except the clergyman, any Swiss citizen can be a member of the National Council. Members are elected through direct election method. All the persons have attained the age of 20 years, are entitled to vote. Election is conducted through secret ballot system. According to the

NOTES

amendment of 1918, proportional representative system of election is adopted for the election of National Council. This proportional representative system is adopted for only those cantons for which more than one member is to be elected.

Term

The term of the National Council is 4 years. Before 1931, the term of the National Council was only 3 years. It was increased to 4 years in the year 1931. Elections are conducted after every 4 years in the last week of October and the Session of National Council is called in the first week of December.

Composition of Council of States

The Second House of Swiss Legislature is called the Council of States. The number of its member is 44. The Council of States consists of the representatives of the Union and the Cantons. The number of Cantons in Switzerland is 25, out of which 19 are full Cantons and 6 are half Cantons. Two representatives are elected from each full Canton and one from each half Canton. The representatives are not elected on the basis of population and as such the number of members of the Second House remains always constant. Thus the representatives of the Council of States of Switzerland are elected similar to the election of the representative of the American Senate. No Canton possesses the right to send more than 2 representatives.

Election, Appointment and Term of the Members

Appointments of the members of the Council of States is made in a similar manner as that of the National Council. Members are elected either directly by the people or by legislatures of the Cantons. It is a Canton, which decides as to for how much time a Canton should send its representative to the Council of States. That is why, some Cantons elect the representatives for one year, some for two years, some for three years while others elect their representative for a term of 4 years.

Equal Rights of Both the Houses

In Switzerland, the powers of the National Council and the Council of States are equal. Thus, the legislative system of Switzerland is different from that of America. In America, the Senate is more powerful than the House of Representative but in Switzerland both the Houses have given equal powers. Thus, in principle both the Houses of Swiss legislature possess equal powers, but in practice the importance of the National Council is rather more than the Council of States.

Meetings of the Houses

There is provision for separate meetings of the two Houses, but for some specific purposes joint meetings of the two Houses are also held. These joint meetings are held for the following purposes:

1. For the election of higher officials of the Union such as President, Vice-President, Chancellor and the Judges of the Federal Courts etc.
2. Election of the 7 members of the executive.
3. For resolving the disputes relating to the division of powers between the Federal Government and the Government.
4. For solving the prominent problems of the country.
5. For granting pardon, mercy etc. to the criminals.

Thus, we see that the composition of Federal Legislature of Switzerland is more or less similar to that of America. There is, however,

difference in regard to the powers of the two Houses. While in America, the Senate is more powerful than the House of Representatives. In Switzerland, the powers of both the Houses are equal. Moreover, the joint sittings of the Swiss Legislature are also a unique feature.

Powers and Functions of the Federal Assembly

It is mentioned in the Constitution of Switzerland that Federal Assembly will consider over all those matters and subjects which have been granted to any other Unit. Regarding the powers of Federal Assembly Sri I.N. Srivastava writes, "The powers of the Federal Assembly extends into every field of Government, subject to the right reserved to the people and to the Cantons".

NOTES

1. Legislative Functions and Powers

The Federal Assembly possesses the power to make laws on all those subjects which have been granted to it under the Constitution. It has the power to make laws on the political problems of the country, justice and police, organization of Army, military agreements, post and telegraph and railways, economic system etc.

The President of Switzerland does not possess any special power in regard to the laws made by the Federal Assembly, but the Swiss people have the right to check any bill from becoming an act by using their powers. The people can use their powers through the system of Recall Initiative and Referendum. In spite of these powers to the people, the Federal Assembly of Switzerland possesses vast powers in the legislative field. As a matter of fact, the Federal Assembly of Switzerland is comparatively more powerful than the Congress of America.

2. Financial Powers and Functions

Federal Assembly of the Union exercises full control and powers over the finance. In the beginning of each year, the Federal Assembly passes the budget, which is presented before it by the Federal Council. In Switzerland, no tax can be levied without the consent of the Federal Assembly. Likewise, no foreign loan or debt can also be taken without its consent.

3. Administrative Powers and Functions

The Federal Assembly also possesses vast administrative powers. The Chairman of the Federal Council is elected by the Federal Assembly. It also exercises control over the Government services. The Federal Council has to send information to the Federal Assembly regarding all the functions that it performs. The members of the Federal Assembly can ask questions from the members of the Federal Council. They can also reject the proposals presented by the Federal Council. The Federal Assembly resolves the administrative disputes. Last but not the least, the Federal Assembly has also the powers to declare war and peace with any other country.

4. Powers Regarding Election

The Federal Assembly appoints or elects the members of the Federal Council. It is the Federal Assembly which elects or appoints the Judges of the Federal Courts, Chancellor and higher officers of the Federal Army etc.

Judicial Powers

As mentioned earlier, the Judges of the Federal Courts are appointed by the Federal Assembly. The Federal Assembly possesses the power to determine the judicial system of the country. It has also the

NOTES

power to grant pardon, mercy, respite etc. to the persons convicted of different crimes.

6. Powers to Amend the Constitution

The Constitution cannot be amended without the prior consent of the Federal Assembly. When the Constitution is to be amended, both the Houses of the Federal Assembly accept the proposal for the amendment of the Constitution and send it to the people for their consent. If there arises difference of opinion between the two Houses in regard to the proposed amendment, it is also sent to the people for their opinion. If the people reject it, the proposed amendment is not accepted. If the people give their consent on the proposed amendment, the Federal Assembly is dissolved and is reelected. Thus, the final decision is in the hands of the people and without their will no amendment of the Constitution is possible, but this does not mean that the Federal Assembly possesses no powers in regard to the amendment of the Constitution. In fact, the importance of the Federal Assembly is equal to that of the people in regard to the amendment of the Constitution.

Importance of Federal Assembly

The above discussion makes it clear that the importance of the Federal Assembly is great in Switzerland. Its importance further increase due to the ability of its members. In the words of Lord Bryce, “The Swiss Legislature is most business like legislative body in the world, doing its work quietly and thinking of little else. Speaker seldom indulge in rhetoric, nor are they applauded or interrupted”.

Famous Scholar Ogg has also written that the intelligence and honesty of the members is of high order. They lack the feeling of party politics. The behaviour of the speaker with the members and persons is full of sympathy impartiality. The Federal Assembly has very simple and few rules. The breach of discipline is very seldom seen here. Regarding the members of Swiss Legislature, Bryce has written at another place, “The average member in the Swiss Legislature is solid, shrewd, unemotional at any rate indisposed to reveal his emotion”.

Characteristics of Legislature in Switzerland

The legislative system in Switzerland is different from that of other countries. In other countries, when a bill is passed by one House, it is sent to the other House for its consideration, but in Switzerland, a bill is discussed in both the Houses at the same time. Thus, the discussion freely takes place in each House, Federal Council prepares important bills either according to its own will or on the request of either of the Houses. In the beginning of the Session, this bill is sent to the other House for its consideration, but in Switzerland, a bill is discussed in both the Houses at the same time. Thus, the discussion freely takes place in each House. Federal Council prepares importance bills either according to its own will or on the request of either of the Houses. In the beginning of the Session, this bill is sent to the Speakers of both the Houses, and they decide after mutual discussion, the order at which the bill is to be discussed. Very few local and personal bills are presented in the Swiss Legislature because in these regards executive ordinances are issued from time to time. Following types of bills can be presented in the Federal Assembly:

- A proposal, bill or report by Federal Council.

- In the form of information from the Second House.
- In the form of report of the Council.
- In the form of resolution by a members.
- In the form of letter or charter of request.

In Federal Assembly, written speeches cannot be delivered. The members who wish to take part in the discussion inform it to the Speaker of the House and it is the Speaker only who permits him to speak.

Federal Council occupies a prominent position in the field of legislation in Switzerland. When a bill is presented in Federal Council, many members express their views or opinions before the Federal Council and the Federal Council presents it after giving an appropriate form to it. According to Ogg, this system has many advantages because the members of Federal Council are experts in preparing the draft of the bills. The members of the Federal Council are not the members of either of the House. But they have full rights to present the bill, to take part in the discussion to express their views in the Houses. They also answer the questions which are asked from them, but they do not possess the power to vote in favour or against any bill.

NOTES

Check Your Progress

4. Define National Assembly
5. Define Senate?

6.5. ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. The Lower House of USA
 2. It is the process by which a legislative body levels charges against a government official.
 3. The federal legislation of Switzerland
 4. The lower house of France.
 5. The Senate is the upper house of the American Congress
-

6.6. SUMMARY

- Parliament in America is known as the Congress.
 - It is a bicameral body consisting of the House of Representatives and the Senate.
 - The House of Representatives represent the nation and the Senate the states.
 - The American legislature is not sovereign like the British legislation.
-

6.7. KEY WORDS

- **House of Representative** - The Lower House.
 - **Impeachment** - It is the process by which a legislative body levels charges against a government official.
 - **Federal Assembly** - The federal legislation of Switzerland
-

6.8. SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. Write a short note about the powers and functions of the House of Representatives?
2. Explain about the various committees of American congress?
3. Explain briefly about the National Assembly?

NOTES

Long Answer Questions

1. Critically examine the importance of senate and American Congress?
2. Evaluate the powers of council of state in Switzerland legislature?

6.9 .SUGGESTED READINGS

- J. C. Johari. (2011). *Comparative Politics*. Sterling Publishers Pvt.Ltd;
J.C. Johari. (2012). *Major Modern Political Systems*. Shoban Lal & Co.
O.P. Gauba. (2016). *Indian Political Thought* . Mayur Paperback.
Kapur A.C. , Mishra K.K.(2016). *Select Constitutions*. S Chand.

UNIT VII EXECUTIVES OF U.K

Executives of U.K

NOTES

Structure

- 7.0 Introduction
- 7.1 Objectives
- 7.2 Executives of U.K
- 7.3 Distinction between King and Crown
- 7.4 Answers to Check Your Progress Questions
- 7.5 Summary
- 7.6 Key Words
- 7.7 Self Assessment Questions and Exercises
- 7.8 Suggested Readings

7.0 INTRODUCTION

In the previous unit you studied about the Legislatures of USA, France and Switzerland

In this unit you study about the Executive of United Kingdom

7.1 OBJECTIVES

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

- To understand the importance of Executive of United Kingdom.
- Explain the role of King and Crown

7.2 EXECUTIVES OF U.K

England is a constitutional monarchy. Once it was an absolute monarchy. Due to the development of many democratic institutions it has become a constitutional or Limited Monarchy. The king is the head of the executive. The king is the fountain of Justice. This does not mean that there is real monarchy in Britain. The king is only nominal head.

It is very difficult to define crown. In those days, there was no difference between the king and crown. The king enjoyed all the powers. He personally administered the country. But now the things are changed. There are differences between the king and crown. These differences are important to the constitution in England. The king is an individual. The crown is an institution. An individual king may die. He may abdicate. He may be dethroned. But the institution of crown will be there. It is permanent. Crown is an artificial person. The crown is the symbol of state unity and power. All the acts of the Government are done in the name of Queen Elizabeth. But the queen as an individual has not knowledge of it. It is the institution of crown which carries on these. Once the king ruled. But now the queen does not rule. She reigns. Due to this difference between the king and crown it is said, "The king is dead, long live the crown".

The king is the highest executive officer. He appoints the prime minister and other ministers. He appoints all the high officials of state including high officers of the armed forces of England. The ambassadors, consuls and other diplomatic representatives are appointed by the king. He can declare war and peace. All acts done by ministers are done in the name of the king. He is the head of the state.

The king summons and prorogues the Parliament. He can dissolve the House of Commons. He appoints Lords to the House of Lords. All the bills passed by the parliament can become laws only after his assent. Without his assent no bill can become law. He makes opening speech in

Self-Instructional Material

the first session of the parliament. It is called speech from the throne. The king can pass orders-in-council. He has the power to initiate and get the bills passed through the ministers.

The crown is the fountain of justice. All courts of justice belong to the crown. All the judges are appointed by the king. The king has the power to grant pardon. He can reduce the punishment of any accused or he may pardon him completely.

The above discussion of powers of the king may show the king as the most powerful in England. But it is not real. In reality, he is only a rubber stamp or golden zero. He appoints the Prime Minister. He can appoint only the leader of the majority party as the Prime Minister. The Prime Minister chooses other ministers. On all his legislative, executive and judicial powers the king acts on the advice of the cabinet. He cannot take decisions on his own accord. Even the speech from the throne is prepared by the cabinet. All the acts are done by the cabinet in the name of the king. So the king is not responsible for his acts. It is only the cabinet which is held responsible. Hence it is said the "King can do no wrong". The king is only a nominal head. The real head is the Prime Minister. Conventions prevent the king from exercising real powers. It may not be wrong to say that the conventions have converted absolute monarchy into a democracy.

The king is not really powerful. He is hereditary. Yet Britain retains monarchy. In practice it is more or less a republic. But in theory it is a constitutional monarchy. Many thinkers raise the question why monarchy survives in England. Monarchy survives in England due to its utility. For a Parliamentary form of government a nominal head is needed. For example in India, we have the President as nominal head. The king serves this purpose better than an elected nominal head. The king gets the post by hereditary right. He does not belong to any political party. He has not need to care of the support of any political party. So he is impartial. The personality of the king is impressive. The king remains as the king until his death. The long tenure gives him valuable experience. By this experience he can guide the Prime Minister and the cabinet. The Prime Minister cannot ignore the king completely. The British people have an affection on the king.

The Institution of crown in England is unique. It is a symbol of historical antiquity. It is a symbol of the political offences of the people. The king seems to be powerful. But he is not really powerful. Hence it is said, "The Government of the United Kingdom is in ultimate theory, an absolute monarchy, in form, a limited constitutional monarchy, and in actual character, a democratic republic."

7.3.DISTINCTION BETWEEN KING AND CROWN

The famous legal maxim, "The King is dead, long live the King". The first 'King' has been used for the King as an individual and the second 'King' has been used for the King as an institution. The following are the differences between the 'King' and 'Crown'.

- (1) 'King' is an individual whereas 'Crown' is an institution which includes King, Ministers, Parliament etc.
- (2) King is a mortal thing and can be seen and touched. But crown is an emotional institution which has no mortal form. It is symbol of political power. Neither can it be seen nor can it be touched.

- (3) King is born, ascends the throne, and also dies, but the Crown is not incarnate and it never dies.
- (4) The King dies and is finished but the Crown goes on living for ever like the “General Will” of Rousseau.
- (5) King is only a ‘Golden Zero’. He has no powers whereas the Crown has control on the real authority of the administration. King has now remained only a decorative head and all of his powers now vest in the Crown.

The glory and honour that have been conferred on the post of King in England is, in fact, the symbol of the devotion of the people towards the crown. In principle, there is still monarchy in England but in practice, there is really democracy. In the words of Laski:

“In England the monarchy has been sold to democracy”.

In spite of the fact that there is at present a democratic set-up in England, the glory and honour of the Crown have been maintained intact, and whenever in practice the word ‘King’ is used, it, in fact, represents the Crown.

Powers and the Rights of the Crown

In England wide powers have been given to the Crown. All the functions performed by the Parliament, the King and the Cabinet are performed in the name of the Crown. The executive, legislative and judicial powers vest in the Crown.

Sources of the Powers of Crown

Before coming to the discussion of the Crown, it is necessary first to know the sources of the powers of the Crown. A brief description of the powers of the Crown is being given below.

1. Prerogatives

One of the sources of the powers of the King is the prerogative of the Crown. According to Prof. Dicey: “The prerogatives appear to be historical, and as a matter of actual practice nothing less than the residue of discretionary or arbitrary authority which at any time is legally left in the hands of Crown”.

Following are some of the important prerogatives of the Crown:

- (i) The King is the fountain of justice. It is the duty of the King to maintain the peace of the country. All justice is done in the name of the King.
- (ii) One of the important prerogatives of the King is to summon, prorogue and dissolve Parliament. The King is however, required to act according to the will of the nation. In 1923, Earl of Oxford and Asquith have described exact constitutional position in the following words:

“The dissolution of Parliament is in this country one of the prerogatives of the Crown. It is not a mere feudal survival, but it is a part, and I think a useful part, of our constitutional system, for which there is no counterpart in any other country, such for instance, as in the United State of America. It does not mean that the Crown should act arbitrarily and with that the Crown is not bound to take the advice of a particular Minister to put its subjects to the tumult of a series of general elections so long as it can find other Ministers who are prepared to give it a trial”.

- (iii) The King is the Commander-in-Chief of the armed forces of the country. Commissions to all Officers of the Army, Air Force and Navy are given by the King. Their control, organization and disposition are within the prerogatives of the Crown.
- (iv) Yet another prerogative is that the King is the sole fountain of honour. It is only the King who can create Peers and can confer honours and decorations.
- (v) The King is never an infant. Even when the person occupying the post of the King is an infant, he can give assent to Bills passed by Parliament. It is, therefore, presumed that the King is always fit and competent to transact the business of the State.
- (vi) The King represents the people in the international field. It is he who enters into agreements and treaties and on formal sanction of Parliament is necessary.
- (vii) The King receives Ambassadors and Ministers from foreign countries,
- (viii) The King never dies. When a King dies, he is immediately succeeded by another.
- (ix) It is also one of the important prerogatives that the Crown and demand personal service within the State.
- (x) It is also within the prerogatives that the Crown to restrain any person leaving the realm to evade justice.

The King exercises his prerogative on the advice of the Cabinet. As pointed out earlier, in the course of time, the prerogative of the Crown have become the privileges of the people and they are exercised in the interests of the people. It has been rightly remarked that after the Glorious Revolution of 1688, "the crown was made, the Crown was limited, the Crown was paid".

2. Parliament Laws:

There are some such powers of the Crown which were previously in the form of prerogatives but later on, were recognized by the Parliament by making laws accordingly. Thus both prerogatives and laws are the sources of these powers of the Crown.

3. Mixture of Prerogatives and Laws:

There are some such powers of the Crown which were previously in the form of prerogatives but later on, they were recognised by the Parliament by making laws accordingly. Thus both prerogatives and laws are the sources of these powers of the Crown.

VARIOUS RIGHTS

The different rights or powers of the Crown can be divided in the following five categories.

1. Legislative Powers
2. Executive Powers
3. Judicial Powers
4. Ecclesiastical Powers
5. Rights in relation to Titles

1. Legislative Powers

In regard to legislative powers, the principle of 'King of Parliament' has been recognized. The Crown is the fountain of all laws. In this connection Ogg and Zink write: "The Crown is not only the custodian of the Executive Powers, it also shares in the work of legislation".

Following are the main legislative powers of the Crown:

- ◆ To summon, prorogue and dissolve the Parliament
- ◆ To appoint Lords if need arises.
- ◆ To give assent on the Bills passed by the Parliament. A Bill does not become an Act unless and until it receives the assent of the King.
- ◆ To address the first session of the Parliament. A Bill does not become an Act unless and until it receives the assent of the King.
- ◆ To address the first Session of the Parliament
- ◆ To get the Bills initiated and passed through the Ministers.
- ◆ To get published the orders-in-Council.
- ◆ To implement or enforce the policy of the Parliament
- ◆ To issue ordinances for the Dominions.

Lowell has rightly remarked:

“If the Crown is no longer the motive power of the Ship of State, it is spur upon which the sail is bent and as such it is not only useful but an essential part of the vessel”.

Ogg also observes:

“It (Crown) is the supreme executive and policy-framing agency in the Government which means a wholesome consideration of sovereign, Ministers and Parliament. It is the institution to which substantially all prerogatives and powers once belonging to the person have gradually been transferred”.

2. Executive Powers:

The King is the highest officer of the executive and exercises wide executive powers. Each work of the administration is performed in the name of the Crown and all laws are enforced and implemented in his name. Following are the main executive powers of the King:

- To appoint Prime Minister and other Ministers
- To appoint all high officials of the Government including officers of the Army, Navy and Air Force.
- To establish relations with other countries
- To declare war and peace.
- To determine administration of Dominion States and Subordinate States.
- To Pardon, commute, suspend or reduce the punishment of the accused persons.

All the executive functions of the Crown are performed by the Minister, but they are said to be the functions of the Crown. This makes it obvious that in Great Britain the Crown carries on the administration of the country as the President of America does in his country.

According to Lowell:

“All told, the executive authority of the Crown is, in the eye of law, very wide, far wider than that of the Chief Magistrate in many countries, and well high as extensive as that now possessed by the monarch in any Government not an absolute despotism; and although the Crown has no inherent legislative power except in conjunction with Parliament, it has been given by Statute very large powers of subordinate legislation”.

3. Judicial Powers:

The Crown is the fountain of all justice. All judicial functions are performed by the Crown but they are done in the name of the Crown. In

England, all the Judges of different courts are appointed by the Crown but this is done on the advice of the Cabinet. The Crown is called sea of justice. Crown has power to pardon any accused. Crown can reduce the punishment of any accused or completely pardon him. He exercises highest authority in Dominions and Dominion conflicts. He hears the appeals of the Courts of the Dominions through the Judicial Committee of the Privy Council.

4. Ecclesiastical Powers

The King is the head of the Church of England. It is he who summons the National Assembly of the Church of England. The assent of the King is essential for all measures passed by the National Assembly of the Church of England. It is the King who appoints the Archbishops of Canterbury and York, Bishops and other officials of the Church. He is, in fact, the protector of religion. The judicial Committee of the Privy Council hears the final appeal from the Ecclesiastical Courts. The King is the final authority in matters of discipline in the Church. As in the case of the Church of England, he is also the head of the Presbyterian Church of England.

5. Rights Concerning Titles

The Crown is said to be the 'fountain of honour'. It is he who confers public honours and titles. He confers titles to different persons on the advice of the Prime Minister. He nominates Lords, confers Knighthood and confers other types of title.

Thus, the Crown of England exercises wide powers. Regarding his power, Keith writes: "This Crown possesses those powers which are essential for the maintenance of Government, for preservation of the realm and for the conduct of relations with other States".

It is true that in practice all the powers vest in the Cabinet but all the functions are performed in the name of the Crown.

Actual Position of the King

The real position of the King is that of a 'Golden Zero' or a 'Rubber Stamp'. He is such a ruler who does not exercise any powers. All the legislative, executive judicial, religious powers and powers regarding conferring of titles, etc. Which vest in him, are actually exercised by his Cabinet. It is true that the King is not responsible to anyone for his acts and no case be initiated against him in any Court yet he cannot do anything against the will of the Cabinet. For each of his functions, some or the other Minister is responsible. In the words of Gladstone;

"There is not moment in the King's life from his accession to his demise, during which there is not someone responsible to the Parliament for his public conduct and there can be no exercise of the Crown's authority for which it must not find some Minister willing to make himself responsible".

He is the head of the State, head of the executive, controller of legislature fountain of justice and honour; but inspite of these, in practice he is simply a Golden Zero. He summons the session of the Parliament, dissolves the House of Commons, declares war and peace, and is not responsible to anyone but every body knows that in practice the King does not himself perform any of these functions and is only a Rubber Stamp. That is why, it has been said that the King of England reigns but does not rule. He is only the head of the State but not the head of the Government.

However, inspite of the above mentioned facts and circumstances, it cannot be said that the King does not influence the administration in any way.

