

An Introduction to

CIVICS and

GOVERNMENT

By

A. J. WILSON

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CIVICS AND GOVERNMENT

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PREFACE

THIS book has been primarily designed to meet the requirements of senior students and teachers of Civics and Government in senior classes. It is also meant to serve as a background for those who intend proceeding with their study of Civics with a view to offering it as a subject for the Preliminary Examination conducted by the University of Ceylon. A lay reader too may find it useful as a handbook which will help him to live the civic life and give him an insight into the workings of the governmental process.

The author has endeavoured to organise and systematise in some ordered way the various topics that the S. S. C./G. C. E. syllabus prescribes for students of Civics. This has indeed been a difficult task and the writer has wherever possible tried his best to present facts in as objective a manner as he could. However, throughout the entire book he has taken considerable pains to emphasise an important theme which any writer on this subject cannot help but emphasise. The theme stressed is the age old one which writers so varied and apart like Milton, Voltaire, and the Mills in the past had endeavoured to inculcate into the minds of their readers—that the fundamental test of democracy is the duty of Governments to respect human personality and to pay careful attention to the opinions of the public. If the writer has succeeded in conveying this truth to his readers, he will be happy that he has achieved a purpose.

The author acknowledges his debt to the writers of the numerous Government Administration Reports, Sessional Papers and other documents and to the authors of many books on History, Government and Politics to which he had to make reference in arriving at his conclusions. It is needless to add that the responsibility for any errors that there might be in the text are all his own. Finally he is thankful to the Department of Census and Statistics for granting him permission to reproduce here a part of the Chapter on Constitution and Government which he wrote for the Ceylon Year Book.

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FOREWORD

'MAN' said Aristotle, 'is by nature a social animal,' and he went on to declare that a man who belonged to no community (unless it were due to accident) was either deficient or a superman. There is little to be expected from the deficient and much to be feared from the superman. The conduct of man as a social animal is not that of the social insects such as the ants or bees. It is not controlled by some over-ruling instinct of which the individual is not conscious. The social life of man, while it may be fundamentally dictated by nature, is governed by conventions, understandings, compromises. It is subject to strains and stresses occasioned by changing circumstances and opposing ideas. The institution of government, however it arose, serves as a check upon the conflicting actions, emotions and intentions of man.

Every adult member of a society should appreciate the principles upon which it rests. In the modern democratic state, indeed, they are called upon from time to time to express a judgment on how its affairs should be conducted. This is a high responsibility and the well-being of the community depends on the degree of intelligence, honesty and disinterestedness with which it is discharged. So it is felt their education should include some instruction in citizenship. It is idle to pretend that this does not present difficulties. There is the inherent complexity of the subject : for the problems of human society are intricate. There is the danger that the instruction may be purely formal—a mere catalogue of facts of which no interpretation is offered. There is also the risk that the interpretation, if offered, may be tendentious inculcating what is called an ideology rather than awakening a genuine interest in the subject.

The teaching of Citizenship—Civics—Government is in fact a challenge to the teacher. He may have his political convictions (and political convictions breed strong prejudices); but to attempt to impart them to his pupils is to betray the ideals of his profession. The temptation to do is so subtle that many educationists express doubts as to whether any direct effort should be made to teach the subject. Could not the child's mind, they ask, be awakened in the teaching of Literature, History and Geography to all that is really significant in the practice of citizenship? In Great Britain, in fact, this indirect method is generally adopted. Personally, I confess, that I have a presumption in its favour ; but I am prepared to admit that if the dangers I have enumerated are kept in mind the subject may find its place in the school curriculum.

Ceylon has not had such a long political training as Great Britain has experienced. Elections on universal suffrage only go back some twenty years. The political parties are in the making. Under the present Constitution an experiment is being made in working a parliamentary system based on the Westminster model. It will

take time to fashion the political consciousness of the community to this model ; in fact, it is never likely to be a complete replica of it. But out of the welter of class interests, personal ambitions and contending ideologies a stable democratic system should eventually emerge. To this end the study of the stages by which Ceylon achieved Dominion Status, of what is involved in this privileged position and of what the problems are which face the country, becomes the duty of every citizen. The late Mr. D. S. Senanayake in a broadcast to the people in February, 1948, put the matter clearly. 'I think it is very necessary', he said, 'that at this important juncture in our history, we should in a spirit of sober reflection dwell upon the gravity of the position devolving on each of us, men, women and children of this country, by the attainment of the cherished goal of independence. No doubt we have had good reasons for rejoicing and we have rejoiced. But the time has now come when we must realise not only that we are free, but the serious responsibilities which have devolved on us by reason of that freedom.

I have much pleasure in commending Mr. A. J. Wilson's *Introduction to Civics and Government* to teachers and students and indeed to the general public. It is a compendium which should prove invaluable. A wealth of material has been carefully digested, impartially summarized and conveniently arranged ; in fact a difficult task has been competently discharged.

J. F. Rees

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Peradeniya
2nd February, 1954

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AN INTRODUCTION TO CIVICS AND GOVERNMENT

CHAPTER I

THE CEYLONESE COMMUNITY

Vaddas

THE earliest settlers of the Island were the Vaddas, an aboriginal tribe of obscure origin. They lived by hunting and their settlements were in and near about caves. They were not solitary cave dwellers but were tribal in outlook. The family was their unit and the whole family had to be responsible for the single act of one of its members. The individual therefore acted in concert with his fellow beings. He subordinated his interests to the interest of his family. He developed the co-operative or, what was still better, the herd instinct. The Vaddas, however, made no spectacular contribution to the history of this country. They contributed their share to the formation of the Sinhalese race. The up-country Sinhalese are said to have absorbed a considerable proportion of Vadda blood. This was about all that the Vaddas did for Ceylon. Today they are a dying race. They continue to inhabit a few jungles in the South-Eastern part of the country.

Aryans

Next came the Aryans. Whether these settlers were Aryans by blood is a matter for doubt. But they spoke a language closely akin to some of the Aryan Languages spoken in other parts of the Aryan world. Hence our conclusion, that the people who followed the Vaddas to Ceylon were of Aryan origin—if not of race, at least of language. The Aryans established their settlements by the banks of rivers. There is evidence available to show that they first inhabited the river shores of the Malvatu Oya in the North and those of the Valave, Kirinda, Manik and Kumbukkan in the South-East. A third settlement was in the Western region frequented by the waters of the Kelani Ganga but there is very little evidence available to show what progress was made in this part of the Island. Whether all three sectors were occupied simultaneously or at different intervals is a doubtful matter. The fact remains however that the early civilization of our Island like all great civilizations, was founded on the banks of rivers.

The Aryan settlers were in the beginning mainly pastoral in outlook. But soon they showed their bias for agriculture. With

the passage of time they spread their activities further inland. Anuradhapura in the North became a hive of activity—later to become one of the great cities of ancient Ceylon. Magama in the South-East developed on a similar scale.

There was communication between these two sectors. A river once more supplied the connecting link. On this occasion it was the Mahaveli Ganga.

The Aryans made a lasting impression on the history of this country. Traces of their governmental system still remain, though of course with important modifications to meet modern conditions. They were like their Vadda predecessors, a co-operative people strongly bound by ties of blood and kinship to a well-knit family system. The Aryan settlements on the banks of the rivers mentioned, developed gradually into villages. The villages or gamas consisted of paddy fields, fruit gardens and jungle land which was cleared later for chena cultivation. The villages essentially consisted of groups of families belonging to a particular caste. The cultivators, for instance, inhabited the regions closest to the rivers and tanks. Their dependants, the village servants, the blacksmiths, potters, washermen etc., occupied separate villages. The distinction was not however absolutely clear-cut as we might expect it to be. There was considerable inter-mingling. In fact the large villages consisted of families of superior status tracing their ancestry to the early settlers, of other families not related to these superior families but belonging to a distinct group of their own and of families belonging to the dependant castes—the washermen, potters, blacksmiths and so on. The factor to note here is that each group tried to maintain its occupational identity. The cultivators continued to remain cultivators as did the potters, the washermen and the blacksmiths. It is from this desire to maintain occupational identity that the caste system which has become one of the marked features of social life in this Island developed.

Dravidians

The Aryans were followed by the Dravidians. These were the inhabitants of South India. They were for some time a disturbing element in the peaceful progress of this country. They made periodic incursions into the Island—first the Pandyas and then the Cholas. The invasions gathered intensity with the progress of time until the Dravidians finally settled down as permanent inhabitants in what is now the Northern and Eastern provinces of the Island. Their lasting contribution to the civilisation and history of this country was their religion, Hinduism, their language, Tamil, and their caste system.

The System of Government

The village was the unit of Government in ancient Ceylon. Each of the villages came under the influence of an elder who was styled

the gamani. The gamanis of Anuradhapura in the North and of Magama in the South-East gradually appropriated kingly power to themselves. With the progress of time the gamanis of the different villages came to be assisted and instructed by a Council which had administrative and judicial functions. This was the Gansabha. The Gansabhas assembled at periodic intervals to deal with disputes, debts and petty offences. It was composed of the elders and experienced men of the village. In later times, when a headman participated in its proceedings a fine could be imposed on an offender. When villages came to be grouped into districts, there came into being the Council of the District which was styled the Rata Sabhava. The Rata Sabhava was the Gansabhava writ large. It too was composed of the heads of families and had powers and functions similar to the village council but wider in scope and more extensive in its field of operation. Both the village and district councils were units maintained to protect primarily the interests of the cultivators.

Society in the ancient period of Ceylon's history was co-operative in outlook. Land was the chief source of wealth. The gansabhava was the unit of government. When the Gamanis of Anuradhapura and Magama established themselves as kings they imposed a sort of central supervision over the villages and their gansabhavas. But this supervision was never so rigid and strong as the supervision which exists today where communications are highly developed and when instructions can be issued through the medium of the telegraph and the telephone. For this reason the king had to delegate his functions to the village chiefs, the gamaralas or the gam-laddas as they came to be called and the district chief, the rat-ladda. Land in those days as has been mentioned earlier was the primary source of wealth and all land was regarded as the king's property. Those who therefore occupied the territory held by the king were his tenants. The tenants cultivated his land with the assistance of their families and gave a share of their produce or performed some form of service to the king or his chiefs as a fee or charge for the occupation of the land. The kings made use of these services to build tanks and construct irrigation works and by these means they endeavoured to win the goodwill of their subjects and increase the produce of the land.

The kings of this time were absolute rulers untrammelled by any restrictions of a written or legal nature. Their duties were however fewer than those which exist under modern conditions. They had to maintain peace and order and help the people in their agricultural activities. The lack of advanced methods of communications compelled them to delegate some of these duties to village chiefs and district chieftains. These chiefs were paid for their services by the grants of land. The same method was adopted in rewarding soldiers and craftsmen for the services they rendered.

Though the kings of this time were absolute rulers in their own lands they could not afford to be arbitrary and despotic. They had to please their subjects and ensure that justice was done to them. In this, they were guided by long-established usages and traditions. Custom in those days was the king of men. The kings dared not ignore the tribal or family traditions and usages. Innovation was dangerous as was arbitrary and haphazard exercise of royal power.

Since communications were so slow and ill-developed, the individual of those days could not rely on himself or on the assistance of a central authority to get things done. He had therefore to depend on his family and the family had to depend on the group which went to form the village. The individual thus became imbedded in the herd or the group. He was tied down by necessity to think and move along the beaten track laid out for him by the hallowed custom of age long tradition. He was a cog in the wheel of co-operation. He could not act on his own initiative. The adventurer or the daring inventor was certain to meet with a miserable fate. The spirit of competition was entirely absent. Co-operation was the surest means of progress and salvation. The individual was never a unit by himself. He was part of a well-knit, closely woven family and group system. So intense was this group outlook that it was not the individual but the family or the corporation to which the individual belonged that had to pay a fine if an individual was convicted for any offence by the village council. Similarly an entire village was held responsible to the King for the actions of its inhabitants.

At this stage it might be interesting to analyse the progress made in the idea of kingship—from the start given by the gamanis of Anuradhapura and Magama to the heyday of Sinhalese royalty under Parakramabahu the Great. The gamanis of Anuradhapura and Magama were regarded as simple, ordinary men who by the sheer accidents of circumstance had appropriated absolute power into their hands. There was no special sanctity attached to them but their subjects believed that these rulers could influence the elements, induce rainfall, and bring about prosperity by leading good and exemplary lives. This belief in the power of kingship was however mitigated by virtue of the fact that others too could perform similar deeds if they approached certain degrees of spiritual perfection. Succession was from brother to brother and then to the son of the eldest brother and his brothers. The heir to the throne was usually referred to as the Yuvaraja and after him came the prince of Ruhuna and Malaya. The kings of this time ruled with the assistance of district chiefs. There was the passa or larger division entrusted to the hands of a ruler called the pasladdan. Smaller districts were in charge of rataladdan and villages in charge of gam-laddan. At the centre the king was assisted by a council of elders and chiefs, and under Parakramabahu the Great, the Council

came to be recognised so as to consist of the heir to the throne, the princes, the senapati, the important chiefs of the various provinces and the principal merchants. The Senapati or the Commander of the Army always held an important place. As he held a position of immense authority and could if he desired even effect the removal of an unpopular king, great care was exercised in his selection. The kings too increased their influence and authority over the people. During the early medieval period they came to be regarded as Bodhisattvas worthy of being worshipped. They began to trace their ancestry to the Sun. Under Parakramabahu the Great, increasing stress began to be laid on the matriarchal system and kings began to trace their descent from the mother's side. It was becoming quite evident that Dravidian customs, of which the matriarchal system was a typical feature, were fast permeating into the social structure of Sinhalese royalty.

The Transition from Ancient to Modern

The advent of the Westerners had some sort of electrifying effect on the social system and customs of this country. In the beginning of the sixteenth century, the inhabitants of what is now an insignificant district of the Iberian Peninsula—the rectangular state of Portugal—were driven by the accident of circumstances to the port of Galle in the southern part of this Island. The Portuguese soon established settlements on the western coast. Their influence never extended beyond the maritime provinces. They failed to bring the hill country under their sway despite repeated incursions.

The Portuguese interest in the Island was mainly in the spice trade. They established a royal monopoly over cinnamon, arecanut and pepper. They adapted and utilised the local institution and systems of land tenure in so far as they were useful to them in their search for commercial wealth and gain. They carried on a vigorous campaign of preaching the gospel and won many converts to the Roman Catholic faith. Many of the descendants of these early converts still continue to hug the coastal areas of the Island. Christianity of the Portuguese, Dutch and English varieties as we shall see later helped much to cut across rigid caste barriers and establish some form of social intercourse between the different castes and communities in the country. This was perhaps the most important contribution made to the Island by the impact of Western influence. The Portuguese left behind them their descendants who have helped to swell the ranks of the Burgher population in this country.

The Portuguese were followed by the Dutch. The Dutch interest in the Island was also mainly in trade. The Dutch occupation too was mainly restricted to the coastal districts. Incursions were made into the Kandyan country but that kingdom continued

to offer resistance to the Westerner. The Dutch too retained the native administrative system which the Portuguese had inherited from the Sinhalese, with modifications however, to serve their own needs. They left behind them a legal system, a comprehensive chain of schools to propagate their brand of the Christian faith, and a thriving Burgher community which under the British rule was to provide an efficient army of public servants to oil the wheels of the machinery of government.

With the advent of the Britisher, the Island passed permanently under the sway of the Westerner. The British established their foothold in 1796. By 1815, with the assistance of local chiefs they were able to oust the Nayakkar dynasty from their overlordship over the Kandyan kingdom and bring the entire Island for the first time in its history under the rule of an European power. The British at first did away with the indigenous administrative institutions and established in its place an entirely alien system run by a horde of reckless plunderers—Madras officials imported from the Indian mainland. But this proved a costly blunder. Rebellion was the final outcome. The Britishers were compelled to accommodate the chiefs and to restore to them their powers. It was only by stages that the native institutions were gradually replaced by Western improvements.

Modern systems of government cannot rely on feudal foundations for their successful operation. A highly paid civil service and justice based on fair play and impartiality had to be subsidized by a money economy and not by feudal systems of land tenure based on caste distinction and supported by an administrative army of native chiefs and their party underlings. The first step in this direction was taken by the unification of the Kandyan and Maritime districts under a single administrative system. This happened in 1833 with the introduction of the Colebrooke reforms. A comprehensive road system together with a skeleton network of railways constructed by enterprising and far-seeing governors soon encouraged and facilitated social intercourse between the low country Sinhalese and their hill country counterparts. Sinhalese traders began to rapidly infiltrate into the up-country districts. They had come under Western influence and this infiltration gradually began to wear down the feudal strongholds of the up-country chiefs. Rebellion proved unsuccessful. The abolition of Rajakariya finally emancipated the peasant from his imprisonment to the caste system. Education, though it had a missionary bias and had as its principal aim the provision of an army of clerks to run the governmental system, too helped to accelerate this process of breaking down caste barriers and encouraged people to move about on equal terms and compete with one another for government jobs on an equal level.

The British system of justice, based as it was on a respect for the

liberty of the subject regardless of caste or religious distinctions, gradually replaced local methods which were based on political ideas and social customs that were in the last analysis riveted to the caste system. The establishment of first coffee and then tea plantations in the hill country finally completed the process of defeudalizing the indigenous system of justice, administration, and government.

The chiefs lost their influence because communications increased central supervision, minimized chances of rebellion and wrenched the native from his imprisonment to the soil and encouraged him to move from his village in search of better occupation. Education provided an avenue for employment. During the middle and latter part of the 19th century more and more Ceylonese began to grow interested in trade and commerce. Towns rapidly developed and a middle class of English educated folk began to take an active interest in government and politics, in constitutional reform and education. There was an efflux of Ceylonese to British Universities. They returned with new ideas especially in the field of politics and government. They began to agitate for political reform. The middle classes ceased to think in terms of caste, and occupation based on caste. Money and education acted as solvents of the medieval economy that had prevailed in the past throughout the country as a whole. Thus it was the unification of the Island under a single Western power, the development of communications, the spread of Western education, the growth of a plantation economy, the urbanisation of rural areas, which facilitated the gradual rise of an active, politically conscious, English educated middle class and finally brought about the slow but steady change over of the Island from a feudal form of Government to a better and more advanced system of modern administration. It is true that feudal pockets still remain and that native chiefs will have a strangle-hold over the more backward areas in the Island. Modernisation is still not complete. A social revolution awaits to complete this process and this will have to come some day or other.

CHAPTER II

THE CEYLONESE COMMUNITY—GROWTH AND DISTRIBUTION

The Factors Promoting Unity

Sinhalese and Ceylon Tamils, Indians, Muslims, Burghers and Europeans go to form the mosaic of what one might now call the Ceylonese community. There are some common factors which weave these communities into a welded whole. There are other factors which emphasise the differences which exist among them and which confer a distinctness on each of them so as to make them regard themselves first as a race by themselves and then as a people belonging and owing allegiance to a common nation. The sense of nationality, of belonging to a Ceylonese nation is still weak. The idea of belonging to a particular race, of thinking in terms of being a Sinhalese, a Ceylon Tamil, a Burgher or a European is yet prevalent. The educational system which is in operation at the moment tends to emphasise this difference. English which might have been a unifying factor among the educated middle classes is fast being relegated to a secondary place in the educational structure. Nevertheless a century and more of British rule has instilled a sense of oneness on this varied collection of people. The Ceylonese community is not a homogeneous community in the way that the British, the French, the Germans or the Italians are a homogeneous community. They have no common traditions, no common language, no national religion that is common to all inhabitants or a distinct culture of their own. The Sinhalese speak the Sinhalese language and are mainly Buddhists by religion. The Ceylon Tamils speak the Tamil language and a majority of them are Hindus by religion. In like manner the Burghers and Europeans speak English and profess the Christian religion just as the Muslims speak Tamil and are followers of the Prophet Mohamed. There is thus no uniformity or oneness in the Ceylonese community. There is however a feeling of nationality and common political outlook in that all these races realise that they belong to an Island nation. The Ceylon Tamils do not look to South India for protection nor do the Burghers to Holland or the Muslims to Arabia. They are all conscious of the fact that they belong and are by right citizens of the Island of Ceylon. It is this that gives them a Ceylonese outlook and entitles them to call themselves a Ceylonese community.

Before we examine the features that give each particular group a uniqueness of its own, it would be better to first investigate the factors common to the entire community and see how far they tend

to promote a Ceylonese outlook. Religion and education, the development of communications, a nationalism borne of centuries of foreign rule and the formation of political parties on an island-wide rather than on a racial or communal basis have in no small measure helped to develop a Ceylonese sense, a feeling that the people of this country belong to a single nation—a union amidst a welter of races, religions and language.

Religion and Education

In religion, Christianity helped to cut across caste distinctions within a single community and race and language barriers among the different communities. The Christians propagated their religion through the medium of educational institutions. They preached equality where formerly caste taught each man that he belonged to a favoured occupation or an inferior position in life by the sheer accident of birth. Orthodox Hindus would not meet together and dine together with Hindus belonging to a lower caste. But Christians belonging to a higher caste would not mind meeting and having social relations with Christians of an inferior or different caste. Thus Christianity tended to cut across caste barriers. It promoted and facilitated social relations between different castes. It brought them together, in the schools, in the churches, in the playing fields and at the meeting places of congregations. What is more, the spread of Christianity and English education which was the monopoly of Christian missions in the early days tended to destroy the belief that by virtue of birth a particular caste was the superior caste. For the people of the so-called inferior castes were not slow to make use of the opportunities presented to them by the educational institutions run by the Christian missions. These people gained favoured places for themselves in the public service; they obtained an economic dominance in the commercial world and there was soon the strange spectacle of these educated men belonging to a so-called inferior caste giving orders to men of the so-called higher castes. In like manner Christian educational institutions in the northern districts of Ceylon enabled the Tamils of those areas to equip themselves with the passports necessary for securing into the government service world of Colombo. It encouraged them to creep out of the lonely isolation of their Northern Peninsula. They began to come over to the southern districts and move and mix about with the Sinhalese people. English education thus acted as a unifying agency and Christianity was the medium through which this unifying agency tended to operate. It helped to weld together an otherwise heterogeneous people separated from one another by barriers of language and caste, of religion and culture.

But Christianity was not the only religion which aided in the promotion of harmony between the different races. Hinduism and Buddhism too contributed their share. Neither Hinduism nor

Buddhism are religions which identify themselves with infallibility nor do they claim for themselves the monopoly of salvation. They are peaceful religions and they have never attempted to spread their convictions through the medium of the sword or the engines of persecution. They are widely tolerant of each others views. It was therefore easy not only for their followers to live at peace with one another but even to admit new and varied groups within their own organisations. It is not an uncommon feature for a Hindu devale to exist in close proximity to a Buddhist shrine or for a Hindu god to be worshipped by Buddhist adherents. The conflicts which marked the animosity between Hindus and Muslims in India was therefore fortunately an absent phenomenon in the country. Sinhalese and Tamils learned to live in peace with one another and this promoted a sense of union and good neighbourliness which helped towards the development of a common national outlook.

Communications

Religion and education were not the only factors which helped in the development of a Ceylonese outlook. Communications destroyed isolation. The progress of science has helped man today to cut through the barriers of river and mountain. Railways and roads string together vast plains just as bridges help to span rivers and tunnels tend to undermine the obstacles of mountains. So, the construction of a railway and roads between Jaffna and Colombo helped the people of the Peninsula to abandon their splendid isolation and travel to the South to look for employment in government service or in the mercantile world or to seek markets for the sale of the products of their tobacco industry. In like manner, communications destroyed the isolation of the Kandyan districts. Low-country Sinhalese traders began to infiltrate into the up-country districts. Plantations were opened. Towns sprang up. Village loyalties tended to collapse. There was social intercourse between the different communities. A Ceylonese national outlook began to develop. Nearness, good neighbourliness, better social relations were the rich dividends that the construction of the railroad and the tarred highway brought to this country.

Foreign Domination

Foreign domination too help in the evolution of a Ceylonese outlook. Centuries of foreign oppression drove the different communities to band themselves together in order to rid themselves of their imperial masters. Sinhalese and Tamils, Muslims and Burghers were united in their demand for self-government though at times they were at variance as to how the details of independence should be worked out. But this singleness of outlook, this unity of purpose borne of foreign domination, to be free and independent of external controls helped in the formation and rapid evolution of a

national outlook as distinct from a separate communal outlook on the part of the various communities. There was no demand as in India that the Britisher should divide and quit. There was a demand that the Britisher should satisfy the aspirations of the different communities and grant complete self-government to the people of this country.

Political Parties

It is too early to form a judgment of the effect of political parties on the communal life of this country. Political parties are a recent phenomenon. But it is important to note that many of them have been formed on a national basis and include in their ranks members of all communities. Much will depend on the wisdom and broad-mindedness that politicians belonging to the majority community will display. If they succeed in instilling a sense of security among members of the minority communities—the Ceylon Tamils, Indians, Burghers and Muslims—they will have achieved their purpose of bringing about a truly Ceylonese nation. On the other hand if they play up to religious and communal prejudices, there will be a grave setback to the progress towards Ceylonese nationalism.

THE DISTRIBUTION OF POPULATION

The Sinhalese form the majority community in the Island. They are of Aryan origin and came no doubt from the northern part of India as settlers to Ceylon during the fifth Century B. C. They can be classified into two sections—Low-country Sinhalese and Kandyan Sinhalese.

Low-Country Sinhalese

The Low-country Sinhalese frequent the maritime districts of the western and southern parts of the Island. Their greatest concentration is in the districts of the Western or Southern Provinces, in the Chilaw district and in the Western part of the Puttalam district. At the census of 1953 they formed only 42.7 per cent of the total population and in figures they numbered 3,464,126. The Low-country Sinhalese are generally more advanced than their up-country brethren. It is they who were the first to stand the brunt of foreign invasion. They were also the first to come under Western influence. A fair proportion of them were won over as converts to Christianity but the majority of them still remain Buddhist. The Christians are mostly to be found in the coastal regions and there is a fairly rich concentration of Christian adherents in the Chilaw, Puttalam and Colombo districts.

The Low-country Sinhalese are educationally more advanced than their Kandyan counter-parts. Politically too they have been more conscious than their up-country brethren. Many of the political leaders among the Sinhalese people have been supplied

by the Low-country areas and it is they who were in the vanguard of the Reform Movement. Due to foreign influence, they are more westernised in outlook and habits than their Kandyan brothers. A fair proportion of them are wealthy traders and planters and have established themselves in these capacities in the up-country regions.

Kandyan Sinhalese

The Kandyan Sinhalese are to be found mostly in the Central and North-Central Provinces, the Provinces of Uva and Sabaragamuwa, the Kurunegala district and part of the Puttalam district and the Sinhalese divisions of the districts of Batticaloa, Trincomalee and Vavuniya.

The Kandyan Sinhalese have generally been a backward community. In the last days of Sinhalese independence it is they who stood up to the armed assaults of the Westerner. After the collapse of the Kandyan Kingdom, the inhabitants of those hilly areas underwent even more severe hardships. The advent of the planters deprived them of the lands which lawfully belonged to them. The arrival of labourers from the southern parts of India excluded them from the benefits that might have accrued to them from the profits derived from first coffee and later tea and rubber. Many of them yet continue to cling on to their ancestral holdings. They are a weak and impoverished peasantry and the conditions of a majority of them is little better than miserable. They constitute a problem to the Government of this country. Educationally they are still very backward.

Politically they lack the enlightened civic consciousness of their coastal counter-parts. The peasant is yet feudal in outlook and continues to pay homage and obeisance to the lord of the area.

The Kandyan Sinhalese numbered 2,157,206 persons at the census of 1953 or 26.6 per cent of the population of the Island. A good majority of them are Buddhists by religion. There were very few converts to Christianity among the Kandyan people but a fair sprinkling of Christians are to be found in the Kurunegala, Kandy and Nuwara Eliya districts.

The Kandyan Sinhalese have certain customs and traditions which mark them from their low-country counter-parts. This is mainly evident in their laws of marriage and succession. Marriage for them may be in *diga* where the wife goes out of her ancestral home to live with her husband's people. A *binna* marriage on the other hand is where the husband lives in the household of his wife's parents. With some exceptions, the *diga* married woman forfeits her claim to her parents estate as she has gone out of her ancestral home.

Rodiyas

The Rodiyas are an outcaste tribe among the Sinhalese people. They earn their living by begging and by the sale of handicrafts such as grass ropes, baskets and mats. They live in villages of their own and are particularly numerous in the Ratnapura and Kurunegala districts and in the Yatikinda division of the Badulla district. Their settlements are known as Kuppayama and their headmen are called Hulawali.

Ceylon Tamils

The Ceylon Tamils constitute the second most important section of the Ceylonese Community. They formed a permanent Kingdom in the North at the beginning of the thirteenth century and thereafter continued to extend their influence to other parts of the Island. They are a distinct community of their own and should not be confused with the South Indian labourer who began to come over for employment in the plantations from about the year 1837.

The Ceylon Tamils are resident mostly in the districts of the Northern Province and are also dominant in the Batticaloa and Trincomalee districts of the Eastern Province. There is also a fair concentration of Ceylon Tamils in the city of Colombo where they formed 13.02 per cent of the total population of the city at the census of 1953. They are thickest in the Jaffna district where they numbered 469,559 at the census of 1953 and in the Batticaloa District where they aggregated 129,940 persons at the same census. Their total strength amounted to 908,705 persons and they formed 11.2 per cent of the Island's population at the census of 1953.

A majority of Ceylon Tamils are Hindus by religion, but a goodly proportion have also adopted Christianity—both of the Roman Catholic and Protestant types. The Hindus predominate in the districts of Jaffna and Vavuniya while there is also a fairly high concentration of them in the districts of Batticaloa and Trincomalee. Their total strength in these four areas amounted to 594,048 at the census of 1953. The Christian population is thickest in the Mannar District where they formed 40 per cent of the total strength of the district. Fair concentrations of Christians are also prevalent in the districts of Jaffna, Vavuniya and Trincomalee where they formed over 10 per cent of the population. Christian missionaries have done much for the Tamils of the Jaffna Peninsula. Their educational institutions in the North have helped to provide the Jaffna man with that amount of education sufficient to enable him to fill in a fair proportion of posts in the clerical services and to annex many of the most coveted positions in the public services.

Nature has been very harsh to the hardy Northerner. The inhabitants of these arid plains have by dint of honest perseverance and conscientious application of their labour to the soil succeeded

in literally producing something out of nothing. The Jaffna man is mainly an agriculturist by occupation. He earns his income by tilling the soil but there was not enough land to go round. So, not a few of them sought their fortunes in other avenues. Many migrated to the Straits Settlements where they found profitable employment. Others made ample use of the educational opportunities provided to them by Christian institutions and then took to Government Service for their occupation. Government Service has become one of the major industries of the English educated sections of the Ceylon Tamils. It was the fear of being ousted from their favoured positions in the public services of this Island that led the Ceylon Tamil to demand some form of added representation in the legislature of this country during the period just prior to the conferment of dominion status. The Ceylon Tamils too have contributed their share to the professions. The leading lights in the Medical, Legal and University world contain many a Ceylon Tamil. They have also taken an active interest in the Reform Movement, especially during the twilight period 1918 to 1931.

The Tamils of the Eastern Province are backward in comparison with their Northern brothers. This has been due to the lack of educational facilities in those areas. Communications too are ill-developed and there is very little opportunity for social intercourse between North and East and between the various townships of the Eastern Province. Like the Kandyan Sinhalese, they constitute a problem to the Government of this Island. Much remains to be done to improve their impoverished lot.

Indians

The Indian Tamils are an estate population. They did not come as invaders and establish their rights by force of arms like their Ceylon Tamil kinsmen. They came as humble labourers to earn a living wage from the bounty of the planter who had begun to settle in the hill country districts. Their arrival in the Island is comparatively recent—from about the year 1837. But their trickle was steady and unceasing, never-ending but ever increasing until they began to cause considerable alarm to the indigenous inhabitants of the hill country districts. The poverty of the Kandyan peasant was ascribed to the presence of the Indian labourers. He was deprived of his franchise on the ground that he had no permanent interest in the soil of this country. He is now expected to prove certain difficult theorems as regards his birth and period of stay in this Island before he wins for himself the right to vote.

An over-whelming majority of the Indians are labourers in the plantation areas. Some are clerks in mercantile establishments while quite a few are traders of the pedlar variety or rich merchants

operating business that deal with textiles, food-stuffs and the lending of money. A goodly majority of them are Hindus by religion, while at the same time there are among them a few Christians. The Indians are most numerous in the Kandy, Nuwara Eliya and Badulla Districts. They are also particularly numerous in the City of Colombo and they are fairly thick in the districts of Anuradhapura, Badulla and Matale where they form more than twenty per cent of the district population.

Whether the Indians are permanent or temporary inhabitants of this Island is a matter for the legislature to decide. They have however in no small measure contributed to the prosperity of this country. The abolition of rajakariya by the British administration did not succeed in attracting the indigenous inhabitants to the plantations. So, recourse had to be made to the neighbouring mainland. Pressure of population made the Indian only too ready to leave his land to try his fortune in a neighbouring Island. But he more than compensated the country of his adoption for what he took from it by way of a humble pay packet. Today, the Indian problem has become a matter of serious concern to the Government of Ceylon. Attempts have been made to control illegal entry but there is still a considerable amount of illicit immigration. There is a danger that if immigration is not adequately and legally checked disease will follow in its wake.

Muslims

The Ceylon Moors are permanent inhabitants of this Island as distinct from the Indian Moors who frequent the coasts and are highly immigrant in character. Their permanent settlement in this Island dates from 1024 A. D. when they founded a colony at Beruwala in the Ka'utara District. From then onwards they began to establish peaceful settlements along the coastal areas. Their aim was not conquest but trade. They spread their commercial tentacles far and wide until they were to be found in every nook and corner of this Island. Their ubiquitous character was revealed in the census of 1946 when it was discovered that they were the only race-group who had a percentage of more than one of the population in every district in the Island. Being traders, they paid no heed to education. Their interest was only in commercial gain. As a result they are today a very backward community—educationally—and this is more than evidenced by the paucity of Moors in the public service and learned professions. Efforts are being made by the Government to improve their lot by the establishment of educational institutions in Muslim dominated areas.

The Ceylon Moors totalled 468,146 in 1953. They are followers of the Prophet Mohamed and many of them have married into the other communities of the Island. Caste is an absent factor among them in their relations. Their language is Tamil though

many of them learn to recite the Quoran, their holy text, in Arabic. But in recent times quite a few of them have taken to the study of Sinhalese. The Batticaloa district claimed the largest concentration of Ceylon Moors where they numbered 105,272 or 38 per cent of the district population. They were also fairly numerous in the districts of Puttalam, Trincomalee and Mannar where they formed more than twenty five per cent of the population. Their presence is mostly felt in the cities and towns where they thrive as traders. In Colombo, they counted 58,807 persons in 1953, while they formed a majority in Puttalam and Beruwala, their traditional first settlements. There are also fair concentrations of Moors in Kandy, in Jaffna and in the Urban Council areas of Kalutara, Gampola, Matale and Negombo.

The Indian Moors numbered 35,624 persons in 1946.* They were to be found mostly in the Colombo and Kandy Districts. The Indian Moors are referred to as "Coast Moors". This is because of their itinerant character. It is said that their presence in this Island is mainly for purposes of trade and that they intend to return to the coasts of India when their work is done and their profits have been made. The Ceylon Moors on the other hand are traders with a permanent interest in the Island which they have made their home. Not only are they traders, but a fair proportion of the Moors of the Eastern Province are herdsmen and cultivators for a living.

The Malays too are Muslims by religion. They are of Javanese extraction and are to be distinguished by their Mongoloid characteristics. They were brought to the Island as soldiers and they married Sinhalese, Tamil and Moor women, thus merging their interests with the Ceylonese community. They numbered 28,736 persons in 1953 and a majority of them are to be found in the Colombo District.

Burghers

The Burghers though a minority are an influential minority. They are a cosmopolitan lot and include within their ranks, the descendants of the Dutch settlers in the Island—the Dutch Burghers as they call themselves, those of Portuguese extraction, the Tupasses and Mesticos who have now virtually disappeared as a separate element, and the descendants of mixed Europeans and Sinhalese or Tamil or other Asian parentage who prefer to call themselves "Eurasians" or "Euro-Ceylonese". Together they numbered 43,916 persons in 1953. They are essentially an urban population. Nearly eighty per cent of their number live in towns and more than sixty eight per cent of them are to be found in the Colombo district.

*The Census of 1953 did not classify the Indian Moors under a separate category.

The Portuguese Burghers have virtually been absorbed into one or other of the major communities. They are poorer and darker skinned than their Dutch counterparts and a majority of them earn their living as skilled workers, cobblers or mechanics. The Eurasians or Euro-Ceylonese are mostly employed in the plantation areas or as clerical hands in Government or mercantile establishments.

The Burghers of Dutch extraction form the most important section of the Burgher community. It was they who formed the bulwark of the British administration in its early youth and middle age. Today they are a tiny island in a sea of rapidly swelling races but still they refuse to be submerged. They continue to give of their best to the public and mercantile services of their country. They are Protestant Christians by religion unlike their Portuguese counter-parts who are Roman Catholics. The home language of the Burghers is English but with the increasing stress on the indigenous languages of this country, they will soon be compelled to adopt either Sinhalese or Tamil as their medium of instruction.

Europeans

The Europeans, numerically, are an insignificant section of the Ceylonese community. They numbered only 5418 in 1946* and thus showed a large decrease in comparison with previous years. They are of a highly immigrant character and the majority of them have no permanent or abiding interest in the Island. They are most prevalent in the district of Colombo and they are in the Island largely for trade or as public servants. Though numerically a very insignificant proportion of the population, their wealth and economic power enable them to wield considerable influence on the politics of this country.

Vaddas

The Vaddas are a dying race. They can hardly be counted as members of a civilized community. They are mainly to be found in the Batticaloa District. They numbered 2361 persons in 1946.*

A Ceylonese Outlook

It is evident from the above picture that the Ceylonese Community is far from being a homogeneous one. Not only are there a number of different communities but within each community there are differences based on caste and on regional areas. The one unifying factor is that they all regard themselves as residents of an Island nation. Education and communications have helped to promote social unity and better understanding. The work of welding together the different communities into a single national

*The Census of 1953 does not give the figures of these people under separate categories.

whole at least for political purposes remains to be performed by the efficient operation of a party system based not on communal sentiments but national sentiments. Social legislation too could help to iron out the barriers of caste and class that operate within each community. We cannot yet speak of a Ceylonese Community as the French or the Germans or British speak of the French, German or British Communities. But we can speak of a Ceylonese outlook, that is, an outlook based on a common interest in the welfare of the Island by the different communities which go to form the Ceylonese nation. There are disintegrating factors within the Ceylonese nation. There are also unifying factors. Each community desires to maintain its separate identity but at the same time each community is eager to preserve and promote the interests of the Island even though it might mean some small sacrifice on their part. In this lies the hope of evolving or building up a strong and powerful Ceylonese nation. The Swiss in spite of the cosmopolitan character of their nation were able to present a united front to the world at large. There is therefore no reason why the Ceylonese people should not be able to emulate the Swiss example while each community within the Ceylonese nation desires to maintain its separate identity.

CHAPTER III

THE GROUP OUTLOOK

The Community

Man is a social being. He cannot live by himself because it is difficult for him to achieve anything by himself. Even earliest man, the cave dweller had a wife as helpmate to provide him with company and assistance in the task of living his daily life. Man therefore learned to live in association with his fellow beings. He learned the tribal outlook. He developed customs and traditions. He began to acknowledge the leadership of a chief and the advice of elders. The tribe lived first by hunting by shifting from place to place in search of food and shelter. Then they became herdsmen, still living in a similar life. Later this nomadic existence was given up for a more settled form of life. Men learned to cultivate the areas round river beds or streams or wherever there was water. It was by the banks of rivers that the great civilizations of the world sprang up.

The cultivation of a given area gave rise to some settled form of communal living. Within the given areas there developed different groups, each with a distinct occupation of its own. The farmers attended to the fields, the herdsmen to their cattle, the craftsmen made the necessary tools and implements and the potters and blacksmiths and others performed similar services appropriate to their respective occupation. A chief, the most powerful and popular man in the area came to wield authority by the consent or tacit acknowledgement of those who lived in the area around. The chief began to wield some form of authority but this authority was wielded according to the accepted customs and usages of the people who lived within this area. For instance, it became customary for each group which engaged in a certain type of occupation to carry on this occupation from generation to generation. It became customary for the members of one group to stick to their occupation and not change it with a view to improve their condition. Thus developed the caste system which was based on a convenient division of labour. The chief merely enforced the rules of the caste system because the people did not care to revolt against it. Apparently they had not as yet begun to feel its rigours.

This type of existence—living in a given area, according to some accepted rules of conduct and public behaviour by the common consent of those who inhabited that area—gave rise to some form of communal sentiment. The people who lived in this area developed a sense of loyalty and attachment to their homes, their families, the soil on which they lived for shelter and cultivated their food.

Soon they began to develop the spirit which gives rise to patriotic sentiment. For them there was no place better to dwell in or return to than their village. This was the sense of community, of living together in a community, of developing a communal sentiment to a particular village or later on with the advance of civilisation, to a particular town or city or a nation. Man had learned to co-operate with his fellow beings. He had realised that survival could only depend on living together with his fellow beings. Experience had taught him that it was only by neighbourliness, by friendly co-operation, by toleration that it was possible to live the good life. Robinson Crusoes never flourished in societies or communities. At the most they lived a most precarious existence.

This sense of living together within a given area gives rise to certain common characteristics which become typical of the people living within that area. They might practise certain manners, traditions, modes of speech or wear particular types of clothing or indulge in certain staple foods which give them a certain uniqueness of their own. This is indeed the natural consequence of men living together and developing friendly relations with one another. This type of co-operation and collaboration between men living in a given area gives rise to a community. A community is thus any area of common life—a village, a town, a city or a whole country—which has certain distinguishing features of its own that mark it out from the rest of the world. It will thus be seen that a community may be part of a wider community. The Ceylon Tamil community for instance is part of the wider community which goes to form the Ceylonese nation. Likewise the Goigama community is a part of the wider community called the Sinhalese race. All community is therefore a matter of degree. It may range from a village to a nation or in its extremist form it may include the whole world of human beings.

Associations

Man, it has been stressed, is a part of a community. He cannot live of his own. He must move with his fellow beings. He must act in a concerted way to achieve certain common purposes or interests. He cannot afford to live the life of a Saint Simon Stylites precariously perched on his pillar. He must sooner or later come down to earth. For men are communal beings. In society they tend to group themselves together for their common defence or advancement. They know that they must either survive or sink together. Within any society or community there is bound to occur a clash of forces. There will be employers. There will be workers. Every society tends to divide itself into classes such as these. The workers begin to realise that they can achieve their ends only by concerted or united action. They may want an increase in pay, or shorter working hours or insurance benefits. For

this they must co-operate with one another or associate with one another. They therefore begin to form associations called trade unions. Through the medium of such associations they form associations to protect their group or class interests. It will be seen that with the development of industry and the urbanisation of our early agricultural community the caste distinctions that prevailed shade into class divisions and men begin to think in terms of the classes to which they belong. They develop a class consciousness and even this is based on some form of group instinct, a feeling that those who belong to a particular group or class suffer certain evils in common or enjoy certain privileges in common. So, the employers will band themselves to protect their privileges. The workers will unite under the banner of trade unions to improve the social conditions under which they are compelled to live. Men who therefore live together in a community begin to realise sooner or later that they can serve their ends best by organising themselves into groups or associations. They learn to co-operate and live as social beings. They submerge their individuality in the group for it is only by membership of a group or organised association that they realise they can hope to be successful in the pursuit of their common interest or interests.

The Differences between a Community and an Association

A community is an aggregation of individuals living together a common life, adopting common traditions, accepting certain customs and usages as rules which regulate the lives of the people who live within its area. A community embraces the whole of social life within its area. It is the focus of social life. An association on the other hand is an organisation of social life which has been formed by the members of the community to achieve certain limited interests or aims. An association is therefore partial in outlook. It may be permanent or it may be transient. But it seeks certain limited objectives and for this purpose it has been brought into being by the organising zeal of some or all of its members. In fact it is the association which gives life to the community and enlivens it. Within a community there may be numerous associations—political, economic, religious, educational or professional. A political association like the British Labour Party for instance seeks to bring into being the welfare state in Britain. An economic association like the Ceylon Merchants' Chamber aims at protecting the interests and securing the rights of the Ceylonese trader. A religious association like the Anglican Church desires to spread the doctrine of Anglicanism. An educational association like the Colombo Literary Discussion Group has as its chief interest the study of English Literature, or a professional association like the Bar Council has as its interest the welfare of the legal profession. A common feature of all these associations is that their membership is voluntary. They have rules and regulations but the maximum

penalty for violation of rules is expulsion from membership of the association. Membership of associations within a community is therefore voluntary. Some of them may perform such useful services to the community that the State—the most powerful association within a community—might grant them some form of recognition by providing them with funds to continue their useful work. In fact, the State might take over the institution, which they operate with a view to give them a more permanent character and to ensure that they function in a more efficient manner. Associations are thus, in brief, the instruments which the community employs for the promotion of its welfare and for the better realisation of the personalities of its individuals.

It is the associations therefore which give meaning to the life of a community. A community, it has been noted, is integral in character in the sense that it embraces the whole of social life within a given area. An association on the other hand is partial in that it has as its aim the realisation or the pursuit of certain definite and limited interests and objects. The community is therefore prior to the association for an association can only be formed after the community has come into existence. Further a community can only be envisaged in terms of a body of persons living within a given area. Associations on the other hand may cut across communal boundaries. Associations need not be confined to any given community. They need not be intra-national in character. They can be universal. They can have within their organisation members of different communities from every part of the world. The Roman Catholic Church is an instance of such an international association. Its headquarters are situated at Rome. It has branch organisations all over the world. The Roman Catholic Church as an association cuts across communal boundaries. It is not confined to the Italian community merely because it has its central headquarters at Rome.

The Work of Associations

Membership of an association, except the state, it has been pointed out, is voluntary. The individuals who form a community are not compelled to become members of any association save the state. If an individual feels that the aims and ideals of an association are sufficiently noble and attractive as to make it worthwhile for him to enrol as a member, he will be at liberty to do so. By enrolment, he agrees to adhere to the rules of the association and to help in the promotion of its objectives. Membership disciplines him. He learns to conform to certain rules and regulations. But this agreeableness on his part to conform is an agreeableness which is the result of a voluntary decision. It is a decision which he has imposed on himself by a process of reasoning within himself. He has not been forced into membership by pressure exerted on

him by an outside authority. He is at liberty to leave the association if he feels that it is not living up to the ideals for which it was formed. He can, if he is able to persuade a sufficient number of the members of the association, move a vote of no-confidence on the office-bearers who constitute the governing body of the association. Or, if he does not wish to take such a drastic step, he can move a resolution to the effect that the members of the association are not satisfied with the way things are being done. At the meeting which will be convened by the Secretary of the association to discuss his resolution, he will be at liberty to speak out his thoughts and to indicate why he feels that things are not being done in the way they should be done. Those who fall in line with his views will also have the liberty to give vent to their feelings in an ordered and persuasive manner. Members who disagree with him will equally have the right to put forward their point of view. The office-bearers of the association, the executive body, so to say, will have the right to reply and defend themselves from the criticism levelled against them. A discussion then might follow and the proceedings will be brought to an end by a vote being taken. Voting may be by a show of hands or by secret ballot. A count is taken and if the verdict is against the office-bearers, they will have either of two alternatives. They will have to conform to the wishes of the majority and if so attempt to put things in order. On the other hand, if they feel that they have acted correctly, they will have to resign and give way to another body of men who are willing to carry out the wishes of the majority. If, on the other hand, the mover of the resolution has not been successful in persuading a majority of his fellow members to agree with him, he will have, once more, either of two alternatives. He can resign from the association if he feels that there is no purpose in continuing membership, or if he thinks that there is very little chance in his being able to persuade his fellow members to fall in line with his views. On the other hand, he can also bide his time and await a further opportunity to convince his fellow members that the executive body of his association is inefficient. In any case, as a result of his resolution, the executive body will be put on its guard. It will act cautiously. It will not attempt to offend its supporters or outrage the feelings of those who are opposed to it. It will seek to obtain the goodwill of all the members of the association in the carrying out of its ideals. For frustration on the part of the defeated minority might compel the latter to leave the association and form a rival association of their own. The fear of such drastic action on the part of the minority will therefore compel the governing body to co-operate with the minority in a friendly way, to consult them whenever any decision is to be taken at any stage and to seek their advice at every turn.

Voluntary associations within a given community, it will thus be seen, teach its members certain rules of civic conduct. Members

must conform to a certain discipline. If they wish to continue as members they must obey its rules and regulations. They must co-operate with their fellow members in furthering the objects of the association. If they disagree they are at liberty to either resign or to persuade their fellow members that things should be done in the way they believe they ought to be done. But they must attempt to effect change in a constitutional manner. They can persuade fellow members but they dare not terrorise them into supporting their point of view. At the meeting convened to consider their grievances, orderly discussion precedes the taking of a vote. If the majority support them, the governing body will have to either honourably carry out the wishes of the majority or in the alternative tender its resignation. Thus persuasion, discussion, acting in a constitutional manner, abiding by the decision of the majority, tolerance of minority opinion, friendly co-operation at every stage in the furtherance of the objectives of the association are some of the democratic principles of political behaviour which voluntary associations teach members of a community. These are indeed the most important functions that a voluntary association performs in a given community.

The 'State' Association

But associations within a given community might come into conflict with one another. They might have conflicting aims and desires. An association might be formed for the particular purpose of opposing the aims and policies of another association. The clash of forces might produce civil disturbance and even bloodshed. Besides, there may be associations which may have as their aim the performance of very unsocial acts. An association of bootleggers might seek to batten itself at the expense of the health of a community by selling dope to its members. These evil forces need to be checked. Some authority too is required to establish harmony in society, to prevent rival associations from clashing with one another and thus disturbing the social order. A superior form of association therefore becomes necessary to maintain order in the community and to regulate the relations between the various associations within the community. This brings into existence the State. The State is an association within a given territory brought into existence by the members of a community for a common and limited purpose. This limited objective is to act as the co-ordinator of the activities of all other associations within a given Community. The state is thus the social manager of the community. It is the instrument desired by the communal will for the maintenance of peace and order within a given society. The state is in short the supervisor-general of society.

The state therefore is a unique type of association in a given community in that it acts as the co-ordinator of the activities of all other

associations. But it is similar to other associations in that it has certain definite objectives to pursue, namely to make justice available to all its members and to preserve law and order in society. Like any other association, it partakes of membership. But the state differs from other associations in that its membership is compulsory. All the members of the given community must be citizens of the state. Again, non-conformity to the rules of an ordinary association results only in expulsion from membership of that association. Disobedience to the rules of the 'state' association is followed by penalties of a varying nature ranging from fines to imprisonment. Allied to this, is also the difference that the individual may be a member of many voluntary associations but can be a citizen of only one state. Finally like any other association the state has its institutions. These are the governmental machinery and administrative organisations like Parliament, the Law Courts and the Public Services. It is they which give life to the state in helping to promulgate laws, enforce their obedience and assist in their execution.

The state is however a fundamental association in that it alone among all the other associations in the community has the legal power of coercion. Whereas the greatest punishment for violation of rules in other voluntary associations is expulsion, the state can insist on punishment of those who disobey its rules. This power follows from the function of the state—that it is the co-ordinator of the activities of all other associations and it is the final arbiter of disputes which may arise between associations. It is for this purpose that the state is endowed with coercive power by the community—because coercive power is essential for the performance of its function as the supervisor-general of society. It is because of this peculiar function that the activity of the state is confined to a particular area and that the individuals within this area are compelled to be members of only one state. But this use of force, that is, the legal power of coercion, is not the essence of the state. Force is not used by the state to either create other associations or regulate the internal affairs and determine the aims and purposes of existing associations. It is true that in its function of maintaining social harmony, the state may be compelled to prohibit the formation or the continued existence of some associations within its boundaries which are formed for criminal or immoral purposes. But beyond this function of maintaining social harmony and ensuring justice for all its members, the coercive power of the state does not extend. Thus the main difference between the state and all other associations arises from the fact that the state is the social manager within a given community. It is, as has been well said, the crowning point of the social edifice and as such it is endowed with a certain amount of extra powers and yet limited in the exercise of these powers by virtue of the functions it has to perform.

Institutions

A community therefore consists of a "framework" of associations which are supervised, regulated, and co-ordinated in their relations with one another by an association called the state. An association, it has been pointed out, is an organisation for the purpose of achieving certain ends. In order to ensure the achievement of these ends, it must have some form of machinery, a given body of rules or a written set of regulations. It is these that give some form of activity to an association. In short these are the institutions which give life to an association. A religious association like for instance the Anglican Church, has, as its institutions, churches in various parts of the country where its members can gather together for worship or fellowship. Similarly the state has, as its institutions, the machinery of government like the Parliament, the Law Courts and the various Public Departments which administer the country. Institutions in fact must have two qualities for their continued being. They must have a certain social recognition. That is to say, they must be accepted by the members of an association or of a community as something valuable and worthwhile maintaining. They must also possess a certain amount of permanence—a permanence which is the outcome of a deliberate recognition on the part of society that the institution is something useful for the welfare of society. Thus it will not be correct at all to speak of poverty as an institution of society, for though it is true that the poor are always with us, poverty, as such, has not been deliberately maintained or established by the majority of people within a given society. Institutions are in effect the mechanisms of society. They last so long as society or the associations within a society deem it necessary that they should last. They only possess some degree of permanence, a permanence that lasts as long as they are useful. They cannot be an everlastingly permanent character. When they cease to be useful, the association or the community may modify them, dissolve some of them, and create others. Thus the institution called property was useful to man, in its early stages, in that it created in him an interest to till the soil, cultivate it, and accumulate wealth for himself and his family. But when property assumed its modern proportions where the owner merely remained at home and let out his lands to tenants from whom he exacted exorbitant rents, it became necessary for society to intervene through the medium of the state and limit the rights of the property owner. Institutions therefore last as long as society thinks they are useful for its welfare. They will cease to exist when they are no longer useful or will be modified or reformed to meet the changing needs of the association or community which has brought them into being and permitted them to exist.

The state as an association maintains certain institutions to ensure the protection of its members and to promote their welfare. Thus

in order to maintain law and order within the community, the state has an organised judicial system operated through the medium of the Law Courts for the purpose of bringing to book offenders against the law and those who attempt to disturb the peace of the community. It maintains a system of prisons to house these offenders and to reform them with a view to make them worthy members of society. It has an efficient service in the Police to maintain law and order and to prevent the outbreak of violence or crime. Likewise in order to promote the welfare of the community, the state maintains a series of public departments. Thus the Department of Social Services helps in the relief of distress in the country. The Department of Health and Sanitation seeks to prevent the spread of diseases in the community and at the same time preserves its health. The Department of Education aims at maintaining educational standards and making the community literate just as the Co-operative Department seeks to inculcate into the community the advantages of co-operation in its economic life. In like manner the Departments of Agriculture and Irrigation seek by their activities to ensure that the community becomes self-sufficing in the area of food production. These institutions will form the subject of study in the chapters that follow.

CHAPTER IV

LAW AND ORDER

The Causes for Obedience

THE State it has been pointed out is the organ which maintains the framework of associations and institutions in a given society, on an even keel. For this purpose, the State maintains a number of institutions. There are those which are concerned with the maintenance of law and order. There are others which are concerned with the provision of food, protection and the essential necessities which enable the citizen to equip himself with the wherewithal to live the good life.

The maintenance of law and order in the State is ensured through organs like the Police Force, the Law Courts and the Prisons. These institutions serve the purpose of keeping in check a minority of individuals in any given society who at any time may be inclined to ignore the law or violate conventions, either to serve their own selfish interests or for what they genuinely feel to be the good of society. Into the first class belong those with criminal tendencies. The second class includes the social reformer, the rebel or the revolutionary. They may desire to change social standards with a view to improve society from their point of view.

The majority of citizens, however, in a given society, go about their daily task in a quiet and orderly manner. They are indifferent to the exaction of the law to which the social reformer or the rebel is always critically alive. Nor do they possess those lawless tendencies which are typical of a tiny minority of criminals and habitual gaol birds who are always to be found even in the most civilized of societies. Their obedience is governed by a number of social factors not merely the fear of penalty. It will be interesting to examine what these social factors are which induce obedience on the part of the majority in any society.

It has already been stated in the earlier paragraph that the majority obey the law not merely because of the fear of the coercive sanction of the State but due to a variety of social considerations. It is true that there are some laws which a citizen might disobey if he could, perhaps, because he feels that nothing serious would happen to him or to any others in society if he broke such laws. For instance, a citizen might ride the streets on a bicycle at night without the necessary precaution of having a lamp, if the law were not looking. He might also not mind frequenting a wayside bucket shop on race days because a violation of the laws against illegal betting would not appear to him to cause any serious harm to the

community. In these instances the coercive power of the State is perhaps the only reason which persuades citizens of this type to respect the law. The same reason also applies to that small class of criminals who abide by the law, if at all, because they fear the strong arm of the State.

The majority in a community however respect the law not because they are scared of punishment but that they have regard for social feeling and they fear the sanctions of public opinion. The dread of being known as a "gaol bird" by society is a more convincing reason as to why, for instance, a citizen might refrain from the act of stealing than because he fears the harsh walls of a prison. There are besides quite a number in the community who obey the law because of the legitimacy of its origin. They realise that the law has been enacted by the proper authorities and it is therefore only meet and correct that they should render obedience to the law. Still others respect the law as a matter of habit. They do not care what the law prescribes but they will obey it because their forefathers obeyed the law and because those near and about them obey the law. In fact there are quite a number of rules and laws in a community which seek to confer definite advantages on citizens rather than exact penalties from them in the event of disobedience. Parents are expected to send their children to school when they reach a certain age. Citizens might be expected to have themselves vaccinated or inoculated as a safety measure against dangerous disease, plague or pestilence. In such instances, men conform to the law not because they fear the fine or penalty which might be imposed on them for breaking it, but because they realise that such regulations have definitely been designed for their own welfare and progress.

From all that has been stated, it appears quite apparent that what in the last resort compels obedience is not the State backs the law nor that it has coercion behind it but because of a complex of considerations which spring from the nature of social life. The fear of penalty is only one of many reasons. The majority in a community obey the law because they are general and reasonably agreed rules of social conduct. They are not laws because the State has threatened to enforce them but they are laws because society has given them their approval. In fact the actual material of law is thrown up by society and all the institutions and associations which take part in political life. Laws cannot therefore be regarded as the command of an omniscient, unchallengeable sovereign. Indeed, from earliest times, there have been rules of conduct, generally accepted and considered socially necessary by societies though often enforced only by supernatural sanction or by custom and not by the State. It has been said that custom was at one time the king of men. The king's authority during these times was executive and judicial and he was considered merely the enforcer

and interpreter of law. Law as the command of the sovereign was a fiction in medieval and feudal times. It became a command only in a specific period in history, namely during the times when the nation state was just experiencing its birth pangs. This was the time when the chaotic and disintegrating remnants of a dying feudalism had to be replaced by the stern and aggressive rule of a powerful sovereign. But when order was restored, the absolute ruler had to give way to the elected representatives of the people. The will of the arbitrary monarch was replaced by the will of the people.

Laws to be obeyed must therefore be in keeping with the social opinion of the times. The moment the Legislature attempts to pass laws which are against the grain of public opinion, there is bound to be widespread protest and people may not care to obey such laws. In fact they will derive some thrill in breaking the law. This was indeed what happened in the United States when an attempt was made to enforce the law against the consumption of liquor. A good section of the populace disliked the law and those who broke this law came to be respected for their courage by the public at large. It is for this reason that no State attempts to prescribe forms of worship or the religion to which citizens should conform. The lessons of history have taught legislators that religious persecution can in no way compel conformity. It is for this same reason that the State dare not pry into those aspects of a citizen's private life and indicate to him how, for instance, he should conduct himself in his home or at a social event, or what he should eat and what he should not drink. If these were attempted, there would be a loud outcry against the law and the institutions that the State maintains for preserving order in society would find it difficult to enforce the law and carry out their functions in an efficient manner. Thus in the last resort, it is public opinion which helps the Police Service to maintain order, the Courts to enforce the law and the Prisons to ward the criminal and reform him from his dangerous tendencies.

The Police Service

The function of the Police Service is best summed up in Blackstone's conception of what a Police Force should be: "Legal custodians appointed to preserve the peace, to keep watch and ward in the districts, and to bring criminals to justice". It was with this intention that the Police Service of Ceylon was established and regulated under Ordinance No. 16 of 1865. Previous to this, there was some system of Police Organisation but it was never the regular system that came into operation after 1865. The Headmen played a more important role in those days. It was they who investigated crime, helped to apprehend criminals and finally bring them to justice. The Headmen however still continue to play

an important part in the detection and investigation of crime in the remote, unpoliced areas of the country but their functions are gradually being taken over by the establishment of police stations in these areas.

The Ceylon Police has had a military tradition behind it. During the regime of Sir Herbert Dowbiggin much was done to emancipate the Force from these military traditions but unfortunately the riots of 1915 intervened and Inspector-General Dowbiggin reverted to the old system of maintaining the Police Force under a semi-military state of discipline. This was continued by his successor Inspector General Banks. During the latter's regime, there was much dissatisfaction, within the Police Force and its morale was at a low ebb. Inspector-General Banks was further involved in the political controversy over an Australian Communist named Bracegirdle and was therefore able to do very little to improve conditions within the Force. There was growing public discontent against the Force when Banks was succeeded by Col. G. H. N. Halland. Much was expected of Col. Halland and in fact he did something to stem the tide of public criticism. But unfortunately, as the Police Commission appointed in 1946 to investigate into conditions in the Police Force pointed out, Halland was a man temperamentally unsuited for his job. He antagonised the officers within his department. He ignored the claims of senior officers and showed marked preference for European officers. The efficiency of the Force was fast deteriorating when he quitted his post. It reached its lowest levels under Lt. Col. R. M. M. Bacon during the war. Bacon was able to do very little to stop the flood. He tried his best to block the breaches and to postpone the deluge. But he failed. The Police Commission appointed in 1946 to investigate conditions in the Force revealed the state of dissatisfaction and low efficiency prevailing in the Force. It made a series of important recommendations which it felt were necessary to improve conditions within the Force and increase public confidence in it from without. Some of these recommendations have since been implemented and the Service has endeavoured to make itself an ally rather than an enemy of the public.

The duties of the Police may be summed up as follows :—

- (i) Prevention of crimes and offences.
- (ii) Investigation of crimes and offences that have been committed.
- (iii) Detection and apprehension of criminals and offenders.

Many of the minor crimes committed in this country are of a non-preventable nature. They are generally committed at the heat of the moment and they can be minimized only by a system of providing better facilities for the economic, social and educational

uplift of the people. But crimes of violence, of planned burglaries and of highway robberies could be minimised by a greater vigilance on the part of the police. This is a matter relating to the organisation of the Police Service and of improving its relationship with the public. Co-operation from the public will be forthcoming, if the police are more courteous to the public and take more pains in investigating complaints made to it by aggrieved parties even though they be of a trivial nature. It should be realised that the Police Force of any country is a citizen force and that the efficiency and ability with which it succeeds in maintaining order depends on the goodwill and co-operation extended to it by the public. This goodwill and co-operation can only be won and not commanded.

For the purpose of performing its duties in an efficient manner, the Police Service in this country has been organised under the control of an Inspector-General and three Deputy Inspectors-General. The Force as such consists of over six thousand Constables, Sergeants and Inspectors, besides Superintendents and Assistant Superintendents: There are over two hundred Police Stations in various parts of the Island and on an average there is one Police Officer to every 1,132 of the population. To keep the members of the Service contented the Government has attempted to provide wherever possible housing accommodation for Sergeants and Constables, Inspectors and Sub-Inspectors. There is a Police Training School at Katukurunda for the purpose of providing instruction to new recruits and newly appointed officers. Police Officers have further been helpful in the organisation and supervision of Boys' Clubs in certain parts of the Island which have been formed with a view to reduce the high incidence of juvenile delinquency, and senior officers have been of assistance in providing advice and guidance to Rural Welfare Societies which have taken interest in the prevention and detection of crime. The Police Department has a number of specialized branches under its control. There is firstly a Criminal Investigation Department which is under the charge of a Senior Superintendent who is assisted by Assistant Superintendents.

It consists of the following sections :—

1. A Crime Branch which includes a Flying Squad.
2. A Special Branch.
3. A Technical Branch which includes a Finger Print Bureau, a Criminal Record Office and a Photographic Bureau.

The principal duties of the Crime Branch has been firstly the investigation of grave crime specially referred to it and secondly the regular investigations of such cases as frauds, forgeries and misappropriations that might be referred to it. Besides, it also

renders assistance to the Provincial and District Police in the investigation of difficult cases.

The Special Branch is in charge of the supervision of aliens.

As for the Technical Section, the duties of the Finger Print Bureau have been to register finger print slips of first offenders (if these are suspected of being habituals), receiving suspected persons for identification, and maintaining records of reconvicted criminals. The Criminal Record Office maintains the records of criminals and reconvicted criminals for future reference and further investigation if necessary while the function of the Photographic Bureau is to visit scenes of crime and photograph them if necessary for the purpose of aiding detection or for future investigation.

The Legal System

Parliament makes the laws. The function of the Police among other things is to bring criminals to justice. The Courts interpret the laws passed by the Legislature, enforce them and mete out justice. In the process there might be a miscarriage of justice. To guard against this danger the citizen is provided with an opportunity of appealing against the decision of a lower Court to a higher Court and in the last instance he has the right to appeal to the Governor-General for a pardon. Parliament can moreover step in and remedy any defect in the law if it feels that a wrong has been done to the citizen or if it thinks that the Courts have misinterpreted its intentions. Justice must not only be done but also it must appear to be done in an impartial manner. Judges are therefore expected to approach questions with an open mind. They must be unbiassed when determining cases brought up before them for their decision. They must not be prejudiced in their views or appear to be in favour of one side or the other. It is for this reason that judges are not expected to take part in politics. It is for this reason too that there is provision in our Constitution to ensure the independence of the judiciary. Judges of the Supreme Court cannot be removed from office except for bad behaviour. Their salaries cannot be reduced during their term of office. The members of the lower judiciary are placed under the control of an independent body called the Judicial Service Commission. All these provisions ensure that judges carry out their functions without fear or favour. In brief they provide for the independence of the judiciary.

Before we examine the nature and organisation of the judicial system in this country it will be useful to have some idea of the laws that prevail in our Island.

The common law of the Island is the Roman-Dutch law. The Courts resort to the Roman-Dutch System when no special law exists or no statute is available to settle a legal question. The Roman-Dutch Law has been considerably modified by the operation

of local legal influences such as (a) the Law relating to the customs of the Tamil inhabitants of Jaffna as embodied in the Thesawalamai (b) the Islamic Law as applicable to the Moors and other Muslims (c) Kandyan Law as operative in the Kandyan districts and (d) the legal customs of the Sinhalese in so far as they have not been superseded. A second system is very much in vogue—namely English Law as modified to meet local requirements. The Mukkuwa Law as applicable to the Eastern Province is now virtually dead.

The Communal Laws as they relate to the Jaffna Tamils, Muslims and Kandyans, however, apply in the main to the laws of persons, inheritance and matrimonial rights and in some instances to rights over property. In other instances, the old customs have given way to statute law as enacted by the Legislature. Besides, English and Roman-Dutch Law too have intervened wherever necessary. It is however, English Law which ultimately pervades the entire system of the country.

For English is still the spoken language in most of the higher Courts. English is still the language of legislation and of the law reports. (A Language Commission was appointed in 1951 by the Government to consider among other things, the introduction of Sinhalese and Tamil as the official languages of the Courts of Ceylon. Practically the entire Criminal Law and procedure, the Civil Procedure and the Commercial Law prevailing in this country are of English origin. In the civil sphere, the English Law of Trusts has been introduced by the Trust Ordinance and the English Law applies to cases even in instances where no express provision has been made. English law was also made applicable in all maritime and commercial matters and questions relating to the effect of war during the years 1852 and 1866. These have now been consolidated in the Civil Law Ordinance (Cap. 66). The English Sale of Goods Act (Cap. 70) was introduced in 1896, the English Bills of Exchange Act (Cap. 68) in 1928 and the English Companies' Act in 1938. Thus it will be seen that the general tendency has been to take over in bulk English Law and subject it to local modifications wherever necessary. The general picture is a foundation of Roman-Dutch Law and Communal Customary Law on which has been built a superstructure of English Law to suit the local scenery.

THE ADMINISTRATION OF JUSTICE—THE SUPREME COURT

The Supreme Court

The Supreme Court consists of a Chief Justice and eight Puisne Judges, besides Commissioners of Assize, all of whom are appointed by the Governor-General. A Commissioner of Assize is a judicial officer whom the Governor-General may appoint from time to time to try any criminal cases that come up for decision

before the Supreme Court. Commissioners of Assize are appointed to relieve the other judges of the Supreme Court of pressure of work. The age of retirement of Judges of the Supreme Court is normally sixty-two years but the Governor-General may permit a Judge to continue in office for a further period not exceeding twelve months after he has reached the age of retirement.

To ensure the independence of the Judges of the Supreme Court, the Constitution provides that :

(1) Judges shall hold office during good behaviour and shall not be removable except by the Governor-General on an address of the Senate and the House of Representatives. This implies that judges are assured of a stable tenure of office unless they are found guilty of a corrupt offence or unless sickness has made them incapable of discharging their functions in an efficient manner.

(2) The salaries of Judges shall be determined by Parliament and shall be charged on the Consolidated Fund. The effect of charging the salaries of Judges on the Consolidated Fund is that an annual vote from Parliament will not be required. This means that the expenditure on salaries of Judges will be removed from Parliamentary control. Members of Parliament will not therefore be in a position to discuss such matters as whether judges are performing their functions in an efficient manner, or whether the salaries paid to them are in excess of the work they do or any such matters which might bring the Court into disrepute in the eye of the public or in any way interfere with its independence.

(3) The salaries payable to Judges shall not be diminished during their term of office. This provision ensures that Judges can exercise their functions in an impartial and fearless manner. It also means that they will not have a threat held out to them that if they embarrass the executive with judgments directed against the intentions of Parliament or against officers of the Administration, their salaries will be reduced during their term of office. Such an attempt would amount to a vote of no-confidence on a judge and a Judge must have the assurance that he is not subject to criticism which will lower his prestige in the eyes of the public.

The Supreme Court has power to enrol as its members persons who have qualified themselves as proctors and advocates. It can also suspend or remove any such person, if he is found guilty of any corrupt practice, or for unprofessional behaviour.

The Supreme Court has

- (i) original jurisdiction in all criminal cases and exclusive jurisdiction in respect of the more serious offences such as murder, rape or burglary of a grave nature. Five circuits are provided for the exercise of this jurisdiction: Western, Midland, Northern, Southern and Eastern. This jurisdiction is exercised at the Criminal Sessions of the Supreme Court by a Judge or by a Commissioner of Assize with a jury. Cases committed for trial from a Magistrate's Court can only be tried by the Supreme Court. In special instances, the Chief Justice may at his discretion order that the accused be heard before three judges at Colombo and with a jury.
- (ii) an appellate and revisional jurisdiction in Civil cases from all Courts except Rural Courts. As a general rule the Supreme Court exercises no original jurisdiction in civil cases. Two Judges generally hear an appeal but in the event of disagreement or where a point of law is referred to a Divisional Court, the appeal may be heard by three judges or more. The decision of the two judges, if unanimous, or the majority decision of the three judges in the event of disagreement is deemed to be the decision of the Supreme Court.

In criminal matters, the Criminal Procedure Code provides for an appeal from any judgment or final order pronounced by a Magistrate's Court in a criminal case against any error in law or in fact. Such an appeal must be lodged within ten days of such a judgment or final order. Appeals in criminal cases decided by the District Court shall be heard by at least two judges and the person appealing must be a party to the judgment or final order appealed against.

- (iii) full power to inspect the records of any court and to grant writs of quo warranto, certiorari, mandamus, procedendo and prohibition against any District Judge, Commissioner, Magistrate or other person or tribunal. The Supreme Court has also the power to transfer civil and criminal cases to any court other than itself whenever it appears that a fair trial cannot be had in any particular Court or where some difficult question of law is likely to arise etc. It has further the power to try in a summary manner any offence of contempt committed in disrespect of itself or of any other Court.

The Court of Criminal Appeal

This Court was established by Ordinance No. 23 of 1938 but began functioning only as from July, 1940. It owes its existence to the efforts of the Right Hon. Sir Sidney Abrahams who was the Chief Justice at that time. Before its establishment, the only means of redress available to the prisoner was (a) to appeal by special leave to the Privy Council, which was granted only in rare instances, (b) to petition the Governor for a reprieve. In other instances the trial judge may also if he thought fit, reserve for the decision of a Court consisting of two or more judges, any question of law which had arisen in the course of a trial. This was however a rare occurrence. The Attorney-General too was given the right of appeal.

The Court consists of the Chief Justice and the Puisne Judges of the Supreme Court. It usually consists of three judges but if there are more than three judges there must be an uneven number. Judgment is by a majority of the judges sitting. The Judge before whom the appellant was tried is disqualified from hearing the appeal.

The Court has jurisdiction to entertain an appeal from any person convicted on a trial held before the Supreme Court against his conviction:—

- (i) On any ground of appeal which involves a question of law;
- (ii) or, with specified leave, against his conviction on any ground of appeal which involves a question of fact;
- (iii) or, with specified leave, against the sentence passed on his conviction unless the sentence is one fixed by law.

The Court has power to allow the appeal if:

- (1) it is of opinion that the verdict of the jury was unreasonable or cannot be supported by the evidence made available.
- (2) there was a wrong decision of any point of law.
- (3) there has been a miscarriage of justice.

The Court has also the power to quash a sentence and substitute another sentence if this is permitted by law. It has also the right to enhance the sentence passed by the judge at trial.

The Privy Council

Appeals to the Privy Council lie as a matter of right in a civil suit or action. The following conditions must be satisfied for an appeal to be made to the Privy Council.

- (1) The judgment against which the appeal is made must be a final judgment. That is to say the judgment must be conclusive and all points at issue must have been finally and conclusively decided by the Courts in Ceylon.

- (2) The matter in dispute on the appeal should amount to or be of the value of Rs. 5000 or upwards or where the matter in dispute involves directly or indirectly some claim or question relating to property or some civil right, it should amount to or be of the value of Rs. 5000 or more.

An appeal can also be made to the Privy Council at the discretion of the Supreme Court from any other judgment of the Court whether final or interlocutory, if the Court thinks the question involved is one of sufficient public importance so as to be submitted for decision to the Privy Council.

Appeals to the Privy Council in criminal cases are also permitted. Section 53 of the Charter of 1833 granted this right but application for leave to appeal is as a rule generally discouraged except where questions of great and general importance are likely to arise.

Admiralty Courts

By the Courts of Admiralty Ordinance 2 of 1891 the Supreme Court of Ceylon was declared the Colonial Courts of Admiralty for the Island. Power was also given to the Governor to grant admiralty jurisdiction to any District Court under certain circumstances. Admiralty jurisdiction involves jurisdiction over shipping and other matters related to navigation.

District Courts

These Courts have unlimited original jurisdiction in all civil, revenue, matrimonial and testamentary matters and over the persons and estates of idiots and lunatics, minors and wards. They may appoint guardians and curators in order to maintain such persons or manage their estates. They have also original jurisdiction over the estates of cestui que trusts and over guardians and trustees. They have power to issue injunctions in certain cases.

In criminal matters, District Courts have jurisdiction in all matters which are not within the exclusive competence of the Supreme Court. They can only try cases which are committed to them for trial by a Magistrate's Court or cases which have been transferred to them for trial from some other Courts by order of the Supreme Court.

The District Courts have power to pass any of the following sentences :—

- (a) Imprisonment of either description for a term not in excess of two years ;
- (b) A fine not exceeding one thousand rupees ;
- (c) whipping ;
- (d) Any lawful sentence which combines any two of the sentences mentioned above.

