DPCS-01

Parliamentary Democracy in India

DIPLOMA PROGRAMME IN PARLIAMENTARY AND CONSTITUTIONAL STUDIES

COURSE I

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COURSE INTRODUCTION

This is the first course of the one year Diploma Program in Parliamentary and Constitutional Studies. The first course or paper of this Diploma Programme is titled "Parliamentary Democracy in India". It is designed to help the learners to have a basic understanding of the parliamentary system of India. As citizen of a democratic counrty we should have knowledge about the governance system of our country. Accorgingly this Diploma Program is designed to provide some basic knowledge about our constitutional and governance system. This course contains 5 units. The units are as follows:

Unit 1: Evolutiuon of Parliamentary Democracy

Unit 2: Nature and Origin of States in India

Unit 3: A Brief Summary of the Government of India Act 1919, 1935 and the Indian Independence Act of 1947

Unit 4: Parliamentary System in India in the Post Independent Period

Unit 5: History of Assam Legislature

The first unit discusses the evolution of parliamentary democracy in India right from the colonial period to present time. The second unit deals with the origin of state and nature of Indian state. This unit focuses on various theories regarding the origin of states and examine the nature of the Indian state from various perspectives. The third unit deals with some important Acts enacted during the colonial period. Some of the Acts discussed in this unit are the Government of India Act, 1919, 1935 and the Indian Independence Act of 1947. All of these Acts had laid the foundation of parliamentary democracy in India. The fourth unit discusses the parliamenatry system of India in post independent period. This unit focuses on the srtucture and functions and powers of the legislature both at the central and state levels. The fifth unit deals with the historical background of Assam legislature.

While going through the units, you will find that unit is further divided into certain sections and sub-sections, wherever necessary, for your better understanding. Again, the units carry certain *activities* after a particular section where needed. These "ACTIVITIES" will provide you the opportunity to practically apply your own thoughts based on the knowledge gained from reading the text in a particular section. Besides, in order to give you additional information on certain relevant topics, you will find a category called "LET US KNOW" after the sections in each unit. Another category that has been included at the end of each section of a particular unit is "CHECK YOUR PROGRESS". The purpose of this category is to help you to asses for yourself as to how thoroughly you have understood a particular section. You may then match your answers with "ANSWERS TO CHECK YOUR PROGRESS" given at the end of each unit. The section "FURTHER READING" in each unit contains the names of a few books which you might want to consult if you are intereted in learning more elaborately about the concepts discussed in a particular unit. Furthermore, the category called "MODEL QUESTIONS" is intended to give you a hint of the type of questions you are likely to get in the examination.

UNIT 1 : EVOLUTION OF PARLIAMENTARY DEMOCRACY

UNIT STRUCTURE

1.1 Learning Objectives

1.2 Introduction

1.3 Evolution of Parliamentary Democracy in India

1.4 Evolution of Parliamentary Democracy and the Constitution of India

1.5 Parliamentary form of Government: England and India

1.6 Let Us Sum Up

1.7 Further Reading

1.8 Answers to Check Your Progress

1.9 Model Questions

1.1 LEARNING OBJECTIVES

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

- describe the evolution of parliamentary form of government in India
- examine the constitutional provisions regarding parliamentary form of government in India
- present an analysis of parliamentary form of government in India and Great Britain.

1.2 INTRODUCTION

The Parliamentary form of Government is the correlative of democratic form of government and it can be considered as the miniature of the democratic set up of the country representing the diverse population of the country at the central, state and UT(Union Territory) level. The form of government in which the executive is selected from among the members of the legislature and is responsible to the legislature is called Parliamentary government. A Parliamentary government is also known as the cabinet form of government because the cabinet is the real executive in it. It is also called

responsible government, since the cabinet always remains responsible to the legislature for its activities. India has adopted the Parliamentary form of Government from Great Britain. But unlike Great Britain, Parliament is not supreme in India. Rather it is the Constitution which is supreme in India. The Constitution of India establishes the Parliamentary form of Government consisting of the President, Council of States (Rajya Sabha) and House of People (Lok Sabha) at the centre. The essence of the Parliamentary form of the Government is that the President is the Constitutional head of the state. The real executive powers are vested in the Council of Ministers headed by the Prime Minister.

1.3 EVOLUTION OF PARLIAMENTARY DEMOCRACY IN INDIA

The Indian Parliamentary system as it exists today has got its shape and structure through various struggles forming a part of the Indian struggle for independence against 200 years of British Rule. The struggle has led to extensive political and legislative developments which gradually led towards the establishment of the present day parliamentary system of democracy in India. These developments have ultimately led to the enactment and adaptation of the Constitution of India. The Constitution declares India to be a parliamentary form of government and the composition, powers, functions and the procedure of the Parliament are well defined in the Constitution. The pre-constitutional developments with regard to the evolution of the Parliamentary form of democracy in India are very significant from academic point of view. Following can be regarded as the pre-constitutional stages towards the development and evolution of the present day parliamentary system of India.

- **The Regulating Act, 1773:** Until this Act the territory of India was divided into 3 presidencies, namely, Bombay, Madras and Bengal. This Act started the process of territorial integration and administrative Centralization in India. The Regulating Act, 1773 marked the beginning of legislative control by the British Government over the East India Company and improvement in overall functions of the government

including, legislative, executive and judicial. It clearly declared the British Parliament had every right to pass laws and instructions in that regard.

- **The Charter Act, 1833:** This Act marked the beginning of demands for other representative bodies in the line of the British Parliamentary institution. It established one Legislative Council for all the British territories in India. In order to effectuate the day to day administration of the country the supreme authority in India was delegated to the Governor General's Council. The Governor General became the real ruler of the country under the ultimate supervision, control and direction of the British Government. The Act however attempted to demarcate between the executive and legislative functions of the Governor-General's Council which led to the addition of a 'legislative member' and Lord Macaulay was appointed to hold that position.
- **The Charter Act, 1853:** This Act led to the demarcation between the legislative and executive functions of the government paving the way for separate legislative body which would be centralized in nature. This Act made important changes in the Governor General's Council. The Council was enlarged with six additional members to be known as the Legislative Councilors and the 'legislative member' was given the right to sit and vote at executive meetings. These were done with the intention to strengthen the legislature as a separate law making body.
- **The Indian Council Act, 1861:** The Act reconstituted the Governor General's Council. It was to constitute five ordinary members and the Governor General was authorized to nominate to the Council additional members which further strengthened the machinery of legislature and the law making no more remained exclusive to the executive.
- **The Indian Council Act, 1892:** Under this Act the Legislative Council of Governor General was further enlarged with increased number of additional members, not less than ten and not more than sixteen. The members of the legislative council were given added privileges to ask questions to the government members, which marked a significant step towards progress of the institution of Parliamentary institution.
- **The Indian Council Act, 1909:** This Act was enacted in order to give

effect to the Morley Minto Reform Proposal of 1908 to have greater and more effective representation in the affairs of the country. The Act made changes in the functions of Indian Legislature i.e. the then Legislative Council. But the Act suffers from a major defect that it provided representation and reservation of seats for certain special community namely Muslim, Chamber of commerce, Zaminder, etc. which gave greater impetus to the British policy of divide and rule.

- **The Government of India Act, 1919:** The Government of India Act, 1919 brought very significant change in the history of Indian Legislature, it replaced the Indian Legislative Council at the centre by a bicameral system of legislature consisting of a Council of State(Upper House) and a Legislative Assembly(lower house). Each of the house consisted of members elected directly either on the basis of qualification of property and tax or education. However the said Dyarchy system of legislature under the British Government was not sovereign and was powerless being subject to the ultimate authority of the British Parliament. The Governor General's Council was responsible only to the Secretary of State for India and through him to the British Parliament. The Act was criticised by many as it failed to meet the popular demand of a representative and responsible government.
- **The Simon Commission, 1927:** The Simon Commission was appointed in November, 1927 with a view to look into the functions of the government, the growth of education and the development of representative institutions in British India and for other connected matters and reporting the same in order to establish a responsible government.
- **The Government of India Act, 1935:** The Act proposed for establishing a federal structure of Government in the country with the Federation of India consisting of the individual provinces that were to join the Federation voluntarily by signing the Instrument of Accession, with provincial autonomy at the provinces and subjects being divided between the provinces and the federation. The Governor General was to have a Council of Ministers and the Governor General was to discharge his functions on the aid and advice of these Ministers. The Indian Council of

the Secretary of State was abolished. The Act further introduced the Federal Courts in India but the Constitution of 1935 was rigid as only the British Government had the power to amend the Constitution.

- **The Indian Independence Act, 1947:** The Indian Independence Act, 1947 modified the Government of India Act, 1935 and was adopted by the Governor General as the provisional Constitution of the Dominion until the Constitution of India was enacted for the country by the Constituent Assembly. The legislative power of the Governor General was removed and the same was vested with the Constituent Assembly, which marked the beginning of the functioning of the parliamentary system of democracy of India with sovereign powers with regard to legislative functions. However a distinction was drawn between the Constitution making power and the ordinary legislative powers, with regard to which the Assembly was to function as a sovereign independent body. Governor General became a mere constitutional head of the country with sole legislative power to promulgate only in case of emergency.



CHECK YOUR PROGRESS

Q 1: Why did India adopt Parliamentary form of government?

……..……..

.....

Q 2: Britain follows Parliamentary supremacy unlike India where ……..…… is supreme. (Fill in the blank)

Q 3: Who was appointed as the first legislative member under the Charter Act, 1833?

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Q 4: Write a short note on the Government of India Act, 1935.

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1.4 EVOLUTION OF PARLIAMENTARY DEMOCRACY AND THE CONSTITUTION OF INDIA

The evolution of Parliamentary democracy in India is primarily related to the evolution of the Constitution, which is the embodiment of the entire system of governance of the country and the authority of all the constitutional bodies and institutions framed under the Constitution of India including the Parliament. The task of framing the Constitution by a sovereign democratic country is performed by a body of elected representatives known as the Constituent Assembly which marks the genesis of the parliamentary system in India.

- **The Constituent Assembly**

  The right to have a Constitution to enumerate all the rights and duties is an inherent right of nationals of every country which has very well been jurisprudentially defined by Rousseau through his famous doctrine of social contract theory. The Government of India Act, 1919 and the grant of dyarchy in the province could not subserve the demand of the Indians for a Constitution of their own. However the first reference to the Constituent Assembly was made by Mahatma Gandhi while explaining the meaning of Swaraj in 1922 when he indicated that the Constitution of India would be drafted by Indians.

  The British Government accepted the demand of Indians for Complete Independence (Purna Swaraj) in 1940 and declared that it is the responsibility of the Indians to frame their own Constitution in the light of the social, economic and political structure of Indian life. The Cripps Proposal of March 1942, and the members of the Cabinet Mission along with the then Viceroy and Governor General of India, Lord Wavell gave a strong impetus for establishment of a machinery for framing the Constitution of India.

  On 9 December 1946, the Constituent Assembly (representatives of the people) met in the Constitution Hall, New Delhi for the first time to deliberate upon the framing of a Constitution for the country. The Constituent Assembly became a fully sovereign body. The Objective

Resolution was moved in the Constituent Assembly by Jawaharlal Nehru on 13 December, 1946. As already discussed above the Constituent Assembly performed dual functions, namely drafting the Constitution of India and the ordinary legislative function. Dr. Rajendra Prasad chaired as president of the Constituent Assembly when it was performing constituent functions and Dr. G.V. Mavlankar used to chair the assembly when it was performing ordinary legislative functions. The Mavalankar Committee in its report on 29 August 1947, recommended for a provision for the election of a Speaker to preside over the Assembly while functioning its legislative function.

- **Framing of the Constitution by the Constituent Assembly**

On 29 August 1947, a Drafting Committee of seven members namely, Jawaharlal Nehru, Sardar Vallabh Bhai Patel, Rajendra Prasad, Maulana Abul Kalam Azad, Acharya J.B. Kriplani, T.T. Krishnamachari and Dr. B.R. Ambedkar was set up to draft the Constitution of India. Dr. Ambedkar was elected as the Chairman of the Committee. Dr. Sachchidan and Sinha was elected as temporary President and later Dr. Rajendra Prasad became the permanent President of the Constituent Assembly. Shri B.N. Rau was appointed as legal Advisor to the Constituent Assembly. Sardar Vallabh Bhai Patel was the Chairman of the most important Committees namely Committee on Fundamental Right, Committee on minority states, etc and thus made significant contribution.

The Drafting Committee examined the Draft Constitution and submitted its report to the President of the Assembly on 3, November, 1949. Ultimately the Constitution of India was adopted by the people of the country on 26 November, 1949 when it was signed by Rajendra Prasad as the President of the Constituent Assembly. The final session of the Constituent Assembly was held on 24th January, 1950 wherein Rajendra Prasad was unanimously elected as the first President of the Republic of India. The Constitution of India came into force on 26th January, 1950. The Constituent Assembly remained as the provisional

Parliament of the country and functioned as such until the full fledged institutional framework of parliament was instituted after the first General Election based on the adult franchise.

- **Institutionalisation of the Parliamentary form of Government**

  The Parliament as is seen today received its authority and is constituted under the Constitution of India which declared India as a republican state with parliamentary form of government with constitutional supremacy. The first general elections under the Constitution was held in the year 1951-52. The Parliament with the Rajya Sabha and the Lok Sabha thus came into being with its elected members in May, 1952. The Rajya Sabha since then has been continuing without any dissolution. The Lok Sabha continues for a period five years from the commencement of the first session. However it can be dissolved even earlier by the President or be extended in case of emergency.



CHECK YOUR PROGRESS

Q 5: When was the Drafting Committee set up?

.....

Q 6: The Constitution of India came into force on ……..…… (fill in the blank)

Q 7: Mention two main functions of the Constituent Assembly.

