



## **STUDY GUIDE**

# **HISTORY OF ENGLAND (1688-1958 AD)**

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## HISTORY OF ENGLAND (1688-1958 AD)

**The Syllabus covers the entire history from the Glorious Revolution to the establishment of British Common Wealth of Nations and the outline of British Constitution.**

**The Study enables to know the true nature of the past History of England and how it overcame its obstacles that impeded its progress.**

### **UNIT: 1-The Glorious Revolution:**

Glorious Revolution Causes, Events, Significance - Downfall of James II Bill of Rights 1689- Consitutional Significance Act of Settlement 1701- William III and the development of Cabinet system- Role of Political Parties in the reign of William III and Queen Anne

### **UNIT: 11-Hanoverian Succession (1714-1820)**

Significance of Hanoverian Succession- George 1(1714-1727)- Sir Robert Walpole (1721-1742) Origin and growth of the Party System- Evolution of the Cabinet System George (1760-1820)- His Personal Rule

### **UNIT: 111-Parliamentary Reforms**

Reforms Act of 1832- The Chartist Movement - The Second Reforms Act of 1867- The Third Reform Act 1884- Parliamentary Act of 1911- The Reform Act of 1918-The Reform Act of 1928- The Parliament Act of 1949.

### **UNIT: IV Growth of the Colonial policy**

Old colonial System, its Decline- New Colonial System- Establishment of British Common wealth of Nations-Durham Report - Imperial War Cabinet (1917)-Dominion Status before and after the first World War- Balfour Report 1926-Statute of Westminster 1931-Growth of Dominions From 1931-1947.

### **UNIT: V Main outlines of British Constitution:**

Features of the English Constitution-Conventions- The King of England - The Cabinet System-The British Parliament - Rule of Law in England

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## HISTORY OF ENGLAND (1688 – 1958 A.D)

### UNIT - I

#### THE GLORIOUS REVOLUTION

Glorious revolution was one of the important landmarks in the constitutional history of England, Religion was the main cause of this revolution, accompanied by political causes, most that of the supremacy of king and parliament.

Charles II died on February 6, 1685. He was succeeded by his brother, James II, the Duke of York. The new ruler was fifty two years of age at the time of his accession to the throne. He was the second son of Charles I. His mother was Maria Henrietta, the Catholic princess of France. He was welcomed by the people of England because they had sympathies with him. They felt that the whigs had been very unjust and unfair to James II by constantly attempting to deprive him of his legitimate right of succession after Charles II and introducing for this purpose the Exclusion Bill in the Parliament. Under the influence of the Tories the people accepted the doctrine of divine right of Kingship and welcomed him as Charles II's successor. They also accepted the doctrine of non-resistance to the King's commands. They hoped that even though the new ruler was a Catholic he would not attempt to compel the people to accept his personal religious beliefs.

#### **Causes of Glorious Revolution**

#### **Conditions favourable for James II**

When James II became King of England the conditions were very favourable to him. The Exclusion movement had met its death by that time. The Whig party had almost been killed. The corporate towns had been forced to accept loyalty. Even though he was a Catholic, the Tories were eagerly loyal to him. The Bishops believed in the doctrines of divine right and hereditary succession and accepted the principle of non-resistance. None objected to the large standing army controlled by the King. He also won the favour of the people by making a promise to the Privy Council that, in spite of his Catholic views, he would not attempt to change the church or the constitution in any manner.



## **Aims and Objects of James II**

In some respects James II was a better man than Charles II but he lacked his brother's ability. Charles II pretended to despise public business. He manipulated the affairs in such a way that his ministers became the scapegoats for the faults of his own policy. He knew when to yield to the public opinion. He became content with the possession of the substance of power without bothering himself about its outward appearance. With these qualities in him he was successful in retaining the throne and restoring the fortunes of his line.

## **James II and religion**

But James II was a different man. He had a great regard for truth, honour and religion whereas his brother, Charles II, had none of these virtues. However, James was not tactful like Charles II. Like his father and grandfather he was outspoken and unable or unwilling to conceal his desire to enjoy arbitrary power. He openly made a reference to his Divine Rights. After the first few months of his reign his whole object was to re-establish the Roman Catholic religion as the state religion and to make himself an absolute ruler. He considered every opponent of his views as a rebel and a traitor. He was a fanatic in religious views and wanted to force Catholic religion on his unwilling subjects. He wanted to turn the tide of the time back to the days of Mary Tudor by re-establishing Catholicism and to the days of Henry VII by reviving absolutism. His two great ambitions were Catholicism in religion and despotism in politics and he was encouraged greatly by having around him loyal Tories, loyal Bishops and loyal army.

## **Parliament summoned**

James II summoned a Parliament in May, 1685. It was certainly a loyal Parliament because most of the members were Tories who had been returned by the king's own men, who were now in control of the town corporations and the government in the counties. The House of Commons that was elected at that time may be considered virtually as the nominated House. Only a handful of members, about forty, in total strength of about 5000, constituted the opposition group. As the parliament was overwhelmingly royalist it granted to the King a large revenue for life and was ready to do anything which he reasonably wished to do. In the words of Southgate, "The new Parliament was strongly loyalist and settled the royal revenue at Rs.1,900,000 per annum for life a sum much larger than that which Charles II had received. It



was unnecessary, therefore, for James to apply from time to time either to Parliament or to Louis for supplies. His income was so large as to make him independent of both.

### **Responsibility of James for the Glorious Revolution**

James II's position at the time of accession to the throne was very strong. He was the first English King who commanded the services of a trained and professional army. There were 20,000 soldiers at his command in England and his position in Scotland and Ireland was also solid and well-fortified. But unfortunately he was more Popish than the Pope and by his acts of omission and commission he destroyed the whole advantageous position. The people who were overwhelmingly loyal to him were turned into his enemies by his own mistakes. He was bent upon restoring Catholicism to its former glory and in attempting to do this he alienated the sympathies of his loyal supporters. In the beginning his position was very strong. But as G.B Adams observes: "From such a beginning it was no slight political achievement to have destroyed all his advantages in a trifle over three years and have brought himself to the point where he must abandon his throne as a fugitive with scarcely a supporter left". Consequently, in 1688, there occurred an unprecedented change in the administrative set up of the country which is known as the Glorious Revolution. The act of omission and commission cost James II not only to fly from the country and in his place William of Orange, his son-in-law, and Mary his daughter (William's wife) were installed on the throne of England as King and Queen.

### **Bloody Assize**

In the words of Ramsay Muir: "The Judge Jeffreys was sent down to teach a lesson to the rebel In what was known as the Bloody Assize, he condemned three hundred wretches to death, and their gibbeted bodies hung in rows by the roadsides. Eight hundred more were sentenced to transportation. Many of them were granted to courtiers, who sold them as slaves in the West Indies. For these brave deeds Jeffreys received a peerage and the office of Lord Chancellor is a two-edged one. This exhibition of cruelty began the reaction against James II". In the words of Southgate, "The result of this barbarity was that the south-west was completely crushed for the time being, and that sullen hatred of James and his rule remained".



Referring to the reaction against the King, G.M. Trevelyan observes thus: The revenge taken upon the rebels, first by Kirke and his barbarized soldiers from Tangier and then by Judge Jeffreys in his insane lust for cruelty, was stimulated by orders from the King. It was the first thing in the new reign that alarmed and disgusted the Tories. In the general horror felt at the long rows of tarred and gibbeted Dissenters along the roadsides of Wessex, came the first recoil from the mutual rage of parties that had so long devastated English Political and religious life, the first instinctive movement towards a new era of national unity and toleration".

### **Appointment of Catholic officers in the Army**

James appointed many Catholics as army officers thus violating the provisions of the Test Act of 1673. In this connection Trevelyan has made the following observation: "Contrary to the laws of land, which he claimed the right to suspend at will by his royal prerogative, he officered his regiments with all the Roman Catholic gentlemen whom he could induce to enter upon so dangerous a service. Their numbers were insufficient, and he was even less able to find co-religionists to fill the ranks, till he sent over to Ireland for shiploads of Celtic-speaking peasantry". Trevelyan further remarks: "England soldiers and civilians were agreed in regarding these latest recruits as foreigners and savages, whom it was the task of the Anglo-Saxon to keep docile and unarmed even in their own island. Now they were to be made masters of England herself. . . . James had done enough to confirm for another long period the antipathy of the Tory squires against standing armies, which they had twice seen employed, once by Cromwell and once by James II, to subjugate the gentry and subvert the Church".

### **Persecution of Huguenots**

The Tories had got alarmed at the increase the standing army and the cruelties committed by the army and Judge Jeffreys upon those who had taken part in the rebellion. In the meanwhile events in France also created an attitude of suspicion in the mind of the English people about the real aims and objects of the English King. The Huguenots (i.e. French Protestants) had been granted freedom of religion by Henry IV (the grandfather of the present ruler of France, Louis XIV) by the Edict of Nantes. In October 1685, Luis XIV repealed this Edict and inflicted dreadful cruelties upon the Huguenots. Thousands of French Protestants were forcibly converted to Catholicism. Thousands of them left their country or refuge in other countries. Many of them arrived in England and told their woeful stories to the English people.



Naturally the Englishmen sympathised with them and realised the dangers of granting large powers to their own King, James II, who was also a Catholic. It was supposed that Louis XIV had revoked the Edict under special Jesuit influence. As the people knew that a strong Jesuit influence was also prevalent in the court of James II naturally a suspicion was aroused in their mind which weakened their faith in any promises of the King.

### **Interference in affairs of Universities of Oxford and Cambridge**

The King now turned his attention to the affairs of Universities of Oxford and Cambridge. The Vice Chancellor of the Cambridge University, Sir Isaac Newton, had refused to admit a Benedictine monk to the degree of M.A without his taking the usual oath of assent to the Thirty Nine Articles of the Church of England. This oath could not be taken by a Roman Catholic, James II indicated his displeasure by depriving the Vice Chancellor of his position as head of his college.

At the University of Oxford, James II using his dispensing power, appointed many Roman Catholics to vacant posts. At Magdalen College he directed the Fellows that they must choose a Roman Catholic, named Farmer, as their President. But when they refused to do so and chose one of themselves named Hough as their president, the King deprived them of their fellowships and appointed Roman Catholic in their places. Although James did not persist upon the appointment of Farmer as President yet he nominated to the post another Catholic, named Parker, who was the Bishop of Oxford, and was a secret Papist. He had to take the help of the troops for the installation of the new President. In the words of Tevelyan: "The Fellows of Magdalen, Oxford were illegally deprived of their property and their great college was turned into a Roman Catholic Seminary". According to Southgate: "The King interfered to a greater or less degree in the affairs of other colleges. He would, if he could, have made the University into a Roman Catholic institution".

Trevelyan observes: "The effect of this act of tyranny was very great upon Oxford and on all who looked to Oxford for their opinions. It transformed the citadel of non-resistance and divine right into a rival town, that flew the Orange colours in the High Street during the most eventful winter in English history". The action of James increased greatly the public



excitement and fear but the King remained blind to these developments. The events moved rapidly to their natural conclusion.

In the words of Southgate: ". . . any progress that he made by securing Roman Catholic appointment was more counter-balanced by the opposition which was aroused by his high-handed proceedings. It seems remarkable that James should have thought: worthwhile to trouble himself so much with the two universities. Probably it was because young men were trained at these places to become clergy of the Church of England. If a thoroughly Roman Catholic atmosphere could be established at the Universities, the supply of clergy to the Church would, in future, consist of men with strong leanings to the Roman Catholic faith. Such men throughout Church, and in course of time James's aim of bringing in that faith would be achieved".

### **Appointment of Catholic Privy Councillors and other Officers of the State**

After the judgement in the case of Godden Vs. Hales, James began to violate the Test Acts completely. He began to introduce Catholic element into all organs of the body-politic. It was his policy to appoint Catholics to the high offices, in the Church as well as the State. He wanted to introduce Catholic into the Privy Council, the army, the universities the local governments and the Parliament.

So far as the Privy Council is concerned it was now composed of Jeffreys, who was now appointed as Chancellor, Father Patre, Sunderland and other Catholics who are called the sycophants. As already stated, the chief of these sycophants with whom the King surrounded himself was the Catholic Earl of sunder and who was clever but utterly corrupt and who did not scruple to announce his conversion to Catholicism in order to please the King. The Protestant members of the Privy Council were turned out. Halifax who protested against the breach of the Test Act was dismissed from office. Rochester was also dismissed because he refused to accept Catholicism as his religion. Strickland who was placed in command of the Navy was also a Catholic. Hales was appointed as the Officer-in-Charge of the military stores and equipment. Many military officers were also Catholics. All Irish Protestants were required to surrender their arms. In Scotland also the officers appointed were mostly Catholics.

### **Effects of the First Declaration of Indulgence**





The Declaration of Indulgence was issued by James II in order to gain the support of the Protestant Dissenters of Non-conformists But he failed to get his expectations fulfilled. The Non-conformists turned down the allurements offered to them by the King. As already stated they felt that the King was playing a trick with them in the interest of Popery. The fear of Popery properly brought the Whigs and the Tories together. The following repercussions of the First Declaration of Indulgence are worth our attention.

### **Antagonism between Crown and Church**

Referring to the Declaration of Indulgence G.M. Trevelyan says: "Crown and Church were bidding against each other for Non-conformist support. The crown offered religious toleration and civic equality by illegal Declarations of Indulgence suspending the obnoxious statutes. The Church promised religious toleration secured by statute, as soon as a free Parliament should meet. The Non-conformist, partly from their traditional preference of Parliamentary to Royal power and partly from the terror of Roman Catholic despotism on the French model, accepted the less dazzling but far less dangerous offers made by the Church".

### **James's Second Declaration of Indulgence (April, 1688)**

After he had issued his First Declaration of Indulgence James found that it was not received favourably by the Protestant Dissenters Charles II had also made a similar claim and had issued a Declaration of Indulgence with a similar purpose in 1672 but he was wise enough to withdraw it when he found the public opinion strongly opposed to it. James II also found that his Declaration was strongly opposed not only by the Churchmen but also by the Dissenters. Of course, the Declaration was issued for giving relief to the persecuted Dissenters and they also certainly needed relief from the cruelty of the law, but they realised fully that James's action was meant, in fact, to safeguard the interests of the Catholics and not those of their own and that, if James should carry his Schemes through, their lot would be more grievous than before.

Southgate observes: "But opposition did nothing to make James withdraw the Declaration. Instead, he issued a second Declaration of Indulgence, and ordered the clergy to read it in churches on two successive Sundays. Almost to a man they refused, and in the few cases where time-serving clergy (like the Vikar of Bray in the well-known song) read the



Declaration the congregation walked out. Samuel Wesley, the father of John Wesley, preached a famous sermon on words from the Book of Daniel, "Be it known unto thee, O king, that we will not serve thy gods, not worship the golden image that thou hast set up". G.B. Adams also refers to this: "In April, 1688, the second declaration of indulgence was issued, followed immediately by an order that it should be read in all the national churches. This seemed to the clergy not merely an illegal act of the king's but to require of them also illegal action".

### **Birth of a Son (June 1688)**

Before the trial of the bishops took place the birth of a son to James changed the whole situation which had not yet reached the stage of revolution. Of course, the public feeling was against the King but it had not yet reached the point of rebellion. James had encamped at Hounslow, near London an army of thirteen thousand men, mostly Irish and Roman Catholic, and under the command of Catholic officers and this army alone would have been sufficient to quell any possible attempt at revolt. Moreover there was a widespread feeling that rebellion was not worth-while.

James had only two daughters and no son. Both of them had Protestant learning's. The elder daughter, Mary, was married to William, Prince of Orange. The other daughter was Anne. James was an old man and the people expected that his reign would not last for many years. They hoped that at his death James would be succeeded by his daughter Mary who was a Protestant. In her reign all the illegal proceeding of James's reign would be reversed and thus James's reign no more than a "nine days' tyranny", would leave no permanent impression on the country. It was possible, therefore, to wait patiently in the hope that James would not carry the matters too far before the conditions would change i.e. before his death. But the situation became out of control when the news was announced of the birth of a son to James. In this connection Southgate says: "The nation learned with astonishment that the Queen, Mary of Modena, had given birth to a son in June, 1688. In the succession a son taken precedence of a daughter, and Mary was no longer next heir to the throne. The infant Prince of Wales would be brought up as a Roman Catholic, and the policy of James would be continued by a line of Roman Catholic kings. In their dismay at the turn affairs had taken many men refused to believe that the young Prince was genuinely the son of James, and tales were told of the infant having been smuggled into the palace in order to cheat the Princess of her rights of succession.



Although this was commonly believed at the time it is now generally recognized that the child was really the son of James".

### **Invitation to William of Orange**

The people of all shades and opinions in the country excepting the Catholics, now decided to come together, forgetting their differences, in order to take suitable steps to remove James from the English throne in view of his various acts of omission and commission. On June 30, 1688, when the public was rejoicing in the Capital and throughout the country on the acquittal of the seven bishops, a secret meeting of the Whigs, the Tories and the clergy was held at night. According to the decision taken at the meeting seven leading men, including both Whigs and Tories, signed an invitation to the Prince of Orange i.e., William, James's son-in-law, requesting him to come over and free the country from the tyrannical rule of James II. In this connection G.M. Trevelyan observes: "The birth of a Prince of Wales on June 10, had served as a warning to all that James's system would not end with his death. Neither Protestant Mary nor Anne, but their new Catholic brother would succeed to the throne. It was this consideration that finally brought round the majority of the Tories to reconsider their theories of non resistance. The man who led the party in this change of ground was its founder, Danby, ever a man of action and reality. It was he who had signed the invitation to the Prince, together with the suspended Bishop Compton, another Tory Peer, and four Whig Leaders".

James thus did everything which could he do, to see that Roman Catholicism was revealed in England. He did not conceal this but openly came out with his intentions. It was due to his this wrong policy that he turned his friends into foes and the country was forced to call William of Orange to come to England. Had he acted wisely, perhaps the things would have been altogether different.

### **DOWNFALL OF JAMES II**

James II came on the soil of England as a popular sovereign but within a short period of 3 years he became so unpopular that he had to leave the country and there was Glorious or bloodless revolution in the country.

### **Political situation in Europe**



Before we consider the events subsequent to the invitation it seems essential to briefly glance at the political situation in Western Europe.

### **Expansionist schemes of France and formation of the League of Augsburg**

The French King, Louis XIV had concluded peace with the Dutch in 1678 but still he was making expansionist schemes. Notwithstanding the fact that he was not formally at war Louis XIV took possession of several places west of the Rhine, in the Holy Roman Empire, during the following few years. These aggressive activities of the French King successfully aroused the apprehensions of the neighbouring states. Referring to these events in Europe Southgate says: "The alarm felt at his encroachments brought about in 1686 the formation of the League of Augsburg, an alliance of the Holy Roman Empire, Spain, many princes of the Empire and above all the Dutch, under William of Orange. The aim of the League was to restrict French aggression, and its existence was bound to result sooner or later to war. But the League was more powerful on paper than in the field".

### **James II's refusal to join the League of Augsburg**

The attitude of the English King was of great importance to the League of Augsburg. In case England would also become the member of the League it would come out to be a serious menace to France because the newly formed French navy would not be able to overcome the united fleets of the two great maritime powers, England and Holland. But James II was not prepared to repudiate the traditional policy of his family, Louis XIV was James's cousin and though James was not so closely in touch with his cousin as Charles II, his brother, had been before him, he was not willing to oppose his own cousin.

### **William accepts the invitation from the English leaders**

The invitation sent to William was accepted by him. Southgate writes: "Why however did William accept the invitation? Until the birth of the Prince of Wales there seemed little reason for him to do so. It would be foolish to risk his life and reputation in an expedition to gain what would come his way in the course of nature before long. But William was most anxious to secure the inclusion of England in the League of Augsburg, and James's refusal to enter the alliance against Louis seemed to him to afford sufficient reason for him to come to England. William was not eager to obtain the crown of England for its own sake. His heart



was in the defence of Holland. By becoming King of England he could secure the permanent alliance of England against France. It was worth his while to make the attempt.

### **James II refuses to accept French help**

Louis XIV was well informed by his secret agents and came to know through them that an invitation to William had been extended by the English people. He informed William that he would not allow him to send an expedition to England. James II came to know about French warning to the Dutch and felt very angry at his cousin because in his view the French threat to the Dutch implied that he (i.e. James) needed the French protection. When Louis received an intimation from James communicating his annoyance he decided to withdraw the French fleet from the English Channel into the French port in order to make it easy for William to cross over to England. Louis expected that, in any case, James would have to make an appeal to him for help, which he would provide at once.

