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Lucknow University Studies in Political Science.

Recent Experiments IN Constitution Making

BY

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WITH AN INTRODUCTION

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UPPER INDIA PUBLISHING HOUSE LTD.,
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INTRODUCTION

This new and welcome addition to the *Lucknow University Studies in Political Science*, by Dr. Sharma is at once a contemporary history of Central and Southern Europe and of its topical political problems. This study of recent changes in the machinery of the States of Europe is based on a variety of political systems, authoritarian and democratic. Since the publication of Bryce's *Modern Democracies* in 1921, there has been a plethora of comparative studies of political systems. But the rapid and kaleidoscopic changes taking place in Europe necessitate a new and up to date book for students of political science both with regard to the machinery and functions of government, particularly in the authoritarian States of Italy, Germany and Russia.

Three quarters of a century ago, when John Stuart Mill wrote his famous classic *Representative Government*, it seemed to the men of his generation that a final and perfect form of government had been obtained, and that its theory had been authoritatively expressed. To-day the Liberalism of Mill has declined until its future is even despaired of. New theories of the State deriving from Marx or from Mussolini hold sway on the minds of men. These do not aspire to the realisation of liberty but to efficiency in govern-

ment and resulting well-being. Such a change in the political goal, we are assured, is a necessary consequence of modern industrialism and of the machine age.

In the great period of constitution making in Europe that followed the World War, parliamentary government was almost universally accepted part of the new machinery of Republicanism. Not all of these constitutions, however, have succeeded. Several, notably that of Germany, have been replaced by dictatorships. The three leading dictatorships of the present day (i. e., Italy, Germany and Russia) are based on a system of ideas which give a sense of direction to the State and restrain dictators from indulging in purely whimsical rule. Dictatorship in these countries relies upon public opinion to a much greater degree than is supposed. It is not too much to say that the majority of the people in Russia, Italy and Germany support their present leaders in the belief, which may or may not be well founded, that their leaders are more actuated by devotion to the national good than is the case in democratic countries.

Dr. Sharma describes the story of National Socialism in Germany ; why it grew, how it arrived in power and with what motives and attitudes it now faces the tasks and wields the forces of the unified German State after the Anschluss with Austria. His description of the recent changes in the governmental machinery is also admirable. One sees in Nazi Germany a new Sparta. Dr. Sharma

traces the origins, growth, and functions of the Fascist State in Italy in a clear and succinct manner, alike of interest to students of political science as well as to the general reader. He narrates the story of the failure of parliamentary government in Italy and of its overthrow after a half century of trial. Dr. Sharma gives a concise account of the Soviet State, its forms, functions and machinery. The merit of this work, it seems to me, lies in the fact that it is a comparative study with a distinctly Indian outlook, drawing comparisons with Indian conditions wherever and whenever possible, thus making it more interesting and intelligible to the Indian reader.

Dr. Sharma's book not only deals with the authoritarian or totalitarian States, but also with two of the recent democracies of Europe, viz., Ireland and Czechoslovakia. Both are post-war democracies and both contain valuable lessons for India. The problems of Czechoslovakia are akin to the minorities problems of India. She is surrounded by a number of authoritarian States just like an oasis in a desert. The constitutions of Ireland and Czechoslovakia were established at a moment when faith in democracy had reached its highest point. Democracy was considered the best form of government not because it is necessarily the most efficient, but because it is the most reasonable, the most humane, because it makes possible the greatest freedom to the individual. There is one thing better than good government, and that is government by the will of all.

democracies, England, France and the U. S. A., but the triangle brings her into line with these democracies. The success of the triangle depends more upon increase in national armaments and repudiation of the Washington Treaty or the demilitarisation clauses of the Versailles Treaty. And so long as the aggressive policy pursued at the vertices of the triangle does not adversely and intimately affect the interests of England, the threat of war by the fascist states is bound to succeed. Such is the essence and result of Chamberlain's policy now directed towards conciliating Italy and Germany by a virtual recognition of the Roman Empire in Abyssinia and the Anschluss. At the same time England realises the value of French support, and this explains her half serious threat to uphold the integrity of Czechoslovakia. The hands of England too are not clean. Italy, Germany and Japan may well point towards India. London may protest against bombing of civil populations in Abyssinia, China and Spain, but she has her own position to explain or defend, *viz.* the machine-gunning of innocent women and children by General Dyer of Jallianwala Bagh notoriety If England virtually ignored the General's cruelty by characterising it as an error of judgment, and ordering his early retirement, she cannot now question similar expressions of regret by Ugaki or Franco. No nation refuses to co-operate with any movement for humanising warfare, Chamberlain may remember it.

But in the practices followed by the nations there is only a difference of degree, *not of kind*, whether the bombing is in Canton or Barcelona or on the North West Frontier Province of India. It does not help Chamberlain out of the difficulty to say that he did not think that Rev. Andrews should have said that after the statement which he had made.* In truth, imperialism, whatever be its designation or colour, British or Roman, white or yellow, gives the same answer by either name. It arises from similar causes and aspires for similar goals. The concentration camps in Germany could scarcely be distinguished from the temporarily erected jails during the N. C. O. movement of Gandhi. Nor is there any fundamental difference between Italian claim to rule over Abyssinia on humanitanian grounds (the civilising of a nomadic and barbarous people) and the kind of self-government prevailing in the Union of South Africa where eighty per cent of the population, i.e. the whole of the original black people, are debarred from political rights or even most of the civil rights. It does not in any way help a British Prime Minister to point towards Manchukuo or direct attention towards the Lytton Report when not dissimilar conditions have characterised a greater period of British rule in India, more particu-

* The reference is to C. F. Andrews alleging that in the N. W. F. P. the R. A F. planes were used for bombing the civil population. This was made the basis of a question in the House of Commons.

larly in the pre-Mutiny period. *The Hansard* can supply useful information to any claimant of human treatment of Indians to revise his views. How could then England expect Germany, Italy or Japan to apply the highest principles of international morality in extending or founding their empires when the manner and methods of the foundation of the British Empire do not rest on dissimilar basis? The psychology of all imperialists and imperialisms is the same. The present conflict of interests is, as we have said, between the *haves* and the *have-nots.*

Thirdly, racial antagonism is an important feature of modern politics. It has been the corner-stone of many a constitutional experiment in the past twenty years or so. In many places, no doubt, religion has further complicated the issues. If De Valera has succeeded in giving to Ireland a new constitution, if Hitler has purged Germany of all Jewish element and has annexed Austria or supported the Sudeten Germans against the Czechs, they have not opened any new chapter in political diplomacy. They have taken a leaf out of the history of British expansion in the world. Despite the Queen's Proclamation and frequent later announcements of the British Premiers, the condition in India was not in any way different from what racial antagonism has done in modern Europe. The reservation of higher posts of confidence and responsibility for Europeans

or Anglo-Indians, the trial of Europeans in India in a special way and the treatment of European patients by European doctors and surgeons, and, lastly, the almost unlimited reservations in favour of Europeans and Anglo-Indians in the Government of India Act, 1935, are mere footnotes to British sense of justice in relation to non-Europeans. There is hardly any part of the British Empire or even British Islands where theory and practice have been made identical. True, Hitler's pronouncements are too frank an exposition of his policy of Aryanisation. British Imperialism, on the other hand, has chosen a less obvious but certainly more effective method of saying-one-thing-and-doing-another. Durham's report on the Affairs in Canada is yet another document to demonstrate how the English race has looked upon other races with contempt.

This racial consciousness has found expression through various hideous channels and ways. The press, the cinema and the radio have all been made vehicles for the transmission of racial feelings. Some nations have adopted slower but surer methods while the others have resorted to quicker means, and yet these differences have rational explanations. The dictatorships succeed by phenomenal changes; democracies mark time and adopt slower methods. For the present, therefore, it seems that the world is drifting towards a division of the earth on racial

grounds. This is exercising a great influence on the minds of those who are making new constitutions or changing the old ones.

Fourthly, there is evident a new conception of democracy. Real and effective power even in a democratic state is passing into the hands of a chosen few, whether these few are actually elected by the ballot or ushered into office by a negative process of political filtration. With the possible exception of France where the existence of many political groups in the Chamber of Deputies rules out the possibility of any single party exercising power over a long period, no other democracy in the modern world is being ruled strictly according to the verdict of the electorate or in the spirit of its traditional constitution. In England, for example, with the relative majority system of election and single-member constituencies and the presence of three political parties, the Cabinet has often been the mouth-piece of a minority of electors.* In the U.S.A., the working of the constitution under Roosevelt can scarcely be articulated to the wishes of the delegates that had assembled at Philadelphia. The New Deal and the N.R.A. have given more power to the President than was possibly imagined by Hamilton. In short, world forces are compelling the modern democratic states to borrow some of

*And that is why many a writer on the governance of England has dealt with the dictatorship of the Cabinet in a striking manner.

the features of dictatorships. The new Soviet Constitution, professing to be very democratic in many of its features, loses the spirit of its content in actual working because of the Communist Party alone really running the government. Indirectly, the Italian and German dictatorships are also based on the will of the people, whether that will is freely expressed or not. There may be a conflict of opinion with regard to the popularity of the Nazis or the Fascists, but in legal theory both are supported by the mass of people. The people are sovereign in all these states, according to their constitutions, but their government is conducted by a few; the differences in the working of the institutions of England, France, Italy, Germany and Russia are the results of their respective tradition and history. But even in the traditionally democratic states democracy is under rapid revision, introducing far-reaching changes. Hence the new constitution of Ireland embodies some of the results of political experiments made in England and the continental countries.

The new democracy restricts the freedom of the people to the ballot alone. Thereafter the power is concentrated in the hands of the real rulers. This is tolerated because of the new force that is playing a most important part in the world politics of the present day. This factor, fifthly, is the extreme form of nationalism that is being openly, or, in some places, secretly but nevertheless effectively,

preached. This nationalism has come into open conflict with the ideals of the League of Nations. Internationalism, as its very name implies, recognises nationalism to which it assigns a certain place and power, but the form of nationalism which is now preached and made to depend on arming the nation to the teeth is, no doubt, aggressive in its nature, if not openly hostile to internationalism of the League. Europe is again the scene of the new political drama. England and France find their interests safe in peace and disarmament, not that general disarmament in the world appeals so much to them but because therein lies less danger to their own empires. Mussolini, on the other hand, has openly declared that though the aim of Fascist Italy is peace between nations, that peace, so far as Italy is concerned, must rest not on an olive branch but on a forest of bright bayonets firmly gripped in strong hands. Hitler too views the problem in a similar light. This militant attitude of the Rome-Berlin axis has brought into prominence newer problems in Europe, both on land as well as in the Mediterranean. The reiteration and re-guarantee of Swiss neutrality by the members of the League as well as the powers outside it, including Germany and Italy, is but an indirect admission of an impending danger. The extreme nationalism relying on the force and extent of arms can with difficulty be prevented from upsetting political balances or disregarding frontiers. It tries to realise itself in extension

of empire at the cost of the weaker nations. Such nationalism is profoundly influencing the working or framing of modern constitutions.

Sixthly, the realisation of extreme nationalism involves, on the part of the citizen, complete sacrifice of his individuality—individuality as a separate ideal—and its merging in the state. This argues out a new theory of citizenship necessitaing an entire change in the relations of the individual with the State. He is required to merge his identity in the *State*; he is to exist for the State and not the State for him. It seems, therefore, as though there is a retracing of political thought to the ancient Greek days, without, however, any tendency towards spiritualising politics. Does it then mean an unlearning or forgetting of what the last three centuries have taught us ? Perhaps not. We still profess to advance forward, but in doing so build our future on the past, or, and that is more convincing, shape the present so as to adapt itself more to our pre-conceived notion of the State. This the world, or any rate a large part of it, is trying to achieve by relegating the individual citizen to the position of the baby, providing for his happiness all sorts of modern conveniences, dance, music, radio, gymnastics, social clubs, but curtailing his political activities down to the lowest degree, for, it is argued, politics is not his business. Effort is, therefore,

made to enlarge the sphere of governmental activity by giving the State complete control over the citizen's social, economic, cultural and intellectual life. He must read what the State thinks proper for him. He must speak what it wishes him to speak. This accounts for state control of education, the press and all other activities likely to form his character. The confiscation of large volumes of literary works, hostile or seemingly hostile to German Nazism, in Austria is only an instance of what is being done, whether openly or secretly, forcibly or persuasively, in all new States.

Lest there be too much power in organised hands outside the circle exercising authority in the name of the State, most of the new constitutions have embodied detailed articles concerning economic life of the people, giving to the Government full power to regulate the relations between Capital and Labour, and, in not a few instances wide scope to start state industries.

All this tends to redefine liberty. In order to remove restraint so as to make liberty* real, the State is putting greater restraint on the individual. The plea is that the State knows the real interests of the individual better than he himself does. Strikes and lock-outs must be discouraged, for they retard national prosperity and weaken the nation's power. The object is being

*For Laski defines liberty as the absence of restraint.

achieved, at least this is what the constitution makers or rulers assert, either by the institution of a corporative State or by nationalisation of all means of production and distribution. The philosophy of communism, no less than the other and antagonistic philosophy of fascism, promises greater happiness to the individual in the practice of its doctrines. The goal is admittedly the same; the means, no doubt, differ.

Seventhly, and lastly, modern States are devising a new world divided into two hostile camps, each with its own philosophy and institutions. To a Russian communist, salvation of man lies in working out communistic doctrines. National boundaries must more or less disappear. Workers throughout the world must unite so that imperialism may end and a new utopia take its place. The fascist with equal vigour, and and perhaps sincerity, believes that universal peace is impossible so long as the Communist Bear is not killed. To him Reds are the greatest enemies of man-kind.

This antagonism has become so acute as to demand of each party an intensive propaganda against the other; and, what is of special inportance, the propaganda must spread throughout the world. Consequently, the division of the world into two camps—democracies and dictatorships, though the borderline between the two is slowly, though imperceptibly, disappearing—is unintention-

ally perhaps giving a new meaning to internationalism and a new guise to universal peace. To the democracies, excluding the United States of America, the League seems to be the only institution for a true realisation of international harmony and goodwill. To the dictatorships, on the other hand, the League is the main obstacle to world peace.

To a casual observer of current events it would then appear that nations are heading towards a crisis. War is imminent; it may be postponed but it cannot be wholly averted. Some statesmen, however, try to show no such pessimism, and yet they advise their states to rearm vigorously and quickly. What lies behind the minds of the otherwise pacifist statesmen is the ultimate interests of their respective states, in a world full of complexities never before witnessed within human memory. No wonder then that with the rearming of Germany or the growing strength of Italian arms, Eden advises England to arm herself for securing world peace. Such is the reversal of an important article in the League Covenant.

In such a world, then, the recent experiments in constitution-making are marked by these salient features, all or most of which combine together in each particular case. We shall discuss in detail the experiments made in Ireland, Germany, Italy, and Soviet Russia.

CHAPTER TWO

IRELAND

Area in	Irish Republic	Northern Ireland
Statute acres	17, 024, 481	3,351, 444
Population	3, 033,000	1,288,000

Ireland upto 1920.—It was in 1139 that St. Malachy in his letter to Bernard of Clairvaux thus described the condition of Connor, "It was not to men but to beasts he had been sent; in all the barbarism he had yet encountered, he had never met such a people, so profligate in their morals, so uncouth in their ceremonies, so impious in their faith, so barbarous in their laws, so rebellious in their discipline, so filthy in their life, Christians in name but pagans in reality. They neither paid first fruits nor tithes, nor contracted marriages legitimately nor made their confessions." This determined the attitude of the clergymen towards the Ireland of the twelfth century. And that is why Henry II of England readily accepted (in 1168) the proposal of Dermot, the banished King of Leinster, to send out an expedition to Ireland on which he had already fixed his designs since 1153. On the eve of Bartholomew's Day, 1170, Strongbow (the Earl of Pembroke) arrived near Waterford with two hundred knights and a thousand lancers and archers, defeated the Irishmen and subdued Dublin. Henry II established his Law Courts in the

newly conquered parts, though both the systems of laws, English and Irish, continued side by side. This led to tragic results, a necessary consequence of *Divide et impera*. The successors of Henry II could ill spare enough time for Ireland and, therefore the prosperity of the thirteenth century was gradually replaced by the poverty of the fourteenth century. The statute of Kilkenny in 1366 was a frank confession of want of English authority in Ireland. Its very severity aiming at subduing the Irish and disallowing social intercourse with them clearly demonstrated that the measure was conceived in a spirit of despair. "The Romans at least built a wall of stone in order to keep the Scots outside their border; the English built a wall of paper in order to keep the Irish outside theirs. Walls, whether they be of stone or paper, require men behind them, and there were no men, strong men, of action within the Pale." Several expeditions were sent out to subdue the Irish, and they met with varying degrees of success.

To King Henry VII, the first of the Tudars, belongs the credit for attempting to improve upon the past record in Ireland and trying by conciliatory methods to enlist the great tribal chiefs on the side of his government. During the reign of Elizabeth, English rule in Ireland was seriously threatened twice, each time by the O'Neills of Ulster. The opportunity was seized by Philip of Spain

and the Pope both of whom were awakened to the idea that Ireland might well be worked as a basis for operations against the English Queen. Though Elizabeth's forces had then extended into every quarter of Ireland, her parsimony kept them "insufficient in quantity and vile in quality." But with the failure of the Spanish Armada in 1588, the designs of Elizabeth's enemies failed. The Earl of Tyrone (Hugh O'Neill) raised a revolt which was broken and the Earl admitted to the Queen's grace. James I completed the Elizabethan process of introducing the English system throughout Ireland, particularly by planting English colonists. It was at this time that strong Scottish element was introduced into Ulster which became the chief source of trouble between England and Ireland, and still presents serious constitutional difficulties.

Ulster, the north-east corner of Ireland, has produced men in the front rank out of all proportion to their numbers, for it was in the severe school of adversity that the character of the Ulsterman was shaped. Caird, the judge, John Nicholson and Sir George White, the great soldiers, Lord Canning (of the Indian fame) and Lord Dorchester of Canada, Lords Castlereagh, Bryce, Dufferin and Lawrence, all of them statesmen of recognised fame, and among scientists Lord Kelvin, the Napoleon of science, all hailed from Ulster. That is, perhaps, due to the intimate contact

of two races and cultures resulting in their cross-fertilisation.

When Charles I became King of England, he sent Wentworth to benefit the people of Ireland. Strafford's avowed object was to support the cause of absolute despotism in Ireland. He held that the Protestant interest was the true interest of Ireland, and yet he did not hesitate to rouse the ardour of the Irish Roman Catholics against the Protestant Ulstermen. And as the drawback of every cause of despotism lies in the absence of ensuring a successor to the despot, so too in Ireland the successors of Strafford were weak. No wonder then that in October 1641 a disastrous rebellion broke out. There was strong resentment among the nobles as well as the farmers against English rule. Their grievances had not been redressed. That was a time of general reaction against royalty all over Europe, in Spain, France, Sweden and the Holy Roman Empire. The Irish rebellion was backed by influential personalities in Ireland. "Cruelty and bloodshed burst over the north. How many were massacred it is impossible to state.....out of a total population of less than a million and half about ten thousand were, directly or indirectly, done to death.....Rumours of the massacre spread to England, and the rumours lost nothing in the telling. It suited the Puritans to magnify the number of dead for the greater the number the greater the guilt of Charles I."

The English began to identify the cause of Charles I with that of the Irish Roman Catholics; matters had indeed reached breaking point. The Irish revolt was backed by Spain and the Papacy. O'Neill was among their acknowledged leaders. "He was the Irish Wallace, but there was no Bruce to succeed him. His victory at Benburn was striking, but it was a Stirling followed by no Bannockburn." The rebellion lasted till 1649 when Cromwell, after Charles I's head had been cut off, proceeded to subdue Ireland. He landed at Dublin, subdued it and then proceeded to Drogheda where, meeting a strong resistance, he ordered that all should be put to the sword, and according to his own estimate nearly two thousand were killed, including a thousand who had sought refuge in St. Peter's Church to which he had set fire; all these acts were perpetrated to wreak vengeance on the Irish. Of this slaughter Cromwell wrote: "I am persuaded that this is a righteous judgment of God upon those barbarous wretches who have imbrued their hands in so such innocent blood, and that it will tend to prevent the effusion of blood for the future, which are the satisfactory ground of such actions, which otherwise cannot but work remorse and regret." The property of all persons implicated in the Rebellion after October 1641 was forfeited, and by the Royal Declaration of November 30, 1660, all lands possessed by the adventurers were secured to them. "The outcome

was, to use the estimate of Sir William Petty, that before the Rebellion the Roman Catholics owned two-thirds of the land and the Protestants one-third; whereas now the Protestants owned two-thirds and the Roman Catholics one-third. *Vai victis*! was the order of the day."

Ireland again became the scene of another international struggle between the two powerful rivals, *viz.* Louis XIV and William III. Each of these two players on the international chessboard regarded Ireland as a pawn in the game. But a shrewd observer could not fail to notice that each played or attacked it from a European, not from an Irish, point of view. The game was really international, though the national side often seems to have obscured its international significance.