These Courts have also the power to try in a summary manner offences of contempt committed in the face of the Court. Further, if a person is convicted at one trial for any two or more distinct offences, the aggregate punishment that a Court can award is twice the punishment mentioned above and no more.

The District Courts hear appeals from Rural Courts.

Magistrates' Courts

Offences which can be tried in a Magistrate's Court are specified in the schedule to the Criminal Procedure Code, Chapter 16 of 1898, in the provision of the Courts Ordinance, and other Ordinances.

The powers of Magistrates' Courts are as follows, except where an Ordinance has permitted them to exercise greater powers :—

- (a) Imprisonment of either description for a term not in excess of six months.
- (b) A fine which does not exceed one hundred rupees.
- (c) Whipping, if the offender is under sixteen years of age.
- (d) Any lawful sentence which combines any two of the sentences mentioned above.

When a person is convicted at one trial of any two or more distinct offences, the aggregate punishment that a Court can award is twice the punishment mentioned above.

Magistrates' Courts also hold preliminary inquiries in respect of crimes of a serious nature with a view to commit them for trial to a higher Court.

These Courts have also jurisdiction to make order for the maintenance of wives and children under the Maintenance Ordinance of 1899.

In respect of municipal affairs, there is a separate Municipal Magistrate's Court in Colombo while in the other Municipal Towns the local Magistrate performs the functions of a Municipal Magistrate in addition to his other duties. Municipal Magistrates have no civil jurisdiction whatever. They try offences committed within the Municipality in breach of any Municipal by-laws mentioned in Section 164 (1) of the Municipal Council's Ordinance.

Courts Of Requests

There is a separate Court presided over by a Commissioner in Colombo. In all other Districts, the Courts are presided over by a District Judge or a Magistrate who acts as the Commissioner of Requests in addition to his other duties.

These Courts have original civil jurisdiction (except in certain instances) in all matters in which the debt, damage or demand or value of the land in dispute does not exceed three hundred rupees.

They have also the power to authorise persons who are not the natural parents to adopt children under the Children's Ordinance, No. 24 of 1941.

Rural Courts

These have civil jurisdiction in actions in which the debt, damage or demand or the value of the land in dispute does not exceed one hundred rupees. The Minister has however the power to enlarge the pecuniary limit by proclamation published in the Government Gazette.

In criminal matters Rural Courts have jurisdiction over :

- (a) all breaches or by-laws made or deemed to be made under the Village Committees Ordinance. This jurisdiction cannot be ousted even if the offence is a serious one unless it is also an offence under some other ordinance.
- (b) offences listed in the Second Schedule to the Ordinance for the time being.
- (c) all offences in respect of which jurisdiction is expressly conferred on a Rural Court under the Rural Courts Ordinance.

A Rural Court may impose a fine not exceeding fifty rupees or fourteen days' imprisonment. It is presided over by a President appointed by the Judicial Service Commission.

The Judicial Service Commission

The Ceylon Constitution provides for the control of the Judicial Service of the Island by a separate body called the Judicial Service Commission. It consists of the Chief Justice, who is the Chairman, a Judge of the Supreme Court and one other person who is either a Judge or should have been a Judge of the Supreme Court. At present the Commission is composed of the Chief Justice and two Judges of the Supreme Court. The members of the Commission, other than the Chairman are appointed by the Governor-General. Membership of Parliament or of the Senate disqualifies a person from being a member of the Judicial Service Commission.

A member of the Commission, other than the Chairman, will, unless he earlier resigns his office or is removed from office by the Governor-General for cause assigned or being a Judge of the Supreme Court ceases so to be, hold office for a period of five years and be eligible for re-appointment.

The Commission is assisted in its work by a Secretary appointed by it. It has delegated to him (a) the power to authorise all transfers within the Judicial Service other than transfers which involve an increase of salary by an Order published in the Government Gazette and (b) the right to make acting appointments subject to such limitations as it might think fit.

The Commission is in charge of the appointment, transfer, dismissal and disciplinary control of judicial officers. A 'judicial officer' means the holder of any judicial office but does not include a Judge of the Supreme Court or a Commissioner of Assize.

The purpose in vesting appointments to the Judicial Service in the hands of this special body was to ensure that members of the Service will not be subject to any form of interference from political or other quarters. It was also meant to satisfy the fear of the minority communities—that appointments will not be made in an impartial manner if such a right were vested in any body or person who might be liable to pressure or influence from the executive or its agents. The penalty attached to any person who attempts to influence the decision of the Commission, otherwise than in the course of his duty, is, a term of imprisonment not exceeding one year, or a fine not exceeding one thousand rupees or both a fine and a term of imprisonment.

N. B. In all instances mentioned in this chapter as regards appointments being made by the Governor-General, it should be noted that the Governor-General acts on the advice of the Prime Minister in making such appointments. In actual fact, therefore, it is the Prime Minister and not the Governor-General who makes such appointments.

THE PRISONS AND PROBATION SERVICES

The Purpose of Punishment

Law-breakers, it is said, are sent to prison not for punishment but as a punishment for a wrong they have done. The shame of coming out of prison and being known as a gaol-bird, the social sanctions and the sneers of society that follow a person once he is out of prison will, it is expected, act as a sufficient deterrent to his relapsing into crime or to others intending to follow his example. While in prison, the offender is made to realise that he has been guilty of an unlawful act. He will know what it is to be free and what separation from home, family and friends mean. These will act as sufficient deterrents to any chance of a future lapse on his part. At the same time, it is the duty of the prison Administration to rehabilitate the prisoner. Every effort should be made to carve him out to be a good citizen. Wherever possible, he should be taught some useful job so that he might be equipped to meet the hazards

of life, once out of prison. Steps should be taken to see that prison life or repressive treatment does not wear him down or make him so used to the prevalent conditions that he will not care for the opinion of his fellow beings when he comes out of prison. In short, as a statutory rule in force in England states: "the purpose of training and treatment of convicted prisoners shall be to establish in them the will to lead a good and useful life on discharge and to fit them to do so".

These conditions however do not exist in any perfect manner in this country. The prisons in the Island are overcrowded and understaffed. Those in Colombo, Mahara, Kandy and Jaffna were designed to serve old fashioned ideas when it was felt that the aim of imprisonment was revenge and retribution for wrong done. Overcrowding has meant that first offenders and recidivists (*i. e.* habituais) have been lumped together with the result that the first offenders cease to have any desire to reform themselves. In the larger prisons, the population almost always consists of a small section of dangerous criminals and the emphasis laid on the security treatment meted out to these derelicts of society has had a poor effect on the other prisoners. The tendency has been to weaken their morale and to remove all desire in them to improve themselves. Husk-beating, coir-twisting and metal-breaking by primitive methods were the only form of labour prevalent in the prisons and these have only recently been replaced by more dignified and useful forms of employment. The prison authorities cannot in any way be held responsible for this state of affairs. They merely carry out the existing regulations. It is left to the State to step in and do all within its power to reform the prevailing system.

Nor is this all. The Probation Service which was inaugurated in Ceylon in 1944, *i.e.* thirty seven years after it was introduced in England, is still inadequately manned. The Service is regarded as an "instrument of imaginative justice". It is the best means we have of reclaiming the offender, even the offender who has been found guilty of a serious crime. The probation service has developed at a far too leisurely pace. The units are so unwieldy and some of the areas are too crowded and too busy to be tackled by a single officer that the travelling involved in such a state of affairs and the reduced scope of careful supervision would defeat the entire purpose of the system. There is still another defect in the Probation System of the Island. This is the inadequacy of Probation hostels in the different probation units in the Island. It has been the experience of Probation Officers that offenders who have been placed under their supervision cannot obtain the best attention without their being made to reside in an approved hostel at least during the early part of their probation. The absence of such approved homes has been mainly responsible for the large number of "probation failures" and if any progress is to be

made, steps should be taken to provide Probation Officers with the necessary equipment to rehabilitate the offenders.

There is finally the problem of the young delinquent. The Commissioner of Prisons and Probation Services in his Administration Report for 1948 wrote that four lads under sixteen years of age were admitted to an adult prison as they were too young to be admitted to the Borstal Training School. There was also the sad case of a lad who was convicted at Kurunegala on a charge of stealing four coconuts. Since he could not pay the fine of Rs. 30 imposed on him by the Magistrate he spent his sixteenth birthday in an adult prison. This is indeed an appalling state of affairs. In spite of the fact that a humane piece of legislation like the Children and Young Persons Ordinance was placed in our Statute Book in November 1939 there are still no separate Juvenile Courts (except for one in Colombo), no Remand Homes or Certified Schools in this Island to reform the young and teach them better and more decent ways of living. The only school of some kind is the Reformatory at Maggona which was in existence long before the Ordinance was passed by the Legislature and this institution has been doing its best under trying circumstances. This is the situation with regard to children up to the age of sixteen years.

The situation is just as bad where young persons of ages ranging from sixteen to twenty are concerned. A large number of young persons of this age group have been sent to adult prisons merely because there was no other separate accommodation like a Borstal School available for them. At the moment these young offenders are housed in separate quarters at Welikada Prison but the purpose of this separation is altogether defeated in view of the fact that every morning they are made to work in association with the older prisoners. The danger of contamination is thus great though section 42 (b) of the Prisons Ordinance states that "juvenile prisoners whenever it is practicable shall be separated from adults". It is dangerous to send young offenders to the adult prisons, for there, as Lord Templewood pointed out when he was Home Minister of England "they either stagnate or drift further into criminal habits". The proper method of dealing with the young offender is, according to Lord Templewood's view, to place him in open prisons where the prisoner will be given a chance of regaining his self-respect. This is now the practice in Britain and there is no reason why it should not be introduced into Ceylon. Still another method is to send the offender for correctional treatment to a training school. There was only one such school in the Island until 1952. It was called the Borstal Training School and is situated at Wathupitiwela. It has done excellent work and efforts have been made to expand its activities in order to provide the youthful offender with every opportunity to rehabilitate himself and make

himself a useful citizen of the world. A second school of this type was opened in Negombo in December 1952.

Organisation of Prisons

The Prisons Ordinance of 1877 placed all prisons in the Island under the control of an Inspector General of Prisons. This title has since 1944 been changed to that of Commissioner of Prisons and Probation Services. Ceylon has a unified prison system which however attempts to classify the different types of offenders—the young offender from the adult, the first offender from the habitual, the convicted from the unconvicted and so on. The purpose is to apply different methods of treatment to each class of offender and to prevent the novice from being contaminated by the habitual. This however still remains an ideal. Much remains to be done to reach perfection.

Juvenile Offenders

These are under sixteen. Offenders of this category are still detained in prisons as only a few Remand Homes or other suitable accommodation are still available. A prison is however no place for children of this age.

Young Offenders

These offenders are generally between the ages of sixteen and twenty one. Efforts are made to segregate all offenders who come within this category with sentences of over one month in separate quarters at Welikada Prison. They are trained on modified Borstal methods, given a school education and instructed in some trade or craft. Complete segregation is however not possible as these young offenders have to work with the adult prisoners during working hours. Some degree of contamination therefore takes place.

Long-term First Offenders

These are subjected to what is called the stage system. According to this system, prisoners fall into different classes. A prisoner sentenced to a term enters immediately the penal stage and remains there for a month. He then enters Class IV and if he performs his functions satisfactorily he is promoted by stages to Class III where he remains for one year and then to Class II. At the end of a year if his conduct here too is satisfactory, he is sent up to Class I. Every class carries with it a graduated scale of privileges and prisoners at Class I are selected for appointment as Disciplinary Prison Orderlies. Their main function is to act as escorts within the stone walls.

Reconvicted Prisoners

Special classes of selected types of reconvicted prisoners are kept in Mahara and Bogambara Prisons. Those with sentences of two years and over constitute Class 'B'. These prisoners are kept separate from the others while at work but they are given instruction in evening classes and are supplied with books and allowed to play games. After a probationary training of six months, they are, if found satisfactory, transferred to Kandy where they form special Class 'A'. Here they are treated as first offenders in all matters relating to pay, industrial training etc.

The treatment of prisoners has in general improved since the recommendations of the Gratiaen Committee which was appointed in June 1949 to probe into Prison Administration. Husk beating as a form of labour has been virtually abolished and coir twisting is done by machines in most prisons. Prisoners are generally given some industrial and vocational training which cover a wide range of trades. Besides, prison domestic services of all types ranging from cooking to conservancy work have provided avenues of employment to a large majority of the prisoners. In spite of these improvements, however, the prison buildings yet continue to have their old look when they were built to impose punishment of a retributive sort on the wrongdoer. As the Acting Commissioner of Prisons himself pointed out in his Administration Report for 1950: "most prisons are beginning to show signs of a new vision and a fresh outlook but while we have to some extent relieved ourselves of the oppressive atmosphere of the past we still seem to linger amidst the debris of a discarded system not by choice but of necessity".

Probation Services

The service now covers all the judicial divisions in the Island. Progress had been at a very leisurely pace. The Probation system was introduced in the United Kingdom in 1907. It took thirty seven years for a beginning to be made in this useful scheme for the rehabilitation of the prisoner in Ceylon. The judicial divisions have been grouped into five Area Groups and a Chief Probation Officer is in charge of each Area Group. The five Area Groups are (1) Western, (2) Central, (3) North-Western, (4) Southern, and (5) Northern. The Island is divided into two administrative areas each in charge of a Superintendent.

Training Schools for Youthful Offenders: The first School was established at Wathupitiwela in March 1940. The School is divided into four houses. One house serves as an allocation centre which is intended to discover what type of a boy the new entrant is, what his needs are and in which house he could fit himself best. Of the three houses, one accommodates the youngest and the most easily trained lads. Another, the oldest lads who

have served a period of detention in prisons and have undergone previous institutional treatment. The third is for the "middle" type in respect of both age and character. A second school of this type was opened at Negombo in December 1952.

There is a Training School After-care Association under the control of a Committee of Management with the Government Agent, Western Province as Chairman and with a full-time paid manager. The functions of this Association has been to keep some sort of vigil over discharged students and to fix them up in jobs wherever possible.

There is finally a Discharged Prisoners' Aid Association whose chief function is to undertake the aftercare of ex-prisoners and ex-training school inmates. It provides financial assistance to discharged prisoners in order to enable them to set up in trade, business or cultivation and attempts to find employment for others wherever possible. There are sub-committees of the Association in all prison centres and a Central Committee in Colombo. The Association receives assistance from the Government in the form of a substantial grant.

CHAPTER V

THE NEEDS OF THE COMMUNITY

Food Production

RICE is the staple food of Ceylon and the people of this country depend for a good part of their food supply on foreign sources. The population of this country is increasing at the rate of two lakhs per year and it is the declared policy of the Government to make this island self-sufficient in the matter of food. This will not only save a good portion of the money of this country being sent abroad on food imports but also conserve it for purposes of national development. At present half an acre of land is needed to feed a single person on the present basis of yield per acre and unless steps are taken to make more land available for cultivation and increase the yield per acre by encouraging the cultivator to adopt advanced methods like transplanting, harrowing and the use of pure line paddy etc., it will almost be impossible for the Government to realise its aim of achieving self-sufficiency. The task of making more land available for cultivation by the restoration of ancient irrigation works that have gone to ruin owing to the neglect of centuries and of inaugurating new schemes to bring arable lands under cultivation is the function of the Department of Irrigation while that of encouraging the peasant to adopt more scientific and improved methods of cultivation, is the duty of the Department of Agriculture.

There are two seasons in Ceylon for paddy cultivation (i) the Maha or Munmari or Kalapokam and (ii) the Yala or Pinmari or Sirupokam. The Maha cultivation is generally during the wet season when there is a plentiful supply of water. Yala cultivation takes place when the rains have ceased and water is scarce. A good part of cultivation is however done in Yala, with the result that the country loses that quantity of paddy which might have been made available if the peasant did not neglect Maha cultivation. In order to see that the maximum possible acreage is utilized the Government is inaugurating schemes like the one at Karachchi to induce the peasant to cultivate for Maha too. If measures like this are not adopted by the Government there is a danger that population will soon outstrip food production and the Island will be compelled to depend for the major part of its food supplies on external sources. The introduction of machinery for purposes of cultivation and large scale farming too might help in cutting down unnecessary expenses, increasing yields and thus improving the food supply.

The Department of Irrigation

Ceylon fortunately does not suffer from a shortage of rainfall. But unhappily the rain does not fall at the correct times and steps have therefore to be taken to collect the rain water and make it available to the cultivator during the time when he most requires it. This indeed has been the function of the Department of Irrigation ever since its inauguration in 1900. As a former Director stated: "the part to be played by this Department is to arrest and harness the run-off from the catchment basins in times of plenty to be used during the lean months for the maturing of crops raised during the more favourable months, and also for converting vast extents of virgin jungle lands into arable fields". In the beginning the Department was merely assigned the task of performing certain engineering duties like maintaining some of the major irrigation works that had already been restored and restoring some of the ancient, abandoned tanks that had gone to ruin due to neglect and disuse. Since then however the functions of the Department have rapidly expanded owing to the declared policy of the Government to make the Island self-sufficient in the matter of food. Village irrigation works have been reorganised on modern scientific lines, new and major irrigation schemes like that of Gal Oya have been put into operation and schemes for controlling floods, improving drainage conditions on irrigable lands, excluding salt water from cultivable areas have been undertaken. The Department is also responsible for rendering all assistance in the execution of the six-year development programme of the Government. Under the programme, it is hoped to bring 80,078 acres of new land under paddy cultivation by the end of 1953. The Parakrama Samudra Scheme, Elahera, Minneriya, Huruluwewa, Kagama Extensions, Bathmedilla, Ridi Bendi Ela, Minipe Extension, Walawe Reservoir etc. are some of the important projects under this programme which the Department has been called upon to execute. Besides the Department has also helped to extend cultivation by replenishing other existing schemes and providing them with improved and better facilities. Among such major projects carried out by the Department are the Nalanda Oya, Jaffna Peninsula Lagoon, Muthurajawela, Attanagalla Oya and Bolgoda schemes, the Balagalla Tank, besides work in other irrigation schemes of a minor nature.

The activities of the Department of Irrigation can therefore be summarised as follows:—

- (i) Restoration of major and minor irrigation works and the inauguration of new irrigation projects.
- (ii) The undertaking of flood protection schemes for both urban and rural areas.
- (iii) Generation of hydro-electric power from some of the bigger dams in the major irrigation schemes.

- (iv) Drainage.
- (v) Reclamation of marshy lands.
- (vi) Exclusion of salt water from cultivable areas.
- (vii) Provision of roads, channels and other access facilities to irrigation works and colonisation areas.
- (viii) Construction of quarters for staff and departmental purposes.

The Department is under the administrative control of a Director who is assisted by a Deputy Director and an Assistant Director. There is a senior Divisional Irrigation Engineer who is in charge of the Drawing Office at the Head Office in Colombo. A Civil Servant performs the function of an Administrative Assistant.

The internal organisation of the Department consists of a central unit with five auxiliary branches.

The central unit is divided into a number of territorial divisions in charge of Divisional Engineers and sub-divisions in charge of Irrigation Engineers. The functions of the central unit are the maintenance and extension of major schemes and the restoration and improvement of minor schemes.

The auxiliary branches which are five in number are concerned respectively with the following functions:—

- (i) Construction specially of some of the major schemes under the six-year plan.
- (ii) Designs and Research—*i.e.* to prepare designs and estimates for all major engineering undertakings of the Department.
- (iii) Training of Technical Staff and recruits.
- (iv) Cultivation and small irrigation works. These are attended to by Village Cultivation Officers under the supervision of Revenue Officers.
- (v) The operation, maintenance and administration of construction plant and machinery.

Multi-Purposes Projects

A major development scheme undertaken by the Government is the Gal Oya Valley project in the Eastern Province. It is a multi-purpose scheme in that it will irrigate a large extent of cultivable but hitherto uncultivated land and it will also serve other useful purposes such as provide hydro-electric power, a domestic water supply, flood control benefits, drainage and recreation. This is generally what is meant by a multi-purpose project *i.e.*, it will serve more than a single purpose and not merely one of only bringing water to cultivable lands, which was the aim of all previous irrigation projects.

The scheme was started in 1949. At a place called Inginiyagala, a dam was erected, 3,600 feet in length. At the highest point, it is 154 feet high. The reservoir occupies an area of 30 square miles, which is about two and a half times the size of Colombo harbour. The reservoir holds 260,000 million gallons of water—a quantity of water equal to the water of all other tanks in Ceylon put together. The power plant is constructed just below the main dam and has 4 hydraulic turbines.

The acreage that was cultivated before the scheme was put into operation was 33,000 at one time. It then dwindled to 26,000. An area of 60,000 acres can be brought under cultivation to enable two cultivations to take place annually when the scheme is completed. This means that an area of 120,000 acres (60,000 acres cultivated twice annually) will be brought under the plough where formerly 26,000 was cultivated and that too only once a year. The scheme also prevents the annual damage that the Pattipolai Aru basin used to suffer as a result of floods. Since it is a scheme for the storage of water during the rainy season it will hold all the excess water which used to flood the Pattipolai Aru basin. The water impounded by the dam of the reservoir is expected to provide hydro-electricity to the extent of 9,000 horse-power with an all time level of 6,000 horse-power. This supply will provide power for factories. It is expected that sugar cane will be grown as a rotation crop with paddy in this area and the hydro-electric power generated under this scheme will supply the fuel needed to run the sugar factories and other industries. The scheme will also provide a domestic pipe-borne water service to the population in the area.

For purposes of administering the area covered by the scheme, a Board has been set up on similar lines as the Tennessee Valley Authority in the United States. (The Tennessee Valley Scheme too is a multi-purpose project). Under the Gal Oya Board Act, the area of authority has been divided into the Developed and Un-developed Areas. The Board consists of a Chairman and three others, one of whom is a nominee of the Minister of Finance. The Board functions under the Ministry of Lands and Land Development and its members, other than the nominee of the Minister of Finance, are appointed by the Minister of Lands and Land Development. The members hold office for five years and are eligible for re-appointment. A Secretary assists the Board in its duties. It has been given wide powers to direct and control the development

of not only the Gal Oya area but of any other area in the Eastern Province which might come under its expanding jurisdiction. The functions of the Board are as follows :

- (i) To develop the undeveloped area.
- (ii) To promote and operate schemes of irrigation, water supply, flood control, drainage and generation, transmission and supply of electrical energy.
- (iii) To promote afforestation.
- (iv) To control soil erosion.
- (v) To promote public health.
- (vi) To prevent and control plant and animal diseases.

The aim of the Board will be generally to promote agricultural and industrial development and economic and cultural progress in the area under its control.

In the developed area, the Board will operate as the supreme authority except in regard to the control of irrigation water. For this function the normal machinery of Government will function. In the undeveloped area however the Board will have complete control in the matter of land, colonisation, irrigation, roads, buildings, forest exploitation, etc.

The Gal Oya project is only the first of such multi-purpose schemes which the Government has undertaken to promote the development of this country. Similar schemes to utilize the waters of the Walawe and Kelani Rivers are under consideration. In fact a start has already been made as regards the Walawe Scheme. This scheme provides for the irrigation of 40,000 acres of new land for two crops a year and the development of 6,000 horse-power of hydro-electric power.

Colonisation Schemes

The aim of the Government has been to dispose of crown land wherever possible and to acquire private land whenever possible in order to encourage the peasantry to utilize these lands for purposes of food production and to provide land for the landless among them. The total extent of crown land in Ceylon is 19,000 square miles or roughly three quarters of the surface area of the Island. Most of the crown land is to be found in the dry zone which in large areas is virtual forest and is also thinly populated. The wet zone has been utilised mostly for the purpose of growing export crops like tea, rubber and coconuts. It is also the more thickly populated area in the Island.

The policy of the Government has been to bring the dry zone under irrigation by restoring ancient irrigation works or inaugurating new ones like the Gal Oya scheme and ridding the area

of malarial disease which has taken a heavy toll of human life in the past. The spreading of D. D. T. has done much to eradicate malaria in this area. The aim is to rehabilitate the impoverished peasantry in this region and to resettle the landless villagers from other parts of the Island in these areas by clearing the vast spaces of jungle land and providing irrigation facilities as far as is possible.

The machinery for the mapping out and disposal of crown land is provided by the Land Development Ordinance, No. 19 of 1935. The mapping out is done either by Revenue Officers or by Settlement Officers. The local villagers are first consulted and priority is given to their claims before the land is alienated. The purpose of mapping out crown lands is among other things, to facilitate village expansion and peasant colonization, to provide pasture for the village cattle and goats, to enable Government to construct roads and buildings for schools, hospitals, etc. and to alienate lands to middle class Ceylonese who are willing to come over to the dry zone and cultivate such lands for purposes of food production. Under the Ordinance, the owner is obliged to cultivate the land or utilize it in a manner specified in the grant. He is also required to make an annual payment to the Government not exceeding two percent of its value as long as he holds the land. There are provisions in the Ordinance which prevent the owner from sub-dividing the land to members of his family beyond a certain limit or of passing it on to members outside his family on his death.

The Ordinance provides that crown lands should be disposed of in as fair a manner as possible. The disposing or alienation (as it is called) is done only by a Revenue Officer at what is called a Land Kachcheri where all applicants are given an opportunity to state their claims. Any person who is not satisfied with the decision of the Land Kachcheri has a right to appeal to the Land Commissioner. In alienating land for village expansion, it is the policy of the Government to see that each peasant is given a sufficient area to enable him and his family to lead a reasonably comfortable existence. The Government also provides him with financial assistance to build a cottage for himself and his family and to develop his land. In addition the Government has provided schools to educate his children, hospitals and dispensaries to attend to his medical wants, irrigation facilities to render his land cultivable and public wells to help him get a good supply of water for domestic purposes.

Schemes for colonisation in the dry zone are carried out according to some elaborate procedure. The land is demarcated into separate blocks, a part of which consists of irrigable paddy land while the balance consists of unirrigated garden land. The land is then cleared of forest by the Land Development Department. The Irrigation

Department brings the water to it. The Department of Agriculture conducts a soil survey with a view to determine what crops can be grown on the land. The Land Development Department next undertakes the construction of cottages, hospitals, schools, dispensaries and recreational facilities. The paddy areas are grouped in a way so as to enable them to be cultivated with mechanized implements like tractors etc. The colonists then move in. They are provided with every form of assistance by the Government. They are given planting material and implements to be utilized on the paddy lands and livestock to be reared on the unirrigated garden land. They are encouraged to form Co-operative societies for the purpose of purchasing their requirements, for obtaining credit facilities and for marketing their produce. A new community is soon formed as a result of social relations developing between the various colonists who have come from different parts of the Island to make their future in the 'dry world'.

This system of colonisation was started by the Government in 1930 and the first schemes were in the dry zone districts of Minneriya, Kagama and Tabbowa. At first the dry zone attracted very few colonists due to the prevalence of malaria. But with the virtual eradication of malaria, there was a rapid flux of colonists from the more congested areas of the South and today the dry zone is fast becoming a smiling land of plentiful abundance.

Agriculture for Export

The wet zone of Ceylon covers an area of roughly four million acres and consists of the Western, Central and Sabaragamuwa Provinces and parts of the Uva and Southern Provinces. Most of it is devoted to the cultivation of the three major commercial crops of Ceylon, namely, tea, rubber, coconut. It is on these that Ceylon depends for most of her income and for the money needed to obtain capital goods for development projects and for the import of consumption articles. A good part of the wet zone is also devoted to the cultivation of paddy for domestic consumption. Minor commercial crops for export like cocoa, cinnamon, tobacco, citronella oil grass, cardamoms and arecanuts are also grown in the Wet Zone.

The acreage covered by tea for the year 1952 was approximately 567,000. Tea grows at an altitude ranging from sea level to 6,000 feet above. It requires a reasonably distributed rainfall of 80 to 120 inches a year. Teas grown over 4,000 feet are classified as High Grown, those over 2,000 feet as Medium Grown and below 2,000 feet as Low Grown. High Grown Teas fetch the best prices since they are the better quality. Over 80 percent of the labourers employed on the tea estates consist of immigrants from South India. For the year 1952, approximately 314 million pounds of tea valued at 723 million rupees was exported from Ceylon.

A Tea Research Institute has been established with fully equipped laboratories on St. Coombs Estate, Talawakelle. Its main function is to discover scientific methods for controlling blister blight disease which has of late been seriously threatening the tea industry and for conducting experiments with a view to help the development of the tea industry in general. The Institute was established in 1925.

The area under rubber in 1952 was roughly 657,000 acres. Rubber grows best at elevations below 2,000 feet and requires a well distributed rainfall of not less than 80 inches per annum. The majority of rubber plantations are to be found in the Western, Central, Southern and Sabaragamuwa Provinces. A good proportion of the labour employed in the rubber industry is Indian but there is also a fair proportion of Ceylonese labour employed. About 60 per cent is Indian and 40 per cent is Ceylonese. For the year 1952, approximately 206,244,000 pounds of rubber valued at 363 million rupees was exported from the Island.

The rubber industry has been subject to regular depression and booms, depending on the international situation. During the war when Malaya was under the occupation of Japanese forces, Ceylon became the only source of rubber for the allied countries. With the end of the war the situation began to deteriorate for Ceylon rubber. Malaya began to return to the rubber market and in addition Indonesia and South America started to offer competition. The United States too began to develop her synthetic rubber industry. All these factors helped to depress the position of the rubber industry in this country. There was an improvement in the situation with the outbreak of the Korean war and an additional fillip was given to the industry with the conclusion of a trade agreement with China. But the price of rubber like rubber itself will always be elastic. Prices can never hope to be stable especially in view of increasing competition from other countries. The Government has therefore inaugurated a number of schemes for assisting the rubber industry. These include subsidies to estate owners and financial assistance under the Rubber Rehabilitation Loan Scheme to enable owners to replant existing rubber lands with high yielding rubber, replace existing rubber areas with tea or with other permanent crops.

A Rubber Research Scheme with its headquarters at Dartonfield Estate, Agalawatte helps and advises the industry on scientific methods of breeding, manuring and controlling disease and pests.

The Coconut industry occupies a very important place in the Island's economy. There are roughly one million acres of coconut land in the country and about two-thirds of it consists of small holdings, that is, of allotments of 10 acres and under. It is essentially the small man's industry. The uses of the coconut palm are manifold. Some of its major products are the nuts,

copra, coconut oil, poonac, desiccated coconut, coir fibre, coir yarn, toddy and arrack. All, except the last two are export products. A sum of approximately 246 million rupees was realised for the year 1952 from the export of these products.

A Coconut Research Scheme has been established with headquarters at Bandirippuwa Estate, Lunuwila. The Institute conducts research on the selection, breeding and improvement of coconut palms, and on coconut soils and fertilizers.

Other minor commercial crops grown in Ceylon for purposes of export are cocoa in the Kandy and Matale Districts, cinnamon in various parts of the Western and Southern provinces, citronella oil grass in the Matara and Hambantota Districts, tobacco in the Jaffna, Dumbara, Matale and Kurunegala Districts, cardamoms in various parts of the Central Province and arecanuts which usually flourish in the Kegalla District and in other parts of Ceylon.

The Department of Agriculture

Some idea of the work carried out by the Department would have been obtained from all that has been said in the earlier paragraphs. The Department is under the control and direction of a Director who is assisted by two Deputy Directors, two Assistant Directors and an Office Assistant. An Accountant is in charge of the financial and accounting sections of the Department.

For purposes of convenience the work of the Department can be divided into five sections. The first section consists of the three Research Institutes for Tea, Rubber and Coconut. Each of these Institutes is under the control of a Director who is assisted by a number of trained technical officers. Their function is to conduct research and carry out experiments with a view to promote the development of the tea, rubber and coconut industries in the Island.

There are then the Agricultural Research Divisions. (i) There is a Botanical Division under the control of a senior Agricultural Officer and there are two other Research Officers, one in charge of the North-Central Division and the other in charge of the Eastern Division. These officers too conduct research and carry out experiments on the various plants and cereals grown in their respective areas. (ii) There is a Chemical Division under the control of a Chemist whose function is to conduct soil surveys, studies on Ceylon soils, and investigations and research on the chemical side of agriculture. (iii) The Entomological Division under an Entomologist is in charge of the investigation and control of agricultural pests while (iv) the Plant Pathological Division under a Plant Pathologist helps in investigating and inspecting diseases that endanger the various agricultural crops grown in the Island. (v) The Horticultural and (vi) Tobacco Divisions are under the control of a Horticultural Officer and a Tobacco Officer respectively

and the Division (vii) of Systematic Botany and (viii) of Soil Conservation are under a Research Assistant and a Soil Conservation Officer respectively. (ix) The Agricultural Engineering Division is under an Agricultural Engineer whose function is to conduct research and provide information and education on agricultural machinery. (x) Finally there are the Botanic Gardens at Peradeniya, Hakgala and Heneratgoda where experiments with various types of plants with a view to determining whether they are suitable for Ceylon soils and climates are carried out.

The Animal Husbandry and Veterinary Services are responsible for maintaining the various State farms that have been established in different parts of the Island.

There are then the Field Divisions each in charge of an Agricultural Officer. These Officers are responsible for supervising the various food production, colonisation, and agricultural schemes of the Government.

Finally the Department is responsible for imparting agricultural education and conducting propaganda. There is a School of Agriculture and an Experiment Station at Peradeniya, a School of Agriculture for Girls at Kundasale and Practical Farm Schools in various parts of the Island. The Propaganda Division is in charge of an Agricultural Officer. His function is to supervise and conduct propaganda on the cultivation of various crops and rearing of livestock and other related subjects through the media of shows, films, booklets, posters, leaflets and publications.

THE SOCIAL SERVICES

The relief of social distress on any organised scale dates back to not more than twenty years. Previous to this, the people of this country had to rely on the goodwill of relatives, the generosity of philanthropists, the charity of the public and occasional grants from the Government to relieve them of any suffering caused as a result of floods, economic depression, sickness or the damage caused by wind and weather. Since 1930 however with the inauguration of the Donoughmore Constitution the State began to take some interest in the welfare of the distressed citizen. The economic depression of the early thirties resulted in a special inquiry being held by Mr. M. M. Wedderburn of the Civil Service. The Malaria epidemic of 1934—35 too had its sequel in the special report issued by Mr. H. E. Newnham of the Civil Service. The Government spent about Rs. 86 million during this period on the relief of the poor and depressed. Besides these special inquiries, a number of economic surveys were conducted at the instance of the Ministry of Commerce and these revealed in a very clear way the appalling and impoverished condition of the rural peasantry. As a result of

these surveys and investigations, the Government came to realise that some organisation was required to provide assistance and social services to the poverty stricken and the under-privileged in the country. A Commission was appointed in July 1944 to inquire into and report on (a) the adequacy of the existing social assistance and allied services and (b) the question of providing relief to the aged, the sick, the unemployed, the widowed and the orphaned. The findings of the Commission were embodied in a report published in 1947.

The Department of Social Services

As a result of the Commission's findings a separate Department of Social Services was organised in 1948 to deal with the subjects of Public Assistance, Compensation, Charitable Institutions, and of Social Insurance. The Department was also to help in implementing the recommendations and suggestions of the commission, chief of which were (i) a Health Insurance Scheme with provision for maternity benefits and funeral benefits, (ii) an Unemployment Insurance Scheme, (iii) an Unemployment Assistance Scheme and (iv) a National Provident Fund Scheme. The Department is under the jurisdiction of the Ministry of Labour and Social Services. The work of the Department is under the control of a Director who is also at the same time the Commissioner for Workmen's Compensation, a Deputy Director, Assistant Directors who are also at the same time Assistant Commissioners for Workmen's Compensation, Administrative Assistants and Social Service Officers. An Accountant is in charge of the financial section of the Department. The Department is assisted in its work of distributing public assistance and administering Social Services by Divisional Revenue Officers, Village Headmen and the Post Offices in addition to its own staff.

In the matter of Public Assistance the Department is responsible for seeing that relief is rendered wherever necessary, as laid down under the provisions of the Poor Law Ordinance of 1939. Poor relief takes the form of (a) monthly allowances to the aged and the infirm (b) casual relief by way of assistance for damage done to buildings, and houses as a result of fires, accidents or storm and cyclones (c) assistance to persons distressed as a result of the last war (d) grants to Voluntary Agencies like Social Service Leagues, Homes for the Aged, and other Homes run for the benefit of the needy and destitute by various religious bodies (e) financial assistance to disabled ex-servicemen to enable them to set up in business (f) unemployment assistance and (g) relief of widespread distress that may have been caused as a result of the failure of crops, drought, floods, or epidemics.

The Department is also responsible for awarding compensation to workmen who might suffer as a result of accidents or diseases in

the course of their employment. The Director or his Assistants are responsible for entertaining claims from injured workmen, conducting inquiries and awarding compensation after due consideration.

There are a number of charitable institutions that are run by the Department. These include the State Homes for the Aged and the Infirm, the House of Detention and the Home for Vagrants, and Sheltered Workshops for the Adult Deaf and Blind.

The Department has been specially entrusted with the task of putting into operation the various schemes of social insurance recommended by the Social Service Commission. Some amount of preliminary work has been done for the implementation of these schemes. The services of Mr. Maurice Stack, an expert from the International Labour Organisation were obtained for this purpose and he has already submitted schemes covering Health and Unemployment Insurance and a National Provident Fund. The Department has modified the schemes in keeping with the financial resources of this country. It now remains for the Government to adopt the schemes.

The State at present spends a good percentage of its expenditure on Social Services. In the pre-Donoughmore period from 1925—30, roughly 16 per cent of the expenditure of Government was spent on Social Services. In the period before Independence, the figure was approximately 26 per cent. In the period after Independence during the years 1947—51, roughly 41 per cent. of the total expenditure of the Government was spent on Social Services.

EDUCATION

The Department of Education

The educational system of this country is under the jurisdiction of the Ministry of Education. Primary and Post-Primary education is administered, organised, and controlled by the Department of Education with the advice and assistance of a Central Advisory Council of Education and Local Advisory Committees.

The Department of Education is organised under a Director who is assisted by Deputies and a number of Assistants. Education Officers are placed in charge of the Provinces. They are assisted by District Inspectors of Schools and Inspectors of Schools and their main function is to see that standards of education are maintained on a proper level in the provinces and districts. Physical education is placed in charge of an Assistant Director who is aided in his work by District Inspectors, Inspectors, and Inspectresses. A Chief Accountant and a number of Assistants run the finances of the Department. A separate Department of Examinations under a

Commissioner is in charge of organising and conducting the various public examinations held in the Island.

An Educational Publications Board was set up in November 1950 for the purpose of helping the Department to select, approve and recommend textbooks for use in schools. The Board examines manuscripts of textbooks and gives suggestions and hints to authors to improve them where necessary. The Director officiates as Chairman of the Board.

The Central Advisory Council of Education will advise the Director on matters connected with education. The Council is also expected to put forward its own proposals and recommendations for consideration. The members of the Council include among others Managers of Schools, Representatives of Teachers Associations, and well-known educationalists.

Local Advisory Committees have been established in municipal areas and revenue districts. These are appointed by the Ministers and their members include among others the departmental officials in the area and the Members of Parliament representing constituencies within the area. Their main function is to advise the Director on the educational needs of their respective areas.

The Educational System

The State provides free education from the Kindergarten to the University. This system came into operation as from October 1945 and was one of the major recommendations of the Special Committee on Education appointed in 1943. It includes the provision of free board and lodging to poor students where necessary. Since this date Government expenditure on education has mounted steadily. In 1946 it was roughly Rs. 43 millions; for the period 1953—54 the total expenditure amounted to Rs. 156½ millions. Prior to October 1945 free education was available only in Sinhalese and Tamil Schools.

Attendance at school between the age of six and fourteen is compulsory wherever schools are available within a reasonable distance for children of school going age. Attendance Officers undertake the task of seeing that parents send their children to schools.

The medium of instruction in the primary classes, *i. e.* up to Standard 5 is in the mother-tongue of the pupils. A start has been made in instructing students in their mother-tongue in the post-primary classes. The Government plan is to introduce the national languages as media of instruction in gradual stages. The ultimate aim is to introduce the national languages as media of instruction from the Kindergarten stage to the University. There has however been such controversy on whether the change-over should be effected in slower stages than at present. The Ministry of Education is investigating this matter.

Though education is in theory free from the Kindergarten to the University, it will not be available to all and sundry without restriction. The White Paper on Education issued in 1950 divides education into three stages, namely, Primary, Secondary and Further. The first two years of compulsory education is spent in an Infant Department. The Secondary stage which commences at the age of 11 plus, is divided into two sections. (a) Junior Secondary Schools providing education up to Standard 8. At the end of Standard 8, the student will have to take up a Fitness Test. The test will determine whether the student should proceed to the Senior Secondary School Stage or take to a Vocational School : (b) Senior Secondary Schools leading to a School-leaving Certificate and thereafter to Collegiate Schools where students will be prepared for the University or Technological courses.

Education will be free from 5 to 14 years. Thereafter students who pass the Fitness Test and qualify themselves for higher education at the Senior Secondary School stage will be provided with free instruction. Those who are successful will have the opportunity of going to Vocational Schools. The State will provide these students with free education at Polytechnics which will be set up in the main cities and towns of the island. But those who insist on having an education which might carry them to the University or a professional institute will have to join a private school and pay for their education.

Further or higher education is provided at the University which was established in 1942, at the Law College and at the Technical College. Those desirous of taking up to teaching as a vocation are provided instruction at the Training Colleges for teachers. Some of these institutions are run by Government while others are maintained by denominational bodies with the aid of Government grants. The Schools of Agriculture and the Girls' Farm Schools run by the Department of Agriculture and the Industrial Schools and Demonstration Centres maintained by the Department of Industries provide some sort of vocational education. A School for the Deaf and a School for the Blind provide education for those defective in these spheres of life.

Types of Schools

The majority of Schools in the Island are of a non-vocational type and they impart education of a general and academic character. The English Schools are of the Collegiate type, some of which conduct classes up to the Junior level, that is up to Standard 8 and may have classes up to the Senior School Certificate (G. C. E. ordinary level) with the approval of the Education Department while others impart education up to the senior level and may have a further course leading up to the Higher School Certificate and the University Entrance Examination if the Department gives them its approval. There are the Central Schools which are administered directly by the

Government and provide a course of instruction from Standard 6 to the Higher School Certificate and University Entrance Examination level. These Schools are established on a territorial basis and have feeder schools attached to them for the purpose of supplying them with promising students from the surrounding area. There are primary schools which provide a course of education up to Standard 5. These are run either as separate institutions or are attached to and form part of the Collegiate schools. There are also Sinhalese and Tamil schools of the senior, junior and primary types receiving assistance from the State in various forms. The class of schools known as Pirivena are intended for the Buddhist priesthood. They are mainly devoted to the teaching of oriental languages. Finally, there are the vocational schools which impart a specialized form of instruction. These are the agricultural schools run by the Department of Agriculture, the Industrial Schools and Demonstration Centres conducted by the Department of Industries, the Government Training Colleges and Government assisted Training Colleges for teachers and the Technical College which provides education of a technical and commercial character. Part-time instruction in handicraft is also provided in the various Central and Sinhalese and Tamil Schools.

Adult Education

The State has also taken an interest in trying to improve the standard of literacy among the rural population. An organised effort has been made in this direction since 1939 and regional officers have been appointed to set up Adult Education Centres in various parts of the Island with a view to organise education for the adult illiterate population. The main purpose of these adult classes is to instruct the rural population in reading, writing, and arithmetic, give them talks on useful subjects like History, Hygiene, and Civics, encourage them to take an interest in music, singing and dancing and to create in them a desire to read elementary books and the newspapers. Education is usually of the audio-visual type. Radio sets and gramophones have been supplied to many of these centres and departmental cinema vans conduct film shows dealing with education and subjects of topical interest. The Department has obtained the co-operation of local officers of other departments in its campaign to eradicate illiteracy—especially the Departments of Rural Development, of Local Government, of Information and of National Museums. Regional Organisers have been specially appointed by the Education Department to (a) organise new projects and educate the public in regard to the meaning, content and purpose of adult education (b) supervise existing centres and (c) instruct and train teachers in methods and techniques of adult education. A Central Council of Adult Education was set up in June 1951 for the

purpose of co-ordinating the adult education work undertaken by various Government Departments, prevent their over-lapping and establish co-operation where necessary.

The United Nations Educational, Scientific and Cultural Organisation has lent the services of an adviser to start a Fundamental Education Project at Minneriya which might serve as a model for other adult education centres in the Island. The aim of this project is to bring to people "the knowledge which they have somehow missed, but which they need to live satisfactory lives in the place where they live." The pilot area centres around the Minneriya irrigation lake and the neighbouring regions of Giritale and Polonnaruwa. It covers a population of 55,000 people situated in fifty six villages and towns. The Project has four departments: (1) Education and Social Science; (2) Agricultural Extension and Home Science; (3) Industries and Co-operation and (4) Health Education. The aim of the project is to attend to the spiritual, mental, physical, social and economic needs of the people. The Project aims at educating out-of-school children and adults and also instruct school-going children in subjects like health education which might not be taught in their schools. It is in the nature of a rural university and will train workers in methods of adult education, of rural reconstruction and of rural development. In this way, the Project hopes to provide the Government with a supply of teachers who will man the various adult education centres in different parts of the Island. The aim of adult education is to eradicate illiteracy and to educate the people of this country so that they might realise their civic duties and act as a correcting influence on the rulers of this country.

HEALTH AND SANITATION

The Department of Health Services

The Island's Health and Sanitary Services are organised under the jurisdiction of the Ministry of Health. The Department of Health Services is responsible for the general health and sanitation services in the country. It is under the control of a Director of Health Services who is assisted by three Deputies, namely, the Deputy Director of Medical Services, the Deputy Director of Public Health Services, and the Deputy Director of Laboratory Services. The Deputy Director of Medical Services is in charge of the curative work, the Deputy Director of Public Health Services is responsible for preventive work while the Deputy Director of Laboratory Services is placed in charge of the research section of the Department.

The Department of Health Services is virtually responsible for the health of the entire nation. It is solely responsible for the curative and preventive services of the country though in these spheres it

receives some amount of co-operation from the various local authorities in the Island and assistance to some extent from the Department of Education. The latter has an Assistant Director in charge of Physical Education and he is responsible for the health of children in schools. Some of the Municipalities have their own Chief Medical Officers of Health who manage the health services of the Municipal area concerned. The care of the sick too is the responsibility of the Department of Health Services. Only a very small minority make use of the private hospitals which are situated in Colombo and in a few of the other towns. The majority go for treatment to the various hospitals, maternity homes, clinics and dispensaries maintained by the Department. The Department has also in its charge the specialised institutions like the Mental Hospital, the Infectious Diseases Hospitals, the Tuberculosis Institutions and the Leper Hospitals.

Quarantine

The Quarantine Services which are responsible for protecting Ceylon from the danger of infectious diseases from abroad are under the charge of the Director of Health Services. The Quarantine has (1) special camps set up in the towns of Mandapam and Tattaparai in South India to ensure that immigrant labour and visitors from India are not suffering from any infectious diseases, (2) a Port Health Service in Colombo for the purpose of inspecting incoming ships which might bring infection from abroad and (3) an Air Port Health Service which performs similar functions in the main air port areas of the Island.

Prevention

The preventive services are locally organised under Medical Officers of Health who are in charge of Health Units and work with the assistance and co-operation of Sanitary Inspectors, Public Health Nurses and Public Health Midwives. Separate organisations are in charge of the more widespread or serious diseases like Tuberculosis, Filariasis, Malaria, Venereal Diseases, and Leprosy. They are in the charge of Superintendents who however operate through the Medical Officers of Health in charge of the Health Units.

The Treatment of Diseases

If prevention fails, disease sets in and here too the Department assumes virtual responsibility for the care of the sick. The Department administers medical attention through three types of institutions. There are the Provincial Hospitals which are large in size and have the services of specialists attached to them. There are the District Hospitals which are smaller in size and these attend to the less serious medical, surgical, and obstetrical cases. There are the Central Dispensaries which administer outdoor treatment. Many of

them have a Maternity Home attached to them for dealing with the ordinary type of pregnancy cases and a Rural Hospital for simple diseases. An efficient ambulance service links up these organisations so that serious cases are removed from one institution to another in case specialized medical attention is required. Specialized treatment in the form of X-ray and bacteriological examinations and electrical and dental treatment is administered in some of these institutions. Medical attention of the indoor type is given free to all patients in the non-paying wards who receive an income of Rs. 50/- and less. Those who receive higher incomes have to pay a nominal fixed charge per day.

The extent to which the State spends public money on the health of the country can be seen from the following figures :—in 1938 the per capita expenditure on public health was two rupees and nineteen cents ; in 1951 it was almost nine rupees. In 1952, the Government spent a sum of 88 million rupees or 8.64 per cent of the total revenue on the health services of the country. This expenditure has however reaped satisfactory returns in the way of reducing the mortality rate in the country. In 1930 the death rate per thousand living was 25.4, in 1951 it was almost halved to 12.8. About the same year 1951 the infant mortality rate was 82 per thousand and the maternity mortality rate 5.6 per thousand which were the lowest figures recorded up to that date.

HEALTH CAMPAIGNS

Tuberculosis

Tuberculosis is now regarded as the chief public enemy of the country. An Anti-Tuberculosis Campaign has been organised under a Superintendent who is assisted by a number of experts and specialists. There is an Anti-Tuberculosis Institute in Colombo, Sanatoria in Kandana and Kankesanturai, Chest Hospitals in Ragama, in Welisara and in Puttalam, and Chest Clinics in Kandy, in Galle and in Jaffna. Civil hospitals in other parts of the island have special wards to attend to the needs of sufferers from this disease. The Department has provided for the special training of medical officers in T. B. work by sending them abroad to study advanced methods of prevention and cure. The services of the World Health Organisation were enlisted to combat the spread of the disease and to bring it under control. A Scandinavian team arrived in 1949 and conducted a mass campaign of B. C. G. vaccination while another B. C. G. team from the International Tuberculosis Campaign arrived in the Island in 1950. The World Health Organisation donated a Mobile Radiograph Unit for the purpose of conducting a T. B. survey and lent the services of a Central Tuberculosis Laboratory to assist in bringing the disease under control. A team of T. B. experts under Mr. Donald Barlow arrived in the

Island during 1952 and issued a startling report, after conducting a fact-finding survey, on the high incidence of tuberculosis in the Island. Mr. Barlow put forward a number of proposals for the control of the disease and these are to be carried out in due course. The Ceylon National Association for the Prevention of Tuberculosis has organised an active campaign during the past few years for enlisting the support of the public to combat the spread of the disease and to contribute funds for the construction of hospitals and clinics for the purpose of helping victims of the disease.

Filariasis

A scheme for the control of this disease was established under the Public Health Department in November 1947. The disease was most widely prevalent in the Dehiwela area. A well-equipped clinic was set up in that area and other endemic places for the purpose of treating victims of the disease with an effective drug called Hetra-zan. The mosquito called the *Culex fatigans* is the agent through which the disease is conveyed and the Department has therefore taken steps to concentrate most of its attention on the preventive side. The services of a W. H. O. expert, Dr. M. O. T. Iyengar, were enlisted in 1949 and many of the recommendations made by him have been implemented. Mosquito control measures have been adopted as a suitable means of bringing the disease under control and one per cent wettable D. D. T. is used as an efficient larvicide for the purpose of spraying the breeding places of the mosquito. In the non-endemic areas Medical Officers of Health have been given special powers to carry out field operations directed towards preventing the spread of the disease and adopting mosquito control measures.

Venereal Diseases

The Department has organised a campaign against the spread of this disease as a result of the suspected high incidence of it in the Island. The disease became fairly rampant during the Second World War and regulations were framed in 1942 and 1943 making it a notifiable disease. Medical Officers have been sent abroad for special study in the latest developments of V. D. Control. The services of two W. H. O. experts, Dr. Leiby and Dr. Jungalwalla were obtained and their advice on the methods to improve the Anti-V. D. organization in the Island have been adopted. A new Anti-V. D. project has been set up in Colombo for the purpose of launching an Island-wide campaign against the disease. W. H. O. has contributed to this in the way of equipment and staff.

Malaria

The disease which was rampant at one time is today well under control. The disease was responsible for hindering most of the development schemes in the Island. In 1945 a vigorous campaign

was launched against the malaria mosquito and the spraying of D. D. T. was undertaken by the field officers of the Department as a means of destroying the breeding places of the malaria vector. Malaria was brought under control in Ceylon in 1950. The services of W. H. O. was once again enlisted and a Malariologist, Dr. Bruce Wilson, visited the Island and tendered valuable advice to the health authorities in the country.

Leprosy

Since 1932 more humane methods have been employed to the leprosy problem in this country. The methods used have been voluntary segregation of patients, modern treatment and the control of contacts. The disease is transmitted by contact and the only method of preventing its spread is by segregation. The dependants of patients have been provided for by the State. Leprosy control is organised in two directions. There are institutions—the hospitals at Hendala and Mantivu—which undertake the treatment of patients. There is also an agricultural colony at Urugaha for able-bodied cases. The disease is also controlled by a system of field organisation which provides treatment in clinics which have been established in the endemic areas.

SPECIAL SERVICES

School Health Work

The Department has organised a number of special services, the most important of which has been School Health Work. The medical care of school children was undertaken on a modest scale in 1919. Since that time Medical Officers of Health have been placed in charge of the health of school-going children. Medical inspections of schools are carried out at regular intervals and a special officer from the Department of Education co-operates with the health authorities for the purpose of making these inspections more regular.

Estate Health

The Department has also done much in the direction of Estate Health Work. Under the Medical Wants Ordinance of 1912, the Department is responsible for the health of estate labourers. Hence Medical Officers visit estates at regular intervals, inspect the sanitary conditions in the estate districts and examine the health conditions of estate labour. Under regulations enacted in 1950, the Director of Health Services is responsible for ensuring that estate lines are built in conformity with certain definite standards. The Department employs a special staff of Medical Officers to inspect

estate lines and ensure that the health of estate labour does not in any way suffer as a result of negligence on the part of the plantation authorities.

Health Education

The Department has also organised a scheme of Health Education and this is carried out in schools with the co-operation of the education authorities and through the media of pamphlets, posters, public talks, Health Exhibitions, the Press and the Government Film Unit. The All-Ceylon Health Week is another publicity drive which was started in 1938 and has today become a well-organised movement for making the people of this country health conscious. The third week in July is set apart annually for the purpose of intensifying the health education movement and an Island-wide publicity campaign is carried out with the assistance of the Press, the local authorities, schools and all medical officers. Health propaganda is also organised through the medium of the annual journals published by the Associations, of Sanitary Inspectors, of Public Health nurses and of Public Health midwives.

Ayurveda

The Ayurveda Medical Services were organised on a state footing as a result of the enactment of the Indigenous Medical Ordinance No. 17 of 1941. The College of Indigenous Medicine, the Hospital and other connected institutions have been taken over by the Government and the practitioners turned out by the College today perform valuable services to the rural population.

Water Supply

Labugama Reservoir provides Colombo with its water. It is situated $28\frac{1}{4}$ miles from the city and its catchment area covers an extent of 2500 acres. The storage capacity of the reservoir is 1960 million gallons. The water is purified through the medium of filtration works of the 'Jewel Rapid Gravity' type and is specially treated with chloramine. In order to augment Colombo's water supply from Labugama, a scheme for impounding the waters of the Kalatuwawa Ela in the Ratnapura District was started in 1949. The catchment area is 3320 acres and the storage capacity is 3510 million gallons.

Kandy's water supply has for long years been a problem both to the Municipal authorities and the Central Government. The city at present receives its supply from a reservoir with a storage capacity of 44 million gallons and a catchment area of 400 acres. The town

received an additional supply as a result of the construction of a Pumping Scheme by the military authorities in 1944. The Scheme was completed in 1951 and with ten hours pumping from the river at Peradeniya, it is possible to obtain 250,000 gallons of water per day from this source. An emergency scheme to obtain an additional supply of 600,000 gallons per day was started in 1950. Plans have been formulated to construct a major pumping scheme with the Mahaveli Ganga as the source for supplying the entire needs of Kandy at some future date.

CHAPTER VI

CO-OPERATION

The Nature of Co-operation

The Co-operative Movement is essentially a People's Movement. It seeks to inculcate in people the value of group action—that objectives can be achieved not by individuals striving and struggling against one another in a world of cut-throat competition but by humane men striving and co-operating with one another to realise in common, noble and honourable objectives. In this sense, Co-operation embodies a cardinal tenet of democracy—the pithy epigram: “each for all and all for each.” Its first concern is the weak—for the primary aim of the Co-operative Movement has been (i) to rescue the consumer from the adulteration and credit system of the blackmarketeer and small shopkeeper and (ii) to help the thoroughly impoverished and debt-ridden peasantry of this country to find their salvation in the agricultural and colonisation scheme of the dry zone area. It should therefore be recognised that co-operative societies stand in a very different position to all forms of capitalist businesses. The Co-operative Movement embodies a non-profit making system aimed at helping the exploited and under-privileged in society. It aims to do business but not business which is motivated by the greed for profit and the eagerness to destroy all rivals. Co-operation in the final instance stands for good business plus noble enterprise. It seeks to combine in itself the incentives of capitalism and the welfare motives of socialism. The Co-operative Movement therefore is a democratic movement, governed and controlled by responsible individuals who seek to discharge their duties in an honourable manner to the exploited and under-privileged who form the rank and file of the Movement. It is true that there have been black sheep in the Movement. Managers have been convicted for major offences, such as misappropriation of large sums of money entrusted to their custody by the unsuspecting members of the various societies. Minor employees too have been caught for pilfering and petty thieving. But any society is always bound to have its quota of derelicts and miserables. The Co-operative Movement too has had to suffer from the depredation of such unscrupulous individuals. Greater vigilance is therefore all the more necessary in the realm of Co-operation. Members must not be apathetic and indifferent to what is happening in their local co-op or production and marketing society. They must take a keen and active interest in the co-op politics of their village or town. It is essential that every individual who is a member of a co-operative society should participate in the deliberations and discussions of the

local organisation. If he is dissatisfied with the management, he must make known his discontent. He should call for statements of accounts, raise questions and ask for explanations whenever he thinks that the affairs of the society are not being managed in an honest and efficient manner. Apathy and indifference will lead to dishonesty and as a result of dishonest practices, it is not the Government that suffers but the members of the local society. The rules of every co-operative society, however, fortunately compel members to pay attention to the business side of their local organisation. For, in the long run, it is the members who will suffer, as for instance if a member in a credit society fails to fulfil his obligations on the due dates it is the other members who will have to make good the money due and not the one guilty of the offence, even if he were apprehended and convicted in a court of law. Co-operation is thus an education in democracy and responsible citizenship. It teaches individuals to be vigilant and active. It instils in them a sense of civic consciousness. It promotes a desire for developing friendly and intimate relations between the members of a local organisation. Above all, it seeks to improve the economic condition of the fallen in society. To this extent Co-operation is a training in democracy and in the first principles of political behaviour.

It has been stated that every co-operative society compels some form of attention on the part of its members. This will be realised if one studied the organisation and functions of co-operative associations. A well-known writer has stated that a co-operative society is "an association for the purposes of joint trading, originating among the weak and conducted always in an unselfish spirit, on such terms that all who are prepared to assume the duties of membership share in its rewards, in proportion to the degree in which they make use of their association." The Movement is therefore essentially an organisation of weak people. They must therefore always be on the alert to defend their interests against the rapacity of money-lenders and the exploitation of blackmarketeers and petty traders. They can only earn rewards by joint action. They must therefore make use of their association to further common objectives. Individual effort and unenlightened self-interest is therefore of no value nor does it serve any purpose in a movement which seeks to maximise co-operative endeavour in order to achieve major objectives. The co-operative banks and credit societies for instance seek to provide individual producers with money on very reasonable terms. Credit is given not on a security of land or jewellery but on the personal honesty of the borrower. He is expected to invest the money on productive effort. He must try to obtain a return on his investment as early as possible and repay the loan to his society—so that the latter can make this money available to others who are in need of funds for similar purposes. The borrower must therefore be inspired by unselfish motives. He must not only seek to better

his own position but also help others to improve their lot by discharging his obligations in the quickest manner possible. A friend of his who is a member of the same society would have helped him to obtain his loan by acting as guarantor for him. He will not therefore attempt to deliberately evade his obligations, for, in the process, he will be letting down a friend. He will also run the risk of forfeiting the friendship of his fellow members on the local society. He may thus find himself boycotted and ostracised by the best and most trustworthy elements in his village or town if he deliberately seeks to evade his obligations. His immediate aim will hence be to discharge his responsibilities. The situation is the same with the members of an Agricultural Production and Sale Society. Here too the State or the local co-operative bank acts as lender. The borrower's crop will be his security but there is nothing to prevent him from defrauding his creditor. He can turn the money he obtains to unproductive purposes by gambling it away or spending it on drink or wasteful luxuries. He can sell the agricultural implements that the State loans out to him, but in all normal circumstances, he will not try to abuse the trust and confidence placed in him. For, in the first place, he will lose the land given to him by the State for the purpose of cultivating it. Besides, he will be tarnishing the good name of the society to which he belongs. He will thus incur the displeasure of his friends, acquaintances and fellow cultivators. He will not be wanted in his society and might find himself a lone man in the colonisation area to which he has come to make his future. A desire to maintain his personal integrity and to preserve the good name of his co-operative society will therefore persuade him to the conclusion that honesty will in the long run be the best policy for him.

The case of the consumers' co-operative society is just the same. The members of this type of organisation know and realise that they can hope to get the best services only by ensuring that their local store functions in an efficient manner. Every member will thus be keen to see that funds are not misappropriated, that the best men are elected to the committee and that the management discharges its responsibilities in a manner which will win the approval of all. The management and the administrative staff will try to remain honest and efficient for otherwise they might lose the custom of members who might migrate to a neighbouring co-op or look for a better shopkeeper from among the petty traders in the village or town. A motive of self-interest will thus at least help the staff of a co-operative store to be at their best. The members too will be alive to all that is happening in the store and will pay attention to the activities of the committee in order that they might obtain the best services. The whole organisation is therefore a co-operative endeavour as is the case in the other types of co-operative organisations. Neglect of duty on the part of members will result in the

ruin of their organisation. They will run the risk of being ostracised by co-operative banks and the Government in any future scheme of co-operative endeavour that any one or group of them might participate in. They will therefore strive to contribute their best judgment to the management of their local society. This indeed will act as an excellent training in the principles of good citizenship. The Co-operative Movement is hence a movement towards democracy. It seeks to educate society in the principles of responsible behaviour and it strives to make good citizens of all its members.

The History and Growth of the Co-operative Movement in Ceylon

The Co-operative Movement in Ceylon may be said to have had its beginnings in the year 1912 which witnessed the passing of the Co-operative Societies Ordinance. This was indeed the first piece of legislation which had anything to do with co-operative organisation in this Island. It was aimed at regulating the constitution of the type of organisation known as the credit society. Co-operation at this time, in its early phase, was administered direct from the Government Secretariat, through the Department of Agriculture. Later, it was placed under a separate Department of Co-operation and continued to be so till 1931, when with the introduction of the Donoughmore Reforms, Co-operation came to be one of the subjects placed under the charge of the Ministry of Agriculture and Lands.

In its early phase, that is during the period from its beginning to the inauguration of the Donoughmore Constitution, the Movement made very little headway and was mainly confined to the supply of credit to the rural economy. During the period 1913—14, there were only 37 societies with a membership of 1820. The number of credit societies continued to increase but only at a very slow pace. Non-credit Societies however did not receive any attention till the enactment of a second ordinance in 1921. In 1921—22, there were 169 societies with a membership of 19,957. The working capital of the Movement in 1932—33 which marked the end of the 'early phase' was only Rs. 21 lakhs. The number of societies had increased to 779 and membership stood at 26,719. The credit society continued to dominate the co-operative scene but there were also a few other organisations like those of the thrift, marketing and production, joint farming, and stores types. These latter types however made very meagre progress.

The period 1912—1933 was, however, essentially a pure colonial era and the administrators took very little interest to instil any life into the Movement. The societies were merely registered and supervised. No mass propaganda meetings or publicity drives were organised to instil the co-operative idea into the minds of the people. There were no colonisation schemes in the dry zone area for the

development of the agricultural production and sale society. The Government took very little interest and was not even a patron of the Movement. There might have been a few active and energetic Registrars who were anxious to promote the co-operative idea but they could do nothing without any response from the people or participation in the Movement by the Colonial Government. The Wannu and the dry zone was as yet like the trapped elephant in John Still's 'Jungle Tide', still ineffectively, "trumpeting its vast sorrow to the stars". Malaria was the greatest obstacle.

The second phase of the Movement begins with the introduction of universal franchise and the inauguration of the Donoughmore Constitution. From a pure colonial era, we had come into the stage of the semi-colonial era. The people of the soil were given some form of control over the Government of their country. Co-operation was placed under the control of the Minister of Agriculture and Lands. That Minister* saw in the rural credit society an excellent instrument for the implementation of his agricultural and colonisation schemes which were aimed at making this Island self-sufficient in the sphere of food. He gave the Movement a 'new look'. A Co-operative Ordinance was enacted in 1936. It sought to remedy the defects and shortcomings of the Ordinances of 1912 and 1921. It provided for quick arbitration proceedings in the matter of settling disputes in co-operative societies. It also sought to place co-operative loans under a very privileged position. The aim was to enable the agriculturist and the colonist to obtain facilities for carrying out cultivation in the new colonisation schemes that the Minister was opening up in the dry zone areas.

Still, however, very little progress was made. Malaria continued to be the scourge of the dry zone. It had very few attractions to offer to the enterprising pioneer. But this second phase served as a period for laying the ground work for the great and spectacular achievement of the third phase. Without the pioneering zeal of the Minister, in his schemes for clearing up the jungles of the Wannu and making the land available to the cultivator, we would not have witnessed the great strides made in the co-operative scene from the year 1942 onwards. Progress, it is true was very slow. But it kept a steady pace. In 1942, which saw the end of the second phase, only seven per cent. of the population had some form of interest in the Co-operative Movement. At the end of 1941-42 the total working capital was only Rs. 70 lakhs. There were 2036 societies and the membership stood at 91,988. But there was no apex credit institution like a Co-operative Federal Bank and there were only four Co-operative Provincial Banks. Out of the 2036 societies, 1622 were credit societies. The thrift societies, marketing and production societies, the consumers' co-operative societies, the unions and

*The Hon. Mr. D. S. Senanayake as he was then known.

federations were still in their embryonic stages of development. There was not even a properly organised School of Co-operative Education. Yet, with all these shortcomings, it is important to note that it was during this period, 1932—42, that the groundwork and foundations for the spectacular achievements from 1942 onwards were laid by the energetic and zealous officials of the Co-operative Department. The dry zone had been opened up. Malaria had ceased to be a scourge. The pioneer cultivators had just begun to settle down in the Wannu and the neighbouring dry zone areas when Japan entered the Second World War.

The third phase, the period from 1942 onwards, witnessed a revolution in the Co-operative Movement of this country. Up to 1942, the Movement had closely followed the Indian pattern. The stress was on credit and the advance made in other fields of co-operative organisation was hardly worth mentioning. In the sphere of agricultural production and sales, the Jaffna-Malayalam Tobacco Sale Society had set the way, ever since its inauguration in 1934, but very few others were willing to follow its example. In fact whatever progress was achieved in Co-operation was achieved mainly in the North—for the people in that area were shrewd and intelligent enough to anticipate the benefits of co-operative action. The people of the other areas were still in a state of slumber. It needed a war and a general scarcity of foodstuffs to rouse them up from their lotus-eating dreams. The entry of Japan into the Second World War tolled the death knell of the small boutique keeper and the petty Indian trader. The latter fled in terror after the Japanese raids on Colombo and Trincomalee. The former resorted to blackmarketing activities thus causing grave hardship and considerable inconvenience to the community. The State had to step in with a system of controls. The fall of Burma and Thailand caused a general scarcity in rice and the shortage in shipping space made it almost impossible for this country to even obtain its food supplies and currystuffs from the restricted sources now available. The only alternative was to increase local production. "Grow More Food Campaigns" were organised and the Government offered attractive prices and inducements to the cultivator and also launched an "Internal Purchase Scheme" for the purpose of buying off his entire grain supplies no sooner he had reaped his harvest. In order to help the cultivator to obtain his agricultural implements, his seed paddy, manure, etc., and to provide him with the finance necessary to keep him alive till the harvest was ready, co-operative associations of the type known as the Agricultural Production and Sale Society were organised throughout the rice producing areas of the Island. To save the community from the rapacity of the blackmarketeer and to fill in the vacuum caused by the virtual disappearance of the petty Indian trader, consumers' co-operative societies were organised throughout the island. The consumers' co-operative stores became

the instruments for the distribution to foodstuffs of the community, and the fact that they offered goods at reasonable and controlled prices to the community made the latter give up the boutique-keeper and fix their faith and loyalty on the local co-op. store. In both sectors—in the field of agricultural production and marketing and the distribution of consumption goods—the Government acted as patron and gave all its support to the Movement but the Movement as such would never have turned out to be a success if not for the spontaneous enthusiasm shown by the people by their participation in the Co-operative Movement in large numbers.

The astounding progress made in the field of Co-operation can be seen by an examination of the statistics of co-operation after 1942. Till 1941—42, that is till the end of the second phase, almost eighty per cent. of the Movement was confined to the credit society type of co-operative organisation and only about seven per cent. of the population had been touched by the Movement. At about the same time, there were only about 38 societies of the consumers' co-operative store type and these were mainly confined to estates. By 1946—47 however, a great and astounding change had taken place. There were now 3961 co-op stores serving nearly two-thirds of the entire population in the Island. The progress made in the field of agricultural production and marketing was equally astounding. There were only 26 societies of this type with a membership of 8964 in 1947. By 1952 there were 339 of these societies with a total membership of over 82,000. These societies have helped to rehabilitate the small holder of coconut land and the peasant cultivator. They have saved these people from the grip of money-lenders, helped them with money and implements to cultivate their lands and increase production, and, in a general way assisted in increasing the wealth and prosperity of this country. These societies have also become the main instruments of Government's agricultural policy and it is through them that the Government hopes to realise its ideal of achieving self-sufficiency in the area of food supplies.

It was also during the years after 1942 that the organisational set-up of the Movement received completion. In the financial sphere each of the nine provinces was now served by a Co-operative Provincial Bank, whereas up to 1942, there were only four such banks. These banks serve the useful purpose of pumping credit into the rural economy. That is, they provide loans to the various co-operative credit societies and the agricultural production and sale societies. These in turn supply the peasant cultivator with his financial requirements. The apex bank of the Movement, namely, the Central Bank of the entire co-operative financial organisation was established under the Federal Bank of Ceylon Limited (Financial Aid) Ordinance, No. 39 of 1947 and commenced operations in February 1949. It received an interest-free deposit of Rs. 2 million

from the Government for a period of five years. Its main function is to regulate the financial policy of the Co-operative Movement and to grant loans to the Co-operative Provincial Banks.

On the consumer side, the Co-operative Wholesale Establishment was inaugurated in January 1943 as a Department of the Registrar of Co-operative Societies and continued as such till April 1945 when it was transferred to the care of the Department of Co-operative Development. This state of affairs continued till 1949, when by the Co-operative Wholesale Establishment Act of that year, the management of the organisation was transferred to an autonomous Board of Directors. The C. W. E. operates through the medium of central depots which it has established in each Province and also through the various Co-operative Wholesale Stores Unions. It is the largest distributor of essential foodstuffs and textiles in the country today.

On the administrative side, a new department, called the Department of the Commissioner of Co-operative Development was created in 1945. Its function is to be in charge of "the general planning and direction of the Movement as well as of any special undertakings of an extraordinary nature, such as the Co-operative Wholesale Establishment." This was because it was felt that the Department of the Registrar of Co-operative Societies was too busy with its duties of supervision and audit, Co-operative education and propaganda, and the organisation of new societies. The new Department was created in order to deal with the sudden and vast expansion of Co-operative activities. It might perhaps cease to function when it completes its main task of placing the entire Movement on a footing of complete autonomy from all forms of Government control or intervention. The importance of the Co-operative Movement received recognition when a separate portfolio for Food and Co-operative Undertakings was created with the appointment of the first Cabinet under the new Constitution in 1947. However, when the Cabinet was re-organised after the General Election of 1952 under the premiership of Mr. Dudley Senanayake, Co-operation was transferred to the Ministry of Agriculture and Food.

In the educational sphere, it is important to note that for the first time, a properly established School of Co-operation was started at Polgolla in 1943. Its main purpose was to train Co-operative personnel recruited by the Department and also to offer instruction to employees of Co-operative Societies and those of the general public interested in the subject of Co-operation. This was also the period of Co-operative Drives and Congresses aimed at making the people Co-operative conscious and educating them in the theory and practice of Co-operation. There was a great deal of public enthusiasm manifested during these publicity Drives such as was never seen or noticed in the earlier phases of the history of Co-operation in this country.

The Administrative Organisation of Co-operative Societies

Reference has already been made to the fact that a new department called the Department of the Commissioner of Co-operative Development was created in 1945. The function of this Department is to be in charge of "the general planning and direction of the Movement as well as of any special undertakings of an extraordinary nature, such as the Co-operative Wholesale Establishment." The Department of the Registrar of Co-operative Societies on the other hand performs the duties of supervision and audit, Co-operative education and propaganda, the organisation of new societies and the burial of others when dead. It also performs the legal function of adjudicating upon disputes and is generally interested in investigating the economic problems of the people with a view to finding a solution to these problems in Co-operation. The Commissioner of Co-operative Development acts as general planner of the entire Movement. As such, the Department of the Registrar of Co-operative Societies comes under his purview and he exercises a supervisory control over this Department.

The Department of the Registrar is organised on a provincial basis with general powers of supervision and audit exercised by the centre. There is an Assistant Registrar in charge of each Province who is assisted by an Additional Assistant Registrar if the societies in the Province exceed a certain number. The Additional Assistant Registrars are gradually being placed in charge of defined districts within each Province. The Provinces have further been delimited into areas called "Circles" and each of these have been placed in charge of an Inspector who is directly responsible to the Assistant Registrar. An Inspector is assisted by a number of Sub-Inspectors. The Sub-Inspectors in turn constitute a "Circle" scheme of their own within the Inspectors' Circles. Each Sub-Inspector is in charge of all the Societies in his area.

The administrative side in the provinces was relieved of its duties of audit and supervision by the creation of a centralized Head Office Audit Section in 1948. A Senior Assistant Registrar is in charge of this Section. Special attention is paid to the larger societies and central control is exercised over all audit work throughout the Divisions which are placed in charge of supervisory Sub-Inspectors.

A Statistical Section also exists with an Assistant Registrar (Statistics) in charge. He is assisted by an Inspector and Sub-Inspectors. This section analyses the Statistics of Co-operatives, indicates shortcomings in the Movement, observes development and helps in guiding the course of the Movement.

There exists further a Propaganda Division under an Assistant Registrar (Propaganda) with an Inspector and Sub-Inspectors to

assist him. This section has a Photographic and Film Unit with a trained technician to organise propaganda and publicity Drives on behalf of the Movement.

The Department of the Commissioner of Co-operative Development consists of a Commissioner, a Deputy Commissioner, a Chief Accountant and Assistant Accountants. The function of this Department is, as already pointed out, to plan the course of the Movement and exercise supervisory control over the Department of the Registrar.

TYPES OF CO-OPERATION

The Co-operative Credit Society of Unlimited Liability

This type of society usually serves an area of not more than one square mile. In most cases it is a village. The Society should have a minimum membership of ten. Membership however varies from ten to hundred. It is however essential that the society should not have too many members. The members should know each other well enough so that when it comes to granting loans to any one of their number there will be little difficulty in determining whether the applicant for the loan is reliable or dishonest and whether he would be capable of repaying the loan within the stipulated time. If membership is too large, the clerical work too becomes heavy for the unpaid officers.