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1.5 PARLIAMENTARY FORM OF GOVERNMENT: ENGLAND AND INDIA

India has adopted the Parliamentary form of government from Britain, the reason being that Indians have been accustomed to the Parliamentary form of government since the British rule. However in India, the Constitution is regarded as the Supreme, unlike in England where it is the Parliamentary supremacy which prevails. The Parliament in England enjoys absolute

sovereignty and supremacy. It means that:

- Parliament can make, amend or repeal any statute
- Parliament possesses unlimited constituent power
- No judicial review of the law passed by the parliament, whether Constitutional or statutory, by the courts.

Thus no law made by the Parliament can be set aside or held to be unconstitutional by any courts or any other judicial form in England. Also there is no question of the law made by the Parliament to become inconsistent or repugnant to the Constitution as there is no written Constitution in England. But England has a responsible government with an elected House of Common which reflects the contemporary public opinion, social morality or consciousness, which receives consensus by majority of the population. However there is no established principle of morality or consciousness to guide the Parliament in the process of legislation. Moreover the concept of rule of law as promulgated by A. V. Dicey, the British Jurist seems to be contrary to the Parliamentary sovereignty or supremacy as existing in England.

There are some differences between the parliamentary system of India and Great Britain. The powers of the British Parliament is undefined and unfettered but is not so in case of India. India has a written Constitution and the powers and functions of the Parliament are defined in the Constitution and are subject to restraint. By Article 245(1) of the Constitution of India, the legislative power of the Parliament has been specifically made 'subject to the provisions of the Constitution'. A law made by the Parliament must therefore conform in all respects to the Constitution. Parliament is no doubt the source of all central legislations but any repugnancy or inconsistency of any legislation or any part thereof shall be checked by the Courts in terms of their constitutional validity, in order to uphold the supremacy of the Constitution. Moreover the Parliamentary system of government as existing in India is based on the principle of collective responsibility. The Ministers are responsible to the Lok Sabha for their actions and policies. They assume responsibility also for the officials working under them in the respective Ministries. Thus the legislature exercises control over the executive, whether

directly or indirectly. Thus it can be inferred that though India has not adopted the Parliamentary form of government from England in total, it has been incorporated in the Indian democratic set up in order to meet the social, political, cultural and demographic needs of the country.



CHECK YOUR PROGRESS

Q 8: The Parliament in England enjoys absolute sovereignty and supremacy. What does it mean?

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Q 9: How is Indian model of Parliamentary form of Government different from that of England? Explain.

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1.6 LET US SUM UP

- The Parliamentary form of Government is the correlative of democratic form of government and it can be considered as the miniature of the democratic setup of the country representing the diverse population of the country at the central, state and UT(union territory) level. India has adopted the Parliamentary form of Government from Britain.
- Unlike Great Britain, Parliament is not supreme in India. In India the Constitution is Supreme.
- India's struggle for independence against the British rule has led to extensive political and legislative and developments through separation of the legislature from the executive towards the

establishment of the present day parliamentary system of democracy.

- The Regulating Act, 1773 marked the beginning of legislative control by the British Government over the East India Company and improvement in overall functions of the government including, legislative, executive and judicial.
- The Charter Act, 1833 made the Governor General the real ruler of the country under the ultimate supervision, control and direction of the British Government.
- The Indian Council Act, 1909 provided representation and reservation of seats for certain special community namely Muslim, Chamber of commerce, Zaminder, etc. in the Indian Legislature i.e. the then Legislative Council which gave greater impetus to the British policy of divide and rule.
- The Government of India Act, 1919 established a bicameral system of legislature consisting of a Council of State(Upper House) and a Legislative Assembly(lower house)
- The Government of India Act, 1935 proposed for establishing a federal structure of Government in the country with the Federation of India consisting of the individual provinces that were to join the Federation voluntarily by signing the Instrument of Accession, with provincial autonomy at the provinces and subjects being divided between the provinces and the federation.
- On 9 December 1946, the Constituent Assembly (representatives of the people) met in the Constitution Hall, New Delhi for the first time to deliberate upon the framing of a Constitution for the country.
- The Constituent Assembly performed dual function, framing of the Constitution and the ordinary legislative function.
- The powers of the British Parliament is undefined and unfettered but is not so in case of India. India has a written Constitution and the powers and functions of the Parliament are defined in the Constitution and are subject to restraint.



1.7 FURTHER READING

1) Subhash, C. Kashyap. (1991). *History of Parliamentary Democracy*. New Delhi: Shipra Publications.

2) V. Bhaskar Rao & B, Venketeshwarlu (1987). *Parliamentary Democracy in India*. New Delhi: Mittal Publications.



1.8 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: India adopted Parliamentary form of government because the system was already there in India and Indians were well acquainted with it.

Ans to Q No 2: Constitution

Ans to Q No 3: Lord Macaulay

Ans to Q No 4: The Government of India Act, 1935: The Act proposed for establishing a federal structure of Government in the country with the Federation of India consisting of the individual provinces that were to join the Federation voluntarily by signing the Instrument of Accession, with provincial autonomy at the provinces and subjects being divided between the provinces and the federation. The Governor General was to have a Council of Ministers and the Governor General was to discharge his functions on the aid and advice of these Ministers. The Indian Council of the Secretary of State was abolished. The Act further introduced the Federal Courts in India but the Constitution of 1935 was rigid as only the British Government had the power to amend the Constitution.

Ans to Q No 5: On 29 August 1947

Ans to Q No 6: 26th January, 1950

Ans to Q No 7: Drafting the Constitution of India and the ordinary legislative function

Ans to Q No 8: The Parliament in England enjoys absolute sovereignty and supremacy. It means that:

(i) Parliament can make, amend or repeal any statute.

(ii) Parliament possesses unlimited constituent power.

(iii) No judicial review of the law passed by the parliament, whether Constitutional or statutory, by the courts.

Ans to Q No 9: The powers of the British Parliament is undefined and unfettered but is not so in case of India. India has a written Constitution and the powers and functions of the Parliament are defined in the Constitution and are subject to restraint. Any repugnancy or inconsistency of any legislation or any part thereof shall be checked by the Courts in terms of their constitutional validity, in order to uphold the supremacy of the Constitution.



1.9 MODEL QUESTIONS

A) Very Short Questions

Q 1: Why did India adopted Parliamentary form of government?

Q 2: Who was appointed as the first legislative member under the Charter Act, 1833?

Q 3: When was the Drafting Committee set up?

Q 5: Which provision of the Constitution of India subjects the Parliament to the Constitution of India?

B) Short Questions (Answer each question in about 150 words)

Q 1: Write a short note on the Constituent Assembly.

Q 2: Write briefly about parliamentary sovereignty in Great Britain.

C) Long Questions (Answer each question in about 300-500 words)

Q1: How is Indian model of Parliamentary form of Government different from that of England? Explain.

Q2: Describe the pre-constitutional stages towards the development of parliamentary form of democracy in India.

*** ***** ***

UNIT 2 : NATURE AND ORIGIN OF STATES IN INDIA

UNIT STRUCTURE

2.1 Learning Objectives

2.2 Introduction

2.3 Theories Regarding Origin of State

2.4 Nature of State in India

2.5 Let Us Sum Up

2.6 Further Reading

2.7 Answers to Check Your Progress

2.8 Model Questions

2.1 LEARNING OBJECTIVES

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

- discuss the theories of the origin of states
- explain the nature of the states in India.

2.2 INTRODUCTION

The State is the most universal and powerful of all social institutions. State must be distinguished from other associations of human beings linked by some real or supposed ethnological kinship. According to Garner the essential elements or characteristics of a state are Population, Territory, Government and Sovereignty. In this unit we shall discuss origin of state and nature state in India.

2.3 THEORIES REGARDING ORIGIN OF STATE

Origin of the State seems to have been surrounded with mystery. It is difficult to say whether the State had a singular origin or it evolved as a continuous process. The history of human civilization reveals that man as social being tended to live in larger groups under a common authority for the purpose of regulating their interests inter-se as also for the adjustment of relations between it and similar other groups. The war also led to the

growth of a social organisational form of larger group called the state for the sake of protection and self-preservation of its people. Different political thinkers have propounded various theories regarding the origin and development of the state. There are many theories which can explain the origin and development of the state. Some of them are -

- **Divine Origin Theory**

  According to this theory, the state is the creation of the God. It is the oldest theory of the origin of state. This theory is based on faith in religion. This theory was developed in Europe because of the influence of Christianity which regarded king as the representative of God having divine right to rule. The state is created and governed by God. God delegates his power or authority to the king. The king is the mouth piece of God, who has no responsibility to earthly people. To disobey the king is like to disobey God.

- **Natural Theory**

  Aristotle is the ardent supporter of this theory and therefore, it is also known as the Aristotle's theory of origin of state. He argued that the interests of the individual and the state were identical and man could not live outside the state. The purpose of the state, according to this theory was to promote general welfare of its people. It believes that state is not an artificial creation but its origin is entirely due to the unconscious result of man's social nature and for survival. However, this theory fails to explain the various influential phenomena which actually led to the formation of the state.

- **Theory of Force**

  The chief exponents of this theory are Oppenheimer, Jenks, and Bernhard. It is a speculative theory regarding the origin of the state. The main objective of this theory is to justify the power and authority of the state by the proposition that 'might is right'. According to this theory, the state originated as a result of the conquest of the weak by the strong. Force was the determining factor in the establishment of the authority of a tribal chief or king. The main purpose of the force theory was to serve their own end. In the middle ages the church fathers supported this

theory to prove the superiority of the church over the state. The individualists also advocated this theory to prove the survival of the fittest.

- **Patriarchal Theory**

  The prominent exponent of this theory is Henry Maine. The Patriarchal theory advocates that the state is the enlargement of the oldest and smallest social unit, i.e. family. In the primitive period man, wife or wives and children constituted the family. This theory firmly holds that the family during that time was patriarchal. Father was the head of the family. He possessed supreme and complete authority and control over other members of the family like the way a king had control over his subjects. Gradual expansion of the family took place when children married themselves in different families. However the authority of the father of the family was acknowledged throughout his life time by all the descendants. At that time patriarchal family could be considered as a government in miniature. In such a family the father looked after most of the affairs of the family like that of the government which looks after the affairs of the state. With the passage of time family gradually expanded and it assumed the form of a clan; the clan in due course of time led to the formation of a tribe. To protect their interest and face outside aggression many tribes united themselves and they felt the need of a common authority whose orders were to be obeyed by all the members. In this way the state comes into existence. With the formation of the state what was originally the father's authority later expanded into the king's supreme power in the state. So we can say that emergence of the patriarchal family marked the beginning of the state.

- **Social Contract Theory**

  The social contract theory is regarded as an important theory and as an explanation of the origin and formation of the state. The theory pre-supposes that the State is a creation of agreement by the people. The people pay loyalty to the authority of the state because they have agreed to do so. This theory was propounded by Hobbes, Locke and Rousseau. British political philosopher, Thomas Hobbes, in his book, "Leviathan" (1651) discussed the origin of the state. According to him

prior to the emergence of the state people lived in the state of nature. In the state of nature human being by nature was poor, nasty, brutal and selfish. Principles of law, justice and tolerance were absent and fraud and force were the basic principles in the state of nature. However with the passage of time, to get rid of such a type of miserable life in the state of nature people themselves entered into a contract by surrendering their natural rights, except the right to self preservation, to a person or group of persons who remained as sovereign. The sovereign was not a party to the contract and was not subject to any conditions and possessed unlimited power. The sovereign was responsible for the protection of the lives and rights of the people. And since the people had voluntarily entered into the contract, they had no right to break the terms of the contract and had no right to revolt against the sovereign. Thus, Hobbes was of the view that a contract among people led to the establishment of a state and sovereign authority. British political philosopher, John Locke, another exponent of the social contract theory. In his book, "Two Treatises on Civil Government" (1690) Locke explained about the emergence of the state. Locke was also of the view that people lived in the state of nature prior to the emergence of the state. According to Locke, people lived in peace without any fear of warfare in the state of nature. They enjoyed equal rights and liberties. There was the presence of natural laws and mutual cooperation and understanding among the people. But during that time there was no law court or judge to interpret the laws. As a result people interpreted laws in their own way which ultimately fulfilled their self interest. To get rid of this problematic situation people entered into two contracts- one is the civil contract and the other is the governmental contract. The state came into existence as a result of these two contracts. During the creation of these contracts at the first step people formed the civil society by surrendering some of their natural rights among themselves. After that they entered into another contract with a King or a sovereign authority. People put condition on the sovereign that he would have to protect their lives and property, otherwise they would have the right to remove him from power. Thus according to Locke

the sovereign authority was not absolute and he was responsible for the protection of people. French political philosopher, Jean Jacques Rousseau, another prominent advocate of the social contract theory, through his book "The Social Contract" discussed about the origin of the state. Rousseau also held that prior to the formation of the state people lived in the state of nature peacefully with unlimited liberties. Concept of personal property or rights and wrong were absent in such state of nature. However with the passage of time, population in the state of nature increased and the idea of private property also came into existence. This led to disputes and conflicts in the state of nature. To get rid of such miserable condition of state of nature people entered into contract among them. They surrendered all their natural rights to themselves and not to other higher person or group of persons as sovereign authority. So the people themselves remained sovereign. Thus, according to Rousseau, sovereign authority remained with the community or the common people.

- **Historical or Evolutionary Theory**

  The exponents of this theory believes that the state is the result of evolution. It did not emerge all of a sudden but to us in its present form came only after passing through many stages. The main factors which have contributed in this direction are --social instinct, kinship, religion, force, political consciences and economic factors.

  1) Social instinct: Social Instinct of man is an important factor that contributed in the evolution of state. Aristotle said, "Man is by nature a social animal". In this context we can say that this social instinct of man encouraged people to live together. This instinct led to the formation of society and gradually to the formation of state.
  2) Kinship: Kinship or the blood relation was the most important factor which forged unity and helped in the formation of state in the early ages. The earliest society and human organisation was based on kinship. In fact kinship was the only bond which united individual and society. Every member who had no kinship with the tribe was considered its enemy.
  3) Religion: Religion has also played an important role in the evolution

of state. Religion helped in strengthening the ties of oneness in families, clans, tribes and kingdom. During primitive and middle ages religion brought people to a common platform and inculcated feeling of unity among them. From the very primitive period, people due to their ignorance followed religious norms superstitiously. By taking advantage about the ignorance of the people the magician kings appeared in the subsequent ages and established their authority by claiming that they can propitiate evil spirits. With the passage of time, the magician kings were replaced by the priest kings who enjoyed power and authority till the end of the middle age, for instance Pope dominated the Christian world. So we can say that religion from the very primitive age united people which eventually led to the formation of state.