James II had, after his flight from England, joined Louis XIV who began to espouse his cause against William III. Louis received an offer, in 1666, of the submission of Ireland if the Irish were aided in their attempt to throw off the English yoke. In 1689, therefore, Louis resolved on an expedition to Ireland, not to seat James II on his throne, but with the desire of making the wearing of the crown as uncomfortable to William III as possible. But while the siege of Derry, a small town in Northern Ireland, shattered the hopes of Louis, James was

meeting his first Parliament in Dublin on May 7, 1689. Those who had lost their lands into the hands of Cromwellian adventurers were naturally the staunchest supporters of James. Soon the tide turned and the Jacobites and their supporters suffered serious reverses. The battle of Boyne decided the conflict in favour of William III, and the treaty of Limerick, 1691, terminated the revolt. The conquest of Irish soldiers was as complete as the heart of William could desire, but the conquest of Irishmen was as incomplete as the heart of Louis could desire. Thereafter William forced Penal Laws on Ireland. Internally the gulf between the English and the Irish became further widened. The English crippled Irish trade and industries by a slow process.

All this led to the appearance of a memorable book, *The Case of Ireland being Bound by Act of Parliament in England Stated*, which maintained the thesis that Ireland was an independent state and, therefore, not bound by the Acts of English Parliament. In this little book, Molyneux, the author, came to the inference: "If the Parliament of England is to legislate for Ireland, the latter country must have its representatives in an Imperial Parliament. And this I believe we should be willing enough to embrace; but this is a happiness we can hardly hope for." But England's treatment of Ireland showed that trait in the character

of James I, *viz.* to defer concessions till they were robbed of all grace. The Union with Ireland in 1800, therefore, met with the same coldness in Ulster that England had herself shown when the demand was for the first time made. English statesmen, therefore, had to reap a harvest of political ingratitude.

The eighteenth century was marked by the establishment of English rule in Ireland. The Irish Parliament was controlled by only three big families between them. A subject race often gets corrupted by the allurements extended by its rulers. This was very well described by the Earl of Buckinghamshire who wrote to a personal correspondent in 1779, "Most Irish gentlemen enter my closet with a P in their mouths—Place, Pension, Peerage or Privy Council." Gradually Irish prosperity suffered grievously. Agriculture gave place to pasturage, and agrarian grievances coupled with religious grievances made the Irish problem more complex. Meanwhile industrial wrongs too became serious. The English merchant rejoiced at keeping the profitable colonial trade in his own hands. "His Parliament permitted Ireland to export direct to England any sort of hemp, flax, thread, yarn and all kinds of linen duty-free, but for a long time all trade with America, except through Great Britain, was absolutely forbidden." Ireland thus became a source of English prosperity at the cost of the Irishmen.

These industrial and parliamentary restrictions gave rise to an increasing restiveness. The parallel between the cases of the thirteen American Colonies and Ireland, in the last quarter of the eighteenth century, was obvious. Both were the victims of harsh laws, Parliament claiming supremacy equally over the colonial gatherings and the Dublin Assembly. Curiously, there was also community of blood for quite a large number of emigrants from Ulster had gone to the colonies, thus retaining weighty influence over their kinsmen in Ireland. The Penal Laws in Ireland were a part of a political game of the English statesmen. Then the War of American Independence stimulated the movement for Irish liberty. And to the Irishmen there was only one liberty, *viz.* that of the conscience, which was being seriously attacked by the Protestants.

For a time it was felt that the contagion of the American Independence would spread to Ireland, particularly when the economic and industrial questions only accentuated the differences with England. The French Revolution fanned the United Irish Movement. Napoleon thought of taking advantage of the new Irish revolt against England. Meanwhile Pitt was awakened to the danger of the existence of two Parliaments, at Dublin and London, and he determined to put an end to the Irish Parliament. All the forces of bribery and corruption were set in motion to

carry through the scheme for union. The Irish Protestants were bribed or otherwise won with gifts of titles and pensions. The opposition of the Irish Catholics was stopped by promises of Catholic Emancipation, by repealing all laws which excluded them from Parliament or by appointments under the Crown. The revolt was put down with great cruelty. The Act of Union with Ireland was then passed in 1800. Ireland was represented in the English House of Peers by 28 Peers elected for life and 4 Prelates of the Church of Ireland. The Irish got 100 members in the House of Commons. Thus the Irish Parliament was abolished. Grattan, the great Irish patriot had greeted the birth of the Irish Parliament of 1782; and now he grieved over its death. He told Lord Russell, "You have swept away our Constitution; you have destroyed our Parliament; but we shall have our revenge. We will send into the ranks of your Constitution a hundred of the greatest rascals in the kingdom."

Meanwhile Pitt tried to fulfil the pledges he had given to the Irish, Protestants as well as Catholics, but George III proved too great an obstacle. The claims of Ireland remained unsatisfied at a time when they could be gracefully satisfied.

At this time Ireland was fortunate in having Daniel O'Connell to guide the movement of Irish liberty. In 1798, Connell, who

was only twenty-three, fell seriously ill and during the illness he contracted an utter disbelief in physical force and a strong faith in moral force. His character seemed to be a mixture of many opposite qualities. He was movable in his sympathies but immovable in his convictions; he was sensitive and susceptible but also strong and determined; he was local in his outlook but also universal in his sympathies; he was fiercely patriotic but also legal in his method. But the most dangerous of all the gifts he possessed was the power of moving a great mass of people with picturesque words.

Daniel O'Connell had three objects to fulfil, *viz.* the emancipation of Roman Catholics, the disendowment of the Established Church and the restoration of Parliament. The first was achieved in his own day, the second in 1869 and the third has been achieved now by De Valera, and this with results far beyond O'Connell's imagination.

The beginning of the nineteeth century was marked by an increased emigration to the United States. Hundreds of thousands fled from the land of pestilence to the land of hope, but they accentuated the difficulties of those who were left behind. The cheap wheat of the American colonies was the chief agent in crippling Irish cultivation. The land question in Ireland presented serious difficulties, the more so in view of the laws

enforced by Parliament much against the opposition of the Irish members. The Anglican Church established in Ireland where more than three-fourths of the population was Catholic had been assigned all the church property while the Roman Catholic Church had to depend on voluntary contributions by the faithful. To O'Connell, then, it appeared that the liberation of the Irish masses lay in the re-establishment of an Irish Parliament. Consequently, in April, 1840, he founded the Repeal Association with the object of getting the Union annulled. He carried on a whirlwind campaign throughout the island, but his movement received a strong opposition in Ulster where the pro-English Protestant population predominated. O'Connell despised violence and led the repeal movement on the doctrine of non-violence and morality, saying "it is, no doubt, a very fine thing to die for one's country, but believe me, one living patriot is worth a whole churchyard full of dead ones." As against this doctrine, Thomas Meagher, the rhetorician of the Young Ireland Movement, preached a more extreme doctrine of non-co-operation with the English and adoption of obstructionist tactics by the Irish members in Parliament. He scorned at the doctrine of those moralists "who say that liberty is not worth a drop of blood. Men who subscribe to such a maxim are fit for out-of-door relief work and for nothing better.' But both movements, though differing in methods, prepared Ireland for fight against

the English rule. The Irish famine of 1846 brought extreme poverty to the Irish peasant. He was evicted from his holdings for failure to pay rent to the land-lord. The condition of the Irish peasantry of those days was very similar to that of the Indian peasantry in the present times. In fact, there is great parallelism between the problems of the nineteenth century Ireland and the post-war India. The Irish peasantry demanded three F's, *viz.* Fair rent, Fixity of tenure and Freedom of sale. Their demand was vigorously opposed by the land-lords. The British Government relied more on suppression of the Irish nationalist movement than on remedial measures. Abroad, in America, the Irish emigrants founded the Society of the Fenian* whose members were required to swear "allegiance to the Irish Republic, now virtually established, and to take up arms when called on to defend its independence and integrity." In 1863, a great Fenian Convention was held in Chicago, which considerably increased the American agitation in Ireland. The Government in Ireland used repressive measures to counteract the activities of the Fenian Brotherhood. Though the movement was temporarily broken, the spirit of hatred to England, intensified by the sense of its very failure, was increased.

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*This word is said to have been derived from Fiana, a legendary Irish hero. The subsequent history of the party is of great interest to all students of Irish independence movement.

The General Elections in England in 1868 resulted in the victory of Gladstone who took the earliest opportunity to press forward his measure for the disestablishment and disendowment of the Church of Ireland. His measure of 1869 proved a success.

Elated by his success in solving the ecclesiastical question, Gladstone turned to the State. In 1870 he got the Land Act passed which eased tension between the landlords and the tenants.

In 1873, the Irish Home Rule League was established. It was the result of a Conference of the Home Government Association of Ireland held in 1870 and attended by prominent persons belonging to different political groups. This conference unanimously resolved: "That it is the opinion of this meeting that the true remedy for the evils of Ireland is the establishment of an Irish Parliament with full control over our domestic affairs."

Later, the objects of the Association were declared to be:

"To obtain for our country the right and privilege of managing our own affairs by a Parliament assembled in Ireland, composed of Her Majesty the Sovereign and her successors, and the Lords and Commons of Ireland;

"To secure for that Parliament, under federal arrangement, the right of legislating for and regulating all matters relating to the internal affairs of Ireland and control over

Irish resources and revenues, subject to the obligation of contributing a just proportion of the Imperial expenditure;

"To leave to an Imperial Parliament the power of dealing with all questions regarding the Colonies and other dependencies of the Crown, the relations of the United Empire with foreign States, and all matters appertaining to the defence and stability of the Empire at large;

"To attain such adjustment of the relations between the two countries without any interference with the prerogative of the Crown or any disturbance of the principles of the Constitution."

Isaac Butt, who was the chief spirit of the Association, entertained high hopes of success, but the British Government rejected his proposal for a Select Committee to inquire into the nature and extent of the demand of the people of Ireland. For five years he made successive attempts to get his proposal accepted by Parliament. Dispirited and worn-out, Butt died in 1879. Unhappily for himself and for the two countries which he loved with equal sincerity, Butt was the last man to command some measure of success in fighting out the cause by reason which is, no doubt, the least powerful of political weapons. Meanwhile circumstances had so arranged themselves that any one who tried to marshal the cause of Irish freedom by winning ministerial favour was looked upon with suspicion. Butt was succeeded by a new chief of an entirely different temperament, who would not for a

moment listen to a policy of pleasing the Englishmen.

Thus in 1875, Charles Stewart Parnell, who later came to be called the 'uncrowned King of Ireland' and was in many respects unlike O'Connell, became the leader of the farmers. He entered the House of Commons and proved himself a very great tactician, and by using obstructive methods tried to hamper the work of the Commons with the avowed object of destroying the last link which bound Ireland to England. His fiery speeches in peasants' meetings intensified the activities of the Irish anarchists and in 1881 he was arrested. The following table is indicative of the fact that repression led to increase in crimes:—

	Average for 1880 and 1881 (2 years).	Total for 1882 only.
Murders	12½	26
Firing at Persons ...	45½	58
Firing into dwellings ...	105	117
Incendiary Fires and Arson	283	281
Cattle outrages ...	128	144
Threatening letters ...	1,764	2,009
Total ...	2,338	2,635

On May 6, 1882, Lord Frederick Cavendish, the Irish Secretary of State, and Mr. Thomas Burke, the Under-Secretary, were murdered in Dublin. The Government, determined to

oppose force by force, suspended trial by jury, extended the summary powers of magistrates and suppressed seditious meetings and writings. For a time the revolutionary movement received a set-back.

The elections of 1885 resulted in Mr. Gladstone's coming into power. He introduced the Irish Home Rule Bill following more or less the federal lines previously suggested by Butt. As some of Gladstone's own followers refused to support him, the Bill was rejected on the second reading by 343 votes to 313. General elections followed and the Unionists (consisting of the Conservatives and disentient-Liberals) came into office. They could not for long retain office and were succeeded in 1890 by the Liberals under Gladstone whose Second Home Rule Bill in 1893 shared the fate of the first. For a time the question of Irish Home Rule was quietly shelved and the British Government turned its attention to a solution of the financial and economic problems of Ireland.

The huge Liberal majority in the elections of 1906 brought Sir Henry Campbell Bannerman whose magnanimous and brave action in granting self-government to South Africa considerably enhanced British prestige in handling imperial questions, justifying once more the brilliant remark of Edmund Burke that "Great Empires and little minds go ill together." The Liberals now tried to conci-

liate Ireland by resorting to a policy of 'Devolution' of power in place of grant of Home Rule. This did not satisfy the Irish, for Captain Gwynn was correct in writing that "Ireland will not take from them what it would take from the Tories. It will accept, as a palliative, from the party opposed to Home Rule, what it will not accept from those who have admitted the justice of the National demand." Even the erasing of the Penal Laws from the Statute Book by the amending of the Accession Oath did not allay matters. Therefore the Liberals introduced the Home Rule Bill of 1912 which, after meeting some opposition, was placed on the Statute Book in 1914. This created a great split in Ireland: Ulster refused to accept it, for it opposed any kind of separation from England, while the rest of Ireland welcomed it. Thus a civil war threatened Ireland, both sides importing large quantities of arms and ammunition from abroad. Curiously the wrath of the two parties was directed against England rather than against each other. Meanwhile the Great War broke out and Ireland, forgetting for a moment its own question, rallied round the Empire, believing that Irish Home Rule would be won on the fields in Flanders rather than in Ireland. For two years Irish youths willingly volunteered themselves for the service of the King. The patience of the Irish Nationalists soon gave way and in 1916 a serious insurrection broke out in Ireland. On Easter Monday (April 16) the Nationalists

(consisting of the youths of Ireland) proclaimed the establishment of an independent Irish Republic. John Redmond who was once denounced by Englishmen as the greatest enemy of England, but later relied upon by them as a sincere well-wisher of the Empire, could not check the rebellion. The Government, while taking steps to suppress it, convened a Convention, in 1917, consisting of Irishmen of all classes and creeds and of all political parties. At the conclusion of the Convention, the nineteen Ulsterites renewed their demand for separation from Southern Ireland. Two of the members presented a separate report while the remaining sixty-seven recommended the immediate establishment of an Executive responsible to the Irish Legislature of two Houses, with full control over internal legislation, administration and direct taxation, retaining at the same time Irish representation at Westminster. Unfortunately, however, the very day (April 12, 1918) the chairman of the Convention put the Report into the Prime Minister's hands, the latter announced application of conscription to Ireland. Consequently a storm broke which shattered all chances of a peaceful settlement. The Irishmen denied the right of any but their own elected legislature to enforce conscription; moreover even in England conscription had not till then been applied.

Sinn Fein which had become the dominant factor in Irish public life since the Easter

week of 1916 now found none to challenge its authority over Nationalist Ireland. President Wilson's famous doctrine of self-determination roused in them some hope of winning Irish freedom as a result of the Paris peace talks. Meanwhile the majority of the Irish members elected to Parliament in 1918, refusing to attend at Westminster, assembled together under the name of Dail Eireann at Dublin and swore to uphold the Irish Republic. A parallel government was established; a republican loan was floated; representatives to most European capitals were sent to get recognition for the new State; Arbitration Courts were set up; and a new system of local government was introduced. The British Government took up this bold challenge of the Sinn Fein. It suppressed the Dail Eireann; it took severe measures against newspapers that advertised the new Republic; it declared unlawful the Arbitration Courts. In return the Sinn Fein launched upon a guerilla warfare against the British Government forces.

Thus attacks and counter-attacks were resorted to. But in 1920, the Government passed a new Act repealing that of 1914, and providing for separate parliaments for the six counties of Northern Ireland and the twenty six counties of Southern Ireland. A year later (26th. June, 1921) Mr. Lloyd George invited Mr. Eamon de Valera, who had been President of the Dail Eireann since 1917, and

Sir James Craig, Prime Minister of Northern Ireland, to a conference in London. Amnesty to the Irish leaders in prison or in internment was granted and the Dail was allowed to meet openly. The conference dragged on with increased membership, and shortly after midnight on December 6, a Treaty between Great Britain and Ireland was signed.

From the Treaty to 1937—The Treaty signed on behalf of the British Cabinet by Mr. Lloyd George, Mr. Austen Chamberlain, Lord Birkenhead, Mr. Winston Churchill and others, and on behalf of Dail Eireann by Mr. Arthur Griffith, Mr. Michael Collins, Mr. Robert Barton, Mr. E. S. Duggan and Mr. Gavan Duffy was of the most revolutionary character, inasmuch as it granted all the demands of the Irish Nationalists except complete separation from the Empire and the forcible inclusion of Northern Ireland in the Irish State. By the first article Ireland was given "the same Constitutional status in the Community of Nations known as the British Empire as the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand and the Union of South Africa..... styled and known as the Irish Free State."* Other articles regarding the relationship of the Crown or its representative to the Irish Free State secured the same terms as were prevalent in Canada. Ulster was recognised as forming *prima facie* a portion of the Free

*The terms *Dominion* or *Colony* were skilfully avoided.

State, but if within a month of the ratification of the Treaty by Parliament, the two Houses of the Parliament of Northern Ireland presented an address to His Majesty, the powers of the Parliament and Government of the Free State would not extend to the northern counties. And finally, the Treaty provided for the creation of a Provisional Government for the Irish Free State, pending the making by it of a formal constitution. To the Provisional Government were transferred all powers and machinery necessary for due discharge of its duties.

The Irish signatories to the Treaty had obtained for Ireland something far exceeding the dearest hopes of generations of their countrymen, but on returning to Ireland they were met with silence and black faces. For Ireland had by that time lost all faith in constitutional methods. The youths of Ireland had all been jailed some time or the other for their nationalistic views and actions. And they were now unwilling to accept mere 'Dominion Status,' having already sworn to 'uphold the Republic.' For some time the fate of the Treaty hung by a thread. De Valera fiercely opposed ratification of the Treaty by the Dail. But on January 7, 1922, the Dail decided to accept the Treaty by a majority of seven. In England, it was ratified by large majorities in both Houses.

The young and enthusiastic, but inexperienced, leaders of Ireland were faced with

a heavy and perilous task, *viz.* to settle the vexed questions of setting up a machinery of government, to recoup the finances, and to inculcate in the people the habit of obedience to constituted authority. To all this was soon added an insurrectionary movement which, beginning in open warfare, quickly degenerated into murder, brigandage and wanton destruction of all kinds of property. The new ministry was, therefore, in a very difficult position. It could not possibly acquiesce in so flagrant a defiance, nor could it invoke the aid of British army against its countrymen for fear of being characterised as the tools and paid agents of Downing Street.

De Valera, who was left the only prominent survivor of the Easter Rising of 1916 after Collins had been killed, now guided the insurrection. On the other hand, William T. Cosgrave, who was elected President of the Council of Ministers, led the party in favour of the Treaty. The newly constituted Provisional Government determined to restore order and continue the work under the Treaty. De Valera was arrested and imprisoned. The new elections to the Dail resulted in 92 supporters of the Treaty (including 58 followers of Cosgrave) being returned as against 36 opponents. The most noteworthy event of that period was the enacting of a Constitution (October 25, 1922) by the Provisional Government, which was accepted by the British Parliament on December 5. It was put into

effect on December 6, by a Royal Proclamation.

The Irish Constitution of 1922 presented many novel features. While it resembled older models in certain respects it contained several divergences of considerable interest to any serious student of government. It declared the Irish Free State (Saorstat Eireann) to be a "co-equal member" of the "Community of Nations forming the British Commonwealth of Nations." It recognised the sovereignty of the Irish people in Article 2 which stated: "All powers of government and all authority legislative, executive, and judicial in Ireland, are derived from the people of Ireland....." In this way it indirectly ruled out the supremacy of the British Parliament, giving to the Free State a more independent status within the Empire than was enjoyed by any other self-governing dominion. Irish language was recognised as the official language of the Free State, though English was to have equal status (Art. 4). Articles 6—10 enunciated the rights of citizens—liberty of the person, inviolability of the dwelling of each citizen, freedom of conscience and the free profession and practice of religion, free expression of opinion, and the right to free elementary education. This was in strange contrast to the English constitution or the constitution of any other member in the Commonwealth. The reason is not far to seek. The Englishman never attaches any importance to official

phraseology or the frozen rigidity of written documents; he seems to have a love for legal fiction and is jealous of shibboleths that confound a foreigner. On the other hand, the Irishman, much like a Latin, is eager to develop to the finality of consequences all promises of the twentieth century democracy. This accounts for the written character, in the Irish constitution, of all those underlying ideas and unwritten conventions and usages which are the characteristics of the English Parliamentary System.

The legislative power was vested in a bi-cameral parliament called the Oireachtas consisting of Dail Eireann (lower house) and Seanad Eireann (upper house) whose members were granted all the usual privileges and rights enjoyed by legislators in democratic countries. Each house controlled its procedure. Every member of the Oireachtas was required to take the following oath:—

I.....do solemnly swear true faith and allegiance to the Constitution of the Irish Free State as by law established and that I will be faithful to H. M. King George V, his heirs and successors by law in virtue of the common citizenship of Ireland with Great Britain and her adherence to and membership of the group of nations forming the British Commonwealth of Nations.

A comparison of the form of this oath with those contained in the constitutions of other dominions clearly demonstrates the eagerness with which the Irishmen wanted to drift away from the Empire.

Among others the Oireachtas was given the following powers :—

(1) To create subordinate legislatures with such powers as may be decided by law (Art. 44).

(2) To provide for the establishment of Functional or Vocational Councils representing branches of the social and economic life of the Nation (Art. 45).