### **Attitude of the Roman Catholics**

Even the Roman Catholics in England and Pope of Rome had no goodwill for the policy of James II. The moderate English Catholics did not desire to enjoy a political supremacy which they believed was impossible to achieve because any attempt to do so involved the risk of civil war. What they wanted was religious toleration and not political supremacy. But James was attempting to make the Catholics politically supreme and the nation was not going to tolerate. G.M. Trevelyan writes: "In these views they were supported by Pope Innocent XI, a man of sense and moderation.. . . he dreaded the French power in Italy and in Europe, and therefore watched with sympathy the sailing and the success of William's Protestant crusade, because it would release England from the French vassalage..... what the Pope and the moderate English Catholics hoped to obtain in England was not political supremacy but religious toleration. This, William publicly promised to secure for them to the utmost of his power...."

### **Flight of James II to France**

When James found that all of his supporters, even his daughter Anne, had defected to the enemy he made a fast attempt to save him from the predicament, by announcing certain



concessions but in vain. Southgate says: "The desperate King now made concessions. He abolished the Ecclesiastical Commission Court: he withdrew the Declaration. But it was too late, and as news of Williams advance reached him he fled. He was recognised at Sheerness and brought back to London, but a second attempt at flight was more successful and he reached France. Louis had been expecting James's messenger; he received the King himself". In the words of Mainland: "On 5 November William landed, on 11 December James fled from London and dropped the great seal into the Thames; On the 22nd he left the kingdom".

### **Organisation of a new government**

In July 1688, James had dissolved Parliament and, therefore, at the time of his flight there was no Parliament in existence. James had also dropped the great seal into the Thames. In the words of G.B. Adams: "James did his best to make the organization of a new government impossible by burning the writs which he had prepared to issue for another parliament and by carrying off the great seal. But there was no serious embarrassment".

### **Problem of succession to the throne**

James had fled to France. A problem of succession to the throne had arisen. William and Mary both were present in England. G.B. Adams observes: "There were grave differences of opinion as to what should be done with the throne at the opening of the convention parliament. Some wished to restore James with secure conditions; some wished a regent with James as titular king; others held that James had abdicated by his flight but that the crown at once fell to Mary, with no vacancy; and others still, that James had abdicated but that the throne was vacant and the nation had the right to fill it, fixing such conditions as would secure good government. It was this last view which finally prevailed, partly because of the refusal of William to accept any other".

In this connection G.M. Trevelyan has made the following observation: "The Tories, who already in the previous autumn abandoned non-resistance, found themselves in February compelled to abandon divine hereditary right: they agreed that a slight alteration should be made by Acts of Parliament in the order of succession to the throne. Henceforth, unless Parliament were 'divine', the right of English Kings to reign was of human origin. To avoid this logical defeat, many of the Tories would have preferred a Regency in James's name; and even Danby wished that James's daughter Mary should reign alone, with her husband as prince



Consort only. But when these arrangements were found to be impossible, the sense of the national danger caused the Tories to agree to the change of succession in favour of William and Mary jointly, the executive power being vested in the husband". At another place G.M. Trevelyan observes: "Even then it was probable that James could not have been deposed so strong was the Tory feeling for the hereditary right of Kings, had he not himself persisted in flying from the country and taking refuge with his wife and baby boy at the court of France.

### **THE BILLS OF RIGHTS (1689)**

We have already referred to a document known as the Declaration of Rights. It contained a statement of conditions on which the crown was offered to William and Mary conjointly. William and Mary accepted these conditions and along with it they also accepted the Crown. In the second session of the Convention Parliament which had now declared itself as being the proper Parliament, the Declaration of Rights was embodied in a statute and adopted as law. In this enacted form it came to be known as the Bill of Rights. The Settlement of the Crown made in the Declaration of Rights The settlement of the crown made in the Declaration of Rights was confirmed by the Bill of Rights. According to the Declaration of Rights, William and Mary were to become the joint rulers of England, their title being purely Parliamentary (and not based upon Divine Right), though the exercise of the royal power and placed in the person of William alone. After their deaths the crown was to go to the heirs of the body of Mary then to her sister Princess Anne and the heirs of the body, and failing that line, to the heirs of the body of William by another marriage. Maitland says : "The Bill of Rights, passed in 1689, confirmed this settlement, adding a clause to the effect that any person who should hold communion with the see or Church of Rome or profess the Popish religion or marry a Papist should be incapable to inherit, possess or enjoy the crown and government of the realm, and that the crown should pass to the person next entitled".

In the Preamble, the Bill of Rights enumerated the various arbitrary of omission of James and stated that James himself had 'abdicated' the throne. Then the conditions according to which the new monarchs were to govern England were enumerated in the Bill. According to the provisions of the Bill the King could not henceforth use his suspending and dispensing powers. He could not establish Prerogative Courts for dispensing justice. He could not



maintain a standing army in time of peace without the consent of Parliament. Parliament was required to be held frequently for purposes of legislation and for redress of grievances. Freedom of speech and debate was to be allowed to the members of the Parliament. The King was to have no right to interfere in the elections of the Parliament. No excessive bail was to be demanded nor excessive fines or severe punishments were to be inflicted. The jurors were to be duly empanelled and returned.

It was also provided, as stated above, that the crown in future was not to be held by a Popish King or Queen, nor was it to be held by a person marrying a Popish partner. "The Bill of Rights provided for the succession by ordering that the joint reign of William and Mary should be followed by that of the survivors, and that their children should then succeed. If Mary outlived William and married again, her children would come next in succession. Then were to come her sister Anne and her children and lastly, the children of William by another wife, if he should outlive Mary and marry again. This would seem to be ample provision for succession, for William and Mary had no children the Princess Anne was mother of a large family. Her children died, however and within a dozen years it was found necessary to provide further against a failure of succession". (Southgate)

### **Constitutional Significance**

The Constitutional significance of the Glorious Revolution is evident from the various statutes enacted by the English Parliament, as enumerated in the previous question. The Bill of Rights bestowed the crown on William and Mary jointly and placed many restrictions on the powers of the King and Queen. Annual Parliaments were ensured through measures of financial and military control such as Civil List, Annual Grants, Appropriation of Supplies and Auditing of Accounts and Mutiny Act etc. By the Triennial Act the maximum life of the Parliament was fixed at three years. This was done in order to debar the King to keep a slavish Parliament going for a long time. Freedom of the Press was established by the repeal of the Licensing Act. Independence of the Judiciary was ensured by the Act of Settlement, 1701. Religious toleration was granted to all except the Roman Catholics. If we consider the constitutional importance of the Revolution typically the following points are worth mention:

### **End of the Doctrine divine right of Kings**





The Glorious Revolution brought to an end the struggle for constitutional power and supremacy that had lasted for about 90 years between the Stuart monarchs and Parliament and decided the issue in favour of the Parliament. The doctrines of divine right of kings and hereditary succession received a severe blow from the Revolution. In settling the crown on William and Mary and setting aside the claims of James II and his newly born son to the English throne the Revolution clearly envisaged that the king had no divine right to rule the country and that he held the government on "contract basis". The legal sovereign had no divine right to subvert the rights of the people. But the people had the right to impose any checks or limitations on the power of the King because the King's title was based on popular will.

The doctrine of passive obedience to a hereditary monarch was given up. The Parliament gained all powers in the state. The executive powers were gradually transferred from the King to his ministers who were in course of time made responsible to the Parliament. The Revolution made the Kings as one of the officials of the state who was like other subject to dismissal from his office in the case of neglect of his duties. The comparative positions of the King and the Parliament were now made clear. They were no longer rivals of each other. They enjoyed a partnership in the work of the government but the King was to have subordinate position while the Parliament was to enjoy the real power in the state. The Crown had to offer its full cooperation to the Parliament in its actions and policies. Thus the Revolution, established a constitutional monarch in the place of an absolute monarchy. It finally decided that henceforth neither the King nor-the Parliament alone was the sovereign lawful authority in England but it was the King-in-Parliament who was sovereign authority.

In the words of Ramsay Muir: "On his first flight he (i.e. James II) had thrown into the Thames the Great Seal of England in hope of inconveniencing his successors. What he had really thrown away was the emblem of Divine Right monarchy. He had thrown it away by his own deliberate folly. It was sunk for ever beneath the waters, and mired by the memory of his frantic tyranny". The flight of James was considered as an abdication and the throne was offered to William and Mary, not on the basis of divine right but on that of the Parliamentary grant on certain specified conditions.



### **Liberty of the People**

The King was now obliged to summon annual Parliaments. In these Parliamentary sessions the grievances of the people were considered and redressed. The hands of the people were strengthened not only by annual Parliament but also by the press and religious freedom. No arbitrary arrests of the people were now permitted. The Bill of Rights (1689), the Toleration Act (1689), the Licensing Act (1695), the Treason Act (1696) and the Act of Settlement (1701) brought to the people freedom of many descriptions. The Glorious Revolution set the people free from the arbitrary rule of the King and proved helpful in preserving and upholding the liberties of the people and in opening the path leading to the democracy.

### **Freedom of the Press**

Freedom of publishing books and pamphlets was a boon which was granted to the people by the Revolution. The printing of the books and pamphlets had been forbidden by the Licensing Act except in certain towns. A government license was essential which put many restrictions on the freedom of thought and expression through the press. The Act was to expire in 1694 and its renewal for the year 1695 was to be made by the Parliament, as it used to be done before. However, the Parliament refused to renew it and thus it lapsed automatically or in a sense was repealed. This resulted in the grant of freedom of press in England.

### **Independence of the Judges**

The Act of Settlement (1701) laid down that the judges could be removed only if both Houses of the Parliament presented an address to the King requesting their removal or dismissal from office. Now being free from fear of arbitrary dismissal the judges could now deliver a better justice to the people.

### **Annual Parliaments**

It was provided in the Bill of Rights that the Parliament should be summoned to meet more often. Previously, the Triennial Act of 1641 had made it obligatory for the King to summon Parliament at least once in three years. After Restoration, Charles II, used to summon Parliament frequently. During his reign of 25 years Parliament had met for at least 15 times instead of the required minimum of 8 times. But during the 4 years of his reign before his death



(i.e. from April 1681 to February 1685) he had summoned no Parliament. James II also called no Parliament during the last three years of his reign. This was all unconstitutional and illegal. The Glorious Revolution of 1688 - 89 made it compulsory for the King and Queen to summon Parliaments annually. The parliament passed the Mutiny Act which authorised the Crown to keep army and maintain its discipline through special army courts only for one year with the result that this authority had to be got renewed every year thus making it obligatory on the part of the King to call annual Parliament. Moreover, the Parliament began to make financial grants to the King for governmental purposes only for one year. In the words of Ramsay Muir : "Instead of voting a large revenue to the King for life, as had been done in cases of Charles II and James II, Parliament made the greater part of its grants only annual, thus ensuring that it should be summoned every year, and that its assent should be obtained for the purposes for which the taxes were to be spent; and it also "appropriated" particular taxes to particular purposes, thus ensuring its control over the main departments of government".

### **Stability of the constitution**

Before the Glorious Revolution of 1688-89 the English Kings did not take the previous Acts of constitutional importance like the Magna Carta (1215) and the Petition of Right (1628) seriously. They frequently attempted to violate the provisions of these Charters of liberty. But now the Glorious Revolution provided practical checks on the absolute powers of the Kings. No monarch afterwards had the courage, not even George III dared, to violate the sacred principles of the Glorious Revolution. In the words of G.M. Trevelyan: "..... the Glorious Revolution has an important place in the constitutional history of England. It established the constitution of the country. The long standing rivalry between the Stuart Kings and the Parliament came to a close. In this quarrel, the Parliament won and the King became subservient. The King had no alternative but to lend his cooperation and approval to the country's constitution. After James no monarch thought himself more powerful than the Parliament. Because of the quarrel between the King and the Parliament, the constitution of the country had become very weak. Now, both had cooperation between them. As a result the constitution became strong".



It was in the field of constitutional development that Glorious Revolution had serious effects. It authorised the theory of Divine Rights of Kings and brought an end to the concept of absolute monarchy. It gave freedom to the people and ended press censorship.

But its effects in the religious field were also equally far reaching, which we shall discuss in the Subsequent question.

### **ACT OF SETTLEMENT 1701**

The Act of Settlement was passed in 1701 in the reign of William III in order to provide for Protestant succession after Queen Anne. This Act afforded an other opportunity to the Parliament to place further restrictions on the powers of the King. Therefore, the Act contains not only the clauses relating to the succession to the throne but also the reduction in the powers of the King.

### **Circumstances leading to the enactment of the Act of Settlement (1701)**

The immediate cause responsible for the enactment of the Act of settlement was the succession problem. In the words of Southgate: "Before William's death the question of the succession to the throne caused some anxiety. Apparently it had been amply provided for in the Bill of Rights. But Mary was dead and had left no children. It was most unlikely that William would remarry. The succession, therefore, could be carried on only by the Princess Anne and her Children, all of whom died young. Only one of her children seemed to have any chance of growing up. He was born in 1689 and named William, after the King, who conferred on him the title of Duke of Gloucester. But he died in 1700, and it became certain that at the death of Anne the succession as arranged in the Bill of Rights would fail. Further provision was necessary and the Act of Settlement was passed in 1701.

### **Main Provisions of the Act of Settlement (1701)**

(i) It was provided in the Act that after Queen Anne's death the crown of England was to pass to the Electress Sophia of Hanover (a grand-daughter of James I) and her descendant, if Protestants.

(ii) The Act of Settlement also stated emphatically that the sovereign of England must be Protestant, and must be in communion with the Church of England. He should express his



faith in the established Church in his coronation Oath. It further stated that a Papist, or any person married to a Papist, should be excluded from the throne. It was provided "That whoever shall hereafter come to the possession of this crown shall join in communion with the Church of England as law established..."

(iii) The Act laid down that the King should not involve England in a war in order to protect his foreign dominions without the consent of the Parliament. It was provided "That in case the Crown and Imperial Dignity of this Realm shall hereafter come to any person not being a Native of this Kingdom of England and this Nation be not obliged to engage in any War for the defence of any Domination or Territories which do not belong to the Crown of England without the consent of Parliament.

(iv) It was provided that henceforth the King of England was not to go out of the dominions of England' Scotland and Ireland without the consent of Parliament.

(v) The Act provided that all matters of the State which were cognizable in the Privy Council were hence forth to be transacted in the full meeting of the privy council and not in the meeting of any of its Committees or any other institution.

(vi) Another provision of the Act was that henceforth no person who was born out of the Kingdoms of England, Scotland or Ireland or the dominions thereunto belonging was to become a member of the Privy Council or a member of the Parliament "or to enjoy any office or place of Trust either Civil or Military....."

(vii) It was laid down in the Act that no person who held an Office or place of Profit under the King or received a Pension from the Crown was to become a member of the House of the Commons.

(viii) Another important provision of the Act of Settlement was that the judges should be given fixed salaries and that they were to remain in office during good behaviour, to be removable only on an address to the Crown from both Houses of Parliament.



(ix) It was provided that no person impeached by the House of Commons could be protected by Royal pardon, "That no Pardon under the Great Seal of England be plead able to an Impeachment by the Commons in Parliament".

(x) In the end it was provided that every King on his accession to the English throne should confirm the laws of the country and rule accordingly. To quote from Robertson: "The said Lords Spiritual and Temporal and Commons do therefore further humbly pray. That all the Laws and Statutes of this Realm for securing the established Religion and Rights and Liberties of the People thereof and all other Laws and Statutes of the same now in Force may be ratified and confirmed. And the same are by His majesty by and with the Advice and Consent of the Said Lords spiritual and Temporal and Commons and by Authority of the same ratified and confirmed accordingly".

### **Constitutional importance of the Act of Settlement (1701)**

In the words of Robertson "This famous Act(i.e., Act of Settlement) is an important corollary to the Declaration of Rights. It completed the Revolution settlement both in prescribing additional limitations on the prerogative of the Crown with further declaratory principles securing the rights and liberties of the subject, and in defining the conditions on which the Crown should be held and in determining the order of succession to the throne". Like the Bill of Rights the Act of Settlement is also a great landmark in the constitutional history of England. According to G.B. Adams the Act of Settlement was "a constitutional act of almost equal significance to the Bill of Rights...."

### **WILLIAM III AND THE DEVELOPMENT OF CABINET SYSTEM**

In England there is at present the Cabinet system of Government. This system did not take birth on any particular date or in a particular year. It is the result of gradual evolution which can be traced back to its faint origin in the reign of Charles II. Technically the cabinet consists of ministers who constitute the advisory council of the King and as such they are a part of the Privy Council. But in reality they belong to the majority party in the House of Commons. They are appointed by the King on the advice of the Prime Minister who is the leader of the majority party, They work in close cooperation with the Parliament under the direction of the Prime Minister and remain in office so long as they enjoy the confidence of the Parliament origin other words, the confidence of the majority party in the House of Commons.



Theoretically all executive powers are exercised by the King in England but in actual practice these powers are wielded by the cabinet.

### **Development of the Cabinet System in the reign of William III**

Although some faint beginnings of the cabinet system may be traced back to the Restoration period yet the beginning was merely a beginning. No conscious understanding of the system was developed at that time. The cabinet system however developed under William III.

(i) Before the Revolution of 1688 the fundamental point of struggle between the King and the Parliament had been the question of Supreme power in the country. The Revolution settled that question in favour of Parliament. After the Revolution the problem, before the nation was how to devise a machinery or a body of ministers which should mediate between the king and the Parliament for smoothly carrying out in actual government the compromise arrived at in the Revolution settlement. However, this problem was not consciously realised by any body, either by the King or by the Parliament in a degree which could enable them to fully understand or anticipate the real significance or implications of the cabinet system as it works today. Whatever progress was made in this direction at that time was only accidental and not pre planned. Even then it was not a slight progress. In the reign of William III a fundamental principle of cabinet ministers must be chosen from the majority party in the House of Commons.

In the words of Ramsay Muir: "At the opening of his reign William naturally tried to avoid identifying himself with either of the political parties, and gave offices to the best men on both sides. But this led to friction and cross purposes among his ministers, while Parliament, in which there was now a Whig majority was very distrustful of Tory ministers. Accordingly, William gradually gave all important posts to Whigs, and by 1696 the Whigs ascendancy was complete. The group of ministers who held office at that period worked together so intimately that they were known as "The Whig Junto" and there were complaints that government by a secret clique was being revived. In reality the "Junto" of 1696 (whose ablest members were Somers, the Lord Chancellor, and Charles Montague the Chancellor of the exchequer) was the



first shadowy anticipation of a modern party cabinet. Cabinet, based on parties, was being forced into existence by the presence of circumstances".

In this connection we may also refer to Southgate who observes: "In the development of the British Constitution the reign of William III is important on account of two constitutional principles which came to the front. Neither was regarded as finally settled, and many years elapsed before they were taken for granted. It was found by experience that it was difficult for the country to be ruled by a mixed ministry, and the principle of Party Government came into being. And it was also found that the choice of the party from which ministers must be selected could not be left to the King: It must be the party which commanded a majority in the House of Commons".

(ii) In the reign of Charles II some difficulty was felt in harmonizing the king's policy and parliament's policy upon a common line of action. In the words of G.B. Adams:..... such conscious efforts as were made, as in Sir William Temple's plan for a reorganization of the privy council, were directed to creating a mediating, harmonizing body between these two great powers. These conscious efforts led to no result. So far any progress was made under Charles II, it resulted from the efforts of a small body of ministers who were in the confidence of the king and at the same time able to influence the action of parliament... As a matter of fact, the king was still, and for a long time after, the real executive. He chose his own ministers and controlled their policy and did not concern himself with parliament's approval of them nor consistently with parliament's approval of his policy. On its side parliament naturally regarded the new methods with some suspicion, as evidence of intrigue in the King's interest, but it knew no way of exercising its power of final decision except by making a square issue with the king, nor of holding the King's servant responsible except by asserting a direct responsibility enforced by the old practice of impeachment". Regarding the age of William III, G.B. Adams observes: "With the accession of William III this fundamental question at issue (i.e. question of supremacy) between king and parliament was settled.... never to be raised again. The characteristic feature of the new age was not a question of that king, nor the interpretation of the constitution, but it was progress upon the new task of devising machinery for carrying out in actual government the compromise settlement already reached. In workable machinery for this purpose, the age of William III made no great advance over that of Charles II. The mediating body still consisted of a small and informal group of ministers who enjoyed the confidence of the king and who were influential in parliament. The king still retained a very decisive control





over the conduct of government, especially in foreign affairs and he never dreamed of allowing parliament any voice direct or indirect, in the choice of his ministers".

G.B. Adams remarks: "The total result of William's reign which he passed on to his successor, Queen Anne, can hardly be described as more than tendency, but in one respect it was a tendency which had long prevailed and could no longer be successfully opposite. This feature of the result was the tendency to commit the control of national affairs to a small group within the council composed of the holders of the great offices, a group distinct enough to be often recognised and given a name, but not authorized nor even permitted by any law".