4) Force: Force is also an important element which contributed in the evolution of state. During primitive period force or might was the determining factor in every aspect. Infact during that time the physically strongest only survived. A stronger group of people could overthrow the weaker group and establish its domination. Historical evidence also shows that number of warriors established their domination by occupying some portion of territory with the help of their force. The factor force has also led to the establishment of many modern states. From the very ancient period war has been a major factor that has contributed in the establishment of states.

5) Political Consciousness: Rise of political consciousness also contributed in the evolution of state. With the passage of time people wanted to live a better and settled social, moral and intellectual life. Moreover, the importance of maintaining peace and order was also realized by the people and along with this, political consciousness also appeared among people. People came to realize that they could make progress only through some sort of political organizations. This political consciousness brought a kind of cooperation among people to fulfill their needs and aspirations. This political consciousness of people gradually led to the formation of state in

due course of time.

6) Economic Factor: From the very dawn of human civilization men have number of economic needs and aspirations and for fulfilling these needs and aspirations men have to depend on each other and as a result of this dependency economic relation grew among the people. In such economic relationship disputes arose among people and there came the need of state authority to regulate, by enacting laws, economic relations among people.

- **Marxian Theory**

The Marxian theory regarding the origin of the state holds that the state is not a natural institution; on the other hand it is an instrument of exploitation in the hands of the rich. The Marxian theory regarding the origin of state finds its fullest exposition in Engels book "The Origin of The Family, Private Property and the State".

The basic features of the Marxian theory of state can be summed up as followed:

1. According to the Marxists, the state is not a natural institution. It was set up by the propertied classes to protect their own interest.
2. The state is a class-structure and an instrument of exploitation of one class by another class. The present state is a capitalist state. It is used as a means of exploitation. It exploits and oppresses the proletariat.
3. The state is based on force. The dominant class uses all types of instruments to exploit and suppress the dependent classes.
4. The state is a temporary institution and shall wither away after the proletariat has completely demolished the capitalist structure and a classless society makes its appearance.



CHECK YOUR PROGRESS

Q 1: Who is the author of the book "Two Treatises on Civil Government"?

.....

Q 2: Mention name of one advocate of the Patriarchal theory.

.....

Q 3: Write briefly about social instinct as an important factor that has contributed in the evolution of the state.

.....

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.....

2.4 NATURE OF STATE IN INDIA

The Constitution of India establishes a democratic state with a modern institutional framework on the one hand while the critics on the other hand say that the Indian state is centralized in nature, bureaucratic in form and capitalist in context.

The main characteristics of the Indian states are following which highlights the nature of the state itself-

1. **Liberal-democratic state:** The model of a liberal- democratic state signifies a political system in which democracy or 'the rule of the people' prevails to make the regime 'legitimate' in the real sense of the term. The machinery of government is run by the chosen representatives of the people who are accountable to them for their policies and actions. Freedom of speech, discussion and expression of views, universal adult franchise and free and fair periodic elections etc, all entail a continuous test of the legitimacy of this government. The liberal democratic state is based on the assumptions that the authority of the government is not absolute but limited by the laws, the competition for power is open, periodic elections based on universal adult franchise etc.

All this brings is to the point that India is one which stands for the preservation of the entire paraphernalia of a liberal democratic state. The constitution facilitates for adult franchise, periodic elections, representative and responsible government, independent functionary, rule of law and separation of powers. The limited government and competitive party system are cardinal features of the Indian model of state.

2. **Centralized State:** While Gandhi talked about decentralized state in the Indian context but the fact is that centralized state has emerged in the process of development. All the powers of economic development and social change are vested in the state; the state has been given vast powers in the fields of agricultural and industrial development, the state in India is running the public sectors, provides safety of citizens and enforces law and order. It also looks after trade, commerce and industry. It also sets up law courts and ministers justice. However, the enactment of the 73rd and 74th Amendment Acts has led to decentralisation of power in India.
3. **Bureaucratic State:** Bureaucracy is an essential instrument of a modern state, yet in India the nature of the state itself is bureaucratic. It is important to remember that the development process in India started within the framework of a well-developed administrative structure. This has had an enduring legacy for subsequent development. All the more important programs - industrialization, community development, education, agricultural production, even local self-government have been approached in a framework that is essentially administrative and bureaucratic. The structure of an administration is an important determinant of its capabilities at the lower runs of the bureaucracy; formalism has served to stifle bureaucratic initiative and imagination.
4. **Welfare State:** The concept of welfare state represents a happy blending of the two verities of states liberal democratic on the one hand and communist totalitarian on the other. It borrows the element of freedom from a liberal democratic state and mixes it with the emphasis on public welfare of a totalitarian state and in this way, presents the model of a new state and in this way, presents of model of a new state that embraces

the virtuous aspects of both democracy and socialism.

The framers of the Indian Constitution incorporated many provisions designed to make India a welfare state. The basic aim of a welfare state was clearly foreshadowed in the Preamble to the Constitution, and in virtually all of Part IV of the Constitution, containing the Directive Principles of State Policy. Article 36 of the Indian Constitution states; "the state shall strive to promote the welfare of the people by securing and protecting as effectively as may be a social order in which justice social, economic and political, shall inform all the institutions of national life".

5. **A Bourgeois State:** The Constitution by guarantying property rights acquired the decisive character of a bourgeois constitution. And the state elaborated in harmony with the basic principle of the Constitution logically became a bourgeois state.
6. **Interventionist State:** The Indian State is highly interventionist and whether are approves of this or deplores it, it is an important organizational feature in contemporary India that is not likely to change soon. An interventionist state at low levels of economic development, moreover, is a feature that Indian shares with many third world countries. The state is not only an agent of political order in India; it is also responsible for promoting socio-economic development. Those dual responsibilities have led to a highly interventionist Indian state.
7. **Secular State:** By adding the word 'Secular' to be existing description of the country as a 'sovereign democratic republic' in the Preamble the commitment to the goal of secularism has been spelled out in clear terms. A secular state treats its citizens equally. Accordingly India does not have any state religion. No discrimination can be made on the basis of religion, faith, caste, colour and sex. Every citizen is equal before law. It guarantees to religious minorities the right to maintain their own language and to establish educational institutions of their choice.
8. **A Federal State with Unitary nature:** The Constitution of India establishes a federal polity which has been created by dividing the country into states and allocating them function as specified in the Constitution. Like all other federations, India has a written Constitution. In India there is two sets of government, government at the Centre and government

at the states. Some other federal features are- supremacy of the Constitution, presence of bi-cameral legislature, division of power between the Central government and the state governments, presence of independent and impartial judiciary, rigid amendment procedure of the Constitution etc. However India has some unitary features too. Central government is more powerful that the state governments. For instance, after distribution the legislative power in their lists; residual subjects are left with the union. Even in matters in the concurrent lists, the union government has the final say. Unlike other federations Parliament in India has a right to change a boundary of the states. The heads of the state, i.e. the governors are appointed by the President. The centre can at any time declare emergency in the state and with that declaration can take over the administration of the state in its own control. The presence of these features has made India a federal state with unitary nature.

9. **Elitist State:** In a country like India we find that there was as halo of the national struggle in the beginning. People at various state of society took part in the national struggle. But leadership by and large, could come from those who were better off educationally, economically and socially strong. The poorest of men could not and did not in the nature of things come to occupy leadership positions. The first Parliament was very elitist consisting of very rich people or educated people with a background of foreign education at oxford and Cambridge, barristers and so on. May be, people felt these MPs were elitists, they represented only some interests, they were educated in prestigious and expensive institutions abroad, their life style was western.



CHECK YOUR PROGRESS

Q 4: Mention any two federal features of the Indian state.

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Q 5: Write briefly about India as a secular state.

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2.5 LET US SUM UP

- The State is the most universal and powerful of all social institutions. State must be distinguished from other association of human beings linked by some real or supposed ethnological kinship.
- There are different theories regarding the origin of the state. Some of these theories are- the divine origin theory, the natural theory, the force theory, the patriarchal theory, the social contract theory, the historical or evolutionary theory and the marxian theory.
- The Constitution of India establishes a democratic state with a modern institutional framework on the one hand while the critics on the other hand say that the Indian state is centralized in nature, bureaucratic in form and capitalist in context.



2.6 FURTHER READING

1. Kothari, Rajni. (2006). *Politics In India*. New Delhi: Orient Black Swan Publication.
2. Srivastava, L.N & Mukhi, H.R. (2000). *Political Science: Theory*. SBD Publishers Distributers.



2.7 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: John Locke

Ans to Q No 2: Henry Maine

Ans to Q No 3: Social Instinct of man is an important factor that contributed in the evolution of state. Aristotle said, "Man is by nature a social animal".

In this context we can say that this social instinct of man encouraged people to live together. This instinct led to the formation of society and gradually to the formation of state.

Ans to Q No 4: (i) Supremacy of the Constitution.

(ii) Division of power between the Central government and the state governments.

Ans to Q No 5: By adding the word 'Secular' to be existing description of the country as a 'sovereign democratic republic' in the Preamble the commitment to the goal of secularism has been spelled out in clear terms. A secular state treats its citizens equally. Accordingly India does not have any state religion. No discrimination can be made on the basis of religion, faith, caste, colour and sex. Every citizen is equal before law. It guarantees to religious minorities the right to maintain their own language and to establish educational institutions of their choice.



2.8 MODELQUESTIONS

A) Very Short Questions

Q 1: Who is the author of the book "Leviathan"?

Q 2: Mention any two basic assumption of liberal democratic state.

Q 3: Mention one unitary feature of the Indian state.

B) Short Questions (Answer each question in about 150 words)

Q 1: Write a short note on the welfare nature of the Indian state.

Q 2: Write briefly Marxian theory regarding the origin of the state.

Q 3: Explain the Patriarchal theory regarding the origin of the state.

C) Long Questions (Answer each question in about 300-500 words)

Q 1: Discuss the nature of the Indian state.

Q 2: Discuss the historical theory regarding the origin of the state.

Q 3: Discuss the social contract theory regarding the origin of the state.

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UNIT 3 : A BRIEF SUMMARY OF THE GOVERNMENT OF INDIA ACT 1919, GOVERNMENT OF INDIA ACT, 1935 AND THE INDIAN INDEPENDENCE ACT 1947

UNIT STRUCTURE

3.1 Learning Objectives

3.2 Introduction

3.3 Government of India Act, 1919

3.4 Government of India Act, 1935

3.5 Indian Independence Act, 1947

3.5.1 Landmark events which necessitate the passing of Indian Independence Act, 1947

3.5.2 Salient Features of the Indian Independence Act, 1947

3.6 Let Us Sum Up

3.7 Further Reading

3.8 Answers to Check Your Progress

3.9 Model Questions

3.1 LEARNING OBJECTIVES

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

- discuss the important provisions of the Government of India Act, 1919
- describe the merits and demerits of the Government of India Act, 1919
- describe the Salient Features of the Government of India Act, 1935
- discuss landmark events which necessitated the passing of the Indian Independence Act 1947
- explain the salient features of the Indian Independence Act , 1947.

3.2 INTRODUCTION

This unit introduces you to the concept of the Government of India Act 1919, Government of India Act 1935 and the Indian Independence Act, 1947. The British came to India in 1600 as traders in the form of the East India Company. The Company secured for it a Charter from Queen Elizabeth in December, 1600, which settled its constitutions, powers and privileges. The Company's rule lasted till the year 1858, when, after the Indian rebellion of 1857, it was abolished. Under the Government of India Act, 1858, the administration of the government of India was directly assumed by the Crown acting through a Secretary of State. After the Government of India Act, 1858, the Government of India Act, 1919 was a great landmark in the constitutional history of India. It marks the beginning of a responsible Government in the country. It also brought about many remarkable changes in the administrative set up of the Indian Government. The provincial autonomy, the system of diarchy, the bicameral system of legislature at Centre, the enlargement of Provincial Legislatures, the consolidation of separate electorates, the special powers of the Governors and Governor-General, the divisions of subjects under two lists, and the creation of a Chamber of Principles were some of the notable features related to the Provincial as well as the Central Government in India.

The Government of India Act, 1935, laid down a federal form of Government for India. Prior to this Act, the constitutional structure of the Government was unitary wherein the Provincial Governments, derived their powers by devolution from the Central Government and discharged their functions subject to the authority of their respective Legislatures under the superintendence, direction and control of the Governor-General-in-Council and ultimately of the Secretary of State for India. The basic features of the Act were- All India Federation, Dyarchy in the Centre, Provincial autonomy, and Safeguards provided in the Constitution to the responsible Government in India.

After the Government of India Act, 1935, arrangements had been made for the transfer of power in accordance with the scheme laid down in

the Mounbatten's Plan. A draft of the Indian Independence Bill was prepared and introduced in the British Parliament on July 5, 1947 which finally became an Act on July 18 to be operative on August 15,1947. The Act proposed for the partition of India and establishment of two independent Dominions- India and Pakistan from August 15, 1947.

3.3 GOVERNMENT OF INDIA ACT,1919

A major landmark in the constitutional history of India was the Montagu-Chelmsford Report which led to the enactment of the Government of India Act, 1919. It marks the beginning of a responsible Government in the country. The Morley-Minto Reforms or the Indian Council Act of 1909 failed to satisfy the aspirations of the Indians as they did not establish Parliamentary system of Government in the country. Indian National Congress became very active during the time of the 1st World War and demanded for reforms. In response to this popular demand the British Government made a declaration on August 20, 1917, that the future policy of His Majesty's Government was that of "increasing association of Indians in every branch of the administration and the gradual development of self-governing institutions with a view to progressive realization of responsible Government in British India as an integral part of the British Empire". No doubt this was the step which paved the path for Independence of India.