(3) To exercise exclusive right to regulate the raising and maintaining of forces as mentioned in the Scheduled Treaty, and the control of those forces (Art. 46).

(4) To provide for the Initiation by the people of proposals for laws or constitutional amendments (Art. 48).

The Oireachtas was forbidden to make *ex post facto* law. Its consent was necessary to active participation by the Irish Free State in any war save in case of actual invasion.

With regard to constitutional amendments, Article 50 provided:

Amendments of this Constitution within the terms of the Scheduled Treaty may be made by the Oireachtas, but no such amendment, passed by both Houses of the Oriechtas, after the expiration of a period of eight years from the date of the coming into operation of this Constitution, shall become law, unless the same shall, after it has been passed or deemed to have been passed by the said two Houses of the Oireachtas, have been submitted to a Referendum of the people, and unless a majority of the voters on the register shall have recorded their votes on

such Referendum, and either the votes of a majority of the voters on the register, or two-thirds of the votes recorded, shall have been cast in favour of such amendment. Any such amendment may be made within the said period of eight years by way of ordinary legislation and as such shall be subject to the provisions of Article 47 hereof.

According to Article 47, any Bill passed or deemed to have been passed by both Houses could be suspended for a period of ninety days on the written demand of two-fifths of the members of Dail Eireann or of a majority of the members of the Seanad Eireann presented to the President of the Council not later than seven days from the day on which the Bill was passed or deemed to have been passed. And if the Seanad by three-fifths vote or one-twentieth of the voters by a petition so demanded, such Bill was submitted to referendum in accordance with regulations made for the purpose by the Oireachtas. In such a referendum the decision of the people by a majority of the votes prevailed. Money Bills and such other Bills as were deemed by both Houses to be necessary for the immediate preservation of the public peace, health or safety were left outside the scope of this Article. Thus ultimate decision in cases of most Bills, even though they had passed through both Houses, was left to the people.*

This Article 47 was really a striking negation of majority rule and a safeguard

*See judgment of Lord Chief Justice Molony, Court of Appeal, August 2, 1923, on Public Safety Emergency Powers Bill.

against hasty and immature legislation, and was a peculiar characteristic of the constitution.

The constitution provided that the Oriechtas might make provisions "for the Initiation by the people of proposals for laws or constitutional amendments." If the Oriechtas failed to make such provision within two years, seventy-five thousand voters on the register, not more than fifteen thousand of whom belonged to a particular constituency, could send a petition on receipt of which the Oriechtas either (1) had to make such provisions, or (2) had to 'submit the question to the people for decision in accordance with the ordinary regulations governing the Referendum'. Any legislation made by the Oriechtas regarding Initiation by the people had to provide "(1) that such proposals may be initiated on a petition of fifty thousand voters on the register, (2) that if the Oriechtas rejects a proposal so initiated it shall be submitted to the people for decision in accordance with the ordinary regulations governing the Referendum, and (3) that if the Oriechtas enacts a proposal so initiated, such enactment shall be subject to the provisions respecting ordinary legislation or amendments of the constitution as the case may be." (Art. 50).

The three articles 47, 48 and 50 read together vested in the people of the Irish

Free State large powers of controlling legislation, ordinary as well as that seeking to amend the constitution, and thus conferred on them greater freedom than was enjoyed by the British subjects under the British Constitution. And finally, it is clear that the British Parliament lost all powers to amend the Irish Constitution subject, however, to the terms of the Scheduled Treaty. No wonder then that in view of their past sufferings, and hardships, extending over several centuries, the Irishmen made full use of the powers conferred on them by these Articles, particularly towards making Ireland a republic in no way tied to Great Britain.

The most novel feature of the Irish Constitution of 1922 was the form of the Executive Authority of the Irish Free State. Article 51 vested this authority in the King, to be exercised in accordance with the law, practice and constitutional usage of the Dominion of Canada. It provided: "There shall be a Council to aid and advise in the government of the Irish Free State (Saorstat Eireann) to be styled the Executive Council. The Executive Council shall be responsible to the Dail Eireann, and shall consist of not more than seven nor less than five Ministers appointed by the Representative of the Crown on the nomination of the President of the Council." The President of the Council was to be in position and authority, though not in the manner of appointment, like the Prime

Minister of any self-governing dominion. No doubt, the constitution attempted to follow the constitutional practice prevailing in other dominions, yet it reduced to black and white what was left to convention, constitutional usage and practice or to be included in the Instrument of Instructions to Governors General in the dominions, because the Irishmen by temperament preferred definiteness to flexible conventions.

The Ministers of the Executive Council all belonged to the Dail Eireann. Though in England there has grown up a strong convention that all important offices in the cabinet must go to members of the House of Commons, yet some places therein are often occupied by the members of the House of Lords, as there is no restriction regarding formation of the Cabinet. Hence, the fusion of the legislative and executiue functions brought about by the specific condition of a Minister holding a seat in the Dail brought the Irish Constitution into the category of Cabinet, rather than the Presidential, system.

To ensure that the Executive Council was responsible to the Dail and that the President, though appointed by the Crown's representative, was really the person enjoying confidence of the Dail, with power to nominate a Vice-President, Article 53 provided :

"The President of the Council shall be appointed on the nomination of Dail Eireann. He shall nominate a

Vice-President of the Council, who shall act for all purposes in the place of the President, if the President shall die, resign, or be permanently incapacitated, until a new President of the Council shall have been elec'ed.....The other Ministers who are to hold office as members of the Executive Council shall be appointed on the nomination of the President, with the assent of Dail Eireann, and he and the Ministers nominated by him shall retire from office should he cease to retain the support of a majority in Dail Eireann, but the President and such Ministers shall continue to carry on their duties until their successors shall have been appointed : Provided, however, that the Oriechtas shall not be dissolved on the advice of an Executive Council which has ceased to retain the support of a majority in Dail Eireann."

The Executive Council was made 'collectively responsible for all matters concerning the Departments of State administered by Members of the Executive Council.' It prepared estimates of receipt and expenditure of the Free State, every year, for submission to the Dail. It met and acted collectively.

Articles 55 and 56 introduced an extremely important, and atonce an entirely new, element in the Executive Council. This was the nomination, by the Dail, of Ministers from outside the Legislature. A Committee of the Dail, constituted in such a way as to be impartially representative of the Dail Eireann, recommended the names of such ministers who were finally nominated or rejected by the Dail. The total number of Ministers, including the Ministers of the Executive Council, was not to exceed twelve.

Thus the Ministry could consist of not more than twelve persons of whom the Ministers of the Executive Council (the real Cabinet) were not to exceed seven.

Those Ministers who were not members of the Executive Council differed from the Executive Councillors in certain respects, *viz.* (1) every former Minister, was individually responsible to the Dail for the administration of the Department of which he was made the responsible head, and (2) his term was the same as that of the Dail Eireann existing at the time of his appointment, but he continued in office till his successor was appointed, and he could not be removed from office otherwise than by the Dail Eireann itself, and only for stated reasons. The addition of such Ministers gave a security and stability to the administration without its being affected by the changes in the Executive Council. Moreover, as the latter was theoretically appointed by the representative of the Crown, the former, being solely appointed by and responsible to the Dail, gave to this popular branch of the legislature a real and effective hand in the actual administration of the state. At the same time it introduced an element into the Ministry free from all fluctuations and changes in the Executive Council.

Every Minister, whether a member of the Dail or not, could attend and be heard in the Seanad Eireann. He received such remunera-

tion as was prescribed by law, and the remuneration of a Minister could not be diminished during his term of office.

The Representative of the Crown was styled the Governor-General of the Irish Free State and was appointed in like manner as the Governor-General of Canada in accordance with the usual practice observed in making such appointments. His salary was to be the same as that of the Governor-General of the Commonwealth of Australia, to be paid out of the public funds of the Free State. It is clear, therefore, that the Governor-General of the Irish Free State occupied the position of a mere constitutional head of the state, while the real executive power was exercised by the Executive Council responsible to the Dail.

The constitution set up a judiciary more independent than that of other self-governing dominions, with the possible exception of the High Court of the Commonwealth of Australia. Arts. 64—72 dealt with the constitution of the public Courts (consisting of the Courts of First Instance and a Court of Final Appeal to be called the Supreme Court) to be established by the Oriechtas. The Courts of First Instance included also a High Court, "invested with the full original jurisdiction in and power to determine all matters and questions whether of law or fact, civil or criminal, and also Courts of local and limited jurisdiction with a right of appeal as determined by law."

(Art. 64). The High Court exercised original jurisdiction in all cases in which the validity of any law under the Constitution was involved. The Supreme Court was given appellate jurisdiction in all cases (except those prescribed by law), including questions relating to the validity of any law, from the decisions of the High Court. The decision of the Supreme Court was final, and not subject to review by any other Court or Tribunal or Authority whatever, but His Majesty could grant special leave to appeal from the Supreme Court to His Majesty in Council. The Representative of the Crown (*i.e.* the Governor-General of the Irish Free State) appointed the judges of all the Courts on the advice of the Executive Council. Judges were to be independent in the exercise of their functions, subject only to the Constitution and the law in force.

Restrictions regarding trial by Military Courts were laid down so as to ensure administration of justice in due course of law and in the ordinary courts, except in the case of offences against military law. Trial by jury in all criminal cases was granted.

Transitory Provisions were also included in the Constitution, allowing old institutions to function and old laws to remain in force till the new Constitution came into full operation.

Neither the Treaty nor the Constitution found favour with Fianna Fail (the new name

of the the Sinn Fein party) now led by Mr. De Valera. On the other hand, Mr Cosgrave's pro-Treaty party was determined to respect the Treaty and work the Constitution. De Valera carried on an intensive propaganda, denouncing the Treaty and asking his countrymen to uphold the Republic. The Fianna Fail resorted to revolutionary methods, open defiance of authority and murder of officials.

New elections to the Dail were held in 1923. This Dail was constituted according to Article 26, the total strength being fixed at 153, at the rate of one member for not less than each thirty thousand of the population or for not more than twenty thousand of the population, the membership to be revised every ten years after census. The General Election was held on the same day throughout Ireland, and the normal life of the Dail Eireann was fixed at four years, unless sooner dissolved on the advice of the Executive Council (Art. 28). In this election, the pro-Treaty party of Cosgrave returned 63 members and the Fianna Fail 44, thus leaving the real balance of power in the hands of the Farmers, Labourites and Independents, all of whom got the remaining 46 seats. De Valera who had been opposed by Eoin Mac Neill, the nominee of Cosgrave on the Boundary Commission, expected to be appointed under article 12 of the Treaty, was elected getting more than twice the votes secured by his opponent. In all the 26 counties the

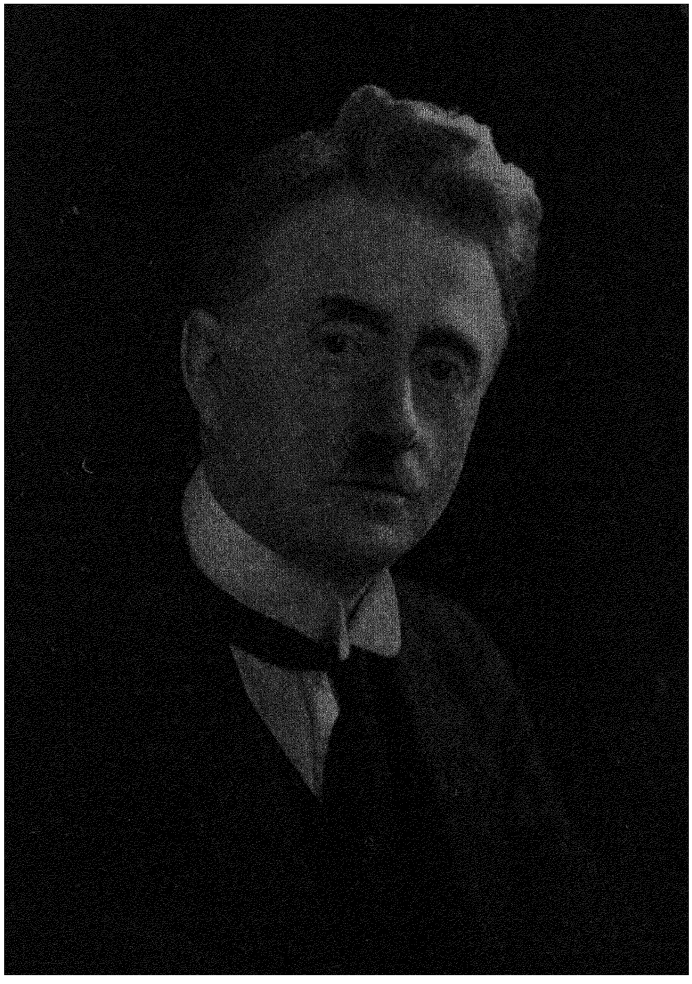
Government Party (pro-Treaty party) obtained 415,000 first preference votes as against 286,000 of the Republicans.

This result was acclaimed by the pro-Treaty Press as a great victory for the Free State Government, but a writer in the *Morning Post* exposed the real position in these words:

"……Candour and common honesty might restrain our newspapers from talking nonsense about a 'victory for law and order,' a 'vindication of the Treaty', a critical election without bloodshed' and a 'visible proof' of the success of the Free State Government……No one—or next to no one—is for the Treaty. The Government Party are so far from being for the Treaty that they profess in their speeches to be more Republican than the Republicans. ...The Treaty rests on the most insecure of all possible foundations."

Cosgrave was re-elected President of the Executive Council. De Valera was thrown into prison. The fight between the two parties became severer. About twelve thousand Republicans were imprisoned, many without trial. They resorted to hunger-strike in jail for long periods.

The Irish Republican Army (I. R. A.) continued to put up armed resistance against the pro-Treaty Party Government which was supported by the Irish Republican Brotherhood (I. R. B.). On January 26, 1924, the Free State Government armed itself with



WILLIAM T. COSGRAVE.

(FIRST PRESIDENT OF THE IRISH FREE STATE.)



DE VALERA

another Public Safety Act giving itself power to imprison persons without trial. Six months later De Valera and other Republicans were released from the jail. For the next nine years the fight between the two parties continued on the Treaty issue. The Cosgraveites maintained that the Treaty gave the Free State virtual independence, whereas the De Valera-ites condemned it as worse than useless. To demonstrate his view-point, De Valera introduced a private bill to abolish the Oath of allegiance, which was refused even the first reading. Thereupon a petition signed by 75,000 voters demanding initiative by Referendum, under Article 48 of the constitution, on the Oath question was presented. To counteract this move of the Republicans, the Ministry brought in a Bill to abolish the Referendum. This step further alienated the sympathies of even the supporters of the Treaty for the Government Party.

Meanwhile the question of settling the boundary between Northern Ireland and the Irish Free State took an acute turn. The British Government took steps which surprised even the staunchest supporters of the Treaty. In effect, the recommendations of the Boundary Commission (consisting of 3 members of whom one was a nominee of the British Government on behalf of itself and another, again its nominee, on behalf of Northern Ireland) were thoroughly disappointing and unjust to the Free State.

The Free State Government which had pinned its faith in British sense of justice now lost all popularity with its own supporters. The stand De Valera had taken against the Treaty appeared to be justified by the events. On November 25, 1925, he said: "If there are any people left who still believe in the 'Treaty' policy, and the professions of those who carried it, they will be finally disillu sioned when that other commission provided for in the 'Treaty'—the Financial Commission —is set up and comes to deliver its award." This other Commission provided for in Article 5 of the Treaty was to adjust the financial claims of Great Britain and Ireland.

The Cosgrave Government entered into negotiations with the British Government on both the questions—Boundary and Financial —and ultimately came into an agreement signed on behalf of the Free State by Cos. grave, Higgins, and Blythe and on behalf of Great Britain by Stanley Baldwin (then Prime Minister), James Craig and others. By this Agreement the powers of the Boundary Commission were revoked and the Free State's liability under Article 5 of the Treaty was cancelled. Nothing was, however, stated about the Free State's counter-claims. On the other hand, the Free State "undertook to recoup the British Government for such compensation as the British Government had paid on account of the depredations of its Forces in Ireland before the Truce," and to

increase by 10 per cent the compensation given to the Unionists and the supporters of the Treaty for the damages they had incurred during the Civil War. Besides, the land annuities of £ 250,000 per year were to be paid to Great Britain for sixty years. The Dail passed the Financial Agreement by 71 votes to 20 on 10th December, the Republican deputies keeping aloof for the day. These assembled in another place and registered their strongest protest against alienating Irish sovereignty and the partitioning of their country. What more could they do ?

Thus ten years after the Easter Rising of 1916, Ireland stood almost where it was, only more divided and more impoverished. Miss Macardle has described the position in the following striking words :

"The Irish people had created their Republic and sustained it with as much courage and devotion as any people have brought to the defending of their national inheritance. Those who surrendered it, surrendered it because they were deceived and bewildered, and under a threat of renewed aggression which they believed they had not the strength left to endure. Those who refused to surrender had suffered a second defeat at the hands of their countrymen. These, now, were disfranchised and powerless. De Valera was a*

* The Cosgrave Government tried also to prescribe taking of Oath by candidates before their nomination for elections to the Dail.

leader without an army, without a voice in Parliament, without funds."

But the tenacious De Valera whose supporters—the Republican Deputies—had refused to take the oath of allegiance and were thus out of Dail, continued his fight for Irish Independence outside the British Empire.

De Valera now decided on a change of tactics. At his suggestion, the Republican Deputies signed the oath, treating it as an 'empty formula,' and took their seats in the Dail on the Opposition Benches.

The Cosgrave Government ordered a new General Election in August, 1927. None of the parties, Republicans, Cosgraveites, Labourites and Independents, secured a clear majority. The Cosgravietes were the largest group, hence Cosgrave was re-elected President of the Executive Council.

The Republicans decided to stay in the Dail and try constitutional methods to achieve their object, refusing at the same time to have social relations with the Government party. In this respect the Republicans may well be considered the precursors of the Indian National Congress party in the new legislatures elected under the Government of India Act, 1935. Both the Irish Republicans and

the Indian Congressites tried obstructionist tactics and non-co-operation to win the independence of their countries. No doubt, this policy created considerable hatred against the then existing Government and a wave of national enthusiasm. But both were equally awakened to the hard realities of facts that success could be gained only through a constructive programme. Destruction led only to further embittering of feelings, avoidable sacrifices by the innocent followers and a general upsetting of social and political order.

The Irish Republicans drew up a very attractive programme containing high promises. At that moment Cosgrave committed a grave error by introducing a Public Safety Bill in the Dail as a permanent amendment to the Constitution, empowering the Government to suspend trial by jury and establish Military Courts, with power to inflict death penalty. The measure required the accused to prove his innocence, and gave the police and the military unlimited powers to arrest and detain suspects. Both the Dail and the Seanad passed the measure. Two years later, there was a general world depression which affected Ireland as well. The Cosgrave Government increased taxation. All this gave the Republicans the opportunity they wanted, *viz.* to denounce the Government for its extravagance and pro-British policy, and they successfully exploited the situation.

The General Election of February, 1932, resulted in the Fianna Fail capturing 72 seats out of a total of 153, the Cosgrave party obtaining only 57, thus leaving the balance of power to the Labour Party. De Valera, now being the leader of the largest single party in the Dail, decided to form the Government with the tacit help of the Labourites. On March 9, 1932, the Dail elected him as President of the Executive Council. Immediately he announced the composition of his first Cabinet. That was a great event in the modern history of Ireland. For centuries the Irish Nationalists had adopted various methods to acquire control over the government of their country. They had so far vehemently criticised the Governments and their programmes, and now they were faced with hard facts and a serious responsibility of administration. And to-day it must be admitted that the Irish Republicans successfully discharged their responsibility.

De Valera had before him only one ultimate goal, *viz.* to make Ireland a Republic free of all British influence and connection. But he immediately set before him some objects in the direction of the goal. These were to abolish the Oath of Allegiance to the King, to cut down the heavy expenditure of administration, to abolish the Senate which had proved to be a very conservative and pro-Treaty body, and to settle the question of land annuities. Wisely he did not raise the question of formally severing all connection

with Great Britain or the British Empire, but kept on sending Irish delegates and representatives to Ottawa, London, etc.

Within a week of his assumption of power he publicly declared his determination to abolish the Oath. The Dail passed the necessary measure and even the Seanad, though it was feared it might raise difficulty, quietly acquiesced in it. Further amendments to the Constitution were made one after another, the most important of which abolished the Seanad. The cost of administration was rigorously cut down; high salaries were reduced and unnecessary expenditure was stopped.

The question of land annuities presented the most serious difficulties. The total amount which Ireland was required to pay to Great Britain had reached the high figure of £5,000,000 per year. It included, besides the land annuities, pensions payable to members of the Royal Irish Constabulary and the Civil Servants and judges who had voluntarily retired on the inauguration of the Irish Free State. De Valera refused payment of the annuities and kept the amount in a 'Suspensory Fund.' The British Government retaliated by imposing duties on Irish imports, but this measure only led to making Ireland a self-contained economic unit. Retaliation also increased bitterness and for sometime the "economic war" threatened to bring about an unprecedented crisis. Though negotia-

tions between the two countries were continued, a solution was deferred again and again. At the same time De Valera wanted a reunion of Northern Ireland and the Free State. Stupendous difficulties obstructed his path, but his leadership created great confidence in the public mind, and the shackles of the Treaty were steadily removed one after another. Writing in 1937, Miss Macardle, a staunch Republican, thus described the Irish situation :

"Through four-fifths of Ireland the process goes forward. The stranglehold of the Treaty is being loosened and the imposed clauses of the Constitution removed: every internal function of the King has been eliminated, the Oath, the appeal to the English Privy Council, the Senate and the Governor-General have disappeared. The economic life of Ireland and the native culture are being, in a large measure, restored. And while the people are regaining the strength that would enable them, if the need came, to resist coercion, political thought is advancing in Britain: the exploitation of the weak by the strong has been named by its just name, aggression; the law of the jungle falls into disrepute; a generation of Englishmen with new ideals of state-craft is taking the reins of power. Perhaps this generation may make anew the opportunity that, in 1921, was so tragically wasted, and may see an Irish Republic make,

with the British Commonwealth of Nations, a compact of amity and peace."