G.B. Adam further says: "But since the supremacy of parliament, which had been established in 1660 and confirmed in 1688, was not direct but indirect, and was not legally recognized impeachment was a less suitable method of control than it had been. What was needed to make the new position of parliament effective was not a means of punishing ministers for what they had done, but a means of making the authority of parliament effective throughout the process of deciding what to do. Only in such a way could there be exercised a real supremacy which was nevertheless indirect. Naturally also the men of the time did not realize this need. The whole process of this most important constitutional change was unconscious, and this fact must never be overlooked".

In the last year of William III's reign an Act was passed, known as the act of Settlement (1789), certain provisions of which gave a set back to the development of the cabinet system. These provisions were, firstly that no government servant, pensioner or policeman was to become the member the parliament and secondly that all public business cognizable in the Council was in future to be transacted by the full meeting of the Privy Council and not by any of its committees. If these provisions had not been repealed immediately after the accession of Anne, the growth of cabinet system would have stopped and the newly born institution would have met an early death. Both of these provisions were contrary to the principle of the cabinet system because the minister, according to this system, who are of course, the government servants, must be the members of the Parliament and also because the cabinet of these ministers forms only a committee of the Privy Council in technical sense.



## **ROLE OF POLITICAL PARTIES IN THE REIGN OF WILLIAM III AND QUEEN ANNE**

Origin of the political parties can be traced back to the reign of Charles II when a fierce controversy was aroused over the Exclusion Bill in the years 1678, 79 and 80. The nicknames 'Whig' and Tory had come to be used in those days for the two parties having opposite views about the Exclusion Bill. The Revolution of 1688 was, however, brought about by the joint action of the Whigs and the Tories who arrived at a compromise offering the throne of England to William III and Mary. It was in the reign of William III (1689 - 1702) and Queen Anne (1702 - 1714) that the Party system made a significant advance in the public life of the country.

The year extending from 1688 to 1714 are very significant from the point of view of development of party system. During this period of more than two decades the two political parties, Whigs and Tories, pronounced their definite theories, strengthened their organisations, formulated their respective programmes in clear terms and made their existence felt within and without the Parliament. Differing from each other in their political, religious and economic programmes and policies they exhibited an unusual enthusiasm in improving their resources and strengthening their organisations. The influence of the party politics on the public life of the country was so enormous and the role played by the political parties in bringing about a division among the English people was so significant that the different classes, sections and groups of the English people became active members and supporters of one party or the other.

### **Development of the party system in the reign of William III**

As already stated above it was in the reigns of William III and Queen Anne that the Whigs and the Tories further developed their organisations and formulated their programmes in clear terms. The Revolution of 1688-89 had been brought about by a compromise between the two parties but soon after the Revolution differences arose. In the words of Keir : "Temporarily united to achieve the Revolution, Whigs and Tories soon fell into bitter mutual animosity, fed largely by the religious divisions to which their existence was in great part due, reinforced by the conflicts of the commercial and landed interest, and conceivably also by corresponding social antipathies." Both the parties were bound to expound their own principles and theories.

### **Tory Principles**



The Tories believed in the principle of divine origin of monarchy. They upheld the idea of a sufficiently strong monarchy. They advocated the idea that the State must depend upon the existence of a sufficiently strong sovereign power vested in the monarch whom the people should support by rendering habitual and implicit obedience to him. They did not favour the imposition of any further check on the authority of the monarch. In religious matters they stood for Anglican Church. They advocated that uniformity was essential in religious affairs to maintain political stability. They were against religious affairs to maintain political stability. They were against religious toleration and wanted strict enforcement of the "Clarendon Code". They believed in passive obedience to the hereditary monarchy and were averse to the idea of violent resistance to anything which was regarded by the as one of the greatest crimes. The Tory Principles were embodied in the "Leviathan" of Hobbes gave a clear exposition of Tory Principles when he urged in his "Leviathan" that the "Sovereign" in the state must exercise absolute and unlimited political power. Similarly, sir Robert Filmier gave expression to the Tory Principles when he tried to establish in his "PLatriarcha" that the monarchy was divine in origin and hereditary in succession and that the best form of authority for the government of the world was the hereditary monarchy as it was chosen by God Himself for the purpose.

### **Party positions in the reign of William III**

The respective party position of the Whigs and the Tories in the reign of William III was equally strong. One or the other party was alternatively in a dominating position. The strength of the parties was well balanced so that the successive elections to Parliament resulted in majority on either side alternatively. In the words of Keir; "The Whigs dominated the Convention Parliament, the Tories that of 1690. The election of 1695 gave the Whigs a majority again, those of 1698 and 1701 restored and confirmed Tory preponderance". Thus we find the pendulum of strength swinging from one side to another at each election.

### **Development of bitter party strife**

In the last years of his reign Charles II had been successful in crushing the power of the Whigs. But, as Keir observes: "Though routed in 1681, the Whig party, expressing the ideals and interest of so large a section of the nation, could not be doomed to permanent extinction. According to him the Tory ascendancy could not have lasted for ever. The various acts of



omission and commission of James II destroyed the alliance between the monarchy and the Tory party, and both the Whigs and the Tories united in the act of bringing the Revolution, in the country. But this unity was only a temporary phase. In the words of Keir: "With the Revolution the Whig party re-emerged strong and revengeful. Temporarily united to achieve the Revolution. Whigs and Tories soon fell into bitter mutual animosity..... In the heated atmosphere of these various and complete dislikes, religious, economic and social, party bitterness waxed fast. The omission to renew the Licensing Act when it lapsed in 1694 enabled publication to be carried on subject only to the Common Law rules regarding blasphemy, sedition and the like. In printed and spoken word, sermon, speech, pamphlet, broadsheet and petition an era of intense partisan strife began".

### **Development of party system in the reign of Queen Anne**

#### **Party strife became more pronounced**

A momentous development took place in the party system of England in the reign of Queen Anne. It was during this reign that party system became firmly established in the country and became a permanent part and parcel of the British administrative machinery. The Whigs and Tories became more sharply divided on political, religious and economic issues upholding diametrically opposite views. Party spirit became more and more pronounced resulting in bitter rivalry between the two contending parties. It is said that this party spirit was witnessed even in matters of fashions in dress. So strong was the feeling of rivalry that even great literary figures like Addison, Steele, Swift Defoe, etc. "lent their pens to one side or the other". Addison and Steele began to propagate Whig philosophy while Swift and Defoe, the 'Political Pamphleteers' of the Tory party advocated the Tory principles. Thus eminent journalist lent their support to one party or the other. Party clubs were also organised to discuss the party affairs. Thus party spirit outside the Parliament became more pronounced and as a consequence of the heated literary controversy the principles of both the Whigs and the Tories became more distinct and clearly defined. Referring to the vigorous inflammation of party propaganda in the reign of Queen Anne Keir observes; "The pulpits of the Anglican parson and the dissenting minister reached the masses who blended their politics with their religion.

For the educated classes, newspapers were now supplanting the news-letters of former days. Periodicals commenting on the news began to appear, for example in Defoe's Review,



Addison and Steel's spectator Swift's Examiner and the like. Political Pamphleteers such as Defoe and Swift in his famous Conduct of the Allies, were enlisted in a war of words in which the parties rivalled each other and the government itself participated. All the conditions, in short, existed to tempt ambitious and masterful men to mobilise popular support for their own interests and beliefs".

### **Development of distinct programmes and policies**

In the reign of Queen Anne the Whigs and Tories further developed their distinct programmes and policies in domestic and foreign affairs. In domestic sphere the Whig party in accordance with its well formulated tradition of favouring religious toleration wanted to keep the Church under state control. Similarly the Tory party was staunch supporter of the Anglican Church. The members of this party were high churchmen who were averse to the idea of religious toleration and held the dissenters with whom the members of the Whig party fully sympathised. In foreign affairs also the two parties were opponents of each other's programmes. The Whigs exhibited the bitterest enmity towards France and its ruler Louis XIV, who was considered by them the most dangerous enemy of the English people for having made France a dangerous competitor of England in the sphere of trade and industry.

The continental policy of William III continued to be favoured by the Whigs in the reign of Queen Anne. They were against the principles of free trade. They were also in favour of carrying on the War of Spanish Succession with utmost vigour. On the other hand, the Tories were friendly towards France. They were averse to continental politics and had firm belief in the policy of free trade. They wanted to keep England aloof from European politics and therefore to conclude peace with France. They exhibited no enthusiasm for commercial and industrial development but instead worked for the safeguard of the landed interests. In the words of Trevelyan: "...many of the Tory party were more interested in passing laws against the Dissenters in beating Louis".

In this way party system during this period considerably developed. Both the Whigs and Tories developed their clear ideologies and organisations. It was to be realised that only that party which had majority in the commons only will form government.



## UNIT - II

### HANOVERIAN SUCCESSION (1714 - 1820)

End of Principle of hereditary succession with the succession of the Hanoverians to the English throne the theory of divine right of kings and the principle of hereditary succession were dethroned and came to an end. The Stuart dynasty was installed on the throne of England by virtue of its hereditary right. The Stuart monarchs strongly believed in the theory of the divine right of kings and in the principle of hereditary succession. But the theory of divine right of kings met its complete end during the reign of William III with the passing of the Act of Settlement, 1701. The principle of hereditary succession was also abolished and in its place the elective principle adopted.

According to this principle the Parliament could elect any person as the monarch even if he was very remotely connected with the erstwhile monarch whose throne had become vacant. Thus when Queen Anne died in August 1714 George I became the Sovereign of England in accordance with the provisions of the Act of Settlement, in spite of the fact that there were not less than fifty-seven claimants to the throne with a hereditary right whose claims had been discarded. Hence forth the Kings were to reign through Parliamentary title and not because of any hereditary right whose claims had been discarded.



Henceforth the Kings were to reign through Parliamentary title and not because of any hereditary principle of divine right. George I is thus known as the first constitutional King because he was the first to rule the country through the cabinet and Parliament whereas the previous monarchs considered their ministers only as advisers whose advice they could accept or reject.

Now it was established once for all that, for all political and constitutional purposes, the Parliament was the sovereign but and that there was no power above it. Now the Parliament was the symbol of authority and the Channel through which the will of the people could be expressed. George I succeeded to the English throne because the Parliament had willed it and henceforth it was people's will expressed through the Parliament that could decide the disputes of succession.

### **It paved the way for party System in England**

The Hanoverian succession to the English throne was constitutionally very significant. On the eve of the Hanoverian succession the Whigs were in majority in the House of Commons. They had seized political power from the Tories just before Queen Anne died. The first two Hanoverians, George I and George II, appointed the Whig ministers. It was William III who had first started the convention of appointing ministers, though unconsciously, from amongst the majority party in the House of Commons. When the coalition ministry failed and the Whigs obtained majority in the House of Commons William appointed only the Whig ministers. His successor, Queen Anne, adopted the same practice which proved incidentally a useful and convenient practice. This homogeneity among ministers brought about the uniformity of opinion and policy. This uniformity of views and decisions was unlikely to be achieved in case of appointment of heterogeneous ministers.

The Hanoverians knew fully well that they owed their throne to the Whigs whereas the Tories had opposed their succession. They therefore gave powers to the Whigs. For about fifty years Whig Oligarchy remained in possession of the reins of government. This strengthened the party system and we cannot disregard the fact that the present system of party government in England owes a great deal for its origin and development to the Hanoverian succession.



### **The office of "Prime Minister"**

Before the Hanoverian succession every King was his own Prime Minister. The history of England before that succession is identified with the history of Kings. But henceforth the history of England is the history of its Prime Minister. This is why it is generally said that "Foreign rulers have given England Prime Ministers." The first two Hanoverian Kings, George I and George II did not know the English language. They also did not know the habits and customs of English people. They were also not interested in English politics. They therefore, ceased to attend the meetings of the cabinet. In the absence of the King one of the leading ministers was known as the Prime Minister. At first George I also attended the meetings of ministers. But since he did not understand the deliberations in English he did not feel pleasant his presence at either the meetings of Ministers or those of the Parliament. He asked one of his ministers to represent him in the meetings of the cabinet and the Parliament. This minister, by virtue of his position, came to be regarded as Prime Minister. Thus was created the office of the Prime Minister. Sir Robert Walpole, the Whig is generally considered the first Prime Minister of England. We should remember, however, that officially no such designation as that of Prime Minister existed and it was only in the 20th century that this office was officially recognised. Of course, the cabinet system, with one of the ministers as the Prime Minister, as established on solid foundations by the Whigs during their ascendancy for about fifty years and it became very difficult for any ruler afterwards to destroy this foundation.

### **Parliament more powerful**

Before the Hanoverian succession the Kings of England used to attend important meetings of the Parliament and took part in the debates. They also sometimes withheld their assent from the measures passed by the Parliament. Queen Anne also attended certain Parliamentary sessions and once vetoed a bill passed by the Parliament. But George I and George II did not know English language and took no interest in English politics. They ceased to attend the meetings of the Parliament and thus Parliament was allowed greater freedom. Moreover, Parliament began to meet regularly and allowed the appointment of only those ministers who were acceptable to it.

### **The duration of Parliament**





When George ascended the throne of England the tenure of Parliament was three years according to the provisions of the Triennial Act passed by the long parliament. To make themselves more powerful the Whigs intended to extend this period. Hence the Septennial Act was passed and put on the statute book in 1716 extending thereby the Parliament from three years to seven years. This Act confirmed the fact that the Parliament was a supreme and powerful body in England. It began to consider and decide all questions concerning the economic, social and foreign policies of the country, the questions of the succession to the throne, and other questions of significant nature. Thus the foreign rulers made the Whigs powerful and the Whigs made the Parliament powerful by increasing its tenure. The Septennial Act continued to remain in force for two centuries. The powers of the House of Commons exceptionally increased under the Whigs.

Hanoverian succession is a very significant event in the history of England. With his accession the divine right theory met its final end and buried underground forever. The first George became the first constitutional monarch of England. The cabinet and the Party systems progressed under the Hanoverians and the post of the Prime Minister was created for the first time. In the words of Warner and Marten, "Constitutionally, the reign was of importance because the King ceased to attend the meetings of ministers, owing to the fact that he could speak no English; at first there was no Chief Minister, but when Walpole was called to office in 1721 he quickly made his supremacy felt in the cabinet of ministers and he is known in history as our Prime Minister. With the coming of Hanoverians an era of constitutional politics. In religious field the influence of the Church on the people and the public affairs came to nought. In political sphere the Whig aristocracy continued to wield power for about fifty years. The Parliament became supreme in the country. It became the symbol of authority and expression of the people's will.

### **George I (1714 - 1727)**

In England the cabinet system began in the reign of William III. It further developed in the reign of Queen Anne but it was only after the Hanoverian succession, under George I and George II when Sir Robert Walpole was the Prime Minister (i.e. 1721 - 1742) that this system can be stated to have been fully developed. He was the first English statesman under whom all



the fundamental principles of cabinet system of government took their shape. In the words of Trevelyan: "Neither Prime Minister nor cabinet system was contemplated in the Revolution Settlement. They grew up gradually to meet the country's needs in peace and in war. It was Sir Robert Walpole, the Whig Prime Minister from 1721 to 1742, who did most to evolve the principle of the common responsibility of the cabinet, and the supremacy of the Prime Minister as the leading man at once in the cabinet and in the Commons. It was significant that unlike his Whig and Tory predecessors in power, Sir Robert remained undazzled by the lure of peerage, and refused to leave the Lower House so long as he aspired to govern the country. When he consented to become Earl of Oxford he was retiring for ever from office".

### **Birth of the Office of Prime Minister**

George I and George II had come from Germany. They were ignorant of English language and politics. They were also not interested in the affairs of England. They could not understand the discussions of the ministers in the cabinet councils. They, therefore, ceased to attend cabinet council meetings and entrusted the work of administration to the Whigs who had supposed their succession of the English throne. As a consequence of the absence of the King from the meetings the ministers were able to discuss the affairs of the country in an atmosphere of freedom. After such discussions a common plan was formulated for being presented to the King. Furthermore, in the absence of the King the Ministers had to choose among themselves a minister to preside over their meetings and to conduct its proceedings. Such a minister was naturally considered more important than others because he was their recognised chief. In course of time such a minister came to be designated as the Prime Minister. Such a person possessed an important place in the cabinet council and also enjoyed the confidence of the King. Sir Robert Walpole has been regarded the first Prime Minister of England though this designation had no official validity at that time. Official reorganisation to this office was given only in the twentieth century. Walpole has been called the "Drill Sergeant" of the Whig party on account of the strict discipline enforced by him in his party. If any Minister did not agree with him in his political programme and policy Walpole immediately dismissed him from his position.

### **The Principle of "Supremacy and Leadership of Prime Minister**



Since the King ceased to attend the meetings of the cabinet the Prime Minister was to preside at the meetings. The first two Georges were ignorant of English language, English politics and the working of the cabinet system. They, therefore, began to absent themselves from the meetings. In the words of G.B. Adams: "The practice (i.e. of attending the meetings) ceased soon after George I am to the throne, not from any theory nor because it was felt to be desirable, but merely because the king was uninterested and bored by discussions which he could not understand from his lack of English. By what seems a mere accident a change and to its full control of government, but one which it would have been exceedingly difficult to carry through if it had been deliberately attempted with the conscious knowledge of the sovereign". The first two Hanoverians allowed Walpole to preside at the meetings of the cabinet.

They also allowed him to exercise most of the royal prerogatives. The Prime Minister enjoyed the key position among the cabinet ministers. He was the medium of communication between the cabinet ministers. He was the medium of communication between the cabinet and the King. The decisions taken at the cabinet meetings were to be communicated to the King by the Prime Minister. Before Walpole came to occupy the premier position in the cabinet the King himself used to select and dismiss the ministers. But henceforth this power was to be exercised by the Prime Minister. He was the key-stone of the Cabinet Arch. All other Ministers were to accept his leadership and to submit to his overall control.

### **The Principle of "Political Homogeneity"**

The first principle described as above (i.e. leadership of the Prime Minister) was that Walpole insisted that all members of the cabinet must hold the same political views under the leadership of presiding minister. This step was more deliberately taken by Walpole. It was felt by him that the ministry as a unit must support the policy determined upon, and that it must owe a corporate responsibility to its head. He appointed all his colleagues and insisted that they must conform to the common political programme and hold the same political opinion, as he himself held. "No one before him had that independence of royal control, that authoritative voice in the choice of colleague, that dominating will in the determination of policy which are indispensable marks of Premiership". "By exercising the functions of a Prime Minister he gave political homogeneity and solidarity to the cabinet and thus permanently moulded the



machinery of government." He drove out of the cabinet his own brother-in-law, Townshend, because the latter disagreed with him in foreign policy. He also dismissed Lord Chesterfield from his position as a minister when the latter opposed him on the issue of Exercise Bill. In the words of G.B. Adams: "He did make it clear that the ministry should act together, and that if any member of it could not support the majority decision he should resign. Walpole has been accused of vindictiveness in his action, and one may hesitate to free him entirely of the charge, but the principle on which he acted was correct, and it became a rule of cabinet business though not immediately".

### **The Principle of Majority Rule in the House of Commons**

After the election of 1741 Walpole enjoyed a small but insecure majority in the House of Commons. On January 28, 1742 he was defeated by a majority of one, and on February 2, by a majority of 16. Having lost majority in the House of commons he tendered his resignation and retired to the Upper House as Earl of oxford. In the words of G.B. Adams : "If any minister could in that period have carried on the business of government without the House of Commons, Walpole could have done it". He was in good books of the King. The Queen was also friendly toward him and she had a great influence upon the King. But Walpole resigned establishing the principle that the cabinet should remain in office only so long as it enjoys the confidence of the majority in the House of Commons. "The House of Commons learned as well that it had in its hands absolute power of control over any ministry by the simple method of allowing no business to be done until an obnoxious minister retired, a wholly indirectly method of control which the middle ages had never imagined and which was not possible until the real control of national business was in the hands of the house. It was not yet, however, entirely conscious that this was the best way of enforcing ministerial responsibility, for it strove to impeach Walpole after his defeat". (G.B. Adams)

### **The Principle of Responsibility to the House of Commons**

Under Walpole the dignity and prestige of the House of Commons in comparison with the House of Lords definitely increased. Walpole recognised the comparative insignificance of the House of Lords. In the words of Prof. Hearn : "It was Walpole who first administered the government in accordance with his own view of political requirements. It was Walpole who



first conducted the business of the country in the House of Commons. It was Walpole who in the conduct of that business first insisted upon the support for his measures of all servants of the Crown who had seats in Parliament. It was under Walpole that the House of Commons became the dominant power in the State and rose in ability and influence as well as in actual power above the House of Lords. It was Walpole who set the example of quitting office, while, he still retained the undiminished affection of the king, for the avowed reason that he had ceased to possess the confidence of the House of Commons".