1. Right to be Consulted

At one time, Ministers used to advise the King but now the situation has changed. Now the King can only advise the Ministers. If the King thinks that some work will lead to the welfare of the people, he advises the Cabinet to do that work. It is the duty of the Cabinet to keep the King informed with all the works of the administration and to seek his advice. Although it depends upon the will of the Cabinet to accept or not to accept the advice of the King yet the advice of the King can influence the Cabinet to some extent. It may also be noted here that the advise of the King is based on experience and knowledge. The King reigns for quite a long period whereas the Ministers come and go. For example, Queen Victoria and George V ruled for 64 and 26 years respectively. Sir Robert Peel has rightly remarked: "The King after the reign out to know much more of the working of the machine of Government than any other man in the country".

2. Right to Encourage

One of the main functions of the King is to encourage the Government. If he finds that the Cabinet is performing any work properly and efficiently then he encourages the Cabinet. The encouragement of the King increases the enthusiasm of the Cabinet and subsequently it devotes itself wholeheartedly to the welfare of the nation.

3. Power to Warn the Ministry

The King has also the power to warn the Ministry. If the King thinks that the Cabinet has taken a wrong decision or what the Cabinet is doing is not in the welfare of the nation, then he can warn the Ministry that its work is not in the welfare of the nation. It is true that the King cannot force the Cabinet to do or forbid to do any particular work, yet the Ministers have to consider over the advice given by the King. If the Ministers again take the same decision, the King has then to accept it. About the power of warning, Begehot remarks:

"He would find that his having on other powers would enable him to use these with singular effect. He would say to his Minister that the responsibility of these measures in upon you. Whatever you think best shall have my full and effectual support. But you will observe that for this reason and the reason what you propose to do is bad; for hit reason and that reason that you do not propose is better. I do not oppose it is my duty not to oppose; but observe that I warn".

It is on account of these functions of the King that some scholars have not considered it proper to call the King a 'Golden Zero' or a 'Rubber Stamp'. He is friend and critical adviser of the Government. Laski has rightly said, "the fact that royal influence is both constant and pervasive, is beyond discussion". Many instances can be cited when different and pervasive, is beyond discussion". Many instances can be cited when different Kings have influenced their Cabinets. The glaring example of Queen Victoria, her son Edward Cabinets. The glaring example of Queen Victoria, her son Edward VII, George V etc. clearly prove that the King can influence the Cabinet.

Reasons for the Influence of the King

There are many reasons for the influence of the King. A brief description of these reasons is being given below:

- (1) **Personality:** The personality of the King is generally very impressive and hence the Cabinet automatically bows before him. If any King has some extraordinary genius, then Cabinet pays more respect to his advice.
- (2) **Importance of the Post:** The importance of the Post of Kingship has been recognized in England from a very ancient period. The people of England follow completely democratic system and it is said that democracy is in the blood of England but it is right to contend that the people of England cannot easily break the bonds of their customs and conventions. The duty of the post of the King which has been recognised for centuries is the reason why the King influences the Cabinet.
- (3) **Experience:** Yet another reason for the influence of the King is his experience. Prime Minister and other Minister and other Ministers come and go but the King remains the head of the State till his death. He gains a lot of experience in the works of administration and that is why the members of the Cabinet respect his advice.
- (4) **Working process of the Parliamentary Government:** The working process of Parliamentary Government in England is such that no main issue can remain unnoticed from the eyes of the King. The Prime Minister Keeps the King informed with each prominent political incident and seeks his advice from time to time. The king's right to encourage and warn the Ministry also increase his influence.
- (5) **Political Impartiality:** Last but not the least, reason for the influence of the King is his political impartiality. All parties are equal in his eyes and he behaves in the same manner with Cabinets of all parties. He does not take the least interest in party politics. That is why his duties and rights have further increased and his advice is respected.

It is due to this influence of the King that a scholar has remarked that in practice the King of England may not have any rights but the people of Britain are not prepared even today to abolish the post of King. The King is still respected and honoured in the whole of Britain.

Check Your Progress

1. Name the country followed constitutional Monarchy?
2. Who summons and prorogues the British Parliament?

• **Reasons for Survival of Monarchy**

There are many reasons for the continuance of monarchy in England. The main reasons may be divided into the following four categories.

- 1) Historical Reasons
- 2) Political and Administrative Reasons
- 3) Psychological Reasons
- 4) International Reasons

Britain is the mother of the Parliament. Cabinet systems of Government in other States are modeled on the British systems. However in no other state it works so well as it works in Britain. There are many historical and psychological factors favorable for this.

- **Salient Features of the Cabinet System**

The inner circuit of the Council of Ministers is called the Cabinet. It comprises of the Ministers who hold the portfolios of main departments of administration. There are no two views regarding the great significance of the Cabinet of England.

The development of this Cabinet has taken place slowly and gradually. The Cabinet system is based on the unchangeable principles which have not been established on the basis of most conventions. These principles have not been accepted in British law but their enforcement is strictly done and none has power to disregard them. The success of the Parliamentary system of Government depends upon these basic or Fundamental principles. There are certain special features of the British Cabinet system which have been adopted by different countries of the world.

Following are the main special features of the British Cabinet system.

1. System of Nominal Head

In the Cabinet system of Government, there is the provision for a nominal head of the State. King of England serves as the nominal head. Each work of administration is performed in his name. The King is only a nominal head of the executive, in practice the real Executive powers vest in the Cabinet. King does not take part in the meetings of the Cabinet. Whatever is made by Cabinet, the King signs on it. A scholar has rightly marked that the King is only a rubber stamp which is affixed whenever and wherever the members of the Cabinet want it.

2. Constituted for the Majority in the House of Commons

The Cabinet is formed by the Party which has majority in the Parliament. It is necessary for each Minister to be a member of either House of Parliament. If a person not being a member of either House of Parliament and is appointed the Minister, then he has to become the member of either House of Parliament at an early date. The Cabinet is constituted out of these Ministers and the members of the Cabinet are the members of the majority party in the House of Commons. This is advantageous because all these members follow the same policy and there is not obstruction in the work.

3. Prominence of Prime Minister

One of the prominent features of the British Cabinet is that great importance given to the Prime Minister. According to Morley, Prime Minister is the foundation stone of the Cabinet. Another scholar has written that he is like the Sun round while all other planets revolve.

4. Responsibility of Ministers

Yet another special feature of the Cabinet system of England is that each Minister is responsible for administration of the department under his charge but the whole cabinet is collectively responsible to the House of Commons for all the works. This feeling of collective responsibility develops unity among the different Ministers. It is the principle of the British Cabinet system that each one of its members is for all and all are each of them.

5. Unity and Firmity

Another characteristic of the British Cabinet system is unity and firmity among the members of the Cabinet. The decision of one Minister is regarded as the decision of the whole Cabinet. Any Minister can express his ideas in the meeting of the Cabinet and can express his disagreement on any matter but if the Cabinet finally decides anything, he is bound to accept it. If any member of the Cabinet does not agree with the decision of the Cabinet, then he has to resign immediately. Without resigning, he cannot express his ideas before the people.

6. Secrecy of Meetings

Yet another special feature of the British Cabinet system is secrecy. Whatever discussion takes place in the Cabinet or any decision that is taken in the Cabinet is kept secret. Before holding his office every Minister has to taken an oath of secretary. If the secrecy if not maintained, the feeling of collective responsibility will be destroyed. In order to let the members of the Cabinet exchange their ideas freely, it is very necessary to maintain the secrecy in regard to the discussions and other proceedings of the Cabinet.

7. Harmony in Executive and Legislature

Harmony between the executive and legislature is witnessed in the Parliamentary system of Britain. The members of the Cabinet and the Council of Ministers are the members of Parliament and they are individually and collectively responsible to Parliament. The Parliament can remove the members of the Cabinet from their offices whenever it so wills.

Cabinet, Privy Council and Council of Ministers

Cabinet and Privy Council

There is a sufficient difference between the Cabinet and the Privy Council. In early period, Privy Council exercised much powers. In fact, it organised almost all the works. But the position has become quite different in modern period, and it has now remained only a symbol of the power of works. Privy Council neither determines any policies nor does it conduct administrative works. All these functions are performed by the Cabinet. The number of the members of the Privy Council is 350 and all the members of the Cabinet are also the members of the Privy council. For sometime, British law did not recognise the Cabinet of British and no person was officially appointed as a member of the Cabinet. He was first made the member of the Privy Council and then was appointed as the member of the Cabinet. This means that Cabinet is only a party of the Privy Council but this part is more powerful than the Privy Council. Privy Council is summoned only on special occasion but the meetings of Cabinet take place continually. The quorum of Privy Council is fixed very less and some members of Cabinet together form the quorum of the Privy Council.

Cabinet and Council of the Ministers

Often the words 'Cabinet' and the 'Council of Minister' are used meaning one and the same thing but there is sufficient difference between the two. Following are the main differences between the two.

(1) Difference regarding Organisation and Size:

There is a wide difference in the organisation and size of the Cabinet and council of Ministers. Council of Ministers is of a ground of large size and ordinarily, it comprises of 60 to 70 members but size of the

Cabinet is smaller and Comprises of 18 to 20 members. Cabinet is only a small size of the Council of Ministers but it is organised by most prominent Ministers. Council of Ministers includes all those members who are appointed as Ministers but the Cabinet consists of only a few Ministers. In fact, Cabinet is an inner council of the Council of Ministers. All the members of the Cabinet are the members of the Council of Ministers, but members of council of Ministers are not necessarily the members of Cabinet.

(2) Difference regarding Office

Another difference between Cabinet and Council of Ministers is in regard to their offices. The position of the members of Cabinet is above the members of the Council of Ministers. All the members of the Council of Ministers do not participate in the meetings of the Cabinet. No other member who is not a member of the Cabinet, can take part in the meetings of the Cabinet.

(3) Difference regarding Salary

There is also a wide difference in between the salaries of the Ministers of Cabinet and Council of Ministers. Two members of the Cabinet, namely Prime Minister and the Finance Minister receives the highest salary and the other members receive only half of the above two members salary. The member of the council of Minister who are not the members of Cabinet receive one third of the Cabinet members salary.

(4) Difference regarding their Jurisdiction of Work

It has been already pointed out earlier that Cabinet is only a part of the Council of Ministers but the work of Cabinet is much more important than the work of the Council of Ministers. The members of the Cabinet are the heads of their respective departments. Their duty is also to establish harmony among different departments. This is not the work of the members of the Council of Ministers. They look after only their respective departments. In other words the members of Council of Ministers are responsible only for their respective departments but the members of the Cabinet are not only responsible for their respective departments but they also have joint or collective responsibility. The members of the Cabinet determine the policies of the Government. The meetings of the Cabinet take place from time to time but the meetings of the Council of Ministers do not take place.

Thus it is clear that the work of determining and laying down of policies is in the hands of the Cabinet and the Council of Ministers has no connection with this. If need arises, Cabinet can include that members of the Council of Ministers with regard to whose department the policy is being determined.

In short, the size of the Cabinet is small but it is more powerful than the Council of Ministers. If the Cabinet wishes it can make the members of the Council of Ministers, who are not its members, puppets in its hands.

FUNCTIONS OF THE CABINET

The British Cabinet enjoys so many powers that it is very difficult to describe and discuss all of them. The chief function of the Cabinet is to rule the country in the name of the Party which has emerged in majority in the House of Commons. The Cabinet exercises all the powers of the King in practice. A brief description of the different powers and functions of the Cabinet is given below.

(1) Legislative Functions

The Cabinet of England has many powers relating to legislative business. It is the Cabinet which decides as to when the session of the Parliament be summoned, when it be adjourned or prorogued and when it should be dissolved. It is true that it is the jurisdiction of the House of Commons to make laws but on account of its majority in the House of Commons the Cabinet gets all those laws passed which it wishes. In fact, the outline of the laws is prepared by the Cabinet and it is mostly the members of the Cabinet who initiate it in the Parliament. It is the Cabinet which decides the attitude of the party on particular Bill.

Thus, although in principle it may be said that the Parliament makes the laws but in practice, the position is that the Cabinet gets passed all the Bills which it likes. Thus, in practice the whole legislative functions are performed by the Cabinet.

(2) Executive Functions

In principle, the whole executive powers vest in the Crown, but in practice, all executive powers of the Crown are exercised by the Cabinet. It is the Cabinet which decides and determines the policy to be followed before the Parliament. It also enforces the policy passed or approved by the Parliament. Cabinet exercises control over the whole executive. It also establishes harmony among the different departments. It solves national as well as international problems. Ramsay Muir has written that British Cabinet determines the policy of the Executive, implements it and takes decision on national and international problems. Thus, in practice, all the executive functions of the King are performed by the Cabinet.

(3) Judicial Functions

The Cabinet also performs certain judicial functions. The King has powers to pardon any person or to reduce his sentence but the King can do so only when the Cabinet advises him to do so. It is, therefore, quite obvious that indirectly Cabinet can grant pardon to any person. On the advice of the Lord Chancellor, King appoints important Judges and performs the work of pardon reprieve or respite on the advice of the Home Minister.

(4) Financial Functions

The responsibility of the finance of the nation is also in the hands of the Cabinet. It is the function of the Cabinet to present the annual budget. The Ministers of different departments send the financial requirements of their departments to the Finance Minister who accordingly prepares the Government's budget. Although the budget is presented in the Parliament by the Chancellor of the Exchequer but before its presentation, the members of the Cabinet have already discussed it. It is the Cabinet which decides which new taxes are to be imposed and how the income is to be spent. It also decides which expenditure will met out of Consolidated Fund and which from Contingency Fund. the system of debt, etc. is also determined by the Cabinet.

(5) Functions relating to Conferring Titles, Honours etc.

The King has the power to confer titles, honours etc. It is the function of the Cabinet to enforce such orders. The Cabinet also decides the persons who are receive titles, honours etc. from the King.

(6) Functions relating to Foreign Policy

The foreign policy is also determined by the Cabinet. It is the Cabinet which decides the type of relations to be maintained with foreign countries. The declaration of war, peace or treaty is made by the King in according with the wishes of the Cabinet.

Thus, it is seen that all the powers of the King which have since been transferred to the Crown, are exercised by the Cabinet in actual practice. Thus, the Cabinet of England enjoys wide legislative, executive, judicial and financial powers. To conclude, “the Cabinet is the most important single piece of mechanism in the structure of the British Government”.

• The Prime Minister in Britain

In Parliamentary form of government the Prime Minister occupies the most important position. The Prime minister is the most powerful man in Britain. In some aspects he is more powerful than the American President. The office of the Prime Minister was created during the days of George I. He belonged to Hanoverian Dynasty in Germany. He didn't know English. So he asked Walpole who knew little German language to preside over the meetings of the Cabinet. Walpole started to act as a link between the king and the cabinet. He was the first Prime Minister. Later many constitutional changes took place and now the Prime Minister is very powerful.

Check Your Progress

3. Define Crown?
4. Define King?
5. Who is known as sea of Justice?

• Appointment of the Prime Minister

The King appoints the Prime Minister. In principle, the king can appoint any one as the Prime Minister. But in practice, the king appoints the leader of the majority in the House of Commons as the Prime Minister. Normally the king has no discretion in appointing the Prime Minister. As soon as the general election are over, each party elects its leader in the house of commons. So it is not difficult for a king to invite the leader of the majority. the king may use his discretion only when there is no clear majority for any party.

It may be noted here that the post of the Prime Minister is informal. It has no legal basis. There is no Parliamentary law which indicates that the King shall appoint the leader of the majority party in the House of Commons as the Parliament has not made any laws in regard to the powers and rights of the Prime Minister. The salary which is received by the Prime Minister is not received by him for being the Prime Minister but for being the First Lord of the Treasury.

Yet another remarkable thing to be noted here is that the Parliament has not passed any law to the effect that the Prime Minister must be the leader of the majority party in the House of Commons. It has, however, become a convention that the leader of the majority party in the House of Commons is appointed the Prime Minister. Since 1902 to the present, all

the Prime Ministers have been appointed from amongst the members of the House of Commons and none has been appointed from amongst the members of the House of Lords.

Rights and Duties of the Prime Minister

The key of the whole administration of England remains in the hands of the Prime Minister. The rights and duties of the Prime Minister of England can be classified under the following headings:

1. Prime Minister as Leader of the Council of Ministers
2. Prime Minister as the Chief Executive
3. Prime Minister as the Adviser of the King
4. Prime Minister as the Leader of House of Commons

1. Prime Minister as the Leader of the Council of Ministers

The Prime Minister has different roles to play. First of all, he is the Leader of the Council of Ministers. As soon as he is appointed, the Prime Minister selects his ministers. He constitutes the council of ministers. On his advice the king appoints them. The Prime Minister distribute the different departments among the ministers. The Prime Minister sees whether all the ministers perform their duty properly. He resolves the differences among different ministers. The Prime Minister may send any minister out of the council of ministers. The prime minister may send any minister out of the council of ministers. He may even dissolve the hold ministry. The Prime Minister enjoy the full power regarding the composition, organization and dissolution of the council of minister.

In principle, the king is the chief executive, but in practice the Prime Minister is the Chief Executive. Appointments to high officers are made by the king. The king makes these appointments on the advice of the Prime Minister. The Prime Minister has an important role in formulating the policies of the state. He exercises full control over all foreign affairs. Decisions on financial matters are also taken by him. That Prime Minister may direct every minister to do the things in this way or that way.

(a) Formation of Ministry:

It is the Prime Minister who constitutes the Ministry. He submits list of the members of his Ministry to the King who accepts it. It is the Prime Minister who distributes different departments among his Ministers. He also decides in regard to the particular member who will be the member of the Cabinet.

(b) Organization of the working of the Council of Ministers:

It is the Prime Minister who sees that all the members of the council of Ministers perform their work properly. He also resolves the differences which sometimes arise among different Ministers. The Prime Minister should always try to remove the differences in an amicable way. Dictator will weaken his position in the party.

(c) Dissolution of the Council of Ministers

The dissolution of the Council of Ministers also depends upon the Prime Minister. Immediately after the resignation of the Prime Minister, other Ministers have also to resign. If some differences arise between Prime Minister and some other Ministers, then the Prime Minister can compel the Ministers concerned to resign.

2. Prime Minister as the Chief Executive

In Principle, King is the executive head of England, but all his powers are exercised by the Prime Minister. The Prime Minister performs the following executive functions:

- (a) *To honour distinguished persons:*
- (b) *Appointments of Government Officials*
- (c) *To maintain harmony among different departments of administration:*
- (d) *Determination of Policies relating to administration*
- (e) *Control over foreign matters:*
- (f) *Control over finance:*

3. Prime Minister as the Adviser of the King

Yet another important function of the Prime Minister is to advise the King. In principle, the main function of the Prime Minister is to advise the King. In principle, the King is not bound to accept his advice, but in practice, he accepts almost all the advices of the Prime Minister who exercises almost all the powers of the King. Thus, he serves as the link between Parliament and the King and establishes harmony between monarchy and democracy.

4. Prime Minister as the Leader of the House of Commons

The Prime Minister is the Leader of House of Commons. As the leader of the house he possesses the following powers:

- (a) *Summoning of the sessions of the House of Commons:* It is the Prime Minister who decides as to when the session of the House of Commons be summoned. Although in principle, he does not possess this right, yet in practice he exercises this right also.
- (b) *To satisfy the House of Commons:* Discussion on different on different problems takes place in the House of Commons and the final responsibility to give replies to the questions asked by the members rests on the Prime Minister. Although he can shift his burden on to some Minister due to excessive load of work, yet the final responsibility of all this is his. It is his duty to satisfy the Parliament of different matter. Likewise being the leader of the House of Commons, it is also the duty of the Prime Minister to keep the members informed of all matters.
- (c) *Power to dissolve the House of Commons:* Although, in principle, this power vests in the King, but it has become a convention that the Prime Minister advises the King to dissolve the House of Commons and the King accepts his advice. Keith has even remarked that it is the Prime Minister who decides as to when the general election will take place and if his view point is definite all other ideas are false. His power to get the House of Commons dissolved is a great weapon in his hands which has made him the supreme leader of the House of Commons.

An estimation of the powers of the Prime Minister reveals that he is really a powerful person. Once the Prime Minister was considered first among the equals. Later he was described as the shining moon among the lesser stars. But Jennings calls him the sun around which other planets revolved. Laski considers the Prime Minister as the pivot of the whole system of the government. Lor Morely remarks the Prime Minister as the key stone of the cabinet arch. Some scholars opine that the British Prime Minister possesses so much powers that he may become a dictator if he wishes so. But this does not seem to be a correct view. Ramsay Muir has correctly remarked that no head of any democratic country of the world has more powers than the British Prime Minister. However the extent of his powers depends upon his efficiency and personality. A Prime Minister

who can keep the party under his control may be able to control and direct his ministers. As everything is centered around the Prime Minister, the British Government is called Prime Ministerial Government.

From the above discussion it is clear that the British Prime Minister is very powerful. Once the British Government was Parliamentary in form and practice. Later the Cabinet achieved more importance and it became Parliamentary in form and Cabinet Government in practice. Now as the Prime Minister has achieved more powers, it is Parliamentary in form and Prime Ministerial Government in practice.

Comparison between the British Prime Minister and the French Prime Minister

Although there is much similarity between the position of the British Prime Minister of England and that of France yet there are some dissimilarities between the two. The words ‘Prime Minister’ have nowhere been used in the IV Republic. In its place the word ‘Cabinet’ has been used. British Prime Minister has also been called First Lord of the Treasury and he receives his salary as such.

The British Prime Minister has the right to ask a member of Cabinet to resign if he has no faith in him. If the member concerned does not resign, the Prime Minister can dissolve the whole Cabinet by advising the King to the same effect and can reconstitute his Cabinet. He has also the right to get the House of Commons dissolved. But the position of the Prime Minister of France is different. In the IV Republic, the Prime Minister had very limited rights to dissolve the Council of Ministers. There the Prime Minister is not so powerful so as to do what he wills. In the III Republic, he had no right to dissolve the Council of Ministers.

7.4. ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. United Kingdom
 2. The King
 3. Crown is an Institution which includes king, Ministers, Parliament etc.
 4. King is an Individual
 5. The Crown
-

7.5. SUMMARY

- England is a constitutional monarchy. Once it was an absolute monarchy.
 - The chief function of the Cabinet is to rule the country in the name of the Party which has emerged in majority in the House of Commons.
 - The French Prime Minister has to be very much cautious in all the proceedings of the Cabinet because there are many persons equal to his rank.
-

7.6. KEY WORDS

- **King** – King is an Individual
 - **Crown** - Crown is an Institution which includes king, Ministers, Parliament etc.
 - **Monarchy** – Ruled by King
-

7.7. SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. Write a short note about the Actual position of the king in the British Parliament?
2. List the salient features of the Cabinet system?
3. Write briefly about the cabinet and council of Ministers of British parliament?

Long Answer Questions

1. Critically examine the role of Prime Minister in Britain?
 2. Evaluate the functions of cabinet?
-

7.8 .SUGGESTED READINGS

J. C. Johari. (2011). *Comparative Politics*. Sterling Publishers Pvt.Ltd;
J.C. Johari. (2012). *Major Modern Political Systems*. Shoban Lal & Co.
O.P. Gauba. (2016). *Indian Political Thought* . Mayur Paperback.
Kapur A.C. , Mishra K.K.(2016). *Select Constitutions*. S Chand.