The Government of India Act, 1919 in its preamble contained the whole part of the Declaration made by His Majesty's Government in the British Parliament in August, 1917. Sir Tej Bhadur Sapru analysed it as follows:-

(i) British India was to remain an integral part of the British Empire;

(ii) Responsible Government in India was the objective of the declared policy of Parliament;

(iii) The responsible Government was capable of progressive realization only; and

(iv) In order to achieve responsible Government it was necessary to provide two things, namely, the increasing association of Indians in every branch of administration and gradual development of self-governing institution.

Main features of the Government of India Act, 1919:

- **Dyarchy in the Provinces:** The Act introduced a system of Dyarchy in the Provinces. Dyarchy has been derived form the Greek word 'di-arche', means double rule. The object of the Dyarchy was to train the natives in the act of self-Government. In matter of legislation subjects were divided into Central and Provincial. The provincial subjects were divided into 'reserved' and 'transferred'. Jail, Police, Justice, Finance and Irrigation, comparatively more important subjects, were the 'reserved' subjects and they were to be governed by the Governor and his Executive Council without any responsibility to the Legislature, Education, Agriculture, Local Self-Government, etc., subjects of lesser importance were transferred to the Indian Ministers and the Governors. The Governor could override both the Ministers and the Executive Council. The Provincial Legislative Council was empowered to legislate in respect of provincial matters only.
- **Central Government:** The principle of responsible government was not introduced in the Centre. The Central Government remained answerable to the British Parliament through the Secretary of State. The Central Legislature was to have a bicameral legislature. The Council of State (Upper House) consisted of sixty members of whom thirty-four were elected and the Legislative Assembly (Lower House) consisted of 144 members of whom 104 were elected and the rest being nominated. Among the nominated members about 26 were officials. The powers of both the Houses were equal except that the power to veto a Bill was given exclusively to the Lower House. In respect of financial Bills both the Houses had equal powers. The Central Legislature retained the power to legislate for the whole of India relating to any subject.

  The Governor-General had overriding powers in respect of legislature. Firstly, his prior sanction was required to introduce Bills relating to certain matters. Secondly, he had the power to veto or reserve for consideration of the Crown any Bill passed by the Indian Legislature. Thirdly, he had the power of certifying any Bill and sign it as a permanent law despite Legislature's opposition to it, in which case it would have the same effect

as if it was passed or made by the Legislature. Fourthly, he could make Ordinances having the force of law for a temporary period in cases of emergency.

- **Structure of Government to remain unitary:** The Central Legislature had power to legislate on any matter. So, it was not possible to challenge the validity of the Central Laws. In case of controversy it was the Governor-General and not the Courts, who had the authority to decide whether a particular subject was a Central or Provincial subject. Thus, the Government of India remained a unitary and centralized Government with the Governor-General-in-Council as the key-stone of the whole constitutional edifice.

Shortcomings of the Government of India Act, 1919:

The Act of 1919 had three major defects from the nationalist point of view: absence of responsible government at the center, separate electorates for different communities and introduction of diarchy in the province. The Reforms of Government of India Act, 1919, however, failed to fulfill aspirations of the people of India, which led to an agitation by the Congress for 'Swaraj' or 'self-Government' to be attained through non-co-operation. It's reasons were:-

- Non-fulfillment of the demand for responsible government: Though this Act gave a substantial measure of power to the Provinces, yet the structure of the Central Government remained unitary and centralized.
- The failure of Dyarchy: The greatest difficulty came from the working of the system of Dyarchy in the Provinces. In a large measure the Governor came to dominate the ministerial policy by means of his overriding powers and the control over the official members in the Legislatures. There was no provision for collective responsibility of the ministers to the Provincial Legislature.



CHECK YOUR PROGRESS

Q 1: When did the Indian Independence Act, 1947, come into force?

.....

Q 2: Under the Government of India Act, 1919 Legislative Assembly (Lower House) was composed of …….. (Fill in the blank)

Q 3: On the basis of which Report Government of India Act, 1919 was enacted?

.....

Q 4: Write a short note on the shortcomings of the Government of India Act, 1919.

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3.4 GOVERNMENT OF INDIA ACT, 1935

The Government of India Act, 1935, is regarded as the second milestone on the highway leading to a full responsible Government. It was put into operation in April 1937 despite strong protests against its enforcement from Muslim League. It was a lengthy document, detailed and complicated having 321 sections with 10 Schedules. The basic features of the Act were, the introduction of partial responsibility at the Center, Provincial autonomy and an All India Federation.

- **The All India Federation:** The Act provided for the establishment of an All India Federation comprising of the British India Provinces and such Indian State who would desire to come into Federation. While under all the previous Government of India Acts, the Government of India was unitary, the Act of 1935 proposed a Federation taking the Provinces and the Indian States as one unit. But the accession of the States to the Federation was optional. It could not be established until the States had given their consent to join the Federation. At the time of joining it, each ruler of the State was required to sign an Instrument of Accession mentioning therein the extent to which it consented to surrender its authority to the Federal Government. The Rulers of Indian States never gave their consent and thus the Federation envisaged by the Act never

came into being.

- **Dyarchy at the Centre:** The Act of 1935 abolished Dyarchy at the Provincial level and introduced it at the Centre. The Executive authority of the Centre was vested in the Governor-General. The Federal subjects were divided into two categories - the 'reserved' and the 'transferred'. The administration of 'reserved subjects' like defence, external affairs, ecclesiastical affairs and tribal areas, were to be made by the Governor-General in his discretion with the help of Councillors appointed by him who were not responsible to the Legislature. The 'transferred' subjects, on the other hand, were to be administered by the Governor-General who was to act on the advice of the Council of Ministers who were responsible to the Legislature.
- **Provincial Autonomy:** The important feature of the new Act was that it marked the beginning of Provincial Autonomy. It was definitely an advance on the Act of 1919. The Act divided Legislative power between the Provincial and Central Legislatures, and within its defined sphere the Provinces were no longer delegates of the Central Government but were autonomous units of administration. To this extent the Government of India assumed the role of a Federal Government vis-à-vis the Provincial Governments, though the Indian States did not join the complete scheme of Federation. The executive authority of a Province was also exercised by a Governor on behalf of the Crown and not as subordinate of the Governor-General. The Governor was required to act with the advice of ministers responsible to the Legislature.

  But notwithstanding the Provincial Autonomy, the Act of 1935, retained the control of the Central Government over the Provinces in certain spheres requiring the Governor to act in his discretion or in the exercise of his individual judgment in certain matters. In such matters, the Governor was to act without ministerial advice and under the control and directions of the Governor-General and through him of the Secretary of State.
- **Federal Legislature:** The Federal Legislature was to consist of two Houses, the Council of States and the Legislative Assembly. The

Legislative Assembly (Lower House) was to consist of 375 members, 250 of British Indian Provinces and 125 representing the Indian States. Its tenure was, unless dissolved earlier, five years. The Council of States (Upper House) was to consist of 260 members, out of which 156 members were to represent British India, 6 representatives to be nominated by the Governor-General and the rest elected directly. One hundred and four members were to be nominated by the Princes of the Indian States. The powers of the Federal Legislature were extremely limited. They had in general equal powers but demands of supply of votes and financial Bills were to originate in the Lower House. If there was any difference between the two Houses, the Act provided for a joint session of the two Houses for solving the deadlock.

- **Provincial Government:** The Provincial Executive was to consist of the Governor and a Council of Ministers to advise him. The Governor was the head of the Executive. Three types of powers were given to the Governor: i. Discretionary; ii. Powers exercised in his individual judgment; iii. Powers to be exercised on the advice of the ministers. But in regard to matters involving his special responsibility he had right to override the advice given by the ministers.
- **Provincial Legislatures:** After this Act, the Legislatures of Bombay, Bengal, Madras, Bihar, Assam and the United Provinces were made bicameral(i.e. two houses) and in other five Provinces unicameral. The composition of the Provincial Assembly varied from Province to province. The voting qualifications for the membership of the Council were not the same in all Provinces. The principle of communal electorate was preserved in the election of the members of the Assembly. The normal duration of the Assembly was of five years. The Provincial Legislature had power to make laws on the subjects given in the Provincial List. They could also make laws on the subjects in the concurrent List.
- **Distribution of Legislative power between the Centre and the Provinces:** The Act made a three-fold division of power between the Centre and the Provinces, i.e. Federal List, Provincial List and Concurrent List. The Federal Legislature had exclusive power of legislation over

the subjects mentioned in the Federal List. The Federal List consisted of 59 subjects. These subjects were subjects of national importance and essential and vital for the existence of the Federation. The most important of them were external affairs, currency and coinage, naval, military and air force, census, etc. The Provincial Legislature had exclusive jurisdiction to make laws on subject mentioned in the Provincial List. The main amongst them were, police, provincial public services, education, etc. The Federal and Provincial Legislatures were to have concurrent powers to legislate on subjects mentioned in the Concurrent List. The subjects in the Concurrent List were essentially of a provincial and local nature but required a uniform policy throughout India. It contained 26 subjects: Criminal Law, criminal procedure, civil procedure, marriage and divorce, arbitration, etc., were most important subjects amongst them.

- **The Federal Court:** The Act established a Federal Court. The Federal Court had one Chief Justice and not more than six other Judges. The age of retirement for these judges was sixty-five years. The necessary qualifications for the Judges were also given in the Act. The Judges were appointed by the Crown. The Federal Court had three kinds of jurisdiction, i.e., original, appellate and advisory. The Court had exclusive original jurisdiction in any dispute between the Federation and its units or the units inter se. The appellate jurisdiction of the Federal Court extended to appeals from the judgement of any High Court in India to the Federal Court. An appeal could go to the Privy Council from decisions of the Federal Court. The Federal Court had also advisory jurisdiction.

Criticism of the Government of India Act, 1935: The Government of India Act, 1935, was greatly criticized by almost all the parties of India. The Act came into force in regard to the Provinces in April, 1937, but the Central Government continued to be governed in accordance with the provisions of the Government of India Act, 1919, with minor amendments. The elections took place and popular ministers came into office in the Provinces but they lasted only for two years.

In 1939 the 2nd World War broke out in Europe. The British

Government declared India as a belligerent country at war with Germany. This was done without consulting Indian leaders and the Indian Legislatures. Consequently, the Congress ministers resigned from office on the issue of participation of India in the War.



CHECK YOUR PROGRESS

Q 5: The structure of Government under the Government of India Act, 1935 was Federal. (True/ False)

.....

Q 6: How many Sections does the Government of India Act, 1935 contain?

.....

Q 7: The Federal Court had one Chief Justice and not more than ……..……. other Judges. (Fill in the Blank)

Q 8: Mention any two salient features of the Government of India Act, 1935.

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3.5 INDIAN INDEPENDENCE ACT, 1947

3.5.1 Landmark events which necessitate the passing of Indian Independence Act, 1947

The landmarks events which led to the passing of the Indian Independence Act, 1947 are discussed below:

- **The Cripps Mission:** In the year 1942 the British Government realized that it was difficult to remain indifferent towards the Indian problems any longer. Therefore on March 22, 1942 the British Government sent Sir Stafford Cripps to negotiate with Indian leaders

and secure their co-operation in the prosecution of War. The Cripps Mission suggested the following proposals for the settlement of the Indian problems-

- Immediately after the end of the war steps shall be taken to set up in India an elected body for framing a new Constitution of India.
- Provision shall be made for participation of Indian States in the Constitution making body.
- The Constitution making body shall consist of persons elected by Provincial Legislatures and nominated by the Indian Princes.
- The British Government assured to accept and implement the Constitution so framed.
- His Majesty's Government must bear the responsibility for and retain the control and direction of defence of India.

Indians were not satisfied with the above proposals and, therefore rejected it. The Labour Party came into power in England. The Labour Government was more sympathetic towards India and wanted to solve the Indian problem. With this end in view, the Cabinet Mission was sent to India.

- **The Cabinet Mission, 1946:** The Cabinet Mission came to India on 4th March, 1946. It consisted of three British Cabinet Ministers - Lord Pethick Lawrence, Sir Stafford Cripps and Mr. Alexander. The mission recommended the following proposals:-
  - There should be a Union of India consisting both British India and the States and with the exception of certain reserved subjects, all subjects were to be retained by the States.
  - The paramountacy of Crown was to lapse.
  - For the purpose of framing a new Constitution a Constitution Assembly was to be elected.
  - An interim Government was to be set up having the support of major political parties.

The proposals of Cabinet Mission were accepted and in July 1946 elections to Constituent Assembly took place.

- **The Mountbatten Plan, June 3, 1947:** Mr. Attlee, the Prime Minister of England appointed Lord Mountbatten as a Viceroy of India with the task of transferring to Indians the responsibility for the Government of British India in a manner that would best ensure the future happiness and prosperity of India. The main features of the scheme of partition as contemplated by the Mountbatten Plan are -
  - India was to be divided into two Dominions, namely India and Pakistan and the transfer of power was to take place on August 15, 1947 instead of June 1948.
  - The Constitution Assemblies of the Dominion of Hindustan and Pakistan would be free to decide in due course whether to remain within the British Commonwealth or to leave it.

3.5.2 Salient Features of the Indian Independence Act, 1947

Arrangements have been made for the transfer of power in accordance with the scheme laid down in the Mounbatten's Plan, the British Government lost no time in implementing the Plan. A Draft of the Indian Independence Bill was prepared and circulated to the leaders of the Congress and the Muslim League for their consideration. The Bill was then introduced in the British Parliament on July 5, 1947 which finally became an Act on July 18 to be operative on August 15, 1947. The life of the Act was till such time as Constituent Assembly for each of the Dominions does not supersede it by its own legislation. It gave unlimited powers to the Constituent Assemblies to adopt any form of the Constitution. In short, the object was to transfer power in shortest possible time. The provisions of the Act were as follows:-

1. **Creation of two Dominions-India and Pakistan:** The Indian Independence Act, 1947 provided for the partition of India and establishment of two independent Dominions - India and Pakistan from 15th August, 1947. The word "independent" signified the absence of any external restraint. Clause 2 of the Act defined the territories of the two new Dominions and Clauses 3 and 4 provided for the partition of Bengal, Punjab and Assam keeping in view the

aspirations of the people of these territories and fixing of the boundaries of these divided Provinces by the Boundary Commission.