### **Origin and growth of the Party System**

In England there exists at present the Parliamentary or cabinet system of government which implies that the King or Queen is only a nominal head of the government whereas the cabinet or ministers who are chosen from the majority party in the House of Commons under the leadership of Prime Minister and who are individually and collectively responsible to the House of Commons exercise the real executive authority in the State. The working of the cabinet system is closely connected with the existence of a well organised party system. The ministry belongs to the majority party in the House of Commons and it remains in office so long as it enjoys the confidence of the Parliament which in essence means the majority party in the House of commons. The functioning of Cabinet system or parliamentary system of government presupposes the existence of Political game in a democratic way and always remain prepared either to form the Government, if in majority, or to remain in vigilant opposition, if in minority. The Opposition remains ever ready to take over the reins of Government in case it successfully secures the resignation of the ministry in power.

### **Puritans and the Anglicans**

Originally the division of the members of the Parliament into two parties was religious. The origin of this division of members may be traced to the reign of Elizabeth, when the earliest English party was formed by the Puritans. The Anglicans were opposed to the puritans. As against the demand of the Puritans for further reforms and changes in the Church of England the Anglicans emphasised the unity of English Protestantism in the Church of England as settled by Elizabeth. They were the fore-runners of the Tory Party and were later on known as the "Church Party".



## **Roundheads and Cavaliers**

During the Civil War in the time of Charles I the Puritans generally became Parliamentary, Republican or 'Roundhead Party' whereas the Anglican or Church men became the Prerogative, Royalist or 'Cavalier Party'. The basis of the division of the members of the Parliament in this period was partly religious and partly political.

## **Charles II and Political Parties**

The origin of political parties in England in a real sense may be traced to the reign of Charles II. The following stages of the origin of Political parties under Charles II may be noted:

(a) **Court Party and Country Party:** Danby who was the Chief Minister of Charles II formed a Court Party from the old Cavalier Party. The Court Party was devoted to the Crown and to the Church of England. As against the Court Party there was organised the Country Party by the Earl of Shaftesbury. This party was opposed to any extension of the royal power. It also feared and hated Roman Catholicism.

(b) **Petitioners and Abhorrers:** During the reign of Charles II there emerged a controversy over the Exclusion Bill (1679) and it eventually gave rise to party system in England. Shaftesbury was the first organiser of popular opinion outside the House of Commons. He was an opponent of Danby, the Chief Minister of the King, and wanted to exclude James, the Duke of York (brother of Charles II) from succession. He brought forward the famous Exclusion Bill to gain his object but Charles II who was opposed to the move dissolved the Parliament in order to prevent it from being passed. Shaftesbury, the leader of the country party, and his followers petitioned Charles II to call Parliament and solve this problem of exclusion. This is why the members of the country party, who had petitioned the King came to be known as 'Petitioners', Danby, the leader of the court party and his followers resisted the summoning of the Parliament and they began to be called 'Abhorrers' because they abhorred the summoning of Parliament over this issue.

(c) **Controversy over Exclusion Bill (1679) Whigs and Tories :** When the debate over the "Exclusion Bill" grew very bitter the nicknames 'Whig' and 'Tory' came to be used for the two parties holding opposite views about the Exclusion Bill. Danby and his followers



began to call Shaftesbury and his followers "Whigs" a word which meant 'whey face' or rebel Scottish Presbyterians'. In retaliation Shaftesbury and his followers began to call Danby and his followers as "Tories" a word which meant highway men or rebel Irish Papists. In this way were formed the two political parties, Whigs and Tories, in the reign of Charles II. These two names the Whigs and the Tories stuck to the respective parties throughout the eighteenth century and for the first thirty-five years of the nineteenth century.

### **Growth of Political Parties in the reign of James II**

The basis of the division of the members of the Parliament into political parties in the reign of James II continued to be the same as was in the reign of Charles II. The Whigs and Tories were opposed to each other on account of the same basic and fundamental differences as had kept them divided under Charles II. However, the various acts of omission and commission of James II united the two parties against the King. To begin with the Tories were necessarily in power but their opposition to the King's Pro-Catholic policy deprived them of this power. As already stated their loyalty to the King was subject to the King leaving the Anglican monopoly intact. The Glorious Revolution of 1688 was brought about by the combined action of both the Whigs and the Tories because the pro-Catholic policy of James II had made it impossible for the Tories to remain loyal to the principle of hereditary succession. The Revolutions Settlement was as much the work of the Whig Party as that of the Tory Party. It was the result of a compromise between the two otherwise opponent parties.

### **Party position in the reign of William III**

Both the parties were equally strong in the reign of William III. In the words of Keir: "The Whigs dominated the Convention Parliament, the Tories that of 1690. The election of 1695 restored and confirmed Tory preponderance".

### **Development of bitter party strife**

The unity of the Whigs and the Tories brought about by the Glorious Revolution was only temporary. In the words of Keir: "With the Revolution the Whig party re-emerged strong and revengeful. Temporarily united to achieve the Revolution, Whigs and Tories soon fell into



bitter mutual animosity.... In the heated atmosphere of these various and complex dislikes, religious, economic and social party bitterness waxed fast".

### **Party position in the reign of Queen Anne**

In this reign also the pendulum of political strength swayed alternatively from one side the other. From 1702 to 1706 the Tories were in power. Marlborough and Godolphin dominated the Tory ministry. From 1706 to 1707 Tories lost their majority in Parliament. Marlborough and Godolphin, though nominally Tories, joined the ranks of the Whigs and from 1708 to 1710 the ministry became entirely that of the Whigs, Marlborough and Godolphin being now considered as Whigs and not Tories. By 1710 the Whigs became very unpopular. They lost their majority, giving place to the Tories. The erstwhile domineering Duchess of Marlborough now quarrelled with the Queen and a new lady, Mrs. Mash am won the Queen's life in 1714. Shortly before Queen's death the Whigs were successful in getting representation on the ministry and it was on account of their sudden and quick action that the Hanoverian Succession took place in England in 1714 in spite of the attempts of the Tories to restore the Stuarts.

Before Hangovers came on the throne of England sufficient ground of work had already been prepared for the development and growth of political party system. It was quite clear that in the country two political parties had distinct policies and programmes and also that the chances of their coming closer and nearer to each other were remote.

### **EVOLUTION OF THE CABINET SYSTEM**

In England there is at present the cabinet system of government. This system did not take birth on any particular date or in a particular year. It is result of gradual evolution which can be traced back to its faint origin in the reign of Charles II. Technically the cabinet consists of ministers who constitute the advisory council of the King and as such they are a part of the Privy Council. But in reality they belong to the majority party in the House of commons. They are appointed by the King on the advice of the Prime Minister who is the leader of the majority party. They work in clue cooperation with the parliament under the direction of the Prime Minister and remain in office so long as they enjoy the confidence of the Parliament, or in other words, the confidence of the majority party in the House of commons. Theoretically all executive powers are exercised by the King in England but in actual practice these powers are





wielded by the Cabinet. Some historians trace the origin of the cabinet system in the Lancastrian period and even a little earlier than that. The right to control the ministers of the King by means of impeachment' was asserted by the Parliament in the fourteenth and fifteenth centuries. Between 1404 and 1437 most of the King's ministers were ruminated by the Parliament but in the absence of any organised political parties and without a clear conception of the principle of the sovereignty of the people in the minds of the people and parliament this system of Parliamentary control over the ministers of the King proved immature and ended in failure.

### **Cabinet System Under the Stuarts**

#### **Bacon's Essays:**

For the first time the work Cabinet was used in Bacon's Essays. However, Bacon used it to imply a committee of the King's privy Council.

#### **Impeachment of King's Ministers**

Some historians are of the view that the impeachment of the King's ministers in the reign of Charles I and Charles II like Buckingham, Strafford, Danby etc was in essence the assertion of the Principle of ministerial responsibility.

#### **Grand Remonstrance (1641)**

In the reign of Charles I the Parliament prepared a document known as the Grand Remonstrance (1641). In the words of G.B. Adams: "Its most interesting proposal from the point of view of the present constitution is that the king's ministers should be "Such as Parliament may have cause to confide in". This means that the principle of responsibility of the King's ministers to the Parliament took a faint origin in that document. However, the proposal was not given any practical shape.

#### **Cromwell's constitutional experiments**

After the Civil War Cromwell took into his own hands the reigns of the government. Charles I was executed. Many constitutional experiments were tried by Cromwell. The



Instrument of Government which established his Protectorate provided for a permanent Council of State. This "Council of State" was made responsible to the Parliament but it proved to be only a short-term experiment.

### **Cabal of Charles II**

The history of Cabinet in England is traced by some writers from the 'Cabal' ministry of Charles II. The Cabal consisted of five confidential advisers of Charles - Clifford, Arlington, Buckingham, Ashley and Lauderdale. The initial letters of these five names constituted the word 'Cabal'. The Cabal was a small advisory committee of the King's Privy Council. Its meetings were usually held in the King's secret chamber or the cabinet. However the Cabal had no similarity to the modern cabinets. It was not responsible to the Parliament and did not act under the leadership of a Prime Minister. Nor was there any solidarity among the five members of the Cabal. In fact they held different opinions.

It is generally observed that the Cabinet system grew out of Charles II's Cabal. But it is not a correct view. The practice of referring some important matters of the Privy Council not to the whole council but to a smaller body had grown even before the time of Charles II. It is said that Charles II surrounded himself with about half a dozen ministers who enjoyed not only his own confidence but also wielded a great influence in the Parliament. They were very helpful to Charles in securing from the Parliament the legislation he required. As the Privy Council had grown out of the Norman Great council the members of the Cabal informally. However, the ministry of Charles II like the Cabal cannot be considered the same thing as the modern cabinet. While appointing them the King did not take into consideration the views of the Parliament. He did not bother whether the ministers were popular with the Parliament or not. He also did not take into consideration their party affiliations. They were responsible to the King himself and not to the Parliament. They were not the representatives of the Parliament. As a matter of fact the term 'Cabinet' was originally used as a term of reproach. The King's habit of conferring with a few advisers in his secret chamber or in his cabinet was disliked by the Parliament.

### **Cabinet System under William III**

The development of the Cabinet system received an indirect impetus from the Glorious Revolution of 1688. In the words of Adams: "William III began his reign with a clear recognition on his part that the royal office had been shorn of extensive powers". The Glorious



Revolution established the supremacy of the Parliament and this supremacy made the progress of the Cabinet system inevitable.

In the words of Southgate we have also to keep in mind that the cabinet development in the reign of William III was merely an unconscious tendency but still very significant. The selection of ministers from a single party was a matter of convenience for the King. He was not conscious of its utility for the development of modern cabinet system in which the interests of the executive and the legislature are harmonised by selecting ministers from the majority party in the House of Commons. In the words of Adams: "The total result of William's reign, which he passed on to his successor, Queen Anne can hardly be described as more than tendency, but in one respect it was a tendency which had long prevailed and could no longer be successfully opposed. This feature of the result was the tendency to commit the control of national affairs to a small group within the council composed of the holders of the great offices, a group distinct enough to be often recognized and given a name, but not authorized nor even permitted by any law. The great step remaining to be taken after this, in the formation of cabinet system of government, was to discover and to carry into effect in practice the relation between the directing group of ministers and the parliamentary majority".

### **Progress made in the reign of Queen Anne**

As stated above, the clauses of the Act of Settlement (1701) which gave a set back to the growth of Cabinet System were repealed in the reign of Queen Anne. In the reign of William III, we have seen, an important step was taken towards the growth of cabinet system. At first he chose his ministers from both the parties. But the work of administration could not be done smoothly. Then, he chose his ministers from Whig Party only which was in majority in the Parliament. This made the working of the executive machinery smooth and easier. Thus a principle was established that the ministry should belong to one party only, i.e. the party that was in majority. Later on, when the Tories won majority, William appointed a Tory ministry.

In the reign of Queen Anne this practice of appointing a ministry from one party only was continued. From 1702 to 1706 the ministry of Queen Anne was mostly tory ministry and



thereafter it gradually became mostly Whig ministry (1706-1710). From 1710 to 1714 the Tories remained in power in the government G.B. Adams observes: "The reign of Anne constitutionally is a natural continuation of William's along the same lines and with the same characteristics. Rather more than in William's reign the growth of cabinet government is the chief interest, but it is a growth not marked by any sudden or decisive advance but by slowly increasing understanding of how cabinet government is to be worked and what it implies..... In each of the three chief cabinet changes of Anne's time the general election which soon followed returned a strong majority for the new ministry but the change was made with the existing majority against it, by a direct exercise of the prerogative of appointment and dismissal.... More frequently and in a more marked degree than William III had done, Anne accepted ministers and ministries that she did not personally like.... She did it, however, not because a parliamentary majority would have insisted upon the change as a condition of doing business with the ministry but because she and her ministers found it easier in this way to secure the support they desired for the war.... The people of Queen Anne's time did not yet see the connection between the three elements of the problem, the parliamentary majority, the cabinet, and the successful carrying out of government policy. The events of her reign and the experience gained, however, were rapidly making clear both the dependence of cabinet and policy upon parliament and the great strength and stability of a party ministry over a coalition".

### **George – III**

#### **His Personal Rule**

George III, the third Hanoverian King on the throne of England, attempted to recover into his own hands those powers of the Crown which seemed to have been lost to the King after the Revolution settlement on account of the ignorance of his predecessors, George I and George II. These prerogative powers of the Crown had been usurped by a few rich and aristocratic families of the Revolution who had been exercising them for about fifty years during the 'Golden period of Whig Ascendancy'. George III was not reconciled to this usurpation of powers by the Whigs. Ever since his succession to the throne he had planned to oust the Whigs from the position of authority. He wanted to take power into his own hands and in this way he wanted to establish what is known as 'George III's Personal Rule'.

#### **Nature of Personal Rule of George III**



We will be giving a wrong meaning an interpretation to the Personal Rule of George III if we understand or rather misunderstand it to mean the revival of absolutism of the Tudors or the Divine Right of the Stuarts. George III considered himself rather a Whig of the Revolution. He had no intention to upset the Settlement of 1689 and 1701. In case he did not reconcile himself with the spirit of the Revolution settlement it is also true that he did not attempt to violate also the 'letter' of the Revolution Settlement. In fact he wanted to preserve the 'letter' of the Revolution Settlement if not its 'spirit' because he allowed the majority party in the Parliament to approve or disapprove the policies of the government. However, while preserving the Revolution Settlement he planned not to restore the relationship between the King and the Parliament which existed in the reign of William III. To make himself strong and powerful he had been shown a strategic line of action by the development of the office of the Prime Minister and by the example of the Whig control of the House of Commons through bribery, corruption, patronage and oratory.

George III took advantage of his personal influence with the people. He gloried in the name of Britain and thus made himself popular. He had also won the popular title of "Farmer George". Taking advantage of his popular influence he began to substitute the cabinet system by the 'King's System', that is by establishing his personal rule.

George III wanted to end the Seven Years War against France and secure peace so that he should be able to achieve his object of personal rule in proper atmosphere. This peace was secured by him by the Treaty of Paris, 1763.

George III proceeded very skilfully and gradually. Consequently the whole of the political machinery came into his own hands. First of all George III included Bute in the Parliament. Later on he made him his chief Minister. Bute was followed by Rockingham, Granville, Chatham and Grafton, all of whom had to be removed one after another because they did not extend cooperation to the King in carrying out his own policy. In 1761 George III secured his supporters, the King's friends, in the House of commons and with their support he controlled his ministers.



George III, both by nature as well as training wanted to be a king in the real sense. He wanted to establish a personal rule in the country and to a large extent he was success in that because there were favourable circumstances for establishing such a rule.

### **UNIT - III**

#### **PARLIAMENTARY REFORMS**

##### **Reforms Act of 1832**

Parliament's position before 1832 in general the Glorious Revolution of 1688 transferred the supreme power in the state from the King to the Parliament. Henceforth the Parliament became the sovereign authority in the country. But the sovereignty of the Parliament did not mean the Sovereignty of the people. The supreme legislative authority of the country did not represent the will of the common people. It was rather an 'organised oligarchy' or an assembly of rich aristocrats exercising the supreme power of the country in the interests of its own members. It was brought together under the guise of elections but the elections were controlled by the big landlords and wealthy people who succeeded in getting their own nominees elected.

The practice of purchasing the votes at his prices was a common evil in all parts of the country. The members of the Parliament were never obliged to their electors and instead of representing the interests of their electors they carried out the wishes of their patrons who had purchased votes for them. No wonder the house of Commons was not a representative house of the common people. It was a most undemocratic house composed of wealthy landlords or their nominees.



### **There was no uniformity of franchise**

Another defect of electoral system was that there was no uniformity of franchise. The borough franchise or right of voting in the towns was not uniform. It was also not low and needed revision. In some boroughs only those burgesses who paid "Scot and lot" had the right to vote while in others only the hereditary freedom had the right to vote and yet in some other towns only the members of the town councils had the franchise. Thus an injustice was being meted out to different places and different persons. In fact law passed in this regards early in 1430 was still operative.

### **Movement for Parliamentary reform**

#### **Earlier attempts at Parliamentary Reforms (before 1830)**

##### **John Locke**

John Locke was the first man who advocated the reform of the electoral system which was thoroughly corrupt and unjust. But the time was not yet ripe for such reforms. He was all alone crying in wilderness and as such no reforms could be introduced.

##### **Bolingbroke and Dashwood**

Agitations for Parliamentary reforms were also organised by Bolingbroke and Dashwood but they also failed to achieve any success. The cause of their failure was that in the thirties of the eighteenth century when these agitations were organised the Whigs were united and strong and they were not at all prepared to introduce reforms at that time. The Whig Ascendancy under the first two Hanoverians flourished on account of their systematic use of bribery, corruption and patronage power.

##### **Pitt the Elder, Earl of chatham**

He is considered as the first great and serious advocate of electoral or Parliamentary reforms. In fact the organised agitation for Reform began after 1760. Pitt strongly advocated an increase in the number of country members in order to rectify the imbalance in the Parliament where the influence of the owners of 'rotten boroughs' was greater and too much.



## **Wilkes**

Wilkes who is known as the champion of popular liberties during the rule of George III also championed the cause of Parliamentary reform and was greatly successful in arousing public consciousness of the need for reforms.

## **Reform Societies**

In 1780 a reform society called "The Society for Promoting Constitutional Reforms" was founded by Horne Took, Jebbe, John Cartwright and William Jones. Later on similar other societies also came into being for the sole purpose of reforming Parliamentary evils.

## **Sir Charles Fox**

Demands for Parliamentary reforms such as uniform and low franchise, annual Parliamentary and vote by ballot etc., were made by Sir Charles Fox in 1780 while he was presiding over the Council of West minister.

## **Pitt the Younger**

Pitt the Elder had raised voice against the Parliamentary corruption under the Whig Ascendancy. Like him his son, Pitt, the Younger, was also a strong advocate of Parliamentary reform, in the beginning. He actually made many attempts to get his schemes fulfilled but in vain. For example, in 1782, he moved a resolution for introducing Parliamentary reforms but was defeated by a majority of 20 votes.

## **Main Provisions of the Reform Act of 1832**

The Reform Act was passed on June 7, 1832. It was a lengthy document having 82 clauses. In the words of Robertson the Reform Act of 1832 was a disfranchising measures, an enfranchising measure a redistribution Act, a reform of electoral machinery, registration and corrupt practices". The following were the important provisions of the Reforms Act of 1832.

### **Disfranchising clauses**

(i) All small boroughs which contained less than 2000 inhabitants were disenfranchised. The number of such boroughs was 56. These boroughs such as Old Sarum





Brackley, etc., were deprived of their voting rights and now they could not return any member to the House of Commons. In this way 111 seats became vacant and were made available for redistrict ion.

(ii) All boroughs which had a population between 2,000 and 4,000 i.e.,towns like Wilten, Malmesbury were deprived of one seat, They were now to return only one member each to the Parliament, In this way 32 seats were made vacant.

The nation has to face a tough time before Reform Act 1832 was passed. The opposition was also not unexpected one. None perhaps thought that the bill will be easily passed. The Act, as the events have showed was a major step forward. The Lords even after the passing of the Act tried to create some more problems, but these were boldly solved.

### **The Second Reforms Act of 1867**

#### **Defects of the First Reform Act (1832)**

The Reform Act of 1832 had failed to satisfy the working classed. In spite of the apparent increase in the number of voters, only about five percent of the population of the country had a right to vote. The Radicals remained unsatisfied because they wanted that 'man in the street' should have been given the right to vote. The property qualifications laid down in the Reform Act of 1832 were still very high for the poor labourer and the artisans. Those who did not own houses of Rs.10 annual value and others who were putting up in lodgings of the same value had no got the right to vote. The Act gave a rude shock to the hopes of the poor labourers and artisans and fell too short of their political aspirations. Further agitations had to be organised by the working classes for getting the right to vote. They organised a movement known as the 'Chartist Movement' for redress of their grievance. The movement started just after the Reform Act of 1832 and continued up to 1850 when it gradually died out on account obits wrong and radical approach.