UNIT VIII EXECUTIVES OF U.S.A. FRANCE AND SWITZERLAND

Structure

- 8.0 Introduction
 - 8.1 Objectives
 - 8.2 Executive of U.S.A
 - 8.3 Executive of Switzerland
 - 8.4 Executive of France
 - 8.5 Answers to Check Your Progress Questions
 - 8.6 Summary
 - 8.7 Key Words
 - 8.8 Self Assessment Questions and Exercises
 - 8.9 Suggested Readings
-

8.0 INTRODUCTION

In the previous unit you studied about the Executive of United Kingdom, distinction between king and the crown, British cabinet and council of Ministers and the role of British prime Minister.

In this unit you study about the Executives of USA, France, and Switzerland their functions, powers and role.

8.1 OBJECTIVES

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

- To understand the importance of Prime minister and the Cabinet in France.
 - To understand the Privileges and Duties of the Parliament.
-

8.2 EXECUTIVE OF U.S.A

The American form of government is Presidential. The President is really powerful. He is elected for a period of four years. A candidate for president ship should possess certain qualifications. He must be a citizen of the U.S.A. He must have completed thirty-five years of age and he must have been a resident of the U.S.A., at least for fourteen years. The President gets a handsome salary. The white House is his official residence. The 22nd amendment restricts a President contesting for a third term.

The constitution provides for an indirect election of the President by an electoral college. The electoral college consists of electors elected by the people. Each state elects electors equal to the number of members it sends to the congress. These electors meet at the capital of their respective state and vote for the President and the Vice-President. These votes are taken in sealed boxes to the capital. The chairman of the senate counts the votes in the joint session of the Congress. The candidate who gets a majority of electoral votes is declared elected. At present there are 538 electoral votes. To get elected, a candidate has to secure not less than 270 votes. If no candidate secures the absolute majority, the House of Representatives would elect the President from the first three candidates.

The President of the U.S.A. can be removed from office only by impeachment. A proposal for impeachment may be made only for offences like treason, bribery and other high crimes. The impeachment

proceedings are to be initiated by the House of Representatives. If the proposal is passed it is sent to the senate. The senate tries the case. During trial sessions the Chief Justice of the Supreme Court presides over the meetings. At the end of the trial, the senate has to approve the removal by two-thirds majority. So far, no President has been impeached.

The American constitution has adopted the theory of separation of powers. Hence, there is no connection between the legislature and the executive. The President is not a member of the congress. The Congress has to give proper attention to the messages sent by the president. Any bill passed by the Congress could become law only after being signed by the President. The President may refuse his signature. This is called veto power. He may return the bill to the house of its origin with or without proposals for changes. The house may reconsider the bill. It may or may not accept the changes suggested by the President. However the bill is to be passed with the support of two-third majority in both the houses to become law. Generally the bills rejected by the President do not pass through the difficult process. The President has another type of veto known as Pocket Veto. He has to either sign or return a bill within ten days from the date of receipt. If not action is taken by the President within the time limit the bill is deemed to have signed by the President and it would become law. But if the session of the Congress ends before the expiry of the time-limit, the bill dies in the pocket of the President. Hence it is called Pocket Veto. President has the power to call special sessions of the Congress. The president has certain legislative powers by means of delegated legislation.

Article 11 of the American constitution vests all the executive powers in the hands of the President. He is the Chief Executive. He has the power to enforce the laws passed by the Congress. He organizes the whole administrative system. The President appoints the members of his cabinet, the Judges of the Supreme Court, ambassadors and diplomatic representatives and many top officers of the federal government. These appointments are to be approved by the senate. He receives the ambassadors and other foreign delegates. He decides the foreign policy of the U.S.A. He may enter into treaties with foreign countries. But these treaties are to be approved by the Senate. He is the supreme commander of the armed forces. He appoints the top officers of the forces. He may send the forces to any place. The annual budget is prepared under his supervision. However the budget is to be passed by the Congress. The President and his Cabinet are not responsible to the Congress. The President is the boss to his Cabinet members. He can appoint or dismiss anybody.

The President has some judicial powers too. He has the power to appoint judges to the Supreme Court. He can grant pardon and reprieve. He can abolish the punishment awarded on any person by the court or he may reduce or postpone the punishment. He cannot grant pardon to persons who violate state laws and he cannot pardon who are punished by impeachment.

The American President occupies a very important position. The office of the President is said to be in ascendancy. The American Presidents are called Caesars in White House. The President is described as a combination of the King and the Prime Minister. His position is strengthened by constitutional and extra-constitutional factors. The U.S.A

has become a super power. The foreign policy of U.S.A has its impact throughout the world. The scientific development has also enhanced the importance of the U.S.A. in world affairs. The U.S.A. spends a lot of money by way of grants and aids to poor nations. In all these matters, the President plays the decisive role. The emergence of U.S.A. at the international arena has made the American President, the most popular. In general, there is a tendency to centralize powers. In the name of security and social welfare measures, the federal government tries to encroach powers. The President gets more powers through delegated legislation. Thus, the office of the President of the U.S.A. is in ascendancy due to certain constitutional and extra-constitutional factors.

The Cabinet

The American constitution does not provide for a Cabinet. In Presidential form of government, the need for a Cabinet is little. However the Cabinet has grown as an extra – constitutional body. It is not as important as the British Cabinet. It is an insignificant institution.

Washington, the first President started the practice of holding meetings of the heads of the departments. Later, it became the Cabinet. The heads of the departments are called Secretaries. These secretaries are appointed by the President subject to the approval of the Senate. But generally the senate never disapproves these appointments. In forming the Cabinet the President enjoys full freedom. He can appoint anybody as the secretary. The members of the Cabinet should not be members of the Congress. So the President is at full liberty. He may choose persons belonging to any party. However, in practice the President tries to give more or less equal geographical distribution in selecting his Cabinet members. He selects influential party leaders. He uses them to influence the members of the Congress. There are ten members of the Cabinet like the Secretary of State, Secretary of the Treasury, Secretary of Defence, Secretary of Agriculture, Attorney General etc. In addition the President may invite the Vice – President to attend the meetings of the Cabinet.

Each member of the Cabinet is the head of a department. As the head of a department he has certain administrative duties. As a member of the Cabinet his functions are advisory. The President may seek the advice of the Cabinet. The Cabinet meetings are informal. The President may ask what all he wants. He may simply ignore the advice of the Cabinet. The Cabinet is merely an advisory body. Hence it is sometimes called ‘Kitchen Cabinet’. It may hold weekly sessions. In addition, special meetings may be summoned by the President. The Cabinet meetings help a lot in clearing misunderstanding between different departments. The proceedings of the Cabinet meetings are kept secret. Final decisions on all matters are taken by the President.

The British Cabinet is under Parliamentary form. The American Cabinet is under Presidential form. The members of the British Cabinet are members of the Parliament. The members of the American Cabinet are not members of the Congress. The Cabinet meeting in England are formal and important whereas a in U.S.A. they are informal. The members of the British Cabinet are chosen from the ruling party. They are responsible to the Parliament. Its members attend the meetings of the Parliament. They answer to the questions of the members. They pilot the bills needed to the government. The Cabinet may lose power if a no – confidence motion is passed in the lower house. The members of the American Cabinet are not

responsible to the Congress. They are responsible only to the President. They never attend the meetings of the Congress. They cannot be removed from office by the Congress. The British Prime Minister cannot ignore the advice of the Cabinet. He cannot also dismiss any minister according to his own will and wish. He has to satisfy the party leaders for such an action. But the American President can ignore the advice of the Cabinet and he can dismiss any member. His powers are not restricted by political parties. In Britain the Cabinet membership is prestigious. For a politician it is a stage of achievement. A Cabinet minister may aspire for Prime Minister Ship. But the membership in the American Cabinet is not politically attractive.

Members of the Cabinet and their Appointment

In the modern period, the Cabinet of America President comprises, of 10 departments because from the point of view of working efficiency the whole administration has been divided into 10 parts. These departments are:

- 1) The Department of State: This department is headed by the Secretary of State who is a senior member of the Cabinet.
- 2) Finance Department: This department is headed by Secretary of the Treasury, who has to supervise the collection and safe-keeping of all the taxes levied by the federal government.
- 3) Department of Justice: This department renders legal advice to the President. The Attorney General is the head of this department.
- 4) The Post Office Department: It is the greatest business enterprise of the Government. Its business amounts to about 750 million dollars and it employs about 31 lakhs of persons.
- 5) The Department of the Interior: This department is in charge of the survey, management, sale or lease of public lands, conservation, the health, education and general supervision of Indians, the safety of miners through its Bureau of Mines, the test of fuels for the Government, protection of Helium Gas for navy, the education natives of Alaska, the administration of funds appropriated to colleges for instruction in agriculture, mechanical art and home economics, supervision of national parks and monuments, the geological survey, the supervision of the Governors of Alaska, Hawaii, Virginia Islands and Puerto Rico etc.
- 6) The Department of Agriculture: This department is in charge of scientific research and investigations for the help of the farmers of the country. It also enforces federal laws in regard to the food and drugs. Besides this, it also maintains forest surveys and Bureau of Public Roads.
- 7) The Department of Commerce: The Department of Commerce is in charge of the census, encouragement of foreign commerce, supervision of air commerce, maintenance of testing laboratories, establishment of standard of various metals purchased by the Government, maintenance of standard units of weights and measures, supervision of light- rights etc.
- 8) The Department of Labour: The main function of this department is to “foster, promote and develop the welfare of the wage-earners of the United States”. This department also collects

- facts and figures of labour conditions and maintains an employment service.
- 9) The Department of National Military Establishment: This department was established after the Japanese attack on Pearl Harbor during the Second World War and the Department of War, Navy and Air Force have been put under this department. This department is headed by Secretary of the Cabinet rank.
 - 10) The Department of Health, Education and Welfare: The department was established on the basis of the recommendations made by the Hoover Commission and the wishes of President Eisenhower.

Out of these 10 departments, the heads of 8 departments are called Secretaries of their respective departments. The Head of the Justice Department is called the Attorney General and the Head of the Post Office Department is called the Post Master General. The members of the Cabinet are appointed by the President according to his will but he has to seek the consent of the Senate for the appointment of his ministers and the Cabinet. Ordinarily, it is a formal thing for the Senate to give its consent on the name of the Secretaries recommended by the President and it is mostly seen that all the person who are recommended by the President get the consent of the Senate. Mostly, the President appoints the Secretaries from among the members of his party. It is also seen that when a President is re-elected for the second term, he retains the old members of his Cabinet. While making the appointments of the Secretaries, the President also sees that different fields have been give due representation in the Cabinet.

Meetings of the Cabinet

The meetings of the Cabinet are called every week by the President. The President himself presides over these meetings. Besides this, the President can call the meetings of the Cabinet at any time if such a need arises. It may be noted here that the meetings of the Cabinet are only a formal thing as a matter of fact. President does what he wants. The aim of the meetings is to maintain mutual co-operation and harmony among the different departments.

Responsibility of the Cabinet

The Cabinet of America is responsible to the President and not to Congress. Even if Congress passes a resolution of 'No confidence' against it, cannot be removed. The president has the power to remove the members of the Cabinet. He can remove any member of his Cabinet at any time. He is not required to take the consent of the Senate in this respect.

Powerlessness of the Cabinet and the Relation of President with his Cabinet

The Cabinet of America is a very powerless body. It acquires its powers from the President and the President is not bound to take its advice. The members of the Cabinet are merely his servants. That is why the Cabinet of America is the least successful of the American institutions. It occupies that position which is given to it by the President of America and the President never gives it an important position. The basic fact about the relation of the President to his Cabinet is his complete predominance. The members of the Cabinet are merely the instruments by which the policy of the President is carried out. They are not members of Congress, they are not accountable to it, but only to the President, their mater. The decisions which the Cabinet may reach in the weekly meetings which are normally

held are only in the nature of advice to the President. The ultimate decisions are still exclusively his to take. Even an united Cabinet cannot prevail against his will.

Vice-President

The office of the Vice-President had not attracted the attention of the framers of the constitution of the U.S.A. In fact, they had to think of such an office in order to make an alternative arrangement in case of the vacancy of the office of the President due to resignation, death and disability. The constitution requires the Vice-President to possess the same qualifications as prescribed for the President. The mode of election is also the same.

The Vice-President is the ex-officio Chairman of the Senate. He presides over the meetings of the Senate. He has casting vote. Even as the Presiding Officer of the Senate, the powers of the Vice-President are not many. The Vice-President is important. He enjoys the office of the President for the rest of the term. Ten Vice-Presidents have so far succeeded to the Presidency. Nine of them have become Presidents due to the death of the incumbents and one due to resignation. Sometimes the President may include the Vice-President in his Cabinet.

The office of the Vice-President is not important. However, in recent years the office has gained some importance. Some of the Presidents had used the Vice-Presidents for important works. Vice-President Truman helped Roosevelt in congressional problems. Richard Nixon was the busiest Vice-President. President Eisenhower deputed him on many international assignments. President John F Kennedy also used Johnson, on many important state affairs. Thus the office of the Vice-President has a 'New Look'.

Check Your Progress

1. Who was known as the Caesars in White House?
2. Name the form of government followed by USA?

8.3. EXECUTIVE OF SWITZERLAND

Organisation

The executive authority of the Swiss confederation has been vested in the Federal Council, consisting of seven members. As noted above, these members are elected by the Federal Assembly for a period of four years. But there is a well established convention in Switzerland that the members of the Federal Council are re-elected again and again so long as they are willing to serve the country. Generally the Federal Assembly elects the members of the Federal Council from amongst itself but after their election they have to vacate their seats in the legislature. From one canton not more than one person can be elected to the Federal Council. Similarly, persons related by blood or marriage are debarred from becoming members of the Federal Council at the same time.

Presiding Officer

The Council elects from its members one President and one Vice-President, for a term of one year. By convention no member can be elected President of the Council for two consecutive years, and the Vice-President usually succeeds the outgoing President. Another convention is that all the

members of the Council hold the office of the President by rotation. The President also acts as the President of the Confederation and represents his country on formal and ceremonial occasions. He does not enjoy any special or over-riding authority over his colleagues. Like other members of the Federal Council has is also in-charge of one the seven administrative departments. However, he presides over the meetings of the Council and has an additional “has no true national significance. If confers no special privileges, not even any particular influence”.

FUNCTIONS

The Federal Council of Switzerland has been given specific powers by Article 120 of the constitution. Thus its position fundamentally differs from that of Cabinets in Great Britain and India, where the ministers enjoy the powers vested in the supreme executive of the state. It is unique in its form, composition and its relation with the legislature. The powers of the Swiss Federal Council are original in nature and can be studied under following heads:

1. Executive

As the executive wing of the Swiss government, the Federal Council is responsible for the administration of federal laws and ordinances, execution of decisions o Federal tribunal, deciding disputes between cantons, conduct of foreign relations, control of the army for the safety and independence of the country and maintenance of peace and order with in the country.

2. Legislative

In the legislative field also the Federal Council plays an important role. Most of the important legislative measures are prepared by the members of Federal Council, which also get it through the Federal Assembly. It may be observed that the members of the Federal council are not members of ethers House of the Assembly, but they are permitted to attend its meeting and play an important role in the enactment of laws by participating in its debates, answering questions, attending meetings of parliamentary committees and by virtue of their expert knowledge and influence.

3. Financial

The Federal Council enjoys important financial powers. It prepares the federal budget and gets it approved by the legislature. It also collects the revenues and supervises the expenditures.

4. Judicial

Though the judicial powers of the Federal Council have been curtailed in recent times, it is empowered to deal with certain categories of cases, viz. cases arising from the public action of federal officials.

The Federal Council of Switzerland is a unique body and the other country offers anything like it. C.F. Strong has also designated it as ‘quite unique’, ‘among the constitutional systems of the world’. The features which make the Federal Council a unique body are as follows:

1. Plural Executive

One of the salient feature of the Swiss Constitution is that it has a plural or collegiate executive. In other countries, the executive powers vest in person or in an institution, but in Switzerland, the executive powers vest in the 7 members of the Federal Council. In America, the real executive

powers vest in the hands of the President. In Britain, although, in principle, the executive powers. The position is, however, different in Switzerland. In Switzerland all the members of the Federal Council possess equal powers.

One of these members is elected as President but he is elected only for a term of one year and his powers are comparatively not wider than those of the other members. In fact the Prime Minister of England appoints his Ministers and they cannot do anything against his will. The members of the Cabinet are no doubt his colleagues but he exercises control over them. In America, the President appoints the members of his Cabinet and they are responsible to him. In Switzerland neither the President of the Council appoints other members of the Council nor are they responsible to him. They are completely free to perform their functions and thus the executive powers in Switzerland vest not in the hands of one person, but in the hands of 7 persons.

2. Its Sub-Service of the Legislature

From the Constitutional point of view, the executive of Switzerland has been kept completely separate from the legislature but the real position is that the members of the executive remain sub-servant to the legislature. The members of the legislature elect the members of the executive. They also elect from among the said 7 members a President and a Vice-President. It is the legislature, which determines the policy of the nation. The Federal Council has to Act in accordance with the directions of the Federal Assembly and if there arises a conflict or difference of opinion between the Federal Assembly and Federal Council the latter has to need before the former. The Federal Council furnishes information regarding its working to the Federal Assembly. The members of the Federal Assembly can ask questions from the members of the Federal Council accepts the prominence of the Federal Assembly. Not only this, if the Federal Council accepts the prominence of the Federal Assembly. Not only this, if the Federal Council accepts the prominence of the Federal Assembly. Not only this, if the Federal Assembly gives any advice or opinion to the Federal Council silently tolerates this insult and does not resign. In short, the relation between the Federal Council and the Federal Assembly are similar to that of a owner of a house and Engineer.

3. In Proactive it Guides the Legislature

Constitutionally Federal Council is only a Sub-Committee of the legislature but in practice it guides the legislature. The members of the Federal Council are able, experienced and influence persons and they become members due to their qualities and capabilities. Lord Bryce has rightly remarked that constitutionally the Swiss Executive is the sub-servant and subordinate of the legislature but in practice its collectively responsible to the Parliament, but this collective responsibility is not found out in Switzerland. In Switzerland each Minister is responsible to the Federal Assembly for his work. Sometimes there arises a strong conflict and difference of opinion among the members of the Council and they begin to express their opposition opinion among the Council and they begin to express their opposition or contradictory ideas in the Federal Assembly. Switzerland has become accustomed to tolerate such opposition and no attempt is made there to forge an artificial unity and unanimity. Despite this, work is continued through compromises on most of the questions.

4. Stability of Council

Another remarkable feature of the Swiss Federal Council is its stability. The stability of the /council implies two things. First, once the members of the Federal Council are selected they cannot be dismissed before the expiry of their tenure of 4 years. Even if the legislature passes a vote of no confidence or shows lack of confidence in the Federal Council members, they are not supposed to relinquish their office. Second, it means that as a matter of convention the members of the Federal Council are re-elected again and again till they choose to retire. It means that the normal term of the Federal Councilors is much longer than the ministerial counterparts in other countries. It has been observed that the average tenure of Federal Councilor has been 8 years and in certain cases they have held office for as long a period as twenty-seven years.

5. Non-Partisan Character

The third unique feature of the Swiss Federal Council is its non-partisan character. The members of the Federal Council are not taken from any single political party. They are picked up from different political parties, which weakened the bonds of party affiliations and reduces the rigors of party system. But it would be too much to say that the 'Federal Council altogether without some party colour. What is noticeable is that the members of the Federal Council are not selected to do party work and they do not determine party policy.

6. Mixture of Parliamentary and Presidential Type of Executive

Yet another salient feature of the Swiss Executive is that it combines the features of parliamentary and presidential types of executives. In Switzerland, the features of both parliamentary and presidential types of executives have been adopted. According to the parliamentary system, the members of the council are mostly elected from among the members of the legislature and they take part in the sessions of the legislature. To some extent, they are responsible to the legislature and act according to the directions of the legislature. In parliamentary system, the Cabinet has to resign when any bill is presented by it does not get passage in the legislature, but there is no such system in Switzerland. Like presidential system, the members of the Federal Council of Switzerland do not resign when any of their advice or any bill presented by them is not accepted by the Federal Assembly. Although they are elected by the legislature they have to resign from the membership legislature as soon as they are elected as the members of the executive. Moreover, they do not possess the right to vote in the Federal Assembly. Although, they give answers to the questions of the members of the legislature, act according to direction of the legislature but do not give their view on any subject in the sittings of the legislature. As already mentioned earlier, that in the parliamentary system of other countries, there is a system of collective responsibility, but there is no such system in Switzerland. The Swiss Federal Council is separately responsible to the Federal Assembly of his works. The Swiss Council does not resign when a bill presented by it is rejected by the legislature or a resolution of no-confidence is passed against it.

The members of the Federal Council of Switzerland do not belong to a single party but like the members of American Cabinet, they are of different parties. Thus, the Swiss Executive is neither completely parliamentary nor presidential. It combines the features of both the

presidential as well as the parliamentary type of executive. An endeavor has been made to keep it away from the defects of both the systems and to include the virtues of the said two systems.

A logical question arises why the plural executive in Switzerland has been successful and is highly efficient. The first main reason that it combines responsibility with stability or permanence – advantages of plural and a unified executive. Stability leads to continuity. Under the Swiss system the country can avail of the services for best statesmen irrespective of party affiliations. The Federal Council contains members from different political parties and difference among them do not lead to anybody's resignation. An effort is mainly to reach at some compromise mutually; and in extreme cases they are settled by the legislature. Whatever the decision of the legislature all the members bow before it. As a result of this arrangement there is no possibility of a cabinet crisis. Thus in Switzerland the multi-party system does not lead to instability, as is the case with France. On the other hand it imparts national strength. The members of the Federal Council never behave on party lines. The well established convention which assures them certainty of re-election further relieves them of undue political pressure and temptation. Lord Bryce has said "Switzerland is the only democracy which has found a means of keeping its administrator practically out of party politics".

Another factor which has gone a long way in the successful working of the Federal Council in Switzerland is the conspicuous absence of the principle of ministerial responsibility. In Great Britain the ministry stays in office only so long as it enjoys the confidence of the House of Commons and has to vacate the same as soon as it loses the majority support. In Switzerland the rejection of Federal Council's proposals or recommendations by the Federal Assembly does not lead to their ruination. On the other hand as Munro has put it, "they pocket their pride and obey the will of the legislative bodies with as much grace as they can muster". The specific duty of the members of Federal Council is to give their honest and sincere opinion on various legislative proposals and if their advice is not accepted, they do not feel their self-respect or pride hurt. One writer has compared the position of a Federal Councilor to a lawyer or an architect, whose advice is sought and usually heeded, but he is not supposed to throw up his job when his employer insists upon having something done differently.

Due to the above factors, the Federal Council or plural executive in Switzerland has been able to work effectively and efficiently.

Comparison between the Swiss and British Executives

There are similarities and dis-similarities between the executives of Switzerland and Britain:

(a) Similarities

(1) The executive of both Switzerland and England have close relations with their respective legislatures and from the constitutional point of view both are the sub-committees of their respective legislatures. The members of both participate in the meetings of the legislature.