2. **Legislative Supremacy of the Freedom from British Rule:** The most epoch-making effect of the Act was that India no longer remained dependant on British Empire. After August 15, 1947 the British Government was not to control the Dominion or the Provinces. Thus, the British period in India came to an end after nearly three and half centuries of trading, two centuries of political power and 130 years of general supremacy.
3. **Dominions of India and Pakistan:** The Act provided for the legislative supremacy of the two Dominions. Each Dominion was to have a Governor-General who was to be appointed by the King. The Act provided that until a new Constitution was framed for each of the Dominions, the Constituent Assemblies were to act as Dominion Legislatures and were to exercise all powers which were formerly exercised by the Central Legislature.
4. **Continuance of the Government of India Act, 1935:** The Indian Independence Act, 1947 specifically laid down that until the new Constitutions were framed, each of the Dominions and the Provinces were to be governed by the Government of India Act, 1935.
5. **Office of the Secretary of State for India abolished:** The Government of India was transferred from East India Company to the Crown by the Government of India Act, 1958. By this Act British Parliament became the direct guardian of India and office of the Secretary of State for India was created for the administration of Indian affairs. The Secretary of State was responsible to the Parliament while the Governor-General and the Provincial Governors remained under the direct control of the Secretary of State until the Indian Independence Act of 1947. The post of Secretary of the State for India and his advisers was abolished by the Indian Independence Act, 1947.
6. **Termination of the Crown's Paramountcy:** With the transfer of power to the Dominions of India and Pakistan in accordance with

the Indian Independence Act, 1947 the paramountcy and suzerainty of the British Crown over the Indian over the Indian State came to an end. Consequently, all treaties and agreements between His Majesty and the rulers of the Indian States and all functions exercisable by His Majesty with regard to Indian States and their rulers, and all powers, grants, rights, authority or jurisdiction of His Majesty over Indian States lapsed from August 15, 1947.

7. **The Governor-General for each Dominion and his powers:** The Indian Independence Act, 1947 provided that each of the two Dominions of India and Pakistan was to have a Governor-General appointed by the King for the purpose of the Government of the Dominion. Accordingly, Lord Mountbatten was appointed as the first Governor-General for the Dominions of India and Pakistan, both. However, after the Pakistan Constituent Assembly came into existence, Mr. Jinnah the leader of Muslim League was elected as Governor-General of Pakistan. The main responsibility of the Governor-General was to set out the machinery for bringing the Indian Independence Act, 1947 into operation.

The Indian Independence Act, 1947, came into force on August 15, 1947, when the British rule in India came to an end.



CHECK YOUR PROGRESS

Q 9: Mention any two proposals given by the Cabinet Mission, 1946 for the settlement of the Indian problems.

.....

.....

Q 10: The Cabinet Mission came to India on …….. March, 1946. (Fill in the Blank)

Q 11: Explain the proposals given by the Cripps Mission for the settlement of the Indian problems. (within 50 words).

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3.6 LET US SUM UP

- The Britishers came to India in 1600 as traders in the form of the East India Company. The company secured for it a Charter from Queen Elizabeth in December, 1600, which settled its constitutions, powers and privileges.
- The Company's rule lasted until 1858, when, after the Indian rebellion of 1857, it was abolished.
- Under the Government of India Act, 1858, the administration of the government of India was directly assumed by the Crown acting through a Secretary of State.
- The Government of India Act, 1919 was a great landmark in the constitutional history of India. It marks the beginning of a responsible Government in the country. It also brought about many remarkable changes in the administrative set up of the Indian Government.
- The provincial autonomy, the system of diarchy, the bicameral system of legislature at Centre, the enlargement of Provincial Legislatures, the consolidation of separate electorates, the special powers of the Governors and Governor-General, the divisions of subjects under two lists, and the creation of a Chamber of Principles were some of the notable features related to the Provincial as well as the Central Government in India.
- The Government of India Act, 1935, laid down a federal form of Government for India. Prior to this Act, the constitutional structure of the Government was unitary wherein the Provincial Governments, derived their powers by devolution from the Central Government and discharged their functions subject to the authority of their respective Legislatures under the superintendence, direction and control of the Governor-General-in-Council and ultimately of the Secretary of State for India.

- The basis features of the Act were- All India Federation, Dyarchy in the Centre, Provincial autonomy, and Safeguards provided in the Constitution to the responsible Government in India.
- The Indian Independence Act, 1947 provided for the partition of India and establishment of two independent Dominions - India and Pakistan from 15th August, 1947.
- The Constituent Assemblies of both Dominions were empowered to frame laws for their respective territories till the new Constitution came into force.
- After August 15, 1947 the British Government was not to control the Dominion or the Provinces.
- For the time being, till the new Constitutions were framed, each of the Dominions and the Provinces were to be governed by the Government of India Act, 1935.
- The post of Secretary of the State for India was to be abolished and was taken over by Secretary of the Commonwealth of Nations.
- The Act proclaimed lapse of British paramountacy over Indian States.



3.7 FURTHER READING

1) Pandey, J.N. (2012). *Constitutional Law of India.* Allahabad : Central Law Agency.

2) Paranjape, N.V. (2005). *Indian Legal and Constitutional History*. Allahabad : Central Law Agency.

3) Kulshreshtha, V.D. (2006). *Landmarks in Indian Legal and Constitutional History (8th edition)*. Lucknow: Eastern Book Company.



3.8 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: on August 15, 1947.

Ans to Q No 2: 144 members

Ans to Q No 3: Montagu-Chelmsford Report

Ans to Q No 4: The shortcomings of the Government of India Act, 1919 were:

(i) The Act failed to fulfill the demand for responsible Government and the Act gave a substantial measure of power to the Provinces, yet the structure of the Central Government remained unitary and centralized.

(ii) The greatest difficulty came from the working of the system of Dyarchy in the Provinces.

(iii) The principle of responsible Government was not introduced in the Centre. The Central Government remained responsible to the British Parliament through the Secretary of State.

(iv) The Governor-General had overriding powers in respect of legislature.

(v) The Central Legislature had power to legislate on any matter. So, it was not possible to challenge the validity of the Central Laws.

Ans to Q No 5: True

Ans to Q No 6: 321 sections

Ans to Q No 7: Chief Justice and not more than six other Judges

Ans to Q No 8: (i) The Act provided for the establishment of an All India Federation comprising of the British India Provinces and such Indian State who would desire to come into Federation. While under all the previous Government of India Acts, the Government of India was unitary.

(ii) The Act of 1935 abolished Dyarchy at the Provincial level and introduced it at the Centre.

Ans to Q No 9: (i) There should be a Union of India consisting both British India and the States and with the exception of certain reserved subjects, all subjects were to be retained by the States.

(ii) The paramountacy of Crown was to lapse.

Ans to Q No 10: 4th March

Ans to Q No 11: The Cripps Mission suggested the following proposals for the settlement of the Indian problems-

(i) Immediately after the end of the war steps shall be taken to set up in India an elected body for framing a new Constitution of India.

(ii) Provision shall be made for participation of Indian States in the

Constitution making body.

(iii) The Constitution making body shall be composed of persons elected by Provincial Legislatures and nominated by the Indian Princes.

(iv) The British Government undertake to accept and implement the Constitution so framed.

(v) His Majesty's Government must bear the responsibility for and retain the control and direction of defence of India.



3.9 MODEL QUESTIONS

A) Very Short Questions

Q 1: Who was the first Governor-General for the Dominions of India and Pakistan?

Q 2: What are the structures of Central Legislature under the Government of India Act, 1919?

Q 3: Mention any two features of the Government of India Act, 1919.

Q 4: Mention the structure of Government under the Government of India Act, 1919.

B) Short Questions (Answer each question in about 150 words)

Q 1: Write a brief note on the Dyarchy system.

Q 2: Write short notes on (a) Mountbatten Plan June 3, 1947 (b) Cabinet Mission, 1946

Q 3: Explain any four features of the Government of India Act, 1935.

Q 4: Examine the demerits of the Government of India Act, 1935

C) Long Questions (Answer each question in about 300-500 words)

Q 1: Discuss the structure of Government under the Government of India Act, 1935.

Q 2: Discuss the salient features of the Indian Independence Act, 1947.

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UNIT 4 : PARLIAMENTARY SYSTEM IN INDIA IN THE POST-INDEPENDENT PERIOD

UNIT STRUCTURE

4.1 Learning Objectives

4.2 Introduction

4.3 Origin and Growth of Parliamentary System in India

4.4 Structure and Functions of the Parliament and its position

4.5 Structure and Functions of State Legislature and its position

4.6 The first Parliament to present Lok Sabha

4.7 Let Us Sum Up

4.8 Further Reading

4.9 Answers to Check Your Progress

4.10 Model Questions

4.1 LEARNING OBJECTIVES

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

- describe the origin and growth of Parliamentary system in India
- explain the parliamentary system in India in the post-independent period
- explain the structure of the Parliament and its position
- discuss the functions of the Parliament
- explain the structure and functions of State Legislature and its position
- explain the structure of First Lok Sabha to the Present Lok Sabha.

4.2 INTRODUCTION

The Constitution of India demarcates the power of the Government into three different independent organs of the Government i.e. Legislature, Executive and Judiciary. Again, the Constitution of India has established a parliamentary form of government at the Union as well as State levels.

The legislative authority of the Union of India is vested in the Parliament. The Parliament of India consists of the President and the two Houses, the

Rajya Sabha (Council of States) and the Lok Sabha (House of the People). In this unit we will discuss the structure and functions of the Union legislature and state legislatures.

4.3 ORIGIN AND GROWTH OF PARLIAMENTARY SYSTEM IN INDIA

India has borrowed parliamentary form of government from Britain. India's struggle for independence had a number of landmarks events which eventually led to the growth of parliamentary system in India.

The first beginnings of a Central Legislature for India are to be found in the Charter Act of 1833 which introduced important changes in the system of Indian administration and also in the legislative powers of the Indian Government. It established one Legislative Council for all the British territories in India. For the first time the Governor-General's Government was known as the 'Government of India' and his Council as the 'India Council'.

The Indian Council Act of 1861 sought to make better provision for the constitution of the 'Council of the Governor-General' and "for the local Government of the several Presidencies and Provinces". The Act was said to be the "prime charter of the Indian Legislature" inaugurating the "system of legislative devolution in India." The Act introduced important changes in the machinery for legislation, both at the central and provincial levels.

In the year 1985, Indian National Congress was formed and it initiated the process of gradual relaxation of imperial control and the evolution of responsible government in India. As a result of it the Indian Council Act, 1909 was passed and it made important changes in the constitution and functions of the Indian legislatures. The maximum number of members of the Indian Council was raised from 16 to 60 and the size of the Legislative Councils in the Presidencies/Provinces was also more than doubled.

Again under the Government of India Act, 1919, at the Centre, the Indian Legislative Council was replaced by a bicameral Legislature consisting of a Council of State (Upper House) and a Legislative Assembly (Lower House), each with an elected majority. Though the Act introduced a partially responsible government in the provinces but it did not introduce any element

of responsibility at the Centre and the Governor-General-in-Council continued to remain responsible only to the Secretary of State for India and through him to the British Parliament.

The Government of India Act, 1935 aimed at providing a federal structure. The Governor-General was to have a Council of Ministers, not exceeding ten in number, "to aid and advise" him in the exercise of his functions. The Federal Legislature was to consist of His Majesty, represented by the Governor-General, and two Chambers to be known respectively as the Council of State (the Upper Chamber) and the House of Assembly (the Lower Chamber. The Council of State was to consist of 156 representatives of British India and not more than 104 representatives of the Indian States while the Assembly was to consist of 250 representatives of British India and not more than 125 representatives of the Indian States. The Council of State was to be a permanent body not subject to dissolution, but one-third of its members were to retire every third year. Every Federal Assembly, unless sooner dissolved by the Governor-General in his "discretion", was to continue for five years.

The Federal part of the 1935 Act, however, never came into operation as the Princely States could not be persuaded to accede to the Federation. As a result, the Constitution of the Central Government in India remained the same as it was under the Act of 1919. Thus, no Council of Ministers, responsible to the Legislature, was appointed at the Centre and the powers and functions of the Central Legislature, as provided in the 1919 Act, remained unchanged until the Indian Independence Act, 1947.

The First Sovereign Legislature : In pursuance of the Indian Independence Act, the Government of India Act, 1935 was modified and adapted by the Governor-General to make it the provisional Constitution of the Dominion, until some other provision was made by the Constituent Assembly. The Indian Independence Act, 1947, declared the Constituent Assembly of India to be a fully sovereign body and on the midnight of 14-15 August 1947, the Assembly assumed full powers of the governance of the country. Section 8 of the Act conferred on the Constituent Assembly full legislative power.

The Constituent Assembly accepted the principle of the parliamentary executive collectively responsible to the popular House of the Parliament. While introducing the Draft Constitution and recommending the parliamentary system in the Constituent Assembly on 4th November 1948, B.R. Ambedkar, Chairman of the Drafting Committee said that, "The Draft Constitution in recommending the parliamentary system of executive has preferred more responsibility to more stability."

With the commencement of the Constitution of independent India on 26th January 1950, a full-fledged parliamentary system of government was established. The Constituent Assembly became the Provisional Parliament of India and functioned as such until after the first General Elections based on adult franchise. The Parliament was constituted under the provisions of the new Constitution.

The first general elections under the new Constitution were held during the year 1951-52, the first elected Parliament with the two houses - the Rajya Sabha and the Lok Sabha - came into being in may 1952.