#### **Change in the outlook of Whig and Tory parties**

The Reforms Act also brought a change in the character of the Tories. The party leaders had to accept the requirements of the changing situation. Most of them, like peel, in the course



of time wedded themselves to the ideas of reform. The word 'Tory' was also a misnomer for the Party as a whole. The new name which began to be applied to the parts as whole was 'Conservative'. The term 'Tory' was reserved only for the extreme diehards who did not subscribe to the policy of reforms. Thus, the changed outlook of the parties made it easier for the demand for reform to be met. No wonder, the Second Reform Act, 1867 was the work of the Conservative ministry, though it was passed with the collaboration of the 'Liberal' Party.

### **Attempts of Lord John Russell**

Between 1852-1854 Lord John Russell made several attempts at reforms by moving reform bills proposing extension of franchise to the poorer classes but all of his attempts failed on account of the opposition of Palmerton, "the great conservative at home". The only change that was carried through was "Russell's Oath Bill". Which was passed in 1858 allowing Jews to be admitted in the Parliament and in 1866 Russell and Gladstone introduced another reform bill but the same was rejected with the result that the Liberal ministry of Russell. Gladstone was thrown out of power and its place was taken by the Conservative ministry of Lord Derby and Disraeli (1866).

### **Disraeli's Reform Bill (1867)**

None of the proposed bills of Lord John Russell had been accompanied by any popular agitation demanding the reforms. But on the defeat of the last bill as described above, in 1866, the public, especially the working classes, through processions and mass meetings, made it clear that a demand for reform had arisen which must be satisfactorily met. The result of this agitation was that Disraeli himself, as the Chancellor of the Exchequer, in the Conservative ministry of Lord Derby, introduced the Second Reform Bill in 1867 which passed into an Act. In this connection, speaking about the Conservative Ministry of Lord Derby, Ramsay Muir observes: "For the third time Lord Derby and Disraeli formed a conservative ministry (1866). It lasted for eighteen months. Its chief work was the passage of the Reform Act of 1867. Having defeated the Liberal ministry on the question of parliamentary reform, Disraeli promptly proceeded to introduce a Reform Bill of his own. He recognised that the change must come; he disliked the middle class, who had wielded power since 1832, and believed that his ideas would have a better chance of acceptance in the artisan class, whom he proposed to



enfranchise; and he was anxious that the inevitable concession should be made by his own party."

### **Effects and significance of the Second Reform Act, 1867**

(i) The Change in franchise brought about the Reform Act of 1867 was a long step towards democracy. In the words of G.B. Adams: "About a million new voters were created by the Act not quite doubling the previous number, but the step towards democracy was a longer one than this ratio would imply, for the main increase was from the artisan class in the boroughs. The percentage of increase in the borough vote for the country was 134, and in some towns the old number of voters was multiplied by three". The second Reform Act, 1867, transferred the power from the middle class to the working class. By this act, "A man in the street was given the right to vote". The property qualification was substantially reduced by the Act.

(ii) A new feature of the second Reform Act, 1867 was the provision of a system of limited proportional representation. This system resulted in closer party organisation and strict party discipline. In this connection G.B. Adams observes "One incidental effect of this bill was not foreseen and would not have been desired. It led to closer party organization and even to something like machine methods. By an amendment made by the House of Lords and accepted by the Commons, a limited proportional representation was introduced. The permanent result seems to have been a more centralized party direction and supervision of the selection of candidates and elections than existed before and with it a decrease of independence on the part of the individual voter and of the party candidate as well".

(iii) Another effect of the Reform Act was that gradually the dependence of the House of Commons upon the electors increased and the controlling power of the constituencies began to be more immediately felt by the House of Commons. An important change occurred in the outlook and character of the House itself. Previously, it was theoretically considered that the House was independent of the electorate and the members of the House could take decisions independently of the influence of the electorates. But now the situation changed in theory and practice. In the words of G.B. Adams: "Now the electors in the different constituencies began to demand a more direct responsibility to themselves, to regard their member as a means of their own expression on national questions and above all to expect from his a constant fidelity



to the party which had elected him. These are all clear indications of growing democratic power". However, the change in practice was more than the change in theory. The men of that time were scarcely conscious of the new principles which were being evolved through practice. The new developments were only the beginnings of democratic control.

(iv) Another effect of the Act was that the inevitability and necessity of change and reforms was realized by all including the Conservatives. In this connection Trevelyan remarks: "The manner in which the Second Reform Bill was carried was very different from the passage of the First. And the difference indicated how much in the last thirty five years the governing and conservative classes had grown accustomed to change as a normal condition of political life, instead of regarding it as the end of all things. One might almost say that Darwin's then much contested doctrine of 'evolution' had already won its place in political consciousness".

### **The Third Reform Act 1884**

#### **Defects of the Second Reform Act, 1867**

The Second Reform Act (1867) did not give the right of vote to the agricultural labourers in the countries. Their counterparts in the towns (i.e. industrial workers and artisans) had been given the right to vote. A need was felt by all concerned, the workers as well as the government, for introducing a uniform system both in the countries and the towns.

#### **Reforms introduced by the First Ministry of Gladstone**

After the Second Reform Act (1867) was passed the general elections held in 1868 gave a strong majority to the Liberal Party and Disraeli who was the Conservative Prime Minister at that time (having succeeded Earl of Derby early in 1868) resigned even before the meeting of the new Parliament. He was the first Prime Minister to recognize the verdict of the country in taking this step. After his resignation Gladstone, the Liberal leader, became the Prime Minister and continued in office until 1874. His ministry introduced many important reforms during its first administration of 5 years. Inter alia, in 1872, Gladstone passed the Secret Ballot Act according to which the voters were to cast their vote by a secret ballot. This independence of the voter from any pressure weakened the "illegitimate influence of the landlord and the employer". Now the employees could vote independently for any candidate without any fear or



intimidation. Gladstone passed in 1873, another important Act i.e., the famous Corrupt Practices Act which put an end to the practice of bribing of the voters. In these years proposals for the extension of franchise were put forward in the House of Commons but the practical steps towards this direction could be taken only during the second ministry of Gladstone.

### **Main Provisions of the third Reform Act (1884)**

(i) The Franchise in the countries was made the same as was done in the boroughs by the Reforms Act of 1867. Any inhabitant occupier of a dwelling house in a country or of any part of a house occupied as a separate dwelling in a country, being a male over twenty one years of age, got the right to vote.

(ii) All occupiers of lodgings of the yearly value of Rs.10 in a country got the right to vote.

(iii) The Third Reform Act of 1884 was followed by the Redistribution of Seats Act of 1885. This was also an important measure of Gladstone's Ministry. By this act another serious effect in the representative system of England was removed. The distribution of seats was not satisfactory until the passing of this Act. A system of "single member constituency" was set up and each constituency was roughly to have an equal number of voters in it. In this way, excepting the twenty-two boroughs having right to return two members each and excepting also certain universities all other countries and boroughs were divided into single member constituencies. Thus the Act of 1885 established equal electoral districts.

(iv) Since 1885 everything except a few points, less important practically than theoretically, England has been a democracy. It is indeed fair to say that, so far as the immediate influence of public opinion upon government policy is concerned, England has been for a generation more democratic than the United States. The cabinet system of government, the ministry responsible to the House Commons, losing office when it loses its majority provides away by which almost automatically, without waiting for a future election day, a change of national judgment is carried out in a change of government policy, provided always that opinion changes in the House of Commons with the change of opinion outside. It has done so in the future; indeed



with the increased power of the constituencies over the house hardly any other result is possible.

### **Parliamentary Act of 1911**

The Parliament Act of 1911 was passed when the Liberal ministry of Mr. Asquith was in power. It was passed to curb the power of the house of Lords in matters of legislation and to increase those of the house of commons. The circumstances leading to the introduction and passage of this Act were as under:

### **Formation of liberal Ministry (1906)**

After the General Elections of 1906, the Liberals, being in majority formed a ministry under Sir. H.H. Asquith, Mr. Lloyd George, Sir Edward Grey and Mr. John Morley the members of the cabinet. Mr. Asquith was the chancellor of the Exchequer in this ministry. In 1908 Campbell-Mann died and his place, as Prime Minister was taken by Mr. Asquith, whose place, as Chancellor of Exchequer, in this ministry. In 1908 Campbell-Mann died and his place, as Prime Minister was taken by Mr. Asquith whose place, as Chancellor of Exchequer, was now taken by Mr. Lloyd George. The Liberal Ministry of Campbell-Bannerman and after him that of Mr. Asquith introduced many important social, economic, political and military reforms. All these reforms and the new social policy involved a great outlay of public money and therefore necessitated large changes in the organisation of public finance. The large increase in the military and naval expenditure on account of the previous government's imperialistic conflicts, danger of the out-break of the Great War and the need of funds to make payments of the old age pensions established in 1908 and to meet the costs of the social and economic reforms, created a serious financial problem for the ministry of Mr. Asquith. The Liberal ministry was opposed to the proposal of Protective tariff put forward by the Conservatives and attempted to find out a new solution of the problems of raising revenues. When Mr. Asquith was the Chancellor of Exchequer he acted on the Principle that the wealthier section of the community should be made to pay for the cost of social reforms which mostly benefited the poorer sections of the community. When he became Prime Minister, his Chancellor of Exchequer, Mr. Lloyd George, also acted on the Principle that the heaviest burden should be laid on the broadest black. Mr. Asquith had levied a higher rate of income-tax on "unearned income" (i.e. payments for work done). He had also increased substantially



the duties paid on estates at death. Mr. Lloyd George presented his budget of 1909 acting on the same policy.

### **The Budget of 1909**

In the words of Ramsay Muir: "In the Budget of 1909 Mr. Lloyd George, who had succeeded Mr. Asquith at the Exchequer went still farther in this direction, levying upon all large income a super tax over and above the ordinary rate of income-tax. But this was only one aspect of this remarkable budget, the most revolutionary of modern times. It was linked up with a whole programme of new social legislation for which it was to find the means and some part of which was embodied in the budget itself. The part of these proposals which aroused the bitterest controversy was a series of new taxes proposed to be levied on land. All the land in the country was to be valued and during the next few years the values were very busy. A small tax was to be levied on the capital value of the land (a part from the building on it), and a further tax called "increment duty", was proposed as a means of securing for the community a share of all increases of value that were due, not to the enterprise of the owner, but to the presence of a large population. There was an extra-ordinary fierce controversy over these proposals, in the course of which the taxes were whittled down until they amounted to very little. On the one hand, the landowning class were denounced for taking toll of the nation's industry, and for holding up land needed for national expansion in order to get ransom prices. On the other hand, the supporters of the scheme were denounced as revolutionaries who were upsetting the very foundations of the nation's economic life".

### **Introduction and Passage of the Parliament Bill (1911)**

As stated above, the results of the election were taken to mean that the people had given a mandate to the government to go on with the stipulated action to limit the power of the Upper House. Consequently, in the new House of Commons the Prime Minister, Mr. Asquith, re-introduced the Parliament Bill of the previous year. It passed the House of Commons, in May, 1911. There were furious and bitter debates, with scenes of violence, before the House of commons passed the Bill. The Bill was then sent up to the House of Lords. A majority of the Lords would have liked to reject the Bill but as it was known that King George V had agreed to create four hundred peers, in case of necessity, to secure the passage of the Bill, the Lords had



no alternative but to reluctantly give way. In the words of G.B. Adams: "At first the lords attempted to amend the bill, but when it became evident that their amendments would not be accepted, and when it was made clear that the king would follow the advice of the cabinet and create the required number of peers, the house voted not to insist on the amendments. The vote was 131 to 114. Most of the unionist peers refrained from voting: a few voted with the liberals, and the bill passed the House very much as the first reform bill had in 1832". The Parliament bill thus became the Parliament Act, 1911.

### **Main Provisions of the Parliament Bill, 1911**

It should be noted that the Parliament Bill as passed in 1911 was limited to restricting the existing powers of the Upper House and did not provide for a "reconstruction" of the House though the Preamble of the Bill had contained such a plan and discussion had also been taken place on this issue. So far as the question of the restriction of the existing powers of the Lords was concerned the Bill contained in the main the following provisions.

(i) It was provided that every money bill (i.e. a bill dealing with taxes or expenditure) which was passed by the House of Lords within one month after receiving it from the House of Commons such a bill was presented to the Crown and would receive royal assent. This implied that the Upper House was to have only one month's veto power over the money bills.

(ii) To meet any possible objection, with regard to the nature of the bill, which might question the authenticity of the bill being really a money bill, it was laid down that a certificate of the Speaker of the House of Commons would guarantee that the bill was a money bill (i.e. that it did not contain other legislation)

(iii) With regard to the "Public bills" (other than the money bills) it was provided that if a public bill was passed by the House of Commons in three successive sessions, whether of the same Parliament or not but was rejected by the House of Lords each time it was to become an Act of Parliament on the third rejection when it would be presented to the Crown for royal assent provided that two years had passed between the second reading in the House of Commons in the first session and the third reading in the third session. This meant that the Lords were to have only two years veto power over ordinary public bills. Such a bill must be identical in all sessions of the House of Commons except for such changes as the Speaker might certify to be necessary on account of the lapse of time, or such changes which might be





contained in the amendments proposed in the Upper House and accepted by the Commons. In practice, however, the amendment might be contained separately in an accompanying amending bill.

(iv) The life of the Parliament (i.e. in essence the life of the House of Commons) was reduced from seven years to five years and this limitation could not be changed without the express assent of the Upper House.

The new Act very drastically curtailed the powers of the House of Lords. It was now clear that every attempt which might be made by the Lords on the Commons will be resolutely foiled and will not be tolerated in any manner. The King was with the cabinet and the lords were left alone.

### **The Reform Act of 1918**

The reform Acts of the nineteenth century had not given to women the right to vote. Mill was the first man to propose in 1867 franchise for women but his proposal was rejected. In order to press for their own right of voting the women of England organised their social and political unions. When these organisations failed to achieve their purpose through conciliatory and peaceful methods the women resorted to violent and unconstitutional methods. Even the violent Unions failed to achieve their objects. Many enthusiastic women workers were put behind the bars. In 1908, the Women's Freedom League was formed in order to secure the right of vote for women and the workers resorted to violent means resulting in sabotage and other acts of lawlessness. During the World War I (1914 - 18) women played a very significant role by rendering laudable services to the cause of their country. In recognition of their services which were meritorious indeed the government passed the Fourth Reform Act, 1918 or the Representation of the People's Act 1918, giving women above the age of thirty the right to vote.

### **Main Provisions of the Act of 1918**

The Fourth Reform Act of 1918 or the Representation of the People's Act, 1918, was passed by the ministry of Lloyd George. This Act gave women the right of vote for which they had struggled hard since 1884. During right of vote for which they had struggled hard since 1884. During the First World War the women had offered a hearty co-operation to the



government and rendered commendable service to their country. By this Act women over the age of 30 and men over the age 21 were given the right of vote. This Act "swept away the old qualifications based on local occupation or residence in the country as well as in boroughs, and established the principle of manhood suffrage. The most novel feature of the Act was the enfranchisement of women over 30 years of age". The franchise was now enjoyed by 21 million voters of whom 8 million were women. The men and women both could now stand for membership of the Parliament. The Act fixed a single election day for Great Britain.

### **The Reform Act of 1928 or the Equal Franchise Act of 1928**

The Fourth Reform Act of 1918 did not set women at Par with men. The women had not been given the right of voting on the same terms as men in as much as the requirement of age qualification in the case of women was 30 years where as in the case of men it was 21 years. By the fifth Reform Act of 1928 women were given the right of voting on the same terms as men. In other words women above the age 21 years enjoyed the right of voting. Thus in 1928 was set up a complete democracy in England and since that year all the men and women over the age of 21 except those who were insane have been exercising the right of voting. Recently (1970) the age qualifications both in the case of men and women has been reduced to 18 years.

### **The Parliament Act of 1949**

The Parliament Act of 1911 had given to the House of Lords two years veto power over Public Bills other than money bills. Even the reduced power of the Lords could be taken advantage of by them by withholding the Bills passed by the commons for at least two years. This delaying power of the Lords was further cut short by the Parliament Act of 1949 under which the Lords could now enjoy a veto power of only one year over the public Bills other than money bills. Thus a great obstacle in the way of complete democracy was also removed. The house of commons virtually became the supreme legislative authority.



## GROWTH COLONIAL SYSTEM

During the 17th and 18th centuries the English were able to carve out a big colonial empire. Many British colonies were carved out in the different parts of the world viz. Virginia, Maryland, North Carolina, South Carolina, New Plymouth, New Hampshire, Massachusetts, Main, etc. on the mainland of North America; West Indies in the east of America; Settlements of Bombay, Madras and Calcutta in India. The attitude of the mother country towards these colonies and settlements in the 17th and 18th centuries or the system set up by the mother country to conduct the affairs of these colonies and settlements in various fields such as political, economic and administrative, is known as the Old Colonial System.

The basis of the Old Colonial System was the belief that the colonies existed for the benefit and welfare of the mother country. Under this system the colonies could not enjoy independent growth of their political and economic life. Politically, under this system, each of the colonies had its legislative assembly whose members were the elected representatives of the various parts of the colony but unfortunately the assembly could not work independently. Each assembly, to its dissatisfaction, was dominated and controlled by the British Governors, Colonels or captains, who used their discretionary powers and collected many taxes without the sanction of the assembly. Naturally the colonies were unhappy over the unsatisfactory character of the colonial government. The Governor, captains and colonels were nominated by the British government legislative assemblies being non-sovereign bodies could not control the executive. They often refused to vote the salaries of the government officials and thus the relations between the legislatures and executive became unpleasant. This resulted in an unhappy state of relations between the colonies and the mother country.

### **Economic exploitation**

In the economic sphere also the colonies were subordinated to the Home country. The Home country looked upon the colonies not as parts of the state but as possessions belonging to it and could be exploited for its own benefit. In economic sphere the old Colonial System was based on the idea of Mercantilism. According to prevailing mercantile belief the exports of a county must exceed its imports to ensure favourable balance of trade. This necessitated markets. As all continental countries believed in the policy, markets could not be found on the



continent and therefore the overseas colonies were regarded as the markets for the mother country. Therefore, the trade and commerce of the colonies came to be controlled and regulated by the mother country. England placed restrictions on colonies in matters of imports, exports, carrying trade and manufactures. The colonies were treated as if they were the property of the English. They were just like fruits which could be plucked and eaten by the English.

### **Navigation Acts**

The mother country passed many Navigation Acts which compelled the colonies to use their own or English ships only, in order to carry on foreign trade. Certain goods of the colonies were required to be exported only to England and to no other country. Similarly, colonies were compelled to purchase certain goods from England and from no other country. The colonies were also debarred from manufacturing certain goods like hats, steel and woollen goods because the mother country herself produced these goods. Thus the economic interests of the colonies were subordinated to those of the mother country.

### **Decline and end of the Old Colonial System**

The Old Colonial System resulted in colonial revolt against the mother country. The colonies resented the Navigation Laws, Trade Acts and restrictions imposed upon them by the Home country. The Political and economic unrest along with various other causes of dissatisfaction resulted in the American War of Independence in the beginning of the last quarter of the eighteenth century. As a result England ultimately lost the American colonies. This is known as the disruption of the First British Empire, Although Old Colonial System had worked successfully for about a century yet its decline began in the middle of the 18th century and continued until the middle of the 19th century. The views of the classical economists which developed by the middle of the 18th century also exhibited dissatisfaction with the principles underlying the Old Colonial System like mercantilism.

### **New colonial policy**

They criticised the policy of trade regulations and advocated the policy of free trade. Their open condemnation of the Old Colonial System weakened and Shocked the very foundation of that system. As a result in the course of time the Navigation Acts were repealed or



amended by the British government. The trade restrictions were abolished and by the middle of the nineteenth century the principle of free trade was given practical shape by throwing open the coastal tide. Through gradual process England became converted to New Colonial System of government. The Colonial System proved successful whereas the Old Colonial System had proved a miserable failure. The New Colonial Policy enabled England to found the Second British Empire consisting of Canada, Australia, South Africa, New Zealand and many other places. The relations between the mother country and the constituents of the Second British Empire were quite harmonious.