(2) In Britain as well as in Switzerland, different Ministers look after different departments and these Ministers are the Heads of their respective departments.

(3) In both the countries, the work of determining the policy of nation is really performed by the executive, although it can be enforced only on the consent of the legislature.

(4) In Principle the executive of both the countries is under the Legislature but in practice it leads the Legislature.

(b) Dis-Similarities

1. In Switzerland, the members of the executive are elected by the legislature, but in Britain the leader of the majority party in the House of Commons is made the Prime Minister and other Ministers are appointed by the king on his advice.
2. In Switzerland, usually the members do not belong to a single party, but in Britain mostly the members of the executive belong to a single party (majority party).
3. In Switzerland, the term of the executive has been fixed for 4 years but so is not the case in Britain. In Britain, the term of the executive depends upon the House of Commons. The British Cabinet has to resign if the House of Commons passes a resolution of no-confidence against it, but in Switzerland there is no such system.
4. In Switzerland, the executive is not collectively responsible to the legislature, whereas in Britain the Cabinet is collectively responsible to the legislature (House of Commons).

8.4 EXECUTIVE OF FRANCE

The form of government in France is neither Presidential nor Parliamentary. It is said to be Quasi-Presidential. Hence, the office of the President is strange. It does not resemble that of the American President or of the British monarch.

The President of France is elected for 7 years. The constitution prescribes no qualification for a Presidential candidate. It does not even mention any minimum age. Originally the French President was elected by an electoral college consisting of about 8000 persons. They were members of the National Assembly, Senate and local bodies. But a constitutional amendment made in 1962 changed the election method. Now the French President is elected directly by universal adult suffrage and by two ballots. To win the election a candidate has to secure absolute majority of votes cast in the first ballot. If no candidate gets absolute majority in the first, the second ballot is held on the second along with the first. The supervision of presidential election is done by the Constitutional Council. The election of the new President takes place not less than twenty and but more than thirty-five days before the expiry of the term of the retiring President. In case of vacancy of the office of the President, the President of the Senate acts as the President until the new President is elected.

The French President has many powers. He shares certain powers with the Prime Minister. The President appoints and dismisses ministers on the proposal of the Prime Minister. He presides over the meetings of the Council of Ministers. Council and Committees of National Defense and of the Superior Council of the Judiciary. The President is the Commander-in-chief of the armed forces. He negotiates treaties with foreign countries. He appoints ambassadors and other diplomatic representatives. He makes appointments to some civil and military posts. He signs the decrees and ordinances prepared by the Council of Ministers. He may send messages to

the Parliament. The President has also power to grant pardon. In exercising the above powers the President shares the right with the Prime Minister. On every order passed regarding any of the above matters, there must be the counter signature of the Prime Minister or any other responsible minister.

The French President enjoys certain independent powers. He may exercise these powers without the approval of the Prime Minister. He appoints the Prime Minister. In this matter he has more discretion than the British king or the Indian President. The British king has to appoint the leader of the majority as the British Prime Minister. He may have discretion only when there is no clear mayoralty for any party. But the French President has discretion in selecting the Prime Minister. The President also has the power of dissolution in selecting the Prime Minister. But in France the President has the real power to dissolve the National Assembly. The President has the power to submit any bill to the people at a referendum. In case of any external threat, the President may declare emergency. During emergency the President enjoys full powers. The constitution describes the President as the protector of the independence of the nation.

The British King reigns and does not rule. The American President rules. The French President rules as well as reigns. He is the custodian of the national unity. The constitution provides Parliamentary system of government. As in Britain, there are two heads known as the head of the government and the head of the state. In Britain the Prime Minister is the head of the government and the King is the head of the state. In France the President is the head of the government and the King is the head of the state. In France the President is the head of the state and the Prime Minister is the head of the government. But the French President is more powerful than the British King. Like the American President the French President is also elected directly. He has independent power to dissolve the National Assembly and to submit a bill to the people at referendum. Though the French constitution provides for a Parliamentary form of government, it vests certain special powers with the President. The French President does not enjoy full powers like the American President. At the same time the French President is not a rubber-stamp like the British King or Indian President. Hence, the form of government in France is called Quasi-Presidential. This system was introduced to solve the problem of recurrent ministerial instability under the fourth Republic.

THE PRIME MINISTER AND THE CABINET

The constitution mentions the office of the Prime Minister. He is called the Premier. He is next to the President of the Republic. He is appointed by the President. The Prime Minister is the head of the government. He determines the policies of administration. On many of his executive orders, the President has to seek the counter signature of the Premier. The Premier has the power to seek for special sessions of the Parliament. The Prime Minister acts as the chief spokesman of the government in the Parliament.

The British Prime Minister is appointed by the monarch. As soon as the Prime Minister is appointed, he gets all the powers. The monarch acts as an advisor to the Prime Minister. But in France, the President has certain real powers. His importance cannot be denied. In England, the cabinet meetings are presided over by the Prime Minister. The king is only

informed of the decisions of the Cabinet. But the meetings of the French Council of Ministers are presided over by the President. Only in his absence or inability the Premier may preside. The British Prime Minister has the powerful weapon of the dissolution of the House of Commons. On his advice the king dissolves it. But in France the President has an upper-hand in matters of dissolution of the lower house. Like the British Prime Minister he is responsible to the Parliament. The position of the Premier in France is very weak. He is less powerful and he has no much influence.

The Premier is appointed by the President of the Republic. On the advice of the Premier, other ministers are appointed. The ministers may be dismissed by the President on the advice of the Premier. The Cabinet discusses ordinances and bills. Many of the bills are drafted by the Cabinet. The Cabinet has certain executive powers. The policies of the nation are decided by it. The Cabinet has a strange power over finance. If the budget presented in the Parliament is not approved within seventy days, the Cabinet can proceed to implement the budget by an ordinance.

France is said to have a Parliamentary form of government. But there are many provisions in the constitution, which are contradictory to Parliamentary form. The Cabinet in France is not as powerful as the British Cabinet. The members of the French Cabinet are not members of the Parliament. They attend the meetings of the Parliament and participate in the debates. But they have no vote. The British Prime Minister is the leader of the House. But the French Premier is not a member of the Parliament. The meetings of the Council of Ministers are presided over by the President of the Republic. The Cabinet may be defeated by a vote of censure in the national Assembly.

A Cabinet can enjoy more powers only under a Parliamentary form of Government. England has Parliamentary form of Government. Hence, the Prime Minister and his Cabinet are Powerful. The U.S.A. has Presidential form of Government. Hence the Cabinet is not as powerful as that of the U.K. The French Government is Quasi-Presidential in form. Hence the Prime Minister and the Cabinet are not as powerful as their counterparts in U.K.

Parliament in France

The constitution of the Fifth Republic provides for a bicameral Parliament. The Upper House is the Senate and the Lower House is called the National Assembly. The constitution mentions about popular sovereignty. But the French Parliament is not sovereignty. But powers are limited. Even the control of the purse by the Parliament is not as effective as in U.K. or U.S.A.

It is directly elected by the people. Its tenure is 5 years. There are about 465 members in it. Every person who has attained the age of 21 years is eligible to vote and a person who is of 22 years of age is eligible to contest. The election is conducted on two ballot majority system. Each candidate selects substitute. After the election, the successful candidate becomes the Deputy and his substitute is called Optional Deputy. When the office becomes vacant due to the disqualification or death of the Deputy, the Optional Deputy becomes the Deputy. The National Assembly elects its own President. He presides over the meetings of the House.

The Senate gives representation even to the Frenchmen who live outside France. There are about 320 members in it. The members of the Senate are indirectly elected for a period of 9 years. One-third of them

retire every three years. A candidate to Senate should be of 35 years. It also elects a President who presides over its meetings.

The Parliament exercise the legislative powers granted by the constitution. As France is a Unitary State the Parliament is the sole legislature for France. Its consent is essential for declaration of war and peace. The Parliament controls the finance of the country. The parliament can also control the Cabinet. If a resolution is passed against the Cabinet in the National Assembly, the Prime Minister has to resign along with his Cabinet. This makes it necessary to the Prime Minister to command the support of the majority in the Lower House. The members of the Parliament can ask questions to the Ministers. The Ministers have to answer the questions. In these features the French system is Parliamentary. The ministers are not members of the Parliament. The Parliament also has no full control over the Budget. The President has the power to dissolve the Lower House. So the Parliament has no real control over the Executive. Hence it is said that France has no real parliamentary form of Government.

Any bill can be introduced in any House of the French Parliament. Any member who wants to present a bill deposits the same in the Secretariat of that House. But money bills are to be introduced directly in the National Assembly. When the bill is passed by the houses, it is sent to the president of the Republic for his assent. In case of legislative deadlock, the bill is placed before a Joint Commission consisting of an equal number of members from both the houses. The Joint Commission prepares a new draft of the bill. If there is possibility of making a new draft, the opinion of the National Assembly is sought. The bill is decided according to the decision of the National Assembly. Thus the National Assembly has more powers than the Senate.

Law-Making Procedure in France

According to the Constitution of the Fifth Republic, any ordinary bill can be introduced in either House of the Parliament. The Government bills are considered by the cabinet before their presentation in the legislature. The method by which a bill is presented, is very simple. Any member who wants to present a bill deposits the same in writing in the secretariat of that House. But this method is not applicable in regard to money bills, which can be presented only in the National Assembly. In regard to the money bills, the members of the Parliament do not possess the right to present any such amendment, the passing of which may lead to the reduction of the Public income or increase in national expenditure. The Government has the power to declare such bills illegal which in its opinion are beyond the jurisdiction of law. There arises some difference or connection, then it is entrusted to the Constitutional Council which gives its decision in this connection within 8 days.

The Constitution of France has adopted the Committee System. If the Government or any members request that a particular bill be entrusted to a committee which has been constituted especially for the said bill, then such a bill is entrusted to the said committee.

But if no such request is made in regard to a bill, then it is sent to a permanent committee of the House. There are 6 such committees in both the Houses. Any member of the Parliament can present any amendment in the bill. A bill is deemed to have been passed when both the Houses of the Parliament pass it in the same form. It is clear from this, that after a bill is passed in one House, it is sent to the other House. If the other House also

NOTES

passes it in the same form, then the bill is deemed to have been passed. But if there arises conflict or difference between the two Houses, then a special procedure is adopted as provided in Article 45 of the Constitution. According to it, when due to the differences between the two Houses, the passing of the Government of Parliamentary bills becomes impossible after the first two readings, then the Prime Minister shall place them before the joint sitting of the equal elected representatives of both the Houses and this joint session shall be asked to prepare a draft on the matter another under consideration. They the Government will present this draft before the two Houses for their consent. If the joint session is unable to prepare a draft, then after the new reading or discussion by the National Assembly or the Senate, the Government can ask the National Assembly to express its definite opinion on the prepared draft. In such a situation either the National Assembly can accept the prepared draft or it can pass the draft, which it considers to be proper. Thus the National Assembly has the power to give its final opinion in the legislative field.

The financial bills are passed in accordance with the conditions prescribed by the organic laws of the Parliament. It has already been mentioned earlier that in respect of the financial bills and Budget the National Assembly has far greater powers than the Senate. The financial bill is presented in the national Assembly on the first Tuesday of October and thereafter it is sent to the Budget Committee. The Parliament then considers it after about 15 days. Thus the members of the Parliament are given a period of 15 days to study the Budget. If the National Assembly is unable to take any decision in the first reading within 40 days, the Government presents it before the Senate which has to take decision on it within 15 days. Then the procedure prescribed in Article 45 of the constitution or in other words the procedure prescribed for the ordinary bills, is adopted or the passing of the Budget. If the Parliament is not able to take any decision on the Budget within 70 days the said bill is enforced through ordinance.

The organic laws can be amended only in accordance with the provisions provided in Article 46 of the Constitution. That bill shall be placed for consideration after 15 days in that House in which it has been presented. In this connection, the same procedure as prescribed for other bills shall be adopted. If there arises any difference in this connection between the two Houses, the same shall be resolved by the National Assembly by accepting it in the final reading by two-third of its majority. In respect of the Senate also the organic laws shall be passed by both the Houses through the same procedure. These laws shall be enforced only when the Constitutional Council gives its decision regarding their Constitutionality. Organic laws give its decision regarding their Constitutionality. Organic laws include these laws, which clarify some provisions of the Constitution or in some other respects are complementary to the Constitution. The more important organic laws are related to following subject.

Term of the President and his re-election; Composition of Electoral College; Election of the National Assembly qualifications of the candidate; Superior of Higher Council of the Judiciary etc.

It is clear from the above discussion that the legislative process of France is very complicated. In the constitution of the other countries, the representative House has been given more powers in respect of making

laws. It may, however, be noted here that in the field of making laws, in practice, the council of republic had been given no powers in the Constitution of the Fourth Republic but the Constitution of the Fifth Republic has given comparatively more powers to the Senate. But still any bill that the National Assembly wishes to pass, shall be passed irrespective of the fact that any procedure has been adopted or may have been adopted.

COMMITTEE SYSTEM OF THE LEGISLATURE OF FRANCE

Like other countries; provision has been made for the Committees system in both the Houses of the French legislature. The Committee system, in fact, began from the Third Republic. The Constitution of the Fourth Republic also recognized and provided these Committees and they were utilized. Article 43 of the Constitution of the Fourth Republic mentions two types of Committees – (1) Special Committees and (2) Standing Committees. The Committees which are constituted especially for the consideration of some bill, are called the Special Committees. The number of the members of these Committees cannot exceed more than 30. In the constitution of the Fifth Republic, the number of the Standing Committee has been fixed 6. Whereas in the Constitution of the Fourth Republic the number of such committees was 19. This has been done in order to reduce the authority of the Committees and to save the time. The Constitution of the 5th Republic has a prescribed following 6 Standing Committees of the National Assembly.

- (1) Committee of the Cultural, Social and Family matters;
- (2) Committee of Foreign Affairs;
- (3) Committee for the Armed Forces of National Defence;
- (4) Committee of Finance, Economic System and Economic planning;
- (5) Committee for Constitution, Legislation and general Administration;
- (6) Committee for Production and Trade.

In the Constitution of the Fourth Republic, the number of the members of each of the Standing Committee was fixed at 44, but the Constitution of the Fifth Republic. In the committees of the /fifth Republic mentioned above, the number of the first and sixth Committees is 120, the number of the Fifth Committees 60 and the number of the third and fourth is 90. Due consideration is given to the position of different parties at the time of the composition of the Standing Committees. Each Standing Committees has a President, 3 or 4 Vice-President and 2 to 4 Secretaries. Each Standing Committee also elects reporter for the bill under consideration. This reporter is the guardian of the bill under question in the Committee and the National Assembly and therefore, it is necessary that he should be a member of the Committee as well as the Parliament so that he may conveniently express his ideas at both the places. The proceedings of the Standing Committee take place in secret. They are not open for public, only the ministers can go there and participate in its meetings.

Functions of the committees in France

In France, the following are the two main functions of the committees:

- (a) To consider the bills,
- (b) To look after the administrative departments.

(a) To Consider the Bills

All types of bills are first placed at the table of the president. It is the president of the House who informs the Houses that a particular bill has been presented in the House. According to Article 15, without holding any discussions, that bill is sent to the committee concerned. The Standing Committee entrusts that bill to its reporter who considers the bill and prepares his report. When this report is presented before the committee, it discusses and summons necessary evidences. The committee has also the power to summon Government servants for evidence or verification. The Standing Committee considers the report of the reporter in detail and comprehensively. It can also make amendment in that bill. Sometimes, the form of the whole bill completely changes on account of these amendments. The reporter endeavors to get the bill passes in the Committee. Similarly, he endeavors and helps to get bill passed in the Parliament. When the bills are changed or attended by the Committees, the Government opposes them in the Parliament and sometimes this becomes a reason for Cabinet crisis. In France, it is the work of the reporter and not of the minister s to see that the bill is passed. The reporter and the President of the Committee play important role in getting the bill passed.

(b) To look after over the Administrative Departments

The National Assembly of France considers its most important function is to exercise control over the administration. The national Assembly performs this function through its Committees. While on the one hand, the Committee considers and investigates every bill in its minutest detail, on the other hand it keeps eyes on the departmental officers. If necessary, they direct any officer to present himself before them to give evidence. In England, it is necessary that the suggestions of the officers should be accepted, but in France, the Committees are not bound to accept suggestions of the officers. The committees of France can easily refuse to accept the suggestions of the officers. Some important Committees exercises control over the departmental policies of the Government. This provision has been made because as compared to the members of the Committees, the ministers are less experienced and are also temporary. The President and the Reporter of the Committee consider themselves as would be ministers. As a matter of fact, they succeed in becoming ministers. As mentioned earlier, sometimes reporters dazzle the assembly with their eloquence, wit and speaking power. The Committee sometimes account for the instability of the Cabinet.

President of the Natrional Assembly

Election of the President

According to Article 32 of the Constitution of the Fifth Republic, the President of the National Assembly is elected for the term of the Assembly. Previously, the provision had been made for annual election of the President. The National Assembly elects its President in its first session. In the first session, the President of the gives his charge to him. The Constitution of Fifth Republic, does not speak anything about the method of the election of the President. But according to the convention, the election is held through secret ballot system and in the first and the second counting complete majority of the total members is required for a candidate to be elected as the President. If no candidate is able to secure complete majority of the members, then the President shall be elected on the basis of simple majority in the third counting.

Functions of the President

The main function of the President of the National Assembly is to preside over the meetings of the National Assembly. The President of the Assembly of France possesses very little powers in regard to discussions. The programme of the discussion is fixed beforehand in a conference which is controlled by the leaders of the Government and the parties. The President of the National Assembly nominates three out of the 9 members of the Constitutional Council. He along with President of the Senate and the Prime Minister has the right to make appeal to the constitutional committee. If he considers that a bill or an amendment presented by a member is constitutional but the Government does not accept it, then he presents it before the constitutional Council. When the President of the French Republic makes a declaration of the State of emergency under Article 16 of the constitution, he has to consult the President of both the National Assembly and the Senate.

Position of the President

In France, the President of the National Assembly occupies very important position but he does not possess that glory which is possessed by the speaker of the House of Commons. The main reason for this lies in the difference that the speaker of the Houses of Commons is always above party-politics whereas so is not the case with the President of the National Assembly, he continues to remain an active member of his party. The opinion of speaker of the House of Commons is final in regard to the discussions by the members but the President of the National Assembly does not possess this power because the programme of the discussion is decided and fixed in advance. Of course, the provision that the President of the French Republic is required to consult him for making a declaration of the State of emergency, has made the office of the President of the National Assembly very important. The President of the Indian Republic does not consult either the speaker of the House of People or the Chairman of the Council of States, but the French President has to consult the President of both the National Assembly and the Senate before making a declaration of the State of emergency.

Privileges and Duties of the Members of the Parliament:

The constitution of the Fifth Republic of France has provided four types of privileges or immunities to the members of the Parliament. They are:

- (1) No member of the Parliament can be punished on the basis of the opinion expressed by him in the Parliament in connection with the performance of his duties.
- (2) According to Article 26 of the Constitution of the Fifth Republic, if either of the Houses, request that arrest or the action taken against a member for serious violation of laws may be suspended, then this request shall be accepted.
- (4) The members of the Parliament are given salaries like higher Civil Officers. Besides this, they are given bonus according to their presence in the proceedings of the Parliament. If any member does not attend the Parliament satisfactorily, his bonus is deducted accordingly.

Check Your Progress

3. How did the Head of the Justice department of America called as?
4. How did the head of post office department of America called as?
5. What was the term of president of France?

8.5. ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. American President
 2. Presidential form of Government
 3. Attorney General
 4. Post Master General
 5. Seven years
-

8.6. SUMMARY

- The American form of government is Presidential.
 - The President is really powerful. He is elected for a period of four years. A candidate for president ship should possess certain qualifications.
 - The form of government in France is neither Presidential nor Parliamentary. It is said to be Quasi-Presidential. Hence, the office of the President is strange.
 - In France, the President of the National Assembly occupies very important position but he does not possess that glory which is possessed by the speaker of the House of Commons
-

8.7. KEY WORDS

Indirect election – Elected by an electoral collage

Theory of separation – No connection between the Legislature and the Executive

White House – Residence of American President

8.8. SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. Write a short note about the comparison between the Swiss and British Executives?
2. Write a short note about parliament in France?
3. List the Privileges and Duties of the members of the parliament?

Long Answer Questions

1. Critically examine the Executive of Switzerland?
 2. Evaluate the committee system of the legislature in France?
-

8.9 .SUGGESTED READINGS

- J. C. Johari. (2011). *Comparative Politics*. Sterling Publishers Pvt.Ltd;
- J.C. Johari. (2012). *Major Modern Political Systems*. Shoban Lal & Co.
- O.P. Gauba. (2016). *Indian Political Thought* . Mayur Paperback.
- Kapur A.C. , Mishra K.K.(2016). *Select Constitutions*. S Chand.

UNIT IX JUDICIARY OF U.K.

Structure

- 9.0 Introduction
- 9.1 Objectives
- 9.2 British Judiciary
- 9.3 Rule of Law
- 9.4 Answers to Check Your Progress Questions
- 9.5 Summary
- 9.6 Key Words
- 9.7 Self Assessment Questions and Exercises
- 9.8 Suggested Readings

9.0 INTRODUCTION

In the previous unit you studied about the Executives of USA, France, and Switzerland their functions, powers and role.

In this unit you study about the British judiciary and the Rule of Law.

9.1 OBJECTIVES

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

- To understand the importance of British Judiciary.
- To understand the Rule of law as the Fundamental legal Safeguards of the Citizens.

9.2 BRITISH JUDICIARY

Judiciary is an important organ of a democratic government. The British Judiciary is very important in the administration of England. Like other English political institutions, the Judiciary also has certain salient features.

The British Judiciary is praised for its impartiality and fairness. The independence of Judiciary is strengthened by many political and constitutional factors. British judiciary gives importance to Equity. Rule of Law is the basic concept ensures equality of all before law. In Britain there is no written constitution. Hence the liberties are safeguarded by the Judiciary. In the trial of all serious criminal cases Jury system is adopted. The legal procedure is simple and effective. Justice is not delayed. The British Judiciary does not enjoy the power of judicial review.

There are two types of courts known as civil courts and criminal courts. County court is the lowest civil court. A County Court consists of one or two judges appointed by Lord Chancellor. County Courts deal with minor cases involving claims which would not exceed £ 400 . Appeals from these courts may be taken to High Court of Justice. High Court of Justice has three divisions known as Queen's Bench Division, the Chancery Division and Probate and Admiralty Division. The Queen's Bench Division is concerned with civil cases connected with insurance, breaches of contract, income tax etc. The Chancery Division is concerned with matters like the administration of the estates of deceased persons, bankruptcy and mortgages. Probate, Divorce and Admiralty Division deals with cases of wills, divorce and shipping. Appeals from these three divisions go to Court of Appeal. And above it, there is the House of Lords. It is the highest court of appeal in U.K.