A society is formed by a group of honest men, intimately known to each other and anxious to obtain credit in order to improve their economic position. This group will inform the Co-operative Department of its intentions and the latter will send an officer to explain to the members the meaning and purpose of Co-operation, the rules by which the society should be guided and how it should be formed. The group then proceeds to select a committee and the office-bearers. An application is made to the Registrar of Co-operative Societies to have the society registered. The application should be accompanied with two copies of the by-laws which the society proposes to adopt. Models of such by-laws can be obtained from the co-operative officer and these models can be modified to suit the requirements of the society. Registration is granted in all normal circumstances.

The purpose for which the society has been formed is that it may act as a suitable instrument for improving the conditions of the village cultivator. The latter is usually in need of money for such productive purposes as cultivations, buying cattle, purchase of land or the improvement or lease of land, trade, building of houses and for buying carts, agricultural implements, food or paying for medical aid. He may also need money for unproductive purposes

as for instance payment of odd debts, for ceremonials like a wedding, almsgiving etc. A society however usually issues loans for productive purposes only. Each loan is granted for a particular purpose. The terms of repayment are fixed according to the individual capacity of the borrower—that is to say, the rates of interest, the number of instalments, the period within which the loan should be returned, depends on the ability of the borrower and the rapidity with which he can recover a return from the money which he proposes to invest on his land or for any other purpose. The members of the society should be usually men of moderate means. Rich folk or government servants are not normally encouraged to become members because these people by virtue of their superior position and wealth may dominate the committee and compel it to grant them their applications for loans without permitting members the liberty or opportunity to criticise such applications. This would rob the society of its democratic and co-operative character.

A society has to obtain money to lend to its members. This money is not difficult to obtain but it must be obtained according to certain rules of procedure. Members have first to pledge their unlimited liability for the debts that may be incurred by the society. Unlimited liability means that every member is jointly and severally responsible, without limit, for the money borrowed by the society in the form of loans or deposits. This means, that, if at any time the society is not in a position to pay off the monies which various persons may have deposited with it on favourable terms of interest, or monies which it may have borrowed from Government, or from a Co-operative Central Bank, then the members become personally responsible for the payment of such monies. Every member must be prepared to even sell his property if the society cannot pay off its debts from its assets. Its assets will normally consist of (i) the profits which it has accumulated from lending money at interest to its members, (ii) the savings of members, (iii) deposits in the society belonging to members who have lent money to it to be advanced to the poorer members at suitable rates of interest and (iv) money realised by the sale of shares to members. It is from these sources, in addition to the loans which the Government or a Co-operative Central Bank may advance, that a society gets its funds to lend to its borrowers. All these monies are in the charge of an elected official called the Treasurer. Members however become personally liable only when the society goes into liquidation. This takes place when the society fails to meet its obligations on the due debts. A creditor can then apply to the Registrar for an inspection under Section 35 (2) of Ordinance No. 16 of 1936. The Registrar can after inspection put the society in liquidation. When a society is liquidated, the agent of the Registrar collects all the assets of the society and only if these are not sufficient to meet the claims of creditors that unlimited liability is enforced. To meet the deficiency, the agent will

call for contributions from (a) members (b) past members and (c) the estates of deceased members. The liability of past and deceased members however ceases on the expiry of two years from the date on which they ceased to be members. They are further not liable for that part of the debts incurred by the society after they resigned from it. In the event of members refusing to pay, the agent can compel payment by taking up the matter in a court of law. Liquidation of a society is however a last measure. In normal circumstances, the members will see to it, at least in their own interest that debtors are prompt in the payment of their loans.

An application for a loan comes up for consideration before the Committee elected by the general meeting of the society. It is the committee which decides whether the loan is to be granted or not. The applicant must have two members who will guarantee that he will repay the loan within the stipulated time limit. This is all the security that is required. Neither property nor jewellery is taken as security, for in the case of the former, the society will be compelled to sell the property if the debtor defaults, and this is not the intention of the society, while in the case of jewellery, the society has no place to keep the jewellery nor will there be any qualified person to value the jewellery. The guarantors therefore secure the loan. They will see that the borrower uses the loan for the purposes for which it was taken and they will take steps to see that the debtor repays his debts on the due dates. If the debtor fails to repay the loan there is a danger that the guarantors may be called to pay on his behalf.

The general meeting of the society decides the limit up to which the Committee may lend to each member and the amount up to which it may borrow on behalf of the society. The committee then applies for a loan on behalf of the society. The general meeting exercises complete control over the affairs of the society. If a member feels that the committee is not performing its functions satisfactorily, he can summon a general meeting, move a vote of no confidence on the committee and if this is successful, have a new committee elected in place of the old one. The general meeting can also expel a dishonest member by a two-thirds majority at which not less than half the members are present and vote. If a member however finds that he is being deliberately obstructed by a dishonest minority, he can get three-fourths of the members to apply to the Registrar to have registration of the society cancelled. If he fails in this, he can, as a last resort, resign from the society. It should however be noted that the Registrar does not exercise supreme authority over a society as is commonly supposed. The Registrar only intervenes at the margin. He decides whether to grant registration. He has power to audit the accounts and to liquidate a society. But these functions are generally exercised as a last resort. The actual working of the society is left in the hands of

the general meeting and the committee. The Registrar can tender advice, give warning, and encourage where necessary but he has no right to command or order a society to do as he wishes.

Credit Societies of Limited Liability

While credit societies of unlimited liability are common to the rural areas, those of limited liability are urban or semi-urban in character. The members of societies of this type are not so intimately known to one another as their counterparts in the villages where the credit society of the unlimited liability type prevails. This explains why the liability of each member is limited. A society of this type is formed on similar lines as that of the unlimited liability type but members are not required to know each other so well. These societies generally seek to meet the needs of the small trader and the boutique-keeper and most of the loans given to members are for trade purposes. The loans are usually issued on a cash-credit basis. Under this system the borrower pays interest only on the outstanding balances, *i.e.*, the amounts left over as he pays every instalment, and not on the full sum borrowed. As a result the funds of the society are not blocked for long periods and there is money always available to be lent out on suitable rates of interest. The Registrar of Co-operative Societies remarked in his Administration Report for the period 1948—50 that "there is little scope for these limited liability societies, but they serve a purpose in urban areas, where lack of mutual knowledge makes the principle of unlimited liability unacceptable. All the same their steady survival and satisfactory working seem to show that they provide a necessary boon by making loans on personal security available at low rates of interest for various urban undertakings."

Co-operative Banks

Mention has been made in the above section that credit societies receive a greater part of their finances from the Co-operative Banks. Membership in these banks is open to individuals as well as to co-operative societies. The general tendency is however to encourage the societies. Individuals are tolerated, if at all, in order to give them some form of guidance in the management and organisation of a credit institution like a bank. Each of the Provinces has a bank of its own. These banks obtain their funds in the form of (a) Deposits from individuals, from Co-operative institutions, from Government and others and (b) Loans from the Co-operative Federal Bank of Ceylon Limited and from other sources. They grant loans and cash credits to Co-operative societies of the consumer, marketing and credit types. Those situated in the heavy agricultural areas are employed as bankers or agents by the Director of Land Development for the purpose of financing Co-operative Agricultural Production and Sale Societies. The loans to Co-operative Societies are granted on the recommendation of the

Registrar. The bank does not normally send its representative to inquire into the state of affairs of a society except in rare circumstances. The sense of joint liability on the part of the societies is regarded as a sufficient guarantee. All these banks have adopted the cheque system and this innovation has considerably minimized the danger of losses of money in member societies. The surplus funds and profits of these banks are invested in Government loans, Post Office Savings and Ceylon Savings Banks, Bank of Ceylon Shares and State Mortgage Bank debentures, shares in co-operative institutions and fixed deposits with other banks.

The Co-operative Federal Bank of Ceylon Limited

This is the apex bank of the Movement. Its function is (i) to regulate the financial policy of the Co-operative Movement, (ii) to act as a central agency for co-ordinating and controlling the finances of the societies, (iii) to grant loans to the Provincial Banks and (iv) to act as a balancing centre for the surplus funds of the provincial banks. The Bank received an initial deposit of two million rupees free of interest from the Government for a period of five years subject to the condition that the hypothetical interest of one and a half per cent should be credited to the Reserve Fund of the Bank. This interest-free period may be extended by the Government. The Bank can also obtain a further sum of money from the Government but it will have to pay interest for any of such additional sums borrowed. The Chairman of the Board of Directors of the Bank has to be nominated by the Minister who is in charge of Co-operative undertakings as long as there is the deposit of the Government with the Bank. The Bank commenced operations in February 1949 and has been classified as a commercial bank under the Monetary Act. An important advantage that will accrue to it as a result of this classification is that it will not have to pay any interest on current accounts which it might have otherwise had to do in order to attract customers.

The Agricultural Production and Sale Societies

As recently as 1940, the Registrar of Co-operative Societies was so pessimistic about this type of organisation that he had written in his annual report that "in Ceylon unlike in Denmark, co-operative marketing was brought under state pressure—and failures exceeded successes." In 1939—40, just at the beginning of the Second World War, there were only about eighteen societies for both marketing and production. Except for the Jaffna Malayalam Tobacco Sale Society, the majority of the other societies were in a state of inactivity. The war however gave an unexpected impetus to the Movement—especially when the need for increased local production of food became imperative with the entry of Japan, the fall of

the major rice producing countries of Thailand and Burma into the hands of the Japanese and the general shortage in shipping space and the consequent scarcity of rice and foodstuffs. The increase in the number of societies was remarkable. There were only eighteen in 1939. In 1944-45, there were as many as one hundred and sixty and in October 1950, the number had exceeded three hundred and ten. The main reason for this rapid advance was that the Government had stepped in to assist the cultivators. To meet the emergency, the Government formulated several schemes for increasing local production of food and currystuffs and the production and sale societies were utilised as the organs of action. The paddy sale societies were made the sole agents of Government for the purchase of paddy under the Paddy and Grain Purchase Scheme of the Department of Food Purchase and Supply. Other produce and sale societies in the North were employed as agents by the Marketing Department for the purchase of onions and chillies. The Fisheries Department organised fishing societies with the assistance of the Co-operative Department and the Ceylon Coconut Board made an all out effort to encourage the formation of cocount sale societies. Government gave every form of assistance ranging from loans to agricultural implements. The Movement has turned out to be such a mighty success that many of the societies are wealthy enough today to even possess their own motor transport. "Co-operation", wrote an energetic Registrar in 1950, "at long last seems to be bringing a new hope and life to the Dry Zone areas of the Wannu which for centuries now had been like the trapped elephant in John Still's Jungle Tide, and as ineffectively, 'trumpeting its vast sorrow to the stars'".

These societies are the means of preventing the peasant from getting into debt. Before their advent the condition of the Ceylon peasant was like his Indian counterpart, one of being "born into debt, living in debt and dying in debt." The Credit Society of the unlimited type could do very little to improve his condition. It helped the peasant to temporarily tide over the crisis but at the end of the harvest he was almost always where he had begun. Government-organised assistance through the medium of the Production and Sale Society however, helped a great deal in alleviating the distress of the miserable, debt-ridden peasant.

The procedure adopted by the Government was to grant adequate loans to the peasant to help him to meet all expenses necessary for the cultivation of his plot of land. This was done by co-ordinating the work of three Departments and of a number of official and unofficial bodies. The District Agricultural Committee which consists of the civil servant in charge of the District, the local Members of Parliament and a number of representatives of the Departments of Agriculture and Irrigation, calls for, in advance of the cultivation season, an estimate of the expenditure needed for

the cultivation operations. The estimates are prepared, on behalf of the Societies, by the local subordinates of the departments concerned. These are then considered and approved by the District Agricultural Committee and a recommendation is made through the Registrar of Co-operative Societies for a loan from the Director of Land Development who is in charge of the funds. If the Director grants approval, the money is released through the Co-operative Provincial Bank on cash credit basis—that is, repayment is made as speedily as possible, no sooner the cultivator begins to reap the harvest. To guard against the intervention of middlemen who collect the harvests from the poor cultivator who at times are not even patient to wait till the corn has been reaped, the Government grants marketing loans in cash, with the ripening grain as security. After the harvest, the cultivator is paid the market price for his produce after the advances made to him have been deducted. The Government assists the larger Agricultural Production and Sale Societies in their secretarial work by providing them with administrative secretaries who are trained Food Production Overseers. Some of the larger societies have done so well that they have godown accommodation of their own while others are provided with loans from the Director of Land Development for erection of such stores at the low interest rate of two per cent.

These societies by acting as instruments of Government agricultural policy have helped a great deal in bringing a greater acreage under food production, introducing scientific and economic methods of cultivation, reducing the chronic indebtedness of the peasant, providing the peasant with loans in the form of agricultural implements to cultivate the soil and with cash loans to meet his living expenses till he reaps in the harvest, eliminating the trader middlemen who exploited the ignorance and poverty of the cultivator by granting loans to him at exorbitant rates of interest and buying off his harvest even before he had reaped it at a very much lower price than the prevailing market price and constructing building and storage accommodation for the purpose of storing the harvest of the cultivators till they obtain favourable prices for their produce.

At this stage, it will be interesting to examine the record of some of the more successful Agricultural Production and Sale Societies in this country. The Jaffna Malayalam Tobacco Sale Society is the oldest Co-operative Marketing organisation in Ceylon. It was founded in 1934 in order to save the tobacco cultivator from the rapacious exploitation of trader middlemen and money lenders. The society started with only thirteen members but now the membership has increased to several hundreds. The society buys the tobacco from the producer at a fixed rate which is determined according to the prices prevailing in the market at Travancore. A fixed percentage of the market value of the tobacco is given as

an advance to the producer. The tobacco is then stacked, given salt water treatment, bundled, packed and shipped in schooners by the society for sale in the Travancore market. The proceeds of the sale are remitted to the society. The latter then deducts a commission for the expenses incurred by it, sets aside a fixed percentage of the net profits for its reserve fund and pays the balance to the members according to the value of the tobaccos they had supplied. The Government has assisted the society in providing it with a model processing house, subsidising the industry in its moments of crisis by guaranteeing prices, and helping it to obtain favourable prices in the Indian Market by negotiating a trade agreement with the Government of India.

The Northern Division Agricultural Producers' Co-operative Union, an amalgamation of the agricultural produce and sale societies in the North, was organised in 1942 and is an example of success reached in the field of marketing. The Union assists the producers to obtain favourable prices for their harvests. It distributes improved types of seeds which it receives from the Department of Agriculture to members. It has done well enough to have its own bulking machines and motor transport.

Among paddy societies, the Minneriya Society which was organised in 1940 has done extremely well. It helped the cultivators of the Minneriya Colonisation Scheme to obtain the best prices for their harvests. It acted as the buying agent of the Government during the period of the Internal Purchase Scheme. The Society did so well that in 1945, it was able to purchase a rice mill for Rs. 45,331 from the Marketing Department. It has done a great deal to improve the condition of the Minneriya peasant.

Coconut sale societies which collect, bulk, process and sell the produce of its members, too have done a great deal to improve the condition of the small holders who were, before the advent of these societies, the sad victims of merciless copra dealers and millers. The Ceylon Coconut Board helped in organising the small holders on co-operative lines and as a result contributed towards alleviating their distress. The societies were further organised into a union called the Coconut Producers' Co-operative Sales Union in 1942. It acts as the selling agent of the societies and has helped the latter to obtain favourable prices despite competition from other sources. Among the sales societies, the ones at Sandalankawa and Kurunegala have done extremely well. By 1950 these two had earned more than twice the capital value of their Mills and more than six times their entire share capital.

Co-operative dairies have not been much of a success in this country. The main reason is that they do not have large scale buyers who will purchase milk from them on a contract basis.

Private contractors generally outbid them in the hope of supplying adulterated milk. The only dairies worth mentioning are the Jaffna Co-operative Dairy and the Colombo Milk Union.

Other production and sale societies which have made some headway in their respective spheres are the Textile Handloom Weavers' Societies and Unions, the Mat Weavers' Societies, the Coir Workers' Societies, the Palmyrah and Basket Weavers' Societies, and several types of Cottage Industries Societies. These provide some form of employment and a source of income to the village women folk in this country. They are also a pointer to the clue for solving the problem of rural under-employment in this country.

Consumers' Co-operation

As in the field of marketing and production, the outlook for the Consumers' Co-operative Society seemed very bleak until the entry of Japan into the War in 1942. The boutique keeper and the small trader were powerful competitors. They were willing to supply goods to their customers on a credit basis while the consumers' co-op demanded ready cash for goods supplied. In 1941-42 there were only 52 of these Co-ops in the whole island and of these 38 were estate stores. With the entry of Japan into the War, the disappearance of the Indian trader and the boutique keeper turning black marketeer and resorting to profiteering devices, the Government sponsored 'Co-op Stores' (as the consumers' Co-operative society came to be known) began to grow increasingly popular till in 1946, the retail co-op stores reached the peak figure of 4034. Since then the numbers have dropped and in April 1951 they stood at 3430. Though the co-op stores were a product of the war emergency, they have been of assistance even in the years of hard peace. For they have helped in bringing down the cost of living by providing such unrationed commodities as coconuts, meat, fish, etc. at comparatively cheap rates. Whether the co-op system will persist when rice goes off the ration and when the Government ceases to have any interest in taking the responsibility for the distribution of essential commodities is a matter for conjecture. The greatest danger to the Movement is the petty trader who is always prepared to attract customers by providing them with credit facilities. The trader will also specialise in better methods of salesmanship. He might, in fact, be able to deliver certain goods at cheaper rates than the co-ops. The Co-op Movement is aware of these dangers. To combat the credit system, some co-ops, in fact have established a general link up with the local credit society and the agricultural production and sale society. These local organisations arrange to provide the co-op store with an advance on behalf of the customer and the latter can purchase his requirements against this advance. The credit society or the sale society will have its own plan to recover the advance made to the co-op, from the customer. Another

system adopted by some co-ops is to let dividends due to a customer accumulate. When these dividends have added up to a sufficient amount, the customer can make his purchases, on a credit basis, the accumulated dividends serving as the necessary advance against such purchases. As for better methods of salesmanship, the School of Co-operation has provided for lectures on this aspect of Co-operation and, it is hoped, that co-ops will avail themselves of these facilities and equip themselves to compete with the trader when the time comes. Competition from traders in the matter of providing cheaper goods to the consumer can be overcome by the retail co-ops organising Wholesale Stores, as they have already done, and arranging to obtain their requirements through these wholesale stores unions. The latter will, in view of the fact that they operate as large scale buyers, be in a position to obtain goods at reasonable discounts and cheaper rates, and pass on these benefits to the retail co-ops. The Co-operative Wholesale Establishment, which is in fact the apex of the whole co-op movement in the consumer sphere, is also in a position to provide the retail co-ops and the Wholesale Stores Unions with all their requirements at competitive rates so that the co-ops will be better equipped to outmanoeuvre the trader and the boutique keeper. Finally, it is hoped that the consumer will not easily forget his old loyalties when the situation returns to normal. The co-op helped the consumer in the days of emergency. Besides, the consumer has a sort of vested interest in the co-op. His share capital is buried in it. He has a share therefore in the ownership of the local co-op. He is thus, in a way, his own shopkeeper. He will share in the profits of his local co-op. He will be sure of what he gets and will not be duped by having inferior goods palmed off on him by a trader who is only motivated by the greed for profit. These factors, it is generally expected, will help the Co-op Movement to strive through the hard days of competition that lie ahead when conditions return to normal.

The Co-operative Wholesale Establishment

This is now the largest business establishment in Ceylon. Its total sales for the period May-October, 1950 amounted to Rs. 37 million. Its local purchase of foodstuffs, mainly rice, flour, and sugar amounted to over Rs. 15 million for the same period. This is sufficient evidence of the huge volume of business that it does. The establishment forms a sort of apex of a Consumer Movement which consists of some 4000 societies with a total turnover of Rs. 150 million and provides over two-thirds of the population of the Island with their essential requirements. It has helped a great deal in pegging down the cost of living. Its vast import of textiles from Japan during the past few years helped considerably to reduce the price of textiles in this country. The C. W. E. (as it is conveniently referred to) has also acted as a useful instrument of government

policy in assisting in the subsidised distribution of coconuts within Colombo and in acting as agent for the scheme to purchase red onions in the Jaffna peninsula at a guaranteed price.

The C. W. E. was inaugurated in January 1943 as a branch of the Department of the Registrar of Co-operative Societies and continued as such till April 1945 when it was transferred to the care of the newly created Department of Co-operative Development. It was during this period that it became the largest distributor of essential foodstuffs and textiles in this country. It operates through the medium of central depots which it has established in each Province and through the various Co-operative Wholesale Stores Unions. The ultimate aim of the Government however is to help the C. W. E. to establish itself as an independent concern. In the meantime the C. W. E. was transferred to an autonomous Board of Directors who would run it on a commercial basis without in any way being restricted by the red tape of government financial regulations. The Co-operative Wholesale Establishment Act of 1949 which came into operation in July 1950, provided for this transfer. Under this Act, the objects of the C. W. E. were defined as follows. —

- (a) to procure and supply the requirements of Co-operative Societies.
- (b) to carry on business as wholesale and retail dealers in goods of every description required by such societies, and
- (c) to carry on any such other trade or business, including any agricultural or industrial undertaking or the business of banking, shipping or insurance, as may be incidental or conducive to the attainment of these objects.

Under this Act, the Government also conferred the following benefits on the Establishment :—

- (i) The Board of Directors constituted under the Act were entrusted with the entire stock-in-trade and all other goods hitherto held by the C. W. E. on behalf of the Government. Half the value of this stock-in-trade was given free of charge while the other half was to be paid for within thirty years with interest at the rate of one and a half per cent per annum.
- (ii) Rs. 4 million was to be paid to the Board to enable the C. W. E. to start business on its own. A further sum of Rs. 1½ million was given as a loan to be repaid within thirty years with interest at 1½ per cent to enable the C. W. E. to construct its own buildings.
- (iii) A sum of Rs. 3 million was to be paid to the Board to form part of the General Reserve of the C. W. E.
- (iv) The Board is exempted from Profits Tax and Income Tax, Stamp Duty and Registration Fees.

Under the Act, affairs of the C. W. E. were vested under the control of a Board which consisted of a Chairman and a Deputy Chairman and a membership which was not to exceed ten or go below four. The quota of members was to be determined by the Permanent Secretary to the Ministry and the Board is expected to furnish the Minister with an annual statement of accounts of the C. W. E. to be laid before Parliament. The Minister has the right to give instructions to the Board in the public interest and to hold an inquiry into the working of the Board if he thinks this is necessary. All profits made by the C. W. E. will not be distributed but will go into its reserve or will be used for such purposes as may be determined by the Board with the sanction of the Minister. The ultimate aim however is to hand over the C. W. E. to the consumer societies to be run as the Co-operative Wholesale Society of Ceylon.

Provincial Unions

These are distinct from the functional unions such as the Credit Unions, the Wholesale Stores Unions and the Marketing Unions. They are Administrative Unions, which have been set up in each of the nine provinces. Their object is to take over the supervision and administration of all co-operative work within their respective areas. They will serve as the base for the future Co-operative Federation of Ceylon which will be the ultimate authority responsible for the administration and control of the entire Movement in Ceylon. These Unions are representative bodies and work through committees. They perform useful work in that they organise publicity drives, hold propaganda meetings, distribute literature on co-operation, organise co-operative societies of all types and revive and help the weaker societies.

Thrift Societies

The promotion of thrift is one of the chief objects of the Co-operative Movement. The Women's Societies outnumber the Men's in this sphere. The Public Servants' Societies form a poor second to the women's organisation but though their number is less their membership and savings are generally more than the membership and savings of all other societies put together. Thriftiness on the part of the public servants is however not due to any voluntary effort of their own—for a small sum is usually deducted from their pay sheet every month. It is a system of "thrift without tears" for the public servant is hardly aware of this deduction, when he receives his pay. However the purpose of these savings is destroyed as a result of the frequent applications for loans made by public servants to meet medical expenses from time to time or to help them to balance their family budgets.

Other Types

Among the other types of societies are the several school supply societies which act as agents of the authorities for the purpose of imparting co-operative training and propaganda to students. They also supply students with their requirements of text books and stationery at competitive rates. There are then the Co-operative hospitals, the best examples of which are the ones at Moolai and the Tellippalai Co-operative Vaidyasalai in the Jaffna peninsula and the Matara District Dispensary Society Ltd., in the Southern Province. Finally there are the various Co-operative transport societies. The Vadamardchy Transport Society, the Jaffna Islands Motor Boat Service and the highly successful Gal-oya society are examples of this type of venture.

Co-operative Education

A School of Co-operation was started at Polgolla in 1943 for the purpose of training co-operative personnel (i) in their work of advising and encouraging co-operation and (ii) auditing the accounts of the various societies in the country. The departmental staff are provided with a regular course of studies while the Managers and salesmen of societies too have been given some training in subjects like Salesmanship, Business Methods, Co-operative Book-keeping, the Co-operative Ordinance, Rules and By-laws and Consumers' Co-operation. The School has also organised a system of study circles and correspondence courses for the office bearers and employees of societies and for co-operators and the public in general. Co-operation has also been included as a subject of study in the curriculum of most schools.

CHAPTER VII

THE CONSTITUTIONAL EVOLUTION OF CEYLON

1796 to 1815

THE modern constitutional development of Ceylon may be regarded as having commenced with the British occupation of the Island in 1798 and more particularly with the cession of the Kandyan Provinces in 1815, in which year the whole Island came under the administration of the British.

The Maritime Provinces were ceded by the Dutch to the British on February 16, 1798. The government of the Island was at first carried on by the Madras authorities. This was because there was lack of certainty as to whether the Island would be handed over to the Dutch at the conclusion of hostilities. The first Governor of Ceylon was the Honourable Frederick North (later Earl of Guildford) who assumed duties on October 12, 1798. The Madras administration, however continued in that the Governor had to take orders in some matters from the East India Company officials. This dual control was ended in 1802 when under the terms of the Treaty of Amiens Ceylon became a Crown Colony.

Under the new dispensation, the Governor was advised by a Council consisting of the Commander-in-Chief, the Chief Justice, the Chief Secretary to the Government and two others. The Governor was, however, not bound to follow the advice of this Council though he would have had to proffer his reasons for his failure to do so to the Secretary of State for the Colonies. This state of affairs continued till the annexation of the Kandyan Kingdom in 1815. There was a suggestion for reforms in the twilight period 1805 to 1812. Sir Alexander Johnston, the Chief Justice was the main protagonist ; but his proposals were regarded as too far reaching and premature for a newly acquired country like Ceylon. They included such liberal measures as the establishment of a Legislative Council with members elected on a territorial basis, a locally recruited Civil Service and the extension of the Habeas-Corpus Act to Ceylon.

The Kandyan Convention

The next significant event in the constitutional evolution of Ceylon was the British occupation of the Kandyan Kingdom. An Act of Settlement was read at the Kandyan Convention of March 2, 1815. The more important provisions of this Act included a promise by the British Government to safeguard the interests of the Buddhist religion, to administer civil and criminal justice over the Kandyans according to the prevailing forms, and to permit the various chiefs

to exercise their rights and privileges in so far as they did not come into conflict with the new administration. The new acquisitions were placed under a Board which consisted of a British Resident, a Judicial Commissioner, a Revenue Commissioner and the Officer Commanding the troops with a Secretary for the Kandyan Provinces. This arrangement however proved to be a failure from the very start both from the point of view of administration and from an economic angle. The introduction of free trade between the maritime and hill country regions infuriated some of the chiefs who lost their revenue and perquisites. The influx of low-country headmen in palanquins—a mode of conveyance which in former times used to be the special privilege of the King of Kandy was looked upon with irritation by the chieftains of the hill country. These factors contributed to the outbreak of a major rebellion in 1817. The British Administration in the Kandyan Kingdom was reduced to sore straits and it was with some difficulty that order was restored.

The immediate result of this rebellion was a reform of the administration. The chiefs lost most of the powers that had been secured to them under the Convention. The Kandyan Provinces were placed under the immediate supervision of the Governor who was assisted by a Board of Commissioners.

The Colebrooke Commission

In 1829 William Colebrooke was appointed to conduct an investigation into the constitutional and administrative system of the Island. Colebrooke was inspired by a liberal attitude to politics and this led him to recommend a number of important changes in the administrative and constitutional set-up of the country. We are here only interested in the constitutional aspects of the reforms Colebrooke advocated.

He recommended, firstly, the unification of the Kandyan and Maritime Provinces on the ground that separation benefited only a minority of chiefs. More important, however, was his proposal to establish an Executive and a Legislative Council. The Executive Council was to consist of a few officials who were to assist the Governor in matters of administration and revenue. The Legislative Council was to be a sort of representative body consisting of nine official members and six unofficial members—all of whom were to be nominated by the Governor. The responsibility of the latter body was to see that there was sufficient discussion on all public matters before any decision was arrived at by the Government. The unfortunate feature in this new setup was that election was completely ruled out; the system of nomination would result in the appointment of the Governor's men; even if the unofficials turned out to be hostile to the Government, the latter would be assured of a safe majority as a result of the presence of the nine officials. Yet, in

spite of all these defects, it is true to say that the Colebrooke reforms established in Ceylon the beginnings of representative government. With the establishment of an independent press and the spread of education, along with the increasing participation of Ceylonese in commerce and trade, there developed an insistent demand for further reforms. Concessions were made by the colonial authorities from time to time, But the pattern remained practically the same.

The Reforms of 1910

As a result of persistent agitation a substantial measure of reforms was granted in 1910. The Legislative Council was remodelled so as to comprise twenty-one members, *i.e.* eleven officials and ten unofficials. Of the ten unofficials, four were to be elected while the remaining six were to be nominated to represent the various communities, not according to the relative population strengths but on a rather arbitrary basis. However an important advance had been made in that the unofficial majority was reduced to one. Yet the principle of nomination tended to minimize the prospect of any serious embarrassment to the Government while at the same time the European community which had hitherto been in the vanguard of the Reform Movement began to gradually drop out of the picture. A start had however been made in the introduction of the elective principle and this led the educated middle class to demand for further reform, especially reform in the progressive direction of full responsible government.

Reforms of 1920 and 1924

The next stage was the reforms of 1920 and 1924. The war, the riots and the formation of a nationalist Ceylonese organisation called the Ceylon National Congress contributed towards the decision of the British Government to grant a fresh instalment of reforms. In 1920 the Secretary of State for the Colonies secured the reconstitution of the Legislative Council. For the first time there was to be an unofficial majority. In a Council of thirty-seven members, there were twenty-three unofficials, eleven of whom were to be elected on a territorial basis, and five to represent special constituencies. In addition, the Executive Council was to have in it for the first time three unofficials. But the Governor yet continued to wield immense powers. He had the emergency power to declare that a measure was of paramount importance and to carry it through with the votes of the unofficial members. He had the further important right of stopping the proceedings of the Council.

There was however much dissatisfaction with these reforms. Hence, in 1924, a few changes of a minor nature were effected. The Legislative Council was reconstituted so as to consist of twelve official members and thirty-four elected members, twenty-three of whom were to represent territorial constituencies. Communal

representation continued in that six members were to be elected to represent the Europeans, the Burghers and the Western Province Tamil interests while five were to be nominated to represent Muslim and Indian interests. The Governor retained the important power of declaring any measure of paramount importance. In such an event only the votes of the ex-officio members and the nominated officials would be taken into consideration. The Executive Council was also broadened so as to include four unofficials. These reforms did not work satisfactorily chiefly for the reason that the Executive Council was paralysed by the control which the Legislative Council exercised over finance. The members of the Legislative Council, denied of responsibility, tended to act in a manner which proved embarrassing to the Government.

The Donoughmore Constitution

The defects of the existing Constitution led the Governor of the time, Sir Hugh Clifford to recommend the appointment of a special commission to investigate into the working of the Constitution and to consider the feasibility of introducing any worthwhile changes which might correct existing evils. The Commission came out to Ceylon in 1927 under the Earl of Donoughmore and it recommended a unique type of constitution.

The Commissioners were quick to discover that the fundamental defect of the Legislative Council was that its members enjoyed power without responsibility. It had been relegated to a permanent state of opposition with the result that members far from assisting in the smooth working of the Constitution, resorted to petty methods of irresponsible obstruction and criticism. The Commissioners therefore recommended a scheme which attempted to combine a certain measure of power with responsibility. For this they entrusted a representative Council with control over administrative and legislative matters. They were further desirous of giving the unofficial members a training in administration and with this in view they recommended the system of government by Executive Committees. We shall study the Donoughmore Scheme in detail later.

Universal Franchise

The most important feature of the new reforms however was the grant of universal adult franchise to all persons over twenty-one years of age. There were a number of reasons which impelled the Commissioners to recommend such a revolutionary change. They felt that the Island lagged far behind more advanced countries in the field of social and industrial legislation. A wider franchise would persuade elected representatives to introduce into the statute book such humanitarian measures as workmen's compensation, factory regulations, control over working hours and some sort of

adequate wage for those working in the sweated industries. The restriction of the franchise would mean that a few would exercise some sort of domination over the many. The modern principle of political equality, however, made it imperative that for a further grant of responsible government to be really effective, it should be made fully representative of the vast majority of the people. Besides the Commissioners realised that only by the widening of the franchise to its utmost limits was it possible to reduce the danger of dishonest candidates attempting to corrupt and manipulate the electorate. This they were of opinion had been the lesson of British constitutional history. They felt therefore that only by the extension of the franchise could clean elections be assured. The rank and file of the people must have the opportunity of influencing the Government and it is only through the medium of the vote that the political master could be made to respond to the needs of the ordinary man. Finally, there was the important consideration that only through the exercise of the vote could the political intelligence of the common man be developed. To deny him the vote would lead to the stagnation of his political intellect. It would only restrict the benefits of responsible government to a choice and favoured few. Universal franchise was the only means by which the meaning of responsible government could be conveyed to the large majority of people in the Island. For these reasons the Donoughmore Commissioners recommended the extension of the franchise to the vast majority of the people in the Island. That they were justified in their decision can be seen from the considerable social progress made under the Donoughmore dispensation during the years 1931 to 1947.

Territorial Representation

The other important change recommended by the Commissioners was the abolition of communal representation. They tended to regard communal representation as a means of keeping the different communities apart and of retarding the development of a truly national outlook. Communal representatives, they felt, entered the Legislative Council with the intention of defending particular interests not of promoting the common welfare. The representatives of the different communities tended to be fearful of one another. They were on the alert always for any signs of discriminatory action. Far from eliminating minority thinking or from promoting any uniting bond or link between the various communities communal representation, the Commission thought, encouraged the division between communities and even within communities. The different caste groups within each community for example came forward with demands for separate representation. For these reasons the Donoughmore Commissioners recommended the abolition of this type of representation and in its place recommended the adoption of a territorial system of representation. Those interests which however could not obtain representation owing to

the fact that they were too widely scattered or not sufficiently concentrated in territorial areas to secure the return of their representatives to the legislature, were to obtain entry into the latter body by the provision inserted in the Constitution for the Governor to nominate to the State Council not more than eight unofficial members.

Colonial Control

Though however some progress had been made in the field of responsible government, there were still certain other provisions in the new Constitution which had in them the instruments of imperial control. The Governor continued to have certain important powers which would in the last instance act as a check on the freedom of action of the new Council.

More important was the provision vesting control of the vital departments of state in the hands of three officials. They were to be in charge of finance, justice and the public services. They would be members of the State Council, participate in its proceedings but take no part in the voting. Their presence was to be a source of annoyance and irritation to the elected chairmen of the Executive Committees.

The main features of the new Constitution may thus be summed up as follows :—

The State Council

There was to be a State Council presided by a Speaker and consisting of sixty-one members. Fifty of these were to be popularly elected by universal franchise and eight were to be nominated by the Governor to represent minority interests. Of these eight nominated members, four were Europeans, one a Burgher, the other a Ceylon Moor, a third a Malay and the last a representative of the Indian mercantile interests. In addition there were the three Officers of State.

Executive Committees

After election, the State Council was to divide itself into seven Executive Committees. It would elect the office-bearers of the House. Each Executive Committee was to consist of not more than eight members and not less than seven members. The following were the Executive Committees :—

- (1) Home Affairs
- (2) Agriculture
- (3) Local Administration
- (4) Health
- (5) Labour, Industry and Commerce
- (6) Education
- (7) Communications and Works.

Officers

The following were the officers of the House :—

- (a) A Clerk to the State Council whose function was to keep the records of the daily sessions of the Council.
- (b) A Speaker, Deputy Speaker and Deputy Chairman of Committees elected by the House.
- (c) The Seven Ministers elected by the Seven Executive Committees.
- (d) The Officers of State appointed by the Governor who together went to form the Public Service Commission.

The Officers of State

The three Officers of State were in charge of what were known as the reserved subjects. These were the most important departments of State and to characterise the vital positions they held, they were referred to as the three policemen in plain clothes. There was firstly the Chief Secretary. He was *ex-officio* Chairman of the Board of Ministers. He was in charge of the Public Services of the Island. He was responsible for the defence of the Island. The external relations of the country too came under his control. During the absence of the Governor, he would take charge of the administration of the Island. He was then referred to as the Officer Administering the Government.

Then there was the Financial Secretary. He was in charge of the Treasury, the Government Stores, and the Printing Department. It is he who had to advise the State Council and the elected Chairmen of the Executive Committees on all matters relating to finance. His approval was necessary for the State Council or the Ministers to go ahead with any development schemes. It was the Financial Secretary who had to examine the financial implications of any particular scheme or programme. If he approved of it, the green light would be given to go ahead. But if he thought it impracticable, the red light would be on and no headway might have been made. Since the Financial Secretary was an official appointed by the Governor he was not responsible to an electorate. He could ignore public opinion, if he felt that that opinion was not sufficiently well-informed. Since he was in many instances a European, it was very often alleged that he switched on the red light whenever he felt that imperial interests were threatened. His was indeed a difficult position. In addition to all these duties, he was also held responsible for the currency of the Island.

There was finally the Legal Secretary. He was in charge of the Judicial Services of the country. He was responsible for the conduct of elections to the State Council. He was an adviser on legal

matters to the Council. The Legal Draftsman's office which is responsible for the translation of bills into their legal forms came under his purview. The institution of civil and criminal prosecutions on behalf of the Crown was also one of the functions of his Department.

The Board of Ministers

The three Officers of State and the elected Chairmen of the seven Executive Committees formed the Board of Ministers. The Chief Secretary by virtue of his office was the Chairman while the Vice-Chairman was the Leader of the State Council. The Leader was elected by the seven Chairmen from among one of them. The Officers of State did not possess the right to vote whenever any decision was taken by the Board but they took part in its deliberations and tendered advice where and when necessary.

The functions of the Board of Ministers were to arrange the programme and session of the Council and to decide on the order of business. Their most important function was the planning and drawing up of the Annual Budget for which all of them were collectively responsible. The Board would stand or fall together on the Budget. The State Council could refer back the Budget to the Board of Ministers for reconsideration once and if it was again presented to the Council and rejected then the Governor would have had to dissolve the Council. The Council could also be dissolved if the Annual Budget was not passed within three months of its presentation to the Council, or if a vote of no confidence was passed on the Board. In addition to these duties, the Board of Ministers used to discuss proposals brought forward by individual ministers on behalf of their Executive Committees. The Board went into the financial implications of these schemes, discussed their practicability and recommended their adoption either in the original or after revision. They had however no power to reject a scheme once it had been approved by the State Council.

Governor's Powers

The two alternative extremes of a Governor with no responsibility, *i.e.* when responsibility is concentrated in the hands of a ministry collectively responsible to a sovereign legislature, or a Governor with full powers and responsible for carrying on the Government would not fit into the proposed scheme. It was necessary to reduce the Governor's powers in direct ratio to the advance made towards responsible government. The Commissioners realised that some sort of intermediate status for the Governor was desirable.

The Governor was therefore to be a sort of watch dog of the Constitution. He would intervene whenever he felt that the

elected representatives were not treading the correct path. He was expected to play a negative role in the affairs of state. It was his duty to warn and in other matters to act as a brake against any hasty or precipitate action which he thought the legislature or the Board of Ministers might indulge in. For the Commissioners felt that with every transfer of responsibility to representative organs, the Governor should be given reserve powers to see that this responsibility is not wrongly exercised. These reserve powers were to be one safeguard. The other was to be the presence of the Officers of State in the legislature as expert advisers and critics. The responsibility for the proper use of both these safeguards would be with the Governor.

In the legislative sphere the Governor had the power of addressing the State Council and he could request all members to be present on such occasions. The Royal Instructions of 1920 provided that the Governor should reserve for the King's assent bills belonging to ten classes. Of these, the Donoughmore Commissioners recommended that only one be abolished—namely the clause which stated that non-Europeans would not be made subject to disabilities to which Europeans were not subjected. But they added six new classes of bills to be reserved. They were as follows :—

- (1) Any bill by which persons of any particular community or religion were made subject to disabilities not imposed on others, or given privileges not given to others.
- (2) Any bill which might prejudice the rights or privileges of public servants.
- (3) Any bill which might endanger the financial stability of the Island.
- (4) Any bill which concerned the defence, armed services or the public security of the Island.
- (5) Any bill which affected outside trade, or harbours, or shipping or military affairs or were of Imperial concern.
- (6) Any bill which affected the administration of justice in the Island.

The Governor was required to reserve all these bills. In addition he could reserve any bill which he thought was undesirable. In dealing with bills of these types which might be passed by the Council the Governor had six alternatives. He could:

- (1) Assent straightaway to such a bill.
- (2) Reserve it, pending His Majesty's approval.
- (3) Refer it back to the Council with or without suggested amendments.

- (4) Certify a bill as involving an important question of principle and demand a two-thirds majority for its enactment.
- (5) Assent to it but suspend its operation for a period of six months.
- (6) Refuse his assent altogether.

These powers, the Governor could exercise in his unfettered discretion. But in each case he was required to report his action to the Secretary of State for the Colonies.

In addition, the Governor was vested with certain powers to make laws, if the Council refused him the necessary co-operation. He had, however, to report such action to the Secretary of State for the Colonies. But legislation of this kind had to be put into effect immediately and not wait for the approval of the Secretary of State.

The Governor's powers could be viewed from an executive angle too. The reports of executive decisions and actions taken by the Executive Committees had to be submitted to the Governor. In relation to these reports, the Governor had the six powers he was given in the sphere of legislation. If he refused his assent or reserved any such reports or decisions for further consideration, he was required to report such action to the Secretary of State for the Colonies.

The same powers as in the legislative sphere and the same classes of bills to which he could refuse or reserve his assent were provided for in the executive sphere too. In matters of paramount importance, he had the same powers as in the sphere of legislation when the Council refused its co-operation.

A further field for executive action lay in those matters which were placed under the control of the Officers of State. In strict constitutional theory, the Governor would be responsible for them. But this theoretical position could not hold good in actual practice for the State Council exercised control over policy and finance and Officers of State had to account for the administration of their departments to the Council. Hence in respect of these departments, the Governor was expected to follow the advice of the Officers of State. But the Governor was free in matters affecting imperial as distinct from local interests. Generally speaking, his actions, in this sphere, *i.e.* in those matters relating to the Officers of State, were "supervisory rather than executive". Among his functions in the sphere of imperial affairs, he was responsible for defence especially in his capacity as Commander-in-Chief.

There were a series of other powers which the Governor exercised in a general way which could not be classified as belonging either to the legislative or executive spheres. He had the prerogative of

mercy. He could seek advice through ministers. He could have access to any official document falling under any Executive Committee. Since it was he who ultimately appointed the Chairman of the Executive Committees, he could in the last instance refuse to appoint a particular elected chairman, if he thought him unfit, and insist on the election of another.

There were finally the Emergency Powers of the Governor. When he felt that an emergency had arisen, he could by proclamation assume control of any government department. In such an event he had however to report his action to the Secretary of State for the Colonies. He could pass laws for the exercise of such powers with the consent and advice of the State Council.

In the field of Public Services, the appointment, transfers, dismissal and disciplinary control of public officers was vested in the Governor who was here too, once more responsible to the Secretary of State. Appointments to minor posts could be delegated, as was done by the Governor, to the Heads of Departments.

Thus, as had been well said, the functions of the Governor would in general be negative rather than positive, supervisory rather than executive. He would not be responsible for the administration of the Island. "It will only be for him to see that those with responsibility do not infringe the principles enunciated in the Constitution." The Commissioners stated that he must be more active as a brake and as a stabilising force. He had thus to avoid the extremes of non-assertion and of crown colony government. He had to be independent of local politics if he was to win the confidence of the public in his impartial judgment. It was for this reason that the Constitution did not require him to preside over the deliberations of the Board of Ministers. He was in a word to be a Supervisor-General. To exercise this function in a very adequate manner, he was given the full opportunity to make himself familiar with every branch of administration. This he was able to do by the access which he had to the reports of the Council and the proceedings of the Executive Committees.

The Defects of the Constitution

The most unsatisfactory feature of the Donoughmore Constitution was the system of government by Executive Committees. The Executive Committees had their good points but they had their drawbacks too and the weak points far outweighed the advantages. It is true that the Executive Committees gave the private member a much needed insight into public administration. It is also equally true that the interests that were to be touched by legislation were given an adequate opportunity to put forward their claims and points of view before any proposed measures were actually cast into the legislative melting pot. The private member was further given a

certain pride of place in the political landscape of this country. In many ways he wielded an authority similar to but not exactly like a member of the American Senate in that he played a part in making appointments to the Public Services, had a voice in determining what share of the "pork barrel" should be distributed to his constituents, took a leading part in formulating legislative proposals and in even forcing them into the statute book and could if he had the support of a majority of colleagues in his Executive Committee direct the Chairman of his Committee to do his bidding. Some members in fact like their United States counterparts became famous for making long winded speeches. Like Tennyson's brook, they threatened to go on for ever. One of them by sheer force of loquacity nearly wrecked a budget. The private member of the Donoughmore era was thus saved the humiliation of sheepishly following the dictates of a Cabinet. He was a minor United States Senator. He wielded an authority in his constituency which might have put a British Member of Parliament to shame. The minorities too, though they had been deprived of the privileges they enjoyed in former days by virtue of communal representation, could not afford to complain too much because the Executive Committee system gave them an opportunity to voice their grievances and even to elect a few of their number to the Board of Ministers.

But these very advantages of the Executive Committee system proved to be the greatest obstacles to the proper functioning of the Donoughmore Constitution. The private member did not care to exercise his powers with moderation. Instead, he tended to abuse the powers he came to exercise. He became too meddlesome in administration. The right that the Executive Committees had to make recommendations for appointments to the Public Service resulted in some degree of nepotism and a considerable amount of favouritism. Officials who were appointed to leading positions in the public service against the wishes of the Committees were given a miserable time by the members of the Executive Committees directly concerned. They were subjected to harrowing inquisitions. They were thwarted in their official activities. They were made the scapegoats for many of the sins of omission and commission perpetrated both by the Committees and the Ministers. All this had a very demoralising effect on the public services of this country. The system of dyarchy prevented the public servant from giving his undivided loyalties to a single superior. If he attempted to do the Minister's bidding, he might have found the Public Service Commission (which consisted of the three Officers of State) frowning at him. If he obeyed the orders of the Chief Secretary and the Governor, he might have had the Executive Committee and the Ministers on his throat. His was an unenviable role. He had to please several masters and he generally ended

by pleasing no one. This accounts for the fact that many experienced public servants decided to make use of certain provisions in the Donoughmore Constitution which gave them the right to terminate their official life in this country with compensation for loss of career before they reached the proper age for retirement.

The minorities too did not give their entire heart to facilitate the smooth functioning of the new Constitution. For one thing, they found it difficult to forget the wounds left by the Donoughmore Commissioners when the latter deprived them of the privileges of special representation that they had enjoyed under the previous dispensation. For another, territorial representation and universal franchise meant that the backward districts had now to be given special attention and greater care. It happened that the backward districts were mostly represented by members of the majority community and this gave rise to the cry of discrimination against the minority communities. The latter were therefore not willing to render their fullest co-operation to the agitation for further reforms. Those of their number who had secured representation in the first Board of Ministers refused to lend their wholehearted support to the demand for further reforms put forward by the political leaders of the majority community. The Secretary of State for the Colonies declared that he would not consider the claim for further reforms owing to the lack of unanimity in the ranks of the first Board of Ministers. The leaders of the majority community were embittered by the attitude of the minority leaders in their midst. Their rejoinder was the Pan-Sinhalese Board of Ministers of 1936. By a system of mathematical calculation, they were able to ensure that their supporters formed a majority in each of the Executive Committees and by this artificial means they succeeded in securing that unanimity which the presence of minority men in the first Board of Ministers had deprived them of, in the early 'thirties. Thus the Executive Committee system, though it gave greater opportunities to the minorities and though it proved that minority interests could be better protected this way than under a Cabinet system of government, was unfortunately responsible in an indirect way for aggravating communal tension in the Island. So grave was the situation that Governor Caldecott in his Reforms Despatch of 1938 stated that he foresaw a succession of Pan-Sinhalese Board of Ministers if the Executive Committee system were allowed to continue and was not replaced by even a modified form of Cabinet Government.

The Executive Committee system in addition retarded the development of healthy party organisations based on political, economic, and social issues. This was because it conferred a definite uniqueness on the private member. It served the latter from obliteration. It spared him the humiliation of being a mere cog

in the voting wheel which would have been his fate had there been a cabinet system of government at the helm of affairs in this country. Instead, the private member was given a decisive voice in determining who the Chairman of his Committee was to be. The Chairman was to be responsible to the Committee and nobody else. If he was a weak man, he had to follow the dictates of his Committee. If, on the other hand, he happened to be strong willed and energetic the Committee had to follow the lead given by him. Much depended on the individual personality of each Chairman. The Constitution made no provision for a Chief Minister who would exercise some sort of supervisory influence over the rest of his colleagues. The Board of Ministers was not a collectively responsible body in the way that a cabinet is unitedly and indivisibly responsible under a parliamentary form of government. The Board was only collectively responsible for the Annual Budget. Even here, as Governor Caldecott pointed out in his famous Despatch of 1938, "the Board merely wielded the blue pencil but did not mould the budget". The inevitable result was that there was no all round development in the economy of the country. The able Minister forged ahead. The less able stagnated. Since the Ministers were not chosen because of their political views but merely because they were able to collect the votes of a few supporters in an Executive Committee, their success or failure could only be judged from the success or failure of the departments that were placed under their control. Even here they had the opportunity to evade responsibility. Some of the Ministers had to reluctantly sponsor legislative proposals which were hatched by their Executive Committees but to which they were wholeheartedly opposed. They were therefore chary in enforcing proposals which did not have their blessing. And if matters took a turn for the worse, they chose the easy road of blaming the defenceless official in public. There was thus no co-ordination or planned direction of policy. Energetic ministers made great headway leaving the less able to mark time. The development of the country as a result came to be lopsided and very little effort was made to bring into operation some planned and organised social programme for the general advancement of the country.

The most disturbing effect was however the presence of the three Officers of State and the existence of the special powers of the Governor. This was the element of dyarchy in the Constitution. The Officers of State were an independent and irresponsible body of persons and they were expected to exercise a restraining influence on any legislative extravagance that the Board of Ministers might indulge in were they given a freer rein. The Financial Secretary was for ever active with his red pencil. The Ministers found that they were constantly thwarted in their schemes by the overweening vigilance of this public official who could not be made answerable

for his acts either to the legislature or the electorate. The Chief Secretary controlled the public service of the country and Ministers had to be satisfied with those officials whom the Chief Secretary would give them to execute their pet schemes and carry out their policies into operation. The Legal Secretary was responsible for the judicial organisation of the country. The Governor, with the special powers at his disposal, could cry a halt at any time to the legislative apple cart of the Board of Ministers. The latter may have to live in a state of contingent frustration. They might not have been able to do as they pleased. They were sandwiched between the domineering attitude of the private member and the overweening authority of the Governor and the Officers of State. It is a wonder that no creeping paralysis seized the Board of Ministers and reduced them to a state of political impotence. This was mainly due to their political acumen and their native ability to tackle the members of the legislature. Their success was also due to the sympathy and patience with which the Governor and the Officers of State viewed their legislative activities and the co-operation extended by the latter in helping the Board of Ministers to carry on their day to day activities.

The Reforms Despatch of Governor Caldecott

The Colonial authorities were well aware of the discontent which prevailed among all sections of the population with regard to the Constitution and the serious defects in it which prevented it from functioning in an efficient manner. The minorities were disgruntled. The political leaders of the majority community were bitter. Serious demoralisation had also set into the public services. In November 1937, Mr. Ormsby Gore, the then Secretary of State for Colonies, addressed a communication to the newly appointed Governor, Sir Andrew Caldecott, requesting him to investigate the political situation prevailing in the Island and make any recommendations which he thought might satisfy in some way the aspirations of the people and help to improve the working of the existing Constitution. The Secretary of State was specially concerned (a) with the special powers of the Governor which he thought required greater clarification, (b) the Executive Committees and the State Council, (c) minority communities and their representation and (d) the franchise.

Governor Caldecott after consulting the various interests in the Island communicated his conclusions to the Secretary of State in what came to be known as the Reforms Despatch of 1938. In it he pointed out the grave defects of the Executive Committee system and the retarding influence it had on the political health of this country. He recommended therefore the abolition of Executive Committees, and suggested instead a modified form of Cabinet Government which would involve the removal of the Officers of

State and where statutory provision would be made for the representation of minority interests. He recommended that some of the functions of the Officers of State should be taken over by responsible ministers but that others, as for instance External Affairs and Defence should be vested in the hands of an official who was however no longer to have any ministerial standing as the Chief Secretary and was henceforth to be known as the Principal Secretary to the Governor. The Principal Secretary was also to be Chairman of the Public Services Commission.

Similarly, some of the functions of the Financial Secretary were to be transferred to the Public Services Commission and some to a responsible Minister of Finance. There was, however, to be a Financial Adviser who might give expert guidance on matters of vital financial concern.

In the legal sphere too, the Governor suggested that a part of the functions of the Legal Secretary might be transferred to the Minister of Home Affairs but that other functions such as rendering independent advice to the Governor on the exercise of the Royal Clemency or as regards assent to legislation or in the matter of appointments to the judicial service should be vested in the hands of a Legal Adviser.

A Public Service Commission was to be constituted consisting of the Principal Secretary, the two Advisers and three Unofficials chosen by the Governor. Routine matters were to be dealt with by the Commission but appointments or transfers which involved a Head or Deputy Head of a Department or of a Government Agency were to be referred to the Cabinet of Ministers for their views on such questions.

As regards the representation of minorities the Governor declared that he was totally opposed to the ' fifty-fifty ' demand which asked that half the seats in the Legislature be assigned to the minority communities and the other half to the majority community. The Governor instead favoured some sort of weightage to the minority communities and recommended that provision be made for ten additional seats for the minorities. In addition, provision was to be made for eight nominated seats in order to secure the representation of European, Burgher and other unrepresented interests.

Finally, Sir Andrew Caldecott was definitely of opinion that there should be no relaxation of the special powers of the Governor. This more than anything else, proved a great disappointment to the leaders of the majority community.

Governor Caldecott's attempt to recommend a remedy for the Donoughmore disease proved a failure. The patient was unwilling

to co-operate in the treatment. Apparently, he required shock methods but the colonial authorities were reluctant to adopt them at all. The Reforms Despatch was discussed at length in the State Council and was vigorously criticised by the various sections of the Council for different reasons. The Governor had to report that his proposals had not received "the general consent of all important interests in Ceylon."

The Declarations of 1941 and 1943

Before any further steps could be taken, the war came along and the question of any reform of the Constitution had to be put into the freezing mould for the time being. The life of the State Council was renewed. His Majesty's Government was however made aware of the growing dissatisfaction in political circles in this country with regard to its attitude towards reforms and in September 1941, a statement was communicated to the Board of Ministers which contained the assurance that (a) the urgency and importance of the question of the reform of the Constitution was fully recognised, (b) in view of the lack of unanimity the position should be further examined by a Commission or Conference and (c) since this could not be arranged owing to war conditions, the whole question would be taken up with the least possible delay after the war.

The Board of Ministers expressed dissatisfaction with this statement and indicated its disapproval of the proposal to appoint a Commission as it felt that the Governor had already examined fully the political situation in the Island. It further pointed out that the life of the State Council had been extended by two years to enable the colonial authorities to make some definite decision on the subject of reforms but that in view of the Declaration of 1941, there did not appear any further reason for prolonging the life of the State Council.

The entry of Japan into the war in December 1941, saved the colonial authorities from an embarrassing situation. In February 1942, the Governor on the request of the Secretary of State, sent a message to the State Council that in view of the prevailing emergency the life of the Council would have to be further prolonged. It also became quite obvious that the subject of reforms would now have to be deferred until after the war. The Ministers however continued to press their case and when the Cripps Mission came out to India, they requested the Secretary of State that Sir Stafford Cripps be either asked to visit Ceylon or in the alternative receive a deputation in India to discuss the Island's claim for Dominion Status after the war. The Secretary of State replied that it was not possible for Sir Stafford Cripps to visit Ceylon and repeated the assurance that the whole question of reforms would be re-examined once victory was won.

The Board was, not to be rebuffed. The Ministers pointed out that some definite statement should be made by the Secretary of State, if the war effort in Ceylon were to be maintained. This provoked the Declaration of 20th May 1943. In it, His Majesty's Government stated that

- (a) the post-war examination of the Ceylon Constitution would be directed towards granting Ceylon full responsible government under the Crown in all matters of internal civil administration.
- (b) the question of Defence and External Affairs would be subject to the control and direction of His Majesty's Government.
- (c) the Governor's powers of reservation will be restricted to Bills which (i) relate to the Royal Prerogative, the rights and property of His Majesty's subjects not residing in the Island, and the trade and shipping of any part of the Commonwealth, (ii) have evoked serious opposition from any racial or religious group on the ground that they are oppressive in character, (iii) relate to currency ;
- (d) there would be very little interference as regards the conclusion of trade agreements with other countries and
- (e) the task of framing a constitution under the terms of this Declaration will have to await the successful conclusion of hostilities but that in the meantime the Ministers might proceed to formulate detailed proposals for a Constitution which will satisfy the terms of this Declaration and will be acceptable to three-quarters of all members of the State Council excluding the Officers of State, the Speaker or other presiding officer.

The Ministers Draft Scheme

The Ministers accepted this Declaration, communicated to the Secretary of State their own interpretation of it, and proceeded to draft a Constitution under its terms. The drafting of the Constitution was completed in February 1944 and copies of it were forwarded to the Secretary of State. The Ministers however pressed the Secretary of State for an immediate consideration of their scheme in view of the fact that the State Council's life would come to an end in 1945 and that it would be best that the General Elections should be held under a new Constitution. The minorities had however in the meantime complained that they had not been consulted and the Government of India had expressed its fears as regards the status of Indians in Ceylon. In view of all these difficulties, the Secretary of State made a statement in the House of Commons in July 1944 that the Ministers had submitted their draft scheme

with an urgent request that it be immediately considered and that His Majesty's Government have accordingly decided to appoint a Commission to visit Ceylon for the purpose of examining the Ministers' proposals and for the purpose of consulting various interests concerned with the subject of constitutional reform in Ceylon. Further, to prevent any dislocation of the war effort which a General Election might entail, the life of the State Council was extended for an additional period of two years.

The Ministers took strong objection to the proposal to send out a Reforms Commission to consult various interests including the minority communities. Their interpretation of the Declaration of 1943 was that the Commission should examine whether their scheme kept to the terms of that Declaration. The question of satisfying the minority communities they felt was covered by the provision that their scheme should receive the approval of three fourths of the State Council. The statement of the Secretary of State they declared was a departure from this original assurance. Accordingly, they proceeded to withdraw their scheme and announced their intention to boycott the Commission.

The Commission which came out to Ceylon however proceeded to use the Ministers' Scheme as a basis for discussion and for consulting the minority communities and other interests for their views on it. The Ministers' Scheme provided for:

- (i) the replacement of the Executive Committees by a Cabinet of ten Ministers. The Prime Minister was to be appointed by the Governor-General. Other Ministers were to be appointed on the recommendation of the Prime Minister.
- (ii) the appointment of Junior Ministers not exceeding the number of Ministers to assist the latter.
- (iii) a Council of State consisting of roughly one hundred members, ninety five of whom were to be elected on a territorial basis. The increase in membership was for the purpose of providing greater representation for the minority communities and backward areas. Both population and area was to be taken into consideration for providing representation. Since the Ceylon Tamils and Muslims largely reside in the sparsely populated areas, it was felt that this scheme would enable them to obtain greater representation.

The proposal for a Second Chamber was left to be decided by the Council of State at some future date. The question whether or not to establish a Second Chamber was to be decided by a simple majority of the Council of State.

- (iv) the limitation of the powers of the Governor-General in accordance with the terms of the Declaration of 1943 where internal administration was concerned. The Governor-General had overriding powers in matters of External Affairs and Defence.
- (v) a Public Services Commission and a Judicial Services Commission to be in charge of the Public and Judicial Services respectively. Appointments to the post of Chief Justice and to the Supreme Court Bench were to be made by the Governor-General in his discretion, after consulting the Prime Minister. He need not however take the latter's advice.

The Soulbury Commission and the Charge of Discrimination

The Soulbury Commission proceeded to consult the various interests including the minorities and investigated into the complaint of discrimination made by the latter especially

- (a) in regard to the question of distribution of public expenditure,
- (b) in the manner of dealing with public appointments, and
- (c) in regard to legislative measures.

In regard to public expenditure, it was pointed out that where agriculture was concerned, between the years 1931 and 1943

- (i) of a total expenditure of about Rs. 11½ million on major irrigation works the Northern and Eastern Provinces received a little more than Rs. 2 million or about 19 per cent of the total. It was alleged that greater attention was paid to the Central and North Central Provinces during this period.
- (ii) of a total expenditure of Rs. 3¼ million on minor irrigation works, the Northern and Eastern Provinces received only about four hundred thousand rupees or 12½ per cent of the total.
- (iii) large sums of money were spent on opening up jungle land and setting up major irrigation works and repairing others in the Sinhalese districts while the Northern and Eastern Provinces received very little attention or were altogether neglected. The critics of the Ministers' agricultural policy pointed out that at a time when it was most necessary to increase rice production especially in the opened up areas of the Northern and Eastern Provinces public monies were being "wasted" on long term plans for developing malarial and forest ridden tracts in the North-Central and North-Western Provinces.

The Commissioners however did not appear convinced by these charges of discrimination. As regards inequitable distribution of public monies on agricultural development, they were of opinion that the Northern and Eastern Provinces had received favoured treatment prior to 1931. They also pointed out that between the years 1905 and 1943, out of a total expenditure of some thirty million rupees on irrigation, over ten million rupees had been spent on the Northern and Eastern Provinces and that this was sufficient ground for the other Provinces to complain that favoured treatment had been meted out to these two Provinces.

As regards 'wasteful' expenditure on long term plans, they stated that they were impressed by the progress made in the development of the neglected areas and that at any rate the question of concentrating on a short term plan for greater production of rice did not arise at the time when these long term schemes were inaugurated. For then, there was no question of cessation of rice imports from Burma nor was there the danger of war in the East. They further stated that they had received an assurance from the Minister concerned that surveys and plans had been completed for undertaking schemes for irrigating land in the Northern and Eastern Provinces and that these would be put into operation no sooner the staff was available. They also expressed agreement with the Ministers that agricultural development should be on an 'all Island' basis and that it should not be the policy of the Government to grant favoured treatment to some Provinces at the expense of neglecting other Provinces.

The representatives of the minority communities especially of the Tamil Congress further alleged that large sums of public money had been spent on improving medical and educational facilities in the Sinhalese districts while on a comparative basis, the Northern and Eastern Provinces had been grossly neglected. It was pointed out that between the years 1931 and 1945, out of a total expenditure of some twelve million rupees voted for the construction of hospitals and dispensaries, only a little more than a million rupees had been allocated to the Northern and Eastern Provinces and that out of more than 4000 schools established or assisted by the Government during the period 1933 to 1942, over 3000 were Sinhalese and only 900 were Tamil. Here too, however, the Commissioners did not appear convinced that there was discrimination. They were of opinion that the needs of the Tamil areas had been adequately attended to by the activities of foreign missionary bodies especially the American Missionary Society and they concluded that "as in the case of agriculture and health we are more disposed to attribute the discrepancies in expenditure and disproportionate allocations of public funds of which complaint is made, to the Government's desire to redeem localities and communities from the neglect of past years than to any deliberate partiality towards racial or

religious interests". They further added that they were impressed by the efforts made by the Minister of Education to provide educational facilities to the Muslim Community which had hitherto been a neglected and backward community where education was concerned.

There was then the charge of discrimination in the matter of appointments to the public services. The Tamil witnesses alleged that since 1931 various efforts like for instance slight changes in examination syllabuses and conditions of entry into the public services, besides the intervention of Sinhalese Ministers to influence the decision of Selection Boards had seriously threatened the preponderant position which the Ceylon Tamils had hitherto enjoyed in the public service of this country. The Commissioners were of opinion that while there was some truth in this charge, it could not be fully maintained that the Ceylon Tamils were being displaced by members of the majority community due to any deliberate policy of discrimination. The spread of education to other parts of the Island they felt was the real reason for the gradual displacement of the Ceylon Tamils from their preponderant position in the public services of this Island. They stated that their recommendation for the establishment of an independent Public Services Commission would lay all minority fears at rest where public appointments were concerned.

In the legislative sphere, the Buddhist Temporalities Ordinance of 1931, the Anuradhapura Preservation Ordinance of 1942, the Fisheries Ordinance No. 24 of 1940 and the Omnibus Services Licensing Ordinance No. 47 of 1942 were held up as examples of discrimination against minority communities. In the case of the Buddhist Temporalities Ordinance, it was complained that public monies were being spent by the Public Trustee for the purpose of carrying on the administration of Buddhist Temporalities and that there was no reason why the public should be made to pay for the administration of the Temporalities of a section of the population. The Commissioners held that this was an instance of partiality towards the majority community. The Commissioners also agreed that the Fisheries Ordinance No. 24 of 1940 which prohibited any person except a Ceylonese or a Ceylonese Company from taking any fish for profit in Ceylon waters without a licence and that the Omnibus Ordinance No. 47 of 1942 which required that at least 85 per cent of the share capital of any Company operating an Omnibus Service should be held by Ceylonese were regrettable instances of discriminatory legislation. As for the Anuradhapura Preservation Ordinance of 1942, they were not convinced that this measure which was aimed at preserving the historic city of Anuradhapura and which proposed to develop a new town outside the historic precincts was directed against the Tamils and Muslims who formed a fair portion of the population of the sacred city and owned considerable property within

its boundaries. They declared that this was merely a measure to preserve the ruins of an ancient city and not one directed against any particular community or communities.

In conclusion the Commissioners declared that they recognised the general state of apprehension and suspicion that prevailed in the minds of the minority communities at a time when power was to be transferred from "neutral British hands to the people of this country." They were however satisfied that there was no substantial evidence to indicate a general policy of discrimination towards the minority communities and they declared that they were satisfied with the assurance given them by the Government of Ceylon that the latter was "fully aware that the contentment of the minorities is essential, not only to their own well-being but to the well-being of the Island as a whole". Still to pacify the minorities and lay their fears at rest, they proceeded to recommend a number of safeguards in the Constitution they planned for this country.

The Soulbury Constitution

Protection for the minority communities was provided for by the Soulbury Commissioners (*a*) in the sphere of representation, (*b*) in the provision for a Second Chamber, (*c*) by the recommendation for the constitution of an independent Public Services Commission and an independent Judicial Services Commission and (*d*) in certain reserve powers to be vested in the hands of the Governor.

Representation

In regard to representation, the Commission recommended an increase in the membership of the First Chamber. The State Council had a membership of sixty one. The House of Representatives was to have 101 members, 95 of whom were to be elected while 6 were to be nominated by the Governor-General to represent unrepresented interests. The increase in the number of elected members was aimed at providing additional representation for the minority communities and backward areas. For this purpose, the Governor-General was at his discretion to appoint a Delimitation Commission within one year after the completion of every census, consisting of three persons who will as far as possible have had very little to do with politics. The Commission will divide each province into a number of electoral districts in accordance with the provisions laid down in Articles 13, Subsections 2 and 3 of the Ministers' Draft Scheme. Article 13 (2) and (3) of the Ministers' Scheme ran as follows :—

"The total number of persons who according to the census of 1931 were resident in the Province shall be ascertained to the nearest 75,000. In respect of each 75,000 of this number the Delimitation Commission shall allot one electoral district to the

Province and shall add a further number of electoral districts (based on the number of square miles in the Province at the rate of one additional electoral district for each one thousand square miles of area calculated to the nearest 1,000) as follows :—

Western Province	1	Eastern Province	4
Central Province	2	North-Western Province	3
Southern Province	2	North-Central Province	4
Northern Province	4	Province of Uva	3
Province of Sabaragamuwa		2	

In dividing a Province into electoral districts the Delimitation Commission shall provide that each electoral district in the Province shall have as nearly as may be an equal number of persons, but shall also take into account the transport facilities of the Province, its physical features and the community or diversity of interest of its inhabitants.”

The Ministers' Scheme in short provided that each Province should have one member for every 75,000 of population and an additional constituency for every one thousand square miles of territory.

The Scheme also provided that the Delimitation Commission was further to take into consideration in demarcating electorates, the transport facilities, the physical features and the community or diversity of interests of the inhabitants of a Province. The Soulbury Commission however gave greater room for manoeuvre by providing for the creation of electorates in those areas “wherever it shall appear to the (Delimitation) Commission that there is a substantial concentration....of persons united by a community of interests, whether racial, religious or otherwise, but differing in one or more of these respects from the majority of the inhabitants of that area, it (the Commission) shall be at liberty to modify the factor of numerical equality of persons in that area and make such division of the Province into electoral districts as may be necessary to render possible the representation of that interest”. The effect of both these directives to the Delimitation Commission was that (a) backward areas and (b) those areas where there was a sufficient concentration of minority interests were given representation wherever possible.

The Soulbury Commissioners also recommended the creation of multi-member constituencies in appropriate areas. This would enable minority communities, if they were sufficiently united to concentrate all their votes on any one candidate seeking to represent their interests and thus secure the election of such a representative to Parliament.

In making the appointment of six members to the House of Representatives, the Governor-General was to act at his discretion. This meant that the Governor-General could act on his own responsibility without seeking advice from the Prime Minister or any other authority.

The Legislature

Minority interests were also to be safeguarded by the provision for a Second Chamber consisting of thirty members. Fifteen of the seats of the Senate were to be filled by persons elected by members of the First Chamber in accordance with the system of proportional representation by means of the single transferable vote and fifteen to be chosen by the Governor-General at his discretion. The Senate would provide some form of further representation for minority interests. It would also act as a moderating influence on the popular house. It would however have no power to originate money bills and was empowered to exercise a delay of only thirty days on such bills. Where ordinary legislation was concerned, the Soulbury Constitution provided that if such legislation "is passed by the First Chamber in two successive sessions and is rejected by the Senate in each of those sessions, the Bill shall, on its second rejection, be deemed to have been passed by both Chambers". Provision was also made for the appointment of not less than two Ministers (one of whom shall be Minister of Justice) and not more than two Parliamentary Secretaries from the Senate.

The Public Services

The fair and impartial selection of candidates for appointment to the Public and Judicial Services was to be ensured by the creation of (a) an independent Public Services Commission consisting of three members to be appointed by the Governor-General at his discretion and which was to be responsible for the appointment, promotion, transfer, dismissal and disciplinary control of all officers of the Public Services; (b) a Judicial Services Commission consisting of the Chief Justice as Chairman and two other Judges (one of whom might be a retired judge) of the Supreme Court to be appointed by the Governor-General at his discretion. The Commission would advise the Governor-General in the exercise of his powers of appointment, transfer, promotion, dismissal and disciplinary control of all members of the judiciary other than members of the Supreme Court.

The Governor-General

The minorities were also to receive protection in that the Governor-General was vested with certain powers of intervention if he felt that at any time their rights were prejudiced by any legislation enacted by the Government in office. The classes of

Bills which the Governor-General was instructed to reserve for the signification of His Majesty's pleasure as far as the rights of minorities were concerned were as follows :—

- (i) Any Bill any of the provisions of which have evoked serious opposition by any racial or religious community and which, in the opinion of the Governor-General, is likely to involve oppression or serious injustice to any such community.
- (ii) The Order-in-Council embodying the Constitution shall provided that—
 - (a) the Parliament of Ceylon shall not make any law rendering persons of any community or religion liable to disabilities or restrictions to which persons of other communities or religions are not made liable, or confer upon persons of any community or religion any privileges or advantages which are not conferred upon persons of other communities or religions.
 - (b) Parliament shall not make any law to prohibit or restrict the free exercise of any religion ; or to alter the Constitution of any religious body except at the request of the governing authority of that religious body.
- (iii) Any Bill relating solely to the prohibition or restriction of immigration into Ceylon need not be reserved by the Governor-General except such Bills which in his opinion appear to be unfair or unreasonable regarding the right of re-entry of persons normally resident in the Island at the date of the passing of the Bill by the Legislature.

Apart from the above classes of Bills (which relate particularly to the rights of minorities), the Governor-General was instructed to reserve for the signification of His Majesty's pleasure, the following Bills too :—

- (a) Any Bills (i) relating to Defence or (ii) affecting currency or relating to the issue of bank notes or (iii) prejudicing the Royal Prerogative or the rights and property of British subjects not resident in Ceylon or the trade or transport or communications of any part of the Commonwealth.
- (b) Any Bill which repeals or amends any provision of the Constitution or which is in any way repugnant to or inconsistent with the provisions of the Constitution, unless the Governor-General shall have been authorised by the Secretary of State to assent thereto.

- (c) Any Bill which is repugnant to or inconsistent with the provisions of a Governor-General's Ordinance.
- (d) Any Bill relating to External Affairs. Bills relating (i) to trade agreements conducted with the approval of His Majesty's Government with any other part of the Commonwealth (ii) solely to the prohibition or restriction of immigration into Ceylon provided that it did not affect the right of re-entry of persons normally resident in the Island (iii) solely to the franchise and (iv) solely to the prohibition or restriction of the importation of, or the imposition of import duties upon, any class of goods, provided that such legislation is not discriminatory in character did not fall within this category.

The Governor-General had power to make laws to be called Governor-General's Ordinances dealing with External Affairs and Defence. In summoning, proroguing and dissolving Parliament, and in the appointment and dismissal of Ministers, the Governor-General was expected to conform to the conventions applicable to the United Kingdom. This meant that in all normal circumstances he should act on the advice of the Prime Minister.

The Commissioners further decided to maintain the existing situation (as under the Donoughmore Constitution) where the power of the Ceylon Legislature to make laws having extra-territorial operation was concerned.

The Cabinet

The Commissioners recommended the abolition of Executive Committees and the posts of the three Officers of State. In their place, they recommended a Cabinet of Ministers. The Prime Minister should be appointed by the Governor-General and he would hold the portfolio of Defence and External Affairs. Other Ministers were to be appointed by the Governor-General on the recommendation of the Prime Minister. Not less than two Ministers and not more than two Parliamentary Secretaries, (if appointed) were to be members of the Senate.

The Soulbury Report and After

The Soulbury Report was published in September 1945. Mr. D. S. Senanayake, as Leader of the State Council, had earlier been summoned to London to state the case for the Board of Ministers and to put forward proposals of his own. Mr. Senanayake ignored the Declaration of 1943 with all its limitations and made out a claim for Dominion Status. He offered to meet the fears of the Colonial authorities with an agreement on defence and external affairs.

The Colonial authorities however felt that it was too early yet to make any decision on Dominion Status for this country—perhaps due to the fact that the case for India had still to be settled. A White Paper was issued in October 1945 to this effect but it stated that His Majesty's Government hoped that the people of the Island would accept the new Constitution and work it in such a way that it would be possible to confer Dominion Status within a short space of time. The White Paper contained certain modifications of the Soulbury Report especially where the power of the Governor-General to make ordinances was concerned. It was put to the vote in the State Council and accepted by 51 votes to 3.

By 1947, it appeared fairly clear that India was well on the road to independence. Mr. D. S. Senanayake therefore made a further claim for Dominion Status. This time the Colonial authorities seemed better disposed. In June, 1947 the Secretary of State made an announcement that as soon as a new Government had assumed office under the new Constitution, His Majesty's Government would conduct negotiations with it with a view to grant Dominion Status for Ceylon.