### **Beginning of New Colonial System**

According to the Old Colonial System it was believed that the colonies existed for the benefit of the mother country. But under the New Colonial System the New Empire or the Second British Empire consisting of Canada, Australia, South Africa and New Zealand began to be treated by England on more liberal principles. The old economic policy of Mercantilism which was based on economic restrictions and slavery was discarded and new policy of free economic development of the colonies was adopted. In political sphere also the domination of the mother country was given up and responsible self-government was gradually granted to the colonies. This new and more liberal attitude of the mother country towards the colonies is known as the New colonial System or the New Colonial Policy.

### **Main Principles or features of the New Colonial System**

(i) The New Colonial System was based on the fundamental principle that the colonies did not exist for the benefit of the mother country. It was felt that the colonies were like fruits and would drop off when ripe. Therefore, it was laid down that as and when the colonies became more mature they were to be granted representative and responsible self-government in successive digress of stages. According to this policy the bonds which were fundamental in holding the colonies together were the bonds of enjoyment of liberty and common traditions. The mother country was supposed to look after the colonies in only such matters as defence, foreign affairs and trade.



(ii) In economic sphere the Old Mercantilist theory was discredited. As against the Old policy of imperial and commercial regulations of colonies the principle of free trade was adopted. All restrictions on the trade and industries of the colonies were abolished. The Navigation and Trade Acts were amended or repealed and the colonies were left free to developed their industries and trade.

(iii) The mother country now took upon herself the responsibility of the moral and material standards of the colonies. In 1807 slave trade was abolished by England in all the colonies. Slavery was completely abolished throughout the Empire in 1833. The natives of the colonies were given better treatment by England. Their territories were considered to be held by Britain only as a trust.

(iv) The New Colonial Policy was also based on the principle of mutual co-operation between England and the colonies in the course of time. Although the colonies became more and more self-reliant, self-supporting and self defending yet an equal partnership was established between them and England. In course of time Imperial Conferences began to be held for mutual consultations. These free and self-governing colonies began to be known as British Dominions, and their association with England on an equal footing and equal partnership came to be known as British Common wealth of Nations.

### **Factors responsible for the evolution of the New Colonial System**

#### **American War of Independence**

The Old Colonial System crashed on the rock of the American War of Independence (1776-84). The loss of American colonies taught a lesson to the mother country. England now began to realise the dangers lying concealed within the Old Colonial Policy. With the emergence of the New or Second British Empire she began to adopt a new attitude towards the Empire.

#### **Teachings and criticism of the classical Economists**

The criticism of the Old Colonial System by the classical economists like Adam Smith and Bentham also converted the British statesmen to the New Colonial Policy in economic



sphere. The Navigation Laws were gradually repealed by Huskisson, Peel and Russell and as a result tariff and other trade restrictions were abolished. As a result of the new policy England became a free trade country.

### **Effect of Industrial Revolution and Napoleonic Wars**

The industrial revolution leads towards the British Colonial Policy. Industrial Revolution and Napoleonic Wars Created economic distress and unemployment in the country. Many Englishmen emigrated to the colonies in search of employment. The mother country realised the deep realities of the situation and adopted a liberal attitude towards the new settlers.

### **Humanitarians and missionaries**

Many humanitarians and missionaries who went to the colonies for the service of humanity and for the propagation of the teachings of Christ also exercised a great influence on the British Colonial Policy. These Missionaries wanted to uplift the backward races living under the sway of the colonial government. Under their influence the principle was established that the backward races were governed by Britain as their trustee and every effort should be made for their uplift.

### **Radical Imperialists**

Self-government for the colonies was also advocated by the radical Imperialists like Gibbon, Wakefield, Butler, Durham, Malesworth, etc. They were in favour of an empire which should be held together by the bonds of common enjoyment of liberty, free institutions and common traditions. They favoured the grant of partial self-government to the colonies and advocated systematic colonisation to meet the threat of population increase at home.

### **Lord Durham's Report (1839)**

Lord Durham's Report (1839) which recommended grant of self-government to Canada also laid down general principles desired to be followed by the mother country in her policy towards the colonies. It recommended grant of responsible self-government to the colonies and this is why the Durham Report is known as the Magna Carta of colonial self government. This



report exercised a great influence on British colonial policy and gradually responsible self-government was granted to other colonies also viz., Australia, New Zealand and South Africa.

### **Role of British statesmen**

British statesmen like Disraeli and Chamberlain and Writers like Seeley and Dilke. In the seventies of the nineteenth century there came a reaction to the policy of granting more self-government to the colonies. British statesmen like Disraeli and Chamberlain feared that the old ties of the British Empire were loosening. They therefore advocated the consolidation of the Empire on firm foundations. The imperial activities also received a new vigour from the development of the means of transport and communications like steamships, railways and aeroplanes. More over the idea of strengthening and consolidating the Empire received impetus also from the work of writers like Seeley, Dilke, Captin Mahon and Rudyard Kipling. But the idea of consolidation and preservation of the Empire did not imply any damage to the colonies. It did not mean that self government was not at all to be granted to the colonies. In fact Statesmen like Disraeli, Chamberlain and Salisbury and writers like Seeley and Dilke, recaptured the idea, earlier conceived by the Radical Imperialists like Butler and Wake field, of a partnership of the free peoples held together by the ties of common enjoyment of political liberty, free institutions and common traditions.

They wanted to import greater reality to the haphazard and accidental bonds of unity and worked for bringing about a real and fundamental unity of the empire. Disraeli made it clear that he was not opposed to the grant of self-government to the advanced colonies but what he wanted to emphasise was that the self-government should be granted a a part of Imperial consolidation and that it should be accompanied by the imperial tariff and military codes. He also laid emphasis on the moral and political responsibilities of protecting the colonies and raising the imperial prestige. From time to time Imperial Conferences were held to discuss mutual problems and formulate imperial policies. But in such conferences the colonies were given the status of equality irrespective of their size or population. They were considered as equal partners in the British Common wealth of Nations and on the basis of their freedom and equality of status they were known as British Dominions.





Due to various reasons Britain had to adopt new colonial Policy. This policy had to be followed not because of one, but several reasons. New policy has certain salient features and characteristics, One of the interesting outcome of this policy was Durham Report.

### **Durham Report**

In the colonial growth passing of Durham Report was an important event. It gave a new turn to the event and developed new idea of Dominion status. This policy passed through different stages before the Statute of Westminster was finally passed.

### **Circumstances leading to the Durham Report**

The constitution in Lower Canada and Upper Canada was very defective because the executive was not responsible to the legislature. In the words of Keir: "In 1791 an act was passed separating Upper Canada with its mainly English Population, from the mainly French Lower Canada and setting up representative institutions in each but counter balancing the elective Lower House by a nominated Council. The appointment of the executive councils also lay in the hands of the governors". In 1837, because of the irresponsible executive in these two provinces of Canada and the general inefficiency of the British government both the French and the English colonists revolted against the mother country. Fearing that Canada might also break off from the British Empire like the American colonies the British government sent in 1838 a Radical Imperialist named Lord Durham a prominent member of the Whig cabinet, to assume the office of Governor-General of Canada and to suggest ways for improving the situation there. He was asked to prepare a new constitution for the colony because the constitution of 1791 was seriously defective for the colony because the constitution of 1791 was seriously defective and was mainly responsible for the revolt. Lord Durham restored perfect order in the colony and very carefully studied the problem of framing a constitution of Canada. In 1839 he issued a report known as the famous 'Durham Report' which contained proposals about the future constitution of Canada and also formulated general principles which should govern the English policy towards the colonies.

### **Main recommendations of the Durham Report**



Recommendations about constitution of Canada. Lord Durham made some important recommendations regarding the constitution of Canada. Firstly he recommended that Upper and Lower Canada should be united into a single colony with a single government. Thus Canada was to be united into one Canadian nationality. Secondly, he recommended that responsible self-government should be granted to Canada with certain reservations. He recommended that the Imperial government should confine its action only to those matters which were truly imperial, e.g., foreign relations, defence, regulation of trade and the control of public land. Otherwise, he suggested the local administration should be left free. He held that responsibility must be thrust on the people of Canada by giving supreme power to their elected representatives and by ensuring that the executive government of Canada was made responsible to the legislature. He recommended that "the Crown must consent to carry on the government by means of those in whom the representative members have confidence". In other words, he recommended the appointment of popular ministers. Thirdly, Lord Durham also suggested reforms in local government and Parliament. Fourthly, he also recommended that the government should work for the moral and material uplift of the people of Canada.

### **Importance of the Durham Report**

#### **Its importance with regard to Canada**

On the basis of the Durham Report the two provinces of Canada were made into one Kingdom by the Reunion Act of 1840 passed by the British Parliament. Canada was given a nominated Council and elected Assembly to which each province sent an equal number of representatives. Moreover, in 1849 responsible self-government was also granted to Canada (as recommended by Lord Durham) when Lord Elgin, Durham's son-in-law was appointed the Governor of Canada. Durham Report became an important instrument in solving the problem of Canada. Its recommendations gave her peace and prosperity by uniting her into one nationalist and this union paved the way for the formation of a more stable union (or federation) later on. The danger of disruption of the Second English Empire was thus warded off.

#### **Its importance with regard to the general principles of Colonial Policy**

Durham Report is regarded as a great landmark not only in the history of Canada but also in the history of British Empire. It is considered as the Magna Carta of Colonial Self-government. It laid down broad principles of colonial government which prescribed the lines of



future evolution of responsible self-government not only in Canada but in all colonies. It laid down the principles that the future of British Empire lay in holding its distant, far flung and underdeveloped parts by granting them responsible self-government and free institutions. It determined the basic principles on which the modern structure of common wealth of Nations was to be constructed. Dilkes and Chamberle in later on built their New Imperialism on the foundations laid down in the Durham Report.

### **Assessment of the Report**

All this shows that Durham Report was rightly described as the Magna Catra of Colonial self government and it was, as Mariot put it "The most valuable state paper ever penned in reference to the evolution of colonial self government". It laid down the foundations of a New Colonial policy which was followed by England in the 19th and 20th centuries. The British government accepted the principles laid in Durham Report frankly and unreservedly and made them basis of its colonial policy. Gradually, responsible self-government was granted to other colonies also for example self-government was granted to Australia in 1850, to New Zealand in 1852, to South Africa in 1872 and to Ireland in 1921 and similarly to many other colonies. The influence of Durham Report was not only confined to the Liberals and the Redicals but even the conservatives began to regard its principles as axioms of British Colonal Policy. The New colonial Policy proved a remarkable success because the British Government did not lose the Second Empire, By successive degrees the colonies achieved a measure of self-government until they achieved complete and perfect responsible self-government and acquired what was known as Dominion Status with complete freedom of action in external as well as internal sphere. This led to the establishment of British Common wealth of Nations.

### **Imperial War Conference of 1917**

The first World War gave a great impetus to the idea of Dominion Status implying the recognition of the free status of the self-governing colonies in external as well as in internal affairs. To secure the fullest co-operation of the self-governing colonies the British government invited their Prime Ministers to the Imperial War Cabinet. The result was that Sir Robert Borden of Canada and General Smuts of South Africa were included in the Imperial War Cabinet. Although the title of 'Dominion', had already conferred on the five self-governing



colonies of New Zealand, Canada, Australia, South Africa and New Found land by the decisions of the Colonial conference of 1907 (which meant that the dominions possessed common characteristic of enjoying fully representative legislatures and fully responsible executives), yet sir Robert Borden of Canada and General Smuts of South Africa re-emphasised the idea of Dominion Status in London in 1917 laying emphasis on the external as well as internal sovereignty of the self-governing colonies. General Smuts designated the association of England and her self-governing colonies as the "British common wealth of Nations". The idea of Dominion Status implying external as well as internal sovereignty of the self-governing colonies associated in the British Commonwealth of Nations was expressed in a statement issued by the Imperial War Conference in 1917.

In pursuance of the spirit of the statement issued by the Imperial War Conference in 1917 the self-governing colonies were called "Dominions". It is now desirable to understand the nature of the Dominion Status before as well as after the first World War.

### **Dominion Status before and after the first World War**

The title of Dominion was conferred on the five self-governing colonies of New Zealand, Australia, South Africa and New Found land by the decision of the Colonial Conference of 1907 which meant that the Dominions possessed the common characteristic of enjoying fully representative legislatures and fully responsible executives. The nature of such a status was as follows:

### **Dominion Status in Legistative Sphere**

All the self-governing colonies formulated their own constitutions which were approved by the British Parliament. The legislatures of the Dominions were practically sovereign in all matters. However, for purposes of imperial unity there existed two limitations to the competence of these legislatures. Firstly, as Keir observes, 'the legislation they enacted, though embracing every topic included under the comprehensive head of 'peace, order, and good government', was limited in its range of operation by the territorial boundaries of the Dominion". Secondly, their legislations was "restricted by the provision in the Colonial Laws validity Act (1865) that it must not be repugnant to any imperial statute applying to the



Dominion." Moreover "certain important matters such as merchant shipping were regulated by imperial statutes, but the total amount on such legislation was small, and did not greatly increase".

On the whole the Imperial Parliament never enacted any legislation for any of the Dominions except when the latter made a request for that or gave its consent to the same. Although according to the earlier constitutional practice of the Empire the Governor General of a Dominion had a right to give or refuse assent to Dominion legislation and had power or duty to reserve certain bills before assenting to them so that the King's pleasure (in expressing which he was guided by the advice of the British government), might be signified about them, and although the King had a right, according to the same constitutional practice, to disallow such bills (even when they had received Governor-General's assent) yet such an imperial control on colonial bills and Acts was more theoretical than effective because such rights and powers were never exercised, since then, in actual practice.

### **Dominion status in Executive Sphere**

According to the principle of responsible self-government the Governor-General was to act in accordance with the advice of his ministers. However, his position carried a dual responsibility - responsibility to the legislature and responsibility to the King. His appointment was made by the king on the advice of Imperial Cabinet though it was, of course, done after consultations with the government and the concerned Dominion government. He was bound to exercise the Royal prerogative, up to the extent it was committed to him. In addition to his power to give or refuse assent to a bill or to reserve it for King's information there existed a large, though diminishing, sphere of governmental action in which the right of Dominion ministers to have their advice accepted was dubious". However, the subject of external defence was handed over to the colonies by a resolution of the Commons in 1862 though they still had the right to imperial protection. In the words of Keir: "There still remained such important powers as the making of treaties, foreign affairs, peace and war, and neutrality as to which it was uncertain how far colonial governments possessed any independent authority.... With regard to foreign affairs the self-governing colonies.... expected to be and in fact were taken into consultation by Great Britain in matters affecting their own interests, though not always to



their own satisfaction. The final determination of foreign policy was left to the British government, and therefore also the issues of peace and war".

### **Dominion Status in Judicial Sphere**

In Judicial sphere also the sovereignty of the Dominions was limited by the Acts of 1833 and 1844 on the basis of which the Privy council exercised appellate jurisdiction over the Dominions. In the words of Keir: "In Canada appeals to the Privy Council from the Supreme Courts, Dominion and provincial, were unrestricted. In Australia, under the constitution of 1900, appeals lay as of right from the State Supreme courts and by special leave of the Privy Council from the commonwealth High court except in certain constitutional cases where its own leave is necessary. In South Africa appeals as of right were abolished by the South African Parliament was given power, subject to reservation by the Governor General of any bill for the purpose, to limit matters on which special leave to appeal might be sought from the Privy Council. In all three Dominions leave to appeal, being embodied in an Imperial statute, could not be abolished by their own act, and was further restricted by the territorial limit on their legislative powers".

### **Dominion Status after the first World war**

The Dominions had extended full co-operation to the mother country in the conduct of the War. Their services were recognised at the end of the War. During the war Dominion autonomy rapidly advanced towards utter control of external as well as internal affairs resulting in the emergence of the ideas of Dominion Status and the British Commonwealth of Nations as expressed in a statement of the spirit of this statement the self-governing colonies were called Dominions, as already stated and at the end of the War they were given separate representation in their own right at the peace conference of 1919. The ministers of the Dominions were allowed to sign the Treaty of Versailles on behalf of the Dominions as independent states. When the League of Nations was formed the Dominions as signatories of the Treaty were given separate representation on the League as its original members (with India but without New found land). By the Peace Treaties Canada and Australia were given the power to rule over certain ex-colonies of Germany and her allies in the capacity of Mandatory powers under the League of Nations.



From 1920 to 1926 further progress took place towards the achievement of external sovereignty by the Dominions. In 1923 the Canadian government concluded a treaty with the United States by its own action and without imperial intervention. By 1925 it was becoming clear that independent and separate action of the United Kingdom and the Dominions in international affairs was reducing the diplomatic unity of the Empire to a mere fiction.

The speed of progress towards full and complete sovereignty of Dominions was hastened by the policy of Irish Free State. The Irish Free State attained responsible self-government not through a gradual process like other Dominions but at a bound and by revolution. However, the sovereignty achieved by it was still imperfect like the other Dominions.

Durham Report was an important event in so far development of relations between the imperial government and colonies were concerned. The working of the report was reviewed from time to time when Bulford committee Report and Statue of West minister had to be passed.

### **Balfour Report 1926**

Balfour Report was presented in 1926. It gave considerable freedom to dominions even in the external affairs and thus ushered a new era in so far as dominion's relations with Britain were concerned.

After the War the British government as well as the Dominions felt increasingly the need to clarify in unambiguous terms the position of the Dominions. This was done in the Imperial Conference of 1926. The Balfour committee of the Imperial Conference of 1926 defined the status and mutual relations of the United Kingdom and the Dominions.

### **Clarification regarding the status of the united Kigdom and Dominins**

With regard to the status of Great Britain and the Dominions the report of the Balfour committee (1926) skilfully farmed the following formula which was adopted by the Imperial Conference : "They are autonomous Communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though



united by a common allegiance to the Crown and freely associated as members of the British Commonwealth of Nations...." The Committee held the view that the tendency towards equality of status was both right and inevitable. The achievement of this status by way of federation, in the opinion of the Committee, was impossible because of geographical and other conditions and the only alternative to achieve equality of Status was by the way of autonomy.

### **Dominions and the great Britain**

Clarifications regarding the mutual relations between the Dominions and the Great Britain are given below

### **Administrative or Executive relations**

In view of the establishment of the Irish Free State the Balfour Committee proposed that the title of the King of "United Kingdom of Great Britain and Ireland and of the British Dominions beyond Seas" should be changed as the King "of Great Britain, Ireland and the British Dominions beyond the Seas". Regarding the position of Governor General of a Dominion the Committee held: "In our opinion it is an essential consequence of the equality of status existing among the members of the British Commonwealth of Nations that the Governor-General of a Dominion is the representative of the Crown, holding in all essential respects the same position in relation to the administration of public affairs in the Dominion as in held by His majesty the King in Great Britain and that he is not the representative or agent of His Majesty's Government in Great Britain or of any department of that government.... that the practice whereby the Governor-General of a Dominion is the formal official channel of communication between His majesty's government in Great Britain and His governments in the Dominions might be regarded as no longer wholly in accordance with the constitutional position of the Governor-General. It was thought that the recognised official channel of communication should be, in future, between government and government direct".

### **Legislative relations**

The Committee considered the question of disallowance and reservation of Dominion legislation and proposed "that it should be placed on record that, apart from provisions embodied in constitutions or in specific statutes expressly providing for reservations, it is recognised that it is the right of the government of each Dominion to advise the Crown in all





matters relating to its own affairs". In view of the desirability of the Dominions being enabled to legislate with extra-territorial effect, the Committee thought "that it should similarly be placed on record that the constitutional practice is that legislation by the Parliament at West minister applying to a Dominion would only be passed with the consent of the Dominion Concerned".

### **Judicial relations**

Judicial relations with regard to the question of appeals to the Judicial Committee of the Privy Council from judgments in Dominions the Committee held "that it was no part of the policy of His Majesty's Government in Great Britain that questions affecting judicial appeals should be determined otherwise than in accordance with the wishes of the part of the Empire primarily affected. It was, however, generally recognised that, where change in the existing system were proposed which, while primarily affecting one part, raised issues in which other parts were also concerned, such changes ought only to be carried out after consultation and discussion..."

### **Importance of the Balfour Committee Report (1926)**

According to Keir, Balfour declaration was "notable as an admission that, Dominion sovereignty with regard to domestic concerns, now extended to foreign and even "inter-imperial" relations as well". The Report expressly stated that the Dominions could conduct their external affairs and that neither Great Britain nor the Dominions could be committed to the acceptance of any external obligations except with the definite assent of their own governments. Thus the Conference of 1926 gave rise to a body of understandings or conventions which were accepted freely by each autonomous community freely associated as members of the British Commonwealth of Nations within the British Empire. Thus according to the conventions recognised in 1926 the self-governing colonies enjoyed practically complete autonomy - external as well as internal-and they were equal in status to each other nor were they subordinate to Britain. They formed a family of nations enjoying equal rights and status. Every Dominion was perfectly independent and a sovereign state to all intents and purposes.