The lowest criminal court in England is the court of Justice of the peace. This court looks into minor cases. It can levy a maximum penalty of twenty shillings and a sentence for not more than fourteen days. Appeals against the decisions of the courts of Justice of the peace may be taken to Courts of Quarter Sessions. These courts have original and appellate jurisdictions. They try causes on crimes like assault, house breaking, stealing etc. Assize court come next. It tries cases on crimes like armed robbery, kidnapping, murder etc. The Assize Court is assisted by Juries. It can impose death penalty. Appeals against the decisions of this court may be taken to the court of Criminal Appeals in London. The House of Lords is the highest court of appeal. But very limited cases are given leave for appeal to the House of Lords.

The British judiciary functions effectively. Apart from the judicial organs discussed above, there is the Privy Council. The Privy Council is the highest court of appeal for dominions and colonies. The Privy council is not a court in a strict sense. The British judiciary is impartial. It is simple in procedure and quick in disposal of cases. Like many other institutions in Britain, the Judiciary also stands as a model to other democratic nations.

9.3 RULE OF LAW

The Rule of Law is one of the fundamental legal safeguards of the liberties of citizens in countries like Great Britain, U.S.A., Belgium and other Latin American countries. The concept of 'Rule of Law' first originated in Great Britain and was borrowed by other countries. According to Dicey the Rule of Law has three implications.

In the first place it implies the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power. He says, "Englishmen as ruled by law, and by the law alone; may with us be punished for a breach of law, but he can be punished for nothing else". This means that no person can be arbitrarily deprived of his life, liberty or property. Again no person can be arrested or detained except for a specific breach of law, which must be proved in a proper court of law. The trial must be open and the accused must be given the right of being defended by counsel.

In the second place it means equality before the law, or the subjection of all classes to the ordinary law of the land by the ordinary law court. In other words it means everybody is equal in the eyes of law, irrespective of caste, creed and position, and has to obey it. Dicey says, "With us every one from Prime Minister down to a constable or a collector of under the same responsibility for every act done without legal action as any other citizen".

In the third place, Rule of Law, means that the rules are not force by the consequence of the rights of individuals as defined forced by the courts. It means that in England an individual for his fundamental rights not so much to the rules of the action but the courts of Law. In other words the Courts of Law chief guarantors of the rights of the individual

In addition to the above three implications of Rule of Law, Hogg adds the implications that laws should be passed only adequate and perfect discussion and that a distinction should be between law and regulation. Whereas a regulation, however formulated by a

government department and often signed by a subordinate official, a law is passed by Parliament after debate.

Dicey's concept of rule of law has undergone many changes, frustrated by the actual working of the British constitution. Changes were necessitated due to the constant expansion of activities. The work of the Parliament has increased to such that it is neither physically possible for the Parliament to make laws in detail, nor does the Parliament possess the requisite knowledge to deal with the modern complicated laws. Hence, the parliament has to pass the laws only in general terms, delegate the power of framing rules and regulations to the law departments. Such rules and regulations are usually from the jurisdiction of the courts because they are given of a law in advance. Again, sometimes the power of making laws is vested in the executive departments, includes the power by even the provisions of the main Act of the Parliament.

Check Your Progress

1. Where did the concept of rule of Law first originated?
2. Which is the lowest civil court in British Judiciary?
3. Who appoints the Judges of the country court?
4. Name the highest appeal in UK?
5. What is Privy Council?

9.4 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. Great Britain
2. Country court
3. Lord Chancellor
4. House of Lords
5. It is the highest court of appeal for dominions and colonies.

9.5. SUMMARY

- Judiciary is an important organ of a democratic government.
- The British Judiciary is very important in the administration of England. Like other English political institutions, the Judiciary also has certain salient features.
- The Rule of Law is one of the fundamental legal safeguards of the liberties of citizens in countries like Great Britain, U.S.A., Belgium and other Latin American countries.

9.6. KEY WORDS

Rule of Law – The Rule of Law is one of the fundamental legal safeguards of the liberties of citizens.

Court of Law – It chief guarantors of the rights of the individual

Queen's Bench Division - High court of Justice has three divisions known as Queen's Bench Division.

9.7. SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. Write a short note about the Rule of Law followed in United Kingdom?
2. Write a short note about the Queen's Bench Division ?

3. Write briefly about the role of British parliament?

Long Answer Questions

1. Critically examine the British Judiciary is Impartiality and fairness??
2. Evaluate the Dicey the Rule of Law and its Implications?

9.8 .SUGGESTED READINGS

- J. C. Johari. (2011). *Comparative Politics*. Sterling Publishers Pvt.Ltd.
J.C. Johari. (2012). *Major Modern Political Systems*. Shoban Lal & Co.
O.P. Gauba. (2016). *Indian Political Thought* . Mayur Paperback.
Kapur A.C. , Mishra K.K.(2016). *Select Constitutions*. S Chand.

UNIT X JUDICIARY OF U.S.A. – FRANCE AND SWITZERLAND

*Judiciary of U.S.A – France and
Switzerland*

NOTES

Structure

- 10.0 Introduction
- 10.1 Objectives
- 10.2 Judiciary in U.S.A.
- 10.3 Organisation of Supreme Court
- 10.4 Judiciary in France
- 10.5 Federal Judiciary of Swiss
- 10.6 Answers to Check Your Progress Questions
- 10.7 Summary
- 10.8 Key Words
- 10.9 Self Assessment Questions and Exercises
- 10.10 Suggested Readings

10.0 INTRODUCTION

In the previous unit you studied about the Judiciary of United Kingdom with special reference to Rule of Law.

In this unit you study about Judiciary of USA, France, Switzerland their organization, functions, and the role of highest level of courts in these countries.

10.1 OBJECTIVES

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

- To understand the importance of Judiciary of USA, France and Switzerland
- Explain the salient features of Administrative Law.

10.2 JUDICIARY IN U.S.A.

The U.S.A. is a federation. Being federal, the U.S. constitution is supreme. The Judiciary has the responsibility to protect the constitution. Hence, it is very powerful the features of the American Judiciary vary from those of the British Judiciary.

The ‘Judicial Review’ is the right of the Judiciary to examine the laws passed by the legislature and orders issued by the executive and not determine whether they are in accordance with the provisions or not. If the Judiciary feels that any law or executive order under dispute contravenes any provision of the constitution, it can declare the sale ultra virus and unconstitutional. This power to declare a law null and void is called Judicial Review. The power of judicial review is not granted to the judiciaries of all the countries. It is provided only in certain constitutions. For example the Judiciary of Britain has no power of judicial review. It cannot declare any law passed by the Parliament, null and void. The Judiciary of the U.S.A enjoys that power.

The constitution did not specify the power of judicial review, when it came into operation. In 1803, chief Justice Marshall delivered the historic judgment in the case of Marbury vs Madison. In the judgment he mentioned the assumed or implied powers of the Judiciary. That was the first occasion when a law of the Congress was declared null and void by the Supreme Court. Since then, the power of judicial review has been used by the judiciary on many occasions. The

Self-Instructional Material

Supreme Court cannot go into any question of dispute voluntarily. If a matter is brought to it by a citizen or agency in the form of suit, the Court hears the case. If it really thinks that the law or order under dispute is a violation of any provision of the constitution, it drops the axe. By judicial review the Supreme court prevents the federal government and the states from going beyond their limits. The constitution has a clear division of the powers. If the centre tries to encroach on a state subject by passing a law or executive order, any of the states may go to the Supreme court and stop the encroachment by the centre. In the same manner if there is any dispute between the executive and the legislature, the same is referred to the Supreme Court. Thus the judiciary helps in preserving the federal structure by using the power of judicial review. Prof. Finer describes the Supreme Court as the cement which has fixed firm the whole federal structure. By the power of judicial review the judiciary safeguards the interests of the individuals. If a law or order is passed, infringing the individual freedom, any citizen can approach the court and protect his freedom. Thus the power of judicial review helps the judiciary in smooth running of the governmental machinery. However, there are certain points of criticism. By the power of Judicial Review the Supreme court interprets the constitution and the laws passed by the congress. Thus the Supreme Court becomes the third chamber of the legislature. Commenting on this Hughes says, “We are under a constitution, but the constitution is what the Judges make it”. By judicial review many of the laws are knocked down by the judiciary. Thus the power of judicial review reduces the power of the legislature. The will of the people is represented by the members of the legislature. The laws made by it are supposed to reflect the will of the people. But such laws are knocked by the Judiciary on the pretext of being contradictory to the constitution which was made many years ago. Some of the scholars complain that the Judiciary has used the power of judicial review excessively. However the presence of power of judicial review is considered essential in a federation like U.S.A.

Organisation and Functions of Courts in America

Judiciary is a very important department or organ of the Government. The constitution of America has given special significance to the judiciary. The Courts of America possess wide powers as discussed below.

Double Courts

In America, there is a Federal system. The Federation has its own courts and the different States have their separate courts. In 48 States, there are separate courts, which are independent within their jurisdiction. The courts of the federation are also spread in each State. Thus there is dual-judicial system in America. The courts of the States do not depend upon Federal Courts nor are they subordinate to the Federal Courts. However, the Federation considers itself above the States and hence do not take judicial works from the courts of the states.

Federal Courts

Federal Courts are of two types. One type of courts have provided by Article III of the Constitution. Supreme Court, Circuit Courts of Appeals, District Courts etc. come under this category. The

second type of courts are established by the American Congress to perform certain special functions. There is no difference in the formation and working system of such type of courts. Congress possess the power to establish both types of courts but the sources of powers of both types of courts are different. Article III of the Constitution confers powers on the first type of courts and the second type of courts derive their powers from the laws made by congress. Federal courts decide the case relating to property, crimes, shipping, internal matters etc. There are some cases which can be decided by the Federal courts. Cases relating to mutual difference among states, cases connected with foreign ambassadors and citizens, insolvency, ports, patent and cases connected with publication, cases against the Federal Government are decided only by Federal Courts.

Legislative Courts

From time to time some special courts are established by Congress. These courts are established to perform certain specific functions. The jurisdiction of these courts is also determined by congress. The more important of such courts are Columbia District Court, evidence-determination Appeal court etc. Such type of courts consists of 9 judges who are appointed by the President with the consent of the Senate.

Courts of the State

The States of America have their separate courts. A majority of the cases in America are decided by the State Courts. Each State has her own judicial system in which lowest to highest courts are established.

(1) Supreme Court : Each state has a highest court at the apex of all other State courts. This highest court of the State is called the Supreme Courts. In New York, it is called the Appeal Court and in Mascheuty it is called the Supreme Judicial Court. In most of the States, the number of the Judges of the Supreme Court is from 5 to 7. In some States, the number of judges of Supreme Court is only 3. These courts interpret the Constitution of the States and give their legal opinion on serious matters.

(2) Intermediary Courts of Appeal : Below the Supreme Court, an Intermediary court of Appeal is established in each Sate. In some States, however, the number of such courts is 2. In different States, the number of judges of the Intermediary Courts varies from 3 to 9. In most of the States, the judges of these courts are elected. These courts hear the appeals against the decisions of the courts which are lower to them. These courts hear and decide both the civil and criminal cases.

District or Counter Court

Below the Intermediary Court, there is a District or Countee court. Each State is divided into several Countees and one court is established in each Countee. There are 9, 38, and 58 Countee courts in New York, California and Illinois respectively. Only a few cases of appeal come in these court and most of the cases begin directly in these courts. The judges of these courts are mostly elected.

Other Small Courts

Besides above mentioned courts, some other small courts have also been established. There are many such courts in cities like New York, Chicago, Boston etc. These courts decide local problems and disputes. These courts have been established for deciding small cases of rent, domestic matters and crimes of children etc.

Thus we see that the judicial system of America is very well-organised. The system of dual judicial system has been severely criticized by many scholars. They point out that a lot of money is spent due to this. Moreover, the two categories of Federal Courts also appear to be unnecessary. It is pointed out that the judicial system of America should also be nicely organized like that of England.

10.3 ORGANISATION OF SUPREME COURT

Number of Judges :

The total number of judges in the Supreme Court of America Federation is 9. One of them is the Chief Justice and 8 are other judges. The number of judges has been different from time to time but since 1869 A.D. the number of judges has been 9.

Appointment of Judges :

The judges of the Supreme court are appointed by the President but he has to seek the consent of the Senate for these appointments. The Constitution does not speak anything in connection with the qualification of the judges and the President can appoint any person as the judge of the Supreme court by getting the consent of the Senate.

Term and Salary :

The Constitution of America provides that the judges shall be appointed for life-long and their salary cannot be reduced during their term. After attaining the age of 70 to 75 years, judge of the Supreme Court can resign according to his will and after having worked as a judge for 10 years, he becomes entitled to receive full pension.

Removal :

Ordinarily, the Judges of the Supreme Court cannot be removed from their offices. They cannot be removed from their offices except by impeachment. This impeachment is made or initiated in the House of Representatives but the final decision in this connection is taken by the Senate.

POWERS AND FUNCTIONS OF THE SUPREME COURT

The powers and functions of the Supreme Court can be divided into the following categories :

- (1) Original Jurisdiction
- (2) Appellate Jurisdiction
- (3) Judicial Review
- (4) Guardian of Fundamental Rights
- (5) To control the Federal and State Governments
- (6) To advise the President
- (7) To develop the Constitution

(1) Original Jurisdiction :

The Supreme Court of America possesses original jurisdiction in the field of justice. Article III, Clause 2 of the Constitution clearly provides : “In all cases affecting ambassadors, other public ministers and consuls and those in which a State shall be a party, the Supreme court shall have the original jurisdiction”.

(2) Appellate Jurisdiction :

As regards the appellate jurisdiction, the following two types of appeals are made in the Supreme Court :

- If any court of a State has declared any Federal Act, treaty made by Federal Administration, or any other subject coming within its jurisdiction as invalid, then an appeal can be made against it in the Supreme Court.
- If any law passed by the State legislature is against or repugnant to any law passed by the Federal Government, then appeal can be made against it in the Supreme Court.

It may be noted in connection with the appellate jurisdiction of the Supreme court, appeal cannot be made on all such matters in which either of the party is not satisfied with the decision of the lower courts. Appeals can be made in the Supreme court in the two situations mentioned above, but if any case the Supreme court of a state permits the appeal to be made in the Supreme Court of the Federal Government, then the Supreme Court hear that case.

(3) Judicial Review :

The Supreme Court of America also possess the power of Judicial Review. It is perhaps the most important power of the Supreme Court. It is the Supreme Court which decides whether a law passed by the United States of America is against the constitution or not. If any law is declared as Constitutional by the Supreme Court, then it is declared invalid. Thus the Supreme court which performs the function of the interpreting the laws. The constitution of America has provided in clear words that the Supreme court has the power to decide the validity of the laws. The power of judicial review is the most important power of the Supreme Court.

(4) Guardian of Fundamental Rights :

American Constitution provided in very clear words the fundamental rights. The supreme court of America is the guardian of the fundamental rights of the citizens. The liberty of no person can be taken away without due process of law. The Supreme court of America protects the rights of the citizens from the Executive and Legislature. The right of franchise of American citizens not be taken away on the ground of colour, race or descent. Supreme court remains ever vigilant in this connection. American citizens possess the freedom of religion, right to possess property, right to receive education and have right to be free except due process of law. The Supreme Court is the guardian of all the rights.

(5) To Control the Federal and State Government :

The Constitution of America has determined and fixed the jurisdiction of Federal and State Governments and in no case they can violate or interfere in the jurisdiction of each other. The Supreme Court has always the power to decide whether a law made by Congress is in accordance with the provisions of the Constitution or not. The Supreme Court also decides whether a law made by the Congress is in accordance with the provisions of the constitution or not. The Supreme count also decides whether the laws made by the State Legislatures are within the rights granted to them under the Constitution or not. The Supreme Court can declare any law or a part of it as invalid. It may, however, be noted in this connection that the Supreme Court very

rarely exercises this power. Through this power, the Supreme Court controls Congress and the State Legislatures and keeps them within their respective jurisdictions. They also do not make such laws as may be declared invalid by the Supreme Court.

(6) To Advise the President :

It is also the function of the Supreme Court to advise the President in regard to legal matters. From time to time, advises the President on constitutional matters.

(7) To Develop the Constitution :

Through its power of interpretation of the Constitution, the Supreme Court also help the development of the constitution . The Constitution undergoes the changes by the interpretations of the Constitution in accordance with the changed circumstances.

Importance of the Supreme Court

The Supreme Court has an important position. Its powers are wide, F.J. Haskin considers the Supreme Court as the balance wheel in the Government Machine. In England, Parliament is supreme. In U.S.A. the constitution is supreme. The supremacy of the constitution is kept alive by the Supreme Court. Some of the Scholars criticize the position of the Supreme court. It is criticized for being like a third chamber of the legislature. However the American people give more importance to the advantages in keeping a powerful Supreme Court. According to Lory Bryce; “No feature of the government of the United States has awakened so mach curiosity in the European mind, caused so much discussed received so much admiration and been more frequently misunderstood, than the duties assigned to the Supreme Court and the functions it discharges in guarding the are of the constitution”.

In U.S.A. below the Supreme Court , there are Circuit Courts of Appeals. They hear appeals from lower courts. Below the Circuit Courts there are District Courts. The Judges of these courts are appointed by the President with the approval of the Senate. The cases related to federal laws would be heard by these courts. Apart from these, the Congress may establish certain special courts.

Each state in the U.S.A. has its own judicial system. Each state has a Supreme Court. It is the highest court in a state. The Supreme Court of a state interprets the constitution of the state. Below the Supreme Court there are Intermediary Courts of Appeal. These courts hear appeals against the decisions of the lower courts. These courts hear both civil and criminal cases. Below the Intermediary courts, there are the District or Counter Courts. The Judges of these courts are mostly elected. Besides, there are some small courts. These courts decide local problems and disputes.

10.4 JUDICIARY IN FRANCE

The French Judiciary is based on the concept of Administrative Law. There are two sets of courts known as Ordinary Courts and Administrative Courts. The laws in France exist in the form of codes. In France, there are different academic courses for becoming a Lawyer and Judge. One who studies the course for the Lawyer cannot become a judge. In almost all the Courts there are mort than one Judge.

Special Features of the France Judiciary

The constitution of the Third Republic of France does not mention about the system of judiciary. The constitution of the Fourth Republic mentions about the system of Judiciary but it is incomplete. In America, England and India, considering the three department of the government equal to each other, they have been described separately in the constitutions of these countries. The frames of the French constitutions did not believe in the principle of separation of powers. The Judiciary of France has been kept subordinate of the Executive and hence its composition has also been placed in the hands of the Executive. The organization of the Judiciary of France has been very much influenced by the Judicial system of Rome. The Judicial system of Rome has influenced the judicial systems of other countries also but its utmost influence is seen on the judicial system of France. All the Law Codes compiled in the 18th and 19th century have been made on the basis of Roman Judicial system. Like England, there is no rule of Law in France. In France, there is the prevalence of Administration of Law. Having adopted a Unique system of sitting Judiciary and standing Judiciary, France has influenced many countries.

The Judiciary of France has some special features. A brief discussion of these special features is being made below :

1. Existence of Law in the form of Codes

The whole law of France exists in the form of Codes. Much of this credit goes to Napoleon. It was on account of his efforts that all the laws were compiled in a code. The judges give their decision on the basis of the codes. Although written laws are found in most of the countries but there are also some unwritten laws but in law codes of France, endeavor has been made to codify all the laws. The law codes of France are of five types. They are :

- (i) Penal Code
- (ii) Civil Code
- (iii) Commercial Code
- (iv) Civil Procedure Code
- (v) Criminal Procedure Code

2. Relevance of the system of Administrative Laws

In Britain, there is the Rule of Law and there are same laws and courts for all the person – Whether they are government servants or otherwise. But so it not the case with France. In France, there are two types of courts. In the first place, there are ordinary courts which decide the civil and criminal cases of the ordinary people. Secondly, there are Administrative Courts which decide the cases connected with the Government, Government officers and other government servants. No only there are separate courts but there are also separate law for such cases.

3.Appointment of the Judges

Yet another special feature of the French Judiciary is in regard to the appointment of the judges. It is different from the method of appointment of the judges. It is different from the method of appointment of the judges in England and India. The students of France who study law have to choose one of the profession in between the profession of lawyer or lawyer or that of a Judge. Once the choice is made, it is very difficult to change it. In England and America able and experienced lawyers become judges. This system is not prevalent

in France. The judges of France do not have the same duties and responsibilities as the judges of America and England have. The judges of France work under the subordination of the Minister of the judicial department.

In France there is a superior council of judiciary to appoint the judges. The president of France is the President of this council which consists of 14 members:

French President, Minister of Judicial Department, 4 representatives of the judges, 6 members elected by the Nominal Assembly and 2 members nominated by the president. Besides these 14 members, it is also provided that the representative of the judges and the National Assembly shall send alternate members equal to the number of members prescribed for them in the Special council of the Judiciary.

4. Control of Executive over the Judiciary

In France Judiciary is not independent from the Executive. As a matter of fact, the Executive of France exercises sufficient control over the Judiciary. The promotions etc. of the Judges are decided by the Executive. Thus the Judiciary of France is not independent.

5. Principle of collegiability

Yet another special feature of the French Judiciary is that it has adopted the principle of collegiability. In France, it is believed that if there is only one judge in the court, there are chances of his becoming corrupted. Leaving aside only very small cases, all other cases are heard by the courts consisting of more than one judge. Mostly there are at least three judges in the courts of France. In higher courts, the saying, "A single judge is an unfair judge".

6. System of Special Courts

In France, there are some special courts which resolve mutual disputes, through compromise or agreement. In other words, it may be said that the work of these courts is to settle the disputes through mediation and agreements. In fact, the judges of these courts do not come in the category of the judges, following are some of the names of these courts:

- Justices of Peace
- Industrial Disputes Councils, and
- Commercial Tribunals etc.

7. Sitting Judiciary and Standing Judiciary

Yet another special feature of the judicial system of France is that there are two types of judiciary. One of these two namely Actual Judges of the Bench is called the sitting judiciary and the other is the department of the State Attorney which is called the standing Judiciary. In order to know the difference between the sitting and standing judiciary it is necessary to know the method of appointment and the functions of the judges of the two types of courts. In France, the appointment of the judges was made by the Minister of Justice in the Third Republic. Thus the judges were under the Law Minister or Minister for Justice and this did not make a good influence upon the independence of the judges. In the Constitution of the fourth Republic, the appointment of the judges began to be made by the Superior Council of the judiciary and not by the Minister. This was called the sitting Judiciary and it exercises control over the judges.

Standing Judiciary is the department of the State Attorney which is a section of the Law Department. This Judiciary consists of civil officers who strictly follow the orders and directions of the Law ministry and State Attorney and they represent the interests of the State. In fact their main function is similar to that of the prosecutors.

8. Lack of Competent and Able Judges

In France, the judges get less salaries and that is why, there is lack of competent and able judges in France. In England and America, the judges receive handsome salaries and hence talented persons are attracted to this profession. But in France because of less salaries, only those persons who are desirous of honour and respect join this profession. There are only a few persons who are attracted towards this profession because of money.

9. Local Courts

In the judicial system of France, there is a lack of moving courts. While in other countries there are several moving courts, in France there are all Local Courts. This is to say the sittings and the proceedings of the courts take place at a fixed place.