And this generation has made "anew the opportunity" and has seen "an Irish Republic make, with the British Commonwealth of Nations, a compact of amity and peace," though the problem of the unification of Ireland still remains unsolved.

De Valera has used his power, influence, patriotism and tenacity to build up an Irish Republic. During the first five years of his Presidentship (under the Constitution of 1922) he succeeded in altering some important articles in the Constitution. By the removal of Oath Act, 1933, paragraph 2 of the Introductory part of the Constitution and the words "within the terms of the Scheduled Treaty" occuring in Article 50 relating to Amendment of the Constitution were deleted, thus making it legal and possible to amend or construe the said Constitution without any reference to the Articles of Agreement for the Treaty of 1921. Consequently any amendment or construction of any articles in the Constitution even though repugnant to the provisions of the Scheduled Treaty was made valid. Since then the Treaty lost its significance, and the Irish Republicans were free to introduce any changes in the Constitution of the Free State.

Having thus prepared the ground for effecting far-reaching constitutional changes

—the most disputed questions between the Irish Free State and Great Britain remaining unsolved—De Valera prepared the draft of a new constitution for replacing the Irish Free State by an Irish Republic. The Bill was passed by the Oireachtas and then referred to the people. The plebiscite gave decisive verdict in favour of De Valera In this way, from 29th December 1937, Irish Republic came into existence. The dreams of the rebels of Easter Monday of 1916 were realised within less than a quarter of a century.

The Irish Republic of 1938.—The Constitution of the Irish Republic begins with the following Preamble:

In the Name of the Most Holy Trinity, from Whom is all authority and to whom, as our final end, all actions both of men and States must be referred,

We, the people of Eire,

Humbly acknowledging all our obligations to our Divine Lord, Jesus Christ, Who sustained our fathers through centuries of trial,

Gratefully remembering their heroic and unremitting struggle to regain the rightful independence of our Nation,

And seeking to promote the common good, with due observance of Prudence, Justice and Charity,

so that the dignity and freedom of the individual may be assured, true social order attained, the unity of our country restored, and concord established with other nations,

Do hereby adopt, enact and give to ourselves this Constitution.

This Preamble puts in a nut shell the whole of the spirit and constitutional position of the Irish Republic. It opens with the characteristic Catholic homage to the *Most Holy Trinity*, declaring that all actions of men and States must be so conducted as to refer to the Divine authority. It emphasises the sovereignty of the people of Eire who acknowledge their obligations to Lord Jesus Christ Who "sustained our fathers through centuries of trial," and gratefully remember "their heroic and unremitting struggle to regain the rightful independence of our Nation." It was in 1170 that Henry II, king of England, had sent Strongbow to Ireland, who deprived the Irish of their independence. For more than seven centuries the Irish, at different periods of their history, had put up struggle to regain the independence of their Nation. They had to face serious reverses on many occasions. The Cromwellian adventure had inflicted untold miseries on the Irish, which were justified by the Lord Protector on the ground of "those barbarous wretches," as he called the Irishmen, having "imbrued their hands in so much innocent blood" which was shed by

them in an effort to regain national freedom. Twice Ireland was used as a pawn in the international game. The Irishmen were deprived of their lands and their industrial freedom to reward the pro-English adventurers and to ensure the prosperity of the English merchants. Ireland was small, too weak and too near Great Britain to throw off the British yoke as the American Colonists had done in 1777. The international situation in the post-war world, more particularly the rise of Germany and Italy in Europe, which had demonstrated in an indirect way the inner weakness of England, favoured the Fianna Fail to win the independence of their country. And the above quoted words in the Preamble will always serve to show that 'the roots of the present lie deep in the past.' Except from the Declaration of American Independence, a student cannot quote such reference to past struggle of a people's ancestors to regain national freedom. That the Irish struggle for independence was extremely protracted and that when it came to a successful termination the Irishmen did not forget the "heroic and unremitting" though unsuccessful "struggle" of their forefathers is the justification for the insertion of these words in the Preamble.

The Preamble then proceeds to state the objects of the Constitution, *viz.* (1) to promote the common good, (2) to secure the dignity and freedom of the individual, (3) to attain true social order, (4) to restore the unity of

the country, and (5) to establish concord with other nations. Of these the restoration of the unity of the country, *i.e.* the union of Northern Ireland with Southern Ireland, is yet to be achieved. It has been and is still the most vexed question which has so far defied a satisfactory solution. A comparison with the objects mentioned in the preambles of the constitutions of the self-governing dominions shows that the Irish Constitution is a distinct departure from the rest in this respect. It does not make any reference, direct or indirect, to the position and status of Eire in the British Commonwealth of Nations. Instead, it mentions establishment of *concord with other nations.* The preamble to the constitution of Canada (29th March 1867) states that the federal union of the several provinces, besides being conducive to "the Welfare of the Provinces, "would promote the Interests of the British Empire." The Act constituting the Commonwealth of Australia (9th July 1900) declares in the preamble that the people of the five colonies 'have agreed to unite in one indissoluble Federal Commonwealth *under the Crown of the United Kingdom of Great Britain.*' The italicised words also occur in the Union of South Africa Act (20th September 1909). Since these dominions were established, the world has taken long strides towards the goal of 'one nation, one state.' The Wilsonian doctrine of self-determination and the Statute of Westminster (1931) are sign-posts leading to that goal. In the case of Ireland partitu-

larly, it must be noted that Great Britain refused for a long time to apply the great and valuable principles laid down by Durham or to profit by the lesson of the War of American Independence. Consequently, the Irish reaction is only proportionate to the British refusal to, and non-recognition of, Irish self-Government.

The most important feature of the Preamble is, therefore, the full application of the principle of self-determination which is clear from the words: "We, the people of Eire,..... Do hereby adopt, enact, and give to ourselves this Constitution." Unlike the constitutions* of the three dominions, *viz.* Canada the Commonwealth of Australia, and the Union of South Africa, all of which were ultimately and formally enacted by the British Parliament even though the Commonwealth constitution was drafted by the representatives of the people and then accepted by the people themselves in a referendum, the Constitution

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* "Be it therefore enacted and declared by the Queen's Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same....." (Preamble to British North America Act, 1867).

"Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same....." (Commonwealth of Australia Constitution Act, 1900).

"Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same....." (Preamble to South Africa Act, 1909).

of the Irish Republic was adopted, enacted and given to themselves by the people. It is not a gift desired by the Irish people and given them by the British Parliament. The following Articles in the new Constitution affirm this:

Article 1.

"The Irish nation hereby affirms its inalienable, indefeasible, and sovereign right to choose its own form of Government, to determine its relations with other nations, and to develop its life, political, economic and cultural, in accordance with its own genius and traditions."

Article 5.

"Ireland is a sovereign, independent, democratic state."

Article 6.

"1. All powers of government, legislative, executive and judicial, derive, under God, from the people, whose right it is to designate the rulers of the State and, in final appeal, to decide all questions of national policy, according to the requirements of the common good.

2. These powers of Government are exercisable only by or on the authority of organs of State established by this Constitution."

Nowhere in the Constitution is there any reference to the King or the British Empire. This completes the process of the Irish Republic cutting adrift from the Empire and

taking its place as a perfectly independent state internally as well as externally. The Preamble and the Articles 1,5 & 6 quoted above and Article 46 regarding constitutional amendments establish unequivocally the internal independence of the Republic The headship of the State is vested in a President elected by the people.

That the Irishmen have chosen to found a Republic outside the British Empire is the direct consequence of the British Government presisting in a narrow policy of ignoring the Irish Nationalists' demand for Home Rule. Similar causes have led and will lead to similar consequences is the hard lesson of history. In its treatment of the Indian problem too the British Government had ignored the requests of Indian Nationalists till the requests became demands, and the demands became threats. As if history is repeating itself, the Indian National Congress denies the right of the British Parliament to enact a constitution for India, and insists on reversal of the policy contained in the Preamble to the Government of India Act 1919, and the convening of a Constituent Assembly elected by the people to frame a a constitution.

In its external relationship and international dealings, the Irish Republic ceases to have any part in the domestic politics of the British Empire. It determines its own interna-

tional policy to be laid down by the Oireachtas which alone can be a party to any international agreement, and without whose approval neither the State shall be "bound by any international agreement involving a charge upon public funds" nor shall any international agreement be part of the domestic law of the State. "The executive power of the State in or in connection with its external relations shall in accordance with Article 28 of this Constitution be exercised by or on the authority of the Government."* The first three clauses of Article 29 state the principles and policy of the Republic in its relations with other states, in these words:

"1. Ireland affirms its devotion to the ideal of peace and friendly cooperation amongst nations founded on international justice and morality."

2. Ireland affirms its adherence to the principle of the pacific settlement of international disputes by international arbitration or judicial determination.

3. Ireland accepts the generally recognised principles of international law as its rule of conduct in its relations with other States."

To Ireland then the Imperial Conferences to deal with all questions common to or arising between the various units in the British Commonwealth of Nations have no meaning and no binding status. All vestige of Ireland's connection with Great Britain or

* Article 28 describes the composition and powers of the (internal) Government of the Republic.

of the former's membership of the British Empire is now gone. Such is the actual position of the Irish Republic under the new Constitution, although the British Prime Minister, Mr. Neville Chamberlain, while recommending to the House of Commons, on 5th May 1938, to pass the second reading of the Anglo-Irish Agreement Bill, asked the members of the House to remember that "we are not dealing with a foreign country but with a partner of the Empire and, therefore, on terms of partnership and not competitorship." One would search in vain any article, clause, sentence or phrase in the whole Constitution of the Irish Republic to justify Chamberlain's remark or fond hope.

Like the constitution of 1922, the new Constitution of the Republic (1937) enumerates rights of citizens, but in greater details. In this Constitution. the Fundamental Rights have been divided under five distinct heads, *viz.* Personal Rights (Article 40); Rights of the Family (Art. 41); of Education (Art. 42); of Private Property (Art. 43); and of Religion (Art. 44). The personal rights secure to all citizens equality before the law; protection of their life, person, good name, and property; inviolability of dwelling; the right to assemble peaceably and without arms; and the right to form associations and unions.

Article 41 recognises the family "as the natural primary and fundamental unit group

of Society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law." The welfare of the family being indispensable to the welfare of the Nation, its constitution and authority are guaranteed necessary protection. The duty of the woman in the home is considered to be of very vital support to the State, hence mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home. Therefore the institution of marriage is to be guarded; dissolution of marriage is prohibited.

Regarding education, while the State acknowledges "the inalienable right and duty of parents to provide, according to their means, for the religious and moral, intellectual, physical and social education of their children," and leaves the parents free to send their children to any schools they like, without obliging them to prefer any particular schools, it makes a certain minimum standard of education, moral, intellectual and social, compulsory. Primary education is made free, and provision for giving reasonable aid to private, and corporate educational initiative, and for other educational facilities and institutions is to be made by the State.

As for private property, "The State acknowledges that man, in virtue of his rational being, has the natural right, antecedent to

positive law, to the private ownership of external goods." And it "accordingly guarantees to pass no law attempting to abolish the right of private ownership or the general right to transfer, bequeath, and inherit property. The exercise of these rights is to be regulated by the principles of social justice, and is to be subject only to those limits which the exigencies of common good may require.

The State guarantees freedom of profession and practice of any religion, subject to public order and morality, not to endow any religion, nor to impose any disabilities or make discrimination on religious grounds. Every religious denomination is allowed "to manage its own affairs, own, acquire and administer property, movable and immovable, and maintain institutions for religious or charitable purposes." The State, while according special recognition to the position of the Holy Apostolic and Roman Church on the ground of its being guardian of the Faith professed by the great majority of Irish citizens, also recognises the other churches, the Religious Society of Friends in Ireland, the Jewish Congregations and other religious denominations in existence at the date of this constitution coming into operation. The religious question in Ireland had assumed a very critical aspect in the last three centuries, and yet the Irish people have succeeded in keeping political questions free from religious complications. There is no demand for any

communal representation in any aspect or sphere of national life in Ireland is an eloquent tribute to the patriotism of those Irish leaders who have steered the ship of the State clear of these narrow impediments. They have placed before the world in general and India in particular a great example to emulate.

As already stated, the Preamble defines one of the objects of the Constitution "to promote the common good, with due observance of Prudence, Justice and Charity, so that the dignity and freedom of the individual may be assured, true social order attained..." Article 54 in the Constitution contains the directive principles of social policy which the Oireachtas shall generally observe in achieving this object. The authority of the Oireachtas in making necessary laws embodying these principles is exclusive and no provision in the Constitution shall empower any Court to take cognisance of those laws. "The State shall strive to promote the welfare of the whole people by securing and protecting as effectively as it may a social order in which justice and charity shall inform all the institutions of the national life."

Section 2 of the Article says that the State *shall particularly direct its policy* so as to secure:

(i) That the citizens (all of whom, men and women equally, have the right to an adequate means of livelihood) may through their occupations

find the means of making reasonable provision for their domestic needs.

(ii) That the ownership and control of the material resources of the community may be so distributed amongst individuals and the various classes as best to subserve the common good.

(iii) That, especially, the operation of free competition shall not be allowed so to develop as to result in the concentration of the ownership or control of essential commodities in a few individuals to the common detriment.

(iv) That in what pertains to the control of credit the constant and predominant aim shall be the welfare of the people as a whole.

(v) That there may be established on the land in economic security as many families as in the circumstances shall be practicable.

These written principles afford sufficient guarantee to the citizens against discrimination between sexes, unfair competition of the rise of capitalism and high landlordism, without, however encouraging extreme socialism or individualism In almost all the post-war constitutions, stress has been laid on the economic life of the people and the duty of the State to re-arrange social and economic order so as to secure the best results for the community. The practical application of these principles has, no doubt, been made from different view-points, giving rise to totalitarian states at one end and the communistic states at the other. Inbetween lie the

democratic states of which Ireland is one. We may see this tendency of States appropriating economic and social functions ever since the Soviet Constitution of 10th July 1918 was made and right upto the 29th December 1937 on which day the Irish Republican Constitution was put into operation. The German Reich (under the Weimar Constitution as well as under Nazism), the Czechoslovakian Republic, the Republic of Austria (now merged in the German Reich), the Polish Republic, the Kingdom of the Serbs, Croats and Slovenes, the Fascist Italy, and the Spanish Republic are other notable examples.

The old democracies of England, the United States of America and the French Republic have not escaped the general change in the conception, ends and functions of the State, which is the peculiar feature of the post-war world.

The Irish Republic 'shall favour and, where necessary, supplement private initiative in industry and commerce.' It is its duty to ensure reasonable efficiency in the production and distribution of goods so as to guard against unjust exploitation of the public. The Republic pledges itself to safeguard with special care the interests of the weaker sections of the community and, if necessary, even to contribute 'to support the infirm, the widow, the orphan, and the aged.' Interests of the workers are to be protected by disallowing

the economic abuse of tender age of children and the employment of citizens in any avocations unsuited to their age, sex or strength. The International Labour Organisation, Geneva, is making efforts to secure these ends by international co-operation, and as the Irish Republic has declared its policy to establish concord with nations and subscribe to the general policy laid down by international conferences, Article 45 of its Constitution is a distinct contribution towards achieving social justice. Ireland had suffered too long under an economic system, forced by British rule, prejudicial to its industrial advancement. The Republic now pledges itself to restore prosperity in the country. And the world shall await to see how far these written principles and pledges are carried out in a democratic state.

The Irish State. Article 2 of the Constitution prescribes the territorial limits of the Irish Republic. "The national territory consists of the whole island of Ireland, its islands and the territorial seas." The words "*the whole island of Ireland*" include the six counties of Northern Ireland which till to-day continues to be separately governed, uninfluenced by the Irish Republic. The age-long question of the unification of Ireland has been one of the thorniest of the Irish problems. De Valera realises the difficulty of the immediate solution of this question and that is why Article 3 of the Constitution makes a tempo-

rary modification in the jurisdiction of the Republican Parliament, when it says: "Pending the re-integration of the national territory, and without prejudice to the right of the Parliament and Government established by this Constitution to exercise jurisdiction over the whole of that territory the laws enacted by that Parliament shall have the like area and extent of application as the laws of Saorstat Eireann and the like extra-territorial effect." The question of extra-territorial effect has now been solved by the Anglo-Irish Agreement concluded in May 1938, and only the question of the union of Northern and Southern Ireland remains to be decided.

The official name of the State is *Eire*, or in the English language Ireland, and not the Irish Free State as it used to be till 28th December 1937. The national flag is the tricolour of green, white and orange, and the first official language is the Irish language, English being recognised as a second official language. All persons who were citizens of the Saorstat at the time of coming into operation of the Republican Constitution are recognised citizens of Ireland. The future acquisition or loss of citizenship is to be determined by law. In return for the rights guaranteed to the citizens (under Articles 40-44), already described, the Constitution lays down *fidelity to the nation and loyalty to the State* as *the fundamental political duties of all citizens* (Art. 9).

All natural resources of every kind within the territorial jurisdiction of the state as established by this Constitution, and all revenues from whatever source arising, subject to such exception as may be provided by law, are vested in the State.

The President of the State. The Republican Constitution makes a very revolutionary change by avoiding all references to the King and vesting the headship of the State in a President (*Uachtaran na hEireann*) who takes precedence over all other persons in the State and who exercises and performs the functions conferred on the President by it. The President is elected for a seven year term directly by the citizens by secret ballot on the system of proportional representation by means of single transferable vote. All citizens who are voters for the Dail Eireann are also voters for the presidential election. In the United States of America a particular holder of the office of President can succeed himself only once according to a well established convention, but the Irish Constitution itself prescribes a limit in Art. 12 (3) 2: "A person who holds, or has held, office as President, shall be eligible for re-election to that office once, but only once." Every Irish citizen who has reached his thirty-fifth year of age is eligible for election to Presidentship.

Nomination of candidates seeking election to Presidentship must be made either (1) by

at least twenty members of the Oireachtas, or (2) by the Councils of not less than four administrative Counties as defined by law. Former or retiring Presidents may, however, nominate themselves.

The President is not a member of either House of the Oireachtas, but if a member of either House is elected President he has to vacate his seat in the House. Nor can the President hold any other salaried office or position. He enters upon his office by taking and subscribing publicly, in the presence of members of both Houses of the Oireachtas, of Judges of the Supreme Court and of the High Court, and other public personages a declaration, solemnly and sincerely promising and declaring (i) to maintain the Constitution of Ireland and uphold its laws, (ii) to fulfil his duties faithfully and conscientiously in accordance with the constitution and the law, and (iii) to dedicate his abilities to the service and welfare of the people of Ireland.

The President is assigned an official residence in or near the city of Dublin. His emoluments and allowances are determined by law, which cannot be diminished during his term of office. He is not to leave the State during his term of office except with the consent of the Government. He may be impeached for stated misbehaviour. Either House of the Oireachtas, on receiving a

signed notice from thirty of its members, may entertain a proposal to prefer a charge against the President, and the proposal is adopted only when a resolution to that effect is passed by two-thirds of the total members of that House. The charge is then investigated or caused to be investigated by the other House, and on being sustained by two-thirds of its total membership, the President is removed from his office.

The office of the Irish President being an innovation in the constitutional history of Ireland, the powers attached to that office are peculiar. Unlike the British King, the President of Ireland is subject to impeachment for stated misbehaviour, but like the King, he is not answerable "to either House of the Oireachtas or to any court for the exercise and performance of the powers and functions of his office or for any act done or purporting to be done by him in the exercise and performance of these powers and functions." He exercises these powers and functions only on the advice of the Government, except where he is required to act in his absolute discretion or after consultation with or in relation to the Council of State. Subject to the Constitution, additional powers may be conferred on the President by law.

The President appoints, on the nomination of Dail Eireann, the *Taoiseach* (head of the Government or Prime Minister), and on

the latter's nomination with the previous approval of the Dail, other members or ministers of the Government. On the advice of the Taoiseach, the President (i) accepts the resignation or terminates the appointment of any member of the Government, and (ii) summons and dissolves the Dail Eireann. In his absolute discretion he may, however, refuse to dissolve the Dail Eireann on the advice of a Taoiseach who has ceased to retain the confidence of a majority in the Dail. He may at any time, in consultation with the Council of State, convene a meeting of either or both Houses of the Oireachtas.

Like the heads of States in other countries, the Irish President promulgates every law* made by the Oireachtas, holds and exercises, in accordance with law, supreme command of the Defence Forces of the State, grants Commissions to officers of the Defence Forces, and exercises the right of pardon and the power to commute or remit punishment imposed by any court exercising criminal jurisdiction.