### **Statute of West minister 1931**



Statute of Westminster was a comprehensive Act which dealt with the relations of limited Kingdom with its Dominions. It cleared that the crown was the symbol of the free association of the members of the British Commonwealth of Nations.

The perfect autonomy of the Dominions which was recognised by Balfour Committee (1926) was based only on conventions. There was no legal basis of that status. The legal recognition of the conventional status of the Dominions was given by the Statute of Westminster, 1931, which was passed by the British Parliament and which is regarded as the most important and final stage in the evolution of the New Colonial Policy leading to the grant of Dominion Status to the colonies and the establishment of the British Commonwealth of Nations.

### **Main Provisions of the Statute of Westminster**

The main provisions of the Statute of Westminster as summarised by Schuyler and Weston were as under:

In this Act the expression "Dominion" means any of the following Dominions, that is to say, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand the Union of South Africa, the Irish Free State and New found land.

1. The Colonial Laws Validity Act, 1865 shall not apply to any law made after the commencement of this Act by the parliament of a Dominion.
2. No law and no provision of any law made after the commencement of this Act by the Parliament of a Dominion shall be void or in operative on the ground that it is repugnant to the Law of England, or to the provisions of any existing or future Act of Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act, and the powers of the Parliament of a Dominion shall include the power to repeal or amend any such Act, order, rule or regulation in so far the same is part of the law of the Dominion.
3. It is hereby declared and enacted that the Parliament of a Dominion has full power to make laws having extra territorial operation.



4. No Act of Parliament of the United Kingdom passed after the commencement of this Act shall extend or be deemed to extend, to a Dominion as part of the law of that Dominion, unless it is expressly declared in that Act that Dominion has requested and consented to, the enactment thereof.
5. Nothing in this Act shall be deemed to apply to the repeal, amendment or alteration of the British North America Acts, 1867 to 1930....
6. Nothing in this Act shall be deemed to confer any power to repeal or alter the Constitution or the Constitution Act of the Commonwealth of Australia or the Constitution Act of the Dominion of New Zealand otherwise than in accordance with the law existing before the commencement of this Act.....
7. None of the following sections of this Act, that is to say, sections two, three, four, five and six shall extend to a Dominion to which this section applies as part of the law of that Dominion unless that sections adopted by the Parliament of the Dominion.....
8. The Dominion to which this section applies are the commonwealth of Australia, the Dominion of New Zealand and New found land.
9. Notwithstanding anything in the Interpretation Act, 1889, the expression "colony" shall not, in any Act of the Parliament of the United Kingdom passed after the commencement of this Act, include a Dominion of any Province or State forming part of a Dominion.....

### **Importance of the Statute of Westminster**

Before the enactment of the Statute of Westminster, 1931, the Dominion Status of the colonies was merely conventional and not legal. This statute defined the legalised the status of the dominion and mutual relation between the mother country and Dominions as expressed in the formula framed by the Balfour Committee Report of 1926. Thus the Statute clearly acknowledged the autonomy and equality of the Dominions with United Kingdom. It made each Dominion Parliament formally and legally the supreme authority for each Dominion both in internal and external affairs and thus made the Dominion Parliaments equal in their own



spheres to the British Parliament in its own sphere. The Dominions were more or less sovereign states, internally free and externally independent and enjoyed the position of equal partnership in the British Commonwealth of Nations on voluntary basis. The British Commonwealth was defined as a free association of independent and sovereign nations. It was felt to the Dominions to decide whether they wanted to remain as members of the commonwealth or to secede from it which they could do whenever they close to do so. Any change in law regarding the succession to the Crown was to be made only with the assent of the legislatures of all the Dominions. No Act of the British Parliament passed after the Statute of Westminster was to extend to any of the Dominions except with the request and consent of the Dominions. The Dominion Parliaments had full powers to make laws having extra-territorial operations.

In governing the relations between British empire and its Dominions, the Statute legalised what had so far remained only formal. In fact the statute became cornerstone of all future activities and policies of British empire, with regard to its Dominions.

### **Growth of Dominions From 1931 - 1947**

After the passing of the Statute of Westminster, 1931 the Dominions made further progress towards attainment of complete sovereignty. In 1933 Ireland omitted all references to the English King from the Oath of allegiance by enacting the Removal of Oath Act. By an amendment of its Constitution the Irish Free state also omitted all references in the Constitution to the King. Even the coins and stamps did not carry the imprint of King's effigy. Referring to the various Acts passed by the Irish Free State Keir observe: "Free State Acts abolished reservation and the power of the Governor - General to refuse assent to bills, appeal to Privy Council, the Oath of allegiance, and the office of Governor General itself (1936), finally by popular referendum the Free State Constitution was itself abrogated, and replaced by one of Wholly independent origin (1937)".

In South Africa the Union Act of 1934 provided that the Parliament of the Union of South Africa was the sovereign legislative authority in the Union. Consequently, no Act of British Parliament could be extended to the Union of South Africa unless it was done by an Act of Union itself. In the words of Keir: "Disallowance was completely removed from the Union Constitution.... The discretion of the Governor-General was limited to giving or withholding a



sent, and the Act required the King to act on advice of his South African ministers.... As regards the very limited power of appeal to the Privy Council which existed in the Union no change was yet made". However, Ireland and Canada abolished their practice of allowing appeals to the Privy Council.

### **Growth of Dominions and British Commonwealth from 1937 to 1947**

The Irish Free State framed its new Constitution which came into force on 19th December, 1937. The Irish Free State now came to be known as 'Eire'. The new Constitution omitted all references to the King as sovereign. However, Eire was to remain a member of the British Commonwealth of Nations and recognized George VI as the King for external purposes so long as it pleased its government to do so.

The Imperial Conference of 1937 made it clear that in cases where different members of commonwealth became parties to the same multilateral treaty, each member was free from all responsibility in respect of any action of any other party to the treaty. Although after the new Constitution of December 1937 the Irish Neutrality could not be questioned in eyes of law the treaty between the Great Britain and Eire in 1938 further released Eire from any obligations to help Great Britain in time of war.

### **Growth of the Commonwealth since 1947**

Second World War was over, the British government decided to grant independence to India and consequently in 1947 the Dominions of India and Pakistan, came into being. At the same time Ceylon also was created into a Dominion. In order to respect the sentiments of the Indian people the name British common wealth of Nations was modified as Commonwealth of Nations by deleting the adjective 'British'. When India became a Republic after the enforcement of her new Constitution in January 1950, all references to the King of England were omitted. However, India continued to remain a member of the Commonwealth of Nations. Thus we see that Since 1947 the use of the Word 'British' as a prefix to Commonwealth was regarded as inappropriate and was discarded being superfluous.



## London Declaration of 1949

It may be remembered that in the famous description given in the Balfour Report (1926) of the mutual relations between the communities which then constituted the British Commonwealth of Nations it was stated that they were 'united by a common allegiance to the crown'.... But this bond of membership of the British common wealth was not to be recognised true any longer after 1949. It came to be replaced by another formula of unity contained in Declaration of London (1949). The Constituent Assembly of India adopted on November 26, 1949, a Constitution which provided for a republican form of government. In anticipation of this decision to become a republic and her desire to remain, nevertheless with the Commonwealth. At the conclusion of the meeting on April 27, 1949, a communiqué was issued. It contained a statement on the continued membership of India in the Commonwealth which is known as the Declaration of London. Though at the time new formula of unity with commonwealth was to be applied only to India, it has since been extended to Pakistan, Ceylon, Ghaa and other similar independent nations within the British commonwealth. After full discussion the representatives of the Governments of all the commonwealth countries at London agreed that the conclusions reached should be placed on record in the following declaration.

"The Governments of the United Kingdom, Canada, Australia, New Zealand, South Africa, India, Pakistan and Ceylon, whose countries are united as members of the British Commonwealth of Nations and owe a common allegiance to the Crown, which is also the symbol of their free association, have considered the impending constitutional changes in India.

"The Governments of the other countries of the commonwealth, the basis of whose membership of the commonwealth is not hereby changed, accept and recognise India's continuing membership in accordance with the terms of this declaration.

"Accordingly the United Kingdom, Canada, Australia, New Zealand, South Africa, India, Pakistan and Ceylon hereby declare that they remain united as free and equal members of the Commonwealth of Nations, freely co-operating in the pursuit of peace, liberty and progress".

Relation between British Government and the dominions changed from 1931 onward and ultimately British Commonwealth of Nations became only a Commonwealth of Nations in



which every Dominion was free to formulate its internal as well as external policies. It is today assembly of only free nations.



## UNIT - V

### MAIN OUTLINES OF CONSTITUTION

#### **Features of the English Constitution**

##### **It is largely an unwritten constitution**

The English constitution is largely an unwritten constitution. Unlike the American and most of the other written constitutions of the World the English constitution is not found in a single written document. Of course, some part of the English constitution may be found in a written form in various statutes passed from time to time but a large part of it is based on customs, conventions, usages and understandings and therefore it is generally called an unwritten constitution. Most important of the English constitution is just what is kept out of the written law and kept within the sphere of custom. Even enacted part of the constitution does not bear the same date. There has never been a time a formal written document. In fact the English constitution is the child of chance and the result of the requirements of the time.

##### **It is not enacted but evolved constitution**

A logical corollary of the unwritten character of English constitution, as described above, is that it is not enacted but an evolved constitution. It has not been made but has grown. It is a process of growth. In the words of Munro: "It is a child of wisdom and chance whose course has sometimes been guided by accident and sometimes by high design." In the words of Bout my : "The English have left the different parts of their constitution just where the wave of history had deposited them, they have not attempted to bring them together, to classify or complete them, or to make a consistent and cohere at whole." Dr. Ogg has described it "a living organism," which is continuously growing to suit the requirements of the people. It is not the product of any particular age but has developed through many ages. It is very old constitution and its origin can be traced back to the Anglo-Saxon period.

##### **Continuity and change in English constitutional Development**





In the words of Keir: "Continuity has been the dominant characteristic in the development of English government. Yet continuity has not meant changelessness. Ancient institutions have been ceaselessly adapted to meet purposes often very different from those for which they were originally intended and have been combined in the apparent harmony with never organs of government devised to meet requirements which have manifested themselves only as society has developed the intricate patterns of its modern life. In the English constitution, to adapt a picturesque phrase the centuries have 'given one another rendezvous'. Some of the institutions of former days have from time to time been swept away. But their disappearance is painless. The destruction of living and working parts of the constitution has been rare". Unlike France, she had never moved forward with sudden leaps and bounds. On account of the imperceptible changes in the English constitutional law the past prominently runs into the present and in its turn the present shall go deep down into the future.

### **It is a flexible constitution**

The English constitution is a flexible constitution. It means that its amendment is not difficult. The power of making and amending the constitutional law rests in the hands of the English Parliament. In England the amendment of the constitution requires no special procedure other than one required in the making or amending the ordinary laws. The unwritten and evolutionary nature of the constitution has provided it also with a flexible character. The amendment of the constitution in England involves no difficulty or loss of time because the procedure is very simple and easy. Although the English people are of conservative temperament yet they have carried out changes in their constitution according to the exigencies of the time without any difficulty. The flexible and responsive nature of the constitution has enabled the Englishmen to mould the framework of their political institutions quickly according to their needs in the changing environments.

### **It is unitary and not a federal constitution**

The English constitution establishes a unitary and not federal type of government in Great Britain. It means that all authority in England is centralised in a single government centred at London. Of course, there is also a considerable degree of local government and



devolution of functions but all authority flows from the central government. Decentralisation does not involve any federal principle of autonomy.

### **Conventions of the Constitution**

The Conventions form the unwritten part of the constitution and though no cognizance of them has been taken by the law courts they are in actual practice "the flesh which clothes the dry bones of the law; they make the legal constitution work : they keep it in touch with the growth of ideas. In the words of Dr. Ogg the conventions of the constitution in England consist of "those understandings, practices and habits which alone regulate a large portion of the actual relations and operations of the public authorities." The cabinet system of government as it obtains in Great Britain is unknown to the law of the land, Still it is to pivot round which the whole machinery of the government revolves. The King (or Queen) of England is only a titular head of the State whereas the actual administration of the country is run by the ministers who belong to the majority party in the House of Commons and are responsible to it. Similarly, there exist many other constitutional conventions in England which make it a unique feature of the English constitution.

### **There is Rule of Law in England**

The liberties of the English people are safeguarded by the existence of what is known as the "Rule of Law" in England. The law in England is supreme, uniform and universal in England. Persons are equal before law in England. The government exercises its powers according to the law of the land and not arbitrarily. No person in England can be punished unless it is definitely proved in ordinary law courts in an ordinary legal manner that he has violated some law of the country. There is no special law or there are no special law courts for the government officials. Everyman irrespective of his rank or status, is subject to the same ordinary law or law courts of the country. Thus the rule of law in England ensures liberty and guarantees equality to the English people. This is why Dicey has said that there is liberty in England because there is rule of law.

### **The King of England**



"The King can do no wrong" is an important maxim of the English constitutional law. It is essential to understand the meaning of this principle and also to know if there are any exceptions to it.

Meaning: The maxim "the King can do no wrong" means two things.

Firstly, it means that "by no proceedings known to the law can the king be made personally responsible for any act done by him.

Secondly, it means that "no one can plead the orders of the Crown in defence of any act not otherwise justifiable by law". In other words if a person commits an unlawful act under the commands of the crown no action will lie against the Crown.

Dicey has explained the meaning of this maxim in the following words: "The Queen can do no wrong". "This maxim, as now interpreted by the courts, means, in first place, that by no proceeding known to the law can the Queen be made personally responsible for any act done by her. The maxim means, in the second place, that no one can plead the orders of the Crown or indeed of any superior officer in defence of any act not otherwise justifiable by law: this principal in both its applications is a law and a law of the constitution, but it is not a written law". Thus the King cannot be held responsible for any act whether it is done by any other individual under his commands or under the commands of any superior officer of the Crown.

We may well understand the meaning of the above maxim if we also keep in view a few other maxims of the English constitutional law which are closely allied to this maxim. They are as under:

"There is no power in the Crown to dispense with the obligation to obey a law". Explaining this principle Dicey states that "this negation or abolition of the dispensing power now depends upon the Bill of Rights, it is a law of the constitution ad written law".

In view of this principle we may say that the King can do no wrong because he can authorize no wrong. The offender should know that for the wrongs committed by him the King cannot be held responsible because the king cannot authorize anyone to commit a wrongful act.



Another closely allied principle of the English constitutional law is that no act is recognised by the courts on act legally done by crown which is not done in a particular form, a form in general involving the affixing of a particular seal by a Minister, or the counter signature or something equivalent to the counter signature of the Minister.

A natural corollary of the above principle is another principle "that the Minister who affixes a particular seal, or countersigns his signature, is responsible for the act which he, so to speak, endorses." Dicey observes that "this again is part of the constitution and a law, but it is not a written law". Thus we may say that the King can do no wrong because no order of the King is effective unless and until the same has been countersigned by some minister and as a result of this the minister who countersigns the order of the King becomes legally responsible for the same. On this account the responsibility of the King finishes.

Legally the executive authority is vested in the King. His power is uncontrolled, unrestricted and, we may say, absolute. He can do anything and everything. But in actual practice the King does nothing by doing everything. The whole growth of the English constitution has been characterised by a gradual transfer of the powers and prerogatives of the King-in-person to the Crown as an institution. The King-in-person has ceased to be directing force in all governmental activities. The actual power now rests with the ministers and the King has become only a symbol of authority. The real authority lies with the ministers who alone are responsible of the acts of the Crown. It is said that once a courtier of Charles II wrote the following lines on the door of the Royal Bed Chamber:

"Here lies a great and mighty King,  
Whose promise none relies on,  
Who never said a foolish thing,  
Nor ever did a wise one".

In the words of Lord Erskine: "The King can have no conscience which is not the trust of responsible subjects. The maximum that the King can do no wrong, does not seek to alter the nature and constitution of things, but to preserve the government not only against the impeachment of crime, but even against the irreverence and loss of dignity arising from the imputation of it. No act of State Government can, therefore, be the King's : he cannot act but



by advice; and he who holds office sanctions what is done, from whatever source it may proceed". The King of England has no opinion at all. The constitutional doctrine of ministerial responsibility means that the King would have to sign even his own death warrant if the same was presented to him for his signatures by a minister who commanded a majority in Parliament. If the King were to attempt to tamper with the fundamental principle of ministerial responsibility the people of England would bring about the end of the institution of monarchy.

The development of the principle of ministerial responsibility has taken the King away from the arena of party politics and this has added to the popularity of monarchy. The credit or the discredit of any act done by the crown goes to the ministry in power and not to the monarch. In the words of Prime Minister Asquith: "We have now a well established tradition of two hundred years that in the last resort the occupant of the throne accepts and acts upon the advice of his ministers..... If the King were to break that rule, he would.... be dragged into the arena of party politics and ..... the crown would become the football of contending factions".

In the end we may say that the King cannot act unconstitutionally so long as he acts on the advice of a minister commanding the confidence of a majority has saved the institution of monarchy. If a King were asked by a responsible minister to violate the constitution he must act according to the advice but it will not be and cannot be said that in acting according to the minister's advice the King acted unconstitutionally and this is so because the responsibility lies on the ministers.

### **The Cabinet System**

An important feature of the English constitution is that it establishes cabinet system or parliamentary form of government. While every act of the government in England is legally done in the name of the King the real executive however, is not the King but the cabinet. Like various other institutions in England the cabinet system is also the child of chance and not result of any conscious design. It is unknown to the law of the land although it is the guiding and directing force in the government. Prof. Munro defines the cabinet "as the body of royal advisers chosen by the Prime Minister in the name of the crown, with the approval of a majority in the house of Commons". Sidney Low describes it as "the responsible executive having the complete control of the administration of the general direction of national business, but



exercising the vast power under the strict supervision of the representative chamber to which it is accountable for all its acts and omissions." According to Bagehot, the cabinet is the "hyphen that joins, the buckle that binds the executive and the legislative departments together." In the words of Lowell : "The cabinet is the Keystone of the political arch". According to Sir John Marriot "the Cabinet is the pivot around which the whole political machinery revolves." In the words of Ramsay Muir the cabinet is the "steering wheel of the ship of the state." According to L.S Amery the cabinet is "the central directing instrument of Government."

The fundamental principles of the Cabinet system of government in England are as under:

### **The King is only a titular executive head**

An important feature of the cabinet system of government in England is that the King who is a legal sovereign is in actual practice a titular or nominal head. The real administration of the country is run by a council of ministers headed by the Prime Minister. The ministers are taken from the majority in the Lower House of the Parliament and are responsible to the Parliament, i.e., they remain in office so long as they enjoy the confidence of the majority party in the house of commons. Legally the ministers of the King or Queen are appointed and dismissed at royal discretion but actually the sovereign has to appoint the leader of majority party in the Lower House as the Prime Minister and on his advice to appoint other ministers. The ministry resigns when it loses the confidence of the Parliament. i.e., of the Lower House. In theory or we may say legally the government of the United Kingdom is vested in the King. All the civil and Military officers of the State are appointed and dismissed legally by the King or in the name of the King. The ministers are the ministers of the King and ministers remain in office during the King's pleasure. The King is also the fountain of justice and source of all law. The Parliament is summoned, dissolved and prorogued by the King. The King can veto any bill passed by the English Parliament. No law passed by the parliament can be enforced unless it receives the assent of the King. However, all these powers of the King are only nominal. Legally, these powers belong to the King-in-person but actually they have been transferred to the crown which is an institution in which the King-in-person has only a nominal role to play whereas the actual powers are wielded by the cabinet.



### **Political Homogeneity**

Cabinet system of government is based on political homogeneity. In Other words, it means that the members of the cabinet hold one political opinion. More accurately we may say that all of them belong to one political party. Political unanimity is achieved if the ministers are appointed from the majority party in the House of commons. According to the well established practice the King or Queen summons the leader of the majority party in the House of commons in order to form a cabinet or ministry. Such a person is usually a party leader who commands a parliamentary majority. On the advice of the leader of the majority party the remaining ministers are appointed by the King or Queen. These ministers belong to one political party i.e. the majority party. So long as there were only two political parties in England it was an easy task to form a ministry from the majority party. But with the emergence of the Labour party sometimes it so happened that no single party could command a majority. In such situations the King could exercise his better judgement and discretion in summoning a leader who, in his opinion, might command a majority in the House. Thus in 1924 and again in 1929 when no single party commanded a majority Ramsay MacDonald, the leader of the Labour Party, was summoned by the King to form a ministry in spite of the fact that his party was not in majority. However, with the clear support of the Liberal Party Ramsay MacDonald was able to secure a distinct majority in the House.