10. Same Court for the Civil as well as Criminal Cases

Last but not the least special feature of the judicial system of France is that the judges of France have to decide both civil as well as criminal cases. That is to say, in France there are no separate courts or judges to hear criminal and civil cases separately. Cassation Court is, however, an exception to this general rule in France.

ADMINISTRATIVE LAW IN FRANCE

In France there are 5 great Codes for the ordinary Courts but there is no Code for the Administrative courts. These are organized under the administrative laws. The administrative laws are a group of the rules which were passed to regulate the relations between the government servants and citizens.

Definition

According to Prof. Dicey the administrative laws are : "... the body of rules which regulate the relations of the administrative authority towards private citizens".

According to Wade, administrative law is concerned only with the administration. It has no connection with judicial control or Constitutional works. The rights and duties of the administrative officers have been determined through these laws and they furnish knowledge of their powers and functions.

Jurisdiction

In France, the development of administrative law has not taken place similar to that of the ordinary law on the other hand it has developed from the decisions of the administrative courts. It is the judges who have made the administrative laws of France similar to the common Law of England. These laws decide the following things.:

- Position and responsibility of the Government officers.
- Relations between the citizens and the officials of the State, their rights and duties.

- The method through which the Government officials can exercise their rights and perform their duties and the people may know as to what and to which extent are rights and duties.

Principles of Administrative Law

According to Prof. Dicey, following are the two basic principles of administrative laws.

- (1) The State gives comparatively more facilities to the officials than her citizens. The officials possess certain privileges and special rights. While giving these privileges and special rights even the fundamental rights of the citizens have not been taken into consideration.
- (2) Administrative law is in fact based on the principle of separation of powers. These laws have protected the government officials from undue interference of the court. They have thus become capable of working independently within their jurisdiction. The officials also do not interfere in the works of the ordinary courts.

Salient Features of Administrative Laws

Professor Dicey has pointed out the following salient features of administrative laws :

- (1) How the government and its officials should behave with the government? How can they be successful in having their control over the citizens? Administrative law proves to be helpful in giving practical shape to these principles. In its effect, the administrative law has no less significance than other laws. In spite of this, this law does not exercise complete control over the citizens.
- (2) Government servants cannot be brought before the ordinary courts for the crimes committed by them. In order to give stability to their prestige, they have been kept above the ordinary laws. If there arises a conflict or dispute between a government official and any citizen or citizens, then it is resolved in accordance with the administrative laws. Special courts have been established to enforce these laws. These courts are called administrative courts. Government officials are responsible only to the administrative courts.
- (3) Sometimes disputes arise in regard to the jurisdiction of the ordinary and Administrative courts. There is a separate court called the court of conflicts to resolve such disputes. Council of State from the side of the Administrative Courts and Cession Court from the side of ordinary courts, both send three representatives each in the court of Conflicts who select three such other members who decide such disputes. The Minister of Justice is the President of this court.
- (4) The Administrative Law protects the rights of the Government officials from the ordinary courts. They are not responsible to the ordinary courts for their works. If small officials usurp the rights of the citizens while obeying the orders of their superior officers, they are given any type of punishment.

Criticism

It is clear from the above mentioned salient features that the jurisdiction of the Administrative Law is very vast. In consequence of

their vast jurisdiction, Administrative courts decide thousands of cases every year. The citizens submit thousands of petitions in respect of the injustices committed by the Government officials against them. These courts give their decision on such petitions according to their merit. These courts consider of the Administrative Law which is similar to Roman Law as the basis of their decisions. Under Roman Law Government officials are not punished according to the ordinary law and the ordinary citizens were not treated alike. Just in its contrary is the Saxon Law in which except the highest officials, all Government officials and citizens were equally liable to the ordinary laws of the land.

COMPOSITION OF JUDICIARY

There are two types of courts in France known as Ordinary Courts and Administrative Courts. The lowest Ordinary Court is the Justice of Peace. These courts are presided over by salaried officers called Judges of Peace. In each Canton there is a court of Justice of Peace. The next courts are Correctional Courts which hear both civil and criminal cases. These courts are entitled to hear cases involving up to the property of 3000 francs. Above Correctional Courts there are District Courts. Appeals against the decisions of the district Courts are heard in the Provincial Appellate Courts. The civil cases go to the Court of Appeal and the criminal cases go to the Assize courts. Among the ordinary courts, court of Cassation is the highest court. It consists of three sections namely, Civil section., Criminal Section and Petition Section. While hearing appeals these courts consider only legal matters and questions.

In France, Administrative Courts have been established with some special purposes. The officers of France exercise vast powers. It is the duty of the Administrative Courts to see that these officers do not misuse their powers.

The composition of Administrative courts is very simple. The lowest Administrative Courts are called Departmental Perfectual Councils. Each Council has one head and 3 or 5 Councilors. The members of the Council are appointed from the National School of Administration. There are Inter-Departmental Councils too. Above these there are councils at the Provincial level. They are called Regional Councils. Above all there is a Council of State. It is the highest Administrative Court.

The Council of State consists of a Head of the Council and other members. They are deputy head and 5 heads of the sessions. Further there are 22 councilors, 45 masters of petitions and 24 auditors. This court has Original and Appellate Jurisdiction. It has also the power to declare the rules made by Departmental Councils as invalid. Its jurisdiction is limited to Administrative matters. It has no jurisdiction in political and legislative matters. The Council of State is divided into several sub-departments.

In France, the courts have no Power of Judicial Review. The Power of Judicial Review is given to a special body known as the Constitutional Council. The Council consists of nine members. Three of them are nominated by the president of the Republic, three are nominated by the President of the National Assembly and three by the President of the Senate. They are appointed for nine years. In addition

to the nine members, the former Presidents of French Republic become ex-officio members. The President of the Council is appointed by the President of the Republic.

The Judicial Council conducts the election of the President of the Republic. It also looks into the question of the disputes regarding the election of members of both the houses of the Parliament. The most important function of the council is to give its decision on the constitutionality of the bills and laws. It examines the bills before they are passed. It examines the laws before they are enforced. There is no provision for appeal against the decisions of the Constitutional Council. The President of the Republic consults the Constitutional Council before declaration of Emergency. The council conducts referendums and declares the results.

Apart from the judicial organs seen above, there is a Court of Conflicts which decides whether a case has to go to ordinary court or administrative court.

Check Your Progress

1. Define Appeal Court?
2. Define Supreme Judicial Court?
3. Name the two types of Judiciary of France?

10.5 FEDERAL JUDICIARY OF SWISS

Swiss Judiciary is also unique. As compared to other countries, judiciary of Switzerland has certain special features. The following are the chief characteristics of Swiss judiciary.

1. Only one Federal Tribunal

In Switzerland, there is only one Federal Tribunal and there is no provision for other courts as we find in America.

2. Democratic form of Judiciary

In Switzerland the form of the Federal judiciary is completely democratic. The judges of the Federal Court are elected in the joint session of the two chambers of the Federal Assembly. This system of Switzerland is different from other countries. In some countries, the judiciary is appointed by the executive and in some other countries only one House of the Legislature appoints the Judges. The democratic form of judiciary of Switzerland is also clear from this that the Judges of the Federal court are elected by the joint sitting of the two Houses of the Federal Assembly but the judges of almost of the Cantons are elected directly by the people. Besides, any person who is qualified to be a member of the National Council can be elected as a member of the Tribunal. It is not only necessary for the judges to have the knowledge of law but it is also necessary that they should have the capability to understand the situations.

3. Impartiality of Judiciary

The judiciary of Switzerland is completely impartial. The Judges of the Federal Tribunal are elected or appointed for a term of 6 years. But there is a convention to re-elect them for as many times as they wish. No special qualification has been fixed for the appointment of the Judges. It is, however, necessary that they should be experts of

law and experienced persons. Bryce has rightly remarked that although no qualification has been fixed by law for the election of the Judges, yet only jurists, legal experts and experienced persons are elected as Judges. These persons perform their judicial function quite impartially. As a result of conventions of the re-election of the Judges, there is no fear or apprehension that the Judges will in no way be subject to political or other influences. Regarding the independence or impartiality of the Swiss judiciary a famous scholar has remarked.

4. Limited Power of Judicial Review

In Switzerland, judiciary is not the guardian of the Constitution and the Federal Tribunal possess a very limited power of judicial review. It cannot declare invalid any law passed by the Federal Assembly.

5. There is no Supremacy of Judiciary

In Switzerland, the Federal judiciary is not supreme. On the other hand, the Federal Assembly is comparatively more powerful and occupies almost important position among the different departments of the Government.

6. Jury System

In Switzerland, the system of jury has been provided for hearing criminal cases. This jury consists of 12 persons, who are elected for a term of 6 years. The members of the jury can also be re-elected.

Comparison of the Swiss Federal Court with American Supreme Court

There is a vast difference between the American Supreme Court and the Swiss Federal Tribunal from the point of view of their composition and powers. A brief discussion of the comparison of the said two courts is being attempted below:

1. In America, there are other courts also under the subordination of Federal Court but in Switzerland, the Federal Tribunal is the only Federal Court of Switzerland.
2. In America, it is the president, who appoints the Chief Justice of the Supreme Court. He appoints the judges of the Supreme Court with the consent of the Senate of America. In Switzerland, the Judges of the Federal Tribunal are elected in the joint sitting of the two Houses of the Federal Assembly.
3. In America, the judges are appointed prominently and they hold office till they consider themselves fit and capable for performing their functions. But in Switzerland, the Judges are elected for a period of 6 years. However, there is a convention that Judges of the Swiss judiciary are mostly re-elected and thus, they are kept away from the influence of party politics.
4. In America, there are certain federal officers, who enforce the decisions of the Federal Courts but in Switzerland, there is no provision for separate officials for the purpose. In Switzerland, the function of the Federal Council is to enforce the decisions of the Federal Court.
5. In America, the Supreme Court consists of one Chief Justice and 7 other Judges, but in Switzerland, there are 24 Judges in the Federal Tribunal, one of them being the chief and the other Deputy Chief Judges.

6. In the United States of America, the Supreme Court does not hear the appeals against the decisions of the Courts of the states but in Switzerland, the Federal Tribunal hears the appeals against the decisions of the Court of Cantons.
7. The Supreme Court of America possess vast powers. Its power of judicial review are very vast. It is the guardian of American Constitution and can declare invalid or unconstitutional any law passed by the Congress of America. It can also declare invalid or unconstitutional the laws passed by the legislature of different States.

Check Your Progress

4. Name the Article deal with federal courts of America?
5. Define Judicial Review?

10.6. ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. New York, Supreme Court is known as Appeal Court
2. Mascheuty , Supreme Court is known as Supreme Judicial Court.
3. There are two namely Actual Judges of the Bench is called the sitting judiciary and the other is the department of the State Attorney which is called the standing Judiciary.
4. Article III of the American Constitution.
5. The power to declare a law null and void.

10.7. SUMMARY

- The U.S.A. is a federation. Being federal, the U.S. constitution is supreme.
- The Judiciary has the responsibility to protect the constitution. Hence, it is very powerful the features of the American Judiciary vary from those of the British Judiciary.
- Swiss Judiciary is also unique. As compared to other countries, judiciary of Switzerland has certain special features.

10.8. KEY WORDS

Appeal Court – In New York the Supreme Court is known as Appeal Court.

Supreme Judicial Court –Mascheuty the Supreme Court is known as Supreme Judicial Court.

Standing Judiciary - The Department of the State Attorney.

10.9. SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. Write a short note about the courts of state in USA?
2. Explain about the Administrative Law in France?
3. Explain briefly about the federal judiciary in Swiss/ Switzerland?

Long Answer Questions

1. Critically examine the Judiciary of USA?
2. Evaluate the salient features of Judiciary in France?

10.10. SUGGESTED READINGS

- J. C. Johari. (2011). *Comparative Politics*. Sterling Publishers Pvt.Ltd;
J.C. Johari. (2012). *Major Modern Political Systems*. Shoban Lal & Co.
O.P. Gauba. (2016). *Indian Political Thought* . Mayur Paperback.
Kapur A.C. , Mishra K.K.(2016). *Select Constitutions*. S Chand.

*Judiciary of U.S.A – France and
Switzerland*

NOTES

Self-Instructional Material

BLOCK – III CONTEMPORARY POLITICS

UNIT XI POLITICAL PARTIES

Structure

- 11.0 Introduction
- 11.1 Objectives
- 11.2 Party Systems
- 11.3 Party System in France
- 11.4 Political Parties in U.S.A.
- 11.5 Political Parties in Switzerland
- 11.6 Answers to Check Your Progress Questions
- 11.7 Summary
- 11.8 Key Words
- 11.9 Self Assessment Questions and Exercises
- 11.10 Suggested Readings

11.0 INTRODUCTION

In the previous unit you studied about the Judiciary of USA, France and Switzerland.

In this unit you study about the about the political parties in the world such as France, USA, Switzerland, and organization of parties.

11.1 OBJECTIVES

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

- To a substantive, practical and working understanding of world's political system, a range of other political systems and the interactions of states and other actors internationally;
- Recognize the complexity of the political process.

11.2 PARTY SYSTEMS

Political party, a group of persons organized to acquire and exercise political power. Political parties originated in their modern form in Europe and the United States in the 19th century, along with the electoral and parliamentary systems, whose development reflects the evolution of parties. The term *party* has since come to be applied to all organized groups seeking political power, whether by democratic elections or by revolution.

In earlier, prerevolutionary, aristocratic and monarchical regimes, the political process unfolded within restricted circles in which cliques and factions, grouped around particular noblemen or influential personalities, were opposed to one another. The establishment of parliamentary regimes and the appearance of parties at first scarcely changed this situation. To cliques formed around princes, dukes, counts, or marquises there were added cliques formed around bankers, merchants, industrialists, and businessmen. Regimes supported by nobles were succeeded by regimes supported by other elites. These narrowly based parties were later transformed to a greater or lesser extent, for in the 19th century in Europe and America there emerged parties depending on mass support.

The 20th century saw the spread of political parties throughout the entire world. In developing countries, large modern political parties have sometimes been based on traditional relationships, such as ethnic, tribal, or

religious affiliations. Moreover, many political parties in developing countries are partly political, partly military. Certain socialist and communist parties in Europe earlier experienced the same tendencies.

Edmund Burke states that “political parties are group of men, united for providing by their just endeavors, the national interests upon particular principles to which they are all agreed”. Reiterating the same idea, Friedrich characterized “apolitical party as a group of human beings, which is stably organized”. According to Schumpeter, “political party is a group, whose members propose to act in concert in competitive struggle for political power”. Sartori defines that “A party is any political group identified by an official label that present at elections and is capable of placing candidates for public office through elections”.

Party systems may be broken down into three broad categories: multiparty, two-party, and single-party. Such a classification is based not merely on the number of parties operating within a particular country but on a variety of distinctive features that the three systems exhibit. Two-party and multiparty systems represent means of organizing political conflict within pluralistic societies and are thus part of the apparatus of democracy. Single parties usually operate in situations in which genuine political conflict is not tolerated. This broad statement is, however, subject to qualification, for, although single parties do not usually permit the expression of points of view that are fundamentally opposed to the party line or ideology, there may well be intense conflict within these limits over policy within the party itself. And even within a two-party or a multiparty system, debate may become so stymied and a particular coalition of interests so entrenched that the democratic process is seriously compromised.

Multiparty Systems

A multi-party system is a political system in which multiple political parties across the political spectrum run for national election, and all have the capacity to gain control of government offices, separately or in coalition.

Two-Party Systems

A two-party system is a party system where two major political parties dominate the political landscape. At any point in time, one of the two parties typically holds a majority in the legislature and is usually referred to as the majority or governing party while the other is the minority or opposition party. Around the world, the term has different senses. For example, in the United States, Jamaica, and Malta, the sense of two-party system describes an arrangement in which all or nearly all elected officials belong to one of the only two major parties, and third parties rarely win any seats in the legislature. In such arrangements, two-party systems are thought to result from various factors like winner-takes-all election rules

Single-Party Systems

One-party system or single-party system is a type of state in which one political party has the right to form the government, usually based on the existing constitution. There have been three historical forms of the single-party system: communist, fascist, and that found in the developing countries.

Britain is the mother of many political institutions. Modern political parties appeared first in England. In the seventeenth century

there were constitutional conflicts. The conflicts created two camps among the politicians in England. They were known as Tories and Whigs. Later they came to be known as Conservatives and Liberals. After the Industrial Revolution, the working class became prominent resulting in the formation of the Labour Party. Now the Conservative Party and the Labour Party are the two important parties in U.K. The Liberal Party plays a limited role. Hence there is a bi-party system in U.K.

The British Party system is a bi-party system. The Parliamentary form of government is helped by the bi-party system. It enables strong and stable cabinets. Both the ruling party and the opposition party are always active. The opposition party informally forms the shadow cabinet. It is possible because of the bi-party system. Both the parties in Britain are well organized at the national and regional level. Strong organization of the party is essential for the efficient running of the Cabinet Government. The parties are disciplined. The members of the parliament vote as per the direction from the party high command. Between the two major parties there is the spirit of compromise and moderation. The ruling party realizes the right of the opposition party to criticize. It makes no attempt to suppress the debate of the opposition party. The opposition party realizes its role. It tries to oppose and not to obstruct the work of the government. As the ruling party recognizes the right of the opposition party to criticize, the opposition party realizes the right of the majority to rule. This spirit of compromise and moderation helps the proper functioning of the parliamentary form of government.

This party was established in 1800 by John Wilson Croker. This party is dominated by landlords, bankers, clergymen and merchants. The views of this party are conservative in nature. The party supports the domination of the Church, Crown, Capitalists and the Nobles. The party has a great regard for old institutions and customs. Dr. Finer says, "The social institutions favoured by conservatives are crown and national unity, church a powerful governing class, and the freedom of private property from the state interference". In each locality an organization of the Conservative party is established. It consists of some members who elect a President, Secretary and Treasurer. The party holds an annual conference. In the conference the representatives of the local committees participate. The leader of the conservative party plays an important role. He is powerful. Generally, a leader remains in office for a long period. At present, Mrs. Thatcher of the Conservative party is the Prime Minister of U.K.

Labour party is the second prominent party in U.K. It was established in 1900. This party consists of labourers and peasants. This party aims to bring about "the most equitable distribution of the nation's wealth that may be possible". It is dedicated for the attainment of common ownership of the means of production. However the Labour party is not a revolutionary party like the Communist Party in Russia. It does not stand for a violent revolution. It believes in parliamentary form of government. Its constitution mentions the purposes of the party as provision of full advantage to labourers, proper distribution of means of production and establishment

of government control over the professions and industries. The party is against capitalism. The basic unit of this party is at the constituency level. The party at the constituency level is further divided into many sub-divisions. This party also holds an annual session at the national level. In the national session the executive of the party is elected. The executive decides the policy and programme of the party.

Liberal Party was prominent once. After the emergence of the Labour Party it was pushed behind. It adopts the middle path between capitalism and socialism. The constitution of the Liberal party mentions the aim of the establishment of the commonwealth in which every citizen shall possess liberty, property and security, and none shall be enslaved by poverty, ignorance and unemployment. The Liberal party is against state's interference in individual freedom of the people. It is also against the exploitation of the people by capitalists. It likes neither the ideas of the Conservative party nor those of the Labour Party.

In U.K. there is Communist Party, which is not popular. In a conservative country like U.K. there is no scope for the development and domination of the Communist party. Some other political parties were also established. During the Second World War the Commonwealth party gained some popularity. Independent Labour Party was also popular for sometime. These parties play only an insignificant role.

In Britain there are nationally organized groups to represent all phases of the economy and most social causes of nation wide significance. Britain has parliamentary form of government. Hence the approach of pressure groups in Britain varies from that of the pressure groups in the U.S.A. The pressure groups cannot create deadlocks between the cabinet and the parliament. In the parliament the cabinet enjoys the support of the majority. So the parliament won't go against the wishes of the cabinet. Hence the pressure groups have to concentrate their attention on the ministers. The interest groups have easy consultations with the cabinet. They express their views and demands. The advisory councils have easy access to the cabinet. For example the ministry of education, labour, transport, agriculture, fisheries, food and health have regularly constituted advisory councils. In Britain, the members of the House of Commons may act as interest group officers and accept campaign contributions from trade unions and other pressure groups. They are permitted to receive periodic payments from interest groups. The pressure groups may also field its candidates in the election to the house. Such members support the views of the pressure groups during the debate, in the house. However, the members cannot vote against the decision of the party high command. So there exists a close relationship between the legislators and the pressure groups in Britain. The pressure groups devote more time in lobbying bureaucrats. Tight party discipline greatly restricts the power of the individual legislator. Hence the pressure groups are more concerned to win the support of bureaucrats and cabinet ministers.

11.3 PARTY SYSTEM IN FRANCE

France had been a political laboratory. It had experimented different political systems. There are different political ideologies followed by different French people. The French party system is a reflection of these facts. It is a multi-party system.

France has multi-party system. There are about six prominent parties and many small parties. The French political parties check discipline. Most of the candidates win the elections by their personal influence and efforts. There is the strange system of parliamentary groups in France. After the election, the members of the Parliament form themselves into different groups. These groups are called Parliamentary groups. These Parliamentary groups are some time called 'Parties'. But they are not parties. The French parties have different ideologies. Some parties are supposed to be leftists while some others are rightists in their views. Due to the multi-party system many cabinets fell under the fourth Republic. The multi-party system of France is the result of many factors. There are certain historical factors which promote such a system. Until the great revolution of 1789 France had been a monarchy. It became a Republic after the revolution. But it became a monarchy again under Napoleon Bonaparte. France saw an era of resolutions between 1830 and 1848. These political changes had created different political factions. The nature of the French people is also a factor which promotes multi-party system. The French people have deep attachment with their ideologies. Hence it is not easy for them to mix with persons with different ideologies. It is rightly said that "Policies for the English and the Americans is a game while it is a battle for the French".

The multi-party system in France has its own effect on the people and politics of France. The cabinet under the fourth Republic were famous for their instability. The instability was due to the multi-party system. As no party could gain an absolute majority, coalition ministers were formed. They fell easily due to the lack of cooperation among the parties. Due to this they adopted proportional representation system under the Fifth Republic. Due to multi-party system neither the Cabinet nor the opposition parties are able to fulfill their responsibilities towards the people. The framers of the Fifth Republic gave more powers to the President to overcome the evils of multi-party system. The multi-party system has not been proved to be good for the French people.

The Communist Party was one of the important parties in France. The members of this party aim to establish the dictatorship of the proletariat through revolutionary means. For sometime, the members of this party were guided by the Communist Party of Russia. The party has no much influence now. The basic unit of the party is called cell. The highest organ is the National Congress. The Party's structure resembles to that of the communist party of U.S.S.R. The socialist party had much influence before the second world war. Its strength has fallen after the war. The organization of this party is like a pyramid. Popular Republican Movement is also an important party. This party opposes both Capitalism and Communism. This party is neither completely liberal nor conservative. The organization of the M.R.P resembles to that of other prominent parties. Local Section is

the lowest organ of the party. It should contain at least ten members. The department is a division of the local government. The sections within the area of a department form a Federation. Each Federation has its own congress and an executive committee. At the national level there are National congress and National Committee. The national Committee elects the leaders of the party. Besides, there are Radical socialists and Conservatives. The U.N.R. was formed at the electoral constituencies are the basic units of the party. Like other parties, this party also have a National Council, a Central Committee, Political committee and a Secretariat. Apart from the parties mentioned above, small parties are functioning.