After consultation with the Council of State, the President (i) may communicate with the Houses of the Oireachtas by message or address on any matter of national or public importance, and (ii) may address a message to the Nation at any time on any

*Every Bill passed or deemed to have been passed by both Houses requires his signature for enactment into law.

such matter; but every such message or address must have received the approval of the Government.

These powers of the President, great as they appear in theory, are limited in practice in two ways, *viz.* the institution of the Council of State, and the powers of the Government (Cabinet), rendering him only a constitutional head of the State.

In the absence of the President, or during his temporary or permanent incapacity, his powers shall be exercised by a Commission (akin to a Council of Regency in England) consisting of the Chief Justice (in his absence the President of the High Court), Chairman (or Vice-Chairman) of Dail Eireann, and Chairman (or Vice-Chairman) of Seanad Eireann.

The Council of State. As referred to in the foregoing, the Council is a novel institution established by the Constitution. While in its advisory functions it may be likened, though only to a certain extent, to the Privy Council of England or Canada and to the *Genro* or Elder Statesmen of Japan, its composition is considerably different from these bodies. It consists of (i) As *ex-officio* members, the Taoiseach, the Tanaiste, the Chief Justice, the President of the High Court, the Chairman of Dail Eireann, the Chairman of Seanad Eireann, and Attorney General, (ii) Every person able and willing to act as a member

of the Council of State who shall have held the office of President, or the office of Taoiseach, or the office of Chief Justice, or the office of the President of the Executive Council of Saorstat Eireann, and (iii) Such other persons, if any, as may be appointed by the President under this Article to be members of the Council of State.

The Constitution authorises the President to appoint, acting in his absolute discretion, at any time and from time to time by warrant under his hand and seal, any persons whom he might consider fit to be members of the Council of State under category (iii) stated above, but the number of such persons as members of the Council at the same time must not exceed seven.

Every member of the Council of State, at the first meeting he attends, has to take and subscribe a declaration solemnly and sincerely promising and declaring to faithfully and conscientiously fulfil his duties as a member thereof. A member of the Council of State appointed by the President may resign by submitting his resignation to the President; and the latter may, for reasons which he considers sufficient, by an order under his hand and seal terminate the appointment of any member appointed by him.

The meetings of the Council of State may be convened by the President when and where

he shall determine. The powers of the Council of State are purely advisory, but the President cannot perform and exercise powers and functions which he is required to perform and exercise after consultation with the Council, unless on every occasion before so doing he shall have convened a meeting of the Council and the members present thereat shall have been given a hearing by him. It must, however, be remembered that the purely advisory nature of the functions of the Council of State and the presence of the Taoiseach (Prime Minister) in it preclude the possibility of making the Council a rival of the Government or Cabinet.

The Government. By Article 28 of the Constitution, the executive power of the State is exercised by or on the authority of the Government which shall consist of not less than seven and not more than fifteen members appointed by the President according to the provisions of the Constitution. But no war shall be declared nor the State shall participate in any war, without the consent of Dail Eireann. In case of actual invasion, however, the Government may take all necessary steps for the protection of the State, and Dail Eireann (if not sitting) shall be convened at the earliest practicable date. And no law enacted by the Oireachtas for securing public peace and preserving the State shall be invalidated, nor any act done under such law nullified, notwithstanding

anything to the contrary in the Constitution.

The Government owes collective responsibility to Dail Eireann. It prepares the financial Estimates of Receipts and Expenditure each year and submits the same to the Dail for consideration.

The head of the Government, or Prime Minister, is designated Taoiseach. He keeps the President informed on all matters of domestic and international policy; he nominates his deputy, designated the Tanaiste who acts in place of the Taoiseach during the latter's temporary absence. All members of the Government must be members of Dail Eireann or Seanad Eireann, subject to two conditions, *viz.* the Taoiseach, the Tanaiste and the member in charge of Finance must be members of Dail Eireann, and not more than two of the members of the Government may be members of Seanad Eireann Every member of the Government has the right to attend and be heard in each House of the Oireachtas. These provisions go to show the larger powers of the Dail.

The Taoiseach may resign from his office by placing his resignation in the hands of the President, while any other member of the Government may resign by handing over his resignation to the Taoiseach for submission to the President who will deal with it as

advised by the Taoiseach. The Taoiseach may at any time for reasons which seem sufficient to him require a member to resign, and if the latter fails to comply, his appointment shall be terminated by the President. The Taoiseach shall resign from office upon ceasing to command the confidence of a majority in the Dail, unless on his advice the President dissolves the Dail and orders a general election. The resignation of the Taoiseach from his office automatically involves the resignation of all members of the Government, but the Government continues in office till their successors are appointed. These detailed provisions of the formation, composition and resignation of the Government are mentioned in the Constitution itself, though in England and the Dominions as well as in India, all these matters are governed by strong conventions or Instruments of Instructions.

Other matters like the organization and distribution of business, Departments of State and the designation of ministers (members of Government) in charge of the Departments, the discharge of the functions of a member during his absence, and remuneration of members, are all regulated by law laid down by the Oireachtas.

In short, the Government of Ireland is a responsible cabinet, owing collective responsibility to the popular branch of the legislature.

The National Parliament. It is the legislature of Ireland and is officially named Oireachtas, consisting of the President, a House of Representatives (Dail Eireann), and a Senate (Seanad Eireann). The Oireachtas sits near the City of Dublin. It may sit in such other place as law may determine. It is the sole legislative body of the State. Provision may however be made for the creation of subordinate legislatures and the powers and functions to be exercised by them. The Oireachtas may make a law providing for the establishment of functional or vocational councils representing social and economic life of the people, and to determine their duties, powers and rights, and their relations to the Oireachtas and to the Government.

Any law of the Oireachtas repugnant to the Constitution is invalid to the extent of repugnancy. Moreover, the Oireachtas cannot pass an *ex post facto* law. The right to raise and maintain military and other armed forces is exclusively vested in the Oireachtas.

The Oireachtas holds at least one session each year. Its sittings are usually public, but any House may, by two-thirds vote, decide in cases of special emergency to hold a private sitting. Each House is empowered to elect a Chairman, and a Vice-Chairman, to fix their remuneration, to frame its own rules of procedure and standing orders, to ensure freedom of debate, and to protect itself and its members

against any person or persons molesting or attempting to corrupt members in the discharge of their functions. All questions in each House are decided by a majority of votes, the Chairman or presiding officer voting only when there is an equality of votes. Proceedings of each House are privileged. Members are immune from arrest while going to or returning from the House and are not amenable to any court other than the House itself for anything spoken in the House. They get allowances in respect of their duties, and enjoy free travelling facilities. No person can be a member of both the Houses at the same time.

Every citizen, without distinction of sex, who has reached the age of 21 years is, unless otherwise disqualified (no disqualification being allowed only on the ground of sex), is qualified to be (i) a voter to, and eligible for membership of, Dail Eireann, and (ii) eligible for membership of Seanad Eireann. Each voter is entitled to only one vote.

Dail Eireann consists of persons elected on the basis of proportional representation by means of single transferable vote. The constituencies are fixed by law, and are assigned members at the rate of one member for not more than thirty thousand nor less than twenty thousand of the population, the same proportion being maintained for all constituencies. No constituency is to be so

arranged as to be entitled to less than 3 members. Constituencies are to be revised at least every twelve years, but no alteration in them can affect the life of the then existing Dail. Normal life of Dail Eireann is seven years, unless sooner dissolved. The normal term of 7 years may be reduced by law only. A general election for the Dail is held not later than thirty days after the dissolution of the Dail, polling being held, as far as practicable, on the same day throughout the country, and the new Dail meets within thirty days of that polling day. The Chairman of Dail Eireann is automatically re-elected member at a general election, as provided by law. Dail Eireann alone exercises the right to consider receipts and expenditure estimates, but only when these are presented to it by the Government.

The Upper House (Seanad Eireann) consists of sixty members of whom eleven are nominated by the Taoiseach, with their prior consent, and the remaining forty-nine are elected thus: 3 by the National University of Ireland, 3 by the University of Dublin, and forty-three from five panels of candidates. All elections are held by proportional representation. The franchise for election of University representatives is fixed by law. The five penels for election of the 43 members are so formed as to contain persons having knowledge and practical experience of: (1) National Language and Culture, Literature, Art, Edu-

cation, and similar interests determined by law; (2) Agriculture and allied interests, and Fisheries; (3) Labour, organised and unorganised; (4) Industry and Commerce, including banking, finance and accountancy, engineering and architecture; (5) Public administration and social services, including voluntary social activities. Not less than five and not more than eleven members are elected from each panel, but provision may be made by law for direct election by a functional or vocational group or association or council of a certain number of members assigned to each panel.

A general election to Dail Seanad must be held within ninety days after a dissolution of Dail Eireann, but a member continues to hold office (unless he previously dies, resigns, or becomes disqualified) till the day before the day of polling of the general election of Dail Seanad.

The constitution prescribes elaborate arrangements for making legislation which may belong to one of the several categories, *viz.*, involving finances (*i. e.* Money Bills); concerning some emergency requiring immediate action for the sake of peace and security of the State; proposing constitutional amendments.

A Bill, other than a Money Bill, may originate in either House; Money Bills can originate in Dail Eireann only. Every Bill other

than a Money Bill initiated in and passed by the Dail may be amended by the Seanad, and the Dail then considers such amendment. A Bill initiated in and passed by the Seanad but amended by the Dail shall be considered in its amended form as a Bill initiated in the Dail. A Bill passed by either House and accepted by the other is deemed to have been passed by both Houses.

A Money Bill passed by Dail Eireann is sent to Seanad Eireann for its consideration. The latter may recommend changes within twentyone days of its receipt from the Dail which may then reject any or all of these recommendations made by the Seanad. If, however, Seanad Eireann fails to return the Bill within twentyone days, or returns it within that period with recommendations to which Dail Eireann does not agree, the Bill is deemed to have been passed by both Houses at the expiration of the said period of twentyone days. Thus Seanad Eireann can, at the most, delay the passing of a Money Bill into law by twentyone days.

A Bill is a Money Bill if it deals with all or any of the matters affecting "the imposition, repeal, remission, alteration or regulation of taxation; the imposition for the payment of debt or other financial purposes of charges on public moneys or the variation or repeal of any such charges; supply; the appropriation, receipt, custody, issue or audit

of accounts of money; the raising or guarantee of any loan or repayment thereof; matters subordinate and incidental to these matters or any of them." The Chairman of Dail Eireann certifies a Bill to be a Money Bill, if it is such in his opinion, and this certificate is final and conclusive unless Seanad Eireann resolves, at a sitting at which at least thirty members are present, that the question whether the Bill is a Money Bill or not be referred to a Committee of Privileges. The President, then, after consultation with the Council of State, may, if he so decides, appoint in consultation with the Council a Committee of Privileges consisting of equal number of members from the two Houses with a Judge of the Supreme Court as Chairman who exercises only a casting vote in case of equality of votes. The Committee must report its decision within twentyone days of the receipt of the Bill by the Seanad. This decision is final, but if the Committee fails to report within the prescribed period, the Bill as passed by Dail Eireann is deemed to have been passed into law.

A period of ninety days, beginning from the day on which a Bill, not being a Money Bill, is sent by Dail Eireann to Seanad Eireann, is prescribed within which Seanad Eireann is required to consider the Bill. This period may be increased by mutual agreement of the two Houses. If within the prescribed period Seanad Eireann rejects a Bill or passes

it with amendments to which Dail Eireann does not agree, the Bill, if Dail Eireann so resolves, within one hundred and eighty days after the lapse of the said prescribed period, is deemed to have been passed by both Houses on the day of such resolution.

Article 24 makes special provision for restricting the prescribed period for consideration by Seanad Eireann of a Bill passed by Dail Eireann, if the Taoiseach certifies by messages in writing addressed to the President and to the Chairman of each House that in the opinion of the Government the Bill is necessary for preserving public peace and security, or that due to a state of internal or external emergency the time for the consideration of the Bill be abridged, provided the Bill does not seek to amend the Constitution. And if Dail Eireann resolves in favour of abridgement of the period and the President, after consultation with the Council of State, concurs, the period shall be accordingly abridged. In that case the Bill, if it is rejected by Seanad Eireann or is passed with amendments to which Dail Eireann does not agree, or is neither rejected nor passed by Seanad Eireann within that abridged period, shall be deemed to have been passed by both Houses at the expiration of that period. A law thus passed shall remain in force for a period of ninety days, unless before the expiry of this period both Houses resolve that the law do remain in

force for such longer period as is specified in that resolution.

All these restrictions on the legislative powers of Seanad Eireann reduce it to the position of a revisory body which may delay but not prevent the passing of legislation.

When a Bill, other than one seeking to amend the Constitution, is passed or deemed to have been passed by both Houses, the Taoiseach presents it to the President for his signature and promulgation by him as law, who is required to sign it not earlier than five nor later than seven days after the presentation of the Bill. But at the request of the Government, with the prior consent of Seanad Eireann, the President may sign a Bill earlier than five days. And a Bill, the time for consideration of which by Seanad Eireann has been abridged (as already mentioned in the preceding paragraphs) shall be signed by the President on the day on which it is presented to him for signature and promulgation as law.

A Bill signed by the President becomes a law on the day of signature, unless otherwise stated, and is promulgated as a law by publication, by his direction, of a notice in the *Iris Oifigiuil* (the official gazette).

The Constitution (Art. 26) empowers the President, after consultation with the Council

of State, to refer a Bill passed or deemed to have been passed by both Houses (not being a Money Bill or a Bill to amend the Constitution or one the time for consideration of which by Seanad Eireann has been abridged under Art. 24) to the Supreme Court to decide whether the Bill is repugnant to, or to any provision of, the Constitution. The President may exercise this power within four days of the presentation of the Bill to him. Five judges of the Supreme Court are then required to decide, after hearing the arguments, within sixty days whether the Bill is repugnant to the Constitution or to any provision thereof; their decision is final and the President has to act upon it.

Any Bill, other than one containing a proposal for amending the Constitution, deemed to have been passed by both Houses shall, if a majority of the members of Seanad Eireann and one-third of the members of Dail Eireann send a joint petition to the President within four days of its passing that 'the Bill contains a proposal of such national importance that the will of the people ought to be ascertained,' not be signed by him. He shall consult the Council of State and decide within ten days whether to sign and promulgate it as law or not. In the latter case, he shall communicate his decision to the Taoiseach and to the Chairman of each House. Such a Bill will become law only if, within a period of eighteen months from the date of the President's

decision, (i) it has been approved by the people at a Referendum* in accordance with section 2 of Art. 47, or (ii) it has been repassed by Dail Eireann after a dissolution and its re-assembly. When it has been so approved, it shall be signed and promulgated as law by the President.

With regard to amendment of the Constitution, Article 46 says that any provision of the Constitution "may be amended, whether by way of variation, addition, or repeal," in the prescribed manner. Every proposal for an amendment of the Constitution must initiate in Dail Eireann as a Bill.† When it has been passed or is deemed to have been passed by both Houses, it is submitted to the people by Referendum, and if, on being so submitted to the people, a majority of the votes cast at the Referendum are cast in favour of its enactment into law, the proposal shall be deemed to have been duly approved by the people. It will then be signed by the President forthwith and promulgated by him as a law.

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*A Bill is considered to have been vetoed by the people at a Referendum only if it is rejected by a majority of the votes polled and provided the votes so cast against it amount to not less than one-third of the total votes on the register, otherwise it is considered to have been approved by the people.

† "A Bill containing a proposal or proposals for the amendment of this Constitution shall not contain any other proposal." Art. 46, section 4.

The Judiciary. Articles 34-38 relate to the administration of justice, constitution of the courts and their respective jurisdiction, appointment of judges, and the trial of offences.

The Courts consist of Courts of First Instance (a High Court invested with the same powers as under the constitution of 1922, and Courts of local and limited jurisdiction), and a Court of Final Appeal (called the Supreme Court). In general, the respective powers of these Courts are almost the same as they enjoyed under the constitution of 1922. Two important differences are that judges of all the Courts are now appointed by the President, the representative of the Crown having disappeared in the new Constitution, and there is no right of appeal to His Majesty in Council. The Supreme Court is, therefore, the highest judicial tribunal; its decisions are final and conclusive. In other respects, the Courts retain their previous status and jurisdiction. Independence of judges, their security of tenure (except their removal for stated misbehaviour on an address presented to the President by both Houses of the Oireachtas), irreducibility of their remuneration, etc. are guaranteed.

Every person appointed a judge of any of the Courts under the Constitution has to make and subscribe a declaration, solemnly and sincerely promising, and declaring in the

presence of the Almighty God, faithfully and to the best of his knowledge to execute the office of Chief Justice (or as the case may be) without fear or favour, affection or ill-will towards any man, and to uphold the Constitution and the laws. A judge who declines or neglects to make such declaration (before entering upon his office or within ten days of his appointment) is deemed to have vacated his seat.

The following matters are regulated in accordance with law, *viz.*

(i) the number of judges of the Supreme Court, and of the High Court, the remuneration, age of retirement and pensions of such judges,

(ii) the number of the judges of all other Courts, and their terms of appointment, and

(iii) the constitution and organization of the said Courts, the distribution of jurisdiction and business among the said Courts and judges, and all matters of procedure.

The Constitution also provides for the making of a law to prescribe the constitution, powers, jurisdiction and procedure of special courts which "may be established by law for the trial of offences in cases where it may be

determined in accordance with such law that the ordinary courts are inadequate to secure the effective administration of justice, and the preservation of public peace and order." It allows the setting up of military tribunals for the trial of offences against military law committed by persons while subject to that law, "and also to deal with a state of war or armed rebellion."

Other Provisions. Other articles provide for (i) the appointment of the Attorney General by the President on the recommendation of the Taoiseach, and his duties (Article 30), (ii) the appointment of the Controller and Auditor General by the President on the nomination of Dail Eireann, his functions and duties (Art. 33), and (iii) the repeal of the constitution of Saorstat Eireann and Continuance of Laws (Arts. 48-50). Articles 51-61 made Transitory Provisions for the functioning of the governmental machinery till the coming into operation of the Constitution in full.

New Constitution in Working. As stated in Art. 62, the new Constitution of Ireland was put into operation (December 29, 1937) on the expiry of "one hundred and eighty days after its approval by the people signified by a majority of the votes cast at a plebiscite thereon held in accordance with law."

Mr. De Valera who had been the President of the Executive Council became the Taoiseach.

Pending the election of the President of Ireland, his functions were carried on by a Commission consisting of the Chief Justice, the President of the High Court, and the Chairman of Dail Eireann, as provided for in Article 57 section 2. Both Mr. De Valera and Mr. Cosgrave tried to have their own nominees elected for the high office. Ultimately, an agreement was arrived at on April 21, 1938. Their representatives unanimously agreed to invite Senator Dr. Douglas Hyde, 70 year-old former Professor of Irish in the National University, to accept nomination for the new Presidency of Eire. Dr. Hyde had, three weeks before, been nominated by De Valera as a member of the Senate. The Labour and Independent candidates having withdrawn, Dr. Hyde was returned unopposed on May 4, thus avoiding an election by the people. He was installed into office on June 25. Dr. Hyde is a Protestant, historian, poet, dramatist and a life-long worker in the cause of the revival of the spirit of old Gaelic Ireland. He now lives in the Viceregal Lodge, Dublin, and is entitled to an income of £ 15,000 a year from the State.

Negotiations between the British and Irish Governments were re-opened in April 1938 to solve the long disputed question of Land Annuities. On April 22, the discussions ended in an agreement betweeu the parties. The provisions of the agreement, which was of a comprehensive nature, cover-

ing finance and defence, included (i) the withdrawal by the British Government of their garrisons from the Treaty Ports, (ii) the willingness of the Irish Government to spend money on defences in close consultation with the British Government and the payment of ten million pounds to Britain in return for the cancellation of the colossal sums of Land Annuities, (iii) abolition of penal duties on Irish agricultural produce, by Britain, and (iv) the lowering of Irish tariff duties in favour of British manufactures.

The British Prime Minister, Mr. Neville Chamberlain, recommending to the House of Commons the ratification of the Anglo-Irish Agreement, said: "After very careful consideration of all circumstances and due consideration by the Chiefs of the Staff we came to the conclusion that friendly Ireland was worth far more to us both in peace and war than paper rights under the 1921 Treaty which were only exercisable at the risk of maintaining perhaps an increasing avowed ill will." Mr. Chamberlain recalled Mr. De Valera's statement that Eire or any Irish territory would not be used by any foreign power for attack on the United Kingdom and that he would put those harbours into an improved state of defence. The Premier concluded by exhorting the House to bear in mind that the conclusion of the agreement obtained warm approval of many, not only in this country but in others, in the

Dominions and the United States—indeed everywhere.

Mr. Malcolm Mac Donald, replying to the debate, said that it was the faith of the Government that by an exercise of the same tolerance and encouragement, the same mutual respect and trust as achieved the reconciliation between the French and the British in Canada and the Dutch and the British in South Africa, another miracle of reconciliation could be achieved between the Irish and the British.

The British Parliament and the Oireachtas both having ratified the Agreement in May 1938, it has come into operation thus putting an end to a bitter controversy between the two countries.