CHECK YOUR PROGRESS

Q 1: The first general elections under the new Constitution were held during the year 1951-52. (True/ False)

.....

Q 2: What is the composition of Parliament in India?

.....

Q 3: Write the composition of Federal Legislature under the Government of India Act, 1935.

.....

.....

Q 4: Which Section of the Indian Independence Act, 1947 conferred on the Constituent Assembly full legislative power?

.....

4.4 STRUCTURE AND FUNCTIONS OF THE PARLIAMENT AND ITS POSITION

The Parliament of India consists of three organs. The President and the two Houses - the Rajya Sabha (Council of States) and the Lok Sabha (House of the People). The President summons the two Houses of Parliament to meet from time to time. He/she can prorogue the two Houses of Parliament and dissolve the Lok Sabha. President's assent is essential for a Bill passed by both Houses to become a Law. Not only that, when both the Houses of Parliament are not in session and he/she is satisfied that circumstances exist which render it necessary for him/her to take immediate action, the President can promulgate Ordinance having the same force and effect as a law passed by the Parliament. At the commencement of the first session after each general election to Lok Sabha and at the commencement of the first session of each year, the President addresses both Houses of Parliament assembled together.

Rajya Sabha: The Rajya Sabha or the Council of States is the Upper House of the Union Parliament. The maximum membership of the Rajya Sabha is fixed at 250 of whom 12 shall be nominated by the President, and the remainder, i.e,. 238 shall be representatives of States and the Union Territories. The representatives of States are elected by the members of the Legislative Assemblies in accordance with the system of proportional representation by means of the single transferable vote. The number of representatives from each State in the Rajya Sabha depends largely on its population.

Unlike the Lok Sabha, which has a fixed term but can be dissolved by the President at any time, the Rajya Sabha is a permanent body and is not subject to dissolution. While the term of an individual member of the Rajya Sabha is six years, as nearly as possible, one-third of its members retire at the expiration of every second year in accordance with the provision made in that behalf by Parliament by law.

Chairman and Deputy Chairman of Rajya Sabha: The Vice President of India is the ex officio Chairman of the Rajya Sabha. The Rajya Sabha also

elects a member of the House to be a Deputy Chairman. When the office of Chairman is vacant or he is acting as the Vice-President or discharging the function of President, his duties shall be performed by the Deputy Chairman. If the office of the Deputy Chairman is also vacant the duties shall be performed by such member of the Rajya Sabha as the President may appoint for that purpose. The Chairman presides over the sittings of the House and in the absence the Deputy Chairman presides.

The Lok Sabha: The Lok Sabha is also known as the House of the people. It represents the people of the country in general. The maximum strength of the Lok Sabha has been decided to be 552 by the Constitution. However, at present it consists of 545 members of whom 543 members are directly elected by the people and 2 members are nominated by the President from the Anglo-Indian community if no member is elected from this community to this House.

Qualification for membership of Parliament: A person for being chosen as a member for Parliament must be (a) a citizen of India, (b) not less than 30 years of age in the case of the Council of States and not less than 25 years of age in the case of House of the People, (c) possessing such other qualification as may be prescribed by Parliament, (d) taken an oath before some person authorized in that behalf by the Election Commission according to form set out for the purpose in Third Schedule.

Tenure of Lok Sabha: The Lok Sabha continues for five years from the commencement of its first session. The President may, however, dissolve it even earlier. But while a proclamation of emergency is in operation the life of the House of People may be extended by law of Parliament for one year at a time.

The power to dissolve the Lok Sabha is vested in the President. But in this respect also he acts on the advice of the Prime Minister. So long as the Prime Minister and his Cabinet enjoys the confidence of the Lok Sabha the President is bound to dissolve the House when advised by the Prime Minister.

Speaker and Deputy Speaker of Lok Sabha: The Lok Sabha elected two of its members as Speaker and Deputy Speaker. When the Office of Speaker

is vacant the Deputy Speaker performs the duties of the Speaker's office. The Speaker and Deputy Speaker remain in office so long as they are members of the House. The Speaker and Deputy Speaker may resign their offices or they may be removed from their offices by a resolution of the House of the People passed by a majority of all the then members of the House.

The office of the Speaker is one of great responsibility. The Speaker presides over its sittings and control its working. He/she upholds the dignity and privileges of the House. Once elected, he/she must rise above party interest. The Constitution of India contains certain provisions for maintaining independence and impartiality of the Speaker.

Functions of the Parliament:

The most important function of the Parliament is the making of the laws. The legislative procedure is initiated in the form of a Bill.

Ordinary Bill: An ordinary Bill, i.e., Bill other than Money Bill and financial Bills may originate in either House of the Parliament. The Bill must be passed by both the Houses of Parliament and then only it can be sent for President's assent. It becomes a law when it is assented to by the President. According to the procedure of a House a Bill has to pass through three stages commonly known as Readings : First Readings, Second Readings and Third Readings. At first stage the Bill is introduced in the House and at this stage no discussion takes place. The Second is the consideration stage when the Bill is discussed clause by clause. At this stage amendments may be moved. At the third reading stage a brief general discussion of the Bill takes place and the Bill is finally passed. When the Bill is passed by one House it is sent to the other House, where a similar procedure is repeated.

Joint Session of the Houses: According to Article 108 when a Bill passed by one House and sent to other House -i. is rejected by the House; or ii. The House disagrees as the amendment to be made in the Bill; or iii. The other House does not pass the Bill and more than six months have passed the President may summon a joint session of both the Houses.

This provisions does not apply to Money Bill. The Lok Sabha has exclusive power over Money Bills. The Rajya Sabha has no power to

amend, modify or reject a Money Bill passed by the Lok Sabha. The Money Bill can become law without the concurrence of the Rajya Sabha.

Money Bill: Article 110(1) defines that a Money Bill is a Bill which contains only provisions with respect to all or any of the matters mentioned in this Article. If any question arises whether a Bill is a Money Bill or not the decision of the Speaker of the Lok Sabha shall be final. A Money Bill can only be introduced in the Lok Sabha. It cannot be introduced in Rajya Sabha. A Money Bill can only be introduced with the recommendation of the President. If a Money Bill passed by the Lok Sabha and sent to the Rajya Sabha for its recommendations is not returned to the Lok Sabha within 14 days, the Bill shall be deemed to have been passed by both Houses at the expiration of the said 14 days period in the form in which it was passed by the Lok Sabha.

Parliamentary Control over Financial matters: In financial matters Parliament has effective control. The Annual Budget is presented to Parliament and passed by it. According to Article 112 of the Constitution of India the President shall in respect of every financial year cause to be laid before both the Houses of Parliament an annual financial statement commonly known as the Budget. This statement gives out the estimated income and expenditure for that year. The appropriation Bill and the Finance Bill is also passed by Parliament. Unless the appropriation Bill is passed no money can be withdrawn by the government from the consolidated fund of India. It also exercise control over financial matters through the Public Accounts Committee and the Estimate Committee.

Parliamentary Committee: The Constitution of India does not make any specific provision in regard to Parliamentary Committees, but these are mentioned in several articles. To have effective control over the governmental activity on a regular and continuing basis various Parliamentary Committee are established so that grants for various ministers are scrutinized by the elected representatives. There are two types of Parliamentary Committees in India, viz. (1) Standing Committees and (2) ad hoc Committees. Standing Committees are those which are elected by the House or nominated by the Speaker/ Chairman every year

or from time to time, as the case may be, and are permanent in nature, whereas ad hoc Committees are those constituted by the House or by the Speaker/Chairman, to consider and report on specific matters.



CHECK YOUR PROGRESS

Q 5: The maximum membership of the Rajya Sabha is fixed at…….(Fill in the blank.)

.....

Q 6: Mention any two essential qualifications required to become a member of the Parliament.

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Q 7: When the President may summon a joint session of both the Houses of the Parliament?

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4.5 STRUCTURE AND FUNCTIONS OF STATE LEGISLATURE AND ITS POSITION

The Constitution of India provides for a Legislature for every State in the Union. The Legislature of every State consists of the Governor and Houses or Houses. The Legislature in the State are either bicameral (consisting of two Houses) or unicameral (consisting of one House). The Legislatures in Bihar, Maharashtra, Karnataka, Uttar Pradesh, Andhra Pradesh, Telangana, Jammu & Kashmir is bicameral. In the remaining States the Legislature is unicameral consisting of only one House, i.e., the Legislative Assembly. Under Article 169 the Parliament may, by law provide for the abolition of the legislative council in a State where it already exists and also for the creation of such a Council in a State.

Legislative Assembly (Vidhan Sabha): According to the Constitution, a Legislative Assembly cannot have more than 500 members and less

than 60 members. The members are elected directly by the people. Some seats in the Legislative Assembly are reserved for Scheduled Castes and Scheduled Tribes. The Governor can nominate one member from the Anglo-Indian community if no member is elected from that Community to the House.

The members of the Legislative Assembly are elected for a term of five years. But the Governor can dissolve the house before the expiry of five years and can call for fresh elections

To be a member of the Legislative Assembly one must be a citizen of India and should have attained 25 years of age. He or she cannot be a member of both houses of the State legislature or a member of the Union Parliament at the same time.

The meetings of the Assembly are presided over by the Speaker who is elected from among the members of the Assembly. In his or her absence, the Deputy Speaker conducts its meetings.



LET US KNOW

When State Emergency is declared under Article 356 of the Constitution in a State, the Legislative Assembly is kept either "suspended" or is dissolved.

Legislative Council (Vidhan Parishad): The Constitution provides that the total strength of the Legislative Council must not be less than 40 and not more than 1/3 of the total strength of the Legislative Assembly of the State.

The members of the Legislative Council are elected indirectly. One third of its members are elected by the local government bodies like the Zila Parishad and Municipalities. Another one third are elected by the members of the Legislative Assembly. One twelfth are elected by the graduates of the constituency and another one twelfth by the teachers of secondary schools, colleges and universities. One sixth of the members of the Legislative Council are nominated by the Governor of the State.

The Legislative Council is a continuing house. The Governor cannot

dissolve this house. One-third of its members retire after every two years and elections are held to fill the vacant seats. The members are elected for a term of six years.

To be a member of the Legislative Council, one must be a citizen of India. He or she must attain 30 years of age. He or she cannot be a member of the Legislative Assembly or either of the houses of the Parliament.

The Chairman is the presiding officer of the Legislative Council. In his or her absence, the Deputy Chairman presides over its meetings. They are elected from among the members of that house.

Sessions of the State Legislature: According to Article 174 the Governor shall from time to time summon a House of the Legislature to meet at such time and place as he/she thinks fit. But six months should not intervene between its last sitting in one session and the date appointed for its sitting in the next session. This means that the Assembly must meet at least twice a year and not more than six months must elapse between two sessions.

The Governor may from time to time prorogue the House, or either Houses. But where there is a prorogation of the House, the new session must be called within six months. It is not necessary for the Governor to summon or prorogue the two Houses of the Legislature together.



CHECK YOUR PROGRESS

Q 8: Explain the composition of the Legislative Council of a State.

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.....

.....

Q 9: When Parliament can extend the life of the Legislative Assembly of a State?

.....

Q 10: Who is the ex-officio Chairman of the Rajya Sabha?

.....

4.6 THE FIRST PARLIAMENT TO PRESENT LOK SABHA

The First Parliament: The Constituent Assembly, consisted of indirectly elected representatives and was set up for the purpose of drafting a constitution for India. It remained in being for almost three years, acting as the first parliament of India after independence in 1947. This was the Provisional Parliament. The first General Elections under the Constitution were held in 1951-52 and the bicameral Parliament with its two Houses - the Lok Sabha and the Rajya Sabha was duly constituted.

The first Lok Sabha (1952-57): The first Lok Sabha (1952-57) was constituted on 17 April 1952 after the first general election. Elections were held for 489 seats. The Indian National Congress (INC) won 364. Only two other parties won double digit seats. The CPI with 16 seats and the Socialist Party with 12 seats. Independents won the second highest number of seats after Congress. Jawaharlal Nehru was elected the as the first Prime Minister of independent India. The Speaker of the first Lok Sabha was Shri G.V. Mavalankar.

The Second Lok Sabha (1957-62): In the second Lok Sabha election held in the year 1957, out of 494 seats, the Indian National Congress (INC) won 371. Only two other parties CPI got 27 seats and the Praja Socialist Party (PSP) got 19 seats. Once again, the Independents won the second highest number of seats after Congress. Jawaharlal Nehru was again elected the as the Prime Minister. There was no official Leader of Opposition during the second Lok Sabha.

The Third Lok Sabha (1962-67): In the third Lok Sabha election out of 494 seats, the Indian National Congress (INC) won 361 seats. In this elections, four other parties won double digit seats (CPI, Jan Sangh, Swatantra Party and PSP). Again Jawaharlal Nehru was elected as the Prime Minister. But after he passed away in 1964, Gulzari Lal Nanda was made the interim Prime Minister who was succeeded by Lal Bahadur Shastri and after his death Indira Gandhi took over the charge of Prime Minister in 1966.

The Fourth Lok Sabha (1967-70): The Congress party under the leadership

of Indira Gandhi won a fourth successive term to office by winning 283 out of 520 seats. Indira Gandhi became the Prime Minister for the second time. Due to differences among the Congress party she was expelled from the party on November 12, 1969 and the Congress party was splited into two factions. But Indira Gandhi continued to head a minority government with support from the CPI(M) till the fifth general election. She called for a mid-term election to the Lok Sabha a full one year ahead of schedule.

The Fifth Lok Sabha (1971-77): In the fifth Lok Sabha election held in the year 1971 Congress party under the leadership of Indira Gandhi won a whopping 352 seats out of 518 with the other faction of Congress under Morarji Desai winning only 16 seats. Indira Gandhi became the Prime Minister for the third time. On June 12, 1975, the Allahabad High Court invalidated her election on the grounds of electoral malpractices. After the verdict of the High Court, instead of resigning, she declared an emergency under Article 352 on the ground of "internal disturbance" which had a huge impact on the politics of India thereafter.