It is true, of course, that coalition cabinets have been formed in England to meet certain emergencies and grave crisis, such as Economic Depression of 1931 and the World War II, but such experiments have been a rare feature of the English constitution and moreover they have not been popular in England. Soon after the emergencies are over the coalition cabinets have broken up. Political homogeneity is an essential condition of cabinet system in normal circumstances and it can be secured only when the cabinet is formed from one single majority party in the Lower House.

### **Close relationship between the Executive and the Legislative**

The constitution of the U.S.A. is based on the principle of separation of powers. But in England there is no separation of powers. Rather there is close relationship and close cooperation between the executive and the legislative. The members of the cabinet belong



either to the House of Commons or to the House of Lords. The presence of the ministers in Parliament ensures legislative and executive cooperation. On the executive side, a political heads of various departments, the ministers formulate and carry out the executive policy and on the legislative side the ministers sit in the Parliament, take part in its proceedings, pilot the government Bills and create an atmosphere of mutual understanding between the executive and the legislative. According to Bagehot "the Cabinet is the hyphen that joins, the buckle that binds the executive and the legislative departments together." In the U.S.A. the Secretaries of the President do not take part in the proceedings of the Congress because there is separation of powers. This results in frequent clashes between the executive and the legislative departments. But the cabinet system in England has removed such possibilities. The ministers sit in the Parliament, give answers to the questions put to them by the members of the Parliament, Supply the information required by the Parliament, defend their own policies and remain prepared to resign in the event of their losing the confidence of the majority party.

### **Ministerial Responsibility**

Ministerial responsibility is also another important feature of the cabinet system in England. This is why it is also known as the responsible type of government. In the words of Wade ad Phillips, "Ministerial responsibility has for the constitutional lawyer two distinct meanings, the one entirely legal, the other, which is under consideration here, purely conventional in the sense that it is no part of the law as applied by the courts." Let us examine ministerial responsibility in both these aspects.

### **Ministerial responsibility in legal sense**

Legally the ministers are responsible to the King for their public acts and policies. The ministers are appointed ad dismissed by the King if we consider the matter strictly in legal terms. However, the legal responsibility of the ministers to the King is only nominal and technical. Actually the King of England does not possess the power to appoint or dismiss a minister in the same way as the President of U.S.A. does. In actual practice in the ministers in England are appointed by the King or the Queen on the adic of the leader of the majority party in the House of commons who is appointed by His or Her Majesty as the Prime Minister and the Ministry so appointed remains in power so long as it enjoys the confidence of the majority party in the House of Commons does so at his own risk and such a risk may be so dangerous





and troublesome for him that a demand may be raised for the abolition of monarchy itself. Thus a wise King always acts on the advice of the Prime Minister who is a leader of the majority party.

### **Ministerial Responsibility in Conventional Sense**

In conventional sense cabinet is responsible to the Parliament or more accurately speaking to the House of Commons. The cabinet remains in office so long as it enjoys the confidence of the majority party in the House of Commons. It has to resign when it loses that confidence. The ministers are responsible to the house of commons for whatever happens in their departments. They answer the questions put to them by the members of the Parliament and have to satisfy the House by giving every kind of information which is demanded by it. The ministers can be criticised, censured and outvoted by the Parliament. According to the well established convention the cabinet must enjoy the confidence of the majority party in the House of Commons and in case it loses the support of the House it must either tender its resignation or ask the King or the Queen for a dissolution of the House of Commons. It can continue to remain in power if it again secures a majority it must resign. This is the real or conventional meaning of the ministerial responsibility. Although there is no legal obligation for a cabinet to resign when defeated in the House of commons yet a cabinet to resign when defeated in the House of common yet a convention has been established that normally the ministry must resign when it loses the confidence of the House of Commons.

### **Cabinet and Ministry**

It should be noted also that there exists a distinction between the cabinet and the ministry. The cabinet is an inner circle within the ministry. The ministry consists of all those members of the Parliament who hold important executive posts. Some of the ministers are of cabinet rank while others are ordinary ministers. The whole ministry never meets as a body very frequently and frame the policy to be followed by the government. The ordinary ministers are merely the heads of the various departments In this connection we have to note that the principle of collective responsibility means hat along with the ministers of the cabinet rank the ordinary ministers are also collectively responsible to the Parliament for the general policy of the government. When the ministers of the cabinet ran resign the ordinary ministers also have



to resign even though they may not have taken any part in framing the governmental policy. Although sometimes it is argued that they are not bound to fall in line with the cabinet rank resign the ordinary ministers also have to resign even though they may not have taken any part in framing the governmental policy. Although sometimes it is argued that they are not bound to fall in line with the cabinet ministers when the latter resign yet the accepted view is that implicitly by accepting office under the leadership of the Prime Minister such ministers are deemed to have delegated the power to take decisions to the cabinet ministers. Similar was the case during the two World Wars we war cabinets consisting of only 5 to 9 senior ministers were set up and many other ministers were excluded from the war cabinet. In such circumstance the whole ministry is responsible even though some ministers are excluded from the cabinet.

The principle of collective responsibility may also be termed as the principle of solidarity. Collective responsibility is possible only if there is ministerial solidarity. This means that all the ministers must be prepared to defend each other in the Parliament. The Chancellor of the Exchequer may stand up to defend the Home Secretary in case the latter is attacked in the House and the home Secretary may rise to defend the policy of the Minister of War in case it is criticised in the House of Commons.

### **The Prime Minister must necessarily belong to the House of Commons**

Another principal of cabinet system which has been conventionally recognized since 1922 is that the Prime Minister must necessarily belong to the Lower House, i.e. the House of commons. This is because of the popular feeling that the Prime Minister belonging to the Upper House, i.e. the House of Lords is a political anachronism in view of the fact that the peers represent nobody except themselves and hence the Upper Chamber has no representative character. The Prime Minister, therefore, as it has been scrupulously observed, must be a Commoner. In 1922 George V appointing Lord Curzon who was at that time the leader of the conservative Party. Since then it has become a custom to appoint a Commoner as the Prime Minister.

### **The British Parliament**



A dominant characteristic of the English constitution is that there is in England the sovereignty of Parliament, from a legal point of view. Before analysing the meaning and nature of the Parliamentary sovereignty it would be proper to understand the meaning or the sense of the word. "Parliament" as it is used in the context of the English constitution.

### **Meaning of "Parliament"**

Parliament in England means the King, the House of Lords and the House of Commons acting together. More properly, we may use the word "King-in-parliament". In the words of Dicey: "Parliament means, in the mouth of a lawyer, the Queen, the House of Lords, and the House of Commons; these three bodies acting together may be aptly described as the "Queen-in-Parliament", and constitute Parliament.

### **Meaning and Nature of the Parliamentary Sovereignty**

The sovereignty of Parliamentary means the legislative supremacy of Parliament from legal point of view, i.e., the supremacy of the Parliament is a legal fact which is recognised by the law courts in England. The nature of the Parliamentary sovereignty in England can be described from two points of view, the positive and the negative. In the words of Dicey: "The important thing is to make clear that the doctrine of Parliamentary sovereignty is, both on its positive and on its negative side, fully recognised by the law of England." In its positive aspect it means the "unlimited legislative authority of Parliament" and in its negative aspect it implies "the absence of any competing legislative power," as Dicey has put it. In his own words: "The principle of Parliamentary sovereignty means neither more nor less than this, namely, that Parliament thus defined has, under the English constitution, the right to make or unmake any law whatever; and further, that no person or body is recognised by the law of England as having a right to override or set aside the legislation of Parliament." Let us now examine both the positive and negative aspects of Parliamentary sovereignty separately.

### **Positive Aspect**

According to Sir Edward Coke, the power and jurisdiction of Parliament is so transcendent and absolute, that it cannot be confined, either for causes or persons within any bounds. In his commentaries Blackstone observes that the British Parliament has "sovereign and



uncontrollable authority in the making confirming, enlarging, restraining, abrogating, repealing, reviving and expounding of laws, concerning matters of all possible denominations, ecclesiastical or temporal, civil, military, maritime, or criminal." Again: "It can regulate or new-model the succession to the crown as was done in the reign of Henry VII and VIII. It can alter the established religion of the land; as was done in variety of instances, in the reigns of King Henry VIII and his three children. It can change and create afresh even the constitution of the kingdom and of parliaments themselves as was done by the act of union and the several statutes for triennial and septennial elections. It can, in short, do everything that is not naturally impossible and therefore some have not scrupled to call its power, by a figure rather too bold, the omnipotent Parliament." Speaking of the British Parliament Sir Mathew Hale observes : "this being the highest and greatest court over which none other can have jurisdiction in the kingdom, if by any means a misgovernment should any way fall upon it, the subjects of this kingdom are left without all matter of remedy." De Loma observed : "It is fundamental principle with English lawyers, that Parliament can do everything but make a woman a man, and a man woman".

In its positive aspect the sovereignty of Parliament, according to Dicey means (a) that there is no law which Parliament cannot make; (b) that there is no law which Parliament cannot repeal or amend (c) that there exists in the English constitution no distinction between the constitutional law and the ordinary law. Dicey has also referred to De Lolme's "grotesque expression which has become almost proverbial" quoted as above. However, if we consider strictly the legal point of view even De Lolme's statement falls short of the true position of the Parliament. The legal authority of the Parliament is so complete that even if the Parliament were to pass an Act laying down that all men in England are henceforth to be considered as women and vice versa there could be no legal limitation on its authority, so far as the courts are concerned they will have to accept such a legislation though the fact of nature cannot be altered by such measures of the Parliament.

This supreme legislative authority of Parliament is sought to be substantiated by quoting a large number of historical instances. The Act of Settlement (1701), the Act of Union (1707) and the Septennial Act (1716) are a few of the important historical examples cited to substantiate the Parliamentary sovereignty.

### **Negative Aspect**



As already stated, no person or body is recognised by the law of England as having a right to override or set aside the legislation of Parliament. In England there exists no other competing legislative authority. In the words of Marriot: "Competent and at all times called upon to legislate for one-fourth of the human race, Parliament or more technically "the King-in-Parliament" recognizes nondomestic authority superior to itself". Thus on the negative side the legislative supremacy of Parliament means the absence of any competing legislative power.

Various authorities in England, other than the Parliament, such as the King, each House of Parliament, the constituencies, and the law courts, have claimed from time to time or might appear to claim independent legislative power but in none of these cases such a claim has ever been made good or can be accepted now. Let us examine all these claims separately.

### **Royal Proclamations**

There was a time when, side by side with Parliamentary legislation, there also existed a system of legislation through Royal Proclamations. In 1539 an Act of Parliament empowered the crown to legislate in the form of royal proclamations. However, this Statute of Proclamation was repealed in the reign of Edward VI. In 1610, a solemn opinion of the judges established the doctrine that no royal proclamation could make a new law or alter an existing law except that it can be declaratory of an existing law. The existing law meant the common law, statute law and the custom but royal proclamation was none of them. The King could not create a new offence or impose any new legal obligation or duty which had not offence or impose any new legal obligation or duty which had not already been created or imposed by the common law or by an act of Parliament. The last instance in which a new legal obligation was created was that of 1766 when Lord Chatham tried to prohibit, by mean of proclamation, the exportation of wheat. Consequently, an Act of Indemnity had to be passed. Proclamations at the present time have only such weight as they might possess at common law.

### **Resolutions of either House of Parliament**

The House of Commons has also claimed from time to time for its resolutions an authority something like the acts of Parliament. But the principle was established in the case of Stockdale V. Hansard that the resolutions of neither House would have any force of law.



Hansard had been authorised by a resolution of the House of commons to publish a report that contained a libel on Stockdale. Hansard was sued by Stockdale for libel. In his defence he pleaded the authority of the House of commons. In this case it was held that a libellous publication did not cease to be a libel because it was published in pursuance of are solution of either House of the Parliament. The principle established in this case is subject to one limitation, that is, that either house of Parliament has the fullest power and jurisdiction over its own proceedings and can, like any court, commit for contempt any individual who is a drugged by the House as guilty of insult or affront to the House.

### **The vote of the Parliamentary Electors**

Similarly the sovereignty of Parliament is not affected by the will of the voters. Although the wishes of the constituencies may influence the legislation of the Parliament, yet the electors do not take any direct part in the process of law making. The voters can act only through their representatives in the Parliament. It is only in the case of constitutions like that of Switzerland that the principle of direct legislation through initiative and referendum is recognised.

### **The Law courts**

Judicial decisions are also considered as important source of law. The adhesion to precedent inevitably results in the formation of judiciary law. But judicial legislation also cannot affect the principle of sovereignty or supremacy of Parliament because it is a kind of subordinate legislation carried an with the assent of Parliament and is subject to the superision of Parliament. The sovereignty of Parliament is evident from the fact that the courts cannot alter or repeal an Act of the Parliament whereas an act of Parliament can override the judicial decisions or judge made law.

### **Alleged limitations and Dicey**

Dicey has referred to three alleged legal limitations on the legislative authority of Parliament and points out that these limitations are not real. These are as under:

#### **Moral law**



The first alleged limitation on the sovereignty of Parliament pointed out by the critics is that the Parliament cannot pass a law which is against the dictates of private or public morality. According to Dicey there is no legal basis for this assertion. No court will accept an argument that an Act of Parliament is illegal because it is immoral. Law is law whether it is moral or not. If it is enacted by Parliament that is enough to be accepted as law. The courts would look to the form of law and not its contents. Therefore this limitation has been rejected by Dicey as unreal.

### **Proceeding Acts of Parliament**

Thirdly it is maintained that a new Parliament cannot touch a law passed by a previous parliament. It is said that if a previous parliament has passed an act to be applicable forever the present parliament cannot repeal or alter the provisions of that Act. This theory is certainly illogical. No act can remain in enforcement forever in view of the ever changing in social, economic, political and religious spheres. The common law maxim is that "Acts derogatory to the powers of subsequent parliament bind not." The history shows that various efforts made by the parliament to pass acts which should be the hands of succeeding Parliaments have not been successful. For example, although the act of union (1800) was passed for ever, yet the same was altered from time to time and finally the Anglo-Irish Union was dissolved when the Act was repealed in 1922. Dicey has rejected the alleged limitation on the sovereignty of Parliament as explained above.

Keeping in view the above discussion Dicey, says "Parliamentary sovereignty is therefore an undoubted legal fact". Again : "it is complete both on its positive and on its negative side. Parliament can legally legislate on any topic whatever which in the judgment of Parliament, is a fit subject for legislation. This doctrine of the legislative supremacy of Parliament is the very Keystone of the law of the constitution".

### **THE RULE OF LAW IN ENGLAND**

One of the most Important and unique features of the English constitution is the rule of law. Apparently, it means that it is the law of the land that rules the country and not the arbitrary will of any particular individual or individuals. In England law of the land means the Statutory Law and the "Common Law" which implies the inherent rights and privileges of the



people which have been recognised by the common courts of the country. Rule of law in England is the product of centuries of struggle of the English people for recognition of their ancient liberties, inherent rights and privileges, against the discretionary and arbitrary attempts of particular privileges, against the discretionary and arbitrary attempts of particular individuals who attempted to rule the country in disregard of those rights and privileges. In England the constitution does not confer any specific rights on the citizens in the manner in which the constitutions of many other countries, as for example, those of the U.S.A. and India, do. No specific fundamental rights are laid down in any act passed by the English Parliament. The ordinary courts of the country have always acted as the vigilant and alert custodian of the ancient liberties of the English people. Law is supreme over all sections of the people in England and no individual or individuals can claim exemption or immunity from the same. According to Dicey there is liberty in England because there is rule of law.

### **Three Meanings of Rule of Law**

According to Dicey: "When we say that the supremacy or the rule of law is a characteristic of the English constitution, we generally include under one expression at least three distinct though kindred conceptions." The three fundamental principles on which the Rule of Law in England is based according to Dicey are as under:

#### **The Principle of 'liberty'**

This principle of the Rule of Law means that no person in England can be deprived of his life, liberty or property in an arbitrary manner. No person can be arrested by the authorities unless it is done on account of a definite breach of law by that person. The breach of law must be proved in a duly constituted ordinary law court of the country. Moreover, the trial must not be held behind closed doors. The case must be heard in open courts to which the general public must have a free access. The accused person must be given the right to appoint his counsel to defend and represent him in the court. He must be tried by a jury in all serious criminal cases. The judges must deliver the judgement in an open court. The accused must be given a right to appeal to the High court of the country.

In case a person who has been arrested for an alleged breach of law cannot be held guilty of violating a particular law he must be set free. In England there can neither be any arbitrary and nor illegal arrest or imprisonment nor any illegal punishment. In case any person has been





put under arrest illegally and kept behind the bars without any authority of law, an application can be made for a writ of Habeas Croup and in case the detaining authority or jail officials cannot put forward a legal plea in defence of the detention which has bee challenged in the court of law, the person concerned must be set at liberty. All this reduces to the minimum the arbitrariness and oppression of the executive authorities.

In the words of C.L. Anand: "Unlike the governments on the continent the executive in England claims no inherent arbitrary power of constraint. England is a country where laws might be harsh, but where men are ruled by law and not by caprice".

### **The Principle of 'equality before law'**

This principle of the Rule of law means two things. In the first place it implies that all citizens irrespective of their social status or official position are equal before law. In the second place it implies that there is only one kind of law that is applicable to the English citizens. All public officials, irrespective of their status, are placed under the same responsibility for every act done by them under which the ordinary citizens are placed. In case any public official does any wrong to any citizen or exceeds his official powers he can be sued in ordinary court by the injured citizen, and is tried in an ordinary manner subject to the provisions of the ordinary law. All citizens, high or low, are considered as equals in the eyes of law and this equality is calculated to minimise the tyranny and arbitrariness of the executive authorities. There are no separate courts for trial of government officials or servants in England though that is the case in France. Similarly there is no separate law in England by which the government officials or servants may be tried.

No person in England can plead immunity from the application of the laws of the land. In the words of Dicey: "in England the idea of legal equality, or the universal subjection of all classes to one law administered by the ordinary courts, has been pushed to its utmost limit. With us every official, from the Prime Minister down to a constable or a collector of taxes, is under the same responsibility for every act done without legal jurisdiction as any other citizen" ..... On the other hand, in the continental countries, for example France, all persons are not subject to one and the same law nor are the court supreme throughout the country.



## Not the Gifts

This principle of the Rule of Law means that in England the rights of the citizens are not the gifts showered upon them by the constitution. They do not flow from the constitution but from judicial decisions taken by the courts in particular cases brought before them. The English judges have played an important role in safeguarding the rights and privileges of the Englishmen. Being a Liberal of the 19th century Dicey paid a liberal tribute to the Liberal judges who had played a crucial role in safeguarding the inherent and ancient rights and liberties of the English people. In other countries, as for example in U.S.A. and India, and other continental countries, the freedom of the individual is guaranteed by definite provisions of a written constitution. The subjects must take legal steps in case of their violation but the legal methods to do so may or may not be forthcoming. In case the constitution as a whole or in part is suspended in such countries, the citizens would be deprived of legal guarantees against the government. In England, however, law has provided definite modes of procedure whereby a citizen may effectively secure the rights. This means that whereas in other countries which have written constitutions providing list of fundamental rights of the people the rights are the results of the constitution, in England where there is no written constitution, as a whole, the constitution itself is the result of the inherent rights and liberties of the people. In other words, in England the rights of the subjects are the source of the English constitution.

In the words of Dicey "In Belgium, which may be taken as a type of countries possessing a constitution formed by a deliberate act of legislation, you may say with truth that the rights of individuals to personal liberty flow from or are secured by the constitution. In England the right to individual liberty is part of the constitution, because it is secured by the decisions of the courts, extended or confirmed as they are by the Habeas Corpus Acts".

Dicey emphasised the importance of the Rule of Law in England. According to him there was liberty in England because there was Rule of Law. He felt proud to point out that in England had established the equality of all citizens before the courts of law. He also pointed out that it had put a healthy check on the arbitrary tendencies of the government servants. It was illegal for a Government officials to put any citizen of England under arrest or behind the bars without any law full justification in support of his action. He was well aware of his legal responsibility. He knew that in case his official action was found to be based on any illegal ground he was liable to be sued and made to pay the damages. Orders of the superior officials



in support or in defence of an illegal act of a government servant could not be accepted as a valid defence. He was always to bear in mind that his acts even if done under the commands of a superior must not violate any law of the country or the rights and liberties of the citizens. An example may be given in this context of the action of a soldier who was ordered to disperse a mob but who in doing so unnecessarily killed persons. Legally, he was only to disperse the mob and not to shoot any person and kill him or injure him. He was to bear it in mind that in case he was found guilty of murder after being sued and tried for that act, he would be duly punished for the breach of law. These considerations were bound to have a healthy effect on the arbitrary tendencies of the government servants in England. This is why Dicey asserted that "there is liberty in England because there is rule of law."