The General Elections under the new Constitution were held in the latter part of 1947. Mr. D. S. Senanayake was, as Leader of the largest single group—the United National Party—appointed Prime Minister. Negotiations were commenced with the Government of the United Kingdom, for the purpose of obtaining complete independence for this country. On 11th November 1947, the Agreements were signed on Defence, External Affairs and Public Officers and Ceylon passed from Colonial status to that of a fully independent country.

There are five important documents which brought about this change of status. They are the Ceylon Independence Act, 1947, the Ceylon Independence Order in Council, 1947, the Defence Agreement, the External Affairs Agreement and the Public Officers Agreement.

The Ceylon Independence Act, 1947, conferred on Ceylon the legislative powers conferred on the older Dominions by the Statute of Westminster, 1931 and on India and Pakistan by section 6 of the Indian Independence Act, 1947. It deprived the United Kingdom Government of responsibility for the Government of Ceylon and amended the law of the United Kingdom in matters relating to armed forces, naturalisation, divorce, shipping, copyright etc. so as to place Ceylon on an equal level with that of the other Dominions. The Act also by implication grants Ceylon the right to secede from the Commonwealth whenever she chooses to do so.

The Ceylon Independence Order in Council, 1947, removed from the existing Constitution (which was based on the Soulbury Report) all those provisions which were inconsistent with independence

within the Commonwealth. Thus the Governor was replaced by a Governor-General. He ceased to represent the Government of the United Kingdom as well as His Majesty the King and became the representative of His Majesty alone. This meant that his position was reduced to that of a constitutional monarch. He was deprived of all the functions vested in the Governor as representative of the Secretary of State for Colonies and of all discretionary powers which are not in accordance with the constitutional conventions applicable to the exercise of similar powers and functions in the United Kingdom by His Majesty. Thus the safeguards which the Soulbury Commissioners provided for the minorities and vested in the hands of the Governor would now be exercised by the Governor-General on the advice of the Prime Minister in accordance with the provisions of Section 4 of the Independence Order in Council, 1947. The appointment of (a) members of the Delimitation Commission, (b) members to the House of Representatives (c) members to the Senate and (d) members of the Public Services and Judicial Services Commissions will now have to be made on the advice of the Prime Minister. The power of the Governor to reserve Bills of special classes for His Majesty's assent also disappeared. Instead the Ceylon Parliament was empowered to make laws for "the peace, order and good government" of the Island which was in effect another way of stating that it had power to legislate on any subject it chose. There was however an important limitation inserted in Section 29 (2) of the Order in Council. It provided that no law enacted by the Ceylon Parliament shall

- (a) prohibit or restrict the free exercise of any religion ; or
- (b) make persons of any community or religion liable to disabilities or restrictions to which persons of other communities or religions are not made liable ; or
- (c) confer on persons of any community or religion any privilege or advantage which is not conferred on persons of other communities or religion ; or
- (d) alter the constitution of any religious body except with the consent of the governing authority of that body ;

Provided that, in any case where a religious body is incorporated by law, no such alteration shall be made except at the request of the governing authority of that body.

Section 29 (2) was a sort of Bill of Rights intended to safeguard the rights of minorities. This clause however and any other provisions in the Independence Order in Council 1947 could be amended or repealed by Parliament provided that not less than two thirds of the entire membership of the House of Representatives (including those not present) were in favour of such amendment or

repeal. The same Order in Council further abolished completely the power of the United Kingdom authorities (through the King in Council) to legislate for Ceylon in respect of defence, external relations and constitutional amendments. Imperial legislation would also no longer be applicable to Ceylon unless it is enacted with the request and consent of Ceylon.

Under the Defence Agreement, the United Kingdom agreed to provide Ceylon with such military assistance as she may require from time to time. Ceylon will, in her turn render assistance in so far as it is in her interest to do so. This will include the provision of naval and military bases to the United Kingdom to the extent that the latter might require such bases for the defence of Ceylon and for the protection of essential communications.

The External Affairs Agreement gave Ceylon an international status. It enabled Ceylon to apply for membership to the United Nations Organisation. It also empowered her to appoint diplomatic representatives to foreign countries. The Island could however utilize the services of the representatives of the United Kingdom if the Government preferred to do so. Ceylon could in future make her own treaties and agreements without any form of interference from the United Kingdom. The Government however agreed to fall in line with the rules laid down relating to consultation and co-operation by the Imperial Conferences. Under this system, the United Kingdom would keep Ceylon fully informed about her proposed actions in the field of foreign relations and Ceylon could make representations if she thought it fit to do so either directly or through her High Commissioner. Similarly Ceylon agreed to inform the United Kingdom of her proposed foreign commitments and would receive representations through the same channels.

The Public Officers Agreement provided for the protection of certain categories of public servants. Officers who were appointed by the Secretary of State or who had entered into agreements with the Crown Agents would be protected in their conditions of service. They would be granted the option to retire under the new Constitution within a certain space of time with suitable compensation for loss of career unless they are transferred to other posts in the colonial service. They would henceforth cease to be under the Colonial Office.

CHAPTER VIII

THE COMMONWEALTH OF NATIONS

A Union Amidst Diversity

It might be true to say that the British Commonwealth of Nations was a political contrivance that was intended to postpone the immediate breaking down of the Colonial Empire. The people of the Commonwealth owe allegiance to the British Crown for a variety of reasons—ties of blood relationship with the mother country, devotion to ideas and ideals common to the English speaking races, faith in parliamentary institutions of the British type and so on. It is difficult to believe that such powerful political systems like the British Commonwealth of Nations, the United States and the U. S. S. R. are based on such intangible things like ideas and beliefs and principles and are not knitted together and maintained by the force of arms or by the exertion of autocratic power—though, at times this too has been necessary. The magnet which holds fast the members of these different systems are certain ideas and ideals which are stronger than the bonds of steel. The peoples of the Soviet Union are bound together by their belief in the principles of Marxism as expounded by Lenin and Stalin. The ruling classes of the United States profess their faith in the efficacy of capitalist democracy and its institutions as the only means of securing the freedom of the individual. The unity of the British Commonwealth is not based according to any settled pattern of thought or preconceived set of ideals and beliefs. Nor is there any common race, religion or culture which keeps the widely divergent parts of this far flung association of states together. The connecting links of co-operation are to be found

- (i) in the Crown which still functions as a symbol of unity in that it is recognised by all the member nations as the Head of the Commonwealth,
- (ii) in the unifying influence of parliamentary institutions and in working arrangements for consultation between the different parts of the Commonwealth. These arrangements are based on a firm belief in government by discussion,
- (iii) in the toleration of all constitutional forms of opposition and
- (iv) in the attractive force of certain British traditions and doctrines like that of justice which have become part of the legal systems of the Commonwealth countries. There are other minor factors too which help to maintain the unity of the Commonwealth. We shall study about these later.

The Significance of 'Empire'

Before we start to make an analysis of the British Commonwealth of Nations, it will be interesting to study the meaning of the word 'Empire'—a word which has changed its significance from age to age, from country to country and from one school of political opinion to another school of political opinion.

Historical

Originally the term Empire meant a wide territory maintained together by the exercise of authority by a single individual who might at times have been guided by a Council of Advisers. The Empire consisted of parts which were geographically contiguous and not separated by wide expanses of water from the ruling country. This was the classical—continental phase of Empire—classical, because it grew and developed in the classical age of Greece and Rome, continental because it was restricted to a single expanse of territory, the Continent of Europe.

There is then the modern-maritime conception of Empire. It was maritime because expansion was directed overseas and was the result of voyages of discovery and the exploration of new lands beyond the seas. Modern, because this form of building up an Empire beyond the ocean began to develop with the dawn of the modern age, about the period A. D. 1500. The British Empire belongs to the modern-maritime phase.

National—(a) Italy

The significance of the term 'Empire' has also varied from country to country. In Italy the word 'Impero' reminds Italians of the great days of the Roman Empire of Augustus and his successors. Hence the Fascists under Mussolini professed a desire on their part to return to the Italy of Augustus. They thought in terms of a strong and expanding Italy which will once more rule the Mediterranean. They engaged in cruel wars of conquest and by this process brought Abyssinia and Albania under their heel. They demanded from France the French possessions of Tunisia, Corsica, and Nice. But their desire for Empire was only short-lived. With the defeat of the Fascists, Italy was stripped of her overseas possessions including Libya which she had acquired from Turkey in 1912 and Somaliland which she obtained by the Peace Settlement of Versailles after the First World War.

(b) France

In France the term Empire brings back to Frenchmen the memory of Napoleon. Frenchmen regarded their Empire as a fertile ground for exploitation and also territory where they could spread the benefits of French civilization and the French ideals

of liberty, equality and fraternity. The French possessions today are mainly to be found in North Africa, in Asia (Pondicherry and Indo-China) and French Guiana in South America. The French are engaged in a war in Indo-China and are faced with troubles in Tunisia and Morocco. Like all colonial powers, France too regards her empire as a source of exploitation. This explains the reluctance of the French to grant autonomy to the peoples of North Africa and the people of Indo-China.

(c) Germany

The Germans have always complained that they were outwitted and outmanoeuvred in the race for colonies. Under Kaiser Wilhelm II, they clamoured for a place in the sun and sought to make good their loss by directing their efforts against France. They were however defeated in war and lost the few overseas possessions they had as a result of the Treaty of Versailles. Tanganyika and German South-West Africa were placed under the trusteeship of Britain and South Africa, and a few islands in the Pacific were handed over to Australia. Under Hitler, the Nazis made a second effort to vindicate the honour of the Teuton race. They preached a violent nationalism. They indulged in a war of revenge and in a short while overran large parts of Europe. For the Nazis, Empire meant a burning desire to prove the superiority of the Teuton race and a demand for lebensraum or life-space for the rapidly increasing German people. The Nazis made headway under Hitler. They annexed Austria and brought Czechoslovakia under their control without engaging themselves in war. But they were not merely satisfied with these piecemeal gains. They dreamed of world conquest and embroiled themselves in war, only to be defeated once more.

(d) Other Nations

Exploitation of backward and weak races has been the keynote of the colonial policies of other imperialistic countries like Belgium, the Netherlands, Portugal, Spain, and Japan. There was no desire on the part of these countries to promote the prosperity of the people whom they had brought under their subjection. Some of these countries, like Japan, indulged in merciless wars of conquest and were finally defeated when they got entangled in war with the Great Powers. The Dutch endeavoured to cling on to their possessions in the East Indies but were forced to give them up in the face of the growing strength of Indonesian nationalism. The Portuguese continue to hang on to the remnants of what was once a great empire. Belgium still owns a vast expanse of territory in the Congo district which serves her both as a reservoir for raw materials and a market for her manufactured goods.

(e) The United Kingdom

For Englishmen, Empire meant two things. Firstly it meant a business proposition. The English still are, as they were in the days of Napoleon and even before, a nation of shopkeepers. The Industrial Revolution had come to England first. Britain was the leading industrial power in the world for a long period of time. She needed raw materials to feed her factories. Only a colonial empire provide the reservoir for raw materials. The British were not slow in winning possessions for themselves across the seas, either by exploration or war. The colonies became producers of raw materials and markets for the finished goods. At the same time, the English did not merely use their colonies only as convenient territories for exploitation. They spread to these countries their ideas of justice and liberty and implanted in them their institutions of representative government and later, parliamentary democracy. It is these that sowed the seeds of goodwill and a desire to build an exclusive society of a British Commonwealth of Nations in later days.

There was also a secondary use to which the Empire was put to. In those parts where the climate was suitable, the English were not slow to establish settlements. Some went to America as refugees from a religious persecution. Others migrated to Australia, New Zealand and South Africa, imbued by a sense of adventure and a desire to seek better fortunes. These countries were to become the White Dominions on later days.

Schools of Political Thought—(a) Conservative

The concept of Empire has changed from time to time and from age to age. There was a period when a Conservative like Disraeli looked down upon the Empire as "wretched colonies which hung like a millstone round our neck". Today the Conservatives led by Sir Winston Churchill think differently. The Empire is a means for providing the British manufacturer with the raw materials necessary to produce the finished goods. The Empire also serves as a convenient market, almost a dumping ground for the manufactured products of the big industrialists. The Empire is further looked upon as a means of emphasising the prestige of England. It is a symbol of national solidarity and of imperial unity. Hence Churchill's declaration that he will not be the King's first Minister to preside over the liquidation of the British Empire. The Empire, the Conservatives believe must be preserved at any cost. Self government will only be conferred when absolutely necessary. In all other circumstances every effort should be made to arrest the national aspirations of the colonial people. Concessions will be granted only so far and to the extent that British interests are not threatened.

(b) Liberal

The Liberal viewpoint has been milder. Liberals like John Stuart Mill have always stressed the fact that good government is no substitute for self-government. For, it lacks the genius of locality. The native people must learn from their mistakes. They can only profit from the experience which they have undergone, not from the lessons of others. Hence, the Liberals believed in granting autonomy to the colonial people wherever they found that these peoples showed some form of desire and ability to govern themselves. They believed in the liberty of nations. They also believed in free trade and in the policy of the open door. They were therefore willing to permit the colonies to sell their raw materials to the highest bidder and to obtain their necessities from the cheapest markets. This was what they meant by the policy of free trade and the open door. But the Liberals were not willing to go the full way. Wherever they felt that British interests were seriously threatened, they were not slow in applying the brakes. They were ready to grant the colonies self-government only to the extent that the British people did not suffer by such advances. If standards of living fell, then excuses were readily found for retarding the development of the colonial peoples.

(c) Socialist

The Socialists viewed Empire from a completely different standpoint. The Conservatives and Liberals had much in common between them in their attitude to Empire. The Socialists declared that the Empire is an instrument for exploitation. The capitalists as symbolised by the Conservatives and their allies seek to maintain their hold in the home country by exploiting the people of the colonies. Working class discontent in the home country can only be bought off keeping the colonies in a state of economic stagnancy. No effort is therefore made by Conservatives or capitalists to promote the industrialisation of the colonies or to encourage their economic development except where absolute necessity compels them to do so. For, if the colonies become self-supporting, the British manufacturer will not have a market for his goods. This will mean that his machines will have to remain idle. The workers will not have employment. They will not have money to buy their daily bread. This in turn will result in the British farmer being affected. He will not have money to either pay his own labourers or to buy his own necessities. There will therefore be discontent in the country where the Conservatives have their strongholds. The Conservatives will also lose votes in the urban districts. It is for these reasons, the Socialists say, that the Empire is preserved for exploitation by capitalists and Conservatives. The colonies they declare are therefore maintained by the latter as compulsory producers of raw materials and compulsory purchasers of finished products. But exploitation does not merely result in maintaining the political and

economic superiority of the capitalist ruling classes at home. It also promotes war and cut throat competition between nations. One nation will compete with another for colonies—for colonies provide the markets for their finished goods. The race for colonies and the competition for markets are thus one of the major causes for war. The Socialists therefore condemn the economic exploitation of colonial peoples. They declare that the colonies are primarily maintained for this purpose. They believe that self-government should be conferred on colonial people wherever they show a desire and ability to rule themselves. It is only by such methods that friendship and cordiality can be cultivated between Britain and the dependent colonies.

From Empire to Commonwealth

We have made a study of the different conceptions of the term Empire—its changing significance from one age to another age, from one country to another and from one school of political thought to another school of political thought. The British were not slow to study the lessons of history. They were quick to realise that force and military might could not in any way hold together a far flung Empire consisting of different races, religions, and cultures. Experience had taught them that any attempt to arrest a growing desire for self-government would only result in disaster. They had lost the American Colonies as a result of such a shortsighted policy of suppression and unwillingness to grant concessions at the appropriate moment. Thereafter they tended to follow a more cautious policy of conferring generous concessions on the colonies whenever the latter made demands for change. Henceforth the policy was to permit the legitimate aspirations of the people of these colonies to run along the proper channels and to keep them bound to the United Kingdom by the ties of friendship and generosity rather than by the use of force and the exercise of military power. The task was more easy, as the colonies which were originally involved in this movement were the population settlements where British emigrants had gone and settled down in what were hitherto virtually deserted or sparsely populated lands. Dominion status or the movement towards progressive self-government was at first the monopoly of the white colonies of Canada, Australia, South Africa and New Zealand. There was no fear that these countries would break away from the mother country. Ties of kinship and devotion to a common symbol namely the Crown, would in the ultimate analysis, British statesmen felt, keep these self-governing lands bound to the mother country. They were therefore permitted sufficient scope to develop along the proper channels and that too in the way they liked best.

The White Dominions

The British Commonwealth for purposes of convenience can be divided into three categories. Firstly there are the White Dominions of Canada, Australia, South Africa and New Zealand. These achieved their independence through a slow process of evolution, in gradual stages which were marked by the abdication of important powers by the mother country for the benefit of these European colonies. The first British Empire had collapsed as a result of the failure of the British statesmen of those days to satisfy the legitimate demands of the English settlers in the American colonies. In the case of these colonies the United Kingdom left them free to develop their own representative bodies but insisted on keeping the executive government (that is the actual administration of the country) in the hands of the British Governors appointed by and responsible to the British Government. This system failed to work. When the British Government attempted to impose taxes on the colonists without consulting their representatives, there were protests which finally culminated in violent revolt. The secession of the North American colonies in 1783 marked the end of the First British Empire. The English were not slow to realise that it was better henceforth to cultivate friendship and cordiality between the mother country and the white settlements abroad rather than keep them in subjection and spur them on to revolt by such a short-sighted policy.

The second stage in this process of evolution may be said to have begun with the reign of Queen Victoria in 1837 and to have covered the period till the passing of the British North America Act in 1867. English statesmen were not slow to recognise that these colonies not only have their own representative bodies but that these should also have their own executive governments composed of their own representatives. Some form of supervisory check was to be exercised by the Governors appointed from the United Kingdom but the colonies were granted maximum autonomy in matters of internal administration and checks were enforced only in the last analysis. The Durham Report of 1848 was an important landmark of this period. Durham who had been sent to investigate Canadian affairs made the bold suggestion that Canadians might attend to their own affairs through Ministers responsible to the Canadian Parliament except in the field of foreign affairs, defence and external trade. In these matters, the United Kingdom was to exercise control but the history of Canada's political progress shows that with the passage of time, Canadians began gradually to gain control in these spheres, till in 1931, the British Government by the Statute of Westminster virtually recognised the independence of their country. The other Dominions were not slow to follow the example of Canada.

The third period began in 1867 and lasted till 1909. This was the era of regional federation when Canada, Australia and South Africa formed federations or unions. Canada became a federation by the British North America Act of 1867. Australia too became a similar state under the title of a Commonwealth by an Act of 1900. South Africa became a Union in which four colonies were merged by an Act of 1909.

The fourth period dated from 1917. This was the period of revolutionary progress. The four Dominions came to be recognised as international entities. They became members of the League of Nations. They signed the Peace Settlement of Versailles as separate, independent states. They began to send their own representatives to foreign countries and to receive diplomatic agents from the governments of foreign states. Some of them even concluded international treaties with the governments of foreign states as Canada did in 1926 when she negotiated the Halibut Treaty with the United States. All these important changes were recognised in the Balfour Declaration of 1926 which stated that these countries were "autonomous communities within the Empire, equal in status, in no way subordinate to one another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown and freely associated as members of the British Commonwealth of Nations".

The Statute of Westminster enacted in 1931 merely put in legal form what the Dominions had achieved during the period 1867 to 1930. The British Parliament recognised the independence of the Dominions in all aspects of administration both internal and external. The Dominions on their part recognised the Crown as the link between themselves and the United Kingdom. They further agreed to act in consultation and co-operation with one another in the field of external affairs. The Statute of Westminster further empowered the Dominions to produce laws repugnant to British law. It gave them the right to repeal those British statutes which had been enacted by the Parliament of the United Kingdom and were applicable to the Dominions. The Dominions could pass laws to deal with shipping and other forms of maritime activity within the territorial limits of waters surrounding their countries. They could set up their own immigration and citizenship laws. They could abolish appeals to the Privy Council. They could have their own diplomatic representatives in foreign lands. They could have their own seals and emblems to empower their Governors-General to give effect to any Act passed by their Parliaments. They were given the right to request the Crown to appoint men of their own choice to the office of Governor-General. They were empowered to declare war, to conclude treaties and to secede

from the Commonwealth if they so desired. All these powers in virtual effect meant that the Dominions were independent states, free to act on their own initiative without any form of interference from the United Kingdom.

The Asian Dominions

The Asian members of the Commonwealth can be conveniently classified into a separate category of their own. For one thing, they belong to an entirely different racial stock ; besides in actual numbers they far outnumber the population of all the White Dominions. For another, their progress to full and complete nationhood was not marked by a primrose path of slow and evolutionary change. With the exception of Ceylon, the peoples of India, Pakistan and Burma (which is no longer a member of the Commonwealth) had to fight for their independence. The Asian countries of the Commonwealth were looked upon as ideal fields for exploitation as markets for British goods and as reservoirs for the supply of cheap raw materials to the factories and industrial centres of the United Kingdom. The United Kingdom was therefore slow to grant concessions to these countries. When independence was conferred on them, it was due more to the pressure of international opinion and the realisation that the aspirations of the peoples of these countries could no longer be stifled, except by the use of sheer military might, rather than a recognition and a desire on the part of Britain to welcome these countries into the free association of states called the Commonwealth. These countries therefore jumped from a position of immediate subordination to one of equal status with the other members of the Commonwealth. The change was quicker and not slow and gradual as in the case of the White Dominions. Independence came to them not because of the generosity of the rulers at Whitehall but because pressure of events compelled the latter to abdicate power. Hence, the Asian countries have not shown any eager desire to remain within the Commonwealth, with the exception of Ceylon. India has become a Republic and remains a member of the Commonwealth for reasons largely of self-interest. Pakistan too aims at republican status. Burma broke off all ties no sooner she achieved independence. Ceylon is the only country which is eager to maintain her connections with the Commonwealth and this desire too is guided by self-interest rather than ties of kinship or sentiment or emotion which characterise the relationship of the White Dominions to the United Kingdom.

The entry of these Asian countries into the Commonwealth have also given rise to fresh problems. Their political outlook is not the same as the White Dominions. They have not hesitated to condemn the racial policies of Dr. Malan in South Africa. In the sphere of foreign affairs, India has always clamoured for a more realistic and conciliatory policy towards China and has declared her intention of

remaining neutral in the event of war between the Soviet group of powers and the Western powers. Ceylon too has adopted a policy of co-operation towards China and has negotiated a trade agreement with that country and this has not been viewed with favour by the other members of the Commonwealth. There are also differences between the Governments of Pakistan and India over Kashmir and between India and Ceylon over the question of Citizenship rights for Indians in Ceylon. In former times the Commonwealth with its membership confined to the European settlements of Canada, Australia, South Africa, and New Zealand, was able to narrow out differences on many important international questions and present a united front on many others. With the entry of the Asian members the Commonwealth has ceased to be such a united association. There are differences of opinion on many questions. Efforts have been made to resolve these differences by discussion and negotiation but still much ground has got to be covered and the Commonwealth is no longer the united group it once was.

The Colonial Empire

The Colonial Empire can be regarded as the third section of the British Commonwealth. Politically this section is still in an infant stage of development. There are powerful anti-colonial movements in Kenya and Malaya but these have been suppressed by military force. There are powerful nationalist movements in Nigeria, the West Indies, British Guiana and Malta. The Colonial authorities have in these instances attempted to satisfy the aspirations of these people by the grant of some form of limited responsible government.

(a) Crown Colonies

The Colonial Empire can be classified into three sections. There are firstly the Crown Colonies which were acquired by the United Kingdom either by conquest or cession or by virtue of occupation and settlement. Ceylon and Malta were typical examples of Crown Colonies. Ceylon today is an independent country and Malta is fast on the road to complete responsible government.

(b) Protectorates

There are then the Protectorates. The Native States of the Malay Peninsula and a few tribes in Central Africa are under the protection of the United Kingdom. In these cases, the native chief is for all purposes the immediate ruler. But his relations with foreign powers is under the virtual control of the Colonial Office at Whitehall and in internal administration he is advised and guided by a British Resident who has his headquarters in the capital city.

The Protectorates are therefore for all practical purposes colonies of the United Kingdom. In Crown Colonies, the authorities operate directly ; in Protectorates they act through the agency of the native ruler. The latter dare not ignore advice, for refusal to take advice might result in his removal.

(c) Trusteeship Territories

Finally, there are the trusteeship territories. Some of these were at one time known as mandated territories. The name mandated territory was given to those countries which were placed under the control of the victorious powers by the League of Nations after the first World War of 1914—18. Iraq, Transjordan, Tanganyika were examples of mandated territories placed under the control of the United Kingdom by the League of Nations. The British Government had to protect these countries from external danger, conduct their external relations, and guide them in the administration of their internal affairs so that at some future date they will be sufficiently equipped to govern themselves. Iraq and Transjordan were after a short while regarded as capable of managing their own affairs and were recognised as independent countries when the United Kingdom recommended to the League of Nations that the mandates over them should be withdrawn.

Trusteeship is the new name given to these same territories and to the colonial territories surrendered by the Axis Powers after the Second World War to the United Nations Organisation. These territories are legally under the control of the U. N. O. The British Government acts as the agent of the United Nations. The territories are placed under a 'Trust' and the Government of the United Kingdom is expected to help the people of these areas to manage their affairs and to train them in the art of self-government so that they will be fit to govern themselves at some future date. The U. N. Trusteeship Council has the right to call for reports on the progress made by the peoples of these territories and can also send missions to investigate conditions in these lands. The United Nations has the liberty to withdraw the rights of trusteeship handed over to any country if it feels that these rights are being abused, and to hand over the trusteeship to another government. Since most of the trusteeship territories are still in a backward state, the trusteeship power has opportunities for exploiting these countries.

The constitutional status of the other colonies vary from country to country. Some, like Southern Rhodesia or the West Indies have moved forward to some system of responsible government and are governed by something in the nature of a Cabinet responsible to an elected or partly elected assembly. The Governor exercises some form of supervisory power and uses it whenever he feels that the Cabinet is exceeding its power or is acting in a reckless or irresponsible manner. These countries hold a position which is

midway between the controlled position of a Crown Colony and that of a fully self-governing member of the Commonwealth. Their status can be determined (a) by the extent to which the composition of their legislative bodies depend on election or nomination (b) by the powers exercised by the legislative bodies (c) by the position and powers enjoyed by the Governor. The important factor to note is that the Governor has final control over the legislature.

The remaining parts of the Colonial Empire do not possess any system of responsible government but are governed by an executive which consists of the Governor and an advisory Council. The Governor is immediately responsible to the Secretary of State for the Colonies. He is not bound to accept the advice of his Council but in case he rejects the advice tendered by the latter he is expected to give reasons and explain his action to the Secretary of State.

IDEAS AND IDEALS

From all that has been stated above, the reader will infer that the Commonwealth in the last analysis consists of two sections—(a) independent countries which were at one time known as Dominions and which are now referred to as member nations (b) Colonial territories which are in varying stages of self-government. The latter still serve as markets for British goods and are sources for the cheap raw materials necessary to feed the industrial centres in the United Kingdom. The ultimate goal of the Colonial territories too is complete independence. Their rise to nationhood will however depend on the goodwill and discretion of the colonial authorities in the United Kingdom. The latter will not readily abdicate power except when compelled to do so under the stress of circumstances. British statesmen have however declared that they are prepared to encourage colonies to grow to full nationhood wherever the peoples of these countries show a desire to govern themselves. The colonial countries too can therefore hope to achieve their independence some day. Thereafter the decision will lie with them as to whether they should remain member nations or sever all ties with the Commonwealth as Eire and Burma had done in the past.

Ties of blood, the persuading force of kinship, the attractions of certain ideas and doctrines, the unifying influence of institutions common to all member nations and most important of all, the hope of economic and political gain are some of the factors which have helped to keep the Commonwealth group of powers as an allied bloc in a world of warring countries and rival ideologies. Ties of blood and kinship, a common devotion to a hallowed symbol—the Crown—were the most important factors which contributed towards the decision of the White Dominions to remain within

the Commonwealth. The White Dominions contained British settlers. The latter carried with them certain political ideas which they nurtured and cherished in the countries of their adoption. These were the ideas of the rule of law and the idea of representative government. Belief in the rule of law bred a belief in the freedom of the individual and the liberty of nations besides the right of subject people to clamour for their independence. The idea of representative government promoted a desire for self-government on the part of colonial peoples and encouraged them to demand parliamentary institutions for their countries. The British Government was not slow to grant the demands of the peoples of the White Settlements because the experience of the American Revolution had shown them that it was futile to resist the claims of growing nationalism. The tie of kinship however prevented the White Settlements from severing connections with the mother country when they received their independence.

Similar ideas and beliefs led the people of the Asian member nations to demand independence. The United Kingdom was however slow to acknowledge these claims. This explains why Burma showed no desire to remain within the Commonwealth and why India sought republican status and Pakistan aspires to the same position. The influence of kinship was not in any way present to persuade the Asian members to remain within the Commonwealth. In the last instance it was the hope of economic and political gain and the belief in the British political way of life that led these countries to their decision to remain as members of the Commonwealth. The history of the past few years shows that countries like Pakistan, India and Ceylon have stood to gain a great deal by remaining as members of the Commonwealth. Technical assistance and the fact that Britain retains the sterling assets of these countries are some of the economic considerations. Political factors are determined by the international situation. The United Nations has become an organ for power politics. It offers no positive protection of assistance to small nations against aggression. A country like Ceylon has stood to gain from certain agreements concluded with the United Kingdom with regard to defence and external relations. Her interests in foreign countries will be protected by the diplomatic representatives of the Government of the United Kingdom. Ceylon will therefore save on expenditure which she might otherwise have to spend if she were to employ her own nationals to safeguard her interests in foreign lands.

All these factors indicate that the basis of the Commonwealth of Nations is a firm faith in discussion facilitated through an elaborate machinery of consultation and a belief on the part of the member nations that the foundations of the system is not rule imposed from without but the free co-operation of equals. The Commonwealth had no common foreign, economic, or defence

policy nor indeed is there a desire for complete unanimity in these fields. Full consultation, effective discussion and careful deliberation before any decision is taken and free co-operation between equal partners are the means by which agreement is reached and action is taken by this unique association of democratic powers. No pressure of any sort is exerted over any of the independent members of the Commonwealth to compel them to follow any particular line of action. In fact there have been times when, as Francis Williams suggested, Commonwealth conferences were occasions where good old friends met, discussed matters in a friendly spirit and then went back to their countries and pursued policies which adversely affected other countries. Thus, whether united by common bonds of kinship and sentiments or by the desire for economic betterment and political advancement, the member nations of the Commonwealth are free and independent to act in the way they like best. They are under no obligation to follow the dictation of a central authority.

CHAPTER IX

THE MEANING OF DOMINION STATUS

DOMINION status is a dynamic concept which received its classic formulation in the Balfour Declaration of 1926 and its legal expression in the Statute of Westminster of 1931. It is true that local variations between the various members of the Commonwealth and formal restrictions on full independence within each country still exist. Yet we can discern a common status. No one will deny that there are still some legal restrictions but these are barren without the political actualities that vivify them—which, while operating within the constitutional structure of each Commonwealth country, supplement, modify, paralyse or nullify the law.

Dominion status implies full and complete autonomy in internal affairs. In the field of foreign relations, it implies freedom from all external restraints and equality of status with other states. Along with these attributes, there is a common acceptance of the Crown as Head of the Commonwealth and a free association with other members of the Commonwealth of Nations.

Internal Affairs

Full and complete autonomy in internal affairs, that is to say internal sovereignty, involves the automatic validity of all laws passed by a Dominion legislature subject to no limitations which are not self-imposed and which it cannot remove on its own initiative. This means that the laws of a Dominion can apply to all subjects which it chooses to legislate on. The Statute of Westminster provided for this legislative freedom to a great extent. Section two of the Statute provided that no Dominion law was to be invalid on the ground that it was objectionable to any law enacted by the Parliament of the United Kingdom. It also enacted that a Dominion Parliament could repeal any act passed by the British Parliament in so far as such an act was a part of the law of the Dominion concerned. Eire, South Africa and Canada were some of the Commonwealth countries which made use of these provisions.

There is however the crucial question as to whether a Dominion can amend, or repeal, or pass legislation which is repugnant to the Statute of Westminster itself. It might be straight away said that without this power, it would be futile for a Dominion to claim to be independent. The well-known constitutional authority Professor Berriedale Keith argued that such a power did not exist on the ground that its existence would mean the removal of safeguards

in the federal structure of the Commonwealth countries of Australia and Canada and in the constitutional position of the Provinces in Canada and the States in Australia. The Indian Independence Act of 1947 provided however that Dominion legislation repugnant to "existing acts, this act or future acts" of the Imperial Parliament could not be invalid. Sir Ivor Jennings is of opinion that Ceylon too can do so. There is also no reason why the older Dominions cannot enact legislation repugnant to the Statute of Westminster itself. Political fact indicates that Dominion legislatures can pass such legislation against the Statute of Westminster and secure its acceptance by the Dominion Courts. If this were not possible Britain herself would repeal the Statute of Westminster on the request of a Dominion.

This brings us to the question of the constituent power, that is, the right of a country to amend its constitution. In the case of Canada, this power is tied up with the ability to amend the Statute of Westminster. Section 7 of the Statute expressly denied the constituent power to Canada. This is however no limitation, for as soon as some sort of agreement is reached between the federal government in Canada and the government of the provinces, this could be removed. Most of the other Dominions have the power to amend their constitutions.

Full and complete autonomy in internal affairs also involves the power of extra-territorial jurisdiction—that is, the power to deal with acts done outside the territorial limits of a particular country. This power has been conferred on the Dominions by Section 3 of the Statute of Westminster. Canada made use of this power when it extended its control over shipping in 1934 and in regard to discipline over its Air Force and Navy in 1940 and 1944. This power gave the Dominions complete power over their shipping and full authority over their territorial waters.

Within the field of internal affairs however there were certain powers which the British Government could exercise. It seemed to appear that some of these powers tended to minimize the degree of independence enjoyed by the Dominions, but in actual fact, further examination indicates that these powers exist either because the Dominions desire it or because they were self-imposed. They can at any time be removed either by the British Government at the request of the Dominion concerned or by the process of constitutional amendment. These powers are:—

- (a) The general power of reservation given to the Governors-General in most of the Dominions. This power is no derogation from independence because it is exercised if at all, on the advice of the Government of the Dominion concerned. Besides it can be easily abolished by the

Dominions. South Africa did this by the Status of the Union Act, 1934, Eire followed in 1937 and the Dominions of India, Pakistan and Ceylon by their respective Independence Acts.

- (b) The same principle applies to the power of disallowance. This has gone out of use through the failure to exercise it, in Canada since 1873 and New Zealand since 1867. No Act passed by either the Parliaments of Australia or South Africa had ever been disallowed. India, Pakistan and Eire did not recognise such a power in their respective constitutions.
- (c) There is still a further restriction on the independence of a Dominion. This is the power that the Parliament of the United Kingdom possesses to legislate for the Dominions though only with their request and consent. This power has not been often used except on very rare occasions as for instance when the Parliament of the United Kingdom legislated for Canada when the latter country indicated its willingness to accept the abdication of King Edward VIII. Technically however this power is an infringement on the full legislative competence of a Dominion. In actual practice the Commonwealth nations of India, Pakistan, South Africa and Eire have not recognised such legislation. Besides even where such a power exists, the Dominion concerned can abolish it and hence this power can in no way be regarded as a tendency to minimize the degree of independence enjoyed by a Dominion.
- (d) It is however held by constitutional authorities like Keith and Hankey that the United Kingdom can revoke the Statute of Westminster and thus withdraw all the powers it has conferred on the nations of the Commonwealth. Politically such a situation is almost impossible, for once a country has been granted independence, such independence can never be withdrawn except by waging war. In legal fact however such a situation is possible and hence from the legal angle dominion status is in many respects short of complete independence.
- (e) Another legal limitation was that the head of a Dominion Government was appointed by the king. But the king now acts on the advice of the Cabinet of the Dominion concerned. Eire has shown that a Dominion can, not only appoint its own head but also remove him as for instance when she removed her President in 1932.
- (f) A further limitation is that the citizens of a Dominion can appeal for justice to a higher court other than their own Supreme Court—namely the Judicial Committee of the

Privy Council. But even here, where the right to appeal exists, a judge from the Dominion concerned is usually associated with their Lordships of the Judicial Committee of the Privy Council in the hearing of such appeals. Besides a Dominion can, if it so desires abolish appeals to the Privy Council. This has already been done by for instance, South Africa, India and Eire.

- (g) Still another limitation is stated to exist by virtue of the fact that the Crown enjoys such powers as for instance that of granting pardons and conferring honours. Both these powers can however be abolished by a Dominion if its Parliament so desires or they can be allowed to fall into disuse as in the case of South Africa and Eire. Hence this is no actual limitation.
- (h) It is argued by some that acceptance of the British Monarch as the Head of a Dominion is an indication of the inferior status of a Commonwealth nation. Acceptance however is voluntary on the part of a Commonwealth country. If a Dominion desires to do away with the British Monarch as Head of its government, it can do so by the process of legislation as was done by India and Eire. A Dominion is therefore as good as independent in that the Head of its government is its own and in that it has its own laws governing citizenship. Even Ceylon has its own citizenship laws.

External Affairs

In the field of external affairs legal standards are more important because they are the only standards which other nations will accept. In this sphere the Dominions are viewed from two aspects: (a) as members of a Commonwealth of Nations and (b) as separate persons in a world of states.

A separate legal personality in the world community of states means that a country to be independent should have the right (i) to receive and accredit diplomatic representatives to foreign states (ii) to make treaties of its own (iii) to recognise any new state (iv) to remain neutral in the event of war (v) to wage war and make peace of its own accord (vi) to join any regional grouping of its own free will and (vii) to secede at any time from the Commonwealth, if it so desires.

Examination of the powers enjoyed by the members of the Commonwealth indicate that they enjoy all these rights.

The Dominions, even before the Statute of Westminster was passed, were recognised as having a right to receive diplomatic

representatives from foreign states and appoint such representatives to foreign states. Canada appointed a diplomatic representative to the United States in 1926 and to France in 1928.

The Dominions can make treaties on their own without obtaining the prior permission of the United Kingdom. Canada for instance signed the Halibut Fisheries Treaty with the United States in 1923 and the Union of South Africa signed a treaty with Germany in 1937. Though there is a moral obligation that all the other members of the Commonwealth should be kept informed of the negotiations conducted by a Dominion with a foreign state, this obligation is by no means adhered to in all circumstances.

The Dominions have the attribute of an independent state in that they possess the right to recognise any new state. Eire recognised General Franco's Government in Spain in 1937, Canada, the Vichy Government in France in 1940 and India, the new republic of Indonesia in 1947.

The Dominions have the right to remain neutral in the event of war. There is no legal obligation for them to go to war if the Government of the United Kingdom is at war with another country. Eire remained neutral during the Second World War. The Parliament of the Union of South Africa decided to enter the same war by a narrow majority of votes and the Government of Canada entered the war seven days after Britain had declared war against Germany.

The ability to wage war and to make individual treaties are the most important powers exercised by an independent country. To the extent that the Dominions possess them, they can claim to be sovereign states. Canada declared war against Germany of her own accord on the 10th of September, seven days after the Government of the United Kingdom had done so. Australia was technically at war with some of the countries in the Far East while the United Kingdom was still at peace with them.

The power to enter into separate peace treaties with the countries with whom the Allies had waged war during 1914-1918 was also recognised in a nominal way by the Government of the United Kingdom when the different Dominions signed the Treaty of Versailles, as separate entities. This power was proved to exist beyond any doubt when Australia signed a separate peace treaty with Thailand after World War II, after Britain had already signed a separate peace treaty with that country.

Membership of the Commonwealth does not prevent a Dominion from joining any regional grouping. Canada has identified herself with the Pan-American Union and Australia and New Zealand have joined with the United States in a Pacific Alliance. Nor does

membership of the Commonwealth compel a Dominion to fall in line with any particular policy or measure adopted by the other members of the Commonwealth. Pakistan declined to devalue its currency even though the other members of the Commonwealth had devalued theirs after Britain had done so.

These wide powers definitely place the Dominions in the rank of independent states and they are internationally recognised as such. The United Nations Organisation by making it clear in Article 2 of its Charter that "the Organisation is based on the principle of the sovereign equality of all its members" ensures that membership of this body is adequate evidence of the independence of a country. Eire and Ceylon have been refused admission to the U. N. O. not because they were regarded as not fully independent countries but due to the differences that exist between the Great Powers.

It is said that a Dominion cannot claim to be independent since legally it has no power of seceding from the Commonwealth or of removing the British monarch from the Headship of its Government. On the legal plane this argument might be correct but in actual political fact, in the real world, such a power has not been recognised as existent. The Irish Parliament broke off its last ties with the British Crown in a matter of ten minutes and Burma saw no difficulty in severing her ties with the British Commonwealth.

The Advantages of Dominion Status

Membership of the Commonwealth it is argued carries with it a number of advantages. It is stated that in the diplomatic field, the despatch of information through the Dominion information Department in London to all the members of the Commonwealth save the Dominions a great deal of expense. Besides they can always have access to diplomatic advice on the political situation existing in foreign lands from the British Foreign Office and they can also obtain information on matters of commerce from the same source. The Dominions can also make use of the services of British diplomats in foreign lands where they have no representatives of their own.

The friendliness generated by a common and sentimental allegiance to the British Crown as Head of the Commonwealth breeds with it a spirit of happy and mutual co-operation in all spheres. Such a spirit tends to promote a desire on the part of the Dominions to pool together their material, technical, and intellectual resources. In the economic sphere we see aid given to the more backward members of the Commonwealth by the more prosperous members. The Colombo Plan is a clear instance of the type of assistance rendered to the less prosperous members of the Commonwealth by those members of the Commonwealth which are economically better off. In the intellectual and cultural spheres there is a regular interchange

of views and a growing desire to promote better understanding and more friendly relations between the various members of the Commonwealth. This is especially to be seen in the arrangement of lecture tours for prominent men of letters and science from one country in the Commonwealth to the other countries of the Commonwealth and in the provision of scholarships for citizens of Commonwealth countries to different Universities and other institutions. Within the Commonwealth the work done by an organisation like the British Council is evidence of this desire to promote cultural relations between the various countries of the Commonwealth. In the political sphere, whenever a Dominion conducts negotiations with a foreign country it usually takes into consideration the interests of the other members of the Commonwealth. There is a convention that the other members of the Commonwealth should be kept informed of what is happening. This convention is however not strictly followed by Commonwealth countries on all occasions. On major matters of political importance however every effort is made to arrive at some unanimous agreement or to iron out differences where such differences exist, as far as is possible through the medium of Commonwealth Conferences.

Membership of the Commonwealth also means that a Dominion will have the combined support of a powerful association of states on any questions of political importance. A foreign state will have to reckon not merely with a single country but with a group of nations that have acquired a world reputation for making a united stand where the interests of any of its members were involved. The political backing that Ceylon received from the nations of the Commonwealth when she put forward her claims for admission to the United Nations Organisation is proof of such collective action.

The prospect of co-operation and mutual assistance in the sphere of defence is still another attraction for the Dominions to remain as members of the Commonwealth of Nations. There can be co-operation and assistance in the matter of military training and there can be direct exchange of views and personnel between the various Commonwealth powers. Besides there can also be constant communication between the military staffs of the different powers for the better promotion of Commonwealth defence. A Commonwealth organisation called the Committee of Imperial Defence sees to the co-ordination of Commonwealth defence plans. Collective action and mutual co-operation in the field of defence is therefore assured as a result of membership of the Commonwealth.

Finally, membership of the Commonwealth might mean that a member state will be helped by the other members in time of war, stress or crisis. Small nations like Ceylon will therefore stand to

gain a great deal by identifying themselves with a powerful international organisation like the British Commonwealth.

The benefits and disadvantages of remaining within the British Commonwealth depends on the attitude of individual nations. Voluntary co-operation is the keynote of Commonwealth policy. There is no compulsion on any member to follow or adopt any particular line of policy. The advantages depend on the benefits that other international organisations can offer to sovereign states. At the present moment the British Commonwealth affords certain distinct advantages to its members. This explains India's reluctance to leave the Commonwealth and the reluctance on the part of South Africa to leave the Commonwealth and declare herself a republic. In a more stable world, membership of the Commonwealth might have been less attractive but living as we are today in dangerous times, membership of a free association of states like the British Commonwealth of Nations affords so many advantages which small nations like Ceylon cannot readily afford to miss. (This is of course on the assumption that the Governments of the Commonwealth countries are agreed that the capitalist system is the ideal frame work within which parliamentary democracy can operate.)

CHAPTER X
THE
MACHINERY FOR COMMONWEALTH CONSULTATION
METHODS OF REACHING AGREEMENT

No Single Central Authority

Since it has been pointed out that the British Commonwealth is a group of free and independent states, it appears quite obvious that there can be no one single, central and supreme authority legislating and directing the affairs of this body of free nations. The Commonwealth group of powers have other methods of reaching agreement and resolving differences of opinion. Directions do not come from an external authority situated at Whitehall as is the case with the Colonial Empire. Reliance is placed on discussion and on an elaborate machinery for consultation and co-operation. The Commonwealth group does not always speak with one voice. At various times and on various occasions they have voted and spoken on opposite sides in the meetings of international associations like the U. N. O. and its allied bodies. But whenever agreement and unanimity is reached, it has been the result of careful deliberation and free discussion. Decisions are reached not by majority vote or the exercise of coercion from without. Each member nation is free to act in its own way but their action will always be guided and determined by the nature of the discussions and deliberations which precede such action. Each member nation though conscious of its own independence and individuality is also aware that it goes to form a wider unity that is called the Commonwealth. Decisions are therefore not made recklessly or in a hasty and thoughtless manner. Wherever possible, members have endeavoured to consider and shape their national policies in such a way as to promote the wider interests of the Commonwealth as a whole or whenever they have differed, to act in a manner so as not to jeopardize the interests of the Commonwealth.

The relations between the United Kingdom and the Dominions differ from those which exist between foreign countries. Commonwealth relations do not bear an international character. Communications are not so formal as that which exists between a Commonwealth power and a foreign state. This is due to the fact that the nations which constitute the Commonwealth belong to a single, inclusive political system just as the republics which make up the Soviet Union are all unanimous in professing their faith in a single doctrine—the principles of Marxism. But it must be remembered

that the British Commonwealth is an association of completely independent states and not an alliance, a union, a federation or a confederation. It is this fact that prevent the British Commonwealth from speaking with one voice as happens with a federation like the United States or the U. S. S. R.

Since there is no single and central authority to guide and control the affairs of the Commonwealth, agreement has to be reached through the technique of consultation and co-operation. The machinery which makes such co-operation possible is to be seen in three directions.

(1) OFFICIAL CHANNELS

(a) Contact at Ministerial Level

Firstly there are the "official channels". This will include the contacts which take place at frequent intervals between the cabinet ministers of the various Commonwealth countries. Contact is established through the medium of conferences or by telephone, cable, wireless and postal correspondence. The latter means of communication (telephone, cable and wireless, and correspondence) is also adopted for contact at lower levels between the various nations of the Commonwealth. Important conferences were held in 1887 on the occasion of Queen Victoria's jubilee, in 1894, in 1897, in 1907, 1909, and 1910. The conference of 1887 discussed questions of defence and imperial communications; that of 1894 which was called by the Canadian Government in Ottawa discussed trade and communications between the United Kingdom and the colonies (which included the self-governing countries) and between the colonies themselves. The conference of 1907 decided that the Prime Minister of the United Kingdom was to preside ex-officio at all meetings and the Prime Ministers of the self-governing Dominions were to be ex-officio members. It was decided that (i) questions of common interest should be discussed at these conferences (ii) Prime Ministers could give effect in their countries to any agreed decisions as they controlled majorities in their Parliaments and that (iii) decisions were not to be reached by majority vote. The minority will not therefore be coerced into accepting the decision of the majority. In the absence of unanimity, the members would agree to differ. But it was pointed out by the conference that its members were present in a dual capacity, firstly as the representatives of their states and secondly as members of the Commonwealth. They would therefore endeavour on every occasion to reconcile these dual interests whenever differences arose. During the first World War, between the years 1917 and 1918, many Dominion Cabinet Ministers and nearly all the Prime Ministers visited London. In 1917, an Imperial War Conference was formed for the purpose of consultation and co-operation between the United

Kingdom and the self-governing countries to help towards the better prosecution of the War. In addition, Dominion Prime Ministers and Cabinet Ministers attended meetings of the British War Cabinet and from 1917 Field Marshal Smuts, the South African statesman sat as a member of the War Cabinet. Regular conferences were also held during the period between the two World Wars, the most important of which were the conference of 1926 which announced the Balfour Declaration and that of 1930 which prepared the Statute of Westminster. During the Second World War all the Prime Ministers of the Dominions and many of their Cabinet Ministers visited London from time to time and attended meetings of the War Cabinet. The period after the Second World War has seen a number of important Commonwealth Conferences between the Prime Ministers of the various Commonwealth countries and on other occasions between their Foreign Ministers on the one hand and their Finance Ministers on the other. All these conferences have gone to show that the Commonwealth is a group of independent and self-governing states, freely co-operating with one another, attempting to solve problems which are of common concern to any section of them, but always with a firm faith in the principle of discussion and a belief that disputed questions can only be solved by negotiation and friendly talks rather than by coercion or war.

(b) Contact between Departments

Another level of contact between the members of the Commonwealth on the official side is through departmental communications—that is to say, contact between the Government departments in the United Kingdom and those in the Dominions. The Commonwealth Relations Office plays an important part in this method of communication. It has already been pointed out that the relations between the United Kingdom and the Dominions are largely of a non-international character. This is more than evidenced by the fact that the Commonwealth countries use different machinery from that which they use in their relations with foreign countries. Thus, for instance, the Foreign Office of the United Kingdom is not utilised for establishing contact with any of the other Commonwealth countries. Until 1947 the Secretary of State for the Dominions was the channel of communication for contact with the Commonwealth countries and Indian affairs were dealt with by the India Office. Since 1947, a Secretary of State for Commonwealth Relations was appointed to take charge of both departments. The Foreign Affairs Department of the Commonwealth Relations Office circulates to the Departments of External Affairs of the various Commonwealth countries the secret documents of the Foreign Office and the reports that the latter receives from British diplomatic representatives in Foreign states. Such information will be (i) of great value to the Commonwealth countries for they will be able to see British policy in the making and (ii) will also

provide them with information of conditions in countries where they do not have any representative of their own. The Commonwealth countries too have in turn begun to circulate to the British Commonwealth Relations Office and to each other, all important documents containing information collected by their representatives in foreign lands. During the Second World War, the practice of contact between government departments in the United Kingdom and those of the other Commonwealth countries became fairly common. It was developed in order to save time and increase efficiency. The normal procedure would have been to operate through the Commonwealth Relations Office where the United Kingdom was concerned or the Department of External Affairs where any other Commonwealth country was concerned.

(c) High Commissioners

A third means of communication between the various Commonwealth countries on the official level is that through the system of High Commissioners. High Commissioners are the ambassadors appointed by the Commonwealth countries to represent their interests in other Commonwealth countries. They are a sort of Commonwealth private diplomatic service. British High Commissioners are appointed not by the Foreign Office but by the Commonwealth Relations Office. During the Second World War there were daily meetings between the Secretary of State for Commonwealth Relations and the High Commissioners of the various Commonwealth countries. There have also been occasions where High Commissioners have had dealings with Government Departments directly without going through the Commonwealth Relations Office in London or the Departments of External Affairs in the other Commonwealth countries. This practice will of course not always be welcome.

(II) INTER-COMMONWEALTH SPECIALIST BODIES

A second type of machinery used for the purpose of establishing consultation and facilitating co-operation between the various Commonwealth countries is to be seen in a number of inter-commonwealth specialist bodies of various types and sorts. These might be on economic, scientific, or cultural levels. Some are temporary bodies formed to meet a particular situation ; others are of a more permanent nature. Some are solely financed by the United Kingdom ; some by all the Commonwealth nations as a sort of joint Commonwealth concern. An example of the former is the British Council which is a sole concern of the United Kingdom for the purpose of disseminating British cultural propaganda. An example of the latter is the Colombo Plan for Technical Co-operation, an endeavour in joint enterprise for the betterment of economic conditions in Commonwealth lands. Other examples are the

Commonwealth Economic Committee, the Commonwealth Shipping Committee, the British Commonwealth Scientific Liaison Officers, etc.

(III) NON-GOVERNMENT LINKS

The third method of consultation and co-operation between the nations of the Commonwealth is through the medium of non-government bodies and associations. The Empire Parliamentary Association is an organisation of this type. Its chief purpose has been to provide for the more ready exchange of information on Parliamentary affairs between the various countries of the Empire and the Commonwealth and to promote better understanding and encourage more regular contact between those engaged in the parliamentary government of the different parts of the Empire and Commonwealth. Members of more than thirty three of the Parliaments and legislatures of the Commonwealth belong to this association. Other important non-Government links are (i) bodies, like the Royal Empire Society and the Empire Press Union, (ii) institutions, like the Universities in the Commonwealth which provide for the exchange of teachers and arrange lecture tours for teachers from one Commonwealth country to another, (iii) commercial firms which seek to establish trade contacts, (iv) publishing firms which disseminate cultural propaganda and (v) professional associations.

All these various forms and types of co-operation have a certain effect and influence on Commonwealth relations. They keep the various member nations of the Commonwealth generally aware of what is happening in the respective domains of each other. There is no tendency towards secret diplomacy nor is there any deliberate attempt to work at cross purposes except on rare occasions as is for instance seen in the embarrassing racial policies of the Malan Government in South Africa. They serve to remind the various members that they belong to a single unit or a family of nations rather than to rival power blocs in a world of conflicting ideologies. Above all these forms of relationships help to secure some form of union in political action between Commonwealth nations wherever possible. This does not mean that there is any conscious effort to secure a joint Commonwealth policy. It only means that every effort is made to narrow down differences whenever such differences occur and to ensure that Commonwealth policies run on parallel lines rather than diverge widely where crucial issues are at stake.

CHAPTER XI

THE PRINCIPLES OF DEMOCRACY

The Nature of Democracy

The cynics say that it is impossible for us to live in peace with those whom we believe to be damned. It is the cardinal principle of democracy to extend to even such mortals a toleration which is generous in its outlook and sufficiently reasonable in its limits. Generous in outlook, because democracy begs of us that we should try to understand human problems in a human way. Reasonable in its limits, because democracy does not expect each of us to sit in our own Mounts of Olympus, and cheer the rest of mankind while they march on to everlasting disaster. Democracy expects us to develop a sense of fellowship, friendliness and good neighbourliness among the people with whom we live and spend our lives. Individualism might have been an ideal creed for the democrats of the nineteenth century when there was plenty of wealth available to the community so as to ensure that the lesser privileged in society could receive the bare necessities for a decent existence from the generosity of the well to do. But with increasing competition in a world torn with strife and war, with fewer markets available for the industrial countries of the world to dump their finished products, with the growth of nationalist movements among the colonial peoples of the world, and with the re-awakening of Asia, it has become increasingly difficult for governments to meet the demands of the common man.

The outlook is therefore serious. The Robinson Crusoes can no longer be tolerated in our contemporary society. We live in an interdependent world. We must learn to understand the problems of our fellow beings. We can only do so by understanding our neighbours, moving with them in a sociable way, persuading them to accept what we think is right, and dissuading them from doing things that are obviously wrong. Democracy does not expect us to wave our handkerchiefs from our little mountain tops and cheer the rest of our fellow beings, while we know that they are marching to their doom. Democracy expects us to be meddlesome in a very pleasant way and show people in an inoffensive and persuasive manner the way to live a good and correct life. Hence, we must come down from our peaks and creep out from our little nooks and crevices. We must live actively and move sociably. We must lead where we must and follow where we should. Those of us who have the gift of leadership should realise that democracy, unlike dictatorship, does not believe that any man is indispensable in the good society.

On the other hand, democracy expects those who follow and are led to follow in an intelligent and discerning way. The unintelligent worship of leaders is the characteristic of the animal herd and not of the human community.

Discussion

It then becomes clear to us that discussion is the very life blood of democracy. This means that we must learn to respect the views of our fellow beings. It also implies that we must respect human personality. Democracy teaches every one to have the highest conceit of himself. It believes in the equality of man, not in the intellectual, physical, or spiritual spheres, but in the political sphere. In this sphere, at least, every man of whatever capacity he might be, is entitled to some sort of consideration from all other members of society. It means that every man who has a permanent and abiding interest in the community in which he lives is to be counted and taken into consideration before a final decision is made. In short democracy gives every man and woman who has reached a sufficient age when he can determine matters for himself or herself in an independent way the right to vote. Decisions are therefore to be taken by a counting of heads and not the breaking of heads. This means that the wishes of the majority will prevail but it also implies that before this decision is made to prevail, every other view would have been discussed and considered in a very careful and deliberate manner.

Opposition

Hence, not only is discussion fundamental to democracy but democracy also requires the existence of an official and well-informed Opposition. Eternal vigilance, it has been said, is the price of liberty. The Opposition must therefore be given the opportunity to express its opinions in a constitutional way. It must be consulted by the Government in power whenever any action is to be taken. For a Government must remember that the Opposition might replace it some day and if it is not prepared to extend some amount of tolerance to those who differ from it and to compromise on vital issues which the Opposition holds to be sacred, the Government too will receive similar treatment when it comes to the turn of the Opposition to adorn the Government benches. But Opposition will only be welcome when it is of a friendly and constructive sort. An Opposition must not act in an irresponsible and hostile way. Its aim must be to persuade the powers that be to act in a cautious and tolerant manner. Power corrupts but it also sobers human beings. A discreet and clever Opposition will try to make the sobering elements in any Government triumph over the petty and irascible elements within the latter's ranks. The duty of the Opposition will therefore be to give credit to the Government whenever credit is due and hold up its faults to the public gaze

whenever the Government has committed an error as a result of ignoring the criticism and suggestions of the Opposition. Discussion must therefore be free, open and candid in a democratic society. An Opposition should never try to work from under the ground so long as it is given the opportunity to have its head above the surface. It should try its best to win over the electorate to its own way of thinking and to secure a majority in a future Parliament to put its programmes and policies into action. An Opposition which tries to act in an unconstitutional and irresponsible manner when other avenues are available for expressing its grievances and for seeking redress, is only courting disaster. For then it will have the minions of the law on its trail and it will be difficult for it to escape the penal consequences that follow from a deliberate attempt to break or disobey the law. An Opposition which therefore preaches violence, drills its followers in a military way, and tries to put them into uniform can never be tolerated in a democratic society. But it should also be remembered that an Opposition will not be forced to act in this manner, if the Government in office is prepared to compromise with it, to understand its views and grant generous concessions whenever concession is possible.

Majority and Minority

Democracy therefore claims that the majority in society, whether right or wrong from the point of view of the minority, is entitled to have its way. But this does not mean that a majority has a general licence from society to ride roughshod over the views and opinions of the minority. The minority, that is to say, the opposing elements in any given society must agree to differ and must also be given every opportunity for representing its differences. If this agreement to differ is not possible to achieve, there is a danger that society will fall into chaos and confusion. Those who have agreed to differ should be entitled to respect and consideration. They must be placated and pacified at every turn. It becomes the duty of the majority to use all the instruments of persuasion within its reach to convince the Opposition and the society at large that what it is doing is for the general good of the people. It must be prepared to compromise and concede, and a compromise can only be effected when there is a clash of opinion and not when the minority is made to feel that it must resign itself to accept willy-nilly the verdict of the majority. Discussion in a democratic society should therefore be encouraged and tolerated not with the idea of registering the consent of all who are immediately concerned but with the deliberate intention of discovering other points of view and discussing differences of opinion with a view to narrow them down and arrive at some sort of working arrangement acceptable to all. Given these qualifications, the will of the majority becomes the only practical means available to any society of human beings to organise itself for the purpose of achieving objectives which its

constituents believe to be urgent and necessary at any given moment. Coercion should only be used as a last resort to compel obedience from the minority. But at the same time, it should be remembered that the majority should always be sensitive to the opinions and views of the public, especially the minority. It should be efficient in what it does. It should always have its ears close to the ground. For it is worthwhile for the majority to remember that obedience can only be enforced if the laws are such that people are not anxious or desirous of breaking them. If the minority feels that laws are wicked and harsh and that it cannot obey them without sacrificing its self respect, then enforcement becomes a difficult task. For disobedience is bound to grow infectious and when a fair section of society turns rebellious, government becomes impossible. The majority should therefore be always on its guard, and try to reach agreement with the minority whenever possible. For only then can peace and happiness and goodwill and kindly neighbourliness exist in society.

The Importance of the Individual

The duty to abide by the decision of the majority and the responsibility of the latter to respect the opinions of the minority presupposes the existence of a certain type of citizen in the good society. Such a situation tends to place a high degree of faith in the practical judgment and commonsense of the ordinary man. But democracy also expects the individual in such a society to display a high degree of personal responsibility for the government under which he lives. The common man must therefore not be indifferent to what is happening in the political arena. He must not be merely satisfied with being a sleeping partner in the governmental process. He must be active and vigorous, inquisitive of what is politically happening, and above all eternally vigilant. He must at every turn be prepared to make available his instructed judgment for the public welfare. It is these qualities that are expected of a citizen whose duty it is to display that high sense of personal responsibility for the good governance of his country. But to possess these qualities, a citizen must be educated in a proper way. A democratic society should therefore place a great deal of emphasis on education. This education should however be of a particular type. The fault with most systems of education, especially the systems prevailing in countries under a dictatorial form of government is that there is a tendency towards indoctrination. The citizen is taught to believe in certain accepted truths without being encouraged to question their validity. Education thus becomes a mass training in the art of obedience. The questioning mind and the doubting Thomases are not viewed with favour in these types of society. Education under a true democratic society should therefore be free from every form of indoctrination. The inquiring mind should be encouraged, the docile mind should be roused, even

rudely, from its slumber and goaded into activity. The purpose of education in the democratic society should therefore be to promote the spiritual good of the citizen. It should also seek to awaken the political sense in man and remind him of his civic responsibilities. If this is not done, there is the danger that men will despair of politics. They will become cynical and indifferent. They will say that politics is a rotten game and let knaves and dishonest men take charge of our society. To guard against these eventualities, a true democratic society should endeavour to educate the citizen on the lines indicated above. It is only then that the citizen could be made aware that he is personally and in a large measure actively responsible for the government of his country.

Leadership

Leadership is another essential feature of democracy. But leadership of the type required by a true democratic society can only be forthcoming if society is educated in the democratic way as indicated in the previous paragraph. Such a society will be able to throw up leaders from time to time who will be able to meet the needs of the hour. It should know when to make use of a Churchill and how to dispense with him when he is no longer needed. It will know when to follow and when not to be led by the nose. A true democratic society should place no reliance on the super man. It should not come to believe that without particular leaders it will not be able to survive in the cataclysmic world in which men are forced to live in today. For democracy assumes that no man is indispensable for the working of the governmental process. It also does not presuppose a rigid division between governors and governed. Universal suffrage ensures that the rulers of today will be the governed of tomorrow if the former do not display any sense of responsibility or are not sensitive to the opinions of the public and to the needs of society.

The Rule of Law

A democratic society will therefore provide responsible leadership. Responsible leadership will seek to establish the rule of law and ensure respect for the liberty of the individual. Super men of the type of Hitler and Mussolini will at all time attempt to flout the law whenever it is convenient for them. They will tend to show no respect for justice and fairplay. Under democratic leadership, justice becomes the cement of society. The rule of law prevails and develops into an automatic restraint on the arbitrary exercise of power. The rule of law ensures for all citizens access to the courts of justice. They will have the satisfaction of being given a fair hearing according to established rules of procedure, before any judicial decision is made. No one will be placed in a privileged

position unless such privilege is accompanied with equal responsibilities. Every citizen from the lowliest to the highest will be subject to the penalties prescribed under the written laws of the land. As such, a citizen will not have to live in fear and trembling under a democratic form of government. He will know what the consequences are if he breaks the law. He will be given an opportunity to defend himself and before sentence is delivered he will be given a fair and full hearing. If he is wronged by the agents of the state, he will have the right to obtain redress of his grievances. He need not be afraid that he will be harried by a secret police merely because he has had the courage to differ from his political masters. The concentration camp will be no bar to him to freely express his opinions on any public matter in a constitutional way. This is the real significance of what is meant by the rule of law in democratic society.

CHAPTER XII

PUBLIC OPINION

THE basis of Democracy is the existence of a well-informed and enlightened public opinion. Public opinion is not merely what people think but what they strongly think—so that they are in a position to express their views in a very effective way. It is therefore the duty of good citizens to do not only have views of their own on matters of current interest, but also to infect others with their views and opinions, persuade them where necessary and goad them into activity when action is urgent. Democracy does not expect citizens to be hermits leading lives of silence and devotions. Democracy encourages and welcomes a vigorous and active public. It places instruments of varied sorts at the disposal of the latter to express their views on all matters of topical interest. The individual as a lonely unit in society cannot hope to achieve anything worthwhile or significant. It is only by collective action that matters can be pressed to a head and governments be made sensitive to the needs of society. Co-operative action borne of a sense of friendly understanding and thorough conviction are thus one of the surest means of achieving quick results. Hence, there is always the necessity for a keen and critical public opinion in any democratic society. Freedom to express one's views on questions of public importance becomes then one of the cardinal principles of a true democracy.

The Conditions for a True Public Opinion

For effective public opinion to prevail in any society, it is essential that certain conditions should exist. It is not necessary that there should be unanimity of views on any subject for us to decide whether it is the opinion of the public. It is also not necessary that the opinion of the majority should always be taken to be the opinion of the public. Indeed on most important questions, there are only an intelligent few in any given society who are capable of forming a correct opinion. But democracy does not call for expert opinion. The views of experts can be summoned when the public have formed and expressed their views on the general principles of a matter of public concern. Till then every effort should be made to consult the public, help them to arrive at a correct conclusion, and bring pressure to bear on the powers that be whenever action is necessary.

But to consult the public, the latter should be of a uniform view at least on certain fundamentals before their opinion can be taken for granted to be the general view of society. Unanimity is not

always necessary, but the minority, the opposition so to say, must at all times be willing to accept the decision of the majority when the latter has decided after a full and free discussion. Their acceptance should be given ungrudgingly not out of a sense of frustration. The opposition elements in any given democratic society should therefore be united on certain fundamentals. Racial homogeneity is an essential feature but by no means indispensable. There have been societies composed of different communities which have learned to live with one another in peace and amity. But if a particular minority within a given community feels that it is being oppressed or denied its due rights for unjust reasons, then of course no true public opinion can be formed, especially where the interests of the racial minority are concerned. The Irish Nationalists for example could never reconcile themselves to accept the decisions of the Parliament of the United Kingdom because they felt that fair treatment was not being meted out to them. On the other hand, the different communities which have gone to form the Swiss Federation have lived and are living a healthy and democratic existence because none of them feel that they are the victims of discriminatory treatment. Apart from racial homogeneity there should also be religious toleration in a democratic society for a true public opinion to be formed on any important matter. Where religious strife exists or where any particular religion is given preferential treatment, justice can never be expected to prevail and certain sections are bound to feel an eternal sense of frustration. Above all there should exist a harmony of interests in any democratic society. Majority and minority might have conflicting views on how common ends are to be achieved but they should be united on the fundamentals. This means that there should be unanimity on the methods which are to be used to achieve the ends. In a truly democratic society both the majority and the minority should be prepared to use only constitutional means to obtain their different objectives. If the minority is so treated by the Government that it feels that constitutional methods will not pay and if it feels that it is likely to remain a permanent opposition, then, there is bound to be disharmony and chaos in such a society. Government and Opposition, majority and minority should for ever live in a perpetual state of anxiety and readiness that they will be compelled to change places with one another as a result of the influence of public opinion, if democracy is to prevail in any society.

The Instruments of Public Opinion

There is then the question of investigating what various instruments in society help to shape and determine public opinion. To begin with, there are the political institutions in any society—the Electorate, Parties, Parliament, and the Executive, all of which, each in their own way help to mould and form and elicit public opinion

in order to obtain the necessary licence from the people to go ahead with programmes and policies. The Government, through declarations made by ministers of state on important occasions or by the holding of press conferences or by issuing statements of policy will help the public to formulate opinion on important questions. The appointment of Commissions of Inquiry with the power they have to summon witnesses, examine them, hear public evidence, and issue reports will also help in a large way to create that favourable atmosphere which is so necessary before any important piece of legislation is placed on the statute book. Parliament will assist the public to form opinions through the debates and speeches that its members will deliver not only within its precincts but throughout the length and breadth of the country. Parties, with their programmes and policies, the propaganda that they make available to the public, and the speakers they employ for such purposes will in no small way also help to mould opinion and assist the public to make up their minds. The Electorate will always be throwing up batches of politicians from time to time, potential members of parliament and perhaps prospective ministers of state, all of whom will harangue the public, explain the details of contemplated legislation, criticise them, point out their implications and at other times expound schemes, criticise the Government for its sins of omission and commission and thus educate and inform the public so that the latter will be able to arrive at some sort of workable conclusion whenever occasion demands them to do so. We shall study about the activities of these various political institutions in greater detail in the next few chapters.

The most important and significant factor today, which not only moulds public opinion, or elicits it, but also formulates and even manufactures public opinion is the modern press. The newspaper proprietor is indeed one of the most powerful personalities in the social and political world. For it is on the newspapers that most people depend for their news and views. Individual criticism, it has already been mentioned, is valueless. It needs expression. It must be channelled out and it is only the press which can provide a forum and also an outlet for the expression of such views. The public are therefore at the mercy of the newspaper proprietors. Very often the latter have distinct political views of their own. They attempt to conceal their affiliations under the guise of impartiality. A pretence is generally made to provide the public with an unbiased record of daily happenings. But in actual fact, a twist is given to news and the public are misled by untruthful headlines. Certain items are emphasised, others are merely glossed over, or even suppressed, and by such means attempts are made to persuade the public to fall in line with the political inclinations of the newspaper proprietor. It must be remembered that the common man has very few alternate means of obtaining information.

Besides he has neither wisdom, commonsense or time to discern facts and fiction. The newspaper is the cheapest and most popular medium through which he can obtain a knowledge of what is happening in the outside world. The power of the proprietor is not exercised through the editorial or the middle page articles and the letters to the Editor that appear in the daily paper but through a careful sifting and selection of news for the consumption of the public. Certain items of news are given undue stress, others are tucked away in insignificant corners, while still others are suppressed altogether. The ordinary man is normally a busy worker. He devours all the news that is likely to catch his eye. He will not stop to think or investigate but will take in, hook, line, and sink, all that has been told to him.

Thus it becomes clear that the modern press is by no means a perfect instrument for the expression of public opinion. It might be true that at times the Press acts in unison with the general public especially in matters where the latter feel strongly about problems that directly concern them. But, in normal circumstances, the modern press tends to mould public opinion rather than express it and for this purpose, it uses the devious and subtle methods which have been indicated above. Indeed there have been occasions where the press has attempted to openly flout public opinion and inflict its own opinion on the general public. The only limitations against a complete attempt to dope the public are, firstly that even within the ranks of those who seek to prop up the existing social and political structure, there are differences of opinion on the way things should be done. One section of the press might be mildly conservative while another might belong to the extremes of reaction whilst still a further section might advocate some type of socialistic ideology. The fundamental factor to note is that all sections are rankly partisan in attitude and have their particular political brands to advertise and inflict on the general public. They view the latter not so much as intelligent human beings but as suitable voting cattle who should be fed with the proper type of political fodder so that they will know where to seek their political pastures when election time draws nigh. They do not seek to be impartial and unbiassed even in the presentation of news. Differences of opinion among them and mutual criticism are a few of the factors which prevent them from acting as a unified body against the general public. Besides, the existence of a specialised press which makes knowledge available for those who care to seek it in the proper places, too acts as a suitable check. But a very few avail themselves of these opportunities—for the ordinary man is a busy man and has very little spare time to devote himself to such an arduous intellectual activity as a journey in search of truth.

There are very few popular correctives to this existing state of affairs. The radio is one such valuable corrective especially when

it operates as a means for disseminating news. It is true that a political bias is bound to creep in, especially when, as in most cases throughout the world, there are connections between the Government and the broadcasting systems. Government departments for example would in such cases have a right to request the inclusion of information regarding their activities when news statements are broadcast. Ministers too are given opportunities to deliver addresses explanatory of their policies and programmes. Though these concessions would be of advantage to any party in power, they are desirable if they are not abused. For it is a useful way of keeping the public informed, in a complete and undistorted manner, of what the Government is actually doing. If the Opposition too were given an opportunity of presenting their views and making constructive criticisms of Government policy the broadcasting system will indeed be the best instrument both for moulding and expressing public opinion. But for this to be done, both government and opposition must be united on fundamentals. There must be that harmony of interests which unfortunately most democratic countries are fast losing in the modern world. All in all, however, the broadcasting systems of most countries endeavour to give their listeners a fair selection of news without the twist and turn that the newspapers of the present day give to news before it is prepared for public consumption. The broadcasting systems rarely act as purveyors of political propaganda except when they are the instruments of dictatorship and totalitarian government.

Other instruments of public opinion are parties with their conventions and policy-making committees, churches through the influence they exert on homes and through the pulpit, the civil servants who help ministers of state to lay down policy by piling up selective information for their guidance and government film units which seek to publicise the achievements of the party in power. All these however have their pet themes to popularise. It is left to the intelligence of the ordinary man to sift and to get what he can obtain from the knowledge and material that is placed at his disposal. Books, schools and universities too play their part in the formulation of public opinion but few people have the leisure, the time and the means to avail themselves of these facilities and hence these can be reached only by a favoured few. Those who have such opportunities normally live lives of selfish and irresponsible freedom and do not care much for what is happening in the political and social world once they have secured themselves in comfortable positions.

The student will note that there are a multitude of factors which assist in the formulation of public opinion. The press is by far the most powerful single factor. Its influence is terrific and far reaching. It has therefore a highly responsible and sacred trust to perform. It should not seek to prevent public opinion or mislead the public. Every effort should be made to steer clear of distortion, wilful or

otherwise. For, we live in a busy world. Many do not either have the time or the patience to pursue the truth. They take what is said for granted and then hurry to the inevitable conclusion which the newspaper drives them to, though in a silent and imperceptible manner. The counteracting influences are few—the radio, books, schools, universities, special journals—but these are of little interest to the man in the street who is essentially a man in a hurry. It is this that has made the social scientist acclaim that public opinion is not necessarily intelligent opinion. But however foolish, ignorant and misguided this public opinion may be, it is still the opinion both of the effective and interested minority and of the gullible majority. It is therefore the duty of the intelligent and good citizens of society to contribute their instructed judgment to the education of this gullible majority so that the latter may not be led through wily ways and devious by-paths to political snake-pits and lands of make believe.

CHAPTER XIII

THE ELECTORATE

Parties and the Electorate

Parties and their cabinets of leaders prey upon the electorate. They assemble the members of the electorate. They explain and expound to it their programmes and policies. They arrange the issues for the electors so that it will be easy for them to make up their minds. On the vital day, they drill them and march them to the polls. The decision of the electorate will determine the fate of governments and parties. Upon its whims and fancies, cabinets are made and unmade, parties live and parties die. The electorate is thus the most sensitive spot in the political set up. It is indeed the pulse of democracy. For its affections rival groups compete, political leaders plead and beg, newspapers write their lengthy epistles of political love. The electorate is the most important source of public opinion. The vulgar herd, however unsophisticated and ill-educated it might be, must be wooed and tamed and won over. The test of real democracy lies in the power and influence that an electorate can wield over parliaments and cabinets. When we speak of public opinion, it is the electorate that we always have in mind. When parties, politicians, cabinets and parliaments speak of their masters, it is the electorate which is foremost in their thoughts. The electorate is indeed the sovereign body in the modern democratic state. In it resides sovereignty which is the essence of government and upon which governments depend and rely to exercise their authority and exert their influence.