De Valera thus succeeded in restoring good relations between Eire and Britain. At home, however, his Republicans, though the largest single party, were in a minority in Dail Eireann, being 67 as against 69. He had to depend upon the support of the Labour Party and some Independents. On Wednesday, May 25, his Government suffered a defeat, whereupon the Dail was dissolved on May 28, and a general election ordered for June 17. There were 138 seats in all, and as Speaker Frank Fahy was automatically returned unopposed, the parties put up 219 candidates for the 137 seats thus:

Fianna Fail 96, Finegal (Mr. Cosgrave's party) 80, Labour 29, and Independents 14. The elections resulted in a clear majority for Mr. De Valera, the final state of parties being: Fianna Fail 77, Finegal 45, Labour 9, and Independents 7. Such a large majority had not been obtained by any party in the Dail since 1927. On June 30, the Dail elected Mr. De Valera as Prime Minister (Taoiseach) by 75 votes to 45; the Labour and Independent members abstained from voting. Mr. Frank Fahy was re-elected Speaker, Mr. De Valera reappointed his former colleagues as members of the Government.

Assured now of a clear majority in the Dail, the Government of Mr. De Valera, which has already succeeded in solving some of the knottiest problems, has only the problem of the unification of Northern and Southern Ireland to tackle. It is hoped that goodwill may prevail on both sides to bring about an amicable settlement of this all important question.

CHAPTER THREE

GERMANY

	Area in sq. miles.	Population.
Germany	181,699	66,030,491
Austria	32,369	6,760,233
United German Reich	2,14,068	72,790,724

Germany upto 1918. Out of the decaying German feudalism had emerged the German Empire which comprised a very large portion of Central Europe. It consisted of a number of independent and quasi-independent states loosely bound together and owing allegiance to a common Emperor.

The great upheaval that resulted from the outbreak of the French Revolution stirred Europe from the Atlantic Ocean to the Ural Mountain. The phenomenal success that attended Napoleon's efforts to found a French European, if not a French World, Empire deprived Prussia, the most powerful of the German states, of her independence. She was compelled to contribute heavily in man-power to raise the Great Army of Napoleon for his Moscow campaign. Prussia was humiliated; she was made a province of Napoleon's Empire. In doing so Napoleon

had unconsciously awakened Prussia to a sense of national self-respect. A passion of patriotic ardour, of fervent self-sacrifice, for the whole German Fatherland, swept through Prussia. And it is surprising to observe that the movement, despite its intensity, remained strangely national and sober, and was, in its kind and nature, the most nobly inspiring which history records. Prussia guided the movement of German Nationalism with considerable success till the general wave of *Liberalism* which swept over the whole of Europe profoundly influenced the course of German politics.

This brought a new dawn of freedom under Liberals who believed in every state having a ready-made constitution. Consequently, 586 representatives of every German race met at Frankfort on May 18,1848, to create a new constitution corresponding to the national needs and desires for the German Confederation which had been loosely formed after the Congress of Vienna. The administration set up by the Frankfort conference was short-lived. There were two powers contending for supremacy in the German Confederation, Austria and Prussia.* Cavour, the maker of Italy, thus expressed his views, while lying on his death-bed: "This German Federation is an absurdity; it will break up, and the union of Germany will be established. But

*Austria held the Presidentship of the confederation and Prussia its Vice-Presidentship.

the House of Hapsburg cannot alter itself. What will the Prussians do, who are so slow in coming to any conclusions?" At that time even the name of Bismarck was probably unknown to the dying statesman. And it is not improbable that Germany, notwithstanding its efficiency and its culture, would have required without Bismarck, another half-century for its union. King William I of Prussia was prepared to form an alliance with Austria which would have guaranteed to this country its existing dominions including Venice. And in return he wanted for Prussia the Presidentship of the Federation as well as the command in the field over the troops of North Germany in future federal wars. King Francis Joseph of Austria, relying on the ultimate rejection of these proposals, declared that the presidency in the Federation was an old prerogative of his house, and therefore unassailable.

King William I then directed all his energies to reforming and strengthening the army. He was undoubtedly superior to the majority of his German contemporaries in recognising that the success of his Prussian policy lay in a strong army. The great German historian Leopold von Ranke thus records his view of the king's determination. "The sum of his resolution was.....to leave the German princes undisturbed in their sovereignty, but to effect a union in military matters which would conduce to a great and

general efficiency. He fully grasped the idea that the military power comprised in itself the sovereignty."

Meanwhile Radical Liberalism rose into power in Prussia and vigorously opposed William's policy. In the elections of 1862, the Radical Liberals captured 325 seats out of a total of 352 in the Landtag. They accepted the challenge of the king; they rejected all proposals for a compromise and insisted on the subordination of the king to the Parliament. They relied on the examples of England and Belgium. On the other hand, King William was unwilling to be thus degraded to the position of a puppet king, and he seriously contemplated abdication.

About this time a very important event took place which changed the whole face of Prussian politics. Prince Bismarck, who was then holidaying in France, on learning of the struggle between the king and the Parliament, immediately returned to Prussia, saw the Crown Prince and then King William. He promised to stand by the latter in that crisis. On September 23, 1862, the very day on which the Chamber passed the resolution opposing the plan of the king, the nomination of Bismarck as President of the Ministry was published.

Coming from a lesser order of German nobility, Bismarck rose into eminence by

sheer dint of his personal ability. Though at first a Liberal, he left the National Liberal Party when he found it had grown too strong for him. He hated parties, and chafed under their criticism.

On assuming the office of President of the Ministry, he supported the theory that the Crown could enforce all Budget demands inspite of any reductions by the two Chambers. In the great speech he delivered in the Chamber of Representatives he enunciated his principles in these words: "The Prussian monarchy has not yet fulfilled its mission; it is not yet ripe to form a purely ornamental decoration of the fabric of your constitution, nor to be incorporated into the mechanism of parliamentary rule as an inanimate piece of the machinery." Later he asserted that "the union of Germany could not be effected by speeches, societies, and the resolutions of majorities; a grave struggle was necessary, a struggle that could only be carried through by blood and iron."* This utterance considerably surprised even King William. And when Bismarck published strict enactments on June 1, 1863, to suppress the opposition, the Crown Prince, fearing the outbreak of a new revolution in Prussia, joined the opposition and declared, in replying to the municipal authorities of Danzig: "I too, regret that I have come here at a time when a quarrel, of

*Cf. the recent pronouncements of Herr Hitler on the unification of the German people.

which I have been in the highest degree surprised to hear, has broken out between the Government and the people." And in a letter to the Minister-President he expressed his indignation and contempt in these clearest words: "Do you believe that you can calm men's minds by continual outrages on the feeling of legality? I regard the men who lead his Majesty the King, my most gracious father, into such paths as the most dangerous counsellors for Crown and country."

The publications of that time, newspapers and political tracts, disbelieving that the new Minister would be able to carry out his programme, ridiculed him at his attitude. Undaunted, the Minister guided foreign policy, in the midst of these commotions, with marvellous independence and intellectual vigour. For four years he ruled without a Budget. The "terrible" Bismarck then resolved to make Prussia the undisputed leader of the German Confederation and openly declared to the Austrian ambassador that Austria would soon have to choose between the alternatives of vacating Germany and shifting its political centre to the east, or of finding Prussia in the next war on the side of its opponents.

Next year, when with the death of the Danish King Frederic III, on November 15, 1863, the main line of the Danish royal house became extinct, Austria and Prussia entered

into an agreement on January 16, 1864, to attack Denmark and thus annex the duchies of Schelswig and Holstein, pledging themselves not to decide the spoils except by mutual agreement. Within four months the Prussian and Austrian forces won a brilliant victory. But Bismarck, bent upon depriving Austria of hegemony in the German Confederation, deliberately picked up a quarrel over the division of spoils, which resulted in a war between Austria and Prussia in 1866, in which Austria was completely defeated and expelled from the Confederation. The smaller states of Hanover, Electoral Hesse, Nassau, and Frankfort which had sided with Austria in the war were annexed by Prussia, in addition to Schelswig. Thus ended the German Confederation which "was not properly a federal union, but rather a perpetual international alliance, the States remaining separate and independent, except for matters affecting the external safety of Germany." The chief weakness of the confederation, therefore, lay in the fact that each state, small or large, was allowed to go its own way, even to the extent of forming its own alliances and declaring and fighting its own wars, so long as it did not injure any of the confederates.

Thus ended the first great Bismarckian adventure to make Purssia the most powerful, dreaded and respected state in Central Europe. Bismarck then formed in 1866 the 'North German Confederation' to the north of the

river Main, with the king of Prussia as the President. Four years later, the iron Minister embarked on the second adventure, the Franco-German war of 1870. The enthusiasm aroused by the war brought the four states to the south of the Main, *viz.*, Bavaria, Wurtemberg, Baden and Hesse, into the new confederation on privileged terms. King William's historic speech from the throne read to the Reichstag on July 17, 1870, combined dignified strength and simplicity with a model of patriotic fervour and eloquence which was the characteristic of the classic pen of Bismarck. It declared: "If Germany silently endured in past centuries the violation of her rights and her honour, she only endured it because in her distraction she did not know her strength.....Today, when her armour shows no flaw to the enemy, she possesses the will and the power to resist the renewed violence of the French.....God will be with us as with our fathers." The appeal was responded to with enthusiastic self-devotion by the German nation; for the first time in her history Germany arose as a united whole.

The decisive victory Germany gained over France raised Purssian prestige in Central Europe. Bismarck then re-started his constructive activities. The Confederation was renamed the German Empire for which a new constitution was drawn up.

The legislative power was vested in the

Reichstag and the Bundesrath. The Reichstag, or the lower house, consisted of 397 members, Prussia alone sending 235 representatives to it. They were elected by universal sufferage. The power of the Reichstag extended to all legislative measures as it possessed the right to initiate legislation. The term of its office was five years but it could be dissolved earlier by the Emperor with the consent of the Bundesrath. The Bundesrath, or the upper house, consisted of 58 members of which Prussia alone claimed 17. The members of the Bundesrath were diplomats rather then senators. They enjoyed at Berlin the privileges of foreign ambassadors, and were appointed and removed at will by the states they represented, which also paid them or not as they pleased. The votes that they cast were the votes of the states, not those of the representatives and it was therefore provided that all the delegates of a state must vote alike. Fourteen negative votes could veto a measure and as Prussia alone commanded seventeen votes she practically exercised the power of veto. The powers of the Bundesrath were, indeed, so great that it virtually became an 'extraordinary mixture of legislative chamber, executive council, court of appeal, and permanent assembly of diplomats'. It had the last voice in legislative measures and was the chief executive organ. It was also the final court of appeal. It could order the forces of the Empire to subdue a recalcitrant state. It was not elected at any particular time; its members could be

appointed or dismissed at will by the several states. Because of this character and its power to dissolve the Reichstag it exercised great authority and was in this way quite different from the upper chambers of other European countries.

The Emperor was the head of the Executive. He was commander-in-chief of the Imperial army; he could wage war or conclude peace. He represented the Empire in all international affairs. He summoned the legislature and dissolved it. He promulgated all laws. As king of Prussia he exercised great powers. In this capacity he could veto a legislative measure by instructing the 17 Prussian members of the Bundesrath to cast their votes in a particular way; he appointed the Imperial Chancellor.

The Chancellor was the only federal officer, all others being his subordinates. He was responsible not to the legislature but to the king of Prussia. With the help of 17 Prussian representatives in the Bundesrath he carried Prussian will in all affairs. His powers were, therefore, very great.

The judiciary consisted mainly of the courts of the several states, whose organisation and procedure were, curiously enough, determined by the statutes of the Empire. So that the judges were appointed by the local sovereigns but were guided by the rules of the Empire.

Let us now investigate the nature of this curious constitution of the German Empire. The member states had no equality of status whether in the counsels of Empire or in their internal administration, Prussia over shadowing all, and the bigger states having derived special privileges by joining the Confederation at a later date. Some of these states even controlled their own militia. The states did not enjoy democratic constitutions so very essential to the stability and smooth working of a federation. There was a strong legislative centralisation in the Empire with an executive decentralisation. The Central Government could legislate on all matters on which U. S. A. Congress can, and on many more that clearly fall within the jurisdiction of the states in U. S. A. But all these laws were executed by the officers of the states, there being no system of federal officers. The king of Prussia, in his dual capacity, wielded very great power. The Empire was no federation in its real sense, but as Lowell has rightly observed: "The compact could not fail to resemble that between the lion and the fox, or rather a compact between a lion, half a dozen foxes, and a score of mice." The Empire did not exercise direct authority over the whole population but over the local princes and free cities. Of course, the people of all the states enjoyed German citizenship.

The Empire was in fact a great military

organisation moving at the dictation of the Emperor and Kaiser William II used it for Prussianising Central Europe with a view to establish Prussian hegemony in that part of the world. Then came the Great War which put severe strain on the nerves of the Empire which proved unsuited to the democratic ideals of the twentieth century. For four years the German army fought against England and France (and towards the close against the United States) in the west, Italy in the south, and Russia in the east. The economic blockade of Germany successfully enforced by the Allies worked havoc and resulted in a revolution started by soldiers and workers alike. The Kaiser had to abdicate to enable the succeeding provisional government of the people to satisfy President Wilson who insisted on this step as a condition precedent to open negotiations for peace. Germany cried for peace and thus armistice was signed on November 11, 1918.

German Humiliation at Versailles. If the United States of America had not entered the war on the side of the Allies, it is more than probable that Germany would have dictated her own peace terms to her enemies. President Wilson advised his country to take that step in order to end all wars and make the world a safe place to live in. In his speech of January 8, 1918, while enunciating his famous fourteen points, he made his (and his country's) position clear in these words :

"It will be our wish and purpose that the processes of peace, when they are begun, shall be absolutely open, and that they shall involve and permit thence-forth no secret understandings of any kind. The day of conquest and aggrandisement is gone by, so is also the day of secret covenants entered into in the interest of particular Governments and likely at some unlooked-for moment to upset the peace of the world.

It is this happy fact, now clear to the view of every public man whose thoughts do not linger in an age that is dead and gone, which makes it possible for every nation whose purposes are consistent with justice and the peace of the world to avow now or at any other time the objects it has in view.

We entered this war because violations of right had occurred which touched us to the quick and made the life of our own people impossible unless they were corrected and the world secured once for all against their recurrence.

What we demand in this war, therefore, is nothing peculiar to ourselves. It is that the world be made fit and safe to live in, and particularly that it be made safe for every peace-loving nation which, like our own, wishes to live its own free life, determine its own institutions, be assured of justice and fair dealing by the other peoples of the world, as against force and selfish aggression. All the peoples in the world are in effect partners in this interest, and for our own part we see very clearly that unless justice be done to others it will not be done to us."*

While declaring that the programme of world's peace was his programme—which

*It is difficult to entertain nobler sentiments than these. Unfortunately, however, they were forgotten when the Treaty was drafted and *"All the peoples in the world are in effect partners in this interest"* was really taken to mean the victors in the war.

meant the Fourteen Points—he expressed his own attitude towards Germany in no less noble and unequivocal terms:

We have no jealousy of German greatness and there is nothing in this programme that impairs it. We grudge her no achievement or distinction of learning or of pacific enterprise, such as have made her record very bright and very enviable. We do not wish to injure her or to block in any way her legitimate influence or power. We do not wish to fight her either with arms or with hostile arrangements of trade if she is willing to associate herself with us and the other peace-loviug nations of the world in covenants of justice and law and fair-dealing. We wish her only to accept a place of equality among the peoples of the world—in which we now live—instead of a place of mastery. Neither do we presume to suggest to her any alteration or modification of her institutions.

But it is necessary, we must frankly say, and necessary as a preliminary to any intelligent dealings with her on our part, that we should know whom her spokesmen speak for when they speak to us, whether for the Reichstag majority or for the military party and the man whose creed is Imperial domination.

The President, in conclusion, asserted that the principle which ran through the whole programme he had outlined was "*the principle of justice to all peoples and nationalities and their right to live on equal terms of liberty and safety with one another, whether they be strong or weak.*" Nobody can doubt the sincerity with which Wilson spoke out his mind and laid down the policy his country was desirous of following. He, however, forgot that though his European Allies were anxious to enlist the military

support of his country to defeat Germany, they were determined and committed, through secret agreements between themselves, particularly between France and England as a result of the London Treaty the terms of which were not made known even to Italy, to apply principles of selfish aggrandisement though at the same time paying lip-sympathy to Wilsonian doctrines.*

And before the year 1918 was out, Lloyd George decided on receiving a vote of confidence from the British people and general elections were ordered to be held on December 14, 1918. The chief slogans his party adopted in the elections, which rallied round its banner an overwhelming majority of voters, were: "Hang the Kaiser," "Make Germany pay," and "Shilling for shilling and Ton for Ton." Lloyd George's coalition party was returned to power with added strength, demonstrating in no unmistakable terms the attitude of the British people towards Germany. And what a contrast it was to Wilson's principles!

In France, Georges Clemenceau, the premier, paid only lip-service to Wilson's Fourteen Points, but was inwardly determined to inflict a diplomatic defeat both on Wilson and Lloyd

*While defending the Versailles Treaty before a group of senators in 1919, Wilson admitted that he had known nothing of any secret treaties between the Allies when he made this speech of January 1918.

George. About the former he once exclaimed: "Even God was satisfied with Ten Commandments, but Wilson insists on Fourteen!" And about Lloyd George and Wilson he is reported to have remarked: "Lloyd George believes himself to be Napoleon, but President Wilson believes himself to be Jesus Christ."

Therefore, the diplomats and representatives of 32 states met to draft the Treaty of Versailles in an atmosphere of hatred, vengeance, cupidity, confusion and weariness. International morality, the most talked of necessity of the movement, was really being violated in its application to the defeated powers. The spiritualistic attitude of Wilson was actually made a cover to conceal the satisfaction of those secret treaties which were absolutely "incompatible with the idea of a peace without victory." The draft of the Treaty, when first disclosed to those German leaders who were most anxious to end the war and conclude peace, was not believed in by them, as even they had not expected the Allies to be so unreasonable and vindictive, particularly in view of Wilson's pronouncements which had left no room for doubt that Germany would receive fair and just treatment.* All parties, radicals, moderates, and

*That the severity of the terms was realised inwardly by the Allies, may be inferred from what Henry White wrote to Senator Lodge: "Marshal Foch has stated distinctly in the presence of General Bliss that nothing would give him more satisfaction than the refusal of the Germans to sign the treaty, as in that case he would be able to enter Germany at the head of an

reactionaries, condemned the terms as Allied "treachery" and "deceit," and Chancellor Philipp Scheidemann, a Social Democrat, expressed popular sentiment in these words: "What hand would not wither that sought to lay itself and us in those chains?" While handing over the document to the German representatives, even Clemenceau had been positively arrogant and conceited.

In the helpless state in which Germany was then, her representatives had to accept the impossible terms of the Treaty, objecting only to that portion which placed the sole war guilt on Germany; and Eadger von Haniel openly declared that his country was yielding to "overwhelming force, but without on that account abandoning her views in regard to the unheard-of injustice of the conditions of the peace." To what extent Wilson's speech of January 8, 1919, was forgotten in France may be judged from the fact that when German emissaries (Foreign Minister Hermann Muller and Colonial Minister Johannes Bell) left Paris for Versailles where the Treaty was to be signed "French mobs bombarded them with a hail of stones and vocal abuse." Thus was all morality of international dealings violated. Hence at the time of signing the Treaty at 3 p.m. on 28th June 1919, "Muller was pale and nervous. Bell held himself

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Allied army, to over-run the country completely, to take possession of the financial centres, and to squeeze out every bit of money available throughout the land."

erect and calm." Even some of the Allied representatives would have preferred a different peace. That the Treaty of Versailles contained in embryo the causes of discontent and hatred Germans have now shown to the French and some other Allied powers may be judged from the following articles:

Article 118.

In territories outside her European frontier as fixed by the present Treaty, Germany renounces all rights, titles, and privileges whatever in or over territory which belonged to her or to her allies, and all rights, titles and privileges whatever their origin which she held as against the Allied and Associated Powers.

* * * * *

Article 119.

Germany renounces in favour of the Principal Allied and Associated Powers all her rights and titles over her oversea possessions.

Article 181.

After the expiration of a period of two months from the coming into force of the present Treaty the German naval forces in commission must not exceed:

6 battleships of the *Deutschland* or *Lothringen* type, 6 light cruisers, 12 destroyers, 12 torpedo boats, or an equal number of ships constructed to replace them as provided in Article 190.

No submarines are to be included

All other warships, except where there is provision to

the contrary in the present Treaty, must be placed in reserve or devoted to commercial purposes.

Article 191.

The construction or acquisition of any submarine, even for commercial purposes, shall be forbidden in Germany.

Article 194.

The personnel of the German Navy shall be recruited entirely by voluntary engagements entered into for a minimum period of twenty-five consecutive years for officers and warrant officers; twelve consecutive years for petty officers and men.

* * * * *

The personnel discharged from the Navy must not receive any kind of naval or military training or undertake any further service in the Navy or Army.

Officers belonging to the German Navy and not demobilised must engage to serve till the age of forty-five, unless discharged for sufficient reasons.

No officer or man of the German mercantile marine shall receive any training in the Navy.

Article 198.

The armed forces of Germany must not include any military or naval air forces.

* * * * *

Article 203.

All the military, naval, and air clauses contained in the present Treaty, for the execution of which a time-limit

is prescribed, shall be executed by Germany under the control of Inter-Allied Commissions specially appointed for this purpose by the Principal Allied and Associated Powers.