The Sixth Lok Sabha (1977-79): The proclamation of emergency declared by Indira Gandhi was the core issue in the 1977 elections. Fundamental rights were suspended during the national emergency from 25 June 1975 to 21 March 1977. In the sixth Lok Sabha election the Congress party lost the majority for the first time in independent India and Janata (an alliance party) party won 298 seats. Morarji Desai became India's first non-Congress Prime Minister, but had to step down in 1979 after couple of parties in the Janata alliance pulled out. He was succeeded by Charan Singh.

The Seventh Lok Sabha (1980-84): In the seventh Lok Sabha election Congress(I) under the leadership of Indira Gandhi bounced back to power wining a handsome 353 out of 529 seats. Again Indira Gandhi became the Prime Minister of India and there was no Leader of Opposition in the House.

The Eight Lok Sabha (1984-89): After Indira Gandhi was assassinated by her Sikh bodyguards, the anti-Sikh riots broke out in 1984. Riding on the wave of sympathy, the Congress party under Rajiv Gandhi's leadership came to power in a landslide victory. The Congress won 404 seats out of 514 seats. The Bharatiya Janata Party(BJP) made its electoral debut wining

two seats. Rajiv Gandhi became the Prime Minister.

The Ninth Lok Sabha (1989-91): In the Ninth Lok Sabha election, the Bofors scandal, LTTE and other issues worked against the Congress. There was a hung house for the first time with no party getting a majority. The Congress won 197, Janata Dal 143 and the BJP 85 out of 529 seats. The Janata Dal formed the National Front government with outside support from BJP and the left parties. Vishwanath Pratap Singh became the Prime Minister. His rival in the Janata Dal, Chandra Shekhar broke away in 1990 and formed the Samajwadi Janata Party. As a result, VP Singh had to step down. Chandra Shekhar then became the Prime Minister in 1990 with the external support of Congress and lasted only for a short while forcing general elections in just 2 years.

The Tenth Lok Sabha (1991-96): During the Tenth Lok Sabha election, former prime minister Rajiv Gandhi was assassinated by the LTTE. In this election a hung parliament with the Congress emerging as the largest party with 232 seats, while the BJP was second with 120 seats. On June 21, PV Narasimha Rao of the Congress was sworn in as the Prime Minister of India.

The Eleventh Lok Sabha (1996-98): In the Eleventh Lok Sabha election a hung House was formed, the BJP won 161 seats, Congress 140, Janata Dal 46 and the regional parties won 129 seats. The President invited BJP leader AB Vajpayee to form the government, as he was the chief of the single largest party in parliament. But he could not get the support from regional parties in parliament and had to resigned 13 days later. Janata Dal leader HD Deve Gowda formed a United Front coalition government and it lasted for 18 months only. After his resignation IK Gujral became the Prime Minister with the outside support from the Congress party.

The Twelfth Lok Sabha (1998-99): In this election BJP emerged as the single largest party with 182 seats out of 543. The BJP formed the National Democratic Alliance (NDA) with other regional parties. Atal Bihari Vajpayee became the prime Minister for the second time. But he has to resign after 13 months when its alliance AIADMK withdrew support from the government. The nuclear test at Pokhran, the Kargil war were some of the important

incidents in this term.

The Thirteenth Lok Sabha (1999-2004): In this election the BJP again emerged as the single largest party with 182 seats. The BJP was able to form a more stable NDA this time and lasted a full five year term. Atal Bihari Vajpayee became the prime Minister for the third time.

The Fourteenth Lok Sabha (2004-2009): In this election the BJP conceded defeat (win only 138 seats) and the Congress (win only 145 seats) then formed the United Progressive Alliance(UPA) with support from other parties and outside support from the left parties. Sonia Gandhi refused to become the Prime Minister amidst the controversy about her foreign origin. Dr. Manmohan Singh was chosen as the Prime Minister.

The Fifteenth Lok Sabha (2009-2014): The Congress led UPA implemented a lot of its promises including the enactment of Right to Information and the National Rural Employment Guarantee Scheme (NREGS). It also waived off farm loans in 2008. In this election Congress won 206 seats. Again Dr. Manmohan Singh was sworn in as the Prime Minister for the second time.

The Sixteenth Lok Sabha (2014-): The second term of the UPA proved to be a disaster with numerous allegations of corruption and scams. In this election the BJP won majority on its own with 282 seats while the Congress recorded its worst ever performance with just 44 seats. This was the first time since 1984 that a party won a majority on its own. NDA formed government and Narendra Modi becomes the Prime Minister of India.



4.7 LET US SUM UP

- The Constitution of India was adopted by the Constituent Assembly on 26th November, 1949 and signed by the Chairman of the Constituent Assembly Dr. Rajendra Prasad and came into force on 26th January, 1950
- The first general elections under the new Constitution were held during the year 1951-52, the first elected Parliament with the two houses - the Rajya Sabha and the Lok Sabha - came into being in

may 1952.

- The main function of the Parliament is to make laws for the whole territory of India.
- The Parliament of India consists of the President and the two Houses, the Rajya Sabha (Council of States) and the Lok Sabha (House of the People).
- The Lok Sabha is a popular House. Its members are directly elected by the people. The maximum number of its membership is fixed at 550 out of whom, (a) not more than 530 are elected by the votes in the States, (b) not more than 20 to represent the Union territories.
- The Lok Sabha electes two of its members as Speaker and Deputy Speaker.
- The Rajya Sabha or the Council of States is the Upper House of the Union Parliament. The maximum membership of the Rajya Sabha is fixed at 250 of whom 12 shall be nominated by the President, and the remainder, i.e,. 238 shall be representatives of States and the Union Territories.
- The Lok Sabha shall continue for five years from the commencement of its first session. The President may, however, dissolve it even earlier.
- The Legislature of every State consists of the Governor and Houses or Houses. The Legislature in the State are either bicameral (consisting of two Houses, those are Legislative Assembly and Legislative Council) or unicameral (consisting of one House, i.e.- Legislative Assembly).
- The Speaker is the Chief Presiding Officer of the Legislative Assembly of a State. He/she is elected by the members of the Assembly from their own members. The Assembly elects its Deputy Speaker also from its own members.
- The Legislative Council of each State elects its Chairman and Deputy Chairman from among its own members.



4.8 FURTHER READING

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4.9 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No1: True

Ans to Q No 2: The Parliament of India consists of the President and the two Houses- the Rajya Sabha (Council of States) and the Lok Sabha (House of the People).

Ans to Q No 3: The Federal Legislature was to consist of His Majesty, represented by the Governor-General, and two Chambers to be known respectively as the Council of State (the Upper Chamber) and the House of Assembly (the Lower Chamber. The Council of State was to consist of 156 representatives of British India and not more than 104 representatives of the Indian States while the Assembly was to consist of 250 representatives of British India and not more than 125 representatives of the Indian States.

Ans to Q No 4: Section 8

Ans to Q No 5: 250

Ans to Q No 6: (a) The person must bea citizen of India.

(b) He/she must not be not less than 30 years of age in the case of the

Council of States and not less than 25 years of age in the case of House of the people.

Ans to Q No 7: According to Article 108 when a Bill passed by one House and sent to other House -i. is rejected by the House; or ii. the House disagrees as the amendment to be made in the Bill; or iii. the other House does not pass the Bill and more than six months have passed the President may summon a joint session of both the Houses.

Ans to Q No 8: The Constitution provides that the total strength of the Legislative Council must not be less than 40 and not more than 1/3 of the total strength of the Legislative Assembly of the State. The members of the Legislative Council are elected indirectly. One third of its members are elected by the local government bodies like the Zila Parishad and Municipalities. Another one third are elected by the members of the Legislative Assembly. One twelfth are elected by the graduates of the constituency and another one twelfth by the teachers of secondary schools, colleges and universities. One sixth of the members of the Legislative Council are nominated by the Governor of the State.

Ans to Q No 9: During the proclamation of emergency the life of the Assembly may be extended by an Act of Parliament for a period of one year at a time but in no case beyond a period of six months after the proclamation has ceased to operate.

Ans to Q No 10: Vice-President of India.



4.10 MODEL QUESTIONS

A) Very Short Questions

Q 1: Who was the Chairman of the Constituent Assembly of India?

Q 2: Who was the first Prime Minister of India?

Q 3: Who was the first Speaker of the Lok Sabha?

B) Short Questions (Answer each question in about 150 words)

Q 1: Write a brief note on Money Bill.

Q 2: Write short notes on (a) Governor (b) Parliamentary Committee.

Q 3: Examine the role of Speaker in Indian Parliamentary system.

Q 4: Explain the role of President in Indian Parliamentary system.

C) Long Questions (Answer each question in about 300-500 words)

Q 1: Discuss the various types of power and functions of the Parliament of India.

Q 2: Discuss the procedure of passing a Bill in the Parliament of India.

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UNIT 5: HISTORY OF ASSAM LEGISLATURE

UNIT STRUCTURE

5.1 Learning Objectives

5.2 Introduction

5.3 Historical Background of Assam Legislative Assembly

5.4 Honourable Members of Assam Legislative Assembly since 1937-1952 and 1952-2011

5.5 Let Us Sum Up

5.6 Further Reading

5.7 Answers to Check Your Progress

5.8 Model Questions

5.1 LEARNING OBJECTIVES

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

- discuss the historical background of Assam Legislative Assembly
- have a brief idea about the honourable members of Assam Legislative Assembly since 1937-1952 and 1952-2011

5.2 INTRODUCTION

In the previous unit we have discussed the parliamentary system of India. The Constitution of India has provided for separate legislature for Union and for states. At the Union we have Parliament consisting of the President and the two Houses, i.e- Rajya Sabha and Lok Sabha. The Constitution of India also provides for a Legislature for every State in the Union. The Legislature of every State consists of the Governor and Houses or Houses. The Legislature in the State are either bicameral (consisting of two Houses) or unicameral (consisting of one House). The Legislatures in Bihar, Maharashtra, Karnataka, Uttar Pradesh, Andhra Pradesh, Telangana, Jammu & Kashmir is bicameral. In the remaining States the Legislature is unicameral consisting of only one House, i.e., the Legislative Assembly. Assam also has unicameral legislature, i.e. Legislative Assembly. In this unit we will

discuss the historical background and role of the Assam Legislative Assembly.

5.3 HISTORICAL BACKGROUND OF ASSAM LEGISLATIVE ASSEMBLY

In 1905 when Bengal was partitioned, Assam, together with the eastern half of Bengal was converted into one Lieutenant Governorship, known as Eastern Bengal tined Assam. In 1911 the partition of Bengal was annulled and again Assam became a Chief-Commissioner's province. The Governors of the ''residencies were higher in status and enjoyed mote powers than the lieutenant Governors or the Chief Commissioners. The former were appointed by His Majesty's Government on the Advice of the Secretary of state whereas the latter were appointed on the recommendation of the Governor-General. The Chief Commissioners were mere delegates of the Governor-General, exercising administrative powers delegated and as such, the Chief Commissioners did not possess executive councils to advise them. The Reforms Act of 1919 removed the distinction between the two types of provinces and all provinces came to be known as the Governors' provinces. However, the old differences in the authority of appointment remained as before. The Government of India Act, 1858, empowered the Governor-General to appoint Lieutenant Governors. Assam was known as a Non-Regulation Province like the Punjab as distinguished from the old Regulation Provinces of Bengal, Madras and Bombay. By the time of the introduction of the Montford reforms the distinction disappeared except for some differences in the titles of the officers. For instance, in the Non-Regulation Provinces, the collector was designated as the Extra Assistant Commissioner. The total strength of the legislative council of Assam under the Regulations of 1912 was 25. Like almost all the provinces of India, Assam was not formed into a homogeneous provinces on the basis of ethnological, linguistic or cultural factors. Political, military and administrative exigencies shaped the political map of Assam. The Indian Councils Act 1861 provided for the creation of provincial legislatures for the first time in India. The time of formation of the legislative councils varied from province to province and

in Assam it was constituted in 1905 when the province of East Bengal and Assam was created. The seat for the council was at Dacca and Assam was represented by four members including one European belonging to the planting community. The legislative council also included the Advocate-General as an additional member. Half of the members were to be non-officials, nominated by the Chief Commissioner. The legislative council exercised extremely restricted powers. Before the introduction of provincial Governor-General in Council was a necessary pre-requisite and all Acts had approved by the Governor General. Besides this, some avenues like taxation, currency, post and telegraph etc. were outside the legislative jurisdiction of the legislative council. In spite of the limitations, the beginning of the parliamentary structure was Inaugurated in Assam . The Morley-Minto Reforms Act was passed with the aim of associating more Indians with the work of administration. Consequently all the provincial legislative councils were enlarged in size and in accordance with the provisions of the Act, the majority of the members were non-officials, although for all practical purposes, the officials managed to have a working majority with the nominated members. The strength of the council was fixed at thirty. However, the legislative council of Assam, like those of other provinces, consisted of four types of members, i.e. ex-officio members, nominated officials, nominated non-officials and the elected members. Though this Act introduced the system of indirect election for the first time, the electorate was indeed very small and easily manageable. Moreover, women were denied the franchise. The system of indirect voting widened the rule between the legislators and the electors and the legislators generally failed to appreciate the needs of the people. Moreover, provision was made for separate electorates and thus communal feelings vitiated the very essence of election. The Muslims were to elect their own representatives from separate constituencies and they enjoyed weight age. Special constituencies were provided only for the Muslims, land-holders and Chamber of Commerce. The traditional policy of 'divide and rule' was cunningly pursued by the British Government, so that the division in representation would increase the cleavage between the Hindus and Muslims. This situation was fraught with grave dangers to the