The Franchise

The franchise in the electorate of the modern democratic state may be universal or may be restricted to only the male sex. It may also be confined to those with a property, educational, or literacy qualification. By the franchise is meant the right to vote and most states fix the age for voting at twenty one and over. Some like Russia, Turkey, Yugoslavia and Argentine have lowered the age limit to eighteen. Others like Norway have fixed it as high as twenty three and still others like Denmark and Japan have fixed it at an even higher level. It is however difficult to determine the correct age when political discretion commences. Eighteen and over seems to be the general consensus of opinion among most states. This is however a matter for each individual state to decide.

Restrictions on the Franchise

As for the franchise, there can be no doubt that if a state is to call itself democratic in the real sense of the word, the vote should be exercised by each and every one irrespective of sex, or education or the possession of property. Britain excluded women from the franchise up to 1918. In 1918 women of over thirty only were given the vote and that too only if they were local government electors—that is, as occupiers of £5 annual value or as wives of electors. Men however could vote at twenty one. This seemed however an unfair distinction and in 1928, Britain extended the vote to all alike, men and women, who had reached the age of twenty one. In Ceylon too the vote is universal in that there is no distinction between the sexes. Quite a few states however up to the end of the second World War restricted the franchise to men. France and Italy conferred the vote on women, only after World War II, as did Yugoslavia and Japan. Belgium and Switzerland are the only states in Europe today which have not conferred the vote on women.

Some states have made voting compulsory. In Australia, a penalty of a fine was imposed by an Act of 1924 on those who did not vote at elections to the House of Representatives or the Senate. Mexico by an Act of 1917 denied the vote to those who did not exercise it and in Belgium and Switzerland compulsory voting is the law. Compulsory voting is however not democratic. Men must vote according to their desires and wishes. If they wish to be indifferent, the state should not attempt to interfere with their freedom of action. We should not seek to treat human beings as voting cattle.

The real problem is however whether the vote should be universal in that everyone alike, above a certain age, should have the right to exercise it irrespective of any qualification—property or educational. This is indeed one of the real tests of democracy. Almost all states restrict the vote to nationals of their country with the exception of the Soviet Union. We cannot afford to quarrel with states which seek to confine the vote to only their citizens because this is an idea in keeping with the sense of nationality and of restricting loyalty to only one state. But there are still a few states in the modern world which seek to exclude quite a number of their nationals from the voters' list merely on the ground of their colour. South Africa for instance has separated the coloured voters from the general body of electors and made provision for their separate representation in the South African Parliament. In the U.S.A. almost the entire negro population has been denied the vote in many of the Southern States either by the plain threat of violence or by such vexatious requirements as educational tests.

The question of restricting the franchise to those in possession of an educational or property qualification is today a purely academic one. Most states today have done away with these iniquitous requirements and have extended the franchise to all alike irrespective of sex or property or education. But there was a time when the ownership of property was a condition for the exercise of the vote and an educational qualification such as the possession of a university degree in some states still entitles such citizens to more than one vote. In Britain during the early nineteenth century and before, a property qualification was a necessary condition for the exercise of the vote. In Ceylon this requirement was urged as a condition by many of the witnesses who gave evidence before the Donoughmore Commission. It was urged that the ownership of property involved some stake in the country and those who exercised the vote on account of such a qualification would do so after due deliberation and with care and responsibility. They would tend to respect all forms of constitutional authority and have an abiding interest in maintaining the stability of the state. In addition it has been held that the possession of property was an indication that the owner would in some way be educated enough to contribute his instructed judgment to the advancement of public welfare. It was also argued in the nineteenth century that if those who had no property were given the right to vote, there would be an end to all private property.

The Case for Universal Franchise

The argument that the possession of property invests its owner with a sense of responsibility and that he will tend to exercise the vote after due deliberation and care is without much foundation. A respectable citizen without property can be as responsible as any other citizen with property. In fact the lesson of history has been that the owners of property have always stood in the way of progress. There is no reason why a citizen merely because he does not possess property will tend to have no interest in promoting the welfare and safeguarding the interests of his state. Soldiers fight for their country and have laid down their lives for the sake of their country. Yet they form some of the poorest sections of the community—and they have seldom shown signs of treachery or disloyalty. The ordinary man in the street who owns no property is as eager to maintain the stability of his country and to respect all forms of constituted authority as the privileged owner of property. The argument that ownership of property ensured that the possessor will have some degree of education which will help him to exercise the vote holds no water today because the modern democratic state makes education (up to at least a minimum level) in some form or another available free to all. Besides as will be explained later, education is not quite a necessary condition for the exercise of the vote. The real reason therefore is to be seen in the

last argument—that the owners of property feared that they would be deprived of their privileges if those who had no property were given the right to vote. The majority of people are propertyless. If given the vote they would demand from their governors and rulers the privileges and comforts possessed by the owners of property. They would want minimum hours of labour, pension rights or provident fund benefits, free education and free medical attention, more schools and more hospitals, better roads, greater sanitary facilities and electricity in rural areas. All this would mean a greater expense to government. Money will have to be found and the money can only be obtained by imposing heavier taxes on the rich and the privileged. The Donoughmore Commissioners placed the situation well when they wrote in their report their reasons for recommending an extension of the franchise—“in view of the backward character of social and industrial legislation in Ceylon, which has no provisions for relieving destitution, no workmen’s compensation, only the most elementary of factory regulations, and no control over hours and wages in sweated industries, a good case can be made out for regarding the extension of the franchise as more urgent than any increase of responsible government”.

To secure maximum happiness therefore, it is necessary that every citizen should be given the right to vote. It is only then that the rulers in the modern state could be made to respond to the wishes of the majority of the people. To restrict the vote merely to property owners would result in making the government answerable to only a privileged minority. Democracy seeks to obtain maximum consent for all laws enacted by the state and for all acts performed by our rulers. Not only must the rulers be assured of support from the majority of the people for all that they do but they must at times be persuaded and even forced to do certain things which will be advantageous to the under-privileged and poorer members of the community. This can only be done by giving these poorer people too the right to vote. They will then have the right to pronounce their judgment on what the government has done for them when the men who form the government of the day decide to go to the electorate. To deny the vote to these poorer people would mean that they will be deprived of the liberty of compelling or persuading the government to do something to improve their lot. The rulers would ignore their wants because they will know that these people will in no way affect their position in the legislature. This would indeed be a denial of democracy; for democracy seeks to promote the welfare and happiness of the majority in the community, and the poor and propertyless do always form the majority in any community. The truth of these conclusions can be seen in the findings of the Soulbury Commissioners when they wrote on the results of universal suffrage in Ceylon—“We are satisfied that, despite the abuses to which we shall refer, the grant of universal

suffrage has been amply justified by the considerable progress made since 1931 in the sphere of social reform. We think it very doubtful whether, on a more restricted franchise, the needs and aspirations of the poorer classes would have met with similar recognition."

The question of an educational or literacy qualification is a different one. Here the argument is based on the theory that an ability to read or write will help the elector to read the newspapers and election literature and enable him to cast his vote for the best candidate. It is also held that ability to read or write ensures that the voter possesses a minimum degree of intelligence and that he will not allow himself to be misled or duped by any of the candidates who seek election to Parliament. These arguments however lack force or conviction. They failed to convince the Donoughmore Commissioners. Few states in the world today insist on an educational qualification as a necessary condition for the exercise of the vote. Some of the negro states in the U.S.A. insist on such a qualification, but this has been done with the deliberate intention of excluding the negro population from the right to the franchise. The ability to read the daily newspaper or election literature will not in any way help a citizen to choose his representative wisely. In fact this type of literature is generally biased. It is meant more to mislead the elector than to give him a proper perspective of the political situation in the country. The citizen does not require any schooling or education to help him to select his governors. His hardy common sense, the discussions that he conducts with his friends, neighbours, and acquaintances at his home, workplace, in the trains and buses while travelling to and from home to office, in the tea kiosk or in the club and in other centres of recreation are a better means of helping him to assess the political situation in the country and to discern the abilities of rival candidates than the mere capacity to read and write a particular language. Men do not vote by an intelligent balancing of the merits and demerits of rival candidates. The human factor always creeps into the mind's corner. They only know too well what they want and they will cast their votes for the candidate or the party which promises to satisfy the majority of the necessities of life which will enable them to live a decent existence. Education is not going to help them to know what they want. If at all education is to be of any use to the citizen, it should be to help him to realise what is possible of any government and what any government or party is normally expected to do to improve the common lot of mankind. Ability to read or write is not going to educate the citizen as to what he is to expect from any body of rulers. He should possess a knowledge of the social sciences, of the functions of government, of civics in general. And this takes us into quite a different field than our original requirement of an educational qualification which endows the citizen with an ability to read or write. Besides, the administrative machinery required to discern the literacy of a

voter will be so cumbersome and will involve such delay that few will take the trouble to have themselves registered as voters were such a qualification imposed. This would result in apathy to, and lack of interest in, public affairs, and indifference to the work of the government of the day—and nothing is so dangerous to democratic government as such indifference on the part of the citizenry. The only way in which therefore government could be made to respond to the wishes of the majority of voters is by the grant of the franchise to each and all alike, irrespective of colour, sex or property, or educational, or any other qualification calculated to exclude even a minority from their due share in the government of their country.

The Abuse of the Franchise in Ceylon

When the Soulbury Commissioners visited Ceylon their attention was drawn to the abuses that prevailed at election time in this country. It was alleged that there was large scale impersonation at elections coupled with selling of ballot papers. The threat of violence and intimidation too it was added kept away many respectable citizens from the polling booths. These are abuses however which are not peculiar only to this country. An enlightened public opinion will help to eradicate these abuses but until such time much can be done by the state to remove these vices. Impersonation can be reduced by increasing the number of polling booths in an electorate so that the candidates' polling agents will have less difficulty in identifying the individual voter. The sale of ballot papers can be minimized by greater vigilance on the part of the administrative staff placed in charge of the polling booth so that proper precautions are taken to ensure that the voter casts his ballot paper into the ballot box before he leaves the polling booth. Threats of violence can however only be overcome by a more enlightened public opinion which will be fearless as to denounce the cowardly acts of hooligans and hirelings. This is one instance where education can help to reform character. In the mean time greater supervision on the part of the Police and more severe penalties for offenders caught in the act might do much to ensure cleaner elections.

The Single Member Constituency

For purposes of convenience the electorate in the modern democratic state has been divided into constituencies. These may be of two types—the single member constituency or the multi-member constituency. Some states like Britain and the U.S.A. possess constituencies of only the single member type. Others like Germany under the Weimar Constitution used to have the entire electorate cut up into multi-member constituencies. Still others like Ceylon possess constituencies of both types. We shall study the merits and disadvantages of these forms of electoral representation.

The single member constituency has much to commend for itself. The British Parliament has 625 members, each representing a single member constituency. The House of Representatives in Ceylon has 95 elected members. Of these 86 are representatives from single member constituencies and the rest represent constituencies of the multi-member type. In the House of Representatives of the United States each of the members represents a single member constituency.

The single-member constituency promotes a closeness of contact between the representative and his constituents. He is able to study their wants and put forward their claims before Parliament. On any important issue before Parliament, he can consult his constituents, if he holds different views from that of his party. The smallness of the constituency in comparison to that of the multi-member type encourages such consultation and compels the representative to keep in close touch with his constituents and attend to their needs. It also gives him a sort of an independence which the representative from a constituency of the multi-member type hardly ever enjoys. In the case of the latter, the representative is, as we shall soon see, virtually the prisoner of his party. In the case of the former, the representative can always depend on cultivating the affections of a small compact electoral area. He can thus fortify himself against party despotism—though this does not necessarily mean that he is assured of virtual independence from his party. In any case he can represent his views at meetings of the party, declare that these views have been formulated after consultation with his constituents, and compel or persuade the party chiefs to pay attention to his claims.

The most important advantage of the single member constituency therefore is that it stands as an effective bulwark against the dictatorship of either party leaders or cabinets. The personal relationship that develops between member and constituents prevents the central headquarters of a political party from having all its own way. In the case of the cabinet—it will be able to keep in touch with public opinion by the periodical by-elections that are likely to occur where the electorate is divided into single member constituencies. These occasional by-elections register the feelings and opinion of the electorate in general and a Government is likely to pay attention to these elections and change the direction of its policy or go ahead with its plans in accordance with the results of such elections. Thus this system helps the Government to discover the feelings of the electorate. If the Government candidate is returned to Parliament from a constituency which had previously returned a Government candidate, either with the same majority or an increased majority then it means that there is nothing seriously wrong with Government policy. If the majority is reduced and the Opposition candidate has increased his votes, then it is an indication that the Government had better look sharp. On the other hand if

the Government wins a seat which had hitherto been held by the Opposition it is an indication that the electorate has given the all clear signal and the Government can go ahead with its plans. But if the Opposition wins the seat which had up to date been held by the Government party, then it means that the danger signal is up for the latter and some change in policy is required to please the electorate and placate public opinion. Thus the system of representation through single member constituencies promotes a close and necessary connection between the Cabinet and the electorate on the one hand and ensures some form of consultation between representative and constituency on the other hand. In any case the legislature is not allowed the opportunity of becoming complete master of the electorate either through the medium of parties or through the development of any form of cabinet despotism. In short as has been well pointed out, the single member system is a system of "ever contingent electoral revulsion." This is to say that the electorate is at any time able to register its protest against Government policy by showing its disagreement at a by-election.

Defects of the Single Member System

Opponents of the single member constituency have pointed out two serious defects in its actual working. They point out that the actual majorities and minorities may not be exactly or proportionately represented in the popular house. They are also of opinion that certain small minorities may not obtain any representation at all. It is in view of the latter argument that the Soulbury Commissioners recommend the multi-member type of representation for certain localities in Ceylon. For the multi-member constituency provided the only chance of representation for small minorities. It would give the latter an opportunity for concentrating all their strength on candidates of their own choice. This would especially be so in the case of a numerous but widely scattered community like the Muslims. It would also be of advantage to districts where members of a particular caste were widely prevalent over a large area but not sufficiently concentrated in a small compact strip of territory so as to ensure the return of one of their number to Parliament from a single member constituency. We shall study how this problem of providing representation for a racial or caste minority was tackled by the Delimitation Commission appointed under a clause of the Ceylon Constitution in a later section.

The arguments against the single-member system is however used with force and conviction in countries especially where political minorities are neglected or altogether ignored as a result of certain anomalies that prevail under the system of representation through single member constituencies. It is pointed out that where more than two candidates contest a seat, the winning candidate may not obtain an absolute majority of the votes cast, (that is to say, one

more than half the number of votes cast.) The total of the remaining votes cast for the other candidates may in actual fact exceed the number of votes polled by the winning candidate and it may be that the constituency did not in actual fact desire that the winning candidate should represent it in Parliament. To make a concrete case, X is a constituency which has 30,000 voters on its electoral list. A, B and C are candidates for the seat X. On election day 20,000 of the 30,000 voters go to the polls. A receives 9000 votes, B 8000 and C 3000 votes. Since A received the highest number of votes he is declared the winning candidate. But it may be that the 11000 electors who cast their votes for B and C did not like A at all and did not wish A to be their representative. They were prevented from sending a candidate of their own choice as a result of the intervention of C. If A secured say 10001 votes or more he would have had an absolute majority over both B and C and could therefore claim to represent the wishes of the electorate. It might have been better still if A could have polled say 15001 votes and thus obtained an absolute majority where the total electorate of 30,000 was concerned. But in this case A secured only a minority of the total votes cast *viz.*, 9000, but because the remaining votes were split between B and C, A is declared the winning candidate. A series of such elections in which As obtain the highest minorities in a majority of single member constituencies in the country might result in the 'A' party being elected to power in the legislature, thus representing not an absolute majority in the country but the largest single minority. There are people who argue that such a form of 'A' party Government is dangerous and not at all safe for democracy. They feel that citizens should not feel that they are being compelled to obey laws, where their most intimate beliefs are concerned, by a government which after all represents only a minority in the country. They are also of opinion that where vital matters are concerned, a few votes might have made all the difference and an 'A' party Government by virtue of its 'minority' majority might proceed to impose its will on the rest of the community. In fact there might be a danger that an A party, if it gets it into its head might convert itself into a dictatorship by democratic methods, in view of the majority it has at its command.

Remedies suggested to correct defects of Single Member System

To remedy these defects, two reforms have been suggested in the electoral system of the modern democratic state. There are those who advocate the multi-member type of constituency under a scheme of proportional representation. There are others who advocate such devices as the Second Ballot and the Alternative Vote as possible means for eliminating the danger of minority dictatorship under a system of single member representation while still retaining the latter types of representation. There is still a third school which recommends a series of direct democratic checks like the

plebiscite, the recall, the referendum, and the initiative to operate in combination with the single member system in order to minimize any danger that might arise from a Government elected to power under the latter system.

Proportional Representation and the Multi-Member Constituency

For forms of proportional representation, there are three worth examining. There was a crude and unpolished form which the French called the *scrutin de liste* or the English may have called the "general ticket system." It was introduced in France in 1919 but it was so imperfect in its result that it never went beyond France and the French themselves abandoned it in 1927.

The "General Ticket" System

Under this system a number of single member constituencies were grouped together to form a large and compact multi-member constituency—that is to say, a large multi-member constituency was formed to elect a fair number of members to the Legislature from it. The voters in this new area had to elect a fixed number of members to the legislature. Candidates might offer themselves singly or in lists. To obtain election, each candidate had to receive a certain quota of votes. A quota was equivalent to the total number of votes cast divided by the number of seats allotted to the particular constituency. To take a concrete case, if Y was the constituency and had to return 10 members to the legislature, then if 20,000 electors went to the polls each candidate would have had to secure 2000 votes to win a seat. Candidates however generally combined themselves into a list and the strongest list usually obtained all the seats in the constituency. The list could not at any time exceed the number of seats assigned to the constituency. Minority candidates thus had very little opportunity of winning a seat.

There was however still another provision to this arrangement. The law provided that if none of the lists of candidates obtained an absolute majority, the share of each list was to be determined by "the number of times the average contained the quota". The "average" here meant the total votes polled by all the candidates in the list divided by the number of its candidates. To take an example once more, Y is the constituency and has to return 10 members and say 40,000 voters go to the polls on election day. Then the quota for each winning candidate would be 4000 votes. If the 'A' party list obtains 23000 votes, the B party list 12000, C party 4000 and others 1000 then A party would receive five of the seats, B party three seats and C party one seat. There is still one more seat to be allocated and since none of the other lists have reached the quota, the seat goes to the 'A' party as the latter has obtained the highest average. Under this system however the

most influential group obtained the majority of seats. Minority candidates could not stand on their own unless they found their way into one of the lists. The system therefore did not provide political minorities with any solution to their grievance—that they were not granted representation in the legislature in due proportion to the votes they had polled at an election.

The Single Transferable Vote

The single transferable vote which was a device, advocated by an Englishman named Thomas Hare was however more perfect and mathematical in its results. Under this system the candidate needs only to reach the quota to secure a seat. The quota was determined by the number of votes cast divided by the number of seats to be filled. The voter had to indicate his preference against each candidate on the ballot paper, but his preferences should not exceed the number of seats allocated to the constituency. If the constituency had to return six members and there were twelve candidates in the running for these seats, the voter could only indicate his preferences for six of the twelve candidates in the order in which he liked the first best candidate, the next best, the third best, and so on till he reached the sixth best. It must however be remembered that the citizen here has only one effective vote. This might however be of no use if his first best receives more than the quota of votes required to secure him a seat. Then the vote will have to be transferred to the second best to enable the latter to reach the quota. In this way the six seats may be filled by distributing the preferences of the voters to the six most popular candidates. The citizen is thus assured that his vote does not go waste.

It might also happen that all the seats cannot be filled as a sufficient number of candidates do not reach the quota. In such an event the candidate or candidates with the lowest number of votes are eliminated and their votes are added to the other candidates who have secured a sufficient number of votes but not adequate enough as to reach the quota. In this case too a voter may be able to get his second or third, or fourth or fifth, or sixth preference in, though he failed to secure the election of the candidate of his first choice. This form of proportional election used to prevail in Britain for the election of Members of Parliament for certain University constituencies. It prevails in Eire for all elections, in South Africa and in Ceylon for Senatorial Elections, and in a number of other countries.

In Ceylon, there is a crude form of proportional representation prevalent for returning candidates seeking election to Parliament from multi-member areas. Each voter has a number of votes equal to the number of members to be elected. Thus in Colombo Central which is a multi-member constituency with three representatives in

Parliament, each voter has three votes. He may either distribute these votes to each of three candidates or give two votes to one candidate and the remaining one to another or give all his three votes to the candidate of his heart's choice. The purpose here is to help minorities to pool all their votes in favour of their particular candidate so that the latter could be sure of his quota and obtain election to the legislature. The system would work well if only one candidate from the particular minority contests a seat in the multi-member constituency. But if more than one candidate from the particular minority (for whose benefit the multi-member constituency is created) contests the seat, the votes of the minority electors would be split between the rival candidates and no candidate may be returned to represent the minority for whose benefit the particular multi-member area was created.

Arguments for and against Proportional Representation

The aim of proportional representation in whatever form it was advocated was to ensure that minorities and majorities are adequately represented and that majorities are prevented from obtaining undue landslides which are clearly out of proportion to the total number of votes polled by them in the country, especially at critical times when important issues have to be decided. The arguments against proportional representation are equally if not more weighty. For one thing the large constituency prevents the development of that friendly personal relationship which a single member area promotes and encourages between representative and constituent. For another, the larger constituency promotes the dictatorship of the party leaders and helps them to tighten their stranglehold over the representative. The strong and independent minded member has no place under such a system. The representative must identify himself with the group or lose his place in the list at the next election. By-elections too are rare or altogether absent and a Government has very little opportunity to sense public opinion in the way in which the single-member system helps it to feel the pulse of the electorate. Above all proportional representation of any type encourages minority thinking. It breaks up large parties. It helps to develop dissentient groups and fractious minorities who will always be a permanent source of danger to the stability of governments. For proportional representation promotes coalition governments and coalition governments are at best designed to please nobody except those who occupy the seats of power. What is needed in the modern democratic state is not a mathematically perfect legislature which seeks to mirror the state of political opinion in the electorate but an electoral system which provides some rough idea of the main political tendencies in the country. Two or at the most three parties are sufficient to embrace within their folds all the diverse political elements in a country. Politically, we tend to think either in a Right Way, Centre Way or Left Way. Those in the

Right Wing camp might again be divided into the extreme right, the extreme left or be exactly poised in the centre. This might be the case with those in the Centre or Left camps too. But that is no reason why those who think in these various directions should break up into smaller fractions and form parties of their own. This is exactly what proportional representation seeks to encourage.

Rival opinions and conflicting views can on the other hand be reconciled, and compromise could be achieved by democratic discussion within each of the three main camps where the single member system prevails and where there is a tradition which militates against group separatism or minority thinking. Coalition government, the child of porportional representation is the bane of the poltical life of most countries. It helps parties to dodge their responsibilities. It demoralises the public services of a country by the frequent changes in government brought about by the prevalence of so many capricious and hardy witted minority groups in a legislature constituted under a system of proportional representation. Thus all in all we are compelled to come to the conclusion that the single-member system with all its defects is still the best that we have if we desire stable government and coherence and continuity in policy. Democratic government after all is based on a sense of decency and fair play. No government worth the name will seek to outrage the desires of a minority that might not even be represented in the legislature. Any government under a democratic system will pay a tolerant attention to the views of all its opponents before it comes to any final decision on matters of crucial importance. The presence of a minority group within the legislature is not going to help that minority to compel a government to change its views if the latter is determined and has made up its mind to ignore the wishes of the minority concerned. The defects of the single-member system can be corrected by the devices we have referred to above—the Second Ballot, or the Alternative Vote, or direct democratic checks such as the Referendum, the Initiative, the Plebiscite and the Recall. We shall study these now.

The Second Ballot and the Alternative Vote

In a single member constituency it may often happen that when there is a contest between three or more candidates, none of the candidates secures an absolute majority of the votes cast. The candidate with the largest number of votes might then be declared the winner of the seat but the majority of the electorate might in actual fact not desire this particular candidate. To guard against such an eventuality, some countries provide for another election where a second ballot is taken between the first two candidates. The results of this election determine who should be the representative of the particular constituency.

The defect of this system is that not many voters care to register their vote at the second election. They may have been tired out at the first election already. It may also happen that voters will not show much enthusiasm at the first election because they anticipate a second election where they can register their real preference. The French have adopted this system whenever they reverted to the single member constituency.

The same results might however be obtained by the transferable vote. Here the voter merely states his second preference and this is brought into effect (a) if on the first count no candidate secures an absolute majority of votes and (b) if the electors' choice is not one of the first two candidates. The latter system is prevalent in Australia for Commonwealth elections and in some of the states of the Australian federation.

A second remedy was recommended in Britain by the Royal Commission of 1909—10. This was that the voter should be given an alternative vote on the voting paper which would secure the objects of the Second Ballot straightaway. This was however never put into practice.

Direct Democratic Checks

These are devices meant to act as some form of check on the actions of legislatures. This is especially the case with the Referendum, the Initiative and Recall. While the Plebiscite is an occasional feature and meant to create a permanent condition, the Referendum, the Initiative and the Recall wherever they operate are continuous in their action. They derive their origins from the teachings of Rousseau who was an ardent advocate of popular sovereignty, and from the earliest types of direct democracy which prevailed in the City States of Ancient Greece. (In the latter country the people used to gather in the market place). Consequently these devices have been most popular in small states though a few large states too use them.

The Plebiscite

The Plebiscite is a form of popular consultation intended to ascertain the wishes of the people on matters of great political importance. Once the popular will has been ascertained a condition is created which is more or less permanent in character. Future generations have to abide by the verdict of the present generation and even those who voted for a particular decision in the present have no means of reversing their decision or withdrawing their consent once a change has been effected on the result of a plebiscite.

The plebiscite was used widely after the First World War in order to determine the destiny of minorities and small groups who had been liberated from the yoke of their master but were not sufficiently

strong to become independent units of their own. They were allowed the right to determine for themselves to which of the surrounding states they should attach themselves.

The situation thus created left sore points in the body politic of many states. There were minorities within minorities and the problem of satisfying the aspirations of these lesser minorities became one of the major causes for the outbreak of the Second World War.

The Plebiscite had been also used by well-known figures in history either to justify their rule or legalise their annexations of neighbouring territories. Napoleon Bonaparte used it at various stages of his career to legalise by popular consent the accretion of power to himself. Both Napoleon Bonaparte and his nephew Napoleon III used the plebiscite as a means of obtaining popular approval to proclaim themselves as Emperors. Hitler too made use of the plebiscite to gain popular consent to combine in his person the offices of Chancellor and President after the death of Hindenberg. The plebiscite was also used by Hitler to justify the Nazi occupation of Austria in 1938.

The Referendum and the Initiative are to be taken together. While the Plebiscite creates a permanent condition, the Referendum and the Initiative together with the Recall are meant to impose a regular popular check on the action of the legislature. They are ultra democratic devices which were created as a result of popular distrust of the legislative organ of government. Rousseau complained that the people in Britain were free only once in five years—that is at General Election time. The same would be the case in all other democratic states if Rousseau was to be taken seriously. These checks are therefore a means of enabling the people to review the actions of the legislature. They are meant to compel the legislature to share its powers with the people—for it was feared that if the legislature were given unrestrained powers, the dictatorship of parties would result in a distortion of the wishes of the people. It was also felt that while public opinion was continuous in its expression, the action of voting was only occasional, that the state of public feeling might change in the interval between general elections and the electorate should therefore be given an opportunity to express its opinion on matters of political importance from time to time. It was also feared that the representative once elected might (a) either misinterpret the views of his constituents, or (b) deliberately misrepresent their views or (c) be paralysed by the dictatorship of the party machine. Hence the need for these popular checks. There were others who stressed the educational value of these popular devices. It would give people an opportunity to study political questions, create popular interest in the activities of the legislature and thereby equip the electorate to perform its civic functions in a more efficient manner at election time.

The Referendum

The Referendum is an instrument designed to give the voters in an electorate the power to approve or reject measures which have been enacted for their well-being by the legislature. It is a form of popular consultation of the wishes of the electorate. It is used in Switzerland, Australia, France and Italy to consult the people before any amendment of the constitution of these states can be carried into effect. In some states like Switzerland it is even used to ascertain the popular will in ordinary legislation. The American States too made liberal use of the referendum. Twenty one of the forty eight states of the U.S.A. make use of this instrument of popular control. But both in Switzerland where federal legislation is concerned and in the states of the United States federation, legislation cannot be submitted to a referendum of the people if the legislature deems any acts that it passes as urgent. This urgency clause has however been frequently abused in order to save legislation from being rejected by the electorate. Germany under the Weimar Constitution too made provision for the use of the referendum.

The Initiative

The Initiative is a device which is intended to give the electors an opportunity of proposing or initiating legislation wherever they feel that the legislature is neglecting their wishes or ignoring their claims. It is a means of compelling the legislature to pay attention to the needs of the electorate. The private member has all his time absorbed in either supporting the government or exposing its faults. There is hardly any time left to him to attend to the general needs of the people. The purpose of the Initiative is therefore to correct the sins of omission of the legislature. The Initiative has frequently been used in combination with the Referendum. When the people make any proposals, the legislature considers them and submits them to the electorate either in their original or amended form for final approval. The Initiative is in wide use in Switzerland. It is also prevalent in nineteen states of the U.S.A. where ordinary legislation is concerned and in fourteen states for constitutional amendments. It is however subject to abuse in the U.S.A. where corrupt and interested political groups use devices ranging from forgery to bribery to obtain signatures from the electorate to help them to introduce any of their pet schemes into the statute book. The Initiative was also used in Weimar Germany and there is provision for its use in the new republican constitution of Italy.

The Recall

The Recall is a recent device. It is a means to enable the electorate to remove from their places and positions those officials whom it elects but finds later to be unsuitable or insubordinate. Elected representatives or officials might either attempt to thwart or distort the popular will. They might also prove inefficient in

the discharge of their functions. To guard against such dangers some of the states of the United States federation have made provision for the recall of elected officials in their constitutions. There was also provision for the use of this instrument in the first Soviet Constitution but the Constitution of 1936 abandoned it perhaps for very good reasons. In a few states of the United States federation the Recall has been used among other purposes for the purpose of reversing judicial decisions or removing judges who do not appear amenable to the popular will. This indeed is an unhealthy feature, for it tends to interfere with the independence of the judiciary and to produce judges who become the victims and prisoners of small and influential political groups in the electorate. In no other states in the world other than those mentioned has the Recall been used.

The Disadvantages of Popular Checks

It has been said that the introduction of these popular instruments has wherever provision been made for their use, resulted in the transfer of political power from knowledge to ignorance. This is especially true of large states. Experience has shown that the electorate has generally welcomed any benefits conferred on it but has shown considerable reluctance to shoulder any burdens or responsibilities. Interested parties and selfish organisations have also tended to exploit these instruments for their own uses. A citizen might be qualified to choose a representative to Parliament but he is by no means equipped to make a judgment on the content and character of a complicated piece of legislation. That task had better be left to a qualified or specialised body like the legislature. Efforts have been successfully made to exploit the prejudices and emotions of the electorate. On other occasions attractive clauses have been placed in the earlier part of a proposed measure and the voters have been led to vote for such measures which however might later contain clauses that are by no means of any lasting advantage to them. These popular devices have also been used by interested but irresponsible groups to blackmail governments to grant concessions to them by the mere threat to resort to these instruments if the concessions demanded were not given to them. At times Cabinets have been forced to promulgate measures to which they were totally opposed and this has made it difficult for any administration with self-respect to continue in office. There might be some case for the use of the Referendum in the last two years of a legislature's term of office especially as the latter by then is dying out its mandate from the people. But there is nothing to be said in its favour during the first few years of a Government's election to power. The latter is then fresh from its contact with the electorate. Little can be achieved to increase the beauty of this freshness by subjecting these governments to such irritable treatment as a liberal use of the Referendum, the Initiative or the Recall.

CHAPTER XIV

POLITICAL PARTIES

The Function of Parties

It has been said that the mass of people are not self-starters. Some instrument is needed to set them moving. Parties provide this gadget. Parties are the agencies which organise incoherent mobs into ordered groups. They sort out issues and simplify them to enable the mass of voters in the large electorates of any modern democratic state to determine for themselves the policies and programmes under which they are to be governed. For the electorate in any state is generally uninformed of what is happening in the political world. Important matters like the question of increasing dearness allowances or reducing food subsidies or changing the election laws of the country might attract the attention of the ordinary man who is otherwise normally busy with his office work or with the problem of finding the wherewithal to enable his family to live some sort of a decent and comfortable existence. But complicated issues like the nationalisation of transport, banks and estates, the tightening up of exchange control regulations, restriction of immigration and matters which do not directly affect the life of the ordinary man have to be explained to him, clarified where necessary and unravelled and simplified where the details are so intricate as even to stun the intelligence of an educated man. Parties perform this valuable function. They are of considerable educative value in the democratic state. The competition and rivalry that develops between the different political parties in any democratic state maximizes the education of the ordinary voter. Programmes and policies put forward by one party are examined, analysed, and criticised by the other. A mass of propaganda material is made available to the voter. The weak points of the rival party or parties are exposed to the public gaze. Posters and slogans are used for this purpose. Demonstrations and public meetings are held to discredit opponents and focus public attention on the sins of the Government or the foolish acts of the opposition. The major instruments of public opinion—the Press, the Broadcasting system and at times even the Cinema—are used for the purpose of keeping the electorate politically alive to what is happening. In this way, the mass of voters are given some sort of political education as a result of the competition between parties. At election time, personal canvassing flatters the voter and the circulation of literature keeps him politically well informed. He is roused from his slumber and goaded into some sort of activity—so that at the appropriate moment he will know for whom to cast his vote.

Organised co-operation between people of similar views and identical interests is the only means by which common objectives can be achieved. In any society there is always bound to be a welter of organisations and groups professing different views and seeking to achieve certain definite objectives. Churches, ratepayers and income tax payers associations, trades unions, local government institutions and pressure groups will all be clamouring for their rights. Parties absorb these varied and disorganised groups into their network, organise them, incorporate their aims and objectives into their platforms, programmes, and policies and obtain seats in the legislature in order to put these policies into action. Thus it is the party system which makes government possible in any modern democratic state today. Its chief aim is to get a government of its own leaders into office and provide it with the necessary supply of votes to enable it to translate its promises into legislative enactments. For government in any democratic state needs leaders of grit and ability and leaders require not a disorganised and ill-disciplined crowd of hero-worshippers and hangers-on but an organised, dependable and well-trained following capable of offering themselves as a potential and capable body of governors to the electorate. Parties are thus the only means through which citizens in a democratic country choose between alternative rulers. They teach co-operation, educate the vulgar herd, organise them into different groups, provide governments, and supply the necessary leaders from time to time. The alternative is chaos and confusion, which is indeed a suitable background for the successful growth of dictatorship or mob rule or the reign of gangsters. Hence we are compelled to agree with Ramsay MacDonald that democracy without party is like a crowd without a purpose.

Merits and Disadvantages of the Party System

Ramsay Muir wrote that organised co-operation between those who broadly think alike is the essential condition of achievement ; and organised co-operation is party. There have been many criticisms levelled against the party system. It is said that they divide the nation into rival camps. They disturb the peace. They stir up differences. They emphasise class divisions in society and ignore the grounds where common agreement can be reached. Partisanship, it is alleged, is carried to an extreme extent and the contest for power becomes so fierce that individuals who are normally willing to compromise and reach agreement become non-co-operative and intractable. These criticisms are however superficial. With all its defects, the party system is the only means we have of enlivening the civic consciousness of the electorate. The alternative is dictatorship or the rule of the mob or the gangster. Political indifference in any society where parties are an absent force is the surest means to promote the growth of dictatorship. Without parties society would be reduced to a chaos of conflicting

interests and warring groups. In fact parties though they preach sectionalism, they also teach individuals the first principles of cooperative endeavour. They compel individuals to subordinate their selfish interests in order to achieve some greater benefit. They help members of society to pool their individual ideas and enable agreement to be reached among otherwise self-interested individuals and sectional groups. This very act of cooperation between groups and individuals within a single party enables them to see the points of view put forward by rival opposition groups—assuming of course that the party system as it operates in the democratic state is based on discussion and democratic principles. Parties in a democratic society therefore provide some suitable basis for democratic government. They help to reconcile differences and far from widening the rifts and gaps in society, assist in the building of bridges between rival groups.

The One Party State

The alternative to the talking shop, wrote Professor Laski, is the concentration camp Parliament, the rule of parties, the toleration of opposition by constitutional methods, faith in discussion, freedom to express opinion in so far as it promotes the public good and the right to criticise the policies and programmes of the Government in authority embody the talking shop. The concentration camp on the other hand vividly symbolises the consequences that follow the suppression of these freedoms in any democratic society. It is the first instrument of dictatorship or totalitarian government. For dictatorship means the rule of a single party at the head of which is, of course, the leader, worshipped and idolised by his numerous followers, untrammelled by no rules of law or fundamental principles laid down by the community to govern the life of society. There are no courts of justice save those which mete out punishment to men who have the courage to differ from their masters. Criticism is not tolerated. All rival elements are exterminated. Whatever opposition remains, is driven underground. The Secret Police undertakes the task of stamping out criticism which is unfavourable to the government in authority. Its first duty is to maintain an unremitting and eternal vigilance over every nook and cranny of the social fabric. An elaborate system of spying is maintained for this purpose. The sneak, the careerist the sychophant, the elements that fawn and stooge, stutter and kneel before the party in power become indeed the favoured and respected in society.

Under democracy, the source of authority is to be found in the community. Dictatorship ignores the community. The sum total of power becomes vested in the hands of a single party, at the head of which is the ruler. That is why dictatorship is often referred to as a totalitarian form of government. Under such a system, associations and voluntary organisations, have no place in society save in so

far as they pay homage and respect to the party in authority. The dictatorship builds its own organisations—the Secret Police, the Youth Movement, a Ministry of Propaganda—all of which it uses to control the life of the community and the activities of the associations that exist within the community. No attempt is made to incorporate the activities of these organisations or harmonise their interest with the interest and activities of the Voluntary Associations that spring everywhere in the community. Instead they are used to control the behaviour of these associations, to check them where necessary and to eradicate them when they become unfavourable to the party in power. In short a national control is established over every aspect of social life. The press, the platform, schools and universities and at times even the pulpit—the instruments of free speech and free thought in any democratic society—are exploited for the purpose of glorifying and exalting the leader and his following. That is why it has been said that dictatorship is a system of government that remains invincibly external to the social framework. It comes into being in periods of crisis, in moments of economic depression, in times of political and military disaster when the mass of the people think that all is lost and that only a strong man can lead them into order and stability. The leader is idolized and invested with a majesty and sanctity that none else in the community is allowed to possess. Worship is substituted for criticism. A society of political invertebrates replaces a society of political vertebrates who are normally allowed the right to have the highest political conceit of themselves.

Fascism

Too much thinking is too dangerous for a citizen in a Fascist State. The habit of blind obedience inculcated as a result of a fairly long period of war, disappointment with the share of territorial spoils that Italy had got from the victors of Versailles, the danger of Communism, working class troubles, the fear of the middle classes and the industrialist capitalist classes against the spread of Russian Communism to Italian soil, enabled an adventurer, Signor Benito Mussolini, a peasant of humble connections from North Italy, to impose himself on all other political elements in his country and to instal a dictatorship which lasted for a little more than eighteen years. Benito Mussolini was hardened in the school of gruelling poverty. The son of a blacksmith, he started life as a socialist and a champion of the working class to end his days as one of the greatest upholders of capitalist dictatorship in its decadent and collapsing stages. Fascism, the doctrine which he preached, was an airy ideology which lacked both depth of learning and principles, and at most was opportunistic and cunning in outlook and shifting and superficial in depth. Mussolini was the master of the mass appeal. He came as a Caesar to a people who felt frustrated and humiliated as a result of war and who had grown tired with the

weak and unstable democratic governments that ruled in Rome. He gave them order and stability. He built them an empire. But he also wiped out his opponents, instilled fear into the minds of people, paid no heed to rulers of law or courts of justice, installed engines of oppression and finally led his people to political and military disaster.

Mussolini came into power at a time of social upheaval when Communist leaders were gaining ground and nationalist movements, inspired by capitalist elements were resorting to street fighting, lawlessness and gangsterdom. Mussolini headed a party which sought to establish social peace and bring about harmony between employer and employee. For this purpose he took over from his Socialist days the idea of functional government through the medium of occupational syndicates. This was an elaborate scheme to unify the Labour Unions, or the Labour Syndicates as they were called with the employers' associations. The syndicates which were to consist of employers and workers in all categories, were first organised on a local basis. Then they were strung together into some sort of regional organisation. They were finally federated on a country-wide basis and supervised and managed by twenty two national corporations. Neither the workers of any particular industry or the employers in that industry were allowed to associate together on a national scale, either on a joint basis or as separate organisations. Organisation was on a regional basis and the national corporations became the planning agencies of the government. They had no will of their own but merely became the instruments of the government and had to carry out the orders of the dictator and his party. The party took for its symbol the "fasces" of Republican Rome—that is, a bundle of rods bound by a leather thong to which was attached a projecting axe. This was the insignia of authority which the officers and victors of Republican Rome carried before the Roman magistrates. It recalled to mind the past glories of Imperial Italy. Mussolini posed as the champion of a new and militaristic Italy which sought to return to the days of her imperialist past. The people were suffering from a sense of frustration. The Government at Rome was unstable. The industrialists feared Communism and gave him support. The middle classes felt that the success of the working class movement would rob them of their snug respectability. The Fascists promised a solution to these social and economic problems. They claimed that they were the answers to Communists and the successors to decadent capitalism. They organised the famous "March on Rome". The weak Government fell. Mussolini became premier and made use of the democratic machinery of government to invest himself and his party with dictatorial powers.

The Fascists showed a contempt for democracy and all the libertarian principles it stood for. They destroyed by stages the

entire parliamentary structure. They exterminated all forms of opposition and executed or imprisoned their opponents without much ado. The only party that was to be given official recognition was the Fascist Party. The leader or the Duce as Mussolini came to be called was styled 'Head of the Government'. He made the Party the organ of the State and operated through the central organ of the Party—the Grand Council of Fascism. Youth movements like the Young Fascists and the Blackshirt Militia were organised to play their part. A propaganda ministry was established to indoctrinate young minds and to make individuals rejoice in the glories of ancient Italy. A law was passed to give legal effect to the decrees of the dictator. Fascism brought into existence personal government of a most extreme type. A reign of fear was substituted for justice based on fair play and ordered rules of conduct. When the dictator was unable to give his people happiness at home, he resorted to wars of conquest abroad. Abyssinia was brought under an iron heel. The rebel Franco was given assistance in his revolt against the democratic government of Spain. Then followed the rape of Albania. A military alliance was formed with Nazi Germany and Italy claimed the possessions of Nice, Corsica and Tunisia from France. The Mediterranean was to be converted into an Italian lake. When France fell, Italy threw in her lot with Nazi Germany. Already disaster had greeted the Italian Army in its war against Greece. Once more the Italians were frustrated in their dream for territorial spoils. The Nazis did not satisfy or grant their aspirations. Internal discontent grew so that when the Allied forces landed in Italy, the Italian people were only too glad to lend their assistance against the Fascists and their German allies. Mussolini was dismissed from office. The Fascists retired to Milan where they established a puppet government. They were however unable to maintain authority and their leader Mussolini fell a victim to street mobs who seized him and executed him without much ceremony.

Nazism

Mussolini was an adventurer. Adolf Hitler was the fanatic. Hitler was the child of a disgruntled Germany which was smarting from a deep sense of wrong and humiliation perpetrated on it by the victors of Versailles. Both the Fascist and Nazi movements started as lower-middle class organisations and ended up by embracing the entire nation under their wing and working up the people into some sort of mass insurgeance. Both countries suffered from a sense of wrong done to them at Versailles. Both movements therefore sought to win for their countries a place in the sun and to restore for their people their ancient glories. They therefore endeavoured to enlist the support of all classes and had as their principle aim a programme of expansionist aggression. But while Fascism was shifting and superficial in outlook, National Socialism or

Nazism was a doctrine which had its roots in the past and drew inspiration from ideologies preached by great German philosophers like Hegel, Fichte and Nietzsche.

A Peace of Revenge can never hope to lay the warlike spirit of a frustrated nation at rest. The victors of Versailles believed that they had fought and won the war to end all wars. The League of Nations which they formed they hoped would ensure their collective security and protect them against the danger of future aggression. They were only to be disillusioned. No effort was made to rehabilitate defeated Germany. Instead she was stripped of her possessions. Restriction of all sorts and types were imposed on her. Plans were made to extract reparations and the country was as a result reduced to a state of economic bankruptcy. Social and economic distress overtook the country and the government had to resort to inflationary methods to meet the crisis. This merely aggravated the existing situation. The lower middle class was the section most affected by this state of affairs. There were threats from working class movements as represented by the Communist Party and from the Conservative right as represented by the Junkers. This combination of economic distress and nationalist resentment served as an excellent fertile ground for dictatorship. The Nazis under Adolf Hitler offered themselves as the only party capable of establishing order and restoring Germany to her proper place in the comity of nations. They gained considerable electoral successes and were able to persuade the President, Hindenberg, to hand them over the control of the Government.

The National Socialists proceeded to introduce the usual agencies of dictatorship. Their leader who was styled the Fuehrer was exalted and deified and invested with sacrosanct majesty. The bodyguards of the Fuehrer, party troops as represented by Brown-shirts and Storm troopers, the Secret Police or Gestapo, and concentration camps—all these found favoured places under the new dispensation. The engines of oppression and persecution were perfected into a fine art. All forms of opposition were silenced. The industrialists, financiers, and military leaders were made subservient to the will of the Party. The Lutheran Church was coordinated to the State and the Roman Catholic Church was made impotent. A Ministry of Propaganda under Hans Goebbels was established. It proceeded to monopolise all opinion. Literature, art, science and philosophy were made to serve the needs of the State. The free and independent expression of opinion on these and other allied subjects was forbidden except in so far as they were favourable to the Nazi Party and its leaders. Henceforth there was to be only the official proclamation of opinion. The Ministry of Propaganda further proceeded with an organised program for indoctrinating the youth of the country. The people were made to believe that the German race had a mission to perform. They

were a chosen people, a pure race, and the inheritors of the earth. Ideologies like socialism, individualism, freemasonry, humanitarianism, Judaism, "bloodless" Christianity and "raceless" democracy were all condemned as doctrines of race-destroying myths. The Jews were made a symbol of internationalism and were persecuted and deprived of all their belongings. The citizen was made to realise that he existed to serve the needs of the State—not as in democratic countries where the State existed to serve the needs of the people. A people who had waded through political crises and economic depression were only too glad to welcome a Party which promised them salvation from want and the restoration of their humiliated country to a proud place in the society of nations. Such was the way in which the Third Reich, as the German State under the Nationalist Socialist Party came to be known, came into being.

The Third Reich was born in crisis and was adapted to meet the needs of a crisis economy. The provisions of the Treaty of Versailles which applied to Germany were renounced. The new Government proceeded to organise a large-scale rearmament program and to prepare the people for a war of revenge. The state inaugurated plans to increase population and large families were given every form of encouragement. The West took no steps to check these plans for aggression. In fact the Western Powers tended to encourage German rearmament in the belief that it was directed against Soviet Communism. In the end the Nazis turned against the West and the latter had to pay the price for its indifference and apathy towards National Socialism. War combined with large scale destruction was the ultimate result of the success of National Socialism in Germany. What came in the end is only too recent to be restated in these pages. It however goes to show that dictatorships which pay no heed to moral principles or which show no desire to promote the social welfare are always certain to meet with disaster in the end.

Soviet Communism

The Soviet system was the first of the modern dictatorships. In form, it is a federation of sixteen states with autonomy assured to each unit, extending in some cases to even defence and external affairs. Since the federation consists of different racial and linguistic groups, each such group has been granted the right to retain and develop its own language, schools and cultural institutions.

The Soviet system was the product of a revolution which was the result of mass discontent among the Russian people against the Tsarist oligarchy and its management of the War of 1914. The Tsar was compelled to abdicate and a provisional government headed first by Prince Lvov and later by Kerensky took over the administration of the country. The new Government was democratic

and liberal in outlook but was unable to solve the problems created by the war and by the inefficiency and corruption of the Tsarist oligarchy. It insisted on carrying on the war and was unable to satisfy the demands of the land hungry peasants. The situation was exploited by the Bolshevik Party which preached the principles of Marxism and offered relief to the distressed. It was inspired and led by Nicholai Lenin, a man of unusual genius and remarkable organising ability. He had as his lieutenants, two able men, Joseph Stalin, the man of action on whom his mantle was to descend and Leon Trotsky a theorist who ended his days at the hands of an assassin while living in exile at Mexico.

The Bolsheviks had made earlier bids for power but had failed in these attempts. They were a minority group who however exerted a powerful and electrifying influence over the peasants and workers in Russia. The despair and revulsion caused by the war was seized by the Bolsheviks to spread discontent among the people and when Kerensky's government proved inadequate to the task before it, they exploited the occasion to seize power. They offered hope to the suffering, equality of treatment to the socially discriminated, and political and economic freedom to the under-privileged.

The Bolsheviks started with a complete Marxist creed. They proceeded to collectivize every form of large-scale productive wealth. With this end in view, the new government confiscated and took over the banks and every form of industrial and trade enterprise. They took over the large estates and then divided them among the peasants. Later, they discovered that this system did not give the best returns and they proceeded to collectivize agriculture—that is, they grouped the small farms into large farms under a centralised management so that these might enjoy the economies of large scale production. They discouraged every form of individual enterprise and individual and group initiative which had the acquisition of private wealth in view. They sought to put in practice the formula: "from each according to his abilities, to each according to his needs". They preached and put into operation the doctrine of equality, denying any form of special privilege to any class, racial group or vested interest. They advocated the doctrine of internationalism by appealing to the workers of all lands to unite under the banner of socialism and to rise against their exploiting masters. They opposed all forms of nationalism which sought to exalt the nation state and which preached racial superiority. They were democratic in outlook in that they fervently believed that all authority as expressed through governmental organs or industrial and other agencies should be the expression of the people's will. They hoped that there would come a time—the Socialist millenium as they called it—when people will, through a sense of public spiritedness, learn to live in peace with one another, when there would be no necessity for authority and when the state would

wither away. Till this stage was reached—*i.e.* the disappearance of all forms of authority—the Communist or Bolshevik Party would make use of the existing organs of the capitalist state to establish the dictatorship of the working class. Its main task would be to eliminate all forms of opposition from capitalistic elements within the new social order and to socialise all forms of productive wealth and educate the people on Marxist lines. The Communist Party thus became the guardian and instrument of the new order.

Stalin succeeded Lenin in 1924. By this time the revolutionaries had established themselves in the country but they were confronted with serious problems. They had to abandon their program of international socialism. They organised and put into operation five year plans which aimed at placing the country on a socialist economy. The Communist Party under the leadership of Stalin achieved great success though at terrific human cost. The peasant was freed from his bondage to the soil and all traces of feudalism were wiped away. Vast strides were made in the industrial and agricultural sectors, and in the field of technological advancement Russia was no longer a back number to the major industrial countries of the world. Illiteracy was virtually eliminated and every citizen was given an education in the principles of Marxism. All this was achieved within the short space of a generation. In the process the dictatorship was rigorously tightened. Opponents of the regime were eliminated and all forms of opposition were crushed. Purges and heresy trials were conducted to stamp out opposition. The Communist Party is the only recognised party in the state. The Soviet Constitution grants it official recognition. The state maintains the monopoly of propanganda and public expression of opinion is censored in so far as it is hostile to the party in power.

Yet with all its dictatorial forms, the Soviet system is so novel and unique, in type that it stands no comparison with the totalitarian dictatorships of Germany and Italy and should be viewed on a level of its own. That it has almost the unanimous support of the Russian people is evidenced by the fact that it was able to stand the major brunt of the last world war and survive it without perishing under the crushing heels of German militarism. To some, it is the fulfilment of an age old dream of making the world a happy place for the over-mastered and the under-dog to live in. Others have viewed the system as the murder of all private enterprise and individual initiative. When they see the wholesale slaughter of their nineteenth century concepts of freedom, democracy, and liberty, they regard the whole system of Soviets and Communist Government as the reign of hell on earth. But ours is a changing world. We live in an age of co-operation. Individualism had its work in a previous age. But the twentieth century offers no hope to those who seek to make the world a happier place for the Crusoes of private gain to live in. If democracy as practised by corrupt oligarchies

in China and Eastern Europe proved unequal to tackle the immense social and economic problems before them and had to make way for the co-operative dictatorships of the Soviet Communist type, then we must blame the corrupt democrats of these oligarchic regimes of the past and not the leaders of the new dictatorship in these countries.

The Two Party System

It has been said that the two party system is an essential prerequisite for the efficient functioning of parliamentary democracy. It has indeed become an axiom of political science and the success of the British peoples in perfecting the technique of parliamentary democracy has been attributed to the existence of two great parties in the state. Third parties have always existed but except on rare occasions, they have not acquired so much influence as to hold the balance of power between the two parties or to upset the balance between them. The two party system has been the outcome of an accident of history rather than the result of conscious design on the part of the British people. The traditional division between Tories and Whigs, between the upholders of royal absolutism and those who stoutly opposed it, between the agricultural interests and the industrial concerns, between the supporters of the established Church and the believers in religious non-conformity, brought into being some sort of bifurcation in political thinking and voting at election time. The issues involved were so clear and of such immediate concern, that other problems were set aside as being of no urgent relevance and the people cast their votes either for or against the question which needed urgent attention. All other problems were submerged to the need of the hour. The single member constituency too contributed its share towards the development of the two party system. Under it the candidate securing more votes than any other was declared elected.

The single member constituency does not work satisfactorily when there are more than two parties and in fact operates in a highly unfavourable manner towards smaller parties or splinter groups. For the voter in Britain has always shown a reluctance to support a party which has very little chance of obtaining a parliamentary majority. He knows he will achieve certain definite objects if he works hard for a party which has a fair chance of obtaining a clear majority to form a government. He has therefore tended to forego secondary political objectives in order to gain his immediate ends. His desire has been to return a government to power not merely to elect a new Parliament or a Chamber of Deputies like his continental counterpart. A third party has therefore very little opportunity of making any headway in the British electorate. If it has had a great electoral past like the Liberal Party and has fallen on evil days as a result of the emergence of another great party,

then it remains in a sort of constant position, holding the same number of seats it held since its fall from power. If it is a new party which desires to create some diversion, like the Irish Nationalists, it disappears once its aims have been achieved. In other cases, a new party does not normally make any headway and after fighting one or two elections, it realises the futility of attempting to keep itself electorally alive and either seeks to merge itself with one of the two great parties, like the Communist Party in Britain once attempted and failed to merge itself with the Labour Party, or it merely withdraws from active political life and disappears from the electoral scene altogether.

The right to dissolve Parliament if the Government forfeits or loses the confidence of its supporters in the House of Commons is yet another factor which influenced the continued existence of the two party system. The supporters of the Government could not afford to be capricious in their views or transfer their affections to other parties without the danger of committing political suicide. For the machinery of party government had become so powerful and rigid that where a member voted against the Government, he could never hope to be adopted as its candidate at the next elections and where he wanted to shift his affections to another party, the latter would not be eager or over anxious to take him into their fold. Men of slender political virtues have never lived lengthy political lives in Britain. This meant that a party follower and more so a Member of Parliament, would have had to make his bed of sorrows or happiness as the case may be, for better or for worse with whichever party he had wedded himself to. Political desertion in Britain is very difficult and this helped the continuance of the two party system.

Finally, the seating arrangements in the House of Commons have contributed their share. The Government faces the Opposition. Those on the Opposition have to work together even if they are of different political views and if successive general elections compel the same hands to work together, then at some time they are bound to merge their interests and pool their resources. There might have been crews and little gangs of sharpshooters professing independent political views, but at the critical moment they would forget their differences and throw in their resources to meet the common political foe. This has been the history of the Independent Labour Party, of Joseph Chamberlain and his radical group, of Winston Churchill and his crew of imperial sharpshooters in the days when he inhabited the political backwoods of the Conservative Party, and of the Bevanites of the Labour Party of the present day. On no occasion have they thrown up their party loyalties and crossed over to the Opposition.

Advantage of a Two Party System

For Government to function in a smooth and efficient manner, certain conditions are ideally necessary. It is essential that the members of the Cabinet should be drawn from the same party. The similarity of political views and the experience borne of working together as a team through years of political association will always tend to promote a greater degree of harmonious co-operation than if the Cabinet were drawn from diverse and heterogeneous political elements. Only a two party system can ensure a Cabinet of such uniform composition with the potential ability to co-operate in a harmonious manner. It is also essential that the majority in the House of Commons should be composed of members of the same political party. A cosmopolitan crowd brought together under one umbrella for protection from the rains of a particular political monsoon will never continue to associate together once the rains have disappeared. They will tend to disintegrate into their constituent elements. This will bring about friction and conflict between the cabinet and the House. The result will be an unstable and weak government which will shiver and stagger before every threatened storm and prove itself incapable of doing anything really politically worthwhile. A two party system on the other hand will ensure that the Government has a ready supply of votes to enable it do what it likes without the fear of being thrown out of power at any moment that a member of the Coalition chooses to withdraw his support from the Government. The well knit majority that a Cabinet will have under a two party system will ensure that it carries out its program and policy with a maximum degree of coherence and strength. Finally, if a cabinet resigns, it is desirable that there should be an alternate Government ready at hand to take over the administration of the country. The alternate Government too should belong to members of a single party with a uniform and homogeneous following willing to give it all the necessary support to carry out its program and policies into action. A monarch or a President should not be left with the responsibility of looking out for a Prime Minister who can command the necessary majority. This will leave room for a system of bargain and compromise which in the end will result in a weak and unstable government. It will also leave room for political manoeuvres and for palace intrigues and it will encourage the nominal executive, King or President as the case might be, to meddle in politics when it is ideally best that he be out of it. A King or President is not responsible to the electorate or answerable to it for his acts. Since he enjoys this non-responsible position, there is a danger that he will allow his private fancies to creep in, in the selection of a Prime Minister when it is necessary that the promotion of the public good should overrule all other considerations. Only a two party system will prove capable of providing an alternate government and prevent any corruption or favouritism creeping into politics as a result of

the King or President being left with the responsibility of searching for a new Prime Minister. The change over from one administration to another will be effected with a minimum amount of delay and disturbance to the smooth and sufficient functioning of the Governmental process.

A two party system will also help the electorate in many ways. The voter will be able to choose the Government he wants and the Prime Minister he desires. He can confidently vote to be governed either by Conservative or Labour, by the firm of Churchill, Eden and Butler or Attlee, Morrison and Gaitskell. The situation is not so in France where numerous parties exist and operate within the Chamber of Deputies. There the voter has very little choice in selecting a Government nor can he be certain as to which group or combination of politicians will rule him, once the general elections are over. The task of forming Cabinets is the duty of the Legislature and the President. The voter has merely to elect a new Chamber of Deputies.

The two party system further helps to clarify the issues on which the electorate is called upon to cast its votes. The programs and policies of the rival parties are plainly laid down before the voter for decision. The parties explain their policies to him and criticise and analyse the policies of the rival party. Such a system educates the voter and helps him to make up his mind in some definite way. It does not leave him confused or bewildered. It does not also keep him guessing as to whether the party to which he casts his vote will ever have a chance of joining a combination of other parties in the formation of a Government. Under the two party system the elector will have greater incentive to work for one party or the other. He will know that his efforts will not have been in vain or his vote wasted. For some day or the other, he can be certain that the party he supports will sail into power. Exile in the political wilderness will never be a permanent feature for a party under the two party system.

Finally, the two party system will assist both Parliament and the electorate to fix responsibility on the Government or the Opposition for any acts of omission or commission. The Government will have no chance of evasion. The rulers will have to answer for their conduct to the electorate. They will have to request the latter to grant them a fresh lease of life at the appropriate moment on the record of their activity and achievements. They cannot shift the blame on any other party or parties that might have helped them in keeping them alive during the tenure of the last Parliament. Blame, if there is, will have to rest on their shoulders, and not be shared by any other party. Equally, if praise is due, they will be entitled to all the credit. The Opposition Party too will not be in a position to act in an irresponsible manner. It cannot indulge

in thoughtless criticism or hold up the Government to ridicule for not attempting to do the impossible. For the Opposition will know that one day it will have to take over the reins of Government and then it may have to carry out those very acts and policies which it accused the Government of being incapable of carrying out. The Opposition Party will therefore have to tread warily, offer constructive suggestions which will appear both plausible and practicable, and so act in such a manner that it will not be found incapable or inefficient when its turn comes to shoulder the responsibilities of public office.

Responsible behaviour is thus ensured under the two party system and there is always harmonious co-operation and friendship fostered between Government and Opposition. The Leader of the House will always make it a point to meet the convenience of the Leader of the Opposition. The Government will give the Opposition the time and the opportunity to examine its program of legislation and to criticise its policies. It will incorporate any amendments that the Opposition might suggest into any legislative measure provided such amendments are reasonable and acceptable to the Government front benches. The Opposition too will not act in a petty and obstructive manner. It will offer co-operation where co-operation is due and warn and discourage and even threaten where it feels that the Party in power is tending to ride the high horse and ignore its wishes altogether.

Critics of the two party system have alleged that the entire system is a highly artificial arrangement and that it distorts and arrests the free expression of the nation's mind. They argue that there are always more than two schools of thought in a nation and that the two party system leaves us with a false impression of a simple state of affairs. They also state that the system tends to promote and encourage majority tyranny. Cabinet dictatorship, it is very often alleged, is a feature in British political life today. None of these arguments however have sufficient depth in them so as to convince any critical analyst that there is truth in their assertion. It is not correct to state that the system is artificial and results in the distortion of the national mind. For, as has been stated above, the appearance of two dominating parties in the British political arena came about not as a result of any legislation or of any conscious design on the part of the British people but by the mere accident of history. As for distortion of the national mind, it is worthwhile to remember that within each party there are varying shades of political opinion, professing conservative, liberal or moderate views. These elements are given every opportunity to express their views at meetings and conferences of the Party. If their views and opinions are sufficiently strong and influential, they are invariably incorporated into the party program. If these elements are still in their embryonic stage, they

are allowed the liberty, to develop and grow and persuade members of the party to adopt the political ideals they advocate. The Tory Reform Group within the Conservative Party and the Bevanites within the Labour Party are examples of minority shades of political opinion within each of the two great parties in Britain today. In continental Europe, they might have normally broken off and formed a splinter group of their own. But in Britain, such splinter groups prefer to remain within their respective folds and influence the party executive to adopt the principles they advocate. The fact that they refuse to disintegrate and form separate groups of their own as in France, or other European countries should not mislead us into the belief that each of the two great parties merely advocate the views espoused by their leaders to the exclusion of all other political programs or policies that might have been advocated by minority groups within each of these parties. It is difficult for any party executive to brush aside minority opinion in such a harsh and perfunctory manner. Every effort is made to give minority elements a reasonable hearing and accommodate them where possible. To ignore them would be to imperil the position of the party in the country at large. As for majority tyranny and cabinet dictatorship, what happens in the British Parliament today and in those countries where the parliamentary system has been given time to develop and acclimatize itself to the local political weather, is clear evidence against such allegations. In Britain, Canada, Australia, New Zealand and South Africa, some effort is made by the Government party to accommodate the Opposition, compromise with it wherever possible, and give it every opportunity to examine and criticise the legislative program of the Government. A Government in authority in these countries has seldom attempted to ride roughshod over the Opposition and ignore the latter's wishes altogether. It is only in politically backward and immature countries that a party which has obtained a majority by a fluke or accident of circumstances attempts to tyrannize over all other elements. This has not been the experience of those countries where parliamentary institutions have been allowed sufficient time to develop and get used to the surrounding political climate.

The Multiple Party System

What has been stated in the above lines in favour of the two party system are arguments directed against the multi-party system. The multi-party system is a situation where a multiplicity of parties exists within the legislature so as to make it impossible for any single party to secure a working majority and form a government of its own leaders. The best example of a country within a multiple party system today is France. That country has had more than nineteen prime ministers since the end of the last world war while Britain with her two party system has had only two

Prime Ministers for the same period. It is evident therefore that the multi-party system makes for weak and unstable government. It leaves room for political manoeuvre, for bargain and compromise of a corrupt and wicked nature behind the very backs of the electorate which elected the new legislature into office. A group of parties get together for a specific purpose, agree to carry out certain pet schemes that they have been advocating as their policy, and share out the spoils of office among them until such time as another political leader is ready to offer some of the members of the coalition better terms and a greater share in the spoils of office. No effort is thus made to discourage dishonesty. Governments fall with considerable rapidity. The administration of the country is frequently at a standstill. The experience of France has shown that the country has been at regular intervals hard up for a Prime Minister. As a result there is no coherence or single direction in policy. The program of the Government does not run in a straight line for a considerable length of time as in a country where two parties dominate the political scene. Instead, government policy runs through numerous hairpin bends. There are curves and slants and even dangerous corners at frequent intervals. The roads are skiddy and even mud-ridden at various points and the governmental wagon has been thrown off the road on many an occasion. There are too many hands eager to grab the steering wheel. This is because the multiple party system gives very little opportunity for political leaders to develop any team spirit among themselves. Governments have to act in a state of more or less continuous uncertainty. No attempt is therefore made to do anything really worth while. Instead, the legislative programs of Governments have been merely a patchwork of the policies of the various parties which helped to form the Government. For efficient government to function in a smooth manner, there must be a Cabinet whose members are agreed on a common policy. They must be given a sufficient length of time to work out their policy and write it into the statute book. Under a multiple party system, with Cabinets falling at regular intervals, it is difficult to maintain any sort of regular continuity in policy. It is true that some of the important ministers like those of finance and foreign affairs do not change their ministerial heads even though there is a frequent change of Prime Ministers. But still, the ministers in charge of these offices of state have to either maintain the existing status quo or carry out changes that the new Prime Minister and his Government wish to effect. They cannot effect any radical alteration in policy to meet the needs of the hour. Though they are constantly at the steering wheel, they are only there as paid chauffeurs. They have to get their orders from the Prime Minister and the men at the rear who cling on to the personality cords. If this is continuity in policy, there is very little to say in favour of it.

The multiple party system makes it difficult to fix responsibility, to place the blame or give any credit to any particular government at any particular time. In fact the general tendency is to evade responsibility wherever possible. Governments seldom go on their record of legislative activity to the polls and request the electorate to give them a fresh lease of life. In fact there is very little of a distinct policy or program which any single party puts forward. The tendency is for the politics and policies of one party to shade into that of the other. Those parties belonging to the right group have much in common with one another just as those parties belonging to the centre and left groups have much in common with each other. The issues and programs put forward to the electorate are therefore far from clear. The voter is left in a dazed and confused condition. It is very difficult for him to make up his mind as to which way he should vote.

There is very little of political education of the common man under the multi-party system. If any party is blamed for its failure to carry out the policy it had advocated at a general election it has a ready scapegoat at hand in that it can transfer the blame on to other parties for their reluctance to co-operate with it in the carrying out of its policy. Such evasion of responsibility can never take place under a two party system. Here the Government has always to answer to the electorate for its sins of omission and commission and the Opposition will at any time, be called on to take over the reins of office and put into operation those principles which it advocated. It will have to correct the wrong which the previous Government may have committed during its tenure of office. The multi-party system on the other hand encourages reckless criticism and irresponsible behaviour. For no one party will at any time be called to shoulder the burden of office or give an account of its activities to the electorate. These defects of the multi-party system make it clear beyond any doubt that countries where two major parties dominate the political arena are superior by far, at least, where coherence and continuity in policy and administration are concerned.

The Role of the Opposition

The duty of opposition is not to obstruct but to offer criticism of a constructive nature. The Opposition must remember that it might at any time be called to take over the reins of office. It must, therefore, not be content with merely remaining seated on the benches provided for those who are at variance with the Government and indulge in irresponsible and thoughtless criticism. An Opposition must always be on its guard, ready to take the initiative wherever opportunity offers itself, expose the errors of the Government whenever the latter proves itself inefficient and endeavour to discredit it in the eyes of the electorate so that when election time

comes by, it will be able to convince the elector that it alone and no other party is capable of taking over the Government of the country. The Opposition must so shape its program and policy that it can successfully appeal to a fairly wide range of public opinion. An Opposition party which sits in Parliament merely for the sake of discrediting the Government and no more will discover sooner or later that its conduct will by no means be appreciated by the electorate. Constituencies return members to Parliament in the hope that the latter will do something for their electorate. A weak opposition party which shows no anxiety to take over the Government of the country or at least to share in the burdens of office will find that the party or parties in authority will not care to pay any attention to its murmurs and protests. As a result, the constituencies that returned members of such a party to Parliament are sure to be neglected and the complaints and wishes of the electorate concerned will be ignored. Such constituencies will, as a result, not care to return members of such an opposition party to Parliament at any subsequent general election. A Parliamentary Opposition must therefore be sufficiently strong, active, and vigilant so as to put the Government on its guard and make it aware that there are others equally capable of shouldering the burdens of office. Even if the Opposition were to consist of a multiplicity of parties as in Ceylon, every effort should be made by them to come to some common understanding and work on some common program so that they will at least make it known to those who adorn the front benches that there is an alternate Government ready at hand to take over if the party in authority acts in a rash and irresponsible manner. A weak and disunited Opposition will encourage the Government to ignore its demands and will by the fragile nature of its condition help the party or parties in authority to ignore public opinion. As a result the House will become slack in habits. Attendances on the part of Government speakers will become irregular. No attention will be paid to criticism. The group in authority will not care to understand or meet the demands of the Opposition. No effort will be made to accommodate them or meet their convenience where arrangements of the time table of House is concerned. In such an event there is a real danger that the party in authority will develop into a sort of tyrannizing agency.

For successful opposition to operate in any democratic country the elements which form the Government and the Opposition parties must be united on certain fundamentals. Both sections must have some common grounds for agreement between them. At least they must be united in that they will acknowledge that it is only by constitutional methods that changes can be effected. If the Opposition is sworn to destroy parliamentary methods no sooner it is returned to power, then it can hope to receive no quarter from

the party in authority. This is in fact the unhappy position of some of the revolutionary socialist parties that sit on the Opposition benches in the House of Representatives of this country today. The Government Party will pay no attention to their demands because it knows that it will receive similar treatment if any of these parties were to sail into power some day. It is therefore essential that there must at least be agreement between the Government and the Opposition that the parliamentary system is the only system by which the Government of the country can be carried on. It is only then that the party or parties in authority will pay heed to criticism, accommodate the Opposition, consult it at critical moments and attend to the needs of constituencies which members of the Opposition represent in the hope that similar attention will be paid to the wishes of Government party members when it comes to their turn to seat themselves on the benches which the Opposition now occupy.

The Party System in Britain

In Britain there are three political parties worth the name. They are the Conservative, Labour and Liberal parties. All three parties are sufficiently wide and tolerant in outlook so as to appeal to most sections of the electorate. They do not appeal to narrow sectional interests or to separate communities. It is true that the Conservatives lean heavily for most of their support on the owners of property and the wealthy and aristocratic interests in Britain and that Labour mainly depends on the working class interest and the trade unions but the policies they advocate and the programs of legislation that they propose to carry out if returned to power are sufficiently broad and elastic as to be capable of receiving the active consent of most sections of the populace. On certain matters like external affairs, commonwealth relations, colonial policy, all parties are virtually united in the attitude to be adopted. Differences, if there are, are only in detail. They are not sufficiently wide as to cause a rift or unbridgeable gap between the parties. As a result, there is frequent consultation between the Prime Minister and the Leaders of the Opposition parties on these questions.

The differences arise virtually in matters of domestic concern. Labour broadly stands for progress, for socialism by consent and in gradual stages—that is to say, they believe in the state (*a*) taking over in slow stages enterprises and industrial concerns which affect the public interest and, (*b*) providing employment to all sections of workers in the country.

Conservatives believe in letting things remain as they are. They will interfere with private activity as occasion arises when the need is urgent and no delay can any longer be tolerated. In normal circumstances, they are fervent advocates of private enterprise and

individual initiative—that is, they believe that the individual should be allowed to manage his own affairs and acquire wealth for himself provided he respects the rights of his fellow citizens, obeys the laws of the state and does not altogether ignore the needs of those whom he employs or those who are directly concerned with his activities.

The Liberals are broadly conservative in temperament except that they are more progressive in that they believe that the State should take a greater interest in the welfare of the citizen and that private initiative should be curbed when it becomes a nuisance to society.

All parties are, however, united in their respects for private property. This means that they believe that no man should be deprived of his lawful belongings without being paid adequate compensation for anything that the State might deprive him, in its desire to promote the public good. For instance, when the Labour Government took over the coal mines in Britain, it made arrangements to pay sufficient compensation to those who had proprietary rights over the coal mines in that country. The policy of confiscation—that is taking over the property of a private citizen, without paying him any compensation for it, has at no time been advocated by any of the parties. This respect for private property has promoted some degree of co-operation and collaboration between the major parties in Britain today. The Conservatives represent generally the wealthy interests. But they are aware that their political opponents, the Labour Party, are not determined to confiscate the property of their supporters without paying them adequate reparations. The Labour Party on the other hand is assured of the fact that the industrialists, landlords and other propertied interests which employ large scale labour will pay due attention to the needs of their employees except in the event of a severe depression when conditions will not permit them to stretch their purses beyond a certain limit. To ignore the demands of the workers would only mean that the trade unions which represent the latter will request that the industry be taken over and run by the State. Hence leaders of each party have fear and show respect for the policies and programs put forward by the leaders representing the rival parties. This promotes some degree of harmonious co-operation between the rival parties and concessions are made wherever possible. As a result the parliamentary process functions in a smooth and efficient manner.

Conservatives

The essential feature to note in Conservatism is its attitude to the idea of Progress. The Conservative respects social institutions which have long years of tradition behind them. He is therefore a firm believer in privilege,

that is to say he worships authority as represented in the Crown, the Established Church of England, the House of Lords the Empire and private property. He will not interfere with any, of these institutions except where absolute necessity will compel him to do so. Thus, the Conservatives have been stout opponents of any plan for the reform of the House of Lords. Their attitude towards Empire was best expressed by Winston Churchill when in a speech during the last World War he declared that he would not be the King's First Minister to preside over the liquidation of the British Empire. They have generally been averse to the grant of responsible government to the colonies in the East and in Africa. To the last they opposed the grant of independence to India until the outbreak of war in South-East Asia compelled Mr. Churchill and his Government to send a mission to India led by Sir Stafford Cripps to negotiate with Indian nationalist leaders on how best power should be transferred to them. This was an instance of absolute necessity forcing them to take a revolutionary step.

Where private property is concerned the Conservatives have shown themselves most averse to change. They believe that private property should be allowed to exist with a minimum of interference by the State. They hold to the opinion that individual initiative and the right of every man to engage himself in the acquisition of wealth and the accumulation of property should be allowed to proceed uninterrupted, provided he does not cause any serious embarrassment to those near and about him. Hence they have been fierce opponents of any plan for the state to take over the major industrial concerns or the transport system in the country. Such a policy had been advocated by their rivals in the Labour Party and in fact was carried out by the latter when they came to power after the Second World War. The Conservatives did not acquiesce in these plans. No sooner they regained power, they proceeded to return to private hands some of the undertakings and concerns which the Labour Government had taken over to be run by the state when they were in power. It is true that there are elements within the Conservative Party who stand for change and progress, though not change or progress of a very revolutionary sort. These are however a microscopic lot. In general, the Conservative Party stands for privilege and are opposed to change except where urgency will confront them with no other alternative but to accept reform or lose the support of public opinion. This explains why they derive most of their support in the rural areas in England. For those who live in the country do not in normal circumstances desire to change the existing state of affairs. They believe in letting things remain as they are.