The party system in France is different from the party system in U.K. and the U.S.A. Unlike the other two countries, France has multi-party system. The parties are not as disciplined as those of Britain. The formation of parliamentary groups is also a strange factor in French party system. The French party system is an outcome of its political experiments experience.

11.4 POLITICAL PARTIES IN U.S.A.

The constitution of the U.S.A. is the first written constitution. The frames of the constitution made new experiments. Federation was adopted. The theory of Separation of Powers was also given serious consideration. As the U.S. constitution provides for a presidential form of government the political parties are less important in the U.S.A. In U.S.A. there is bi-party system. The Democratic Party and the Republican Party are the two prominent parties.

The important aspect of the American party system is the existence of two main political. As in Britain, in the U.S.A. also two major parties have dominated the political arena since the formation of the American Federation. The American political parties developed out of extra-constitutional growth. In fact, the framers of the American constitution wanted to avoid the emergence of any political party. In order to avoid political parties they made the election of President indirect. However the political parties emerged very shortly. The American political parties have no clear difference of ideologies. They are not as disciplined as the British political parties.

In the convention which was convened to draft the constitution there were to groups of delegates. One group wanted a strong union while the other group demanded more autonomy to states. The group which demanded more powers to the centre was called Federalists. The group which demanded more powers to the states was called Anti-Federalists. George Washington, the first President of the U.S.A. was a staunch opponent of political parties. However he had to choose members from both the groups to his cabinet. In 180 A.D. Jefferson became the President. He was an Anti-Federalist. He changed the name of his party as Democratic Republican Party. Still these parties continue to exist with these names. In U.S.A. there had been some other political parties. But there were not able to become prominent. Even now there are some political parties. The Free Soil Party, the Populists the Prohibitionists and the National Progressive party are some among them. At present the Communist Party and socialist Party also exist. But these minor parties play a very little role. Hence the American Party system is called Bi-Party system.

Both the prominent political parties in the U.S.A. have more or less similar organization. At the national level there is a National Council consisting of about 1500 members. It holds session once in four years. The National Council conducts the organization of the Party. It elects its own president. It also elects the candidates for the posts of President and Vice-President of the U.S.A. The President of the party is in charge of the election campaign. He establishes contact between the centre the state units of the party. The National council has its own secretariat. The Secretariat prepares the speeches of the leaders, collects money for the party, and performs such other activities. At the state level also there is a council and other structures as at the centre. Besides, there are Country Councils, District Councils, City Councils, Town and Village Councils. The party system give more importance to the local interests.

The political parties in the U.S.A play a very important role. They educate and organize the people. They enable the people to form public opinion. The party system makes the election of the President direct and simple. The two parties in the U.S.A. have more or less similar ideologies. Hence, H. Finer says, "America has only one party, Republican-cum-Democratic, divided into two nearly equal halves by habits and the contest for office, the Republican being one half and the Democratic being the other half of the party".

The U.K. and the U.S.A. the Bi-party System is present. In both the countries the parties were created as extra constitutional agencies. However, the systems in the two countries differ in many aspects. In U.K. the parties have different and opposing ideologies. But in U.S.A. there is no much ideological difference between the two parties. The presence of Spoils system also makes some difference between the two systems. Until recently thousands of the Government posts were distributed by the president among his party supporters and workers. Merit system was not adopted in filling up these government posts. In the recent years the merit system has replaced spoils system. However the spoils system has not been abolished completely. This party patronage enables certain political leaders to become party bosses. In U.K. there is parliamentary form of government. So the leader of the majority party becomes the Prime Minister and the leader of the other party becomes the opposition leader. But in the U.S.A. there is Presidential form of government. There is no connection between the President and the Congress. The President may belong to Republican Party and at the same time the Democratic Party may have majority in the Congress. In U.K. all the ministers belong to the ruling party. But in U.S.A. the President appoints his Cabinet members from both the parties. In Britain the members of the Parliament are directed by the party whips to vote this way or that way. The members never act against the party command. Hence any bill introduced by the ministers are easily passed. In U.S.A. the political parties engage in 'lobbying'. The political parties try to persuade the legislators in the states as well as the members of the Congress to vote for or against a legislative measure. This process of persuasion is called lobbying. Lobbying is not practiced in U.K. It is not necessary there. When the ministers present the bills, the ruling party members support them automatically without giving much importance to their personal views.

But in a presidential form of government as in U.S.A. it is not possible. In U.K. the political parties are always active. The British parties are constantly engaged in activities of propaganda. The ruling party is always vigilant on the attempts of the opposition party to discredit the government. The opposition party is active in exposing the failures of the government. But in U.S.A. the parties are active only during elections. Thus, there are many differences between the party systems in U.K. and U.S.A.

11.5 POLITICAL PARTIES IN SWITZERLAND

In Switzerland, the importance of political parties is comparatively less than the political parties of America or England. However, like America and England, there are many political parties in Switzerland. A brief discussion of the prominent political parties of Switzerland is being given below:

1. Liberal Party

In 1848, when the Constitution of Switzerland was made, two opposing viewpoints were also born. While one section of the people wanted to make the central administration more powerful, the view of other section of people was conventional. The people of first view-point were called liberal and the people of second view-point were called conservative. This marked the beginning of political parties of Switzerland. The Constitution of 1848 is, in fact, the contribution of the Liberal party. Slowly and gradually the power and influence of this party decline and in the modern is still found in Geneva, Lozon, Newcital and Basel city etc. The importance of this party is great because of the fact that it had the credit of giving the Constitution of 1848 to the country. In modern period, protestants are the members of this party.

2. Radical Party

In 1881, a radical democratic groups seceded from the above party and formed a new party. Slowly and gradually the influence of this group increased and by 1982 it had great influence is Swiss-politics. This party is in favor of the increase of bringing about the nationalism of railways. Unification of coinage system and state defense have also been due to the effect of this party. This party believes in secularism and political freedom of the people. In the economic field, it is in favor of the limited interference of the Government. In the modern period, this party has lost much of its past influence, yet this party is still in existence and members of this occupy important positions in the administration.

3. Social Democratic Party

This party is also a big and well-organized party of the Switzerland. This party is influenced from the Marxist view-point. The views of this party are more or less similar to the Liberal Party of Britain and Socialist Party of India. This party is in favour of the increase in the salary and wages of workers and nationalization of banks. It believes in the expansion of social insurances and favours equality of men and women and endeavors for the great of the right of franchise to women also. It believes in the establishment of democracy and giving of full help to the unemployed persons. It may, however, be

noted here that this party is in no way connected with the communist party.

4. Radical Conservative Party

This party entered into the political life of Switzerland with great impetus in near about 1890. This party is a staunch opponent of centralization. It does believe in secular education. It demands security of individual property and favours social reforms. It favours giving of more right to the Cantons.

5. Agricultural Labour Party

This party was formed near about 1918. This party is only a part of Radical Democratic Party. The aim of this party is to improve the conditions of the peasants, to render them financial help and to make efforts for passing of laws for the welfare of the peasants. Along with peasants, workers and the people of middle class have also been included in this party. From the point of view of national defense, this party is in favour of giving sufficient powers to the Federal Government.

6. Other Parties

Besides the above mentioned political parties, there are some other political parties also in Switzerland and they have their own importance in their respective areas. The Communist Party and the Independent Party are prominent among such parties. Some independent candidates also achieve success in the elections.

Organisation of Parties

The organization of the political parties in Switzerland resembles with the organization of political parties in Britain and America. There are very few parties, whose organization is from Cantons to the Federation. In modern period, except Socialist Democratic party, the organization of no other party is strong. Different parties are organized only in Cantons. With the increase of the powers of Central Government, different parties have started organizing themselves on central basis. Each party holds an annual session in which the representatives of the party participate. Each party publishes its manifesto and some parties even publish their newspapers. The parties collect money in the Cantons and participates in the election of the Federal Assembly. In Switzerland, people do not have high regard for professional politicians and that is why there are a very few such politicians. Swiss people do not give much subscription to the political parties nor do they see their self-interest in doing so. In Switzerland, importance is given more to the ability and the qualities of the candidates rather than to their party affiliation. There is not much conflict for different post, in Switzerland. Switzerland is the only such country, where Federal Council consists of the members of different parties and it has been successfully performing its functions for a long time. It is true that the organization of political parties has not been as good as in America or in Britain, but at the same time it is not the least doubt in the fact that in the party system of Switzerland highest importance is given to the national interest and much importance is not given to the feeling of party-politics.

Check Your Progress

4. List any two political parties in Switzerland?
5. Explain Agricultural Labour party?

11.6. ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. The term party has since come to be applied to all organized groups seeking political power, whether by democratic elections or by revolution.
2. A multi-party system is a political system in which multiple political parties across the political spectrum run for national election.
3. A two-party system is a party system where two major political parties dominate the political landscape.
4. Liberal Party, Radical Party
5. This party was formed near about 1918. This party is only a part of Radical Democratic Party. The aim of this party is to improve the conditions of the patients, to render them financial help and to make efforts for passing of laws for the welfare of the peasants.

11.7. SUMMARY

- **Political party**, a group of persons organized to acquire and exercise political power
- France had been a political laboratory. It had experimented different political systems
- France has multi-party system. There are about six prominent parties and many small parties.

11.8. KEY WORDS

Party - The term party has since come to be applied to all organized groups seeking political power, whether by democratic elections or by revolution.

Multiparty Systems - A multi-party system is a political system in which multiple political parties across the political spectrum run for national election.

Two-Party Systems - A two-party system is a party system where two major political parties dominate the political landscape.

11.9. SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. Write a short note about the Multiple Party System?
2. Explain about the various political parties in France?
3. Explain briefly about the single party system?

Long Answer Questions

1. Critically examine the various party systems in the world?
2. Evaluate the political parties in Europe?

11.10. SUGGESTED READINGS

J. C. Johari. (2011). *Comparative Politics*. Sterling Publishers Pvt.Ltd;
 J.C. Johari. (2012). *Major Modern Political Systems*. Shoban Lal & Co.
 O.P. Gauba. (2016). *Indian Political Thought* . Mayur Paperback.
 Kapur A.C. , Mishra K.K.(2016). *Select Constitutions*. S Chand.

BLOCK – IV DEMOCRACY

UNIT XII PRESSURE GROUPS AND DIRECT DEMOCRACY

Structure

- 12.0 Introduction
 - 12.1 Objectives
 - 12.2 Pressure Groups
 - 12.3 Direct Democracy
 - 12.4 Answers to Check Your Progress Questions
 - 12.5 Summary
 - 12.6 Key Words
 - 12.7 Self Assessment Questions and Exercises
 - 12.8 Suggested Readings
-

12.0 INTRODUCTION

In the previous unit you studied about the political parties in the world such as France, USA, Switzerland, and organization of parties.

In this unit you study about the Pressure Groups in British, America, and India. Also about the characteristics of Pressure Groups, types, Direct Democracy, Forms of Democracy in Switzerland and reasons for the success of Direct Democracy.

12.1 OBJECTIVES

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

- To develop the understanding pressure groups their role, aims and strategies.
 - Understand how citizens can participate effectively in Switzerland.
-

12.2 PRESSURE GROUPS

A pressure group can be described as an organised group that does not put up candidates for election, but seeks to influence government policy or legislation. They can also be described as ‘interest groups’, ‘lobby groups’ or ‘protest groups’. Some people avoid using the term ‘pressure group’ as it can inadvertently be interpreted as meaning the groups use actual pressure to achieve their aims, which does not necessarily happen. In Britain, the number of political parties is very small, whereas the number of pressure groups runs into thousands; as the membership of political parties has fallen, that of pressure groups has increased.

The term pressure group is a very wide definition that does not clearly distinguish between the groups that fall under the term. For example, a pressure group can be a huge organisation like the CBI (Confederation of British Industry), which represents 150,000 businesses, and it can also be a single-issue locally based organisation like CLARA (Central Area Leamington Resident’s Association), which represents less than 300 households campaigning to preserve and improve the town of Leamington Spa. The definition also does not distinguish between the more extreme pressure groups such as the Animal Liberation Front, whose campaigns include the illegal activities such as planting bombs, and the pressure groups such as the Institute for Public Policy Research (IPPR), which have links to the Labour government and regular contact

with cabinet ministers. The aim of all pressure groups is to influence the people who actually have the power to make decisions. Pressure groups do not look for the power of political office for themselves, but do seek to influence the decisions made by those who do hold this political power. Often pressure groups find themselves competing with rival pressure groups with the aim of gaining an advantage over them, but sometimes groups work together to achieve a common aim.

Pressure groups provide a means of popular participation in national politics between elections. They are sometimes able to gather sufficient support to force government to amend or even scrap legislation. For example, in March 1998 around 300,000 people went to London to protest about the Labour government's rural policies – the 'Countryside March' – the government reacted by announcing plans for a Ministry of Rural Affairs and by publishing a white paper investigating all aspects of rural life.

Pressure groups also provide a means of participation in local politics between elections. For example, in 1994 the A452 Coordination Group campaigned to block plans by Warwickshire County Council to make the A452 a dual carriageway. After the group's intense lobbying, the council dropped the plans. Pressure groups also act as a source of specialist knowledge, and often have access to information that is highly valued by decision makers. For example, MENCAP and MIND – groups campaigning on behalf of people with mental disabilities – are often invited to give government briefings. In return, these groups have an input into the making of decisions, and they can also receive financial contributions direct from the government.

A pressure group can use a variety of different methods to influence law. Firstly, it can merely inform legislators of its member's preferences. Second it may well give money or time to help with an election campaign. Third, its members may threaten, as a group, to vote as a bloc. By doing this they promise to help a cooperative legislator, and threaten to harm a non-cooperative legislator. Fourth, a pressure group may speed up legislation by writing bills and helping legislators make progressive agreements. Finally, a pressure group may attempt to influence members of the executive, who have some law making input and who can partly decide the strength and effectiveness of law enforcement.

Pressure Groups in British

Charter 88 – campaigning for a written constitution and entrenched Bill of Rights; British Union for the Abolition of Vivisection – campaigning to halt the breeding and use of animals in experiments; British Roads Federation – aiming to focus attention for a higher standard of service from the UK road network; Earth First – campaigning against the destruction of the environment; Liberty – campaigning to defend and extend human rights and civil liberties; Unison – trade union for public sector workers; National Union of Students (NUS); National Union of Teachers (NUT); National Farmer's Union (NFU); British Medical Association (BMA); Institute for Public Policy Research (IPPR); Royal Society for the Prevention of Cruelty to Animals (RSPCA); National Society for the Prevention of Cruelty to Children (NSPCC).

Pressure Groups in America

Pressure groups have had to target government bureaucracy in America. Many day-to-day decisions are made by bureaucrats, by Departments of State and regulatory commissions. Pressure groups, therefore, are concerned that their views are represented at this level. Bureaucrats can also make use of the knowledge pressure groups might have on an issue that they represent especially if one government agency is in dispute with another. To gain influence in government bureaucracy, pressure groups have adopted a number of methods:

Pressure groups might seek to influence political appointments. A number of President Bush's current cabinet are known to favour relaxing environmental rules and regulations concerning opening up areas such as nature reserves etc. The appointment of Christine Todd-Whitman as Environment Secretary did not enthuse environmentalists though there is no evidence that she was appointed as a result of pressure group activity. John Ashcroft (Attorney-General) and Tommy Thompson (Health) are both opposed to abortion and their appointment would have pleased the more and more politically powerful anti-abortion lobby though, again, there is no evidence that pressure group activity led to their appointment.

Pressure groups seek to become part of the bureaucratic process in that bureaucrats need information on many issues and they can therefore direct their questions to those who would know the answers to them.

Pressure groups will also try to gain access to policy planning groups in order to help shape future government proposals.

Those in pressure groups who have expert knowledge on certain issues will try to maintain close personal contact with key members of the Federal government so that they might effectively become part of a group who are consulted on policy issues.

Pressure groups might also support government programmes in which they do not have a direct interest so that they can gain some credit within the Federal government for the passage of an act and hope to gain support for what they believe in at a later date.

A close relationship with the Federal government's bureaucracy is often argued to be the most important dimension of a pressure group's work. If successful in this area, a pressure group might end up helping to shape future government initiatives.

Pressure Groups in India

The term 'pressure group' originated from in the USA. A pressure group is a group of people who are organised actively for promoting and defending their common interest. They are a vital link between the government and the governed. They keep governments more responsive to the wishes of the community, especially in between elections. They are different from the political parties in that they neither contest elections nor try to capture political power but their activism influence the public policy.

The term 'pressure group' originated from in the USA. A pressure group is a group of people who are organised actively for promoting and defending their common interest. They are a vital link between the government and the governed. They keep governments more responsive to the wishes of the community, especially in between elections. They are different from the political parties in that they neither contest elections nor try to capture political power but their activism influence the public policy (Government Decision). These groups promote a specific issue and raise it

up the political agenda or may have more general political and ideological objectives in mind while campaigning. These groups make efforts to bring government into the podium of accountability.

Characteristics of Pressure Groups

1. Pressure groups may operate at local, regional, national or even international level, depending upon the cause and notice.
2. All interest groups share a desire to affect government policy to benefit themselves or their causes.
3. They are usually non-profit and volunteer organization
4. They seek to influence political or corporate decision makers to achieve a declared objective.
5. Pressure groups are collections of individuals who hold a similar set of values and beliefs on the basis of ethnicity, religion, political philosophy, or a common goal.
6. Pressure groups often represent viewpoints of people who are dissatisfied with the current conditions in society.
7. These are a natural outgrowth of the communities of interest that exist in all societies.
8. They never form government of contest election but influence the decision of Government or public policy. They seek to create change by being elected to public office, while pressure groups attempt to influence political parties. Pressure groups may be better able to focus on specialized issues, whereas political parties tend to address a wide range of issues.
9. Pressure groups are widely recognized as an important part of the democratic process.

What is the difference between Nationality and Citizenship?

Types of Pressure groups in India

A large number of pressure group exists in India but unfortunately they are not developed as compare to the Western Countries like England, France and USA. It can be classified into following categories.

Business Groups

The Business group is one of the most important, influential and organised pressure groups in India. Examples of business groups- Confederation of Indian Industry (CII), Federation of Indian Chambers of Commerce and industry (FICCI), Associated Chamber of Commerce (ASSOCHAM) – major constituents are the Bengal Chamber of Commerce Calcutta and Central commercial organisation of Delhi.

Trade Unions

Trade unions cater to the demand of workers and labours of the industries. Alternatively, they are also known as labour groups. In India, different trade unions represent different political parties. Examples- The All India Trade Union Congress (AITUC), All India Trade Union Congress (Communist Party of India)

Agrarian Groups

These groups represent the farmer community of India and works for their well-being. Example- Bhartiya Kisan Sangh, Hind Kisan Panchayat (control of socialist).

Professional Association

Such association, raise the concern of working professional in India ranging from lawyers and doctors, journalists and teachers. Examples include Association of Engineers, Bar Council of India (BCI), and Dental Council of India.

What is the difference between e-Government & e-Governance?

Student Organisations

There are various organisations present to represent the causes and grievances of students in India. Examples are National Students Union of India (Congress), All Assam Students Union (Asom Gan Parishad), Chhatra Yuva Sangharsh Samiti (Aam Admi Party).

Religious Organisations

The organisations based on religion have come to play an important role in Indian Politics. They represent the narrow perspective and are often termed as anti-secular. Examples of these organisations are Rashtriya Swyam Sevak Sangh, Vishwa Hindu Parishad, Brahma Samaj.

Caste Groups

Caste has been one of the salient features of Indian Society. However, it has always been one of the ideologies discouraging the aspiration of people and constitution of India. The caste factor is always prevalent in elections of India. Examples of caste groups are Marwari Association, Harijan Sewak Sangh.

List of all Presidents of India from 1947 to 2017

Tribal Organisation

Tribal in India are prominent in Central India and North East India, and are also active in Central Indian Tribal belt and in north east India. These organisations include National Socialist Council of Nagaland, All-India Jharkhand, and Tribal Sangh of Assam

Linguistic Groups

There are 22 scheduled languages in India. However, there have been many groups and movements working for the welfare of languages in India. For example- Hindi Sahitya Sammelan and Tamil Sangh etc.

Ideology Based Group

Ideology based groups have been recently formed. Some examples of these groups include Environment Protection Groups like Narmada Bachao Andolan and Chipko movement, Democratic rights organisation, Gandhi Peace Foundation, Woman rights organisation, Civil liberties associations.

Anomic Groups

Anomic pressure groups refer to those spontaneous groups which are formed with a collective response through riots, demonstrations, assassinations, etc. The Indian government and bureaucratic elite overwhelmed by the problem of economic development and scarcity of resources available to them, inevitably acquires a technocratic and anti-political frame of mind, particularistic demands of whatever kinds are denied legitimacy. As a consequence, pressure groups are alienated from the political system. Some of the anomic pressure groups are- Naxalite groups, United Liberation Front of Assam, All Assam Student's Union, Jammu and Kashmir Liberation Front.

Check Your Progress

1. Expand NUT?
2. Expand NSPCC?
3. Expand ASSOCHAM?

1 Form of Democracy in Switzerland

What is direct democracy ? Democracy means the rule of people. According to Prof. Dicey, democracy is that type of Government in which

ruling class is comparatively as class or larger party of the whole nation. There are two types of democracy – direct and indirect. In the modern period due to big size and large population, many countries have adopted indirect democracy in the place of direct democracy. But in Switzerland, in the Cantons of Uri, Appenzle, Unter Walden and Glarus etc. even today there exists direct democracy. In these Cantons, people take direct part in the making of laws and perform other administrative works. In order to perform these works an open air assembly is called, which is known as Landsgemeinde.

Besides the above mentioned Cantons, representative democracy has been adopted in other Cantons, but in those Cantons also the means of direct democracy, such as referendum, initiative and recall etc. have adopted.

2 Reasons for the Success of Direct Democracy

Direct democracy of Switzerland is a surprising feature for different countries of the world. The form of democracy that is prevalent in Switzerland is unique. Direct democracy has proved to be a complete success in Switzerland. Following are the main reasons for the success of direct democracy in Switzerland :

- 3 **Past historical character of the Swiss people :** One of the reasons for the success of direct democracy in Switzerland is the past historical character of the Swiss people. In Switzerland, from the very beginning there were many small States and the Swiss people lived a very simple life.
- 4 **Long experience of Local Self-Government :** In Switzerland, from the very ancient period small tribes lived and they had sufficient experience of Local Self-Government. The institutions of Local Self-Government have been in existence in Switzerland for a long time.
- 5 **Small size of the country :** Success of democracy is not possible in a big country. In ancient period, democracy flourished in the small City-States of Greece such as Sparta, Athen. The size of Switzerland is comparatively smaller than other countries and it is easier to ascertain the views of the people. Consequently, direct democracy is flourishing in Switzerland.
- 6 **Limited Population :** Direct democracy cannot succeed in a country having large population because it shall become very difficult to know the views of the people in every important matter. The total population of Switzerland is nearly 80 lacks, which is comparatively far less than the population of other countries. It is because of limited population, the direct democracy has succeeded in Switzerland.
- 7 **Democratic Conventions :** In Switzerland, there have been democratic conventions for hundred of years. In the words of Bryce: "... direct legislation is a natural growth in Switzerland and that is due to soil of that country".
- 8 **Independent tendency of the people :** Yet another reason for the success of direct democracy of Switzerland is the independent tendency of people. The voter of Switzerland is not influenced by the decision of the political parties, but he freely and impartially tries to elect able and experienced persons.
- 9 **Lack of well organized Political Parties :** Well organized political parties encourage indirect democracy but there is lack of such political parties in Switzerland.