unity of the nation. The legislative council of Assam had strength of 50 members of whom l1 were nominated and 11 were elected members, of the nominated members 10 were officials and the rest were non officials. As for the elected seats, 2 seats were reserved for the Muslims, 3 for the representatives of the planter community and the rest were general seats. The Chief Commissioner was the ex officio president of the council. The Council could move resolutions on the budget In the form of recommendations. The elected members of the Council also could play a direct role in the framing of a limited portion of the budget. The councillors enjoyed the right of putting questions on matters of public importance. They had to give prior notice before putting questions. Thus they exercised some measure of Influence over administrative and financial matters. The reformed system as provided by the Indian councils of 1909, did not embody any new policy and it was just an extension of the existing system of administration. The system of election as desired could not impart political education to the common people. The representatives of the different groups and interests could not take a united stand on any matter of public importance in view of the very composition of the council. The deliberations in the House, moving of the resolutions or putting questions and supplementary questions were hedged with many limitations. The members could record an adverse vote against the Government. But this had little effect on a Government which was not 'responsible'. Similarly, criticism of the Government by the members of the legislature had also no adverse effect on the working of the Government. Despite these shortcomings, the Act heralded an era of parliamentary Government in an otherwise totally bureaucratic system. Much of the present legislative usages were the product of this Act. The principle of indirect election was formally introduced. The right of voting on some items of the budget, the right of asking questions and supplementary questions and the right of moving resolutions as conceded to the members of the Council proved to be of substantial importance later on in the period of real self-government. It was one of the provinces of India to have introduced dyarchieal form of Government on an experimental basis. The Government of India Act 1919 which contained over 150 clauses and five

schedules conferred administrative responsibility of certain subjects on the provinces under the Devolution Rules. These subjects of administration were divided Into two divisions and they were administered by the two halves of the Government. It was a novel experiment for India, though it was also tried in Malta and was nicknamed 'diarchy. The legislature was triennial and the statutory number of members was fixed at fifty three in Assam, The idea of provincial autonomy was indicated by the Government of India. The Wontford Report recommended decentralisation of administrative power so that popular control over provincial sphere could be effective. Accordingly, the Government of India Act, 1919, provided for delegation and devolution of administrative authority although the Constitution remained unitary. The word 'dyarchy' did not appear in the Govt, of India \ct 1919 nor in the Montford Report. Its first use was made by Mommsen to describe the dual system of Government, between the Emperor and the Senate in the Roman Provinces. It goes without saying that the system was halting and the power exercised by the representatives of the people was extremely limited. The Act of 1919 gave more powers to the provincial legislatures and broadened the electorate on the basis of the draft formula prepared by Mr Montagu, the then Secretary of State for India. This was put in its final form by Lord Curzon.

One of the Important features of the Assam Legislative Council of 1921 was that all communities of Assam were represented in it, vis., the Tea Planters, businessmen of both British and Indian communities, landlords, agriculturists, lawyers, educationists, workers in local bodies; further the following interests were represented : a non-official member of the Medical profession, an Indian Christian clergyman and a retired Indian officer o f the Assam Rifles, a representative of the Goalpara Zamindars, a representative of the domiciled community of Bengalese and two members of Ahom race including a prince of the Royal Bouse and a representative of the Fill areas. There was no female member In the Assam Legislative Council. Though the Council represented different interests and communities, the legislative records of that time show that in the matters of public importance all the members could unite and very often resolutions were passed unanimously.

According to the provision of India Act 1935, a bicameral legislature

of Assam province came into existence in 1937. After this Act was passed, it paved the way for the formation of Assam Legislative Assembly , and became a bicameral legislature .The strength of the House was 108, where all the members were elected. The Legislative Council (Upper House) was not less than 21 and not more than 22 members. The first sitting of its lower house, the Assam Legislative Assembly, took place on 7 April 1937 in the Assembly Chamber at Shillong was the capital of the composite State of Assam. It had strength of 108 members.

However, the strength of the Assembly was reduced to 71 after the partition of India. After Indian independence in 1947, the Assam Legislative Council was abolished and the Assam Legislative Assembly became unicameral.

In the years that followed, Assam was truncated to several smaller states. And over the years, with the changing geographical boundaries and increase in population, the strength of members has changed from 108 in 1952-57 to 114 in 1967-72 (the third Assembly) and by 1972-78 (the fifth Assembly) it had a strength of 126 members.

Assam under the provisions of Indian Council Act, 1861 did not have its own democratic institution but was tagged with East Bengal in 1905 and the Institution was then called "Legislative Council of Eastern Bengal and Assam", which started functioning from December 18, 1906. In 1909, the Council had a strength of 40 members and out of 40 seats, Assam was allotted 5 seats. In 1912 Assam was reconstituted into a Chief Commissioners' province. In the year 1913, after Assam was granted a Legislative Council under the Government of India Act. 1909, the Assam Legislative Council came into being with a strength of 34 members of which 13 were nominated by the Chief Commissioner and 21 were elected by the people. The Legislative Council of Assam first met on 6th January, 1913 at 11 a.m. at Shillong, which was presided over by Sir Archdale Easle, the Chief Commissioner of Assam. Under the Government of India Act. 1919, the strength of the Legislative Council was raised to 53 members with effect from 1st April, 1921 of which 41 were elected members and the remaining 12 were nominated.

The Government of India Act, 1935 was adopted by the British Parliament on 2nd August, 1935 and was implemented in 1937. The Government of India Act 1935 made provisions for a Legislative Assembly in each province and as a result the Legislature in Assam became bicameral. The Assam Legislative Assembly had the strength of 108 members and all of them were elected members. the strength of the Legislative Council (Upper House) was not less than 21 and not more than 22 members.

After the partition of India, Sylhet district of Assam was transferred to the then East Pakistan by a referendum and the strength of the Assembly was reduced to 71. However, after Independence, the strength of members were again raised to 108. The bicameral Assam Legislative Assembly became unicameral with the abolition of the Assam Legislative Council in 1947. In the years that followed, Assam was truncated to several smaller states. In 1963, Nagaland came into being as a separate State. With the passing of North Eastern (Reorganization Areas) Act in 1971 by the Parliament, Meghalaya became a full-fledged state. Subsequently, Mizoram and Arunachal Pradesh also followed suit. After the creation of Meghalaya as a separate state, Shillong continued to be the joint capital of both Assam and Meghalaya. However, in 1972, the Government of Assam decided to shift the Capital to Dispur, Guwahati. Accordingly, the first sitting of the Budget Session of the Assam Legislative Assembly was held at the temporary capital at Dispur on the 16th March, 1973.

With the changing geographical boundaries together with the shifts in the population graph of Assam, the strength of members of the Assam Legislative Assembly has fluctuated during the last fifty odd years. In 1952-57 it was 108, reaching still lower to 105 in 1957-62 (the Second Assembly) and then to 114 in 1967-72 (the third Assembly) until it reached a strength of 126 members in 1972-78 (the fifth Assembly) and it has continued to maintain that figure till the 11th Assembly.

Although Article 172 provides the duration of State Legislative Assembly as 5 years due to the imposition of National Emergency in 1975 the fifth Assam Assembly lasted for 6 years. Late Babu Basanta Kumar Das was the first Speaker of the Assam Legislative Assembly.



CHECK YOUR PROGRESS

Q 1: What was the total strength of the legislative council of Assam under the Regulations of 1912 ?

.....

Q 2: Who was the first Speaker of the Assam Legislative Assembly?

.....

Q 3: Mention one provision of the the Indian Councils Act.

.....

5.4 HONOURABLE MEMBERS OF THE ASSAM LEGISLATIVE ASSEMBLY SINCE 1937-1952 AND 1952-2011

Assam has had a glorious history of her own. Popularly known as ethnological museum of India, Assam has been described as mini India having a rich cultural heritage with diverse race, religion and culture. Assam under the provision of Indian Council Act, 1861 did not have her own democratic institution but she was tagged with the Eastern Bengal in 1905 and the name of the Institution was Legislative Council of Eastern Bengal and Assam. In 1909, the council had a strength of 40 seats and Assam was allotted 5 seats. However, after a good deal of pressures in 1913 Assam was granted a Legislative Council under the Government of India Act 1909 with 34 members of which 13 were nominated by the Chief Commissioner and 21 were elected by the people. The Legislative Council of Assam first met on 6th January, 1913 at 11.00 AM at Shillong, the then capital of Assam. Under the Government of India Act, 1919 the strength of the Legislative Council was raised to 53 members with effect from 1st April, 1921. The majority of the members were elected, 41 seats were distributed community wise as follows :

1. Labour 1, 2. Backward Area 1, 3. Non Mohammediam Urban 13, 4. Non Mohammediam Rural 21, 5. Commerce & Industry 41, 6. Official 7, 7. Non Official 53. The Government of India Act of 1935 made provisions for Legislative Assembly in each province and as a result the Legislature in

Assam became bicameral. The Assam Legislative Assembly had the strength of 108 members and all the members of the Assembly were elected members. Seats were distributed as under : 1. General 47, 2. Muslim 34, 3. Planting Group 9, 4. Commerce 2, 5. Plain Tribes 4, 6. Hill Tribes 5, 7. Labour 4, 8. Women 1, 9. European 1, 10. Indian Christan 108.

The Legislative Council was a permanent body but as near as one third of its membership being renewed every third years. The strength of the council was not less than 21 but not more than 22. Seats distributed as under : 1. General 10, 2. Mohammedian 6, 3. European 2, 4. Nominated 4 . After the partition of India in 1947, Sylhet district of Assam was transferred to the then East Pakistan now Bangladesh by a referendum and the strength of the Assembly was reduced to 71, but raised to 108 again after independence of India. During that period the term of the Assembly was 6 years. After independence of India, the term of the Assembly has been reduced to 5 years from 6 years. Accordingly the first election of Assam was held in 1952 to elect the members for 1st Assam Legislative Assembly. The number of members of Assembly remained same i.e. 108 members. The next election was held in the year, 1957 to elect 108 members for the 2nd Assam Legislative Assembly. The third Assam Legislative Assembly was held in the year 1962 to elect 108 members. 109 In 1963 the Delimitation Commission fixed the strength of Assam Legislative Assembly at 126 on the basis of the census figure of 1961. From 4th Assam Legislative Assembly to 13th Assam Legislative Assembly, the members of Assam Legislative Assembly were as follows : 4th Assam Legislative Assembly 1967-1972 - 126 members. 5th Assam Legislative Assembly 1972-1978 - 126 members. 6th Assam Legislative Assembly 1978-1983 - 126 members. 7th Assam Legislative Assembly 1983-1985 - 126 members. 8th Assam Legislative Assembly 1985-1991 - 126 members. 9th Assam Legislative Assembly 1991-1996 - 126 members. 10th Assam Legislative Assembly 1996-2001 - 126 members. 11th Assam Legislative Assembly 2001-2006 - 126 members. 12th Assam Legislative Assembly 2006-2011 - 126 members. 13th Assam Legislative Assembly 2011-2016 - 126 members. 14th Assam Assembly election was held in 2016.



ACTIVITY 5.1

Try to find out the name of the present Speaker of the Assam Legislative Assembly.

.....

.....



CHECK YOURPROGRESS

Q 4: In which year the Legislative Council of Assam met for the first time?

.....

Q 5: At present what is the total number of members of the Assam Legislative Assembly?

.....



5.5 LET US SUM UP

- In 1905 when Bengal was partitioned, Assam, together with the eastern half of Bengal was converted into one Lieutenant Governorship, known as Eastern Bengal tined Assam. In 1911 the partition of Bengal was annulled and again Assam became a Chief-Commissioner's province.
- One of the Important features of the Assam Legislative Council of 1921 was that all communities of Assam were represented in it, vis., the Tea Planters, businessmen of both British and Indian communities, landlords, agriculturists, lawyers, educationists, workers in local bodies; further the following interests were represented : a non-official member of the Medical profession, an Indian Christian clergyman and a retired Indian officer o f the Assam Rifles, a representative of the Goalpara Zamindars, a representative of the domiciled community of Bengalese and two members of Ahom race including a prince of the Royal Bouse and a representative of

the Fill areas.

- Now the Assam Legislative Assembly is the unicameral legislature of the Indian state of Assam. It is housed in Dispur, the capital of Assam, geographically situated in present Western Assam region. The Legislative Assembly comprises 126 Members of Legislative Assembly, directly elected from single-seat constituencies. Its term is five years, unless sooner dissolved.



5.6 FURTHER READING

1) *Official Documents and Reports Assam Legislative Assembly Debates, 1940 - 1960. Assam Legislative Assembly Proceedings, 1940 - 1960.*

2) *Indian Parliamentary Debates and Lok Sabha Debates, Relevant and available volumes. Census of India, Relevant Volumes on Assam*, ASA, Dispur.

3) *Political History of Assam Records, State Archives, Dispur*. Report on the Administration of Assam for the year 1921 - 1922.

4) *A Note on Assam's Stand vis-a-vis British Government Statement of 6th November, 1946, Publicity Department of APCC. The Politico - Criminal Who's Who of Assam 1936, Part I, II and III*, Compiled by the Intelligence Branch, Assam.

5) *Medhi, Bishnuram (1955). Assam's Role in Freedom Movement. In Krishnaswami, V., ed., Souvenir - Indian National Congress, (60th Session)*. Avadi, Madras, pp. 150 - 154.



5.7 ANSWERS TO CHECK YOUR PROGRESS

Ans To Q. No 1: 25

Ans To Q. No 2: Late Babu Basanta Kumar Das

Ans To Q. No 3: The Indian Councils Act 1861 provided for the creation of provincial legislatures for the first time in India.

Ans To Q. No 4: on 6th January, 1913

Ans To Q. No 5: 126



5.8 MODEL QUESTIONS

A) Very Short Questions

Q 1: What is the total strength of the Assam Legislative Assembly at present?

Q 2: Mention one provision of the Reforms Act of 1919.

B) Short Questions (Answer each question in about 150 words)

Q 1: Write a short note on the Speaker of the Assam Legislative Assembly.

Q 2: Write briefly about Assam Legislative Council of 1921.

C) Long Questions (Answer each question in about 300-500 words)

Q 1: Discuss historical background of Assam Legislative Assembly.

Q 2: Make an assessment of the members of Assam Legislative Assembly till this date.

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