Article 227.

The Allied and Associated Powers publicly arraign William II of Hohenzollern, formerly German Emperor, for a supreme offence against international morality and the sanctity of treaties.

A special tribunal will be constituted to try the accused, thereby assuring him the guarantees essential to the right of defence. It will be composed of five judges, one appointed by each of the following Powers: namely, the United States of America, Great Britain, France, Italy, and Japan.

In its decision the tribunal will be guided by the highest motives of international policy, with a view to vindicating the solemn obligations of international undertakings and the validity of international morality. It will be its duty to fix the punishment which it considers should be imposed.

The Allied and Associated Powers will address a request to the Government of the Northerlands for the surrender to them of the ex-Emperor in order that he may be put on trial.

Article 231.

The Allied and Associated Governments affirm and Germany accepts the responsibility of Germany and her allies for causing all the loss and damage to which the Allied and Associated Governments and their nationals have been subjected as a consequence of the war imposed upon them by the aggression of Germany and her allies.

Article 428.

As a guarantee for the execution of the present Treaty by Germany, the German territories situated to the west of the Rhine, together with the bridgeheads, will be occupied by Allied and Associated troops for a period of fifteen years from the coming into force of the present Treaty.

In this way, the Treaty of Versailles reduced Germany to the position of a very unimportant state, practically completely disarmed, nationally humiliated, and crushed under a huge burden of reparations and indemnities. These last included all damages caused to (i) injured and surviving dependents, (ii) civilian victims of cruelty and maltreatment, (iii) civilian victims of all acts injurious to health, (iv) prisoners of war by any kind of maltreatment, (v) Allied and Associated Powers who had to pay pensions and compensation to the wounded or dependents of the killed, (vi) these powers due to cost borne by them in assistance given to prisoners of war, their families and dependents, or to the families and dependents of those mobilised for war, (vii) civiliams by being forced by Germany or her allies to labour without just remuneration, (viii) Allied and Associated powers in respect of property in any way seized or destroyed by Germany or her allies on land, sea or from the air, and (ix) civilian population in the form of levies, fines, and other similar exactions imposed by Germany or her allies.*

* Vide appendix 1 to Article 234 of the Treaty.

In addition to the above, Germany lost considerable portions of her own territory ceded to the various Allied and Associated Powers thus: Prussian .Moresnet situated on the west of, and including, the road from Liege to Aix-la-Chapelle, and the whole of the *Kreise* of Eupen and of Malmedy to Belgium (Art. 34); coal mines in the Saar Basin to France in full and absolute possession, (Art. 45); Alsace—Lorraine to France (Art. 51); a large part of her south-eastern territory to Czechoslovakia (Art. 81); a part of eastern Prussia and Upper Silesia to Poland (Art. 87 and 88); Memel and the city of Danzig to the Allied and Associated Powers.

Such was the German humiliation under the Treaty of Versailles which was for that time acclaimed by the Allied victors as a great document based on the loftiest principles of international morality, justice and fair and equal treatment of all nations small or large, weak or strong, and drafted in the spirit of not injuring Germany.

The Weimar Republic. The Kaiser had abdicated on 30th September, 1918, and issued the memorable declaration: "I desire that German people shall cooperate more effectually than hitherto in the determination of the destinies of the Fatherland. To that end it is my will that men in whom the people repose their confidence shall share to the widest extent in the rights and duties of the

Government". Other Princes of the smaller states too had to abdicate. The November (1918) revolution in Germany resulted in the establishment of Workers' and Soldiers' Councils throughout the Country. They elected on November 10, an executive Committee, consisting of three minority and three majority Socialists, who then formed the Provisional Government which ordered general elections, on the basis of universal franchise and proportional representation, of a Constituent Assembly to draw up a constitution. The National Constituent Assembly elected on January 19, 1919, met at Weimar on February 6, 1919, and not at Berlin which was the centre of revolution and therefore an unsuitable place for calm deliberations of the kind.

In the Assembly the Social Democrats were the most numerous party, but their 163 members out of the total of 421 were not strong enough to command a majority. Therefore they formed a coalition with Clericals and Democrats. In the actual task of framing a constitution two opposing parties came to be formed: those who wanted to wipe off the states and establish a highly centralised State and the others who were equally determined to have a federal State.

The Provisional Government had already appointed Dr. Hugo Preusz, the Secretary of State for the Interior, to draw up a Reich

Constitution. A Jew by faith, a democrat and liberal by temperament, and a Professor of Constitutional Law by profession, Preusz had gained considerable practical experience in the Berlin County Council; his studies, outside Berlin University, had given him "an almost unrivalled comprehension of political principles and machinery, enriched by study of Continental, English and American democracies." * He lost no time in reading the situation and producing a draft of a federal constitution, which was based on the theory: "The German Reich consists of its member-states and the torritories (*Gebieten*) whose populations desire admission into the Reich by virtue of their right of self-determination, and who are admitted by a law of the Reich." † Sovereignty, it was asserted, belongs to the people; therefore Fundamental Rights of the people were clearly defined. This draft was debated upon at length by the Assembly, and in its revised form it became the Constitution of the new German Republic, having been adopted by it on 31st July 1919, by 262 votes against 75. The Assembly, by a resolution, constituted itself as the first Reichstag and the Constitution was put into force on 11th August, 1919.

The Character of the Constitution (1919). Curiously, the constitution, though establishing a

* Finer. Theory and Practice of Modern Government, Vol I, p. 353.

† Ibid. p. 355.

republic in Germany, gave the state the name "Reich" (meaning an Empire). It recognised the severeignty of the people in the Preamble itself which stated: "The German people, united in every branch and inspired by the determination to renew and establish its realm in freedom and justice, to be of service to the cause of peace at home and abroad, and to further social progress, has given itself this Constitution." This sovereignty of the people was made clearer in Art. 1 which said: "The German Reich is a Republic. All state authority emanates from the people." Thus, this constitution was a great improvement upon that of Imperial Germany, which was a confederation of the states without any reference to the people. Other important features of the constitution of 1919, which distinguish it from its predecesor, may be summarised thus: It destroyed monarchical governments in all the units within the federation, and established in their place republican institutions based upon the will of the people. It was federal in character; it curtailed the old supremacy of the states within the Empire. The power of Prussia was considerably curbed. When the constitution was being framed, the delegates from the Rhineland insisted on dismemberment of Prussia whose power had been too preponderant in the Empire, but these separatist tendencies were, for a time, kept in check, and a provision was made in the new constitution to allow the making of territorial

changes under certain conditions. The Central government was made very strong, so much so that the federation very much resembled a unitary state. This enabled Germany, even in the aftermath of the greatest war in history, to emerge as a powerful and united nation. People were allowed to exercise direct voice even in the election of the Chief Executive, the President of the Reich, and also in the amendment of the constitution, through Referendum and Initiative. Fundamental Rights of the people were constitutionally recognised, (Arts. 109-118) *e. g.* equality of all Germans before the law; abolition of titles, and privileges or disadvantages of birth or rank; freedom of movement; free racial and linguistic development; security of property; secrecy of private correspondence; freedom of expression of opinion and peaceful assembly; eligibility to all the highest offices in state; freedom of conscience and profession; and compulsory and free education of a very high standard.

The most unique feature of the Republican Constitution was the recognition of the importance of Economic Life of the people, and Section V contained fifteen clauses in that regard. State control over natural resources, and labour laws was established; rights of discoveries and intellectual work were placed under the care of the Reich. Professional unions were allowed to be formed. A comprehensive system of insurance for the main-

tenance of health and fitness for work, the protection of motherhood and provision for the economic consequences of old age, infirmity, and the vicissitudes of life was created. Workers' Councils were instituted to co-operate with the state in matters connected with the welfare of workers and salaried employees.

In no other respect the distinction between the old Imperial constitution and the new Republican constitution is so clear and fundamental as in the distribution of powers between the central and the state governments. In Imperial Germany, the states had large powers and some of the bigger ones enjoyed special privileges; all these distinctions were now abolished. The competence of the Federal authority was immensely extended; the independent activity of the states was almost entirely at its mercy—legally. Both the Reich and the States were subject to the *Fundamental Rights* of the Second Part of the Constitution, and many of these were regulated by Federal law, for example, administrative jurisdiction, the law of property, etc. The Federation received powers of two kinds, Exclusive and Concurrent, and so formidable in scope, and so intricate, also, that there was less clarity of distinction between Federal and State functions in this than in any other Federal Constitution, and this largely through the Concurrent Powers.*

*Theory and Practice of Modern Government, vol. I, pp. 361-62.

Under Article 6, the Reich exercised exclusive legislative power as regards foreign relations; colonial affairs; nationality, freedom of domicile, immigration and emigration, and extradition; military organization; the monetary system; customs and freedom of commercial intercourse; posts and telegraphs, including telephones. It had also legislative power (Art. 7) regarding 'civic rights; penal law, passports and the police supervision of foreigners; poor relief and vagrancy; judicial procedure; population questions and the care of motherhood, infants, children and young persons, labour laws and public health; law of expropriation; trade in food-stuffs; commerce, weights and measures; industry and mining insurance; navigation; railways; and cinemas and theatres'. It could also issue uniform regulations regarding sanitary administration and the maintenance of public order and security (Art. 9). It could make laws as regards "taxes and other revenues in so far as they are appropriated wholly or in part to its purposes." (Art. 8). It could lay down fundamental principles governing 'the rights and duties of religious associations; education, including higher education and scientific literature; conditions of service of officials of all public bodies; land laws and land settlement; and burial of the dead.' (Art. 10). In concurrent legislative powers the States retained these powers so long as the Reich did not exercise them, but Art. 13 clearly stated that "the law of the Reich

would override the law of a State," if the two conflicted with each other. In cases of doubt, the Supreme Court decided the matter.

As regards execution of laws, the Reich exercised control in those affairs in which it had exclusive legislative power; in all other affairs laws of the Reich were carried into execution by the State authorities, unless these laws decreed otherwise (Art. 14).

The Reich exercised general powers of supervision over the States which were allowed the exercise of only those powers which had not been expressly assigned to the former. All cases of doubt between the Reich and the States were decided by the Supreme Court, and this was another improvement over the Imperial constitution, because at that time "the ordinary courts determined this *indirectly* as an incident of a challenge to the validity of a rule. Now there is a direct challenge and a special court."*

The above description of the division of powers clearly shows that "the hand of the Reich is everywhere, and this in the more fundamental of state activities. Economically, culturally, in her representative and administrative institutions, in the foundations of the educational system, in the matter of general civic rights, Germany is one, or far

*Theory and Practice of Modern Government, vol. I, p. 364.

on the way to becoming one; and the battle provoked by the division of powers is, in theory, between the conception of the Reich as a Federation and the Reich as a Unitary State with decentralization to Regions."* The residual powers left to the States were so few, and the administrative and supervisory powers of the Reich were so large that fundamentally the system appeared to be unitary; 'although the historic federal stamp was far from having been completely erased.'†

The Federal Legislature. The Federal Legislature of Germany consisted of an upper house (*Reichsrat*) and a lower house (Reichstag).

The Reichsrat consisted of 68 members distributed thus: Prussia 27, Bavaria 11, Saxony 7, Wurtemberg 4, Baden 3, Thuringia, Hesse and Hamburg 2 each, and the other states 1 each.‡ Half the Prussian representatives were the nominees of the Prussian cabinet and the other half were distributed between the smaller states inside Prussia; this was provided for so that Prussia might not ignore the provincial administrations under it

The composition was based upon Art. 61 which stated: 'In Reichsrat every state has

*Ibid. p. 363.
†Ogg. Governments of Europe, p. 725.
‡Theory and Practice of Modern Government, vol. I, p. 371.

at least one vote. The larger states had one vote for each 700,000 inhabitants. A surplus of at least 350,000 inhabitants was taken as equivalent to 700,000. No state might be represented by more than two-fifths of all the votes...The distribution of votes was regulated by the Reichsrat after every general census.' Unlike the system in other federations, the strength of the German Federal Upper Chamber varied with each census; though it still retained the federal principle to a certain extent, it did not recognise the equality of status of all the states (so far as this representation in the upper chamber was concerned); "the Reichsrat translates the will of the States, such as is conceived by the governments or cabinets of these States."* As in the old Bundesrat, the States in the Reichsrat were represented through the members of their Governments. In actual practice, the Governments deputed their ministers or other officials, so that the members of the Reichsrat were neither elected at large as in America and Australia, nor chosen by the state legislatures, as used to be the case in America till 1913. In this regard the German Reichsrat followed, *in some measure*, the Swiss principle as there also same cantons appoint their own members in the Council of States. The members in the German Reichsrat represented the views of their respective Governments. "There is still the

*Rene Brunet, The German Constitution, p. 188.

flavour of ambassadorship about Reichsrat representation, the term *Hauptbevollmachtigter* used to distinguish the 'full plenipotentiary' from his deputies, and the title conferred upon these by many states, of 'ambassador extra-ordinary' (*ausserordentlichen Gesandter*), supports the illusion."*

One-third of the members could demand convening of the Reichsrat. The Reichsrat and its committees were presided over by an official of the Reich. It conducted its business according to its own regulations; its decisions were arrived at by a simple majority vote. Its sessions were open to public, but secret sessions could be held for discussing certain important matters. The Ministries of the Reich had to keep the Reichsrat informed of 'progress of affairs in the Reich.'

The Imperial Bundesrat used to exercise very extensive powers, including the settling of conflicts of a constitutional character. But as the new constitution emphasised the unity of the Reich and the sovereignty of the people, the powers of the Reichsrat were considerably limited. Even then, all legislative proposals had to be submitted, first, to the Reichsrat, and its consent taken (*at least in theory*), before being submitted to the Reichstag. Its consent was also necessary to all administrative rules made by the Govern-

*Theory and Practice of Modern Government, vol. I, p. 871.

ment. It had, thus, executive powers. It could also initiate legislation.

The Reichstag, or the lower house of the German legislature, was the principal holder of popular sovereignty in the Reich. It was elected, on a Sunday or one some public holiday, by universal adult suffrage, on the basis of proportional representation, in the following manner :—

The total strength was not fixed; it varied with the number of votes cast at the election, there being assigned one representative for every 60,000 votes cast. The system adopted was based upon Art. 24 in the constitution of Baden and was, therefore, called the *Baden System* which was preferred to the Hondt system. Germany was divided into thirty-five electoral districts. These districts were also formed into seventeen groups, each of the latter uniting two or more districts. Then over them all was the whole Reich including the entire territory of Germany. The political parties produced district lists of their respective candidates, each ticket of the party containing the names of its candidates for that district. Each elector voted for the ticket of the party he favoured, that is, his preference was for the party and the programme and not for any individual candidate or candidates. The number of votes each party thus securred in the district was counted and for each 60,000 votes secured, it

was given one representative from its list, beginning from the top. The fractions of 60,000 that remained unutilised, for that party, were then transferred to its group ticket, and in each group the total votes unutilised in the districts of that group, were again determined and for each 60,000 votes the party got one representative from the group ticket. Then the unutilised votes *i. e.* fractions of 60,000, in the group, were transferred to the Reich ticket of the party. All these surplus votes for the seventeen groups were summed up and the party was assigned one member for each 60,000 votes, and one member for over 30,000 votes remaining as the final surplus. This method was advantageous in utilising the fractions of 60,000 votes, so that the principle 'that no votes be wasted or go unrepresented' was adhered to. But no party could secure on its groups and Reich tickets more members than the total members it had directly secured on the district tickets. For example, if a particular small party had obtained 18 members in the count for the districts, it could not get more than 18 members, for the unutilised votes of the districts, on its groups or Reich tickets. This restriction was laid down to discourage the formation of small local parties which though not sufficiently numerous in districts, might try to secure members, by combining their unutilised votes, on the tickets for the groups or for the Reich.

All citizens, male as well as female, over twenty years of age were entitled to vote. The electoral districts either prepared an alphabetical list of their voters or only granted a voter an identification card or certificate, a duplicate of which was retained by the district authorities. Bankrupts, paupers, those placed under guardianship, and those deprived of civic rights by a court decision, soldiers under colours, and those detained in mental asylums, or in prisons for criminal offences, were disqualified from voting. Political prisoners were, however, allowed to vote. The political parties prepared their respective lists and provided each voter with a copy. The voter got a simple envelope from the district authorities, marked and put in it the list he wished to vote for, sealed the envelope and delivered it to the election authorities.

There was no provision for by-elections. But at the time of the general election, the party lists were so drawn up as to provide for filling up possible vacancies whenever these occurred. The chief features of the German system of election were the largeness of constituencies; long lists of candidates; the combination and reward of the surpluses, absence of by-elections; absence of small and insignificant parties; and equitable representation of all political parties.* The last feature may be illustrated by citing the

*Theory and Practice of Modern Government, Vol. II, p. 917.

figures for the election of 1920, the first election in which the men and women voters voted at common booths. For the 26,017,590 votes cast, there were 466 members elected to the Reichstag, distributed thus .*—

Parties.		*Votes.*	*Seats.*
Social Democrats	...	5,614,456	112
Centre	...	3,540,830	68
Democrats	...	2,202,394	45
German Nationals	...	3,736,778	66
People's Party	...	3,606,316	62
Independents	...	4,895,317	81
Communists	...	441,995	2
Bavarian Peasants' Union	...	218,884	4
Guelphs	...	319,100	5
Christian Federalists	...	1,171,722	21

The normal life of the Reichstag was 4 years, but it could be dissolved earlier to make an appeal to the country. In fact, earlier dissolutions were frequently resorted to, on account of the inability of any party to form a stable ministry, which was due to the presence of a very large number of them with different programmes which ruled out strong coalitions. As the "principal representative of the sovereign people," the Reichstag laid down laws relating to the grant of amnesty, declaration of war and conclusion of peace, and the making of treaties of alliance, and international treaties† It elected its own

*Brunet. The German Constitution, p. 117.

†Ibid. p. 189.

officers including the President and Secretaries, made its own rules of procedure, determined the time of its assembling and adjourning, though its President could advise the National President to convoke special sessions. Its annual sessions began on the first Wednesday of November, each year.

In the legislative field, all bills to be introduced in the Reichstag had first to be agreed to by the Reichsrat on the advice of the National Cabinet. Even in case of disagreement between the Reichsrat and the Cabinet, the bills had to be introduced in the Reichstag but the point of view of the disagreeing party (the Reichsrat or the Cabinet) was explained in the Reichstag. A bill passed by the Reichstag was sent to the Reichsrat, and in case the latter protested, *i. e.* disapproved of the measure, the National President referred the measure to popular vote, or he remained passive, in which case it failed. But if the Reichstag again passed the measure by a two-thirds majority, the National President had either to promulgate it as law or refer it to popular vote. One-twentieth of the electors could also demand a law voted by the legislature to be put to referendum.

Bills could be introduced into the National Assembly (Reichstag) by the National Cabinet, with or without the permission of the Reichsrat (Art. 69), by the members of the

Reichstag (Art. 68), by one-tenth of the electors (Art. 73), and (in social and economic matters) by the National Economic Council.

The Reichstag exercised control over the Cabinet which was responsible only to this popular branch of the legislature. The Reichstag might prosecute the National President and the Cabinet before the National Judicial Court and demand that the people pronounce on the removal of the President (Art. 43). It might demand the presence of the Chancellor and the Ministers, whether in committee or in full session. Its members could address questions, in writing to the Cabinet, to which the latter might respond in writing. Such questions were taken up on a Tuesday or on a Friday. No discussions could, however, take place on the ministerial answers. Thirteen members could, in writing, interpellate the Cabinet, but interpellations were not followed by a vote as in France. The Reichstag exercised further control over the Cabinet 'by means of a *parliamentary investigating committee*,' a novelty in German public law; this committee might be appointed when one-fifth of its members demanded it. In addition, the Reichstag appointed two *permanent committees*, one to deal with Foreign Affairs, and the other had as its purpose the control of the activity of the Cabinet of the Reich when the Reichstag was not in session, to safeguard the right of popular representation.

The Federal Executive. The system of Government instituted by the Weimar constitution was parliamentary; there was provided a President to act as the head of the government, 'a new type of chief of state'. He was not merely a titular head but a powerful chief of state—a great necessity in Germany. He was more powerful than the French President who has no effective powers, but less powerful than the American President who is the chief executive head of U. S. A.

The German President was elected by 'the whole German People', the detail being regulated by law. Every German citizen above 35 years of age was eligible for the office. He was elected for a term of seven years and was eligible for re-election.

A candidate for Presidentship had to obtain an absolute majority of the votes cast for being elected If, however, no candidate got this much majority, a second election took place. In this second election any number of candidates might be presented, even those who did not contest the first election, and the one getting the largest number of votes was declared elected, that is, there was no absolute majority requirement in the second election.

On assuming his office he took the oath of office which was: *I swear to devote all my energy to the welfare of the German People, to increase*

their prosperity, to protect them from injury, to preserve the Constitution and the laws of the Commonwealth, to perform my duties conscientiously, and to deal justly with all.

He could be removed from his office by an absolute majority of the electors to whom the question was referred on the demand of a two-thirds majority vote of the Reichstag. During the interval between this vote of the Reichstag and the referendum, the President was suspended from office. But if, as a result of the popular vote, the President was retained in his office, he was considered to have been re-elected for seven years, and the Reichstag was then dissolved. He could not be prosecuted for a criminal offence without the consent of the Reichstag.