10 Lack of economic and social disparity : In Switzerland we do not find the existence of wide social and economic disparity among the people, as we find in India. Switzerland is a rich country and because of the absence of poverty, corruption is not rampant there. On the other hand, although people of many castes reside in Switzerland yet there is social equality among them. Consequently, there is a very little feeling of conflict among the people. It is because of this reason that the system of direct democracy which has been in existence in Switzerland for a long time, still exists.

11 Religious Tolerance : People of different religions live in Switzerland. They speak different languages. Consequently, they do not make any endeavour to establish their authority over the administration, as is done in India. In Switzerland, we still find the decentralization of powers and it is because of this decentralization that direct democracy is flourishing in Switzerland.

Expansion of education and the character of people : It is necessary for the success of direct democracy that the citizens should be educated. Educated citizens make full use of their independence, while casting their votes. They take their decision very cautiously. In the country where there is mass illiteracy, not to speak of direct democracy, even democracy cannot succeed. Education keeps the citizens safe from temptations and other allurements and helps to make their character high. It is on account of wide-spread literacy and education that the ideal form of honesty and dutifulness are found in the citizens of Switzerland. They are full of feeling of public welfare and they selflessly participate in the work of administration.

Thus, we see there are many reasons which account for the success of direct democracy in Switzerland. There are many other reasons also, besides the reasons mentioned above. Even today, the direct democracy of Switzerland is an ideal for the different countries of the world, and it is really a very astonishing feature in the 20th century which is full of conflicts.

Check Your Progress

4. Expand AITUC?
5. List some of the examples of Agrarian groups in India?

**12.4. ANSWERS TO CHECK YOUR PROGRESS
QUESTIONS**

- 1 National Union of Teachers
- 2 National Society for the Prevention of Cruelty to Children
- 3 Associated Chamber of Commerce
- 4 All India Trade Union Congress
- 5 Bhartiya Kisan Sangh, Hind Kisan Panchayat (control of socialist).

12.5. SUMMARY

- A pressure group can be described as an organised group that does not put up candidates for election, but seeks to influence government policy or legislation.

- The term 'pressure group' originated from in the USA. A pressure group is a group of people who are organised actively for promoting and defending their common interest
- Democracy means the rule of people. According to Prof. Dicey, democracy is that type of Government in which ruling class is comparatively as class or larger party of the whole nation.

12.6. KEY WORDS

Pressure Groups - A pressure group can be described as an organised group that does not put up candidates for election, but seeks to influence government policy or legislation. They can also be described as 'interest groups', 'lobby groups' or 'protest groups'.

Landsgemeinde - "cantonal assembly" is a public, non-secret ballot voting system operating by majority rule, which constitutes one of the oldest forms of direct democracy

Anomic Groups - Anomic pressure groups refer to those spontaneous groups which are formed with a collective response through riots, demonstrations, assassinations, etc.

12.7. SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

- 1 Write a short note about the characteristics of Pressure Groups?
- 2 Explain about the various types of Pressure Groups in India?
- 3 Explain briefly about the reasons for the success of Direct Democracy?

Long Answer Questions

- 1 Critically examine the role of Pressure Groups in India?
- 2 Evaluate the impact of Direct Democracy?

12.8. SUGGESTED READINGS

- J. C. Johari. (2011). *Comparative Politics*. Sterling Publishers Pvt.Ltd;
- J.C. Johari. (2012). *Major Modern Political Systems*. Shoban Lal & Co.
- O.P. Gauba. (2016). *Indian Political Thought* . Mayur Paperback.
- Kapur A.C. , Mishra K.K.(2016). *Select Constitutions*. S Chand.

UNIT XIII REPRESENTATION DEMOCRACY

Structure

13.0	Introduction
13.1	Objectives
13.2	Representative Democracy
13.3	Powers of Representatives
13.4	History
13.5	Definition and Examples
13.6	Characteristics of a Representative Democracy
13.7	Answers to Check Your Progress Questions
13.8	Summary
13.9	Key Words
13.10	Self Assessment Questions and Exercises
13.11	Suggested Readings

13.0 INTRODUCTION

In the previous unit you studied about Pressure Groups in British, America, and India. Also about the characteristics of Pressure Groups, types, Direct Democracy, Forms of Democracy in Switzerland and reasons for the success of Direct Democracy.

In this unit you study about the representative democracy, powers of representative its History, characteristics and various definitions and examples.

13.1 OBJECTIVES

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

- To define representative democracy
- To identify the pros and cons of representative democracy
- To compare and contrast representative democracies to other democracies

13.2 REPRESENTATIVE DEMOCRACY

Representative Democracy or indirect democracy is a type of democracy founded on the principle of elected officials representing a group of people, as opposed to direct democracy. Nearly all modern Western-style democracies are types of representative democracies; for example, the United Kingdom is a unitary parliamentary constitutional monarchy, France is a unitary semi-presidential republic, and the United States is a federal presidential republic.

It is an element of both the parliamentary and the presidential systems of government and is typically used in a lower chamber such as the House of Commons of the United Kingdom, Lok Sabha of India, and may be curtailed by constitutional constraints such as an upper chamber. It has been described by some political theorists including Robert A. Dahl, Gregory Houston and Ian Liebenberg as polyarchy. In it the power is in the hands of the representatives who are elected by the people. Political parties are often central to this form of democracy because electoral systems require voters to vote for political parties as opposed to individual representatives.

Check Your Progress

1. Explain House of Commons?
2. Define Royal Commission ?
3. Define Representative Democracy?

13.3 POWERS OF REPRESENTATIVES

Representatives are elected by the public, as in national elections for the national legislature. Elected representatives may hold the power to select other representatives, presidents, or other officers of the government or of the legislature, as the Prime Minister in the latter case.

The power of representatives is usually curtailed by a constitution (as in a constitutional democracy or a constitutional monarchy) or other measures to balance representative power.

An independent judiciary, which may have the power to declare legislative acts unconstitutional (e.g. constitutional court, supreme court).

The constitution may also provide for some deliberative democracy (e.g., Royal Commissions) or direct popular measures (e.g., initiative, referendum, recall elections). However, these are not always binding and usually require some legislative action—legal power usually remains firmly with representatives.

In some cases, a bicameral legislature may have an "upper house" that is not directly elected, such as the Senate of Canada, which was in turn modeled on the British House of Lords.

13.4 HISTORY

The Roman Republic was the first known government in the western world to have a representative government, despite taking the form of a direct government in the Roman assemblies. The Roman model of governance inspired many political thinkers over the centuries, and today's modern representative democracies imitate more the Roman than the Greek models because it was a state in which supreme power was held by the people and their elected representatives, and which had an elected or nominated leader. Representative democracy is a form of democracy in which people vote for representatives who then vote on policy initiatives as opposed to a direct democracy, a form of democracy in which people vote on policy initiatives directly. A European medieval tradition of selecting representatives from the various estates (classes, but not as we know them today) to advise/control monarchs led to relatively wide familiarity with representative systems inspired by Roman systems.

In Britain, Simon de Montfort is remembered as one of the fathers of representative government for holding two famous parliaments. The first, in 1258, stripped the King of unlimited authority and the second, in 1265, included ordinary citizens from the towns. Later, in the 17th century, the Parliament of England pioneered some of the ideas and systems of liberal democracy culminating in the Glorious Revolution and passage of the Bill of Rights 1689.

The American Revolution led to the creation of a new Constitution of the United States in 1787, with a national legislature based partly on direct elections of representatives every two years, and thus

responsible to the electorate for continuance in office. Senators were not directly elected by the people until the adoption of the Seventeenth Amendment in 1913. Women, men who owned no property, and blacks, and others not originally given voting rights in most states eventually gained the vote through changes in state and federal law in the course of the 19th and 20th centuries. Until it was repealed by the Fourteenth Amendment following the Civil War, the Three-Fifths Compromise gave a disproportionate representation of slave states in the House of Representatives relative to the voters in free states.

In 1789, Revolutionary France adopted the Declaration of the Rights of Man and of the Citizen and, although short-lived, the National Convention was elected by all males in 1792.[17] Universal male suffrage was re-established in France in the wake of the French Revolution of 1848.

Representative democracy came into particular general favour in post-industrial revolution nation states where large numbers of citizens evinced interest in politics, but where technology and population figures remained unsuited to direct democracy. As noted above, Edmund Burke in his speech to the electors of Bristol classically analysed their operation in Britain and the rights and duties of an elected representative.

The U.S. House of Representatives, one example of representative democracy

Globally, a majority of the world's people live in representative democracies including constitutional monarchies and republics with strong representative branches.

13.5 DEFINITION AND EXAMPLES

Representative democracy is a system of government in which those who possess authority to govern the political society--those who have the right to make decisions that have the force of law and are therefore binding on all members of the society--acquire and retain this authority either directly or indirectly as the consequence of winning free and competitive elections in which the great majority of adult citizens are allowed to vote. Representative democracy, in other words, is government carried on by elected representatives. Authoritative decision making and action on public policy is carried on by government officeholders elected directly or indirectly by the voters and by those appointed or succeeding to their offices in accordance with the laws of the political community.

In a representative democracy, major officeholders in the government must face periodic election and are thereby made accountable (responsible, or answerable) to the voters for their official decisions and actions while in office. Elections are held at regular and comparatively short intervals. Thus, incumbent holders of elective office must regularly and frequently run for and win reelection in order to retain their positions of political authority. Free, competitive elections and public accountability put the voters in a position to cast judgement on the authoritative decisions and actions of public officeholders. If dissatisfied with the official decisions and actions, the voters can deny reelection to the official decision makers, voting them out of government office. If, on the other hand, the voters are satisfied with the authoritative decisions, they can reelect the authoritative decision makers.

Representative Democracy has four main features: (a) the sovereignty of the people expressed in the electoral appointment of the representatives; (b) representation as a free mandate relation; (c) electoral mechanisms to ensure some measure of responsiveness to the people by representatives who speak and act in their name; and (d) the universal franchise, which grounds representation on an important element of political equality.

- **Examples of Representative Democracy:**

Examples of representative democracy include all contemporary constitutional democracies, at the national level. In the U.S.A., the fifty states and most local governments, as well as the national government, are representative democracies.

In a representative democracy, the people elect officials to create and vote on laws, policies, and other matters of government on their behalf. In this manner, representative democracy is the opposite of direct democracy, in which the people themselves vote on every law or policy considered at every level of government. Representative democracy is typically employed in larger countries where the sheer number of citizens involved would make direct democracy unmanageable.

13.6. CHARACTERISTICS OF A REPRESENTATIVE DEMOCRACY

The powers of the elected representatives are defined by a constitution which establishes the basic laws, principles, and framework of the government. The constitution may provide for some forms of limited direct democracy, such as recall elections and ballot initiative elections.

Elected representatives may also have the power to select other government leaders, such as a prime minister or president.

An independent judiciary body, such as the U.S. Supreme Court, may have the power to declare laws enacted by the representatives to be unconstitutional. In some representative democracies with bicameral legislatures, one chamber is not elected by the people. For example, members of the British Parliament's House of Lords and the Senate of Canada obtain their positions through appointment, heredity, or official function.

Representative democracy stands out in sharp contrast to forms of government such as totalitarianism, authoritarianism, and fascism, which allow the people little-to-no elected representation.

There are several basic characteristics that define a representative democracy without which the system cannot operate. One is characteristic that should be guaranteed in a representative democracy is an open opportunity for genuine competition amongst prospective candidates. Another characteristic of any representative democracy is the presence of independent media to facilitate free and non-partisan communication to the public. Universal participation is another characteristic of a representative democracy so that all eligible voters are allowed to cast their respective votes. Eligibility is usually defined by the mental capacity of an individual as well as the attainment of a particular age and not based on race, gender or religious affiliation. Therefore there should be inclusion amongst eligible members of the public during the election process. Another characteristic of a representative democracy is that the majority rule whereby candidates who attain the majority of votes cast automatically are

recognized as the victors by the whole population. Political equality is also another characteristic which defines a representative democracy where each voter is required to only cast one vote per candidate during elections with no exceptions. Therefore voter bribing is not allowed in representative democracies.

Check Your Progress

4. Name the First known Representative Government in the Western World?
5. List any two Characteristics of Representative Democracy?

13.7. ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. The House of Commons, officially the Honourable the Commons of the United Kingdom of Great Britain and Northern Ireland in Parliament assembled, is the lower house of the Parliament of the United Kingdom
2. A royal commission is a major ad-hoc formal public inquiry into a defined issue in some monarchies. They have been held in the United Kingdom, Australia, Canada, New Zealand, and Saudi Arabia. A royal commission is similar in function to a commission of inquiry (or, less commonly, enquiry) found in other countries such as Ireland, South Africa, and regions such as Hong Kong.
3. Representative democracy is a type of democracy founded on the principle of elected officials representing a group of people, as opposed to direct democracy.
4. Roman Republic
5. Elected representatives may also have the power to select other government leaders, such as a prime minister or president. Representative democracy stands out in sharp contrast to forms of government such as totalitarianism, authoritarianism, and fascism, which allow the people little-to-no elected representation.

13.8. SUMMARY

- Representative Democracy or indirect democracy is a type of democracy founded on the principle of elected officials representing a group of people, as opposed to direct democracy.
- Representatives are elected by the public, as in national elections for the national legislature
- Representative democracy stands out in sharp contrast to forms of government such as totalitarianism, authoritarianism, and fascism, which allow the people little-to-no elected representation

13.9. KEY WORDS

House of Commons - The House of Commons, officially the Honourable the Commons of the United Kingdom of Great Britain and Northern Ireland in Parliament assembled, is the lower house of the Parliament of the United Kingdom.

Royal Commission - A royal commission is a major ad-hoc formal public inquiry into a defined issue in some monarchies. They have been held in the United Kingdom, Australia, Canada, New Zealand, and Saudi Arabia. A royal commission is similar in function to a commission of inquiry (or, less commonly, enquiry) found in other countries such as Ireland, South Africa, and regions such as Hong Kong.

Representative Democracy - Representative democracy is a type of democracy founded on the principle of elected officials representing a group of people, as opposed to direct democracy.

13.10. SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. Write a short note about the characteristics of Representative Democracy?
2. Explain about the various definitions and examples of Representative Democracy?
3. Explain briefly about the History of Representative Democracy?

Long Answer Questions

1. Critically examine the role of Representative Democracy??
 2. Evaluate the Powers of Representative Democracy?
-

13.11. SUGGESTED READINGS

- J. C. Johari. (2011). *Comparative Politics*. Sterling Publishers Pvt.Ltd;
 J.C. Johari. (2012). *Major Modern Political Systems*. Shoban Lal & Co.
 O.P. Gauba. (2016). *Indian Political Thought* . Mayur Paperback.
 Kapur A.C. , Mishra K.K.(2016). *Select Constitutions*. S Chand.

UNIT IV MERITS AND DEMERITS

Structure

- 14.0 Introduction
- 14.1 Objectives
- 14.2 Representative Democracy – Merits
- 14.3 Representative Democracy – Demerits
- 14.4 Answers to Check Your Progress Questions
- 14.5 Summary
- 14.6 Key Words
- 14.7 Self Assessment Questions and Exercises
- 14.8 Suggested Readings

14.0 INTRODUCTION

In the previous unit you studied about the representative democracy, powers of representative its History, characteristics and various definitions and examples.

In this unit you study about the Representative Democracy Merits and Demerits.

14.1 OBJECTIVES

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

- To understanding the differences that exist are normal in a democracy and should be respected, not regretted.
- To awareness that differences among people and deliberation, compromise, and voting exist not only in contemporary political life.

14.2 REPRESENTATIVE DEMOCRACY – MERITS

The structure of a representative democracy allows individuals to vote for a specific elected official who can represent their needs within the government. Instead of requiring a vote from everyone, every time an issue arises, the representatives are able to vote on the behalf of their district. This simplifies the process of the democracy while ensuring all parties receive representation.

One of the disadvantages of this system is that the elected official may decide to vote in a way that does not represent the majority of their district. They could choose to make a vote based on their own personal preferences or choose not to show up for the vote and leave their representatives without representation.

As with any form of government, there are additional advantages and disadvantages of a representative democracy that must also be considered

1. When operating as it should, it is a highly efficient form of government.

A representative democracy incorporates balances and checks within the structure of government so that one group doesn't gain more power over another group. When each party is performing their duties as they should, a representative democracy is quite efficient because it is designed to have people work together so there is a spirit of cooperation.

2. People still have a say in how their government operates.

Although a representative democracy takes away the direct decision-making power of individuals over national policy, it does not completely

eliminate their influence on the government. If the population is dissatisfied with the performance of their elected official, they can vote to remove that person on the next election cycle.

3. It provides thorough representation of the general public.

Elected officials are tasked with making decisions for their entire district or region. Everyone who lives in that area benefits from the official being part of the government. Even individuals who are not engaged in the political process benefit from this representation. This allows more people to benefit from the decisions the government makes when compared with other types of ruling structures.

4. People still have a voice.

Individuals may not be voting on individual issues within a representative democracy, but they can still have their opinions heard. Letters can be written to their representatives. Meetings with their representatives occur frequently during times of governmental recess. If the population feels like their voices aren't being heard by their elected officials, there is always the option to legally protest.

5. It simplifies the decision-making process.

Instead of forcing everyone to vote on everything, a representative democracy allows decisions to be made by a group of elected officials. In some instances, the leader of a nation may be given the power to make certain decisions on behalf of the electorate. Because of this assignment and delegation, decisions can be made quicker and this makes the government more responsive to a potential emergency situation.

6. Controls can be put into place to limit the individual actions of an elected official. Recall petitions and similar rules can be used within a representative democracy to allow a district to remove an elected official who is not meeting their expectations.

Check Your Progress

1. What are the pros and cons of representative democracy?
2. What was an advantage of representative government?
3. What are some disadvantages of a representative democracy?

14.3 REPRESENTATIVE DEMOCRACY – DEMERITS

1. It can easily devolve into gridlock.

A clear majority does not usually rule in a representative democracy. There are 2+ political parties in most systems that each have a specific platform of priorities they wish to pursue. When those platforms are polarized from one another, it creates gridlock within the government and that stops most of the work from being done. Even when there is a clear majority, as evidenced by the 2016 US political cycle, it can still be difficult to avoid gridlock because each representative has their own priorities to pursue.

2. Trust is required to make this government structure work.

Once an official is elected to represent them, the population must trust that their representative will pursue their needs as efficiently as possible. There is nothing that they can offer from that point forward besides faith in the political process. Someone with a secret agenda could co-opt an election,

become a representative, and then pursue something entirely different than what their election platform stated.

3. It requires frequent and open communication to be effective.

A common complaint about a representative democracy is that the elected officials are “out of touch.” This occurs because a representative must be present where the government meets, which could be thousands of miles away from their district. Some districts may also have highly varied socioeconomic groups that have conflicting needs. Without frequent and open communication with everyone, this system of government breaks down quickly.

4. This form of government encourages deception.

Because the power of the people is typically over after the vote takes place in a representative democracy, it encourages officials to be deceptive. Once they win the vote, they can pursue their own agenda and little is in the way to stop them for several years. In the United States, for example, a Senator is elected to a 6-year term.

5. It is still a costly form of government.

Although the costs are lower in a representative democracy compared to a true democracy, there are still frequent votes which must take place. Millions are spent on each election. For the two major political parties in the United States, they spent a combined \$1.6 billion on the 2016 Presidential election alone. To put that cost in perspective, a community food bank could provide over 5 billion meals to the hungry with that level of investment.

6. The majority still rules at the expense of the minority.

From the Civil Rights Movement in the United States to Apartheid in South Africa, there are numerous instances throughout history where the majority ruled at the expense of the minority. A representative democracy still depends on a majority rule structure to implement policies and make most decisions. When the majority is not ethically or morally right, the structure of government can put the lives of people who are in the minority at great risk.

7. In some ways, it discourages participation.

People know that they will receive governmental representation, whether they choose to vote or not, when there is a representative democracy in power. For some, that means they choose not to participate in the voting process because they automatically receive this representation. Others choose not to participate because the officials running in an election do not represent their needs. In some situations, it creates a situation where the minority can usurp the majority when there are high levels of non-involvement.

The advantages and disadvantages of a representative democracy show us that, with balance, it can be an effective form of government. As long as communication lines remain open and elected officials act honestly, the people can still have a voice in how their lives will evolve over time.

Check Your Progress

4. What was most important in a representative democracy?
5. What are the advantages of a monarchy?

14.4.ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. It is efficient. ...
It can come up with a well-balanced decision. ...
It lets the people elect their officials
2. The advantage of a representative democracy is its efficiency. A large group of people receive the benefits of living in a democracy by having one representative vote according to their needs, wishes or desires.
3. Representatives may distort peoples' demands to suit their political preferences. Representatives may not make themselves accountable enough between elections and can only be removed by elections if they lose the respect of the people.
4. Majority rule is the most important part of the representative democracy. Majority rule is the most important part of the representative democracy.
5. A monarchy typically maintains a stronger defense. Monarchies usually have the strongest armies and defensive protocols.

14.5.SUMMARY

- The structure of a representative democracy allows individuals to vote for a specific elected official who can represent their needs within the government.
- Elected officials are tasked with making decisions for their entire district or region
- People know that they will receive governmental representation, whether they choose to vote or not, when there is a representative democracy in power.

14.6.KEY WORDS

Monarchy - A monarchy is a form of government in which a natural person, the monarch, is head of state until death or abdication. The governing power of the monarch may vary from purely symbolic, to restricted, to fully autocratic, combining executive, legislative and judicial power

Gridlock - is a form of traffic congestion where "continuous queues of vehicles block an entire network of intersecting streets, bringing traffic in all directions to a complete standstill"

Minority - the smaller number or part, especially a number or part representing less than half of the whole.

14.7. SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. Write a short note about the merits of Representative Democracy?
2. Explain about the various demerits of Representative Democracy?
3. Explain briefly about the pros and cons of Representative Democracy?

Long Answer Questions

1. Critically examine the Advantage of Representative Democracy?
2. Evaluate the Disadvantages of Representative Democracy?

14.8. SUGGESTED READINGS

- J. C. Johari. (2011). *Comparative Politics*. Sterling Publishers Pvt.Ltd.
J.C. Johari. (2012). *Major Modern Political Systems*. Shoban Lal & Co.
O.P. Gauba. (2016). *Indian Political Thought* . Mayur Paperback.
Kapur A.C. , Mishra K.K.(2016). *Select Constitutions*. S Chand.