Labourites

The Labour Party on the other hand stands for Socialism, for progress and for the destruction of inequalities and privilege in society. The Labour Party has therefore always stood for the reforms of the House of Lords while the Conservatives have consistently opposed any scheme for its reform and would indeed dearly love to restore to that body some of its former powers if only they could catch public opinion napping in England. To bring about greater equality in society and better standards of living, the Labour Party have always advocated full employment and nationalisation of the major industrial concerns and transport systems in the country. They have been stout opponents of unrestricted freedom for private enterprise and individual initiative in Britain. Hence their policy has been (a) to compel the employer to concede better amenities and pay to their employees, (b) to introduce insurance schemes against accident and old age, and (c) to provide for the health and education of the working classes and the under-privileged in Britain. In their attitude to the colonies, Labour has taken a more realistic stand. The Labour Government readily granted independence to India, Burma and Ceylon where the Conservatives would have attempted to postpone and play for time if they possibly could have afforded it. But in their attitude towards the colonies in Africa and South-East of Asia, the Labour Party's policy has not been far different from that of the Conservatives except where the treatment of rebellion is concerned. Labour has generally been more considerate in that they have tried to understand the nature of nationalist movements in colonial lands and have been generally willing to go to some length to meet the demands of nationalist leaders. The Conservatives on the other hand, have generally been harsh and inconsiderate in their attitude towards nationalist movements in colonial lands. They still look upon them as markets for the finished goods of the industrialists and wealthy interests that they represent. Both Labour and Conservative would however prefer to hold on to the colonies as long as they could. The difference between them is that while Labour prefers to gain on the long run by understanding the nationalist movements in colonial lands and winning over their leaders to the Commonwealth by a policy of appeasement and concession, Conservatives by their indiscreet and harsh attitude prefer to gain something on the short run by the use of military force and the suppression of nationalist movements. It is true that there are elements within the Labour Party who have conservative habits and would like to see all the clocks in the world stand still, if such miracles could take place in their country today. But these too are an insignificant lot like the reformists in the Conservative Party. In general, Labour stands for steady progress and for gradual change. The Labour Party as such derives

its support from the towns and industrial districts—for men in the cities and manufacturing areas desire change and improvement in order to better their standard of living.

In Foreign Policy and Commonwealth Relations, Labour and Conservative and Liberal have generally been of a similar frame of mind. The Liberal attitude in politics where domestic affairs are concerned has been somewhat similar to the Conservative attitude except that the Liberals are more realistic and have been willing to accept change and in fact initiate change in a more ready manner than the Conservatives. But in Foreign and Commonwealth relations, all these parties have generally been united in the policy they should adopt. Differences if there are, are only in detail. Thus all three parties stand for collaboration with the United States, though the Labour Party is more cautious and critical in the support they will give to the United States. All three parties are opposed to Communist expansion and have generally been suspicious of the attitude adopted by the Soviet Union. All three parties firmly believe that the United Nations is the only organisation which offers any hope for a better world and for the promotion of peace and understanding between the rival power blocs in the world. In Commonwealth affairs, all parties are agreed that there should be greater co-operation and closer consultation between the member states. They believe that the Commonwealth of Nations can act as a force for peace.

It will be seen that the party system in Britain operates in such a way as to promote friendly understanding and co-operation between Government and Opposition. There are differences no doubt between the two camps but both sections believe that these differences can be resolved by discussion and deliberation rather than by mutual slander and campaigns of vilification. It is this mutual understanding and agreement on fundamentals—that is, the respect of all parties for private property—that enables the parliamentary process to function in such a successful manner in Britain today.

The History and Growth of the Party System in Ceylon

There are only the beginnings of the party system in this country today. Under the Donoughmore dispensation there was a right wing bloc in office which was however divided within itself in that there were in its midst various communal groupings like the Sinhala Maha Sabha, the Tamil Congress, the Muslim League and the European Association. The Right was still further divided within itself in that one section was willing to collaborate and co-operate with the Imperial Government and were either not too anxious to obtain reform or were willing to receive it only in slow instalments. There was however another section which demanded immediate independence for this country. The Ceylon National Congress

collected both these elements under its wing. It started originally as a non-communal organisation but during the Donoughmore days, the Ceylon Tamils broke away from it and it virtually became an organisation representing the interests of the right wing section of the majority community.

The Left Wing organisation in the country was only experiencing its birth pangs. A Suriya Mal movement which was frankly anti-imperialist in character had been started in the early thirties. In 1935 the Lanka Sama Samaja Party was formed. It contained all elements which professed Left wing views. The movement was, however, in its kindergarten stages when it broke up as a result of the dissension between the Stalinist and Trotskyite groups that had developed in its midst. The Stalinists broadly stood for unqualified support for the Soviet Union. The Trotskyites characterised the U.S.S.R. as a degenerate workers' state and would offer it only critical support. However, the growth of the movement was further arrested when after the outbreak of the Second World War the Imperial Government clamped down repressive laws on the various unions and associations that the movement had organised. The Right Wing bloc in office at the time winked at the repressive legislation enacted and did not show their marked disapproval of the Imperial Government's efforts to curb the growth of Left wing organisation. The Right at the same time continued to remain divided between those who stood for co-operation with the Imperial Government and those who were opposed to collaboration, and between communal groupings who demanded special representation for the communities they represented and the nationalist sections who desired to bring all sections of the population under one wing. The Left section had not sufficiently developed to drive all the various groups within the Right Wing to take cover under a single umbrella.

The period during the Second World War, however, saw the rapid growth of working class organisations. It is true that these organisations were divided among themselves between the Trotskyites and Stalinists but at critical moments they showed themselves capable of overlooking their immediate differences and taking united action to gain their immediate demands. The Right had to consolidate themselves to meet this threat. The Imperial Government offered immediate responsible government in internal affairs in return for wholehearted co-operation in the war effort. This was readily granted by all sections of the Right Wing—co-operators and non-co-operators and the various communal groupings. One section of the Right Wing had united—those who had hitherto opposed collaboration with the Imperial Government and those who maintained loyal co-operation up to date.

It remained now to bridge the gap between the communal groupings and the co-operators. The Soulbury Constitution and the

subsequent grant of independence brought about the final link up. The communal groups saw no future for them except by offering their co-operation to the Right Wing section of the majority community who had successfully bargained for independence with the Imperial Government. The rapid growth of the Left movement spurred them on to this decision—perhaps, though in an unconscious way. A section of the Ceylon Tamils led by the Tamil Congress and the Indians led by the Ceylon-Indian Congress continued to hold out. But the Tamil Congress too were finally led to offer their co-operation to the Right Wing Government that had been elected to office. A section of the Ceylon Tamils refused to condone the action of the Tamil Congress and formed a nationalist organisation of their own. They demanded cultural and linguistic autonomy for the Ceylon Tamils and the creation of a separate state for the Ceylon Tamils—to enable the latter to develop their districts—to be linked with the rest of the country under a federal form of Constitution. The Indians paid the price of non-co-operation by losing their voting rights as a result of the enactment of the Citizenship Laws. The Right Wing had now been virtually united though in a rather disorganised fashion under what came to be called the United National Party.

The Left continued to remain a house divided within itself. There were the Stalinists who called themselves the Communist Party of Ceylon. There were the Trotskyites who continued to operate under the banner of the Lanka Sama Samaja Party. Differences within the Trotskyites led to the break up of the Lanka Sama Samaja Party. One section led by Dr. N. M. Perera and Mr. Phillip Gunawardena continued to operate under the old name. Another section led by Dr. Colvin R. de Silva formed the Bolshevik-Leninist Party. The two sections, however, came to some understanding and united under the old banner. But for Mr. Phillip Gunawardena it was an uneasy alliance. He and his supporters finally broke away to form the Viplavakari Sama Samaja Party. The elements that remained loyal to the old banner have come to be known as the (Nava) Lanka Sama Samaja Party.* The success of the Communist revolution in China has however led Mr. Phillip Gunawardena and the group which he leads, the Viplavakari Sama Samaja Party to sink its differences with the Communist Party and to form a United Front. The Left Wing, therefore, consists of two sections—(a) the (N.) L.S.S.P., and (b) the V.L.S.S.P.—C.P. United Front. A third group which calls itself the United Front section of the (N.) L.S.S.P. under the leadership of Mr. P. H. William Silva has broken away from the (N.) L.S.S.P. and joined the V.L.S.S.P.—C.P. United Front.

*These elements continue to call themselves the Lanka Sama Samaja Party. The term 'Nava' was introduced in the first edition to avoid confusion. Since the recognised name of the group is the LSSP readers might refer to it as such and drop the term 'Nava'.

The Right Wing led by the late Mr. D. S. Senanayake continued to lead an uneasy life. There were rival factions within it. There were communal organisations too within it who were trying to forget the old bitterness of the Donoughmore days. Within this organisation there soon developed a group led by Mr. S. W. R. D. Bandaranaike—who held the combined offices of Leader of the House of Representatives and Minister of Health and Local Government—which requested the Government in office to adopt a bolder attitude towards certain social problems and to pay immediate attention to the question of the National Languages and State assistance to religious organisations. Mr. Bandaranaike continued to remain Leader of the Sinhala Maha Sabha. His requests were embodied in what has now come to be known as the Madampe Resolutions of the Sinhala Maha Sabha. The United National Party rejected these resolutions. Mr. Bandaranaike resigned in protest from the Government and the United National Party. He was followed by a number of adherents of the United National Party. These gathered together to form a Centre party which came to be called the Sri Lanka Freedom Party.

Broadly speaking therefore political opinion in Ceylon can be classified into three separate categories. There is a right wing section represented by the United National Party and the Tamil Congress. There is a centre group comprising the Sri Lanka Freedom Party, the People's Republican Party, the Buddhist Republican Party and the Labour Party. The People's Republican Party has now united with the Sri Lanka Freedom Party. There are the revolutionary parties of the Left consisting of the (Nava) Lanka Sama Samaja Party and the United Front of the Communist Party and the Viplavakari Lanka Sama Samaja Party. Besides, there is a nationalist group representing a section of the Ceylon Tamils whose interests are sponsored by the Ilankai Thamil Arasu Kadchi or the Federal Freedom Party of the Ceylon Tamils.

The United National Party

The United National Party claims that it stands for peace and orderly progress. It believes in constitutional methods and parliamentary institutions. Its endeavour is to promote the welfare of the underprivileged and as evidence of this, it points out that it has done much to spread the benefits of education to all sections of the population and to provide free medical aid to those who cannot afford the expense of receiving medical attention from specialists and experts. It is an agrarian party in that it seeks to make Ceylon a self-supporting country and with this end in view it has organised vast colonisation schemes in the North-Central and parts of the Northern and Eastern Provinces. It believes in private enterprise and individual initiative as the best means available for exploiting the natural resources of the country. To place checks on private

enterprise would mean scaring away foreign capital which it states is most needed at the moment to develop the economic condition of the country. The Party claims that through its first leader, the late Mr. D. S. Senanayake, it obtained independence for Ceylon. In the field of external relations, the Party stands for close co-operation with the Anglo-American group of powers. It is opposed to all forms of Communism though it has shown a willingness to establish trade contacts with Communist China. It believes in the Commonwealth and all that it stands for.

The Sri Lanka Freedom Party

The Centre group is at best represented by the program and policy advocated by the Sri Lanka Freedom Party. This group desires that Ceylon should immediately leave the Commonwealth and declare herself a republic. It stands for the establishment of friendly relations with all countries and is of opinion that Ceylon should steer clear of any of the major power blocs in the world today. It is opposed to the grant of military bases in this country to any foreign power. In domestic affairs the Centre group like the United National Party is a firm believer in constitutional methods and parliamentary institutions. It is strongly opposed to revolutionary practices. But unlike the United National Party, it has no faith in unrestricted freedom for all forms of private enterprise in this country. It has therefore declared that it will nationalise in a gradual way all essential industries which will include the large plantations and the transport, banking and insurance concerns in this country. It will also impose a super tax on all income in excess of Rs. 50,000. The Centre group is of opinion that the United National Party Government has not paid sufficient attention to the industrial development of this country. Cheap power should be made available to the villages so that the development of cottage industries might be encouraged. Industrial development should also be promoted with a view to eliminating unemployment. It is however over the question of national languages and state assistance to religion that the Centre group differs vitally from the United National Party. The Centre demands that Sinhalese and Tamil be adopted forthwith as the official languages of this country and that the administration be carried on in these languages. The Sri Lanka Freedom Party declared at the last General Election that it would bring about this change over immediately if elected to power. The United National Party however stands for gradual change. It states that there will be chaos in the administrative and educational systems of this country if such a change were to be effected overnight. In religious affairs the Sri Lanka Freedom Party requests that all steps necessary be taken both by the public and Government "to revive and assist religion and make it a living force among our people" In actual effect this means that greater facilities should

be given to Buddhism to enable it to develop and become a real and active force among the people. The United National Party on the other hand believes that no special assistance is needed by any religious body. Religion should be best left to develop by itself. But all religions in general should be protected from Communism and the Left Wing parties which they declare are opposed to religion and all forms of other-worldly worship.

The Left Wing Parties

The revolutionary socialist parties of the Left however deny that they stand for religious intolerance. In fact the Communist Party states that there is freedom of religious worship in Russia and China and in their program for the establishment of a people's democratic government they declare that they will guarantee freedom of religious conscience and worship. But the Left like the Right does not believe in providing any special assistance to religion in general or any religious body in particular. With regard to the question of national languages, the Left Wing parties like the Centre Group stand for the immediate switch over to Sinhalese and Tamil as the State languages while the Right believes in some form of gradualism. In foreign policy, the Left and Centre are agreed that Ceylon should leave the Commonwealth forthwith and declare herself a republic but while the Left wishes to establish closer contact with all Communist countries, the Centre is of opinion that Ceylon should steer clear of all power blocs. The Right on the other hand believes in a policy of closer collaboration with the Anglo-American group of powers. In domestic policy, the Left differs altogether from the Centre and the Right. Both the Centre and Right believe in the sanctity of private property though the Centre differs from the Right in that while the latter believes in freedom for private enterprise, the Centre stands for nationalisation of the major industrial and business concerns in the country in gradual stages. The Centre will however pay compensation to those who are affected by nationalisation. The Left however differs from the Centre and the Right in that they frankly declare that they will nationalise without payment of compensation some of the major industrial concerns and business undertakings in this country.

As for the individual programmes of the two groups within the Left, the (Nava) Lanka Sama Samaja Party apart from its policy indicated in the above paragraph, declare that they will grant citizenship rights to all who wish to make this country their permanent home, nationalise without compensation and run as state enterprises the banking and transport system in this country and estates of over 250 acres, and create a state monopoly of Ceylon's trade with the outside world. They will further fix Rs. 2000 as the limit to all personal incomes and establish a forty hour week. Their

aim is to establish a government of the peasants and workers in this country. The United Front of the Communists, the Viplavakari Lanka Sama Samaja Parties and of the William Silva Group apart from those aspects of its policy mentioned in the previous paragraph, stand for citizenship rights for all who have a residential qualification of five years of residence in this country and for voting rights for all over eighteen years of age. They will however, unlike the (Nava) Lanka Sama Samaja Party, nationalise without compensation only estates, banks, insurance concerns, business establishments and transport systems which belong to foreigners and their "local collaborators." They will also bring under state ownership and operation all key industries and undertakings. They will give jobs or assistance to all, full trade union rights to all workers which will include a guaranteed minimum wage and an eight hour day. Their aim is to establish a people's democratic Government consisting of the workers and peasants and those sections of the middle classes who will help them to defeat the United National Party.

The Federal Freedom Party of the Ceylon Tamils

The Ilankai Tamil Arasu Kadchi or the Federal Freedom Party of the Ceylon Tamils is a nationalist organisation of the Ceylon Tamils which stands for autonomy and freedom for the Ceylon Tamils to develop the Tamil speaking areas in this country. The party is of opinion that the Tamil speaking areas should be formed into a separate unit and given the right to govern themselves, to develop their area and to promote the advancement of their language and culture. They hold that they should be linked to a Central Government under a federal form of constitution.

The Organisation of Parties in the United Kingdom

The three great parties are, with a few exceptions, organised almost on similar lines. Party organisation falls under two categories. There is the organisation of the party within Parliament. Here all three parties adopt almost the same type of machinery—though with a few differences here and there. There is then the organisation of the party in the country at large. Here there are a few major differences between the Conservative and Labour Parties. We shall study these differences in due course.

Organisation in Parliament

Each party operates through three agencies. There is firstly the Parliamentary Group. The Group meets from time to time and decides what action it is to take on vital issues. It listens to the explanations and interpretations of policy offered by the leaders. Questions are asked and a discussion usually takes place. Decisions are however, in all normal circumstances, made in accordance with the wishes of the leaders.

The Leaders within each group form the second agency of control. If the group is in power, the Leaders form the Cabinet. If in Opposition, the Leaders form a shadow Cabinet. The Leaders expound policy, proffer explanations, whip up enthusiasm and meet criticism from the rank and file of the Group. Their immediate purpose is to keep the Group strong and united. Every endeavour is therefore made to satisfy criticism. Their rivals should not know that there are differences within the Group. The turbulent back-benchers are hence given every opportunity to air their grievances behind closed doors.

The Party Whips are the third agency of control. The duty of the Whips is to assist the leaders to maintain discipline within the Group. They see to it that members of the Group are available at division time to record their votes. They keep the Leaders informed of the views and grievances of the members of the Group. They endeavour to persuade and pacify the rebellious elements within the Group and they help and take an active part in the drawing up of lists for the allocation of members to the various committees of the House of Commons. If the Group is in power the Whips hold office as junior ministers in the Government. There are usually four of them. The Chief Whip is Parliamentary Secretary to the Treasury and the other three Whips are Junior Lords of the Treasury. All four are officers of the Government and are paid from public funds. The Opposition Groups usually have three Whips. They are named by the Leader of the Group and unlike the Government Whips, they receive no salary out of public funds.

In the case of the Conservative and the Liberal Parties, the Leaders of the Parliamentary Group are elected by the members of the respective Groups and party decisions are made by the Group. In the case of the Labour Party, the Parliamentary Group selects the Leaders and the Whips but decisions are usually made after consultation with the National Party Executive which is the central governing body of the Labour Party of the United Kingdom, and not by the Parliamentary Group alone as happens in the Liberal and the Conservative Parties.

Organisation outside Parliament

The organisation of the great parties outside Parliament consists of (a) the local organisation in the constituencies and, (b) the national council or conference which includes the central office and is generally a federation of all local organisations.

The local associations of the Conservatives and the Liberal Parties were in their early stages too ill-disciplined and weak to assert themselves. Candidates for parliamentary seats either imposed themselves on the constituency and were accepted by the

local associations in view of their prestige and wealth or were nominated to stand for election by the prominent and influential leaders of the party. The Constituency associations however began to assert themselves as a result of the lead given by Joseph Chamberlain in his organisation of the caucus system at Birmingham. The caucus was a closely knit, well-disciplined association with rules of procedure and a body of office-bearers who gave direction to the members of the association. The Liberals made use of this type of organisation during the eighteen sixties in the city of Birmingham. Its main purpose was to select candidates for election and to have them approved and if necessary financed by the central association. Liberal associations of this type were organised in every constituency and they were brought together under a central body called the National Liberal Federation in 1877. Conservative associations too were created on similar lines during the years following the Reform Act of 1867 and these were strung together under a National Union of Conservative and Constitutional Associations which was established in 1867.

The Labour Party which came into existence during the latter part of the nineteenth century too adopted the principles laid down by the Birmingham Caucus. The Party is mostly a federation of trade unions but it has also its constituency units. The Constituency association consist of Ward meetings which can be attended by all members who pay their subscriptions. The Wards send their delegates to the general committee of the Constituency party. The general committee discusses policy, controls the finances and affairs of the Constituency party and sends delegates to the National Conference which meets once a year.

The National Organisations of the Conservatives and the Liberals are very much alike. The Conservatives organised their National Union in 1867 and the Liberals their Federation in 1877. The Conservatives refer to the annual sessions of their party as the "Conference" and the Liberals call theirs the "Council." The annual sessions are attended by delegates sent by the affiliated local associations. They elect certain party officials and committees, hold discussions on policy and listen to speeches made by the party leaders. The party officials to be selected are the members of the Executive Committee, the Treasurers, the Secretaries and the Presidents. The Leaders of the Parliamentary Parties are, it should not be forgotten, selected by the members of the Parliamentary Groups and not by the delegates meeting in annual session. The Parliamentary Leaders lay down policy. The Annual Conference might influence policy but has no liberty to formulate and lay down policy for the guidance of the Parliamentary Group.

Each of the two parties (Liberal and Conservative) has a "Central Office" at London with a paid staff. The Central Office is responsible for directing the affairs of the Constituency associations. It helps in the selection of candidates, provides them with financial assistance if necessary, supplies speakers and furnishes literature and other forms of propoganda during election time. The Central Office also helps to establish local associations and to expand the activities of others. It is the dictator in party management.

The National Organisation of the Labour Party is the Annual Conference. It consists of delegates from the local parties, affiliated bodies like co-operative organisations and the Trade Unions. Labour Members of Parliament, Labour candidates for election, and Labour peers too are ex-officio members of the Conference but they have no right to vote. The Conference determines the policy of the Party. The Trade Unions however influence policy most for they have always a majority at the Conference. A Member of the Conference does not vote as an individual but as the representative of a group which has instructed him beforehand to vote in a particular way. The vote is weighted in relation to the size and strength of the Trade Union or party association which a member represents. Thus a single delegate from a large and nationwide union like the National Union of Railwaymen may have more votes than a number of delegates from separate local party organisations.

The Conference elects an Executive Committee for a period of one year. The Executive Committee gives effect to the decisions of the Conference, draws up reports to assist in the formulation of policy and maintain discipline within the party

There is also a Central Office with a National Agent as its head. The Central Office has representatives throughout the constituencies. It helps in the selection of candidates at election time and provides them with funds and other material to fight elections.

The Parliamentary Group of the Labour Party selects its own Leaders, deputy Leaders and other officials. But these Leaders have to follow the decisions of the Annual Conference. They do not lay down policy as the Leaders of the Parliamentary Groups of the Conservative and the Liberal Parties do.

Finally, there is a body called the National Council of Labour. This body consists of representatives of the General Council of the Trade Union Congress, of the National Executive of the Labour Party and of the Executive Committee of the Parliamentary Group. It considers matters of vital political importance and is responsible in a large way for determining the policy of the British Labour Movement and Party

The Organisation of Parties in Ceylon

As parties are yet in their early stages of development there is very little of the elaborate organisation that is typical of the great parties in the United Kingdom. In the House of Representatives, each of the parties have their Leaders, Whips and Secretaries. The United National Party which is the Government Party has as its Whip a Minister of Cabinet rank who is in charge of a portfolio in addition to his duty of maintaining discipline as Whip. The different party groups meet in the Committee rooms of the House from time to time for the purpose of discussing policy, airing grievances and deciding what tactics are to be adopted to meet particular situations and to choose members to speak on bills and measures that might come up before Parliament for consideration. The Opposition parties sometimes meet together under the chairmanship of the Leader of the Opposition. The Leader of the Opposition is the Leader of the Party with the largest number of seats in the Opposition. The Opposition Parties meet as a single group to deal with vital matters such as the budget or when a vote of censure is to be moved on the Government or when an important bill which concerns the entire country is to come up for consideration before Parliament. On other occasions they meet in their own groups and decide on what attitude they should adopt towards particular items of legislation.

Outside Parliament, there is very little of a countrywide organisation of the different parties either on a local or national basis. Each of the parties meet in annual conference. In the case of the United National Party and the Sri Lanka Freedom Party, the leaders make pronouncements of policies and the Conference generally ratifies the pronouncements of the leaders and the resolutions that they might propose for confirmation. A general discussion usually follows after the presidential address. The members of the Conference speak on various topics but in the end the Leaders usually have their way. The Conference winds up by electing the President, Vice-Presidents, Committees, Secretaries, Treasurers and other Office-Bearers. The Left Parties too have their annual conferences but these are usually held in secret sessions and very little is known of what happens behind the closed doors. Earnest and heated discussions are however supposed to take place before any policy is adopted or a decision taken. The statements of leaders are not always taken for granted. Their pronouncements are subjected to close scrutiny and at times they are vigorously criticised by the rank and file for the statements of policy that they make. The rank and file, unlike in the case of the United National Party or the Sri Lanka Freedom Party, are a closely regimented and well disciplined lot. They have generally been given instruction in the principles of Marxism and they criticise the pronouncements and policies of their leaders in the light of what

they have studied of Marxism. Each of the Left Wing Parties are known to have their theoretical advisers whose function it is to apply Marxist principles to local situations and to recommend to their parties the best policy that should be adopted to tackle particular situations. Each party has its own Central Committee which is the body which guides the party, maintains discipline and helps in the formulation of policy. Each party has also its own President, General Secretary, Treasurer and other office-bearers. The General Secretary enjoys a very important place in the organisation of the Left Wing parties.

The United National Party and the Sri Lanka Freedom Party have their local associations in the different constituencies. These are generally not very active, except perhaps during election time. Their members are not a well disciplined lot for they have been known to take the wrong side in the politics of local bodies. No firm action is taken against them unless they are guilty of glaring acts of disobedience. Even here a strong admonition is administered before any final action is taken to expel a member.

In the case of Left Wing Parties, there is very little publicity given to the activities of their branch associations. It is however known that there is better discipline maintained in the local associations of the Left Wing Parties from what can be seen in the behaviour of their members in local bodies. The Left Wing groups have also 'cells' and study groups organised throughout the country, where members and sympathisers are given instruction in the principles of Marxism by the Leaders and theorists of the Party. Most of the members of the Left Wing organisations are drawn from the peasantry and working class people. But they have also quite a number of sympathisers from the educated sections of the middle classes.

Each of the different parties have their Youth Leagues. They are supposed to act the part of propaganda agents and distributors of party literature. In the case of the Left Wing Parties, the Youth Leagues are organised as study centres and members are given instruction in Marxian principles by the party Leaders.

CHAPTER XV

PARLIAMENTS

The Nature of Parliaments

Parliaments are the main battleground of political parties. They are the forum of national representation. In a democratic state the will of the electorate finds residence in them. The alternative to Parliament is the concentration camp. It is true that Parliament is the talking shop of the nation, but it is here that the most vital matters are discussed and thrashed out before they are finally converted into legislative enactments. The Cabinet provides the legislative fodder. The Opposition makes every effort to mow it down, tries to point out to the nation why such fodder is not the best for the 'voting cattle' and suggests alternatives which it believes are better and more conducive to the well-being of the country. Compromises are achieved here and concessions are made by the Government so as not to outrage the feelings of the Opposition. In any case even if the Government is not willing to concede, it provides all opportunities to its opponents to express their views and suggest their alternatives before it converts its programmes and policies into the stereotype clauses of a legislative enactment.

A Parliament includes both chambers—the popular house which usually represents the will of the electorate and the upper house which is normally constituted so as not to be in immediate contact with the electorate. Most of the important work of legislation is however carried out in the popular house though ultimately the consent of the second chamber and the nominal executive is required for a legislative measure to finally enter the statute book. When we refer to Parliament however, we generally have in mind the popular house—in the United Kingdom, the House of Commons, in Ceylon, the House of Representatives. The second chamber merely performs the function of pruning legislation. It is meant to act as a court of legislative revision. It has no permanent veto over the laws enacted by the lower or the popular house. The assent of the nominal executive is purely formal. It is given almost in all circumstances where the Government has a majority in the lower house. The lower house therefore is the supreme legislative authority in the land. It is the seat of government. The Prime Minister and the majority of his colleagues are drawn from it. Though as has been pointed out in an earlier chapter, it does not normally give the lead to legislation, it is the body to which the Cabinet submits all its plans and proposals, its programmes and

policies for examination and criticism before they are finally converted into the laws of the land. The nominal executive and the second chamber are merely participants in this task of law-making. The major work is performed by the central mould and representative of public opinion, the popular house which is directly answerable and responsible to the electorate.

Lower Chambers

The main functions of Lower Chambers are firstly enactments of laws, secondly to make available finance for the needs of the community and appropriate the funds necessary for such services to the community and finally to criticise and control the executive when it engages itself in the task of giving the lead to Parliament to make laws and to provide monies. Before however we analyse each of these functions, it is necessary that we examine (1) the qualifications necessary for membership of the House of Commons in Britain and the House of Representatives in Ceylon, (2) the organisation of each of these legislative bodies and (3) their legislative powers.

QUALIFICATIONS FOR MEMBERSHIP OF THE POPULAR HOUSE

The Commons

The qualifications necessary for membership of the House of Commons are simple and forthright. A citizen is eligible for membership if he is :

- (a) at least twenty one years of age,
- (b) a British subject by birth or naturalisation,
- (c) willing to take a simple oath or affirmation of allegiance in keeping with his religious beliefs or his disbeliefs,
- (d) not a clergyman of the Church of England, a Minister of the Church of Scotland or a Roman Catholic priest. Clergymen of the Church of England in Wales are eligible for election as a result of the disestablishment of the Anglican Church in that part of the United Kingdom since 1920,
- (e) not a member of the House of Lords. Irish Lords can however, represent any constituency except an Irish one,
- (f) not holding a contract from the Government,
- (g) not a convict, a lunatic or an idiot,
- (h) not a pensioner of the state. Former civil servants and diplomats are however excluded from this category.

- (i) not a holder of office under the Crown. This only refers to the administrative employees of the Government. Political officers such as Ministers of State do not come within this category.
- (j) not a sheriff of a county or the Mayor of a borough. These officials are excluded because they are by virtue of their office in charge of parliamentary elections. They must vacate their posts if they wish to come forward for election and gain membership of the House.
- (k) not a person who, as a candidate for election, has violated by corrupt and illegal practices, laws of the land or a person who has condoned the violation of these laws on behalf of candidates for election. Such persons are debarred from election for a period of seven years. They are permanently debarred from representing the constituency in which the offence occurred unless the offence was committed without the knowledge or approval of the offender. In the latter case the debarment applies for a period of seven years.

The House of Representatives

The qualifications here are more complicated than the simple ones prevalent in the United Kingdom. This has been due to the enactment of the Citizenship Laws. Section twelve of the Constitution states that "subject to the provisions of this Order (which refers to the disqualifications in section thirteen) a person who is qualified to be an elector shall be qualified to be elected or appointed to either Chamber". The qualifications necessary to be an elector are to be found in Sections 4 to 8 of the Ceylon (Parliamentary Elections) Order in Council, 1946. These will be summarized below. In addition, however, an amendment in 1949 to this Order in Council made citizenship of this country an essential condition for the franchise and the conditions under which a person could be called a citizen of Ceylon were defined in the Ceylon Citizenship Act of 1948 and the Indian and Pakistani (Citizenship) Act of 1949. The terms under which these citizenship rights could be acquired were though comparatively easy, and even automatic in the case of the Sinhalese and Burgher communities, are a hard and difficult process where the Ceylon Indian Community is concerned. Thus the first condition for qualification for membership to the Ceylon Parliament is that a person must be a Citizen of Ceylon. Other qualifications are :

A person is disqualified from being a member if he

- (1) is not a British subject.
- (2) was less than twenty one years of age on the first day of June in the year in which the register of electors was compiled.

- (b) any pension, gratuity or other benefit payable from the public revenues or other funds of the Island.
- (c) any grant to any Municipal Council, Urban Council or other public authority established by or under any written law, or
- (d) any grant to any person or body of persons for purposes mainly religious, educational or otherwise charitable or any salary or allowance payable from the public revenues or other funds of the Island to any person, not being a public officer, employed by or under any person or body of persons for any such purposes.

ORGANISATION AND PROCEDURE OF LOWER CHAMBERS

The Commons

The House of Commons is a popular assembly consisting of 625 members elected by an almost universal adult suffrage for a maximum period of five years. Exceptional circumstances like a war for instance may result in the prolongation of the life of a House. But in all other cases the House may be dissolved earlier at the discretion of the Prime Minister or may go on to live its life of five years. Dissolution is by the monarch who in all normal circumstances acts on the advice of the Prime Minister.

The British Speaker

After a new Parliament is elected the members proceed to choose a Speaker. As far as may be possible, every effort is made to make the selection a unanimous one—if a new Speaker is to be elected. But if the former Speaker has been returned he is invariably re-elected. The Opposition seldom puts forward a rival candidate. Besides the Speaker is seldom contested in his constituency by any candidate from any of the organised political parties in the country.

The British Speaker is a non-party man. He is the President of the House of Commons and is the most respected figure in that august body. He is assisted by a few non-Parliamentary Officials, like the Sergeant-at-Arms who is always in attendance on him and helps him to maintain order, the Clerk of the Commons who is charged with keeping the records of the House, a Secretary, a Librarian, a Counsel who might give him legal advice when necessary and a Chaplain. The Speaker presides when the House is in session. It is he who decides who shall address the House. He interprets the rules of the House and his decisions are final. They cannot be challenged at the moment though an aggrieved member can propose a vote of no-confidence on him at some later date.

Under the Parliament Act of 1911, the Speaker decides whether any measure is a money bill or not. He is expected to be thoroughly impartial in all his decisions. He never takes part in debates and never votes except to break a tie and even here he must vote in such a manner so as to prevent the decision from being final. In effect this means that he would normally vote for the maintenance of the existing state of affairs.

Besides the Speaker, a new House of Commons proceeds to elect a Chairman of the Committee of Ways and Means and the Deputy Chairman, who may act as Deputy Speaker. The Whips of the Government and Opposition parties look to the discipline of their respective members.

Sessions of the Commons

The work of the House is divided into sessions. The House must meet at least once a year and hence there will always be at least one session a year. This is necessary in order to renew the Army Act which if not renewed might result in a loss of disciplinary control over the armed forces. Annual Sessions are also necessary to enable the Government to obtain the necessary monies from the House to maintain the supply services, *i.e.* the armed forces and the civil services. There is however nothing to prevent Parliament from passing the Army Act for a period of more than a year or of providing for the supply services for periods of two, three, or four years. Public opinion would however compel Parliament to meet at least once a year. In effect, however, Parliament is in session for a considerable period throughout the year.

The legislative program of the House is arranged by a member of the Government front bench—the Leader of the House who always acts in consultation with the leaders of the Opposition parties. At the beginning of every session, a Speech from the Throne, which outlines the work of the Government for the particular period for which the session is to last and gives a rough indication of the policy it intends to follow, is read by either the monarch or the Lord Chancellor acting on his behalf. Sessions are opened by either the monarch or five Lords Commissioners specially deputed by the monarch to act on his behalf. The two Houses must be summoned to meet simultaneously at the opening of a session. The members meet in their respective Chambers. The Commoners are then summoned by an official messenger from the Lords known as the Gentleman Usher of the Black Rod to present themselves at the Bar of the Upper House. Here the letters patent authorising the session are read to them. If the session is the first of a new Parliament, the Lord Chancellor requests the Commoners to retire and elect one of their body to be their Speaker. The Commoners then retire and do as they are bidden. The next day, the Speaker accompanied

by the Commoners presents himself at the bar of the Upper House, announces his election and receives the royal approval through the Lord Chancellor. The Speaker then proceeds to make a formal claim from the Crown for the "ancient and undoubted rights and privileges" of the Commons. These privileges among others include freedom from arrest, freedom of speech, the right to debate in secret, the right to control the internal proceedings of the House, the right to determine the legal disqualification for membership and to declare a seat vacant on such grounds and the privilege of access to the Crown. The last is a collective privilege of the House and is exercised on its behalf by the Speaker.

The Speech from the Throne as stated above is a rough outline of the legislative program of the Government. When the monarch or the Lord Chancellor has read the Speech, the Commoners withdraw to their Chamber, the Speech is re-read and a member from the Government party proposes an address of thanks. The Opposition replies by criticising the Government for its sins of omission and commission and generally indicates the alternatives it has to offer to the country. A vote is then taken, the result of which is obvious. The order of business, the priority in which motions and bills are to be taken up, the time allowed for particular motions and a host of other details are settled between the Leader of the House and the Leader of the Opposition parties. The House then proceeds to set up its Committees for the transaction of business. This is done regularly at every session. During a session either House of Parliament may adjourn business at any time without referring to the other. Adjournment merely means that the House temporarily suspends its business for the day and carries over matters under discussion for another day. When however a session is to be brought to a close—that is to say when the Government decides that its time table has been satisfactorily concluded for the particular period—the Crown acting on the advice of ministers intervenes. This is done by a Royal Proclamation which announces the termination of business for the session. Such a proclamation is known as a prorogation and only the Crown can prorogue. Prorogation is an announcement that Parliament has terminated its business for the session. This means that bills and motions which are still under discussion lapse. They will have to start at the beginning, all over again, in the next session, if those interested in them wish to proceed with them. It must be noted that while either House of Parliament can adjourn at any time without reference to each other, prorogation involves the termination of the business of both Houses together. Both Houses must therefore be prorogued together by the Crown and this must be to a definite date. This date can however be changed by a later proclamation if the Cabinet so desires.

Committees of the Commons

Attention was drawn to the fact that at the beginning of every session, the House sets up Committees in order to transact its business with greater speed and efficiency. These Committees serve a useful purpose because they help the members of the Government and Opposition to meet each other in a less formal and more sociable atmosphere. It is in the Committees that Government and Opposition make every effort to reconcile their differences and to arrive at compromises over controversial matters. It is at the Committee stage that the Government usually shows its willingness to listen to arguments and to grant concessions to the Opposition. The Opposition too is more constructive in its attitude to the Government. It makes no effort to ridicule or discredit the latter but instead studies each bill, clause by clause, and proposes suitable amendments and at every stage takes infinite pains to convince the Government spokesman that certain sections of a bill are not conducive to the public interest, that changes had better be made, and that co-operation may be offered if the necessary changes are effected. The Government makes every effort to accommodate the Opposition. Oppression it knows may be followed by revenge on a later occasion. So a few concessions are made here and there to at least placate the Opposition for the time being.

There are five main types of Committees employed by the House of Commons for the purpose of transacting business. The most important of these is the Committee of the Whole which consists of the entire body of members of the House. When the House sits in Committee, it is different from an ordinary meeting with the Speaker presiding. In the latter case the Speaker steps aside from his high and mighty Chair and his place is taken over by the Chairman of Committees or the Deputy Chairman of Committees who occupies not the Speaker's Chair but the Clerk's Chair at the table. Most of the important bills and controversial legislation are discussed in Committees of the Whole. Money bills and bills for confirming provisional orders *i.e.* orders which a departmental official has issued on behalf of his Minister under a general act passed by Parliament authorising the Minister to fill in the details of such an act, are invariably discussed by Committees of the Whole. When money bills relating to appropriations—that is to the provisioning of supplies to services run by Government—are discussed by the House the Committee of the Whole is known as the Committee of Supply. When the House discusses the ways and means by which revenues are to be raised, the Committee is referred to as the Committee of Ways and Means.

Other bills and legislative measures brought forward by the Government are generally referred to one of the five Standing Committees on public bills. For purposes of convenience, the

Standing Committees are referred to as A, B, C, D, and Scottish Committees. The last named Committee discusses all bills relating to Scotland except money bills and bills to confirm provisional orders. It consists of all the Scottish members of the House together with from 10 to 15 members appointed to it by the Committee of Selection. Each of the other Standing Committees have a membership ranging from 30 to 50 to which the Committee of Selection can add another 10 to 35 members who wish to be appointed to any of these Committees in order to take part in the consideration of a particular bill only. These Standing Committees are set up at the beginning of the session of a new Parliament and continue until that Parliament is prorogued. It is in these Committees that bills are discussed and carefully examined, amendments are moved and concessions granted and every effort is made to produce legislation which if not of an all party character have at least the partial approval of the Opposition parties. It must however not be forgotten that each of these Committees are miniature legislatures. The Government sees to it that it maintains its majority in each one of them and that its voice prevails in the final analysis.

Private bills are referred to Committees on private bills. These consist of four members each. They are set up during every session and members are designated to each of them by the Committee of Selection. Each of these Committees receive a considerable number of bills. The Committee of Selection is responsible for distributing them. A member is not expected to serve in a Committee which discusses a bill in which either he or his constituents are interested. These Committees examine the bills assigned to them. They hear the argument for and against them, summon evidence if necessary and submit a report to the House as to their general practicability or otherwise.

There are finally, the Select Committees on public bills and the Sessional Committees on public bills. Select Committees normally consist of 15 members. Their members are proposed by the member who moves the appointment of the Committee. Their function is to examine the prospective legislative measures, gather raw material for legislation, hear evidence, and conduct inquiries. The Committees select their own Chairmen and submit their reports to the House. They die out no sooner they have fulfilled their purpose. The number of select Committees vary from session to session. Generally, about eight to ten are created for a session. Hence they are also known as Sessional Committees. The most important of these is the Committee of Selection which consists of eleven members. The members of this Committee are drawn from the Government and the Opposition parties. One of its main functions is to designate the members of the various Committees set up by the House from time to time. Other important Sessional

Committees are the Committees on Standing Orders, the Committee on Public Accounts whose Chairman is always a member of the Opposition and whose function it is to examine the expenditure of Government departments and the Committee on Public Petitions.

The House of Representatives

The House consists of 101 members, of which 95 are elected by universal suffrage for a maximum period of five years and six are appointed by the Governor-General for a similar period on the advice of the Prime Minister, to represent certain interests which have not obtained any representation or have obtained inadequate representation through the electoral process. Of the 95 elected members, 84 represent single member constituencies and the rest multi-member constituencies. The House may be dissolved earlier by the Governor-General on the advice of a Prime Minister.

The Ceylon Speaker

The first business of a new House is to proceed to the election of a Speaker, a Deputy Speaker who is also the Chairman of Committees and a Deputy Chairman of Committees. The British tradition of unanimous election of the Speaker has not as yet developed into an established custom in this country. The first Speaker, Sir Francis Molamure was contested by a member put forward from the ranks of the Opposition. The second Speaker was a unanimous choice. Both Speakers were however, contested in their constituencies, though in the case of the second Speaker, Mr. (now Sir) Albert Peries, he was contested not by any candidate from the Opposition parties but by an Independent.

The Ceylon Speaker like his British counterpart once elected sheds all party ties. He presides at sittings of the House, maintains order, decides which of the members shall hold the floor and interprets the rules of the House. His decisions are final and his rulings can only be questioned by any member on a formal motion. The Speaker does not take part in debate and the Constitution definitely states that he or his deputy can exercise a vote only in the event of a tie. On such occasions, as is the British custom, the Speaker exercises his casting vote in such a way as not to disturb the existing situation. The Constitution in addition provides that where any changes to the Ceylon Constitution are concerned, bills relating to such amendments shall not be presented for the Royal Assent unless the Speaker attaches to them a certificate stating that they have been passed by the requisite two-thirds of the entire membership of the House. Money bills too have to be certified by the Speaker when they are sent to the Senate and when they are presented to the Governor-General for the Royal Assent. In the case of money bills the Speaker is required by the Constitution to consult the Attorney General or the Solicitor-General before he gives his certificate.

The Speaker is assisted by a Sergeant-at-Arms who helps him to maintain order in the House, a Clerk to the House, a Chief Reporter and other reporters, and a Librarian.

Sessions of the Representatives

The work of the House is divided into sessions. The length of each session is determined by the Prime Minister and the Cabinet and this depends on the legislative programme of the Government for the particular period. The time-table of work is usually prepared by the Leader of the House in consultation with the Leader of the Opposition and the representatives of the other Opposition parties. The Constitution requires that there shall at least be one session of Parliament every year but in actual practice more sessions than one are held. At the beginning of each session a Speech from the Throne is read by the Governor-General to members of both Houses of Parliament who are assembled together for this purpose at the Assembly Hall.

The Speech may also be read by a special representative from the Monarch or the Monarch herself. The Speech from the Throne for the Second Session of the First Parliament was read out by the Duke of Gloucester. The Speech like its U. K. counterpart gives an account of what the Government has been doing during the past session and proceeds to give a rough sketch of the Government's legislative programme for the new session. Needless to say the Speech is prepared by the Cabinet. At the conclusion of the Speech, the members withdraw to their Chambers. An Address of Thanks is moved by a member of the Government Party, a debate follows in which the Opposition criticises the Cabinet for the shortcomings of its policy and puts forward alternative schemes and policies, moves amendments and by these means seeks to influence public opinion. The House then proceeds to set up Committees for the transaction of business. During a session either House of Parliament may adjourn business at any time but when business has been completed for a particular period, both Houses have to be prorogued together by a Proclamation issued by the Governor-General. The Constitution requires that a Proclamation proroguing Parliament shall always fix a date for the next session and this session shall not be later than four months after the Proclamation proroguing Parliament. In short the interval between sessions should not exceed four months. The Constitution, however, provides that at any time while Parliament stands prorogued the Governor-General, acting of course, on the advice of the Prime Minister, may by Proclamation

- (1) summon Parliament for an earlier date which will be not less than three days from the date of such Proclamation or

- (2) dissolve Parliament . In the case of a dissolution, a date shall be fixed for the general elections and a new Parliament shall be summoned to meet within four months of the date of such a Proclamation.
- (3) summon a Parliament which has been dissolved, if at any time after its dissolution, the Governor-General is satisfied that an emergency has arisen of such a nature, that an earlier meeting of Parliament is necessary.

Such a Parliament should be summoned to meet on a day not less than three days from the date of such Proclamation and may be kept in session until the meeting of the new Parliament.

Section 27 of the Constitution provides that the privileges of the House and the Senate shall be the same as the privileges of the last State Council. It also empowers each House to determine and regulate its own privileges, powers, and immunities but prohibits such privileges etc., from exceeding those held by the House of Commons or its members in the United Kingdom.

Committees of the Representatives

It was pointed out earlier that at the beginning of every session, each House sets up for greater speed and efficiency, committees to transact its business for the particular session. Attention was invited to the importance of the committee system when we made mention of it in our study of the organisation of the House of Commons. In Ceylon it is even more important for it is in committees that the members of the Government and Opposition who are otherwise driven apart by widely divergent political and ideological differences have some favourable opportunity to meet in an atmosphere which is at once friendlier and more sociable. There are chances here for differences to be sunk, for negotiations to be conducted and for concessions to be made and bargains and compromises to be struck. The necessity for winning over the electorate by eloquent denunciations of governmental policy which is ever present and a source of great temptation to the ranks of the Opposition when the House is in session is considerably minimized in the committee room. When a bill reaches the Committee Stage, it is almost an accomplished fact. The Opposition knows fully well that it must make the best of a situation to which it might otherwise be whole-heartedly opposed and so it makes every effort to gain concessions from the Government. The latter too realises that it is not advisable to go the whole hog and as a result leave a sense of bitterness and resentment in the hearts of the Opposition. Attempts are therefore made to pacify the Opposition and even win the affections of those independent members of Parliament who sit on the Opposition benches by the grant of generous concessions and

the insertion of suitable amendments to controversial measures. Thus the committee system has a greater significance in Ceylon than even in the United Kingdom.

Most of the important and controversial legislative measures of the Government are discussed by the House as a whole at the Committee Stage. On such occasions the House is referred to as the Committee of the Whole House. The Speaker steps out from his Chair and occupies the Chair assigned for the Chairman of Committees. Procedure is less formal—and members are allowed to speak as often as they wish. The important financial measures brought forward by the Government and the annual Budget are always discussed by Committee of the Whole House. Other legislative measures and bills are referred to Standing Committees. These are two in number A and B. Their members are selected by the important Committee of Selection which consists of seven members composed of members representing the Government and Opposition parties. The Committee of Selection is responsible for nominating members to the Standing Committees, the House Committee, the Standing Orders Committee, the Public Accounts Committee, and the Public Petitions Committee.

The Legislative Standing Committees of the House are two in number, designated as Standing Committee 'A' and Standing Committee 'B'. All bills except those which the House decides to discuss in Committee of the Whole are referred to either of them at the Committee stage. Bills are allocated to them at the discretion of the Speaker. Each Committee consists of 30 members but the Committee of Selection has the power to add not more than three additional members to serve on the Committee during the consideration of any particular Bill. Ten members form a quorum for the meeting of each Committee.

The House Committee consists of Mr. Speaker as Chairman with five members drawn from the Government and Opposition parties.

The Standing Orders Committee consists of the Speaker as Chairman, the Deputy Speaker, and the Deputy Chairman of Committees, and four other members drawn from both sides of the House.

The Public Accounts Committee consists of seven members representative of the whole House. Its function is to examine the expenditure of the various Government Departments with the assistance of the Auditor-General.

The Public Petitions Committee consists of five members with the Speaker as Chairman. Petitions and grievances from the public are submitted to this body through their representatives. A petition must be submitted to the Speaker first before a member presents it

to the House. The Public Petitions Committee examines these petitions and submits reports to the House from time to time recommending any action to be taken if necessary.

Select Committees too are appointed from time to time during a session for specific purposes. The House generally grants special powers to summon witnesses, hear evidence, and examine documents. They furnish the House with reports of their findings and then pass out of existence.

RIGID AND FLEXIBLE CONSTITUTIONS

Legislative Powers—The United Kingdom

The British Constitution is a flexible one of the unitary type. A flexible constitution is one which requires no special process for any change to be made in the rules and regulations which govern the conduct of the constitution. The method of change is the same as for ordinary legislation. In Britain therefore Parliament is supreme. There exists no limitation on the supremacy of the power and authority of Parliament. In fact to illustrate the complete authority and legal omnipotence of Parliament, an English publicist once remarked that the latter could do anything except make a man a woman. A Parliament cannot therefore impose any checks or restrictions on any future Parliament. Its power is a present one. Every act that it performs is constitutional provided it is done in the proper way—that is to say that the laws enacted by Parliament must pass through the normal sieve of discussion and debate and be adopted by a majority, find their way through the House of Lords and receive the royal assent before they enter the statute book. But even here Parliament could if it so desires alter the process of law making and dispense with certain formalities if public opinion requires greater speed in legislation.

Ceylon

The situation is not so easy and comfortable in Ceylon. The Ceylon Parliament is not a fully sovereign and legally omniscient body as its British counterpart. The Ceylon Constitution is a rigid one of the unitary type. A rigid constitution is one which requires some special process for the purpose of altering the rules and regulations laid down by the makers of the constitution for the government of the country. A special sanctity is thus attached to the general body of the rules and regulations which go to form the Constitution. In short a distinction is drawn between ordinary law and constitutional law. The laws of the Constitution cannot be changed in the same and simple way in which ordinary laws are enacted by the Ceylon Parliament.

As in Ceylon, many legislative bodies the world over, have made special provision for the alteration of their Constitution. Some provide for changes in their Constitution to be effected by the ordinary Legislature but through a special process as for instance by requiring (a) the presence of a definite quorum of members or (b) a specific majority, or (c) a dissolution of Parliament so that the new Legislature may have a proper mandate from the people or (d) that both Houses sit together in joint session and give their consent to a change by a simple majority or a specific majority. Other countries may require that changes in their constitution cannot be effected before the people are consulted through the medium of a referendum. Still others may provide for summons to be issued to a special convention of representatives which will meet for the specific purpose of considering any proposed changes to their constitutions. In the case of federal states, the Constitution may require the consent of a majority of all the units which form the federation for any change in the Constitution to become law. A combination of two or more of these methods for altering the Constitution or any one of them may be provided for by the framers of Constitutions of the rigid type.

Restrictions on Legislative Powers

In Ceylon the Constitution requires that changes may be effected by the ordinary legislature but by a special procedure. This procedure is outlined in Section 29, sub-section four of the Constitution. It states that the Parliament of Ceylon may amend or repeal any of the provisions of the Constitution provided that any bill for the amendment or repeal of the Constitution has been passed by not less than two-thirds of the whole number of members of the House, including those not present. In effect this means that in a House of 101 members, at least 68 members should register their consent for any change to be effected in the Constitution before such a change is to receive the force of law. The Constitution further provides that the Speaker should attach a certificate to any such bill before it is presented for the Royal Assent stating that the bill has obtained the requisite majority.

There are two other restrictions on the legislative competence of the Ceylon Parliament besides the above one. There is the restriction imposed by Section 29, sub-section two of the Constitution. This was inserted in order to provide protection for those minorities and religious bodies who feared that they might be victims of discriminatory treatment in an independent Ceylon. It states that Parliament shall not pass any Law which shall

- (a) prohibit or restrict the free exercise of any religion or
- (b) make persons of any community or religion, liable to disabilities or restrictions to which persons of other communities or religions are not made liable, or

- (c) confer on persons of any community or religion any privilege or advantage which is not conferred on persons of other communities or religion, or
- (d) alter the Constitution of any religious body except with the consent of the governing authority of that body. In this last case, if the religious body is incorporated by law, no alteration shall be made except at the request of the governing authority of that body.

Any law made in contravention of this section can be declared null and void by any court in the country to the extent of such contravention. Parliament could if it so desires repeal the entire provisions of Section 29 (2) by a two-thirds majority but no Government in its senses would attempt to take such a daring risk which might outrage not only the feelings of minorities and religious bodies but also the entire public opinion in the country.

The last restriction is to be found in Section 39 of the Constitution. In broad outline this Section is meant to protect any fall in the Island's credit as a result of the constitutional changes. Any law affecting the sterling loans (which now becomes trustee securities) and any other loans raised by the Ceylon Government in the United Kingdom and included in the list of trustee securities by the latter at the request of the Government may be disallowed by Her Majesty who will act on the advice of a Secretary of State. Such laws may at first be valid and be assented to by the Governor-General but may later be declared invalid if Her Majesty were advised to declare them invalid. The advice will of course come from the Ceylon Government in accordance with Section 4 of the Constitution.

SECOND CHAMBERS

Arguments For

Single chamber government, it is argued, is not the best for democratic climates. Popular houses, fresh from their contact with the electorate, and parties invigorated with a mandate from the people to put their programmes and policies into operation might run out of hand and act in a rash and hasty manner. Some sort of checking authority is needed. Human emotions might at times have the better of reason. Drunk with success, a Government might act in a manner which though responsive to public opinion for the time being, will in the long run prove disastrous to the good interest of the country. Advice is necessary and caution is indispensable at such moments. It is dangerous to trifle with the machinery of legislation unless there is certainty that everything will turn out for the good to those that trust the people. So say the opponents of single chamber government and also those who do not place much reliance on the judgment of the electorate.

They argue that minority opinions should be respected, that the people are likely to be swayed by appeals to irrational prejudices and emotions, that unscrupulous politicians and dangerous parties might exploit such human failings, obtain chance majorities and proceed to act in a reckless and negligent manner and that when the tumult has died down and the artificial heat generated by the action of parties has cooled off, human beings are likely to sit down and reflect and feel sorry for what they have done. Second Chambers it is urged serve as an insurance against any such danger of future regrets. They are constituted in such a manner that they are far from the "madding crowd." They are capable of providing good counsel when it is most necessary. They know when to act as a brake against hasty and precipitous legislation.

But these are not the only purposes they are meant to serve. Most human beings it is felt require a great deal of counsel before they decide to act. The bold and the adventurous are scarce in society. Few men are willing to take daring risks and even if they do, they will prefer to share the responsibility rather than bear it alone especially through the fear that things might go wrong. It is also argued that legislation approved by two legislative bodies after careful deliberation and due consideration of all the arguments placed for and against it has greater chance of commanding obedience than if it were enacted by a single legislative chamber. A second chamber will act as a Court of Legislative revision. It will correct the faults and polish the rough edges of crude legislation. It will serve as a means of providing a voice to those interests which either do not find any representation or obtain inadequate representation in the first chamber. In this manner a second chamber will promote unity in a country composed of diverse nationalities. It is the ideal instrument to bring together the units in a future federal state.

Arguments Against

Violent opponents of the bicameral system have however described a second chamber as a refuge for wealth, the last resort of the politically impotent, and an automatic check against progressive and beneficial legislation. There is the theory advanced by the well-known French constitutional expert of the revolutionary era, the Abbe Sieyes who stated that broadly speaking a second chamber which agrees with the first is superfluous and if it disagrees, it is bound to become obnoxious. A political party it is argued takes a considerable period of time to seize power and obtain a majority in the legislature. Throughout the years of its sojourn in the wilderness it would have given the electorate an opportunity to analyse its programme and policies, and the people will know quite well what they are in for when they make up their minds to hand over authority to any political party. The Labour Party for instance had its early beginnings in the latter part of the nineteenth century. It arrived

at real political power only towards the middle of the present century. Haste and error in legislation can therefore be ruled out—for in the twilight period between birth and maturity into power a political party would have, under the sobering influence of varying shades of public opinion done much to make its programmes and policies as least offensive as possible to all sections in the electorate. The necessary delay in order to ensure that all shades of opinion have been given an opportunity to express their views is provided (a) in the three readings through which any legislative measure has to go before it becomes Law and (b) the consultation which very often takes place between the ministry officials and the interests concerned when legislation is yet in the early stages of consideration by departmental officials. Revision if it is a mere matter of drafting is performed best by the office of the legal draftsmen in Ceylon or by Parliamentary Counsel in the United Kingdom. If revision is a matter of conflict of principles between the first chamber and the second, unnecessary delay is likely to intervene if the first chamber has already made up its mind and if the second has only a suspensory veto. If on the other hand, both chambers have equal powers and neither is willing to give way, deadlock is bound to be the ultimate outcome and deadlock in the end will mean a half-hearted compromise which will leave a feeling of bitterness in the minds of those who have obtained a lawful mandate from the people. In fact if there is continuous opposition from the second chamber, a movement might be started to either abolish it altogether or deprive it of its absolute powers. This has been the experience of the House of Lords in the United Kingdom.

The view that a Second Chamber will provide representation to non-represented or inadequately represented interests in the popular house or serve as a means for securing the views of minority opinion is equally fallacious. A Second Chamber regardless of how it is composed will merely repeat the arguments that the Government or Opposition has advanced in connection with any piece of legislation discussed in the first chamber. The Second Chamber will have virtually nothing new to say. Hence debate in the Second Chamber will be a waste of time. The view that it will provide a forum for representation of minority interests is misleading because a minority will remain a minority whether it is in the Upper House or the Lower one and will be able to do nothing in either Chamber if the majority has already made up its mind. It is also felt that Second Chambers are a means for ensuring the representation of special interests like the medical and legal professions, the banking and commercial systems in the country and also of enlisting the opinion of learned and distinguished men who are naturally disinclined to go through the tiresome process of an election campaign. Here too we have to face realities. Special interests are always bound to voice their opinion in a vociferous manner when their interests are

threatened whether they are represented or not in the legislatures of the land. The legal profession in Ceylon for instance was fierce in its condemnation of the Government's plan to shift a part of the courts from Hulftsdorf and voiced its opinion in various ways without waiting till the plan was brought up before the legislature for consideration. Besides, in matters which do not concern their interests, the views of professional men will generally coincide with the views of one or other of the political parties in the popular house. There can be no separate professional attitude towards politics. A medical man will not have a separate medical attitude towards political questions. The opinions of learned intellectuals, of scientists, of musicians or of men of letters will count for little in politics. They will have nothing newer to say than the 'lesser' mortals of the more popular lower house. Moreover the experience of politics has been that these so-called special interests have, if at all, been over-represented in the Lower House. If they have been found additional representation in an upper house it has been for the purpose of offering obstruction to a future Government which might appear to be too progressive or hasty in legislation in the eyes of the conservative minded interests in the country.

As for the necessity of a Second Chamber in a federation—that it serves to bring together the units which are often different in size and population and that it will protect them from the danger of being outvoted by the more powerful units—it is important to remember that though this might be true at the beginning, such a situation can never persist for long. Political parties organised on a country wide scale, besides improvements effected by the development of communications and the danger of external threats and possible aggression of an economic or military kind from neighbouring powers—these are likely to promote national solidarity and a sense of patriotism rather than widen the rift between the units in a federation. In fact all the protection that the federating states need from the fear of being overweighed by the more powerful units is provided by the documents embodying the distribution of powers between the centre and units and between the units themselves. The method of amendment of a federal constitution also ensures that the units are granted sufficient protection.

The House of Lords

The House was a powerful body during the 19th century and with the passing of the Parliament Act of 1911 and the advent of the Labour Party, it has been reduced to the status of a mere delaying chamber. It has no power over money bills and it has only a suspensory veto over other legislation. Still, as we shall see later, it wields considerable influence over governments even with its limited powers.

Composition

The House consists of 818 temporal and 26 spiritual peers. Membership can be classified into six groups :—

- (i) Princes of the royal blood, *i.e.* peers who are members of the British Royal Family. These by custom do not take any part in the proceedings of the House.
- (ii) All hereditary peers of England and the United Kingdom. Peerages created since the Act for the Union of England and Scotland in 1707 are all peerages of the United Kingdom.
- (iii) Sixteen hereditary peers of Scotland chosen from their own number at the beginning of every new Parliament by the entire group of Scottish peers meeting as an electoral body in Holyrood Palace at Edinburgh. This was because the Act of Union of 1707 made no provision for creation of Scottish peers. As a result, the number of Scottish peers declined and of those who remained, provision was made for sixteen of their number to be represented in the House of Lords.
- (iv) Six representative peers of Ireland elected for life. By the Act for the Union of Britain and Ireland in 1800, the Irish peers were entitled to elect twenty eight of their number but since the creation of the Irish Free State no new peers have been elected. Hence the numbers have dwindled from twenty eight to six.
- (v) Law Lords. There are seven (nine formerly) "Lords of Appeal in Ordinary" who are not hereditary peers but hold seats only for life. They serve as a final Court of Appeal in civil cases from the Lower Courts in the United Kingdom. They seldom, if never, take part in political debate. The Lord Chancellor along with other members of the House who have held high judicial office, associate themselves with the "Lords of Appeal in Ordinary" when the latter are engaged in their judicial duties.
- (vi) Lords Spiritual. These are twenty six in number and include the Archbishops of Canterbury and York and the Bishops of London, Durham and Winchester. Seats are retained as long as a See is held. Vacancies are filled in by the monarch on the advice of the Prime Minister.

Peerages are created by the monarch who generally acts on the advice of the Prime Minister. The peerage descends by primogeniture on to the eldest male heir in the family. The heir must accept the peerage whether he likes it or not. A peerage with the exception of the Scottish and Irish peerages carries with it, for men, a right to a seat

in the House of Lords. No woman is entitled to a seat in the Lords. A peerage is generally conferred as a reward for services in the field of politics or for some distinguished contribution in the field of literature, art, or science. Men of wealth who have been lavish in their donations to charity or to party funds too receive recognition by obtaining a seat in the House of Lords.

Speaker
Lord Chancellor

The House is presided over by the Lord Chancellor who is the Speaker of the House. He is a member of the Cabinet. He is assisted by permanent officers who include a Clerk, the Gentleman Usher of the Black Rod who enforces the orders of the House and a Sergeant-at-Arms.

Persons under twenty one years of age, aliens, bankrupts, women and those sentenced on conviction for felony or treason cannot sit in the Lords.

Privileges

The privileges of the House of Lords are (1) freedom from civil arrest for themselves and their servants for a period of forty days before and after a meeting of Parliament (2) freedom of access to the Sovereign for each peer individually, (3) freedom of speech, (4) the right to commit for contempt, (5) the right to exclude disqualified persons from taking part in the proceedings of the House. The privilege which the House possessed to try peers and peeresses for treason and felony was abolished by the Criminal Justice Act 1948.

The Record Of the Lords

The House of Lords has been a permanently static body where its political composition is concerned. It has had a permanent conservative majority throughout the ages and its record has been one of critical obstruction to the legislative activity of both Liberal and Socialist governments. When the Conservative Party is in power, it is perhaps the best second chamber in the world. For then it acts as a leisured body, performs useful work in the field of legislative revision, conducts intelligent debate on foreign affairs and colonial policy, keeps its ear close to public opinion and does all it can to help the Government to tide over difficulties if there are any on the way.

The powers of the House of Lords up to 1911 were co-equal with those of the Commons. It had a permanent veto over legislation but it followed a convention of not interfering with money bills which the Commons sent up to it for approval. But in 1909 the Lords broke this convention by rejecting the Budget of Mr. Lloyd George who was then Chancellor of the Exchequer in Mr. Asquith's Liberal Government of that year. The result was the Parliament Act of 1911 which reduced the veto powers of the House of Lords

(a) over non-money bills to a suspensive veto of two years, and (b) over money bills for 30 days. In 1947 the Labour Government of Mr. Clement Attlee further reduced its delaying powers over non-money bills to one year. ✓

Still with even these limited powers the Lords have been a source of grave irritation to governments whose activities they really disliked. They have shown no hesitation to delay the legislative activity of Liberal or Socialist governments during the first year of their office when they were fresh and filled with enthusiasm as a result of the newness of the mandate they had obtained from the electorate. And during the last years of office of such governments the Lords have acted as a permanent brake on their legislative programme by exploiting their need for time and extracting vital concessions from them especially when they attempted to introduce controversial measures which threatened the interests of the propertied classes in the United Kingdom. *lala*
dated

Several legislative measures have also died pre-natal deaths. For a government which has a general election staring it in the face a few months ahead will not care to waste its time by introducing bills which it knows quite well will be rejected by the Lords. Over money bills, the Lords as has already been mentioned have a delaying power of only 30 days after which such bills are sent up to the monarch for his assent. The Speaker of the House of Commons certifies whether a bill is a money bill or not and his decision is final. ✓

The House also performs functions of a judicial nature when it sits as a final Court of Appeal in certain legal cases. But here only the "Lords of Appeal in Ordinary" together with the Lord Chancellor and a few others who have had legal experience participate. For all intents and purposes therefore, the House sits as a separate body when it has to tackle business of a judicial nature. *Judicial*
importance

The composition of the House of Lords is based on the mistaken idea that political intelligence and political sympathies are hereditary. Though this might be true about political sympathies where Conservative peers are concerned, it is not at all true in regard to the belief that political intelligence is inherited. The House is by nature a conservatizing body and though a trade union leader may remain loyal to his party when elevated to the peerage, there is no guarantee that his eldest son or any other heir will subscribe to the same political views of his father when he inherits the peerage. There is no doubt that there are clever and intelligent men who sit in the Lords—men of legal, literary and scientific eminence, retired statesmen, able administrators and businessmen of uncommon acumen—but the most disconcerting feature is that the majority of these intelligent folk maintain a single track mind where politics is concerned. They ✓

are permanently opposed to all forms of socialist legislation. Besides, it must also not be forgotten that the Lords are not a representative body of the nation as are many of the other second chambers of the world. For one thing, they are a non-elective body. For another, the House is an undemocratic body in that none of the manual workers, the vast majority of small shopkeepers and teachers, or ministers of the non-Anglican Church and women find any representation in it. In the words of Augustine Birrell the House represents nobody but itself and enjoys the full confidence of its constituents.

It is true that the House of Lords today is virtually a powerless body in that England no longer looks up to it for any of her Prime Ministers. The last Prime Ministers from that august and aristocratic body were Lords Rosebery and Salisbury. A convention finalised the secondary nature of the Lords when George V decided in 1922 to send for Mr. Stanley Baldwin (as he was then known) to head a Conservative Government, in spite of his very limited experience in cabinet government, in preference to Viscount Curzon who might have otherwise been the most obvious choice had he not been a member of the Lords. Yet with even this relegation to a secondary place, the Lords continue to wield a great deal of influence in the field of legislation. They have always had their backs facing the future. They remain the last fortress of the Conservative Party and will continue to do so until some arrangement is arrived at by all the political parties in the House of Commons to alter the nature of the composition and functions of this hereditary chamber.

The Senate—The Soulbury Commission's arguments for a Senate

The reasons which led the Soulbury Commission to recommend a Second Chamber for this country may be summarised as follows:—

- (i) The reduction of the powers possessed by the Governor under the Donoughmore Constitution would make it necessary for there to be some other authority which will take upon itself the task of acting as a check against the danger of undue haste or rashness in legislation by the Lower House. A Second Chamber would fill this role admirably in Ceylon.
- (ii) A Second Chamber would make a valuable contribution to the political education of the general public in Ceylon.
- (iii) Though a fair provision had been made in the Lower House for the adequate representation of minority communities and though the Commissioners hoped that "the element of communal representation will not figure largely in the composition of a Second Chamber", still they felt that such a Chamber might be of some value

to the minorities in that the latter would have the satisfaction that inflammatory issues (which might include legislation against minority communities) will be dealt with in a cooler atmosphere.

- (iv) Since all the self-governing members of the British Empire and most of the large states of the World have adopted the bi-cameral system, it was felt that Ceylon too should follow their example.

Is the Senate really necessary?

The first argument no longer applies because under Section 4 of the Constitution, the Governor-General will have to abide by the advice of the Prime Minister when he makes appointments to the Second Chamber. It was the intention of the Soulbury Commission that the Governor should act in his discretion—that is that he should act on his own responsibility without being bound by the advice of a Prime Minister when appointing the fifteen members to the Senate. The Commissioners felt that these fifteen members would act wisely and independently in examining the legislative activity of the Lower Chamber since they would not be bound by any party loyalties. These hopes were however nullified by the provision in Section 4 of the Constitution that the Governor-General will have to act in accordance with the prevalent convention in the United Kingdom—that is, that he should follow the advice of the Prime Minister in the matter of appointments to the Senate. The Governor-General's nominees, will therefore be the Prime Minister's nominees. They will be tied down by party loyalties. They will therefore not attempt to seriously interfere with any legislative measure sent up to the Second Chamber by the Lower House even though it might appear to be harsh or ill-considered. These men might at some future date act as an obstacle against legislation if any of the Opposition groups were to come into power (since the Second Chamber is a continuous body and retires in fractions unlike the first Chamber which is dissolved in its entirety when its term of office expires). But for the present at any rate they will lend loyal support to the Government since a majority of them are the nominees of the party in power.

It is a debatable point as to whether the Second Chamber will make or has made any valuable contribution to the political education of the general public in this country. The Second Chamber has merely repeated the arguments put forward in debate by the members of the Lower Chamber. It has rarely had anything new to say.

It is also a debatable point as to whether the minorities will trust the Senate to safeguard their interests. For the Senators who will be or have been appointed to represent those interests which have not obtained adequate representation in the Lower Chamber, are

party men owing loyalties to the party in power in the Lower House. They will therefore lend their support to the legislative program of the Government. A minority will remain a minority whether in the Lower Chamber or the Upper Chamber. It will not be able to do anything to restrain a Government which is determined to break its heart at whatever cost.

The argument that Ceylon should have a Second Chamber since most of the major states in the world and all the self-governing units of the Empire possess Second Chambers appears unconvincing. The British House of Lords is an accident of history. There were times when there were four chambers attempting to manage the governmental process in the United Kingdom. In countries like France and the U. S. A. the Second Chamber was the product of great revolutions. Ceylon has not passed through such a stormy period for her to justify the luxury of an upper house. Besides, the U. S. A. is a federation and here there might be some ground for the existence of a Second Chamber in order to provide equal representation for the units. The same is true of some of the major states in the British Commonwealth. Australia and Canada are federations and must provide for some form of representation for the federating units in a Second Chamber. The necessity for a Second Chamber in a federation, it should be remembered disappears with the development of communications and a national party system both of which promote national solidarity. Besides the rigid constitution which federations always have and the method of amendment which ensures that the consent of the units is obtained before any serious change is effected (which all of them have written into their constitution) make the Second Chamber which is expected to safeguard the interest of the units altogether unnecessary. Ceylon is, however, in any case not a federation like some of the major members of the Commonwealth and there is no necessity for her therefore to emulate their example.

Composition

Section 8 of the Constitution provided for a Senate which was to consist of thirty members, fifteen of whom were to be elected by the House of Representatives and fifteen to be appointed by the Governor-General. The Governor-General will of course act on the advice of the Prime Minister. A Senator was to hold office for six years and one-third of the Senators (five elected and five appointed) were to retire every second year. In order to secure that one-third of the Senators may retire every second year, Section 73 of the Constitution provided that at the first meeting of the Senate, the Senators were by lot to divide themselves into three classes, each consisting of five elected Senators and five appointed Senators. The first class was to retire at the end of two years, i.e. in 1949 the second at the end of four years, i.e. in 1951 and the third at the end of the sixth

year *i.e.* in 1953. A person elected or appointed to fill in a casual vacancy was to serve only for the remainder of his predecessor's term of office. Retiring Senators, if qualified, are eligible for re-election or re-appointment. The election of Senators by the House of Representatives is to be according to the principle of proportional representation, each voter having one transferable vote. The House had to elect fifteen Senators at the first election and will have to elect five at any subsequent election and one at a time in the event of any casual vacancies occurring. The Constitution provides that the Governor-General will make his appointments only after the House has completed its elections. This provision has been inserted in order to enable the Governor-General to ascertain what interests have still not obtained representation after the House has made its selections.

Qualifications

The qualifications expected of a Senator are, in addition to those mentioned in connection with the qualifications required for membership of the House of Representatives, that he shall be at least thirty five years of age or that he shall be disqualified from membership if he were elected or appointed or had sat or voted as a Member of the House of Representatives. The Constitution also requires that the Governor-General in making his appointments to the Senate should endeavour to appoint persons who, he is satisfied have rendered distinguished services or are "persons of eminence in professional, commercial, industrial or agricultural life, including education, law, medicine, science, engineering and banking."

Organisation

The Senate will be presided over by a President or in the latter's absence, a Deputy President, both of whom are to be elected by it. The President will not take part in the proceedings and will only exercise a casting vote in the event of an equality of votes. The President will be assisted by a clerk to the Senate. In the absence of both the President and the Deputy President a member elected by the Senate will preside at the particular meeting.

A seat in the Senate will fall vacant as a result of the death, resignation, absence from sittings for a continuous period of three months, expiry of term of office, of a Senator, or if a Senator becomes disqualified under the provisions of the Constitution.

The Constitution provides that during sessions, the Senate may adjourn from time to time as it may determine, but that the summoning of a new session and prorogation of the Senate are both to take place in conjunction and at the same time as the Governor-General decides to proclaim the opening of a new session or prorogue the House of Representatives.

The Senate, in accordance, with the provisions of the Constitution, is to have not less than two Ministers one of whom will be the Minister of Justice, and not more than two Parliamentary Secretaries. The Ministers and the Parliamentary Secretaries are expected to speak for the Government and represent its interests in the Upper House.

Powers of the Senate

The powers of the Senate in regard to legislation are clearly outlined in Sections 31 to 34 of the Constitution.

- (i) Section 31 states that a bill, other than a Money Bill, may be introduced in either Chamber. A Money Bill shall not be introduced in the Senate. The Senate has therefore no authority to originate money bills. Money bills in accordance with the best of parliamentary traditions can only be introduced by a member of the Government in the more popular House of Representatives. Section 33 states that if a Money Bill passed by the popular House is sent to the Senate at least one month before the end of the session and is not passed by the Senate within one month after it is so sent the Bill may, even though it has not been passed by the Senate, be presented to the Governor-General, with any amendments which the Senate has made and the House has accepted or without the Senate's amendments, for the Royal Assent. In effect this means that the Senate can delay a Money Bill for a maximum period of one month. The Speaker is expected to give his certificate to a Money Bill when it is sent to the Senate for consideration and when it is presented to the Governor-General for the Royal Assent. Mr. Speaker should consult the Attorney-General or the Solicitor-General before he gives his certificate. The provision, for the Speaker's certificate has been inserted in order to prevent any Government from tacking on provision which do not have any direct connections with finance (as defined in Section 31 (2) of the Constitution) to a Money Bill. There is always the danger that for the sake of greater speed and in order to avoid the nuisance of being obstructed by the Senate, a Government might try to smuggle the provisions of any other legislative measure into a Money Bill. Hence the arrangement for the Speaker's certificate.
- (ii) In the case of bills other than money bills, Section 32 provides that a Bill shall not have been deemed to have been passed by both Chambers unless both Chambers have agreed to it with or without amendments. If, however, a bill is passed by the Senate with amendments

not acceptable to the House of Representatives it shall be deemed not to have been passed by the Senate. Conflicts are likely to arise between the Senate and the House. Section 34 provides for such an eventuality. It states that if a legislative measure is passed by the House, sent to the Senate for consideration at least one month before the end of the session in which the bill was passed by the House and is not passed by the Senate in that session, then in order that the bill may become law, it will have to be passed by the House once more in the next session and sent up to the Senate for consideration once again at least one month before the end of that session. If the Senate yet insists on remaining stubborn and refuses to give into the wishes of the House and does not adopt the measure either within one month after it has been sent up to it or within six months after the commencement of that session, whichever period of time is the later, the measure may, in spite of the fact that the Senate has not granted its approval to it, be presented to the Governor-General for the Royal Assent. The bill may, however, contain a few alterations here and there made necessary owing to the fact that it may have got slightly outdated owing to the passage of time. It may also differ from the original measure on points where the Senate and the House have reached agreement over any amendments. The precaution of the Speaker's certificate has been introduced to ensure that the substance of the measure is the same as it was when it came up for final consideration before the Senate and to prevent any Government from tacking on the provisions of any other proposal into the particular one which had already been considered by the Senate.

The makers of the Constitution however expected that in the event of serious conflict between the two houses, one or other will give way and a satisfactory compromise will be reached acceptable to both sides. They did not, however expect the Senate to offer serious obstacles to the legislative proposals of the first Chamber. The Senate may offer useful suggestions. It can warn or advise, if it believes that the popular house is hurrying madly on a precipitous course of legislation. It can suggest amendments to bills of a controversial sort but beyond this it should do little to act as a permanent brake on the legislative activity of the first Chamber if the latter is bent on having its own way. The Senate in effect is meant to act as a refrigerating instrument on any undue warmth generated by the inflammable atmosphere that might at any time prevail in the first Chamber of the land.

The Lords and the Senate

The Senate in Ceylon differs from the House of Lords in the United Kingdom in the manner of its composition and where its powers are concerned. The Lords are a hereditary body and permanent in character. The Senate is partially elected and partially nominated. It is not a permanent body as the Lords, in so far as one-third of its number go out of office every two years. Qualifications for membership of the two chambers too vary. The minimum age for entry to the Senate is thirty five years of age, for the Lords twenty one years. No woman may sit in the Lords. There is no such provision against women sitting in the Senate. To be a member of the British Second Chamber, one must be first elevated to the peerage. There is no such prior condition either by way of (a) a property qualification (as a substitute for the peerage), or (b) the performance of a distinguished service for entry into the Senate. In numbers too, the composition of both houses vary. The Senate consists of thirty members. The Lords consists of over eight hundred though its working number does not exceed at any time more than a hundred members. In political complexion, the Lords are permanently Conservative in character. The complexion of the Senate will, however, vary in accordance with the climate prevailing in the popular House of Representatives. The presiding officer of the Senate is elected by that body. The presiding officer of the Lords is the Lord Chancellor and he is appointed by the Prime Minister. The Constitution of Ceylon provides that not less than two Ministers one of whom shall be the Minister of Justice and not more than two Parliamentary Secretaries shall sit in the Senate of Ceylon. In the United Kingdom, there is no written constitution as in Ceylon, though a statute called the Ministers of the Crown Act, 1937 forbids more than six of the eight principal Secretaries of State to sit in either House at the same time. This statute, can, however, be repealed at any time since Britain possesses a flexible constitution. In Ceylon any attempt to alter the number of ministers in the Second Chamber will have to go through the difficult process of a constitutional amendment, necessitating the approval of a two-thirds majority of the entire membership of the House of Representatives. In effect, however, the Lord Chancellor always sits in the House of Lords and there are at least one or two other ministers who represent the interests of the Cabinet in the Lords.

In the matter of distribution of legislative powers, both Second Chambers are almost on an equal level. Both have no power to originate money bills and can only delay these for a period of not more than one month. Both have no permanent veto over ordinary legislation and they only possess a delaying power. The extent to which they can delay varies. In Britain it has at times been two years and at other times been one year. The Senate in Ceylon can

delay ordinary legislation for not more than two sessions in accordance with the provisions of the Constitution. The powers of the Lords can however be altered by the ordinary process of legislation in the United Kingdom while in Ceylon any alteration to the powers of the Senate will have to be effected by an amendment to the Constitution. The Lords have a judicial power vested in them when they act as a final Court of Appeal in certain legal causes in Britain. The Senate in Ceylon exercises no such judicial powers. It must however be remembered that the Lords as a Court of Appeal are distinct from the Lords as a legislative chamber and sit as an entirely separate body when hearing legal cases.

LOCAL PARLIAMENTARY INSTITUTIONS

The Nature of Local Government

The beauty of life lies not in a dull and military uniformity but in some amount of untidiness. As human beings we do not like to be told by people who think that they know better than ourselves that things are done best this way and that it is cheaper for us to light our houses with oil lamps than to attempt to instal an electricity plant in our little town or village. We all love to live our own lives, to benefit our own experiences and to learn by the mistakes of other people. But many of us do not like the idea of being prodded constantly with the big stick and be lectured to by elder folk who at times tend to be dictatorial without realising that they are making serious inroads into our personal freedom. This indeed is the psychology of the desire for local self government. It may be true that central control will bring with it greater efficiency, better economy, an excellent service and so on, but it will always lack the genius of locality and that warmth of co-operation that will always spring from people if they are allowed to do things in their own way. That is why Mill wrote more than half a century ago that good government was a poor substitute for self government. It will leave people dull and uninterested in the activities of the political and administrative processes. It will tend to make machines of men. Some degree of local untidiness is required if we wish to promote the civic consciousness of the ordinary man. Too much central control tends to become dangerous after some time. It is a stepping stone to dictatorship and all its evils. Local matters should at best be allowed to be managed by local people. Some sort of central supervision might be needed from time to time but dictatorial intervention and any attempt to impose a particular kind of order from above is not at all conducive to the political health of a growing community.

Health and sanitation, proper drains and well kept sewers, a good lighting system and neat thoroughfares, parks for recreation and cinema halls and theatres for entertainment are some of the decent

amenities that the local civilisation of a Town Hall can give to the inhabitants of the surrounding locality. But for this we need an efficient and interested body of local governors. We also require an equally sensitive and an eternally alert electorate. Men like comforts. They seek material welfare. Many of them are tired and worn out by waiting. They desire to see revolutionary changes taking place in their own generation. Hence quite a number of human beings are willing to barter away their personal liberties in return for the satisfaction of their material wants. This is the danger that our city and village fathers have to contend with. They must be responsive to the needs of their respective towns and villages. They must also be prepared to jealously guard the civic rights of the wards which elected them to the local authority of their area. Indifference might lead to increasing central intervention and ultimately central supervision. Central guidance and assistance is useful to a certain extent but this might reach dictatorial proportions if local councillors spend all their time quarrelling over petty matters and attempting to confer minor benefits and favours on their friends, relatives, well-wishers and camp followers.

Unfortunately, Ceylon has not escaped these evils. Local councillors have at times let their petty grievances override all other desires to promote the civic good of their own locality. Deadlocks have not been infrequent and the work of local authorities have at times been brought to a standstill due to the obstructionist activities of quite a few village and city fathers. The Minister has at times had to intervene and dissolve local bodies or suspend them for a period of time. Chairmen of local bodies too have been guilty of corrupt practices or irresponsible behaviour and they too have had to be removed from their offices from time to time. Allegations have also been made that there has been corruption and undue favouritism shown in the allocation of market stalls and the distribution of contracts. In fact one of the reasons for the institution of a separate body like the Local Government Service Commission was to safeguard the rights of local government employees as there were charges of nepotism, political patronage, undue influence and appointment of officers without suitable qualifications frequently levelled against local bodies. The local citizenry are in a way responsible for this pallid state of affairs.

Local Bodies

With the exception of the undeveloped area which falls within the Gal Oya Development Board, almost every village and town in Ceylon is covered by some local self-governing unit. These units may be either:—

- (i) Village Committees in village areas
- (ii) Town Councils in rural towns

- (iii) Urban Councils in urban areas
- (iv) Municipalities in the major cities and highly developed urban areas.

Village Committees

The central authority (*i.e.* the Minister of Local Government) has the right to declare any chief headman's division or part thereof a village area. A chief headman's division which is declared a village area may, if necessary, be subdivided into village areas consisting of one or more villages or groups of villages. The central authority may from time to time alter the boundaries and extent of village areas by

- (i) dividing any village area into two or more village areas.
- (ii) joining together two or more village areas or portions thereof and constituting these into new village areas.

Every such village area should have a Village Committee elected in accordance with provisions laid down by the central authority. A village Committee is in normal circumstances elected for a period of three years. For this purpose a village area is divided into a number of wards and each of these wards returns a member to the Village Committee of the area concerned.

The members of the newly elected Village Committee are summoned by an agent of the central government as soon as may be possible for the purpose of electing one of their number as Chairman. The Chairman should be elected by an absolute majority. If more than two candidates present themselves for election to the office of Chairman, the voting is repeated as often as is necessary, the candidate receiving the smallest number of votes being excluded from the next succeeding ballot, until one candidate obtains more votes than the remaining candidates or the total number of votes of the remaining candidates, as the case might be. A quorum of not less than half the number of members elected to the Committee should be present for the election of the Chairman. The first Vice-Chairman of a Village Committee is also elected at the same time as the first Chairman. In the event of any future vacancy occurring in the office of Vice-Chairman, the Chairman presides over the meeting summoned for the purpose of filling the vacancy. The Chairman and Vice-Chairman should be elected within a period of twenty one days next succeeding the date on which the election of the members of the new Committee took place. If the Chairman and Vice-Chairman are not elected by the members of the Committee within this period due perhaps to differences and grievances among them, the central authority has the right to intervene and nominate two of the members of the Committee to be respectively Chairman and Vice-Chairman.

The Chairman presides at meetings of the Committee. He is the Chief Executive Officer of the Committee and performs all the executive functions and acts which the Committee directs him to perform under the provisions of the Village Committees Ordinance. He is responsible for all minute books, accounts, records, furniture and other property of the Committee. Unless he resigns earlier, he holds office for a period of three years.

Ordinary meetings of the Committee are held from time to time for the despatch of business. The language prevailing in the area is normally used for the conduct of business. The quorum required for any meeting is not less than one third of the total of members constituting the Committee. Special meetings of the Committee may be convened by the Chairman whenever he considers such meetings desirable for the discussion of some special or urgent matter. Such meetings may also be convened whenever a written request is presented to the Chairman signed by a number of members not less than the quorum prescribed for ordinary meetings of the Committee. Such meetings will have to be convened within seven days of the receipt of such a request by the Chairman and if the latter does not convene the meeting within the required time limit, an officer of the Central Government may convene and preside over the meeting.

Status of Village Committees

(i) Every Village Committee has the capacity to hold property, to enter into contracts and to sue and be sued by the name and designation of the Village Committee of the area in and for which it is constituted.

(ii) Decision of Village Committees duly signed by the Chairman are admissible as evidence in any court or Village Tribunal in the Island.

(iii) All property movable or immovable enjoyed or controlled by the inhabitants of the village area are vested in the Village Committee of the area concerned with the exception however of any building and land used as the court-house of a Village Tribunal which will be under the control of the central government.

(iv) Village Committees may also be vested with (a) all such immovable property of the Crown situated within the village area and which the Crown decides to place under its control (b) all monies which for the time being form part of the communal fund and (c) all village works.

Finances

Every Village Committee has a Communal Fund and into this fund is paid

- (a) fines and penalties ;
- (b) taxes imposed by the Committees ;
- (c) sums realised by sales, leases, or other transactions of the Committee ;
- (d) revenue derived from any property vested in the Committee or from any public service maintained by the Committee; and
- (e) all other sums accruing to the Committee in the course of the exercise of its powers and duties.

It is with the monies realised from these sources and from grants etc. from the Central Government that the Village Committees maintain their village areas in a proper state of health and sanitation, provide certain amenities to the citizens of the area, run utility services and keep the thoroughfares in a fit state for the use of pedestrians and vehicles.

The taxes imposed by a Village Committee are generally of the following types :—

- (i) A capitation tax on every male voter which is payable either in the form of labour performed in or in connection with a village work, or instead in money. If in addition however, a land tax is imposed, any person paying a land tax will not be called upon to pay the capitation tax.
- (ii) A land tax subject to the approval of the central government, which consists of (a) an assessment tax not exceeding four per centum of the annual value of all buildings and all lands situated in localities within the village area and which are declared by the Village Committee to be built-up localities and (b) an acreage tax not exceeding fifty cents a year on each acre of land situated outside a built-up locality and under permanent or regular cultivation of any kind other than paddy and chena cultivation.

If a building is used in connection with the cultivation of land and an acreage tax is levied on the land, no assessment tax may be imposed by the Village Committee on such a building even though it might be situated within a built-up locality.

The following lands or buildings are however exempted from an assessment tax or acreage tax :

- (a) lands or buildings used for religious, educational or charitable purposes or lands used for burial or cremation or any building in charge of military sentries.
- (b) any divided portion of land which is properly defined and forms one property and is situated in any part of a village area other than a built-up locality and is less than five acres in extent.
- (c) land, the owner of which is proverty stricken.
- (iii) Licence duties.
- (iv) Taxes on vehicles or animals ordinarily used or kept for use within the village area with certain exceptions which include vehicles or animals that are the property of the Crown or of the Village Committee or belonging to military officers performing a public duty within the village area.

In addition Village Committees may raise loans for the purpose of carrying out the construction or maintenance of any village work *e.g.* roads, drains, cremation grounds, markets or slaughtering places, wells etc.

Powers

Every Village Committee has power

- (1) to purchase or lease any land or building, or sell, exchange, or give out on lease any land or building vested in the Committee.
- (2) to undertake the construction of new village works or to repair and improve existing village works, to conduct experiments in agriculture, to organise schemes for the relief of distress and for these purposes to make use of any part of the communal fund, enter into contracts, employ officers and labourers and impose and levy taxes or raise loans.
- (3) to impose taxes on lands, buildings, vehicles and animals, and levy licence duties as prescribed by the Village Committees Ordinance.
- (4) to make and enforce by-laws necessary for the exercise of its powers or the performance of its duties. Such by-laws may refer to

- (a) Meetings and procedure of a Committee

- (b) Officers and servants which might also include their conditions of employment
- (c) Taxation
- (d) Loans
- (e) Lands and property
- (f) Roads and paths which will include their maintenance, improvement, construction etc.
- (g) Buildings, building operations and works
- (h) Public Health and amenities including drainage, conservancy, management of public sanitary conveniences, supervision and inspection of lodging houses, and tenement buildings, bakeries, eating-houses, shops and market stalls, dairies, washing and bathing places with a view to prevent the outbreak of any disease or epidemic.
- (i) Animals which will include the supervision of slaughter-houses, the housing of cattle, goats, and pigs, the destruction of stray dogs etc.
- (j) Markets and fairs especially in regard to their establishment, maintenance, and repair and the recovery of fees and rents for the use of premises.
- (k) Water supply
- (l) Public utility services and their proper maintenance
- (m) Prevention of gambling or of disorderly conduct or the prevention of the sale of liquor to young people under sixteen years of age.
- (n) Regulation of weights and measures.

Town Councils

The central authority may declare any area which by reason of its development or its amenities is urban in character to be a town and may define the administrative limits of the town so declared. A Town Council may be constituted for every such urban area declared to be a town and the Town Council so constituted shall be the local authority responsible for the supervision and administration of all matters relating to the public health, public utility services and public thoroughfares and be generally charged with the comfort, convenience and welfare of the people of the urban area concerned. The town will be divided into a number of electoral divisions for the purpose of returning members and the Town Councils Ordinance provides that each Council will consist of not less than three nor more than eight members. The term of office of members is in normal circumstances three years.

After every general election of the members of a Town Council, an officer of the Central Government shall convene the first meeting of the Council for the purpose of electing a Chairman for the Council. If for some reason or other *e.g.* due to a lack of quorum or differences among members, the day fixed for the first meeting has to be postponed, the officer of the Central Government may fix another date for a meeting but this should be within a period of two months next succeeding the date fixed by him for the first meeting. If no meeting is held within this period, it will be a sufficient ground for the dissolution of the Council. If the members of the Council fail to elect one of their number as Chairman, the Central Government may, instead of dissolving the Council, nominate one of the members to be Chairman.

The Chairman will preside at all meetings of the Council including the meeting summoned for election of the Vice-Chairman. The Chairman does not however preside at any special meeting summoned for the purpose of removing him from office. Such special meeting may be convened and should be presided over by an officer of the Central Government when a written request is made by not less than one half of the total number of members of a Town Council. The Chairman may be removed from office if not less than two-thirds of the total number of members of the Council desire his removal. A Chairman, unless he resigns earlier or is removed from office by the Minister of Local Government holds office for a period of three years. He is the executive officer of the Council and is responsible for performing or discharging all executive acts under the provisions of the Town Councils Ordinance. The Chairman is also expected to prepare and submit to the Council a budget for the next succeeding year containing details of the proposed expenditure, an estimate of the available income of the Council from sources other than rates and an estimate of the rate or rates necessary for the purpose of providing for the proposed expenditure. The Chairman also must at the close of each financial year, prepare a detailed report of the administration of the Council during such financial year, with a statement showing the nature and amount of receipts and disbursements on account of the Local Fund during that year.

Ordinary meetings of the Town Council are held from time to time for the despatch of business. Special meetings may be summoned by the Chairman whenever he considers such meetings desirable or when a written request is made, to him by any two or more members. The quorum for meetings of the Council shall be determined by the members but until such a decision is made, the quorum for any meeting of the Council shall be not less than two thirds of the members of the Council who are in office on the date of the meeting. Every Town Council will have a Secretary to perform secretarial functions such as keeping minute books and records of

meetings, circulating information and instructions to members and employees of the Councils, and taking orders from the Chairman which are within the provisions of the Town Councils Ordinance.

Status of Town Councils

(i) Town Councils are corporations and may sue and be sued by such name as may be assigned to them.

(ii) Immovable property of the following classes may be vested by the central authority in the Town Council of each town:—(a) waste lands and open spaces (b) quarries (c) public lakes and streams and waterways (d) crown lands with or without buildings (e) public parks, gardens and open spaces (f) public roads, streets, canals and bridges and the property belonging to such roads, streets, etc., as e.g. the lamps, posts, pipes and drains.

Finances

Every Town Council has a Local Fund and into this fund is paid

- (a) fines, penalties, stamp duties, and grants allocated to the Council by the Central Government.
- (b) rates, taxes, duties, fees and other charges levied under the authority of the Town Councils Ordinance.
- (c) sums realised by sales, leases or other transactions of the Council.
- (d) any other monies which the Council realises or receives under the provisions of the Town Councils Ordinance.

It is from the Local Fund that the Council pays out (i) all expenses incurred by it in the exercise of its powers and the discharge of its functions (ii) any liabilities under the Workmen's Compensation Ordinance or premia for the insurance of property belonging to or vested in the Council and (iii) expenses incurred in connection with civic receptions or celebrations or any other undertaking which has been approved by the Central Government.

The taxes and rates imposed by the Town Council are generally of the following types.

- (i) A rate not exceeding nine per centum of the annual value of any immovable property situated within the Town. Lands and buildings used for religious, educational, military, charitable or burial purposes are exempt from payment of any rates. The Council may also exempt any owner on the ground of poverty.
- (ii) A licence duty authorising the use of any premises or place for any special purpose under the provisions of the Town Councils Ordinance. Such duty shall not exceed the sum of two hundred and fifty rupees per annum.

- (iii) A tax on vehicles and animals. Property of this type belonging to the Crown, Council, or military, and vehicles kept for sale by bona fide dealers, or subject to a tax under any Ordinance relating to motor cars are exempt from payment.

In addition a Town Council may raise loans subject to the approval of the Central Government, on the security of its rates and taxes, for any schemes, undertakings, or ventures that the Council may launch into. The Council's borrowing powers are limited to the extent that monies due from it shall not either (a) exceed in the aggregate, ten times the fair average annual income received by the Council from all rates, taxes, properties and other sources of income for the preceding five years or (b) in the case of a Town Council which has not been in existence for five years, ten times its income for one year as determined by the Council and approved by the Central authority. If however the liabilities of any Town Council in respect of its loans are wholly or mainly owing to the Central Government, the latter may authorise the limit prescribed here to exceed to such extent as it may consider to be safe and necessary for the Town Council concerned.

Powers

A Town Council has general duties in respect of maintaining all public thoroughfares and open spaces vested in its control. It has also the right to enforce the maintenance and cleanliness of all private streets. It is responsible for the removal of all nuisances which are a source of hindrance to the public.

Every Town Council has power to

- (i) control roads and paths situated within its area and to construct new and improve existing thoroughfares in the area under its jurisdiction. It can acquire lands for diverting streets or enlarging them. It can make temporary roads, cut trees, put up fences, make surveys of premises and remove injuries and nuisance to thoroughfares. It may authorise the use of public thoroughfares only for special purposes.
- (ii) maintain the general health of the citizens in the area vested in its control and with this end in view.
 - (a) make, repair or alter drains.
 - (b) construct latrines and inspect and maintain existing ones.
 - (c) maintain scavenging and conservancy services for the area.

- (d) inspect buildings and houses and ensure that they are kept in a sanitary condition and not unduly overcrowded and if necessary order that they be cleaned and limewashed.
- (e) see that houses or huts are not built or roofed with cadjan without the permission of the Chairman and this only for a specific period.
- (f) inspect nuisances and where they exist order that they be removed or remove them itself such as filling up unwholesome tanks on private premises or preventing the slaughter of animals, in unauthorised places
- (iii) establish and maintain public utility services with the prior approval of the Central Government, such as (i) the lighting of streets, public places and public buildings (ii) the supply of electricity (iii) a regular water supply including public baths and bathing places (iv) public markets as are required for the service of the inhabitants.
- (iv) make and enforce by-laws necessary for the exercise of its functions. These by-laws may refer to the same subjects as those enumerated for Village Committees.
- (v) impose and levy rates, taxes and licence duties as permitted by the Town Councils Ordinance.

Urban Councils

The central authority may declare any area which is not a municipality and which is sufficiently developed to be urban in character, to be a town for the purposes of the Urban Councils Ordinance and may define the administrative limits of the town. An Urban Council which will consist of not less than six nor more than twelve members may be constituted for every such urban area and it will be responsible for the supervision and control of all matters relating to the public health, public utility services and public thoroughfares, and for the protection and welfare of the people of the town. The central authority may at any time by Order published in the Gazette (a) vary the limits of any town or of any of the electoral divisions of a town (b) vary the number of members prescribed for any Urban Council and (c) dissolve any Urban Council either for the purpose of holding fresh elections whenever this appears necessary as a result of the changes in electoral divisions or in the number of members or for the purpose of constituting any other local authority in place of the Urban Council.

After every general election, the agent of the Central authority shall convene the first meeting of the Council for the purpose of electing a Chairman. If for any reason, the first meeting is not held,

the agent should fix a date for another meeting which should however be within the period of two months next succeeding the date fixed by him for the first meeting. If no meeting is held within this period, this may be regarded as a sufficient ground for the Central authority to dissolve the Council.

The Chairman

The Chairman is the executive officer of the Council and performs all the executive acts and responsibilities which the Ordinance and the Council requires him to perform or discharge. He presides over meetings of the Council and may convene special meetings of the Council whenever he feels these are desirable. He also presides over the meeting for the election of a Vice-Chairman. All acts, orders and proceedings of an Urban Council have to be entered in a special book and to be effective should be duly signed by the Chairman. The Chairman has the power to require persons who are liable to pay rates and taxes to furnish him with the necessary information. He may also summon any persons before him for the purpose of obtaining information leading to the imposition of rates, taxes on property or persons situated within the area over which the Council exercises jurisdiction. Finally, the Chairman is charged with the responsibility of preparing the Budget for the year. He is expected to present to the Council a statement containing (i) details of the proposed expenditure in separate heads for the forthcoming year (ii) an estimate of the available income of the Council from sources other than rates and (iii) an estimate of the rate or rates necessary for the purpose of providing for the proposed expenditure. At the end of the financial year, the Chairman is required to prepare a detailed report of the administration of the Council with a statement of the income and expenditure of the Council for the year.

Status and Powers

The status of Urban Councils is similar to that of Town Councils. They are corporations and may sue and be sued by such name as may be assigned to them. They are vested with the same types of immovable property situated within the urban area over which they have jurisdiction as the class of property which are placed or may be placed in the charge of Town Councils. Their general duties are similar to that of the Town Councils. Their powers and duties too in regard to thoroughfares, public health, public utility services, markets and by-laws are similar to that of the Town Councils. The difference is that the Urban Council exercises jurisdiction over a wider area than the Town Council and is therefore charged with the responsibility of providing facilities and amenities for a larger population than the Town Council.

Finances

Since the Urban Council exercises jurisdiction over a wider area and a larger population than the Town Council, its sources of revenue should be more numerous and its borrowing powers greater than that of the Town Council. The sources of income are generally the same as the Town Council but the income derived is more as the urban area is better developed (the rates payable will therefore be greater) and the grant allocated to the Council by the Central Government may be larger than that granted to the Town Authority as the Urban Authority may have to provide better services for the larger population that is placed under its jurisdiction.

Every Urban Council has a Local Fund for its general financial purposes and into this Fund is paid (i) all fines and penalties, stamp duties, rates, taxes, fees and other charges imposed and levied under the Urban Councils Ordinance (ii) all sums realised by sales, leases or other transactions of the Council and (iii) all grants or other sums of money made over to the Council by the Central Government. It is out of this Fund that the Council pays out all the expenses incurred by it in the exercise of its powers and the discharge of its functions and responsibilities. The expenses incurred by the Council are the same as that incurred by the Town Council except that the sums involved are larger as the population and area in the charge of the Urban Authority is greater.

The Urban Council levies rates on the annual value of any immovable property situated within its area. Exemptions from any rates are similar to the exemptions granted in the town areas. Taxes are also imposed on vehicles and animals and here too the exemptions granted are the same as those by the Town Council. The licence duties are also the same as those collected by the Town Councils.

An Urban Council may borrow such sums of money as it may require from time to time either for the purpose of meeting any deficits or for inaugurating any public utility service as for example a transport system or a power station for the benefit of the residents within its area. The permission of the Central Government will however have to be first obtained. The amount that the Council may borrow should however not at any time exceed ten times its fair average annual income for the preceding five years or if it has not been in existence for five years, ten times its income for one year as determined by the Council and approved by the Central Government. The limitations imposed are similar to those imposed on the Town Council but the Urban Council can borrow a larger sum as its annual income will be much larger than that of a Town Council.

Municipal Councils

These are the premier local bodies in the Island. Their powers and functions are, though similar to the Urban Councils, much wider in scope. The Municipal Councils are responsible for the administration and government of some of the largest towns and urban areas in the Island. Their incomes are therefore much larger and the area of their jurisdiction far wider than that of the Urban Councils. But their expenditure is also proportionately greater. Municipal Councils however are much less under central supervision and control than the Urban and Town Councils or the Village Committees. This is because the ratepayers in a municipal area are generally more advanced and responsible and more keenly alive to their civic rights and functions than the ratepayers or citizens in the less developed area which come under the jurisdiction of a Village, Town or Urban Authority.

The central authority may by proclamation declare any area to be a municipality, define its limits and give a name and designation to the Municipal Council to be constituted for the area so declared. The Municipal Council will generally be in charge of public health, public utility services, and public thoroughfares and will also be responsible for promoting the welfare of the inhabitants in its area. The area for which a Municipal Council is constituted is divided into wards and each ward returns a Councillor who holds office for a period of three years. A Councillor represents only one ward. If he is elected for more than one ward, he will have to inform the Elections Officer the name of the ward he prefers to represent. If he fails to do so within a certain time limit, the Elections Officer will himself determine the ward which the Councillor is to represent. A Councillor who, without leave fails to attend three consecutive general meetings of the Council will automatically lose his seat.

Organisation—The Mayor

The Mayor is the chief executive officer of the Council. He is elected by the Councillors at the first meeting of the Council after a general election. The Municipal Commissioner presides at the meeting. The Mayor has to be chosen by an absolute majority of the total votes cast in an election. If more than two candidates present themselves for election to the office of Mayor and any one candidate fails to secure more votes than the total votes of the other contestants, then the contestant who receives the least number of votes will be eliminated and this process will go on till one candidate succeeds in obtaining either an absolute majority (*i.e.* one more than half the total number of votes cast in the election) or more votes than the total votes received by the other contestants. A Mayor holds office for a period of three years. A Mayor or Deputy Mayor may be removed from office on a resolution duly passed at a meeting

by not less than two-thirds of the total number of Councillors. This resolution for removal must be confirmed by a resolution passed in a similar manner at the next meeting of the Council.

The Mayor presides at all meetings of the Council. In his absence the Deputy Mayor takes the chair. Minutes of the proceedings of all meetings of the Council have to be duly signed by the Mayor. The Ordinance requires that there shall be twelve general meetings of each Council every year for the transaction of business. The Mayor may summon special meetings at his discretion and will have to summon a special meeting if a written request is made to him by any three Councillors. The Mayor is not eligible for election to any of the standing committees of a Municipal Council but he may be present and may speak but not vote at a meeting of any of the Standing Committees other than that of finance. He is however by virtue of his office both a member and chairman of the Standing Committee on finance. He presides and can also both speak and vote at joint meetings of the Standing Committee on finance and any other Standing Committee or Committees. Whenever there is a tie in the voting at any meeting of the Council the Mayor will in addition to his own vote exercise a casting vote. In the region of finance, he is expected to submit to the Council every year after consulting the several Standing Committees, a budget containing an estimate of the available income and the proposed expenditure for the ensuing financial year. The Mayor may also at any time prepare a supplementary budget and present it to the Council. At the close of each financial year, the Mayor is expected to prepare a detailed report of his administration during the previous year and submit it to the Council for its comments and criticisms.

Other Officers

Next to the Mayor the chief executive officer of the Council is the Municipal Commissioner. All the officers and servants of the Council are subordinate to the Municipal Commissioner. He exercises the powers, duties, and functions delegated to him by the Council, by the Mayor or under the Municipal Councils Ordinance. Other important officers of the Council are the Secretary, the Municipal Magistrate, and in Colombo the Charity Commissioner. They perform the functions appropriate to their offices.

Committees

Every Municipal Council is divided into a number of Standing Committees. There is always a Standing Committee on finance which normally consists of five councillors with the Mayor as an ex-officio member and Chairman. The number of other Standing Committees is never less than two and each of these Committees in normal circumstances consists of six councillors. The members of the Council will by ballot elect from among them the members of

the various Standing Committees. The Mayor is not eligible for election to any Standing Committee. A Councillor is not eligible for election to more than one Standing Committee until every other Councillor has been elected to at least one Standing Committee. In any case a Councillor is not eligible for election to more than two Standing Committees. Besides the Standing Committee on finance, other Committees which are common to most of the Municipal Councils are those on Markets and Stalls, Housing, Electricity, Library, and Health & Sanitation.

Status and Powers

Municipal Councils are corporations. They have power to acquire, hold, and sell property and may sue and be sued by the name and designation assigned to them under the Ordinance. They are vested with the control of immovable property such as wastelands quarries, all types of waterways, and crown lands whether with or without buildings which are situated within the area of their jurisdiction. They are also placed in charge of all public parks, gardens, and open spaces, all public markets and public buildings, and all streets that are situated within the municipal area. A Municipal Council has also power to receive and hold property in trust for the benefit of ratepayers or for the purpose of any public service it might administer. It has the right to appoint an agent or agents outside Ceylon for the purpose of entering into contracts on its behalf.

A Municipal Council has the following powers :—

- (i) to create posts or offices which it may deem necessary, to assign to any post or office in its service which does not come under the control of the L. G. S. C. such salary and allowances as it might think fit and to make appointments or to remove any officer from these posts.
- (ii) to control roads and streets within its area and to construct new and improve existing thoroughfares.
- (iii) to maintain the general health of the citizens in the area vested in its control.
- (iv) to make and enforce by-laws necessary for the exercise of its functions.
- (v) to impose and levy rates, taxes and licence duties as permitted by the Municipal Councils Ordinance.

The powers vested under (ii), (iii), (iv) and (v) are similar to those vested in the Town Councils and Urban Councils. The difference however is that the area and inhabitants in the charge of a Municipal Council is much larger than the area and inhabitants in the charge of Town Councils or Urban Councils. Penalties for

violation of by-laws are also more strictly enforced by the municipal authorities and may be greater. The income derived will also be larger but expenditure will be equally greater.

Finances

Every Municipal Council has a Municipal Fund and into this Fund is paid (a) all rates, taxes, duties, fees, fines and penalties levied under the Municipal Councils Ordinance (b) all sums realised by sales, leases, or other transactions of the Council (c) all revenue derived by the Council from property vested in its control or by the administration of any public service like electricity, tramways, etc. and (d) grants that it might receive from the Central Government. It is from this Fund that the Council meets all its expenditure including the payment of officers and servants in its employment.

The borrowing powers of a Municipal Council and the limitations imposed are similar to those of Urban Councils but since the income of Municipal Councils is much larger than that of Urban Councils, the sums it can obtain as loans will be equally greater. With these monies it will therefore be able to maintain better public utility services and provides better amenities than the Urban Councils to the inhabitants within its area and under its charge and control.

CENTRAL SUPERVISION

In view of the possibility that exists of local authorities tending to abuse their powers to the detriment of the ratepayers and citizens in the local areas, the Central Government has reserved to itself certain rights which it exercises in some matters on all occasions and in other matters, if and when the necessity arises. In relation to the former, the powers exercised are those through the medium of Central Government audits, the Local Government Service Commission and Assistant Commissioners of Local Government. With regard to the latter, the Minister has certain powers vested with him which he can use as the occasion demands. Such powers of over-all supervision are necessary because local authorities are at some time or another likely to misuse their powers. An unscrupulous Chairman for instance might utilise funds for purposes other than that authorised by the members of the local body. The members might censure him for his conduct but he might refuse to resign from office. In such an event a deadlock will ensue and the Minister will have to use his extraordinary powers to remove the Chairman from office. Similarly a whole Council might tend to abuse its powers and sacrifice the interests of the ratepayers for the sake of the self-advancement of its members. In such cases too the Minister might be forced to intervene and dissolve the Council in the interests of the people of the area concerned. The Minister and the

other officers of the Central Government must however be careful and judicious in the exercise of their powers. There have been allegations that the Minister has made use of the powers vested in him to serve the ends of the party to which he belongs. The Central Government should however try to exonerate itself from such accusations being hurled against it. The powers vested in the Minister and the Department of Local Government are powers which should be exercised in a judicious and sober manner as befits a judicial tribunal and not exercised in any way designed to suit the whims and caprices of the party in authority.

Financial Control and Assistance

Financial supervision is exercised through the machinery of the Department of the Auditor-General. The Auditor-General is responsible for ensuring that the accounts of local authorities are properly kept and that monies given as grants to local bodies for specific projects or monies voted by the local authorities for a particular purpose are spent for that purpose only and that such expenditure is within the legal province of the local body concerned and that it is not diverted to other or improper channels. It might be noted that the Central Government renders financial assistance of the following types to local bodies:—

- (a) assigned grants. These are given in place of certain stamp duties, fees, fines etc., which the Central Government levies in the name of the local authority.
- (b) block grants which the Central Government pays to local authorities to meet the increased costs of administration. These are calculated on the basis of a percentage of the revenue earned by the Council concerned for the years 1943, 1944, 1945. The amount will of course vary with population and the nature of the needs of the particular local authority.
- (c) the Central Government also awards grants for specific purposes as for instance the construction of village works like wells and minor irrigation projects, for sanitation in village committee areas, for slum clearance, housing, drainage, maternity and child welfare, and for community centres.
- (d) loans can also be obtained from the Central Government through the local Loans and Development Fund. These are obtained for major purposes like for instance the inauguration of a utility service as a municipal tramway or the construction of a town hall or the building of a public market.

Thus local authorities are not in any way entirely independent bodies. They have to rely on the Central Government for a considerable part of the finances required to run their administrations and to meet the needs and promote the welfare of the citizens placed in their charge. The Central Government is of course willing to render assistance—but at a price. It must have the right to see that the funds entrusted to the local authority are utilised in a proper way and for an approved purpose. It is here that the Department of the Auditor-General steps in. The latter examines the books and vouchers of the Councils and Village Committees, at times conducts on the spot inspections, and keeps a general watch over the expenditure indulged in by local bodies. The Department of Local Government is also responsible for supervising the budgets of some local bodies and where necessary directs that loans be raised for construction of projects like slum clearance schemes or minor irrigation works with a view to promote the interests of the citizens of the locality.

The Local Government Service Commission

This Commission was established in 1945 under the Local Government Service Ordinance No. 43 of 1945. It was created in order to meet the criticism made both by employees of local authorities and the general public on the unsatisfactory methods prevailing in connection with the recruitment, promotion, and dismissal of employees of local bodies. Frequent charges of favouritism and nepotism were made against local authorities as regards the selection and promotion of employees in local government service. A unified service responsible to and under the care of a single representative body was the solution offered by the Central Government. The Commission as it was originally constituted consisted of the Commissioner of Local Government as ex-officio Chairman and four nominated members. Its membership was widened in 1949 so as to consist of the Commissioner of Local Government who is always Chairman by virtue of his office, four other persons nominated by the Minister in his absolute discretion and four other persons nominated by the Minister to be respectively representatives of (a) the Colombo Municipal Council, (b) all other Municipal Councils, (c) all Urban Councils and Town Councils; and (d) all Village Committees.

The Commission is empowered “to deal with all appointments to scheduled posts; to draw up schemes of recruitment and hold examinations; to consider applications for promotions; to effect transfers; to conduct disciplinary inquiries; to maintain discipline in the Service; to determine salary scales, allowances, and other conditions of service; to establish and regulate the Local Government Service Provident Fund; to establish a Widows’ and Orphans’ Pension Fund and generally to deal with all matters connected with the administration of the Local Government Service.”

The Local Government Service as such was constituted with effect from April 1, 1946. Originally, except for the casual and temporary employees, all other employees including daily paid labour were placed under the control of the Commission. There were however some practical difficulties which the Commission encountered in its efforts to control the activities of this huge mass of employees. Hence in 1947, it was decided to exclude daily paid employees and those in receipt of a monthly salary whose maximum did not exceed Rs. 1200 per annum in the case of Municipal or Urban Councils and Rs. 480 per annum where Town Councils or Village Committees were concerned. Membership of the Local Government Service at present numbers over 7500 and is likely to increase with the passage of years.

Assistant Commissioners of Local Government

For purposes of administrative convenience, the Island has been divided into twelve Local Government Regions. Each of these has been placed in charge of an Assistant Commissioner of Local Government. The Assistant Commissioner is responsible for giving valued advice and technical assistance to the village committees in his area. For this purpose he has on his staff a Superintendent of Village Works, a Village Committee Investigating Officer and a Supervisor of Community Centres. The Superintendent of Village Works gives Village Committees all the advice and skill they need in the construction of such technical projects as minor irrigation works, roads, bridges, culverts, etc. The Investigating Officer is there to help in administrative organisation especially as regards accounting procedure and the planning of office work. The Supervisor of Community Centres is available for purposes of rendering assistance and advice to Chairmen of Village Committees for organising Community Centres. Community Centres are meant to serve as a sort of meeting place for the youth of a local area to spend their leisure in a useful and profitable manner. Their activities therefore include the maintenance of reading rooms, libraries, playgrounds and other recreational centres besides the organisation of indoor and outdoor games, fancy fairs, exhibitions, concerts, music and dancing groups etc. The Village Committees are responsible for starting, organising and conducting such Centres.

Minister's Powers

In addition to the regular powers of supervision already mentioned there are other occasional powers reserved in the hands of the Minister which the latter can and does use as occasion demands. The most important of these powers is the right to remove chairmen and members of Councils who tend to abuse their powers and ignore or sacrifice the interest of ratepayers for the sake of their own self-advancement. There have been quite a few instances where chairmen of Urban Councils and Village Committees have

been guilty of either attempting to misappropriate the funds of local bodies entrusted to their charge or using them for purposes other than those authorised by the local bodies over which they preside. In some cases the local bodies themselves have attempted to intervene and pass votes of censure on their chairmen but the latter have either ignored these censure motions or arbitrarily removed them from the agenda. The result has been a general deadlock between the presiding officers and their Councils and Committees. Meetings have regularly had to be postponed owing to the wilful absence of members who have expressed their lack of confidence in the chairmen. The administration of the local area is as a result neglected and the ratepayers have had to suffer merely because unscrupulous presiding officers persisted in remaining in office when a majority of members did not wish them to continue in office. There have also been instances where the local body as a whole has tended to neglect the welfare of the local area entrusted to their charge. They have either busied themselves with promoting the interests of their political supporters or friends and relatives or they have tended to waste their time in petty squabbles either of a personal or party nature and thus neglected the care of the citizens for whose welfare and advancement they were elected to office. It is in such cases that the Minister is empowered to intervene and remove chairmen or dissolve entire Councils and Committees in the interests of the ratepayers and the local area concerned. The general procedure is for the Minister to dissolve the local body and entrust the administration of the local area concerned to a Special Commissioner who might either be an Assistant Commissioner of Local Government if the local body is a Village Committee, a Town Council or an Urban Council or to a Municipal Commissioner if the local area concerned is governed by a Municipal Council. The Special Commissioner administers the area until such time as the Minister feels that the citizens of the area are responsible enough to elect a Council or Committee sufficiently capable to manage the affairs of their area.

The Minister can also suspend a local body for a certain period of time especially if he feels that an emergency has arisen and that the local body concerned might offer resistance or obstruction to the Central Government in the latter's effort to maintain law and order. On such occasions too the administration of the affairs of the area concerned are entrusted to a Special Commissioner and the Council takes charge when the Minister decides that the situation has returned to normal. There have however been accusations that the Minister has exercised these powers in the interests of party. A judicious exercise of such powers is therefore all the more necessary in order to avoid such accusations. They should only be used as a last resort and when public opinion demands, not as a weapon of first instance to be utilised no sooner opportunity presents itself.

The Minister has also the authority to extend the lives of local bodies in situations where he feels that the register of voters has not been adequately compiled so as to give each and every citizen of voting age the right to exercise his franchise at an election in his area. This power has been used in recent times to extend the terms of office of a number of local bodies. Here too accusations have been levelled that the Minister has tended to use these powers in the interests of party. A judicious and impartial exercise of these powers is therefore just as necessary in this sphere too.

The general policy is to permit local bodies as far as possible to manage their own affairs. Intervention from the Central Government should come and generally does come only when there is serious mismanagement or when the members of local bodies are deadlocked in petty squabbles between themselves. This is as it should be. We should not lose sight of the epigram: "Good government is no substitute for self government". Central supervision should always be at the margin and in the final instance. Citizens should learn by their mistakes—and by the accumulated experience of years qualify themselves to choose good and capable governors.

Local Elections

It is at elections that citizens make mistakes and it is at election time that they receive the opportunity to set right the errors they have made in the past. Every once in three years, the citizens of a village, town, or city march to the polls and choose their respective governors. They are guided by a mixture of motives in selecting their representatives. Party politics and policies and programs no doubt play a part in the choice of members but they are by no means the only consideration. Local influence too plays an important role besides caste, religion and other prejudices might also be dragged in by unscrupulous candidates to determine the result of an election. Party politics have of late tended to cut across many other barriers but here too there have been complaints. It is alleged that representatives instead of co-operating with one another for the purpose of promoting the welfare of their local area waste their time in political squabbles and thus hold up the progress of their locality. There is some grain of truth in this complaint but it should be remembered that division on party lines is today a valuable safeguard against dangers of corruption and nepotism in local politics. A vigilant opposition ensures cleanliness in local government. An excess of co-operation between the members of a local body might result in the degeneration of that local body into a sort of limited liability company for the promotion of the interests of its members and their friends, relatives and supporters. But an extra critical attitude towards the governing party with a deliberate intention of obstructing it even in any good work it might undertake should also be avoided. What is required is wise and constructive opposition designed to

expose the errors of the party in authority and aimed at capturing votes for the opposing party at the next elections. Unfortunately this sort of thing does not very often happen in the politics of local government. The two extremes of excessive co-operation and perverse opposition are more common. Local electors have thus a long way to go in learning to wisely choose their representatives and in educating the latter on what is expected of them. The responsibility for this partly lies on the political parties contesting elections and partly on the voters themselves. An intelligent discrimination in the use of the franchise might in the future ensure this much needed purity in the politics of our local bodies.

Qualifications for Voters

The law relating to local bodies has been consolidated under a single ordinance since 1946. Prior to this, the inhabitants of the different local areas had to fulfil a separate set of requirements to qualify themselves for the franchise in their respective areas. The Local Authorities Elections Ordinance of 1946 and the subsequent amendments to it endeavours to consolidate these different requirements under a single ordinance and thus attempts to introduce some uniformity in the local government franchise of this country. The ordinance also seeks to bring the local government franchise in line with the franchise relating to parliamentary elections so that a parliamentary elector today is necessarily qualified to vote at an election to a local body too. To be a voter in a local government election therefore, a person must be a citizen of Ceylon—and a Ceylonese citizen is defined under the Citizenship Acts of this country. In addition to this primary qualification the following conditions must be fulfilled:—

- (i) A person must (a) not be less than twenty one years of age and (b) not be adjudged by a competent court to be of unsound mind. Further he should not be serving or have served during the period of five years immediately preceding, a sentence of not less than three months for any offence punishable with imprisonment for a period of not less than one year. In addition he should not be under sentence of death nor should he be serving or have served during the period of five years immediately preceding any term of imprisonment for a period of not less than three months awarded in place of such sentence of death.
- (ii) A person should not have been found guilty of any offence relating to elections such as forgery or destruction of nomination papers, or any offence relating to a violation of the secrecy of the ballot, or the giving or receiving of gratification or have been found guilty of the offences of personation, bribery or undue influence.

- (iii) A person should not have been removed from the office of Chairman or member of a Village Committee, a Town Council, or an Urban Council nor should he have been found guilty of the offence of bribery, or undue influence or personation where village, town, urban or municipal politics are concerned. If he falls under any of these categories, he will not be entitled to exercise the franchise for a period of five years from the date of removal from office of conviction for the offence.
- (iv) In the case of a Village Committee, in addition to the requirements mentioned above, a person shall not be qualified to vote if he is a labourer, or kangany in charge of labourers, employed on any plantation or in occupation of quarters in the plantation provided by the employer or is the wife or child or dependent of any such labourer or kangany and is living with him in any such building on any such plantations.
- (v) If a person fulfils the requirements mentioned in paragraphs (i), to (iii) he will be entitled to, on the date of the commencement of the preparation or revision of the electoral list of any ward of an electoral area (not being a ward in a village committee area), vote at any election of a member of the local authority of such area and shall be entitled to have his name entered in the list if such person on that date :—
- (a) is resident within the limits of the ward to which the list relates and has been resident within the limits of that or any other ward of the area for a continuous period of at least six months within the period of eighteen months immediately preceding that date and is either (1) the tenant of property situated within the ward for which he pays a monthly rental of not less than one rupee or (2) the owner of property situated within the limits of that area assessed at an annual value of not less than ten rupees or (3) a person in possession of an income of not less than sixty rupees a year; or
- (b) not being or having been so resident is the owner of qualifying property within the limits of the ward to which the list relates and is assessed at an annual value of not less than six hundred rupees.

The wife or husband as the case might be of any person entitled to vote under the terms of this paragraph is also entitled to have his or her name entered in the electoral list and to exercise the franchise

at any election. A company too is entitled to have its name entered in the electoral list and to authorise any person to vote on its behalf if it is a tenant paying a monthly rental of not less than one rupee or the owner of property assessed at an annual value of not less than ten rupees within the limits of the electoral area concerned.

In the case of a Village Committee area, any person is entitled to have his name inserted in the list of electors if he satisfies the requirements of paragraphs (iv) and (v).

Qualifications for Members

The qualifications for membership of any ward of an electoral area

- (a) where such area is a municipality or town shall be the same as those prescribed in paragraphs (i), (ii), (iii) and (v) and
- (b) where such area is a village area shall be the same as those prescribed in paragraphs (iv) and (v) and in addition to these a person should be possessed of immovable property the value of which, exclusive of any mortgage debts thereon, should be not less than two hundred rupees or he should be in receipt of an income of not less than sixty rupees per annum.

In addition to the qualifications mentioned above, a candidate is not eligible for election to a local body if he

- (i) is unable to read and write English or Sinhalese or Tamil or
- (ii) is the holder of any public office under the Crown in Ceylon; or
- (iii) is an officer or servant of such local body; or
- (iv) directly or indirectly holds or enjoys any contract or agreement made or entered into with such a local body; or
- (v) is an undischarged bankrupt or insolvent.

CHAPTER XVI

THE EXECUTIVE

For convenience in the modern democratic state, the work of responsible government has been divided between two agencies. There is the Chief of State or to be more exact, the nominal executive. There is the more responsible body, the Cabinet or the Council of Ministers which is indeed the real executive. We shall study the functions and responsibilities of each of these organs separately. Together they form the executive in the modern democratic state of today.

The Nominal Executive

The nominal executive or the Chief of State may be either an elected official holding office for a definite period of years as in a republic like France or a hereditary person, a queen in a constitutional monarchy as in a kingdom like that of Britain. In either case, the office of nominal executive is merely a decorative and non-responsible one. The nominal executive is more permanent than the real executive, *i.e.* the Cabinet in that its life does not depend on the good will of an elected legislature, or in its ability to provide the necessary leadership to a political party and lead it to success at the polls. Further it is not answerable for its acts either to the electorate or to the legislature or to public opinion in general. This does not mean that the nominal executive, President or Monarch as the case might be, has the license to act in a rash or negligent manner. The nominal executive is expected in all normal circumstances to act in such a fashion that his or her conduct will be above reproach and will not be discussed by any of the organs of public opinion. Hence the nominal executive is expected at all times to keep clear of the arena of active politics. Non-responsibility on the part of the nominal executive means that the President or the Monarch will not be called to explain his or her conduct to any of the agencies of public opinion—Party, Parliament, or Electorate. The work of active government is carried on by the real executive, the Cabinet which is a committee of the leaders of a party or parties which have secured a majority in the legislature. The nominal executive on the other hand performs the ceremonial functions in a constitutional state. He attends functions and other important social engagements. He sets the pace for society. It is to him that the nation looks up for guidance in matters which involve the whole country and for leadership of a non-political but national sort which overlooks all partisan considerations. In short the nominal executive is looked upon as the symbol of social and national unity.

It is to him and his office that the loyalty of the whole nation is directed. Hence all laws are enacted in the name of the King or the President. All ministers of state are appointed in his name. All public appointments are made in the name of the King or the President. Wars are declared and peace is made in the name of the King or the President. The purpose of all this is to make the whole nation realize that all acts of state are performed by an individual who is believed to be impartial and above the conflicts of party politics and free from partisanship. This is an incentive to obedience. For men who are opposed to the party in power will not like to obey laws if they were told that they must render obedience because the laws were enacted by the leaders of the majority group in the legislature. Allegiance will be readily given if acts are performed in the name of a person who is supposed to be above the petty strife of a party and symbolises in him the unity of a nation. But though there is necessity for this office of nominal executive to perform all the acts of state, there must be a body of persons willing to take responsibility, to shoulder the blame and share the credit for all the acts of state that the nominal executive performs. This responsibility has to be borne by the Cabinet which is the real executive. The nominal executive cannot therefore be called to account for any acts that he performs. For this very reason, the nominal executive cannot do things on his own initiative or responsibility. He must perform all his political and official functions at the bidding and with the blessing of the real executive—the Cabinet. The Cabinet is thus the responsible body which bears the burden of praise and blame for all the acts of state that a King or President performs.

The British Monarchy

Bagehot wrote in 1872, in his introduction to the second edition of his classic on *The English Constitution* that “it would very much surprise people if they were only told how many things the Queen could do without consulting Parliament.... She could disband the army, she could dismiss all the officers, from the General Commanding-in-Chief downwards; she could dismiss all the sailors too; she could sell off all our ships of war and all our naval stores; she could make a peace by the sacrifice of Cornwall, and begin a war for the conquest of Brittany. She could make every citizen in the United Kingdom, male or female, a peer; she could make every parish in the United Kingdom a ‘University’; she could dismiss most of the civil servants; she could pardon all offenders.” These were powers which the monarch was legally entitled to exercise and in fact did actually exercise during certain periods in British history. They have today virtually become obsolete as a result of the growth of parliamentary supremacy. By gradual stages the monarch was shorn of his absolute powers. These gradually devolved on the Cabinet. Such a devolution became necessary firstly because of the growth in size of the electorate due to the extension of the franchise

to all sections of the populations and secondly to the consequent growth of the powers of Parliament as a result of the struggles between King and Parliament during the seventeenth century. Today the power of monarchy is merely a ghost of what it was in the days of the past. Still it continues to wield a vast influence over society and political life in Britain. The reasons are not difficult to find.

The monarchy is the pivot of loyalty for the member states of the Commonwealth and for the Colonies. The Queen is recognised as Head of the Commonwealth by even a republic like that of India. The monarch acts as a unifying influence, welding together the far flung Colonies and settlements of the British Empire and the various member states of a multi-racial Commonwealth. An elected President would hardly if never have secured the unity of allegiance which the Queen in England secures today from the various constituent units of the Commonwealth and the Empire.

The monarch has also come to be regarded as the symbol of social unity. The Queen sets the pace for society, frequents all important social engagements and attends to numerous duties of a social nature which create some sort of an active public interest in the daily life of the Queen. Society's interests in royal engagements has also been greatly increased because of the growth in numbers of the British peerage and the transfer of political leadership from the British nobility to men of non-aristocratic origin from the extended electorate. The growth of the peerage has resulted in the monarchy having a greater circle of adherents who are prepared to look up to it to set the pace for standards of conduct and for fashion in society. The transfer of leadership in the political world from the aristocrat to the commoner has meant that the nation at large has only the monarch, the leader of aristocracy so to say, to look up to for a standard in public life where formerly the nation might have looked up to various members of the politically interested aristocracy. The patronage available at the disposal of the monarch has also made the monarch a popular person in society. The monarch is the fountain of honour and as such confers titles of distinction and medals for bravery and heroism and for public service to the subjects of the realm. This kindles a desire in the hearts and brains of men to perform acts of service to the monarch, or as is more usual to the party in power, for, it is the monarch who is supposed to recognise these various acts of service and reward men and women for the efforts expended in the performance of these services. Generally however it is the leaders of the party in power who recommend the conferment of titles and medals on citizens to the monarch.

The monarch is supposed to be politically neutral. This has raised the monarch above the cataclysm of party strife. He is not expected to take any interest in the activities and programmes and

policies of political parties. He must act on the advice of ministers who are collectively responsible to Parliament and are answerable to the electorate for their conduct. Thus it is the Cabinet which is the power behind the throne. The throne or the monarch on the other hand represents the nation as a unity against the factional struggle of parties. The monarch is regarded as a person who can afford to take an independent and impartial line in political matters. This situation has brought about two results. Monarchy has come to be regarded as an institution. It does not matter who sits on the throne or who wears the Crown. For the wearer of the Crown and the occupant of the throne does not himself perform the actual functions of state or engage himself in an active way in the political life of his country. Whatever might happen to the monarch, his government goes on and the new occupant of the throne continues the usual functions of giving his signature to all acts of state performed by ministers. The monarch as a person has been deprived of all political power. He has no right to take the initiative in public policy. He merely acts as a rubber stamp and must accept the advice of his ministers so long as they have a majority. He must in fact be willing even to sign his own death warrant. The monarch is thus merely a constitutional figurehead. It is this state of affairs that has given rise to the statement that the King never dies. It means that monarchy has become institutionalized. Whatever happens to the person, the institution of monarchy continues to live. The individual does count no doubt, but not so much as to alter the political balance in the country if he were to die. His death will not bring about the downfall of the government for it is not his favourites or nominees that are responsible for the government but the nominees of the electorate and of Parliament. The new occupant will carry on from where the former left off and the government of the country goes on without any change or alteration in policy until the next general election.

From the political neutrality of the monarch springs a second aphorism—the King can do no wrong. This too arises from the fact that the monarch must at all times in matters of public policy act on the advice of responsible ministers. Thus, though the Courts of Justice are Her Majesty's Courts and the Judges Her Majesty's, the Queen has no authority either to interfere in the course of justice or to appoint or dismiss judges of the High Court on her own initiative. Judges of the High Court excluding the Lord Chancellor are appointed by the monarch on the advice of the Lord Chancellor. The Lord Chancellor is appointed of course on the advice of the Prime Minister. Judges can be dismissed from office only on a joint address of both Houses of Parliament. And even though the Crown has the right to pardon subjects who have already been tried and convicted, this is once more done on the advice of a responsible minister—the Secretary of State for Home

Affairs. The same is true in every other field of public policy. The Queen opens and dissolves Parliament and at the opening session of every Parliament makes a public declaration of the programme and policy of her Government for the particular session. But these acts are not done on her own whim or initiative. The life of Parliament has been determined by the Parliament Act of 1911. If Parliament is dissolved earlier, it is done at the request of the Prime Minister. The sessions of Parliament are determined by Parliament and the Speech from the Throne though read by the Queen or her Lords Commissioners is written for her by the Cabinet—the real executive so to say. In the field of finances too the situation is the same. Thus though all monies are asked for in the name of the Crown and all revenues are granted to the Crown and Crown alone, yet in actual fact, the amount of money required is determined by the Treasury and the Cabinet, and the annual budget is determined by the Cabinet and prepared and announced by the Chancellor of the Exchequer who is the equivalent to our Minister of Finance. Even in matters of public appointments, the Crown has hardly a voice in the selection of officials of state. All judges of the High Court and minor courts, civil servants of the realm, officers of the Army, Navy, and Air Force, diplomats in the Foreign Service, dignitaries of the established Church of England and Ministers of State are though in name appointed by the Queen in actual fact are appointed on the advice of the Prime Minister or on the advice of a Minister of State. There is the further safeguard that all acts of state signed by the Queen must be countersigned by a responsible Minister of the Crown. The Queen cannot in normal circumstances therefore be sued in a Court of Law for any wrong suffered by any of her citizens either at her own hands or at the hands of one of her paid servants of state. The citizen if he has suffered a wrong must sue the Official in his private capacity and not the employer of the official who is the Queen. This was indeed the situation in England until recently. There were a few exceptions whereby the citizens could, after arriving at certain arrangements with the law officers of the Crown, sue the Crown in a few of the law courts of the realm for the wrongs suffered by them at the hands of the paid servants of the Crown. These were however only the exception. The general rule was that the monarch could do no wrong and hence the Crown could not be sued by a citizen for any wrong done to him by a public servant in the course of his official duties. There was the sad case of Miss Bainbridge. The lady in question was run over by the van of the Postmaster-General. She had no means of redress except to recover the damages she had suffered from the humble wages of the driver of the Postmaster-General's van. This rather unfair situation has however been remedied of late by a piece of legislation called the Crown Proceedings Act. The citizen can now, under certain circumstances sue the Crown and obtain redress for wrongs done to him by the servants of the Crown in the course of their official

duties. Thus, the statement that the Queen or King can do no wrong cannot be exactly correct in the light of this recent piece of legislation. In general however, since the Queen does not perform any official duty or sign any act of state on her own initiative but on the advice and at the request of a responsible minister of state, it is not absolutely wrong to say that the Queen can do no wrong. For this same reason, it has also been stated that "the Queen reigns but does not rule." For, the monarch is merely a constitutional figurehead. By convention the monarch has not refused assent since 1707 to any bills enacted by Parliament. The Monarch is a symbol of the unity of the nation in the social and political spheres. She performs most of the ceremonial functions in the state and in political matters acts on the advice of responsible ministers. For instance, though all appointments to public office are made by the Queen these are done on the recommendation of the Prime Minister or a responsible minister of state. The monarch is not under any circumstances expected to take an active interest in the political controversies of her realm. To do so would mean involving herself in political debate. Her impartiality might be questioned and at times even the advisability of her sitting on the throne. At present neither the organs of public opinion nor Parliament discusses the affairs of the royal household because the monarchs of the recent past have not in any way entangled themselves in the party controversies of their realm.

The situation of the monarch as described in the above paragraphs might give one the impression that the Queen of Britain is an absolutely powerless figure today. This is not however altogether correct. The monarch has still a certain discretion in the choice of a Prime Minister especially where the former Prime Minister has resigned and is too ill to recommend a successor or had died leaving no obvious leader to take his place. The person appointed by the monarch in such circumstances must however be acceptable to the party or parties that enjoy a majority in Parliament. In normal circumstances however the party makes the leader available and the monarch has no choice but to appoint him.

Royal influence is also generally exercised in the selection of the members of the Cabinet by the Prime Minister. The monarch can either refuse outright to appoint a certain person as a minister of state or persuade the Prime Minister to drop out the appointment of a particular politician to a particular portfolio and replace him with the royal nominee. Queen Victoria is reported to have made liberal use of both methods. The appointment of Mr. Ernest Bevin as Secretary of State for Foreign Affairs in the first Labour Government of Mr. Attlee is reported to have been done at the request of the late King George VI. It is true that the Prime Minister can always insist on his own choice but it will require a Prime Minister of strong will and obstinate character to resist the

persuasion and requests of a royal personage like that of the monarch. The monarch has also the right to warn, to advise, and to encourage a Prime Minister and the team with which he works. The warnings and advice of a monarch cannot easily be left unheeded. A monarch who has reigned in his kingdom for at least ten years would have gained a considerable deal of experience as a result of coming in contact with various politicians and prominent men in his kingdom. He would also have gathered considerable knowledge by the access he has had to all public documents and confidential reports and papers of state. A Prime Minister cannot therefore afford to ignore the advice or warning of a monarch. He will have to find strong reasons for refusing to pay attention to the royal suggestions. Besides, a monarch can also cajole and coax and win the sympathies of political leaders by devious or even direct methods, if a Prime Minister refuses to pay heed to his suggestions. He can even threaten the latter of dire consequences if he is bent on proceeding on a particular line of action which the monarch finds objectionable. It will be a very difficult situation for the Prime Minister to resist or ignore such threats. A compromise at least, might have to be found. Nevertheless it must be remembered that in the last analysis the monarch will have to give way to an obstinate and persistent Prime Minister. For it is the Prime Minister who has to answer to the electorate and to Parliament and not the monarch.

The Prime Minister cannot however leave off the monarch from all his political calculations. The monarch has to be consulted at every stage after the formation of the Cabinet—a regular consultation which ceases and can only cease with his death. He must be informed of the legislative programme of the Government at a sufficiently early stage to enable him to study it and if necessary argue upon it with the Prime Minister. He has the right to discuss the substance of particular proposals of the Cabinet with the ministers who will be involved in piloting them through Parliament or with the ministers who have been responsible for formulating them. He has finally the right to refer back to the Cabinet any proposals to which he takes serious objection, for further consideration. These are rights however which have not been conferred on him by law. The monarch cannot insist on exercising them if the Cabinet decides to ignore him. But this does not normally happen. The monarch too will not make liberal use of these rights so as to become a nuisance to the political leaders of the realm. He will only exercise them in exceptional circumstances where he feels that he will have to warn or advise his ministers to refrain from taking a particular course of action if he is convinced that such action spells disaster or is not best suited to the interests of the nation.

The Governor-General in Ceylon

In Ceylon the nominal executive is the Queen. But since the Queen is not resident in Ceylon, her functions are exercised through her representative, the Governor-General. The Governor-General is appointed by the Queen on the advice of the Prime Minister of Ceylon. He receives a salary of £8000 a year and holds office during Her Majesty's pleasure. The fact that he holds office during Her Majesty's pleasure is an indication that the Governor-General may be removed from his office or replaced by the Queen on advice tendered by the Prime Minister if he does not perform the functions assigned to him under the Constitution in an efficient or acceptable manner. The Chief Justice will in normal circumstances act for the Governor-General during the latter's absence. He will receive an annual salary of £6000 while acting for the Governor-General.

The Constitution assigns certain definite functions to the nominal executive in this country. In Britain on the other hand there is no written constitution and no specific functions have been assigned to the Queen under a written document. The duties that the Queen performs in Britain are duties which she has been called to perform either as a result of legislation by Parliament or through the development of conventions. The powers of the Governor-General on the other hand are confined to a narrower field than the Queen in England. In fact there are certain functions which either the Queen or the Governor-General may perform and there are other functions which only the Queen may perform as Queen of Ceylon and have not been delegated to the Governor-General under any circumstances. These are to be found in Sections 7 and 45 of the Ceylon Constitution. Thus

- (1) Section 7 states that the Parliament of Ceylon is to consist of Her Majesty and the two Chambers—the Senate and the House of Representatives. The Queen is therefore a part of the legislature of this country and need not be, though usually she will be represented by the Governor-General. She could if she so desired send another representative to open or dissolve Parliament. The late King George VI sent his brother the Duke of Gloucester for the State Opening of Parliament on February 10, 1948. In all normal circumstances however the Governor-General will represent the Queen as part of the legislature of this country.
- (2) Section 45 of the constitution states that "the executive power of the Island shall continue vested in Her Majesty and may be exercised, on behalf of her Majesty by the Governor-General in accordance with the provisions of this Order and of any other law for the time being in force." The executive power which refers to such matters as for

instance the appointment of a Prime Minister or the other ministers or a certain category of public officials like the Secretary to the Cabinet, the Permanent Secretaries, or the Auditor General thus may be, but need not necessarily be, exercised by the Governor-General. Thus when the Queen visits Ceylon she could perform these acts in person. There might also be occasions when the Governor-General might refuse to listen to the advice of a Prime Minister. The Governor-General might for example refuse to appoint a particular politician as a Cabinet minister. In such an event, since section 45 states that the executive power remains vested in the Queen and may be, but need not be exercised by the Governor-General, the Prime Minister could request the Queen to make the appointment in spite of the fact that the appointment is against the wishes of her representative in Ceylon. If the Queen feels that the Prime Minister's choice is reasonable, she may send another representative to this country and request him to make the appointment or instruct the Governor-General to make the appointment or come over to the Island herself and make the appointment. The important point to note here is that the Governor-General cannot act as an independent person where the executive power is concerned. His wishes may be over ridden by an order from the Queen. He is here merely as the Queen's representative.

- (3) Certain functions as for example the making of treaties, the appointment of diplomatic representatives, the declaration of wars are not delegated to the Governor-General. In these matters the Queen in her capacity, as Queen of Ceylon acts on the advice of the Ceylon Government.

There are other functions however which have been definitely delegated to the Governor-General under the Constitution. These functions according to Section 4, subsection 2 of the Constitution shall be exercised as far as may be in accordance with the constitutional conventions applicable to the exercise of similar powers, authorities and functions in the United Kingdom by Her Majesty. In effect, this means that in all normal circumstances the Governor-General must act on the advice of the Prime Minister. He will, like the Queen in Britain have the right in matters where power has been delegated to him, to warn, to advise, and to encourage but in the last instance he will have to give way to an obstinate or persistent Prime Minister. In the alternative he will have to find another Government but in doing so, he might run the risk of being dragged into political controversy. It is best that he remain a constitutional figurehead and act on the advice of responsible ministers. There is however nothing to prevent him from ignoring the advice of his ministers. In fact there is a proviso to Section 4,

subsection 2 of the Constitution which states that the Governor-General cannot be questioned in a Court of Law for failing to follow the conventions prevalent in the United Kingdom.

Where the legislature is concerned, Section 15 (1) states that the Governor-General may from time to time summon, prorogue or dissolve Parliament. Sessions of Parliament will of course be arranged according to the convenience and legislative programme of the government. Dissolution of Parliament will be granted in all normal circumstances. The Governor-General can however refuse a dissolution if he feels that an alternative government can be found or if he finds that the Prime Minister's request is not a reasonable one. Parliament will in any case however have to be dissolved at the end of five years from the date appointed for the first meeting of the House of Representatives and it will be the duty of the Governor-General to summon a new Parliament not later than four months after the date proclaiming the dissolution of the previous Parliament. It will also be the duty of the Governor-General to see that Parliament is summoned to meet at least once in every year. Further if after the dissolution of a Parliament the Governor-General feels that an emergency has arisen, the Governor-General may by subsection (5) of Section 15 summon by Proclamation the Parliament which has been dissolved. The dissolved Parliament should meet within three days of the date of Proclamation summoning it and this Parliament can be kept in session until the meeting of the new Parliament. In normal circumstances however the Governor-General will perform these duties on advice tendered to him by the Prime Minister. There might however arise an occasion where an irresponsible Prime Minister might refuse to request the Governor-General to either dissolve Parliament at the expiry of its term of five years or to summon it at least once in every year during its tenure of office. In the event of either of such strange situations arising, the Governor-General may have to find means of effecting a dissolution of Parliament or an arrangement that it be summoned at least once before the year is out.

Where assent to legislation is concerned, the Governor-General will grant assent on behalf of the Queen if it is enacted in the constitutional way. The Governor-General may also be required to read the Queen's Speech at the beginning of every new session of Parliament. The Speech will of course be drafted by the Cabinet.

In the matters of appointments to the legislature, Section 10 (1) of the Constitution empowers the Governor-General to appoint fifteen Senators and thereafter to make appointments as vacancies occur in this category of senators. Section 11 (2) of the Constitution also provides that the Governor-General may, after any general election appoint not more than six persons to be members of the House of Representatives if he is satisfied that any important

interest in the Island is not represented or is inadequately represented. In both these matters the Governor-General will act on advice given to him by the Prime Minister. The Constitution also provides that the Clerk to the Senate and the Clerk to the House of Representatives shall be appointed by the Governor-General.

The Constitution further provides for the establishment of a Delimitation Commission—three in number—within one year after the completion of every general census, for the purpose of dividing each Province of the Island into a number of electoral districts. The members of the Commission and the Chairman of the Commission will be appointed by the Governor-General. Here too he will act on advice tendered by the Prime Minister. It will be the duty of the Governor-General to publish the decisions of the Delimitation Commission.

In the executive sphere, Section 45 states that “the executive powers of the Island shall continue vested in His Majesty and may be exercised on behalf of his Majesty, by the Governor-General in accordance with the provisions of this Order and of any other law for the time being in force.” The implications of this section were explained in detail at the outset of this chapter. The appointment of the Cabinet of Ministers which will include the Prime Minister and Parliamentary Secretaries is entrusted to the Governor-General. The Governor-General will however appoint the Prime Minister and the Prime Minister will nominate the other members of the Cabinet and the Parliamentary Secretaries. The Governor-General will in all normal circumstances appoint the nominees of the Prime Minister. Ministers and Parliamentary Secretaries will hold office during Her Majesty’s pleasure. This in effect means that they will hold office during the Prime Minister’s pleasure. Resignations of Ministers or Parliamentary Secretaries will have to be addressed to the Governor-General.

The Constitution provides that a certain class of important public officers who will be of special assistance to the Cabinet should be appointed by the Governor-General. These officers are the Secretary to the Cabinet and the Permanent Secretaries who will be in charge of each Ministry. The Governor-General may also transfer any Permanent Secretary to any public office. The Constitution also provides that the Auditor-General and Attorney-General shall be appointed and can be removed only by the Governor-General. All these powers however will, in normal circumstances, be exercised on the advice of the Prime Minister.

Where the Judicature is concerned, the Constitution vests the appointment and removal of the Chief Justice, the Puisne Judges of the Supreme Court and the Commissioners of Assize in the hands

of the Governor-General. Judges of the Supreme Court can however be removed by the Governor-General only after a joint address, requesting him to do so, has been presented to him by the Senate and the House of Representatives. The appointments to the Supreme Court once more are made on advice tendered by the Prime Minister. The Governor-General is also empowered to extend the period of office of a judge of the Supreme Court for a period not exceeding twelve months after he has reached the retiring age limit of sixty-two years. This power too is exercised on the advice of the Prime Minister.

The Constitution makes provision for a Judicial Service Commission in whose hands will be vested the control of judicial officers in the Island, other than the members of the Supreme Court. The Commission will consist of the Chief Justice and two other members. The members other than the Chief Justice will be appointed by the Governor-General. These appointments will once more be made on advice tendered by the Prime Minister.

In the sphere of public services, the Constitution makes provision for an independent body of three persons to be called the Public Service Commission to be in charge of the appointment, transfer, dismissal and disciplinary control of public officers in the Island. The public officers mentioned in an earlier paragraph will of course be outside the control of the Commission. The members of this Commission and its Chairman are required to be appointed by the Governor-General. The latter will however once more act on the advice of the Prime Minister.

Thus it will be seen that the powers assigned to the Governor-General under the Ceylon Constitution are in virtual effect exercised by the Prime Minister. It will also be seen that the Governor-General as the Queen's representative will not exercise all the powers which the Queen is expected to exercise in her capacity as Queen of Ceylon. For instance the powers of declaring war and making treaties have not been delegated to the Governor-General. These powers will remain vested in the Queen and will be exercised by her on the advice tendered to her by her ministers in Ceylon. All this however does not mean that the Governor-General or the Queen in her capacity as Queen of Ceylon has been reduced to a mere figure-head. It is true that both will have to act on the advice of responsible ministers but they need not necessarily be compelled to follow such advice. They will have the right to warn and to encourage though they will have no right to initiate policy since they are non-responsible persons having no direct contact with either Parliament or the Electorate. The multiple nature of the party system in this country will however leave the nominal executive in Ceylon with a wider margin for manoeuvre than in Britain where two or three parties at the most dominate the parliamentary scene. The power

that the Governor-General has, to appoint six members to the House of Representatives may indeed be such an inducement to the leader of a party in the House of Representatives where six more members might make all the difference of making him either Prime Minister or leaving him as Leader of the Opposition. The nominal executive might in such an event be able to lay down conditions which a politician might be forced to accept much against his wishes, before he decides to enter the exalted premises of the Temple Trees. There might also be occasions where the Governor-General can afford to dismiss a Prime Minister and find another to take his place without much difficulty. Such a situation will, under the present party position be unthinkable in Britain. All this leads us to the inevitable conclusion that there might be times when the nominal executive in Ceylon will not only have to be advised but be persuaded to accept advice. Persuasion might indeed be vitally necessary where the parties are so evenly divided that the Government has only a narrow majority in the legislative.

Besides performing the functions allocated to him under the Ceylon Constitution, the Governor-General attends to duties of a social nature. He attends functions, visits public places, opens carnivals, addresses school prize givings and performs duties of a ceremonial kind. Like the Queen in the United Kingdom he is expected to act the part of a true constitutional monarch and avoid all political controversy. His first and last task will be to see that the Queen's Government is kept going on amidst the storm and rage of political conflicts.

From all that has been stated in the above paragraphs, it will appear obvious that the functions assigned to the nominal executive—the Queen in the United Kingdom and the Queen and the Governor-General in Ceylon—have to all intents and purposes devolved on the real executive which is of course the Ministry in Britain and the Cabinet in Ceylon. The real executive then is the active governing body in the modern democratic state. It is the real executive, the council of responsible ministers so to say which is jointly and collectively responsible to the popular part of the legislature—in Britain, the House of Commons, in Ceylon, the House of Representatives. The nominal executive merely plays the part of a ceremonial and constitutional figurehead. He acts as the moderating influence on the heat generated by the clash of rival parties. It is he who has to hold the balance between the organised forces of government and opposition. He is the umpire of an organised quarrel between rival factions and he is required to see that both sides adhere to the rules of the parliamentary game. The work of active government is left to the real executive—the council of ministers—which is answerable for all its acts, collectively and jointly, to the electorate on the one hand and the popular part of the legislatures on the other.

Collective Responsibility

It is said that at the end of a Cabinet meeting which agreed to propose a fixed duty on corn, Lord Melbourne put his back to the door and said "Never mind Gentlemen what we say but we must all try to say the same story." This brief epigram whether Lord Melbourne said it or not sums up in short the nature of collective responsibility. That we must all say the same story implies a number of things. It means that the Council of Ministers must work together as a team, that is, they must co-operate with one another and work towards the achievement of a single purpose and not pull in different directions and make a mess of the programme or policy which the party or parties in the majority have entrusted them to carry out into the statute book. It also means that ministers must not air their differences in public or indulge in mutual criticism of one another. Grievances and differences can be freely expressed behind the closed doors of a Cabinet meeting. But once a decision is taken, a minister must accept it even if he had vehemently opposed it in the discussion. The alternative for him is to resign. But if he does not resign, it will be presumed that he has decided to abide by the verdict of the majority in the cabinet. He will therefore have to vote with the rest of the Cabinet on such a decision and if necessary speak for it, defend it, and even make speeches in public platforms explaining its significance to the people in the electorate. This rule was well emphasised by Lord Salisbury in 1878 when he stated "for all that passes in Cabinet, each member of it who does not resign is absolutely and irretrievably responsible, and has no right afterwards to say that he agreed in one case to a compromise, while in another he was persuaded by his colleagues." Thus, a Cabinet minister cannot under any circumstances place the blame, for any failures of departmental policy for which he might be responsible on his colleagues on the ground that he did not agree to it when it was first laid down. At the same time he cannot claim any credit for himself for any success achieved by the departments under his control in the carrying out of government policy. For under collective responsibility, there is no such thing as "my policy" or the policy of my colleagues. Each minister must speak of government policy because government policy is framed by the whole cabinet working together as a co-operative body. A minister cannot therefore ever hope to run with the government hare and hunt with the opposition hounds. For, as a general rule, every important piece of government legislation must be taken to commit the entire cabinet, and its members either stand or fall together. The cardinal factor to note under the Cabinet system of government is united and indivisible responsibility. If the legislature disapproves of the policy of a particular department of state, the entire cabinet will have to take the responsibility for it and not the particular minister in charge of that department of state. The cabinet will either have to take steps to modify the policy

if there is serious opposition to it or in the alternative go all out to support it with the forces at its command. A minister can rarely be made the scapegoat who will take away the sins of his colleagues. For the cabinet is by nature a unity and it must swim or sink together. A few stragglers cannot be allowed to remain on the surface while the rest go underneath the water. Cabinet government is a co-operative effort. There is no room for selfish men. This indeed is the most essential principle of collective responsibility.

The Real Executive

Parliament cannot govern. Leaders have to be found. They have to be provided with the necessary supply of votes—and Parties perform this useful function. Parties goad the electorate into activity and impel the legislature but are too vast and unwieldy to lead Parliament. They however provide the leaders. The Cabinet is in effect the Committee of leaders of the party or parties which have obtained a majority in the legislature. All these leaders must have seats in one of the two houses that form the legislature. They are a body of like-minded men who have been entrusted by the party or parties in the majority to carry out a fixed policy within a definite period of time. They therefore work as a team for they have a unity of purpose. They receive their motive power from the continuous supply of votes which the whips of the party or parties in power provide them. It is they who are entrusted with the task of guiding and controlling the work of Parliament. They must decide which items of legislation should be given priority, how the money is to be found and where it can be found from to execute such legislation and what policy they should adopt in the field of external relations or in matters which are of vital domestic concern. In short it is the Cabinet—the committee of the important leaders of the party in power in the legislature which formulates policy, introduces it into Parliament, explains it to the Electorate and to Parliament and if necessary defends it from opposition and urges its acceptance if there is serious obstruction to it. The Cabinet is, as a writer has put it, the steering wheel of the ship of state.

The Cabinet and Parliament

But though the Cabinet initiates policy, interprets majority opinion and gives the lead to Parliament on all important matters, it should not be assumed that the Cabinet functions as a body independent of Parliament. The Cabinet is not merely operating in a vacuum. It moves and lives in the parliamentary atmosphere. It is a responsible body of leaders who are answerable to the electorate, to their supporters in and out of the legislature, and to the opposition element within and without Parliament. Though it directs Parliament, it also provides the latter with every opportunity and facility to discuss its policy before it ever reaches the statute book.

The Cabinet then is not the agent of the legislature or its master. The Cabinet is a trustee. It has been entrusted with the executive branch of government. It has to execute a definite policy—the policy of the majority in the legislature. It can afford to enjoy the executive power only so long as it faithfully carries out the wishes of the majority in Parliament. The majority can revoke the powers or withdraw the support it would give the Cabinet if the latter abuses its powers or ignores the wishes of the majority. There are four ways in which a ruling majority can express its disapproval of Cabinet policy in Parliament. It may pass resolutions of no-confidence on the Government. It may reject a proposal which the Cabinet has sponsored and considers so vital as to refuse to abandon it. It may pass a vote of censure, criticising a member of the Cabinet or the entire Cabinet itself for some specific act. Finally, it may pass a measure which the Cabinet has introduced but amend it and mangle it in such a way as to pervert the intentions of the Cabinet so that the latter will refuse to accept responsibility for it. These are in fact the drastic methods which a Parliament can use to make a dictatorial Cabinet bend its knees to public opinion and to the wishes of the majority in Parliament.

There are other methods of a general nature which the back-benchers on the Government side and the members of the opposition benches make liberal use of, to keep the Cabinet on an even keel and ensure that it interprets public opinion in the correct spirit. "Question Time" is set apart daily for members to question ministers of state on matters which come within their purview. Grave injustice cannot therefore be perpetrated without escaping the notice of the public. A member can also press for a debate, when he feels that the reply to a question is not satisfactory by moving the adjournment of the House. A certain number of members are required to express their support for such a motion before it is introduced. In Britain forty members of the House of Commons are required to support such a motion to adjourn the House. Members have the right to raise any matter on the motion for adjournment of either House at the end of each day's sitting. Parliament has also the power to confirm or annul the Orders or Regulations under which ministers have been delegated with powers to fill in the details of legislation which have been enacted in general outline by it. Finally private members have the right to introduce motions on a particular day in the week and if they are lucky these motions might be placed on the agenda and taken up for discussion. Such private members' motions serve the useful purpose of focussing Government attention on hitherto neglected subjects. Public opinion might be created on these matters and the Government might at times be forced to act. It is also important to note that in the financial sphere, no taxes can be imposed without the authority of Parliament and that

the Cabinet can spend money only with the authority of Parliament and for the specific purposes for which expenditure has been authorised by Parliament.

Thus the Cabinet is not either the mere dictator of Parliament or its complete agent. It is not correct to say that the Cabinet is subordinate to the legislature or that the legislature is completely under the heel of the Cabinet. It is true that in the last resort the Cabinet through the Prime Minister can, if it is at variance with the legislature, order the dissolution of Parliament. This threat might have the desired effect of forcing the legislature to follow the lead given by the Cabinet. But a grudging allegiance can never last. The threat cannot always be successfully used. At some stage the Cabinet will have to either act according to the wishes of the majority or appeal to the country. If the leaders find themselves at loggerheads with their own supporters, then they can hardly hope to return to power. The Opposition will not hesitate to exploit differences and make use of the serious disagreements that exist within the majority party to hammer their way into power. The Cabinet cannot therefore hope to use the riding whip on the Parliamentary 'donkey' to force it to travel in any direction it pleases. There might be times when Parliament will have to be coaxed and cajoled and persuaded. There will also be times when Parliament will have to be threatened to do the bidding of the Cabinet. Much will depend on the strategy that the Cabinet uses to direct Parliament or to win its support. In the last resort, the success of a Cabinet will depend on the harmonious co-operation that Parliament will lend to it in helping it to execute policy. It is unwise for the Cabinet to be the recipient of a grudging allegiance by threatening to use the whip of dissolution at every turn. Co-operation with the legislature and not dictation to it is then the only method used by Cabinets to execute policy and win the favourable support of public opinion.

The Prime Minister

The Prime Minister has been called the keystone of the Cabinet arch. At various other times he has been likened to a moon among lesser stars and a sun around which the planets revolve. Much however depends on his personality. He might be a colourless and retiring individual like Sir Henry Campbell Bannerman who was Liberal Prime Minister of England from 1905 to 1908 or he might be a forceful and aggressive personality like the late Earl Lloyd George. The strength of a Prime Minister depends on the type of colleagues with whom he has to operate the Governmental process and also upon his individual person. At times indeed the Prime Minister might be overshadowed by powerful colleagues. On other occasions his strength might arise from the fact that he has a whole batch of mediocrities to work with. In any case it is important to

note that the holder of this important office is the key man of the Government. He is the captain of his team and in his hands lies the steering wheel of the ship of state. It is he who represents the Cabinet as a whole in a sense in which none of his colleagues represents the Cabinet. He is indeed the leading member of the Cabinet. He is also the leader of the party or parties in a majority in the legislature. The nation looks up to him for leadership as does his party and his colleagues in the Cabinet. In fact it is he who forms the Cabinet and distributes the various portfolios to the leading politicians in his party. There might be times when powerful colleagues demand specific offices and the Prime Minister may have no alternative but to give in to their wishes but still the majority of other portfolios will be at his disposal for him to distribute as he pleases. He can alter the composition of his Cabinet from time to time and by this means get rid of turbulent or inefficient colleagues. The power of patronage he possesses, that is, the right to recommend to the monarch or nominal executive members of the public for honours and titles of distinction and to make appointments to all public offices in the country, is an excellent means not only of winning over opponents or probable opponents but also of dispensing with inefficient colleagues or serious and defiant rivals. Neither his rivals nor his colleagues or even his opponents can afford to ignore him. For once appointed, he becomes a national figure. He will then be looked upon as the representative of the nation. All the instruments of public opinion—the press, the radio, the newsreels, the cartoonists—will make much of him and give him all the necessary publicity. If he is a wise interpreter of public opinion, he will not fail to exploit the resources at his command. Even though he might be a shy and reticent individual like Clement Attlee, he will as Clement Attlee himself did, inspire loyalty among his colleagues by his tact, his balanced and moderate outlook on public affairs and his persuasive and conciliatory ways, and by this means he will stabilize his position in the country. In fact there might be times when a general election might be nothing so much as a contest for the premiership of the nation between the leaders of rival parties.

It must be remembered that the Prime Minister in proportion to the force and brilliance of his personality will come to wield a tremendous influence on the destiny and future of his country. Since he is the leader of the most powerful party or group of parties in Parliament he automatically becomes the master of the legislature, and the legislature can legally do anything. The Prime Minister by virtue of the fact that he is master of the legislature will have the right to decide its time table and can summon, prorogue and even dissolve it according to his convenience and the convenience of his party. Since he is Chairman of the Cabinet, he also has the controlling voice over its agenda and has the right to accept or reject proposals

that may come up for discussion from the various ministers or their ministries. He is also the chief co-ordinator of the policies of the several ministries that ultimately come under his control. The Prime Minister is therefore in a sense the Grand Vizier of his nation. He is indeed the real executive of his country. It might be said he is virtual dictator subject to the one and only condition—that he must have a strong and popular majority behind him in the legislature.

The Formation of the Cabinet

The first task here is the appointment of the Prime Minister. The nominal executive appoints the Prime Minister. In countries where two or at most three parties dominate the legislature the nominal executive may have very little choice in the selection of the Prime Minister. The leader of the largest group will be the most obvious choice. Under the two party system especially the Prime Minister will be quite obvious and the nominal executive will have no choice but to appoint the leader of the party with the majority. Under this system, if a Prime Minister decides to retire from office, he will as a rule recommend his successor to the nominal executive. Where however a multiplicity of parties crowd the legislature, the task of the nominal executive will be rendered more difficult. No doubt the latter will have plenty of room for manoeuvre, but he will also have to take care that this choice is not an obviously unpopular one so as to infuriate the legislature. Provided he acts discreetly, the nominal executive in such circumstances will come to accrete vast powers in his hands. But under such conditions, it is best, as Gladstone stated, that the Prime Minister be chosen "with the aid drawn from authentic manifestations of public opinion." In a democratic country, it is better that the nominal executive pays attention to public opinion rather than make his decision according to his prejudices and private likes and dislikes. The nominal executive should endeavour to keep clear of party controversy and take precautions to avoid public criticism of his conduct in matters relating to politics.

Once selected the Prime Minister decides who his colleagues are to be and proceeds to assign to them their various portfolios. Theoretically he has an independent choice. But in actual fact his choice might be narrow and restricted. A few powerful leaders within his party might band themselves together and demand that they be given specific posts in the Cabinet. Others cannot simply be ignored even though the Prime Minister might dislike them. For instance, Mr. Attlee could not have ignored Mr. Aneurin Bevan in his second post war government even though he might have been a source of embarrassment to him and the accepted orthodox policy of the Labour Party. Nor can he hope to drop out a powerful and national figure like Mr. Herbert Morrison in any future government, taking for argument's sake that Mr.

Morrison and Mr. Attlee were serious rivals for leadership of the Labour Party. The whisperings of the nominal executive have also to be paid heed to. Queen Victoria is reported to have had a large voice in the formation of Cabinets during the latter part of her reign. Mr. Ernest Bevin's appointment as Foreign Secretary popular rumour has it, was the choice of the late King George VI, when Clement Attlee wished to make him Chancellor of the Exchequer. Indeed there might be times when the choice of the Prime Minister lies solely in the hands of the nominal executive. On such occasions the nominal executive might lay it down that his favourites be given particular offices before he appoints a politician to the most exalted office in the country. The Prime Minister might therefore under certain conditions have to take note of the party and political situation, the views of his colleagues in the party, and the wishes of the nominal executive. Much will depend on his personality and the type of colleagues that exists within his party. But at any rate he cannot at all times be guided by his own private fancies.

There are other considerations in the selection of ministers of state. All ministers must have seats in one of the two houses of the legislature. The difficulty may be overcome where a Prime Minister has the right to recommend to the nominal executive, appointment of members to a second chamber as in Britain and Ceylon. A probably good and efficient colleague who has failed to secure a seat in the popular house might therefore be appointed to the Senate in Ceylon or elevated to the peerage in Britain and by this means be included in the Cabinet. Certain ministers must of necessity sit in one only of the two Houses of the legislature. The Minister of Finance for instance is usually a member of the popular House. The Minister of Justice in Ceylon or the Lord Chancellor in Britain must at all times sit in the upper house of the legislature. In Britain for instance a statute forbids more than six of the eight principal secretaries of state to sit in either House at the same time and this statute therefore makes it necessary for the Prime Minister to distribute ministerial posts between the two Houses. In Ceylon, the Constitution states that not less than two ministers one of whom shall be the Minister of Justice, and if there are Parliamentary Secretaries, not more than two of them shall be members of the Senate. These requirements too restrict the freedom of action of a Prime Minister. Then the surviving members of previous cabinets must be given preference. They have gathered experience and it will always be useful for a Prime Minister to enlist their services in a future government. New men might make a mess of old things. But this does not mean that new blood should altogether be excluded. Young men of promise are included as junior ministers in the government so that they might receive training to take over the more important posts in a future Cabinet at a future date. Social, economic, religious and racial groups too have to be

given attention and so must geographical considerations. For instance it will always be necessary to include representatives of the Ceylon Tamil and Kandyan Communities in any Cabinet in Ceylon. The Prime Minister must also see that an important department of state whose minister sits in one House will have to be represented in the other by an under secretary and vice versa. Finally the Cabinet must as far as is possible be a homogeneous body and at best its members should be drawn from a single party. If this cannot be done, at least it should contain men who are prepared to work together as a team. Dangerous and scheming rivals should therefore be excluded. Only men who can work in co-operation and be prepared to faithfully abide by the verdict of the majority should be chosen to serve in the highest organ of policy of their country.

The Cabinet once chosen is presented to the nominal executive for formal approval and this is almost always given. Meetings of Cabinets are held regularly and records of discussions and decisions are kept by a secretariat. The Prime Minister usually presides over Cabinet meetings but if circumstances prevent him from participating, a deputy takes charge. On important matters the Cabinet usually appoints sub-committees or committees to examine projected legislation and other important proposals before they are finally brought before the entire Cabinet for a decision. A secretary to the Cabinet is in charge of the secretariat and is responsible for providing information to ministers, circulating minutes of meetings if necessary, issuing directives to ministers and departments from the Prime Minister and preparing the agenda for meetings.

The Queen's Government In Britain

The powers of the monarch in the United Kingdom, you will have learned, had gradually been transferred to more representative authorities who happened to take charge of the administration of the country. These representative bodies were the Privy Council, the Ministry and the Cabinet.

Privy Council

The Privy Council was originally the body of advisers to the King. It was the chief source of executive power in the country before the emergence of the Cabinet system in the eighteenth century. With the development of the Cabinet system, the powers of the Privy Council gradually devolved on a smaller group—the Cabinet. The Cabinet and the Ministry exercise the main executive power in the land today. The Privy Council consists of over three hundred persons today, among whom are the Archbishops of Canterbury, and of York and the Bishop of London, Higher judges and retired judges, eminent peers, and present and former Ministers of Cabinet rank. The Sovereign confers the dignity of Privy Councillor

normally, on the advice of the Prime Minister. It is only as a Privy Councillor that a man can be required to take the historic oath of secrecy to keep Cabinet records a secret.

The functions of the Privy Council today are purely formal in character. The general body as a rule has never been summoned except on the death of the monarch or when the monarch announces his or her intention to marry. On other occasions only active members of the Cabinet (not past members) are summoned to the meetings of the Council. Meetings of the Council are summoned usually.

- (a) to enable ministers to take their oath of office.
- (b) to appoint sheriffs.
- (c) to advise the monarch on the issue of such Royal Proclamations as summoning, proroguing, or dissolving Parliament.
- (d) to issue Orders-in-Council which are documents that have the force of executive acts especially in matters relating to the government of the colonies.

The Privy Council today is no longer a deliberative or advisory body as it was in the days of the past. Its deliberative functions have passed on to the Cabinet. The Departments of State decide what rules they shall promulgate and what rules the Council should promulgate. Hence the Privy Council as such exists today mainly to give effect to decisions made elsewhere *e.g.* the Cabinet or the important government departments.

Ministry

There is then the 'Ministry' which consists of all the members of the government who have seats in Parliament and are responsible to the House of Commons. The British 'Ministry' consists of the following officials—

- (i) Ministers who are in charge of departments *e.g.* the Secretary of State for Foreign Affairs, the Minister of Health etc.
- (ii) High Officers of State who are not in charge of departments and who might therefore be of assistance to the Prime Minister in taking over any special work that might need ministerial supervision at any time. The Lord President of the Council, the Lord Privy Seal or a Minister without portfolio or a Minister sometimes known as a Minister of State come within this category. For instance Lord Beaverbrook who was Lord Privy Seal for some time in Mr. Churchill's Wartime Government

was sent to the United States during critical days of the Battle of Britain to plead for American assistance. This task would normally have come within the province of the Secretary of State for Foreign Affairs but the latter official was too busy to be spared for this assignment.

- (iii) the Law Officers of the Crown *i.e.* the Attorney-General, the Solicitor-General, the Lord Advocate for Scotland and the Solicitor-General for Scotland. These are the main legal advisers of the Government.
- (iv) Parliamentary Under Secretaries who are expected to relieve their senior ministers of some of their heavy Parliamentary duties.
- (v) the Government Whips. These are the Parliamentary Secretary to the Treasury, the junior Lords at the Treasury and the political officers of the Household *i.e.* the Treasurer, the Comptroller, and the Vice-Chamberlain. These officials in addition to their duties exercise controls over the members of the Government Parliamentary Group.

All these officials who range from sixty to seventy in number are appointed by the monarch on the advice and recommendation of the Prime Minister. They can also be dismissed by the Prime Minister at any time if they tend to 'misbehave' in a political way. The majority of these officials sit in the House of Commons but there must always be a few ministers in the House of Lords because the Ministers of the Crown Act, 1937 limits the number of ministers who may sit in the Commons and because it is always necessary for any Government to have men who will defend and expound its policy in the Second Chamber of the country.

Cabinet

The Cabinet in Britain consists of those men whom the Prime Minister invites into the charmed circle. The Cabinet differs from the Ministry in two respects—in composition and in functions. In composition—the Cabinet consists of about fifteen to twenty five of the more important members of the Ministry. A few posts in the Ministry automatically carry with it membership of the Cabinet as for example the Secretaryship of State for Foreign Affairs or the Chancellorship of the Exchequer. But the major section of the members of the Cabinet are selected by the Prime Minister who is both head of the Ministry and the Cabinet. Thus all Cabinet members are ministers but not all ministers are members of the Cabinet.

Functionally, the Cabinet differs from the 'Ministry' in that the Cabinet is the chief co-ordinator of policy in the land. It interprets majority opinion and for these purposes it meets and deliberates as

a body. The Ministry as such never meets or deliberates as a body. The members of the Ministry have duties only as individual members of the administration, each in his own particular office. The Cabinet on the other hand has collective obligations. The Ministry and Cabinet fall together even though the members of the Ministry might not have had any share in shaping the policy which brought about the downfall of the entire Ministry. (The functions of the Cabinet, the factors which influence a Prime Minister in the selection of members of his Cabinet and the factors influencing the choice of the Prime Minister—the principles behind all these have been discussed in the sections on the Cabinet and Prime Minister. The reader should apply these principles when discussing the Cabinet in Ceylon, Britain and other countries).

The Secretariat

The records of the discussions of the committees and of the full Cabinet are kept by the Secretariat of the Cabinet or the Cabinet Office. The Secretariat further provides information and advice to ministers and is responsible for promulgating the decisions of the Cabinet or issuing directives from the Prime Minister to the departments of state. The Secretariat has a military side and a civil side. The civil side includes an economic section to advise on economic questions. The Cabinet is also aided by a Central Statistical Office which assists it on matters relating to economic questions and economic planning.

The Cabinet In Ceylon

The Cabinet in Ceylon consists of the Prime Minister and other ministers. The Prime Minister is appointed by the Governor-General. He should enjoy the confidence of the majority of the House of Representatives. Where no party is in a majority, the Governor-General will be left with the responsible task of appointing a politician whom he thinks will be able to form a government that will be in a position to command the confidence of the House of Representatives. The Constitution does not specify the number of ministers who should be in a Cabinet but it states that the Prime Minister shall in addition to his other duties be in charge of the Ministry of Defence and External Affairs. There can therefore be no separate Minister of External Affairs or a Minister of Defence in Ceylon under the present Constitution. The Prime Minister of Ceylon by virtue of his office automatically becomes Minister of External Affairs and Defence. The Constitution also requires that there shall be two other Ministers always in the Cabinet—one, a Minister of Finance and the other a Minister of Justice. The Minister of Justice must at all times be a member of the Senate. The Prime Minister will be responsible for entrusting each Minister with the subject he is to be in charge of and the functions he is to perform. The Cabinet as a body will be in charge of "the general direction and

control of the Government of the Island'' and shall be collectively responsible to Parliament. The Prime Minister appears however not to have a free choice in the selection of his colleagues, for the Constitution requires that at least two Ministers, one of whom shall be the Minister of Justice, shall be from the Senate. But this difficulty can be overcome by the right which the Prime Minister has to recommend to the Governor-General the appointment of a certain number of men to the Senate. He can always include the man whom he prefers to be Minister of Justice and any other Ministers, in the category of appointed Senators.

Parliamentary Secretaries

The Constitution also provides for the appointment of Parliamentary Secretaries or Junior Ministers. These should not at any time exceed the number of Ministers. The Constitution further requires that not more than two of them shall be members of the Senate. The duty of a Parliamentary Secretary like his counterpart, the Parliamentary Under-Secretary in the United Kingdom, will be to assist his Minister in the latter's Parliamentary and departmental duties. He will assist his own Ministry in the formulation of policy but he will take no part in the general formulation of Cabinet policy. He is however different from the ordinary private member of Parliament. He is a member of the Government by virtue of his office as a Junior Minister. He will therefore not possess the same freedom of action that an ordinary member of the Government Parliamentary Group will normally possess. He will have to share responsibility for the policy of the Government. He is therefore bound by the rules of collective responsibility. His speeches will always have to be confined to the general exposition of Cabinet Policy. It will not be wise for him to indicate in any way that he is in disagreement with the policy of the Cabinet. Above all, he must at all times avoid criticising the policy of his own Minister. In fact when speaking in Parliament about his own Ministry, a Parliamentary Secretary should take adequate steps to act in close co-operation with his own Minister. He should take care not to go beyond the scope of the functions allotted to him. This would mean that he would lose the liberty to speak in Parliament on matters outside his own Ministry. He can only do so, if he has been specifically requested by the Prime Minister, the Leader of the Senate, or the Leader of the House of Representatives, and even then he will have to take steps to devote his speech to the particular subject assigned to him. For a Parliamentary Secretary is a possible Minister of the future. It may be that he is being groomed to step into the shoes of another Minister. His period of office is therefore a testing time and his office is at the same time a training ground. He is therefore expected to equip himself with a knowledge of all the duties and responsibilities required of a Minister of Cabinet rank.

All Ministers and Parliamentary Secretaries hold office during Her Majesty's pleasure. In effect this means that all offices are at the disposal of the Prime Minister. A Prime Minister will have four courses open to him to dispense with a turbulent colleague or colleagues. He can request the Governor-General to dismiss a colleague forthwith. He can re-shuffle his Cabinet and in the process drop out the colleague who is causing him so much of embarrassment. He can resign his office and request the Governor-General to re-appoint him Prime Minister. In forming his new Cabinet he can leave out those colleagues who were a source of trouble to him and his party. As a last resort, he can request the Governor-General to dissolve Parliament and he can fight a general election where he will take the precaution of depriving those Ministers who had given him trouble of the party label.

The Ceylon Cabinet and The British Cabinet

The Ceylon Cabinet is very different from its British counterpart. For one thing, the absence of a well-developed party system, leaves the Governor-General a wider choice in the selection of a Chief Minister than the Queen would have in the United Kingdom. For another there is no such body as a 'Ministry' in Ceylon. All Ministers in Ceylon are members of the Cabinet. In the United Kingdom, only a select few are invited by the Prime Minister to form the Cabinet. Then in Ceylon the Prime Minister is guided by the rules of a written Constitution which is also rigid. He will have to appoint at least two ministers from the Senate and one of these should be Minister of Justice. The Prime Minister is expected to assume the office of Minister of External Affairs and Defence in addition to his duties. If he wishes to change these rules, he can only do so by altering the Constitution. To alter the Constitution he will have to be assured of the support of at least two thirds of the entire membership of the House of Representatives. In the United Kingdom no rigid rules of a written Constitution guide the Prime Minister in the formation of his Cabinet. It is true that there is a rule which requires the Prime Minister to select his Ministers from both Houses of Parliament. But this rule can be easily repealed, if the Prime Minister so desires, by an ordinary majority which he will always have at his command. The Ceylon Prime Minister however has vast powers of patronage like his British counterpart. In fact the Constitution confers these powers on the Prime Minister of this country. All the powers assigned to the Governor-General under the Ceylon Constitution are exercisable by him only on the advice of the Prime Minister of this country. These vast powers will thus enable a Prime Minister to win support and influence for his Party and also help him to quieten and pacify disgruntled and turbulent colleagues or ambitious and defiant rivals. It is true that a firm and obstinate Governor-General can insist that a Prime Minister should exercise these powers in the

way he (the Governor-General) thinks is best. But even here, if a Governor-General proves to be a constant source of nuisance the Prime Minister can take steps to either persuade the Governor-General to fall in line with his views or in the last resort have him removed from office by terminating his services and have another appointed in his place, by the Queen. Thus, the occupant of the Temple Trees exercises vast powers and considerable influence comparable to that of the British Prime Minister. He too is in virtual effect dictator, subject to two qualifications. He must have the support of a closely knit majority willing to support him at all times. He must in addition have the support of a two thirds majority of the whole membership of the House of Representatives, if he desires to change the Constitution to suit his own plans and policies.

The Secretariat or the Cabinet Office in Ceylon

The Cabinet in Ceylon conducts its business and formulates policy either as an entire body or through the medium of Committees. The records of these discussions and the minutes of the proceedings of the Cabinet are kept by the Cabinet Office. The Cabinet Office is in the charge of the Secretary to the Cabinet, a Senior Civil Servant who is appointed by the Governor-General on the advice of the Prime Minister. The functions of the Secretary to the Cabinet will be to issue instructions to Ministers and other officers as may be given to him from time to time by the Prime Minister, summon meetings of the Cabinet, prepare the agenda of business for the day, keep the minutes of meetings and convey the decision of the Cabinet to the appropriate authorities concerned.

THE WORKING EXECUTIVE

The Functions of a Public Service

The Public Services of any country form the backbone of the administration. They indeed constitute the working executive. A prominent writer on politics, Floud, has told us that though Parliaments, Cabinets and Presidents may reign, it is really the Civil Service (*i.e.* the Public Services) that governs. You will have learnt in the earlier section all about the functions of the nominal executive, that is, the titular head of the state, monarch or President as the case might be, and the real executive which is the Cabinet. The nominal executive performs the ceremonial functions of state as for example opening sessions of Parliament, reading the Speech from the Throne etc. The real executive, the Cabinet formulates policy, lays it down, explains it to Parliament and the public and obtains the consent of the legislature. The Public Services, that is the working executive, loyally carries out the policy of the real executive. It is they who give effect to the plans and programmes of the party

in power. It is they who help to work the machinery of government. The higher rungs of the Public Service, the Heads of Departments and Permanent Secretaries in fact help the Minister at times in formulating his plans. They give him the ideas on some occasions and convince him as to their soundness. On other occasions, they dissuade a Minister from a particular course of action. The experience they have gained from years of public service make them experts and specialists in their particular fields of work and they are very often in a better position to warn and advice, or encourage a Minister on the best policy he should adopt in dealing with any particular problem. There might be however occasions when a strong willed Minister insists on having his own way. In such an event, the Public Servant is expected to carry out, in good faith, the orders of his political superior. But even here, the Minister, amateur as he is, merely sets the broad framework of legislation. The details, the procedure by which policy has to be worked out, the organisation involved in carrying out a big scheme, the preparation of estimates, the examination of the financial implications of a scheme and a host of other details have all to be worked out by the Public Servant. It is this that has given the Public Servant a pre-eminent position in the organisation of the modern state.

The Donoughmore Public Servants

Fidelity to his political superior is the first virtue of a Public Servant. In a responsible system of government where the Cabinet is answerable to Parliament and to the country for all the acts that it performs, Ministers have to render an account for all that happens in the Departments under their control. They have to take the blame for any of the faults of their officers. They also take the credit for any success that might come their way as a result of the loyal and efficient execution of policy by the public servants under their control. Ministers cannot find scapegoats in public servants if matters go awry. For the departments carry out the orders of the Minister and take their directions from him. Under the Donoughmore Constitution, the Public Servant had to take his orders from the Secretary of State for the Colonies, the Governor, the Board of Ministers, the Executive Committees, or the Chief Secretary. The Public Servant could at times afford to ignore the wishes or even disobey the orders of the Ministers or the Executive Committees, if he felt that the Chief Secretary, (who was the Head of the Public Services Commission) the Governor, or the Secretary of State for the Colonies would support him in his line of action. In view of the fact that he had to serve and please many masters, the public servant of the Donoughmore era could not very often perform his functions in the efficient way he might have performed them, had he been responsible to only a single master. The Minister too could not exact the unquestioning loyalty and obedience of the public officer under him. The result was that the Public Servant was subject to the

most withering and caustic criticism of the Ministers and the Members of the State Council. If anything went wrong, Ministers would show no hesitation in placing the blame on the public servants though the fault might have lain with the Minister. This state of affairs had a very demoralising effect on the Public Services of the Island. It also had a very disturbing influence on the political health of the country. Responsibility could never be fixed on any individual or body of persons. The Executive Committees would blame the Minister and the Minister would shift the blame on to the Board of Ministers or to the Officers of State, (who formed the personnel of the Public Services Commission) or to the Governor or the public servant. Very often, it was the last mentioned who was always blamed and abused by both Minister and Executive Committee. There was no difficulty for the elected representatives of the people to evade the responsibility thrust on their shoulders by the electorate.

The Public Service Today

The present Constitution seeks to remedy the defects of the earlier dispensation by the introduction of the Cabinet system of government into this country. As far as the public servant is concerned, the new Constitution compels him to be a loyal servant of his Minister. This is done in a number of ways. Responsibility which was formerly diffused among the Secretary of State, the Governor, the Board of Ministers, the Executive Committee and the Heads of Departments is now concentrated in the Cabinet which is collectively responsible to Parliament for all its acts. The Head of a Department must submit any proposals he has for changes in policy to his Minister through the Permanent Secretary who is a senior official in charge of all the departments placed under the jurisdiction of a Minister. The Permanent Secretary is the channel of communication between the Minister and the Ministry. The Ministry consists of a number of separate departments and has an official at the head of each department. The Minister exercises a political control over these departments. The actual work of administration and supervision is carried out by the Permanent Secretary who under Section 51, sub-section 1 of the present Constitution is appointed by the Governor-General on the advice of the Prime Minister. Departmental officials thus have no direct official access to the Minister nor has the Minister any direct access on an official level to his departmental officials. The Minister is thus relieved of the duty of settling any conflicts which might arise between the Heads of Departments under his jurisdiction.

The task of planning and co-ordinating the work of the several departments in a Ministry and the duty of arranging material in a suitable manner for ministerial decision are the main functions of the Permanent Secretary. The Permanent Secretary is thus the chief

administrator in the Ministry. It is he who instructs the departmental officials on how best policy is to be carried out. He is responsible for the correct and efficient execution of all political orders issued by the Minister. The Minister is spared the responsibility of attending to the details of administration as regards the departments placed under his jurisdiction. He will have more time to devote to political activities and to explain government policy to Parliament and the country. Here too the Minister will be briefed and assisted by the Permanent Secretary. When questions are asked in Parliament as regards the work of any departments in his charge or when there is criticism of the way in which cabinet policy is being executed by departmental officials who are under his jurisdiction, it is the Permanent Secretary who has to furnish him with reports, explanations, and replies. The Minister cannot blame the officials in his Ministry for any fault or errors. He must take full responsibility for all that happens within his Ministry. If departmental officials are inefficient, the Permanent Secretary will have to make the necessary arrangements to see that the inefficient official is transferred to another department (the transfer must not result in any increase in the salary of the officer transferred) within the Ministry or by agreement with the Permanent Secretary of any other Ministry, effect the transfer of the official to another Ministry. The Permanent Secretary can also hold a departmental inquiry and institute disciplinary proceedings against any officials who are guilty of inefficiency or disloyalty. The Minister may direct him to hold such an inquiry. An aggrieved official can however, in the last analysis, appeal to the Public Services Commission. In effect, the Constitution entrusts the Heads of Departments with the responsibility of efficiently executing ministerial policy. The Permanent Secretary supervises the work of the various departments within the Ministry. The Minister exercises general direction and control. If however, a Minister feels that a Permanent Secretary is not loyal or that he is slack in the efficient performance of his duties, he may report him to the Prime Minister who will give the necessary advice to the Governor-General to have the officer concerned transferred to another public office. Section 51, sub-section 4 of the Constitution empowers the Governor-General to transfer any Permanent Secretary to any public office.

The miserable plight of the public servants under the Donoughmore Constitution convinced the framers of the present Constitution that they as a body should be safeguarded from unhealthy forms of political control and interference from politicians. Under the Donoughmore Constitution, the Governor had the right to make all appointments to the Public Services, with the approval of the Secretary of State in certain specified cases. The Governor was advised in these matters by a Public Services Commission which consisted of the three officers of state viz:—the Chief Secretary, the

Financial Secretary and the Legal Secretary. In addition to advice from the Public Services Commission, Public Services Regulations Nos. 13 and 15, gave the Executive Committees the right to make recommendations for the filling of all important appointments, both permanent and acting, in the Public Services. The recommendations were made to the Public Services Commission. There were occasions when the latter body disagreed with the Executive Committees and the Governor had then to decide between the advice tendered by the Commission and the recommendation made by the Committee. Very often the Governor decided with the Commission. The Committee would then wreak their vengeance on the Public Servant who was appointed against their wishes. At the recommendation stage itself, the Committee would discuss the case of each applicant or claimant to a public office. There was much canvassing. The faults of applicants and claimants would be discussed in public and such a system had a very evil effect on the morale and efficiency of the public services. If the appointee was not the favourite of the Committee, his official life was made a misery by the members of the Committee. They would summon him and subject him to all forms of irritating inquisitions so much so that quite a number of public servants made use of certain provisions under the Donoughmore Constitution to retire from office with compensation for loss of career. The right which the Executive Committees had to make recommendations gave rise to a further complaint. The Minorities alleged that nominations made by the Committees were on communal grounds. They felt that members of their Communities were being discriminated as against members of the majority community. The latter, they complained, received favoured treatment.

It was against this background that the framers of the present Constitution had to decide on the future of the Public Services of this country. They decided, wisely so to say, to vest the appointment, transfer, dismissal and disciplinary control of public officers (with certain exceptions) in the hands of an independent body of three persons to be called the Public Services Commission. There were a number of reasons which induced them to come to this decision. They were, firstly, anxious to quieten the fears of the minority communities. They also felt that under a system of representative government, all forms of pressure and influence would be brought to bear on the elected representatives of the people by interested parties to secure the appointment of their favourites and candidates to public office. There was also the danger that, in a country where the public services had become the principal industry of the educated middle classes, all promotions and transfers would be made to suit the convenience of ministerial favourites or the relatives and friends of interested parties who had the necessary influence and prestige to

approach the men at the helm of affairs. The needs of the community would then be ignored. There was indeed a tradition in some departments—the Medical Department was an outstanding example—for the most qualified and experienced men to remain in Colombo while their presence was most required in the outstations where pressing problems required the services of such expert men for their quick solution. There were complaints of injustice in the matter of promotions and transfers. A contented service is essential for the efficient administration of the affairs of state. To entrust the settlements of these complaints to a Minister who is necessarily a politician would not be very advisable. He would be subject to pressure and amenable to influence. Hence the framers decided to vest transfers and promotions in the hands of an independent body. Finally, there was the danger that if Ministers were given control, the whole of their time, practically, would be spent on staffing questions, investigations of complaints, interviewing interested parties and on endeavouring to placate, satisfy, or explain matters to disgruntled constituents who might be the friends or relatives of public servants or applicants for public office. They would have very little time to devote to their political activities or to the larger issues of policy. If the Minister is at the helm of affairs every little grievance and complaint would be addressed to him. To save the Minister from such an embarrassing plight, the framers decided to entrust all these minor though controversial duties to an independent Public Service Commission.

The Public Service Commission

Section 57 of the Constitution states that except as otherwise provided in the Constitution every person who holds an office under the Government of this country holds such office at Her Majesty's pleasure. This means that with a few exceptions which have been mentioned in the Constitution all other public servants hold office and can at any time be removed from office at the will and pleasure of the Government of this country. The exceptions include such officers like the Clerk to the Senate and the Clerk to the House of Representatives, judges of the Supreme Court and the Auditor-General all of whom can be removed from their office only by the Governor-General on an address sent up to him by one or other or both the Houses of Parliament. In the case of the Clerks the address for removal should be from the Senate or the House of Representatives as the case might be. Judges of the Supreme Court and the Auditor-General can only be removed by the Governor-General upon an address, from the Senate and the House of Representatives, praying for their removal.

In the case of all other public officers, the Constitution vests their appointments, transfers, dismissal and disciplinary control in the hands of a Public Service Commission consisting of three persons.

The members of the Commission and its Chairman are appointed by the Governor-General who will act on the advice of the Prime Minister. They will hold office for a period of five years from the date of appointment and are eligible for reappointment. Any member of the Commission may for cause assigned be removed by the Governor-General from his office. The Constitution provides that one at least of the members of the Commission shall be a person who has not, at any time during the period of five years immediately preceding held any public office or judicial office. To safeguard the Commission from any charge of political interference or political influence, the Constitution states that no person shall be appointed or shall remain a member of the Public Service Commission if he is a Senator or Member of Parliament. Persons appointed to the Commission shall cease to hold any paid office previously held by them as a servant of the Government of this country.

Thus the control of all public officers in this country ranging from their appointment and transfers to their disciplinary control and dismissal is vested in the hands of the Commission. A transfer however means a transfer involving an increase of salary. A transfer to another public office which carries with it the same salary as that held by a public officer before he was transferred does not fall within the scope of the Public Service Commission. A public officer however does not include the holder of a judicial office, the Governor-General or any member of his staff or office, the President of the Senate, the Speaker or any member of Parliament or a Senator, any officer of the Senate or the House, any member of the Judicial Service Commission or Public Service Commission, the Auditor-General, any member of the Armed Forces, any Crown Advocate other than a Crown Counsel or Crown Proctor.

There are public officers who are however appointed directly by the Governor-General on the advice of the Prime Minister and are therefore not under the jurisdiction of the Public Service Commission in any matter. These are the Clerks to the House and the Senate, the Secretary to the Cabinet, the Permanent Secretaries, the Auditor-General and the Attorney-General. The members of the staff of the Clerks to Parliament too are appointed by the Clerks after consultation with their presiding officers. Judicial officers are under a separate body called the Judicial Service Commission and do not therefore come within the jurisdiction of the Public Service Commission. Judges of the Supreme Court are appointed by the Governor-General on the advice of the Prime Minister and so are members of the Judicial Service Commission.

To safeguard the independence of the Public Service Commission, the Constitution provides that

- (i) No person shall be appointed as or shall remain, a member of the Commission if he is a Senator or Member of Parliament.

- (ii) Members of the Commission can be removed from office only by the Governor-General and that too after a definite statement indicating the causes for removal.
- (iii) Every person who, otherwise than in the course of his duty, attempts to influence any decision of the Commission or any of its members shall be guilty of an offence and liable to a fine not exceeding one thousand rupees or to imprisonment for a term not exceeding one year or to both such fine and such imprisonment.

The Public Services Commission usually makes appointments after advertising vacancies in the Government Gazette or and the daily papers indicating the qualifications required from prospective candidates, calling for applications and then selecting the candidates after summoning them for an interview. Selections to the Civil Service and the Diplomatic Service are made after an open competitive examination which consists of a written test and an interview. Some of the other appointments to the public service are also made on this result of this examination. Appointments to posts carrying an initial salary not exceeding Rs. 3,780 per annum are made by Heads of Departments under the supervision of their respective Permanent Secretaries. This is a power which the Commission has delegated to the Heads of Departments. The latter are therefore not expected to follow the directions of Ministers when making these appointments.

The Civil Service in the United Kingdom

All public servants in the United Kingdom are members of the Civil Service. Unlike the Ceylonese Civil Servants, the public servant in the United Kingdom who belongs to the administrative class is not classified into a separate category of public servants. There are about five different sections in the public service of the United Kingdom but all members are referred to as Civil Servants. The majority of Civil Servants in the United Kingdom belong to one of the following classes :—

- (i) There is the administrative class which is equivalent to our local Civil Service. They are responsible for advising Ministers on policy, for executing policy and for dealing with any difficulty which may arise in carrying out such policy. This class numbers between 4000 to 5000 and is recruited largely from University Graduates.
- (ii) The executive class is responsible for the day to day conduct of Government business. Their work includes that of supply and accounts. They are expected to have reached a recognised educational standard. After entering the service of the Crown, they can qualify in certain specialised branches like that of an accountant or statistician.

- (iii) There is the clerical service whose function it is to assist the senior officers in all the usual clerical work involved in running a Government department.
- (iv) The sub-clerical class which consists of clerical assistants, shorthand typists and typists.
- (v) The manipulative class which consists of messengers, paper keepers, office cleaners etc.

In addition, there are the professional classes with specialised or scientific knowledge like the doctors, lawyers, and engineers and there are the Departmental classes confined to one or two Departments and are not likely to be found throughout the service as for example the tax inspectorate of the Inland Revenue Department or the Factory Inspectorate of the Ministry of Labour and National Service etc.

Most of the Civil Servants except for a few in the manipulative grade are recruited by open competition through a system of examinations and selections organised by a body called the Civil Service Commission which was set up in 1855. The Treasury exercises a general control over staff in each Department especially as regards matters of pay and personnel but each Department is responsible for the organisation and management of its staff. All Civil Servants in the United Kingdom are servants of the Crown and hold office during Her Majesty's pleasure. The Civil Servant is expected to carry out the instructions of his Minister. He must perform his duties in an efficient and impartial manner whatever party is in power. He is expected to keep aloof from party politics, at least where his official life is concerned.

CHAPTER XVII

WORLD GOVERNMENT

Towards Internationalism

Global maladies require global remedies. Within the last half a century the nations have fought two major wars and the resulting slaughter and misery brought upon the world has impelled men to make an effort to evolve some order at least out of these periodic catastrophes that torment humankind. The idea of international government is as old as the Roman Empire. The general demand has always been that states should learn to subordinate their individual desires and plans for the general betterment of mankind. In brief men have sought ways and means of establishing some form of order and stability in international society. They endeavoured to discover methods by which wars could be avoided and disputes be settled between nations by negotiation and discussion. As within the state, so between states too, writers and idealists on international law and organisation pinned their faith on discussion and some form of obedience to an international code of conduct which might be acceptable to the majority of the society of nations as the best means of settling deadlocks and disputes and avoiding the miseries of continental wars and worldwide conflagrations. At first it was the system of 'Balance of Power' by which one set of powers on the European continent was balanced against another equally powerful set of states. It was an English idea—but the balance was always precarious. It never worked off so well or balanced off so evenly as to prevent the nations of Europe from engaging themselves in periodic orgies of mutual slaughter. Something better had to be evolved.

Writers and Idealists

There were then the idealists and writers like Pierre Dubois, Henry of Navarre, Grotius, and Rousseau who in their time made their own contribution to the general desire to promote international peace between the nations. But Hugo Grotius was the greatest of them all. In 1623 he produced his great book "*De Jure Belli ac Pacis, Libri iii*", for which he has justly been acknowledged the "Father of the Law of Nations." Grotius for the first time attempted to systematize the study of the law of nations in his book. He gave international law a scientific basis. His book became a code of reference to which states turned in later days to resolve their disputes and settle their deadlocks. *De Jure Belli ac Pacis, Libri iii* has been proclaimed the textbook of the nations. It has been said that no

other book save the Bible has influenced human minds in such a profound and useful manner as the great and pioneering work of Hugo Grotius.

Concerts and Congresses

The works of the writers and idealists was followed by the various concerts and congresses of Europe. It must not be forgotten that wars of a highly destructive sort were essentially a European malady. The Concerts and Congresses were however diplomatic arrangements between the Great Powers. They were alliances which sought either to preserve the existing status quo as the Congress of Vienna under the leadership of the Austrian statesman Metternich sought to do, or they were arrangements intended to share the spoils of victory and preserve the balance of power among the European powers as the Congress of Berlin succeeded in doing at least for a short while.

The Conferences

Something real was however done in the period of The Hague Conferences. These began in 1899. They were summoned at the instance of the Russian Emperor Nicholas the Second. The Hague Conferences were a serious attempt to introduce some ordered system into the Law of Nations. The First Hague Conference of 1899 contained the representatives of twenty six states. It showed that parts of the Law of Nations could be modified. It also produced two vital international codes of conduct, firstly, the "Convention for the Pacific Settlement of International Disputes" and secondly, the "Convention with respect to the Laws and Customs of War on Land." The Second Hague Conference met in 1907. It was attended by the representatives of fifty four states and its main work was to amplify and elaborate what the earlier Conference had done. The Second Hague Conference produced in all about thirteen conventions. Three of these, namely those for the pacific settlement of international disputes, those concerning the laws and customs of land warfare and the one regarding maritime war were an amplification of the earlier Conference of 1899. The other conventions referred to the use of force for the purpose of recovering debts and the commencement of hostilities and to the regulation of rules of warfare and neutrality in wartime.

Between the Wars

Europe was however on the brink of war. The Hague Conferences could not save western civilisation from the savageries of aggressive German militarism. The catastrophe broke out in 1914 and the final outcome was the celebrated Peace of Revenge concluded at Versailles. The victors gained only a temporary respite—for the spirit of German nationalism could not be broken

by harsh and revengeful methods. The war was reopened again in 1939 and the world is yet making a serious effort to emerge from the titanic slaughter and ruinous trails left behind by the military cliques that took possession of the governmental processes in Germany, Italy, and Japan during the period 1931 to 1945. The gloomy period of twilight between the two world wars saw the first attempt to organise some form of international government and machinery for the purpose of preventing war and settling disputes by open diplomacy and peaceful discussion. It was a mighty failure. But it was also an experiment. Like all experiments, it had its lessons to teach and these were put into operation when after the Second World War, the nations once more decided to organise themselves into some decent society.

The League of Nations

The League of Nations was the first great experiment in international law and government. It owed its origin to a group of private individuals who, just after the outbreak of the First World War, under the Chairmanship of Viscount Bryce, produced a draft scheme of "Proposals for the Avoidance of War" in February, 1915. The draft was finalised in a pamphlet entitled "Proposals for the Prevention of Future Wars" by Viscount Bryce and his committee. It was published in 1917 but already it had been preceded by the formation of propaganda organisations called "The League of Nations Society" in London, in 1915 and "The League to Enforce Peace" in the U. S. A. in the same year. The idea of a League received some form of recognition in January 1918 when President Woodrow Wilson of the United States proclaimed his Fourteen Points as a basis for world peace. The Fourteenth Point contained the design for the establishment of the League of Nations. It was a scheme for organising an ordered system of relations between the nations. Its primary aim was to seek the prevention of future wars. Its foundations lay on collective security which meant that the nations associated together in the League would go to the assistance of any one of their number if they happened to be the victims of an aggressor state.

Functions and Purposes

The League had a permanent set of organs to achieve the two-fold purpose of firstly maintaining international peace and security and secondly the promotion of international co-operation. The desire to maintain international peace and security was ensured by (a) the institution of machinery for the peaceful settlement of international disputes (b) the pledge by all members of the League that they will respect and preserve as against external aggression the existing political independence of all members and that in case any of them are attacked, the others will go to their assistance, (c) the agreement

to reduce armaments to a minimum level necessary to maintain national safety, and (d) the decision to publish all treaties concluded between the powers without making any attempt to keep them a secret and thus cause danger to world peace. These hopes were as far as possible put into operation through the organs of the League, namely the Assembly, the Council, the Secretariat and the permanent International Court of Justice. The plan to promote international co-operation was seen in the efforts made to improve conditions of labour and the treatment of colonial peoples, to ban the traffic in women and children and in dangerous drugs, the prevention and control of diseases etc. Specialised agencies like the International Labour Organisation, the permanent Mandates Commission, and the World Health Organisation were set up to assist in the realisation of these ideals.

Membership

The League had in all, at its highest, a membership of fifty. In its heyday it was responsible for the welfare of about three quarters of the world's population and over sixty per cent. of the world's surface area. It suffered a serious setback in that from its very start it lacked the co-operation of the United States. Russia which should have been given a place among the great nations was admitted only as late as 1934 only to withdraw later with the outbreak of the Russo-Finnish War in 1939. Germany was admitted in 1926 but withdrew in 1933 along with Japan. Italy followed in 1937 and Hungary in 1939. Membership was open to any self-governing state, Dominion, or Colony if its admission was agreed to by two-thirds of the Assembly. The entering member must also be willing to observe its international obligations and accept the regulations prescribed by the League with regard to the reduction of armaments and military forces. Membership could be terminated (a) by voluntary withdrawal after two years notice provided that all the necessary international obligations and requirements under the Covenants of the League had been fulfilled at the time of withdrawal, (b) by expulsion for violation of the Covenants of the League or (c) by lapse as a result of refusal to agree to any amendments to the Covenants of the League.

The Assembly

The Assembly was the general meeting place for members of the League. Each member was entitled to send a delegation of three representatives but no member had more than one vote. The Assembly was expected to meet at least once a year. Article 3 of the Covenants of the League laid down its functions, namely that "the Assembly may deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world."

The Council

The Council was in many ways the Executive of the League. It consisted of five permanent and nine non-permanent members. The permanent members represented the Great Powers and the non-permanent members the small nations. Membership however varied with the changing international situation and with the changing membership of the League. The non-permanent members were elected for periods of three years. The functions of the Council were similar to that of the Assembly. It could deal with "any matters within the sphere of action of the League or affecting peace of the world" The Council was however the more effective authority in that it contained the representatives of the Great Powers, was smaller in size, and was entrusted with certain powers which were placed outside the competence of the League. These included such matters as formulation of plans for reduction of armaments, advice as regards how aggression should be countered and expulsion of a member for breach of the Covenant. The Council was expected to meet at least once a year but on an average it held three ordinary sessions each year.

The Secretariat

The Secretariat was placed under a Secretary-General and had its offices at Geneva. It was a non-political body of salaried employees whose functions it was to carry out the orders of the League and its organs. Its members constituted a sort of international civil service. They retained their own nationality but they served the League and not the interests of their own state. The Secretariat was divided into fifteen sections for purposes of administration.

The Court of International Justice

The Permanent International Court of Justice came into being in 1921. It consisted of eleven members distributed as follows :— Latin Group five, Germanic and Scandinavian Group two, the Common Law group comprising Britain, the Dominions, and the U.S. if she joined two and one representative for Asia. The Court could mediate only in disputes submitted to it. It could also arbitrate at the request of the parties to a dispute. Its seat was at The Hague.

The Work of the League

During the first decade of its existence the League performed valuable work in the cause of international peace. It settled a quarrel between Italy and Greece in 1923 which might otherwise have ended in war. It helped in the rehabilitation of Austria and Hungary which had become separate states under the Peace of Versailles. In 1925, it acted once more as successful peacemaker

in a frontier dispute between Greece and Bulgaria. It did many more things. It organised an international regime over the Free City of Danzig; it helped in the successful allocation of the former German colonies between the Great Powers, to be held in trust by them until the inhabitants in these lands could rise to full nationhood; it helped to eliminate international vices like the traffic in drugs and the regulation of labour conditions. But it crashed on the crucial issue of united action against aggression. Its members would do nothing in the face of Japanese aggression in China, especially when Manchuria was seized in 1931. China appealed, but in vain. So was it with Abyssinia in 1935. Weak and half-hearted measures called economic sanctions were employed against Italy but the aggressor emerged triumphant. The League was equally helpless in the face of unlawful intervention by Germany and Italy in Spain when the legally constituted government in that country was confronted with a rebellion under the leadership of General Franco. The most miserable episode of all was when it assembled just before the outbreak of the Second World War to discuss plans of disarmament while Germany and her allies were arming themselves to the teeth for a war of aggression. The fact was that the Great Powers were all along over-awed by the fear of Russian Communism. They believed that Germany and her allies were arming themselves for a war against the Soviet Union. So they condoned the annexation of Austria and the seizure of Czechoslovakia by Hitler. They did not mind the rape of Albania by Italy. They were however sadly disillusioned in their hopes. The war machines were turned loose on the West first. The Western Powers were totally unprepared to meet the onslaught of German militarism. France surrendered and Britain was reduced to a precarious plight. Meanwhile the Germans turned on the Soviet Union. That country continued to hold on bravely against powerful odds. With the entry of the United States, the issue was settled in favour of the Allies. Out of the ruins of the League rose another great experiment. This time it was the United Nations.

The League had foundered on the sands of collective security. In the last analysis, the major cause for its failure was that it lacked sovereign power to enforce its decisions. The nations of the world still persisted in clinging on to their inalienable right to exercise their sovereign power without considering the interests of the rest of international society. That had been the history of Japan, Germany, and Italy. The League had attempted to curb these countries in their aggressive designs but its decisions only possessed moral authority. At the critical moment the other Great Powers did not appear willing to render military assistance to the victim.

nations, China or Abyssinia. The major part of the world did not care to go to war with Japan, Germany, or Italy when they committed their depredations, as the United Nations went to war with the little Republic of North Korea.

The United Nations

The United Nations on the other hand was the outcome of an experience borne of the bitterness of over four years of murderous strife. Its principles were embodied in the Atlantic Charter which the President of the United States and the Prime Minister of the United Kingdom had issued in August, 1941. The Charter contained eight points. It declared that the United States and Britain had no aggressive intentions, that they respected the rights of all peoples to choose their own form of Government, that they would do all in their power to liberate trade barriers between the nations, that they would endeavour to improve labour conditions and that it was their firm and determined intention to maintain peace and security in the future and to outlaw war as a means to the settlement of international disputes. Six months later, in January, 1942, twenty six nations which had fought the war against Germany and her allies met at Washington and signed the "Joint Declaration by the United Nations" in which they agreed to subscribe to the principles contained in the Atlantic Charter. In October 1943 the Washington Declaration received the blessings of the four Great Powers when they met in Moscow and signed a convention known as the Moscow Declaration. In Article 4 of the Moscow Declaration, the four Great Powers recognised "the necessity of establishing at the earliest practicable date a general international organisation based on the principle of the sovereign equality of all peace-loving states, and open to membership by all such states, large and small for the maintenance of international peace and security". The Moscow Declaration was followed up by a Conference at Dumbarton Oaks, Washington in August and September 1944 between the representatives of the four Great Powers. The conversations at Dumbarton Oaks resulted in the drawing up of a plan for an international organisation. This plan received the approval, with minor modifications, of Stalin, Roosevelt, and Churchill when they met at Yalta (in Crimea) in February 1945. The plan was finalised and embodied in a Charter when the representatives of fifty nations lent their signatures to it at San Francisco during the months April to June 1945.

The purposes of the United Nations are set forth clearly in the Preamble and Article One of the Charter. The Preamble is worth quoting. It runs as follows :—

"We the people of the United Nations, determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and

to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and

to promote social progress and better standards of life in larger freedom, and for these ends,

to practise tolerance and live together in peace with one another as good neighbours, and

to unite our strength to maintain international peace and security, and

to secure by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and

to employ international machinery for the promotion of the economic and social advancement of all peoples, have resolved to combine our efforts to accomplish these aims."

In short the Preamble states that it is the aim of the members of the United Nations Organisation to respect human rights and with this end in view to endeavour to improve living conditions and promote social progress, to honour all international obligations and to outlaw the use of armed forces save in the common interest, as a means to settle international disputes and to unite for the purpose of maintaining international peace and security.

Article Two of the Charter states quite expressly certain principles which the members must follow as a matter of legal duty. These might be summarised as follows:—

- (i) The Sovereign equality of all the Members of the Organisation. This means that all members are to be regarded as free and fully independent states. Semi-independent states or colonies will therefore not be admitted into the Organisation as was permitted by the League of Nations.
- (ii) All members must participate in the system of collective security and help in the enforcement of peace. They must settle their disputes in a peaceful manner and abstain from the use of force or threats against the political independence of other States.

- (iii) The United Nations shall ensure that non-Member states shall act in accordance with the principles of the Organisation in so far as it is necessary to maintain international peace and security. This is an assertion that Member States have a right to intervene in the relations of non-Member states if the conduct of the latter is such as to endanger peace.
- (iv) Matters of domestic concern, that is, matters which concern the internal politics and administration of any State, shall not come within the sphere of intervention by the United Nations.

In pursuit of these purposes, provision was made for the establishment of six principal organs. They are (i) the General Assembly (ii) the Security Council, (iii) the Economic and Social Council, (iv) the Trusteeship Council (v) the International Court of Justice and (vi) the Secretariat.

Membership

New members may be admitted to the United Nations if a two-thirds majority of the General Assembly approves their admission. The General Assembly must however act on the recommendation of the Security Council and for the Security Council to grant its recommendation at least seven members of the Council—and this must include the concurring votes of all the permanent members—should give their approval. The conditions of membership are that the new members must be 'peace-loving States' which are prepared to accept the obligations of the charter and carry out these obligations. The Charter also provides for termination of membership. The General Assembly can expel members on the recommendation of the Security Council if Member States are guilty of persistent violation of the Principles of the Charter. Member States have also the right to withdraw of their own accord from the Organisation.

The General Assembly

The General Assembly which has been described as "The Town Meeting of the World" is the principal body where representatives of all nations great and small meet together. Any member state may send a delegation of five representatives but each state has only one vote. The Assembly may discuss any matter within the scope of the Charter but it is not vested with legislative powers. It can initiate discussions on matters of vital international concern and make studies for the purpose of discovering ways and means of promoting international co-operation or improving social conditions. But as far as positive action is concerned it can only make recommendations and suggestions to the member nations and the

Security Council as to what methods they should adopt to meet any particular situation. The Assembly besides controls the work of the Trusteeship Council and the Economic and Social Council. It participates in the election of judges to the International Court of Justice and is responsible for the election of the six non-permanent members of the Security Council, the members of the Economic and Social Council and some members of the Trusteeship Council. It appoints the Secretary-General on the recommendation of the Security Council and approves the budget. The Assembly meets in regular annual sessions but special sessions too could be convened in the event of an emergency.

The Security Council

The Security Council is the organ of action of the United Nations. In it has been vested the responsibility to maintain world peace and security. Its success will however depend on the degree of unanimity that exists between the Great Powers. The Council consists of five permanent and six non-permanent members. The five permanent members are Britain, the United States, the Soviet Union, China, and France. The other six are elected for two-year terms by the General Assembly and on retiring are not eligible for immediate re-election. Each member has one vote. On matters of procedure, the votes of any seven members are sufficient for any action to be taken. But in matters of vital concern, especially where action has to be taken, the seven votes must include the five votes of the permanent members. Thus the success of the Security Council in its basic task of preserving the peace and security of the world would depend on the united action of the five Great Powers. A member who is involved directly in any dispute however is expected to abstain from voting.

While the Assembly is a deliberative body, the Security Council is the executive organ of the United Nations in so far as maintenance on international peace and security is concerned. In carrying out its duties the Council is expected to act in accordance with the purposes and principles of the United Nations. The members "agree to accept and to carry out the decisions of the Security Council" reached in accordance with the Charter. It is in this decision to agree to carry out the decisions of the Council that we see for the first time a willingness on the part of the members of the United Nations (with the exception of the five Great Powers) to surrender part of their absolute sovereignty, as far as unrestricted freedom of action is concerned in the sphere of international relations, to a world authority as embodied in the Security Council. The Council may call upon members to break off diplomatic relations, to impose economic sanctions *i.e.* to cease trading on strategic raw materials, or if necessary take military action against countries which threaten or break the peace of the world. The Council has apart from these

functions, other duties to perform. It co-operates with the Assembly in the admission, expulsion, and suspension of members, in the election of Judges of the International Court of Justice and in the appointment of the Secretary-General.

The Economic and Social Council

The Economic and Social Council is the organ through which the United Nations seeks to achieve co-operation in solving problems of an economic, social, cultural, and educational character and of matters related to health and other humanitarian conditions. The setting up of this organisation is an indication that the nations of the world realise that the peace of the world cannot be maintained merely by instruments or institutions that will prevent the outbreak of war or act as a check against threats to world peace but also by the provision of economic and cultural facilities which might make war unnecessary altogether. The Council consists of eighteen members elected by the General Assembly, six each year for a three year term. Retiring members are eligible for immediate re-election. The Council works through the medium of Commissions which are expert investigating bodies and also in relationship with the specialised agencies of the United Nations like the World Health Organisation, International Labour Organisation, the United Nations Educational, Scientific and Cultural Organisation and other such agencies.

The Trusteeship Council

The Trusteeship Council has as its main function the supervision of the administration of trust territories under the authority of the General Assembly. The trust territories may be (a) those territories held under the mandate system of the League of Nations (that is, those territories which were taken over from Germany and her allies after the First World War) or (b) territories taken over from Germany and her allies after the Second World War or (c) territories that might be placed under the Council by states which are responsible for their administration. The Council has no fixed membership but it is composed in such a way that the number of members who administer trust territories is equal to the number of members, who do not administer trust territories. The latter are elected for three-year terms by the General Assembly. All the five Great Powers are members of the Council. The aims of the Council are (i) to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories (ii) to encourage respect for human rights and for fundamental freedom for all inhabitants of these territories without distinction as to race, sex, language, or religion and (iii) to promote the progressive development of the trust territories towards self-government or independence. The Council receives and considers reports submitted by the

administering authority, examines petitions from the inhabitants of trust territories and arranges for periodic visits to trust territories after consultation with the administering authority.

The International Court of Justice

The International Court of Justice which sits at The Hague is the judicial organ of the United Nations. It is composed of fifteen judges of different nationalities who are elected normally for periods of nine years by the General Assembly and the Security Council. Member States agree to abide by the decisions of the Court in any case to which they are a party and if they fail to do so, the Security Council may take necessary action to enforce the decision of the Court. There is however no provision in the Charter which compels members to use the Court for purposes of settling disputes.

The Secretariat

The Secretariat is the international civil service of the United Nations Organisation. It is in the charge of a Secretary-General who is appointed by the General Assembly on the advice of the Security Council. The Secretariat is at present divided into eight sections, each under an Assistant Secretary-General.

SOME SPECIALIZED AGENCIES

The International Labour Organisation

This is a thirty-year-old inter-governmental agency whose aim it is to improve by international action labour conditions, raise living standards and promote the economic and social stability of member nations. It was formed after the First World War as an associate organ of the United Nations. Each of the various constitutional organs of the I.L.O. contain two representatives from the governments of the member states, and one representative each from employers and workers. There are three important organs of I.L.O. which help in formulating policy and putting it into action. There is the International Labour Conference which as a rule meets annually. Its main function is to formulate international standards in the form of International Labour Conventions and Recommendations to be adopted by member states or to serve as a guidance to them when enacting social legislation. The Conference elects at three-year intervals, the Governing Body which consists of representatives of sixteen governments, eight representatives of employers and eight from the workers. The Governing Body functions as an executive council and meets about four times a year. The International Labour Office is the Secretariat of the Organisation. It collects information and statistics and distributes them to members. Besides it assists them in the drafting of labour legislation.

The Food and Agriculture Organisation

This was formally constituted in 1945. Its main aim is to achieve freedom from want for the people of the world and with this end in view it seeks to help nations to raise their living standards, to increase the efficiency of their farms, forests, and fisheries, to better the conditions of their rural populations and to improve the nutrition of the people of the world. An Annual Conference in which each member nation has one vote forms the deliberative body of the Organisation. The World Food Council acts for the Conference during the intervals when the latter is not in session. It consists of representatives of eighteen member nations and meets at least twice a year. A Director-General appointed by the Conference directs the work of the Organisation.

The World Health Organisation

This came into being in June 1948. Its chief organ is the World Health Assembly composed of representatives of member States. It is the deliberative body of the Organisation, meets in regular annual sessions, determines policy, decides the programmes of action, confirms the budget, and adopts regulations as regards health matters for the guidance of members.

An Executive Board containing eighteen representatives from eighteen member states designated by the Assembly meets at least twice a year to give effect to the decisions arrived at by the Assembly.

The Secretariat, under a Director-General carries out the decisions and policies laid down by the Assembly and the Executive Board. It has regional offices in different parts of the World. These regional offices endeavour to meet the special needs of the areas under their charge and if necessary render immediate assistance to countries within their area which might be threatened or plagued with disease. The main aim of the W.H.O. it must not be forgotten, is to help in the eradication if not the prevention of disease.

United Nations Educational, Scientific, and Cultural Organisation

The aim of U.N.E.S.C.O. may best be summarised in the opening line of its Preamble.—“Since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed”. With this end in view U.N.E.S.C.O. seeks to destroy the barriers of ignorance and prejudice that exist between the peoples of the nations of the world. It seeks to promote friendly international co-operation by encouraging nations to facilitate the free flow of ideas between their peoples, by the liberal provision of fellowships or travelling scholarships, and the interchange of men learned or active in the fields of education, science and culture. U.N.E.S.C.O. also seeks to promote the realisation of the ideal of “One World”

by organising fundamental educational projects in the under-developed areas of the world. These projects aim at improving primary education and encouraging adult education by easy methods of study and the launching of "pilot projects" in certain selected areas in under-developed countries. U.N.E.S.C.O. has also inaugurated schemes of educational reconstruction in the war ravaged areas of the world. It has assisted these countries by providing them with educational materials such as books for libraries, scientific equipment, and fellowships and training scholarships. Attention has also been paid to the Press, film and radio needs of war-devastated countries. The Organisation's "book coupon" scheme, which enables students to obtain educational matter from "hard currency" areas like the United States without much difficulty, has been of great help in the task of spreading knowledge to the educationally needy.

The Organisation works within the orbit of the Economic and Social Council. It came into being in November 1945. Its deliberative organ is the General Conference which consists of delegates from all member states and meets annually for the purpose of laying down policy and planning a programme of action. An Executive Board comprising eighteen members elected from among the delegates to the General Conference meets at least four times a year to give effect to the decisions of the Conference. An International Secretariat situated at Paris under a Director-General helps in putting into operation the various schemes formulated and planned by the General Conference and the Executive Board. Branch Organisations known as National Commissions are being set up in various countries to assist U.N.E.S.C.O. in its task of promoting intellectual and cultural co-operation between the peoples of the world. There is one such Commission in Ceylon under a Secretary appointed by the Government of this country.

The International Bank for Reconstruction and Development

The Bank has been described as "a bridge from war to peace erected through the co-operative efforts of the Member Nations". Its aim has been to promote the international flow of all types of long-term capital to backward areas and to assist and finance them in their programs of development. In short it seeks to restore the economic health of the world. The Bank has another institution closely related and connected to it. This is the International Monetary Fund. The Fund aims at reviving and expanding international trade by (a) promoting exchange stability and (b) ending the destructive exchange practices which were damaging international trade relations in the period between the two world wars.

All member countries of the Bank are expected to contribute towards its capital. The contribution must be partly in their own currency and partly in gold or dollars. This money is however not

loaned out to under-developed countries for the purpose of financing their development projects. Only a small fraction is given out as loans. The balance is kept as a reserve to meet any unforeseen emergency. Each member country is represented in the Bank by a Governor. The Governors have delegated most of their power to a Board of Executive Directors. They have however retained to themselves certain powers such as those concerning membership and expulsion. The Executive Directors have entrusted the President of the Bank and his staff with the task of carrying out the actual functions of the Bank under their general supervision.

The Bank sends missions of investigation to countries which apply to it for loans with a view to study their development projects and find out whether they are practicable and worth financing. If the mission is of opinion that a project is of real economic advantage to the country undertaking it, it makes the necessary recommendation for the loan. The Bank usually borrows the money it needs for its lending operations from private sources and lends it to the Governments of under-developed countries. The prestige it has in that it commands the support of the leading nations of the world enables the Bank to borrow money on easy terms and lend it out after careful investigation to the economically depressed regions of the world.

The Future

World peace is not merely the absence of global wars nor even of minor regional conflicts. It means a real, and conscious, and moral desire, and genuine belief on the part of mankind that their future happiness lies not in competitive struggles either for markets or for colonies or for living space but the willingness to share available resources and co-operate with one another in promoting the general welfare of humanity. Successive wars have taught reasonable men that we live in an inter-dependent world. This is a fact and an experience that men have learned and re-learned throughout the years. We started as a family. Then we became part of a group. The group became the unit of a tribe. The tribe became a distinct race and the race became a nation or the part of a nation. None of these units could stand by itself. They had to co-operate with a larger unit in order that they might survive. So with the nations of the world. Economic Crusoe-ism is an anachronism today. A bank crash in Wall Street, New York, is likely to have the most fearful repercussions even in the remotest parts of the world. The business interests in New York or London cannot hope to survive by evil and questionable methods of self-interest while the majority of mankind lives in want and misery. Prosperity like peace is indivisible. The people of Australia for instance cannot hope to leave large spaces or bare land uninhabited and

exclude the coloured people of the overpopulated regions of South East Asia from settling on them on the ground that their influx will result in a deterioration of the standards of living. Similarly, Malanism in South Africa cannot hope to survive for long by thriving on the persecution of coloured races. The pressure of population, the yearning for comfort, and the grim determination on the part of human beings to live decent and honourable lives will in the end defeat all plans and policies aimed at segregating races or designed to build up economic sanctuaries for maintaining high standards of living. Some of the nations of the world have already begun this grim reality. Hence, Belgium, Holland, and Luxembourg have organised themselves into a customs entity called the Benelux Union. France and Germany have pooled their steel resources under the Schuman Plan. France and Italy are endeavouring to arrive at some customs understanding. The Scandinavian countries have organised themselves in various ways to solve common economic, social and political problems. Nationalism of the burning and ardent nineteenth century variety is dead. Even the nations of Asia which have just emerged from centuries of rigorous economic imprisonment and enslavement realise that their future lies in combined and co-operative action with other nations of Asia and not by any reversion to outmoded practices of economic nationalism or the erection of stiff and impenetrable fences of trade restrictions and tariff barriers. Global wars have at least bred regional if not continental thinking. Very soon human beings will begin to realise that regional or even continental union for mutual defence or economic self-preservation will hardly suffice to maintain the equilibrium of the world. The universal brotherhood of man is the only highroad to salvation for humanity. The alternative is a dark and gloomy reversion to barbarism. Atomic Wars resulting in ruthless orgies of mutual slaughter followed by the usual trail of disease, hunger, want and misery will only be the reward of those who preach doctrines of ideological supremacy and of those who endeavour to promote hatred between nations.

Some sort of effort has been made to solve universal problems through the medium of institutional devices like the W.H.O., F.A.O., U. N. E. S. C. O., I. L.O., The World Bank, and other international agencies. But these palliatives cannot arrest a cancerous growth which is eating into the very vitals of humanity. It is true that these international agencies seek to better the health standards of the world, to make available financial resources and capital goods to the depressed corners of the earth, to disseminate education, to generalise decent standards of humanitarian treatment in the field of labour and to make food and clothing available at reasonably cheap rates. But there are two serious obstacles to the success of any of these programs. The nations of the world still refuse to surrender their sovereignty. Hence for instance some countries

refuse to adopt high standards of labour legislation recommended by I. L. O. while others are reluctant to make available their surplus stocks of grain or other produce to the more miserable sections of humanity in the fear that an excess of food in the market will result in an automatic reduction of prices. Even in the realm of financial assistance, the World Bank, whose executive is dominated by the more powerful industrialised countries of the world has shown considerable reluctance in providing assistance for the inauguration of large scale industrial projects in the underdeveloped countries due to the obvious reason that success in such undertakings will result in the deprivation of markets for the more prosperous nations. The second serious obstacle which arises from the first is that the world yet remains divided into two camps. There is the Soviet bloc and there is the Anglo-American group. In between there are a few sincere neutrals like India, voices in the wilderness, preaching like John the Baptist a straight and rosy path for the coming of the Messiah of Peace. But the efforts of these neutral peacemakers however earnest and sincere they might be are always likely to be roundly condemned by active partisans in the rival blocs—as the experience of India in the Korean peace talks has shown. The future of world peace and human happiness lies in the development of friendly understanding and co-operation between the rival blocs. To achieve this will be almost an impossible and impracticable proposition. Nevertheless this is the only way out and unless some sort of modus vivendi is discovered by which the two groups can learn to live in harmony with one another, there is the danger of another world war ravaging humanity once more.

APPENDIX

Changes in the Ceylon Constitution

By the Ceylon Constitution (Special Provisions) Act, No. 35 of 1954, the Parliament of Ceylon fixed, for a specified period, the number of members of the House of Representatives at 105. In addition Part IV of the Ceylon (Constitution) Order in Council, 1946, relating to the delimitation of electoral districts was suspended for the same length of time. The length of time referred to extends to a date in 1966 to be decided by the Governor-General. If there is, however, no dissolution of Parliament in 1966, these provisions will continue in force until the date at which Parliament will be dissolved. Thereafter these provisions will cease to have effect. Thus by these new provisions, the House of Representatives besides consisting of the 95 members elected by the electors of the electoral districts already in existence and the 6 members appointed by the Governor-General will in addition have four members elected for the Indian and Pakistani electoral district. The four members will be returned from an electoral district which will be called the Indian and Pakistani electoral district and comprise the whole Island.

Under the provisions of this Act, the qualifications for registration in the register for the Indian and Pakistani electoral district are as follows:—

No person shall be qualified to have his name entered or retained in the register of electors for the Indian and Pakistani electoral district unless—

- “(1) Such person is registered as a citizen of Ceylon under the Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949; and
- (2) the name of such person is entered in any other register of electors for the time being in operation under this Order ; and
- (3) the name of such person is marked in such other register of electors with the ‘disqualification mark.’ ”

A ‘disqualification mark’ is an asterisk or a distinguishing mark by which a registering officer marks the name of a voter when he ascertains that the total number of persons in any register of electors whose names have been entered in that register as citizens of Ceylon by registration under the provisions of the Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949 exceeds 250. If the total number is less than 250 registered citizens, then no ‘disqualification mark’ need be placed.

Members of the House of Representatives cannot be returned nor are they entitled to be returned as members to represent the Indian and Pakistani electoral district.

Changes in Qualifications for Membership of Local Bodies

Under the provisions of the Local Authorities Elections (Amendment) Act, No. 25 of 1953, every person who is not disqualified as provided by section 10 of the Local Authorities Elections Ordinance, No. 53 of 1946 shall be qualified at any time for election as a member for any ward of an electoral area if—

- “(a) he was, on the date of the commencement of the preparation or revision of the Parliamentary register for the time being in operation for any electoral district in which that electoral area or any part thereof is situated, qualified to have his name entered in that register; and
- (b) he was, on the date aforesaid, resident in that ward or any other ward of the same electoral area”.