The President promulgated all laws passed by the legislature. He exercised the power of veto only in case of disagreement between the Reichsrat and the Reichstag, and the failure of the latter to rule out the objections of the former by a two-thirds vote, in which case the President might refer the question to popular vote or declare the measure as dropped.

As the head of the State he represented the Commonwealth in matters of international law; he concluded, in the name of the Commonwealth, alliances and other treaties with foreign powers; he accredited and received

ambassadors. (Art. 45) For the declaration of war and concluding of peace, a national law was required. The President had supreme command over all the armed forces of the State; he appointed and dismissed all civil and military officers, 'if not otherwise provided by law.' If any State inside the Commonwealth failed to perform any of the duties imposed upon it by the Constitution, the President took steps to force it to perform those duties, even by force of arms. In case of danger to safety and public order in the federation, he took all steps to restore safety, even by using armed forces and by suspending, "in whole or in part, the fundamental rights established in Articles 114, 115, 117, 118, 120, 124 and 153," but he was required, then, immediately to inform the National Assembly of all the measures so adopted. He exercised the right of pardon for the Commonwealth, but national amnesties required a national law. But all his actions required countersignature of the Chancellor or of one of the Ministers, lest the President should become a virtual dictator.

He appointed the Chancellor, and, upon the latter's recommendation, the Ministers of the Commonwealth. The Chancellor was free to select as many ministers as he liked to keep in his cabinet, and the constitution did not fix any number. In selecting the Chancellor, the President exercised his fullest discretion, but he usually appointed that

leader who was likely to form a stable ministry. He could also dismiss the Chancellor, and this power President Hindenburg actually exercised by dismissing Chancellor Bruning in June 1932, and setting up a non-party Government under the leadership of von Papen, when this Chancellor, too, was similarly dismissed, much against the President's own wish, in December 1932.

Next to the President, another important Federal Officer in the National Executive, was the Chancellor, in one sense a proto-type of the British Premier. The Chancellor, as also each minister, was responsible to the Reichstag, and had to resign when the National Assembly withdrew its confidence. Unlike the British Prime Minister, the German Chancellor guided the general policy of his Cabinet which the ministers had to abide by, though the latter were free to fill in the details of their respective departments. The Chancellor was kept continuously informed of all measures which were important for the determination of the main lines of policy and the conduct of the business of government; he could at any time call for further information; he had the right and the duty of insisting upon the uniformity of the policy of ministers. Changes contemplated by a minister in the accepted principles, or new measures entirely of general political significance, had to be brought before the Chancellor for his decision.* But

*Theory and Practice of Modern Government, vol. II, p. 1093.

each minister was held "individually responsible to the National Assembly" for the detailed working of the department under him; the Chancellor being held responsible only for the general policy. The Chancellor presided over the meetings of his Cabinet. Decisions in these meetings were arrived at by a majority vote; the Chancellor (or in his absence the presiding officer) had a casting vote in case of a tie. If the Reichstag did not approve of the general policy of the Chancellor, the whole Cabinet including him, resigned. So that in Republican Germany, the Chancellor governed and his ministers only administered.

Though the Chancellor nominated the ministers, the latter did influence him in many important matters including the assigning of offices to them. The existence of multi-party system in Germany did not allow any Chancellor to retain the confidence of the Reichstag for a considerable time, because no party commanded an absolute majority. Between February 1919 and June 1928, there were as many as fifteen Cabinets, giving an average life of 7½ months to each. The pressure of foreign relationships, too, was another important reason which accounted for these short-lived cabinets. Every time a crisis occurred in German relationships the balance of poltical strength and loyalty was rudely disturbed, since passions had been so roused that often one could best govern by

resignation from the Government.* As many as four cabinets fell on account of differences over foreign policy.

Before the rise of the Nazis to power, the executive in Germany followed the parliamentary practice of all other countries, the only special feature in Germany being that on account of the existence of half a dozen strong political parties, there was always a difficulty in forming a stable government, and recourse was always had to form a Cabinet after reaching agreement between two or more influential parties.

The Judiciary. There has been a very important difference between the German judicial system and the American system. Even the Weimar constitution left this difference almost untouched. This difference lies in the fact that "whereas in the American judicial system the national authority is evidently conceived to be above that of the states, its Courts intervening to secure federal judgement in federal matters, in the German system the states were left with considerable freedom."† The Imperial Bundesrat decided conflicts between states, unlike the system in America where the Supreme Court is the authority to decide such matters. So that even in the Republican constitution (1919) of Germany, the distribution of judicial powers,

*Ibid. p. 1100.
†Theory and Practice of Modern Government, vol. I, p. 313.

as provided in Section VII (Articles 102 to 108), made "little advance upon the old."

In Republican Germany, judges were appointed for life and were independent, subject only to the law. They might, however, be transferred from one office to another. They held office till they reached the prescribed age limit. Military courts could not be instituted except in times of war or on board war-vessels.

All states had established Administrative Courts provided in Art. 107. The states themselves appointed the judges of these courts. The main purpose of the administrative courts was "to give judgement on the legality of administrative actions, and disciplinary aspects of official activity." The citizen had a right "to invoke the power of the Courts against any act of an administrative authority." The Courts were "concerned with the respective competence of municipal authorities and the various institutions and officers thereof or between individuals and the authorities regarding claims and obligations arising out of public law; the conflicts over powers between the higher local authorities and the central authority, rates, orders under the police power, subjects which in English law are dealt with either by the Departments of State or the ordinary Courts of Law."*

* Theory and Practice of Modern Government, vol. II, p. 1489.

Besides these Administrative Courts there were ordinary courts in all states, dealing with ordinary cases, criminal and civil, as in other countries of the world. These courts were of different gradations, with varying degrees of jurisdiction.

In the Commonwealth (Reich) too, there were Administrative Courts on the lines of those in the states. There was also the Supreme Court, or 'A Court of State,' established by the federal government, as provided in article 108 of the Constitution. This Court sat at Leipzig, and had 96 judges. It exercised appellate jurisdiction over all inferior courts and also original jurisdiction in certain cases. It was divided into four criminal and nine civil senates, each consisting of five judges.* It acted as a tribunal for trying "constitutional issues of the first rank", which were:—

(1) Impeachment (as voted by the Reichstag) of the National President, the Chancellor and the Ministers, for criminal violation of the Constitution. (Art. 59.)

(2) Differences regarding 'maladministration of Reich laws by the states', the suit being preferred by the Reich or the state government, (Art. 15.)

(3) All disputes relating to property, "in cases arising out of territorial re-organization of the states" (Art. 18.)

(4) All "non-private" conflicts between states, or between a state and the Reich.

* Statesman's Year Book, 1932, p. 933.

(5) All constitutional conflicts arising within a state which had no court for their settlement.

(6) Disputes arising between the Reich and any state or states relating to the rights and powers of the former over the railway system and the conditions of transfer of the post and telegraph system, state railways, canals; and differences of opinion with regard to 'interpretation of treaties relating to the transfer of these and allied institutions.' *

The above powers of the Supreme Court were defined by a Law passed in July 1921. The institution of this Supreme Court in Germany was a distinct improvement upon the Imperial judicial system which did not provide for any such judicial machinery for the settlement of disputes mentioned above, particularly those arising between the Reich and the states. "Under the old Constitution the states were sometimes judged by the Reich without appeal to a properly constituted court of justice, or the Reich was successfully defied, since appeal to the Bundesrat was an appeal to a political body the members of which had a personal interest in the result. The character of the new Federation made such a method impossible. A Central authority to guard the spirit of the Constitution was imposed by the facts of the situation." † The new German federalism had, in this respect, been influenced by the experience of U. S. A., Australia and Canada.

* Theory and Practice of Modern Government, vol. I, p. 367.
†Ibid. p. 368.

Amendment of the Constitution: Direct Democracy.—The amending process of the constitution reflected the sovereignty of the people of the Reich, unlike the method prevailing in the Imperial Germany which recognised the union as between Princes and not between peoples. The following methods could be adopted for amending the constitution :—

(1) The two Houses of the legislature, *viz.* the Reichsrat and the Reichstag, might effect an amendment by a two-thirds majority, in each House, provided that (in each House) two-thirds of the total members were present.

(2) If the Reichstag passed an amendment by a two-thirds majority of the total members of the House, and the other House persisted in objecting to that amendment, the President might refer the measure to the people, if asked to do so by the Reichsrat within two weeks, or he might promulgate it. In the referendum at least half of the electors must have taken part, of whom a majority was necessary in favour of the amendment.

(3) An amendment could be initiated by one-tenth of the voters and then if the Reichstag rejected it, it was to be referred to the people and

an *absolute majority* of the voters in favour was required to pass it.

The Weimar Constitution, in recognising the sovereignty of the people, introduced an element of direct democracy, a provision which marked the most important improvement upon the Imperial Constitution. People elected, by a direct vote, their National President, and could, in one sense, recall him or reassert their confidence in him, whenever there was a serious conflict between him and the Reichstag, and the latter demanded his removal from office. They could initiate laws and also demand that a law passed by the legislature be referred to their vote. This last demand could be made by one-twentieth of the qualified voters. Their consent (only of those who were directly affected) was also necessary in making territorial reorganisations. (Article 18) And lastly, they could propose and pass constitutional amendments. All these various methods by which people exercised direct and effective voice in the governance of the country was just in comformity with the spirit of the constitution.

The States. With the fall of the Hohenzollerns in Germany, all state monarchies were abolished and replaced by popular rule. To make the forms of government in the states and in the Reich popular, the Constitution of Weimar recognised the necessity of republican States with full sovereignty in the peoples

thereof. So that the Reich consisted of 18 States,* large as well as small, the largest of them being Prussia with a total population of 38,069,631, and the smallest Schaumburg-Lippe with a population of 48,044 only. The Constitution provided for their territorial reorganisation. Article 18 stated:

"The organisation of the Reich into States shall serve the highest economic and cultural interests of the people with all due consideration for the will of the population concerned. Alteration of the territory of the States, and the formation of new States within the Reich, shall be effected by means of a law of the Reich amending the constitution.

"Where the States give their direct consent, a simple law of the Reich suffices.

"A simple law of the Reich suffices also in a case where the consent of one of the States concerned has not been obtained, but where an alteration of territory or reorganisation is demanded by the will of the population and required by paramount interests of the Reich.

"The will of the population is ascertained by plebiscite. The Government of the Reich orders the taking of a plebiscite when

*Prussia; Bavaria· Saxony, Wurtemburg; Baden; Thuringen; Hessen; Hamburg; Mecklenburg-Schwerin: Oldenburg; Brunswick; Anhalt; Bremen; Lippe; Lubeck; Mecklenburg-Strelitz; Waldeck; and Schaumburg-Lippe.

demanded by one-third of those inhabitants of the territory to be separated who are entitled to vote for the Reichstag.

"For the determination of an alteration or reorganisation of territory, the portion of votes required is three-fifths of the number cast, or, at least, a majority of the votes of persons qualified. Even when it is a question only of the separation of a portion of a Prussian administrative area (Regierunsbezirk), a Bavarian district (Kreis) or of a corresponding administrative district (Verwaltungsbezirk) in other States, the will of the population of the whole district in question shall be ascertained....."

Thus the pre-war status of the States, with regard to the inviolability of their territory by the central government, was altered in 1919, and the Reich was given clear powers to rearrange territorial boundaries. So that the too great power of Prussia which alone oocupied nearly 62 per cent. of the German territory and the same percentage of the population of the Reich, was made liable to curtailment. With regard to State constitutions, Article 17 of the Constitution stated: "Each state must have a republican constitution." People enjoy universal adult suffrage." The States exercised only those powers that had not been assigned to the Reich. In case of conflict between a Reich law and a State law, the former prevailed. The States were, how-

ever, allowed to exercise power by themselves, so long and in so far as the Reich did not exercise its legislative power, which was not the exclusive concern of the Reich. Laws of the Reich were generally carried into execution by State authorities, but the Reich could despatch commissioners to the States for the purpose of supervision of these laws.

The States had their own judicial systems.

Economic Life of the People. To rehabilitate the economic condition of a defeated people, to counteract the invasions into Germany of the Bolshevick movement from the east, and lastly, to satisfy the growing socialistic needs of the post-war period, the Weimar Constitution recognised the importance of the welfare of the working classes and of the economic life of the German people (Articles 151-165). This was sought to be achieved in the following two ways :

Firstly, the workers and salaried employees were organized together. Each factory consisting of fifty workers had a local workers' council, and similarly there were district workers' councils and then finally the National Workers' Council. Para 2 of Art. 165 said: "The wage-earners and salaried employees are entitled to be represented in local workers' council, organized for each establishment in the locality, as well as in district workers' councils, organized for each economic area,

and in a National Workers' Council, for the purpose of looking after their social and economic interests." So that the weaker of the two parties in the economic life of the nation was organized to take its proper stand *vis-a-vis* the capitalists who were undoubtedly stronger than the workers. This co-operation did much to improve their lot.

Secondly, effort was made to bring about a better understanding between the employers and the workers by instituting economic councils consisting of the representatives of both. Wage-earners and salaried employees were qualified to co-operate on equal terms with the employers in the regulation of wages and working conditions, as well as in the entire economic development of the productive forces. The organizations on both sides and the agreements between them were recognised. To establish co-operation between the employers and their workers, there were instituted district economic councils, each covering an economic area, and the National Economic Council covering the whole territory of the Reich. The constitution fixed the composition of these councils thus: "The district workers' councils and the National Workers' Council meet together with the representatives of the employers and with other interested classes of people in district economic councils and in a National Economic Council for the purpose of performing joint economic tasks and co-operating in the execution of laws of sociali-

zation. The district economic councils and the National Economic Council shall be so constituted that all substantial vocational groups are represented therein according to their economic and social importance." The National Economic Council, often described as the economic Parliament of Germany, consisted of 326 representatives of the various groups, distributed thus: agriculture and forestry 68; market industries and fisheries 6; general industry 68; commerce, bank and insurance 44; transport enterprises 34; small business and small industries 36; consumers 36; civil servants and the professions 16; other nominees of the government 24. Each group consisted of an equal representation of employers and workers.

The National Economic Council was mainly an advisory body. All laws relating to social and economic policy were, before being introduced into the National Assembly, referred to the National Economic Council for opinion which enjoyed the right itself of proposing such measures for enactment into law, and had its bill presented by one of its own members before the National Assembly. Thus the National Economic Council had almost the same relation with the National Assembly (Reichstag) in all social and economic legislation as the Reichsrat had with the National Assembly in all other legislative measures.

The representatives in the National Economic Council had no fixed life, each group of

employers or workers being free to recall any of their respective representatives at any time as well as to fill up vacancies when they occurred. Being an advisory body, its decisions were not necessarily arrived at by majority rule; sometimes there was voting by groups and at other times by heads. The complete record of its proceedings on a particular measure was sent to the government which then formulated its own opinions. The Economic Council often worked through Sub-Committees, the original idea of treating it as a parliament of 326 representatives having been given up. The meetings of the Council and its committees were not open to public.

There was hostility shown to the National Economic Council from four quarters. Firstly, the members of the Reichstag believed that they being the sovereign authority, the Economic Council was a serious limitation upon their work. Secondly, the bureaucrats had to prepare the draft laws that were sent to the Council for criticism and opinion, hence they did not like that the Council should interfere with their draft. Thirdly, the employers, too, did not look upon the Council with favour, because they thought that it recognised the status of equality of the workers and the employers, which the latter did not like. Fourthly, there were those who wanted to alter the proportion of representation of different interests. But the Trade Union

Organizations throughout the country supported the institution of the Council.

On the whole, the National Economic Council was able to do much useful work, though it failed to achieve the success which was originally expected. It saved much of the time of the Government and of the Reichstag 'by its exhaustive examinations and reports.' It succeeded in keeping constant touch with the Government; it proved to be an influential means of tendering expert advice on all social and economic matters which are undoubtedly acquiring increasing importance in modern states.

Political Parties. Though there were political parties in Germany even before the war, their importance was, however, not so great as it became in the post-war period. The Revolution of November 1918, let loose the socialists, the state particularists, the democrats and all workers and soldiers to fight for acquiring influence in the making, and subsequently in the governing, of the state. The election of the Constituent Assembly on the basis of proportional representation, resulted in sharpening the lines of division between the various political parties, none of which obtained an absolute majority. And almost all the old parties that had sprung up during the period 1862-66, the time of "Prussian Constitutional conflict," returned some members. The actual figures were: German National

People's Party 42, German People's Party 22, Centre 89, Democrats 74, Social Democrats 163, Independents 22, and other minor parties 9. Before this time (*i.e.* 1919) Germany had representative government but without any responsible government. "The great opposition parties, therefore, could never freely participate in administration, nor did any party ever know when, or for how long, it might be called upon to form a government."* They did not therefore, exhibit the sense of political responsibility which is a marked feature of parties in England and America. "An extraordinary premium was placed upon the creation of attractive programmes" † which had no chance, whatever, of being tested on the anvil of partical politics. The German politicians did not hesitate to make promises and set forth programmes that "were at once theoretically complete and inflated far beyond veracity." But the Revolution of 1918-19 changed the whole face of German politics and the parties saw before them the possibility of being called upon to assume the responsibility of forming government, and this had "an immediate and abnormally deflating effect" upon their programmes.

The National Convention produced the Weimar Constitution which was a victory for the social Democrats, and a defeat to the German Nationalists, the German People's

*Theory and Practice of Modern Government, vol. I p. 446.
†Ibid.

Party and the Independents, all the three of which were anti-Democratic and desired to establish monarchic institutions in 1919.

The Centre Party in Germany was mainly Catholic in its leanings. It was democratic and believed in the equality of men; it demanded revision of the Treaty of Versailles. Its further programme might be thus summed up: creation of a functional representative body; promotion of reconciliation between classes and industries; connection between industry and politics, including co-operation of the workers in industrial management. The Centre Party had been represented in almost all the governments formed since 1919, and contributed seven Prime Ministers to the Reich Cabinets till 1930.

The National Socialist German Workers' Party began with a comparatively insignificant following of 32 in the May elections of 1924, but in the December elections its strength went down to fourteen in the Reichstag. In 1928 it further declined to 12, but in 1930 elections it again shot up to capturing 107 seats out of a total of 576, thus occupying a very important position second only to the Social Democrats who gained 143 seats. This success of the National Socialist Workers was due to the Party's intensive and ceaseless efforts to appeal to the youth of the country against the parliamentary regime which had till then propped up on the vast foreign debts

which the successive governments botween 1924 and 1928 had incurred to keep Germany outwardly prosperous. The party had recourse to extreme measures. "A militant, violent, incessant propaganda was practised; men and women who stood in the way were murdered, a military organization was created to give satisfaction to the longing of the young and the unemployed and oppressed, and freedom and organized, gymnastic community. Large numbers of the youth of the universities were attracted. A process of infiltration was attempted in the Army."* The Party was essentially race-proud; it preached, firstly, Racial Nationalism including the exclusion of all non-Germans by blood from participation in German-citizenship and its consequent dislike of the Jews, and, secondly, Social Economic Collectivism.

The German Social Democratic Party was started with its support to Marxian doctrines. Its cry for universal and equal suffrage won it great favour, and in 1914 it had 88 daily newspapers with a sale of nearly a million and a half. During the war there was a split in the party; the secessionists included Independent Socialists and Majority Socialists, and both of the groups were, later on, assimilated in other parties. The Social Democrats, as already said, were the most numerous party in the National Convention which produced

*Theory and Practice of Modern Government, vol. I, pp. 576-77.

the Weimar Constitution, and they had therefore, to conduct the government after August 1919. The party continued to occupy a very influential position, allying with some party or the other to form coalitions, till the rise of the Nazis to power. It believed in Socialism as the cure for the evils of modern industrial age, and sought to achieve its end through a parliamentary system. 'It stressed the good of the community over that of the individual, and pursued a policy of cultural as well as social improvement through the State until such time as it gathered a majority of voters. It supported a centralised Reich with local self-government, the abolition of privileges of birth, sex, religion and property. Administration was to be democratized, remedies against illegality of administrative action established, municipalization of business enterprise extended. It had many immediate demands, like that of marriage, divorce, and the treatment of illegitimate children. Its educational policy induced full and free opportunities for all, and *secular* instruction only, and was strongly opposed to any publicly admitted right of the churches to influence the schools. Its financial policy was based on direct taxes. The party supported economic and factory councils in which the workers might acquire a say in the direction of industry. It was a party of international affiliations, and supported national minorities, international disarmament, the League of Nations, and the backward peoples against exploita-

tion.'* In short, this policy resembled that of the British Labour Party, with the only difference that the German Socialists were wedded to Marxian doctrine in general.

The most influential party in post-war Republican Germany was the German edition of the Italian Fascists, called the Nazis. The Nazi party is now the only political party in Germany. Nazism has much in common with Fascism, particularly its fight against parliamentary form of government. It is the product of the general wave of intense nationalism that has been sweeping over Europe since the beginning of the post-war period, notwithstanding the talk of internationalism and the professed abhorrence for war. Hitler is the father of the Nazi movement. He is an Austrian by birth, having been born in Bavaria where he started his political career as a Socialist. He took prominent part in the Socialist movement of 1918-19. Socialism was rigorously suppressed in Bavaria in 1920; and the anti-Socialists swept the polls at the following elections and succeeded in putting down the Communist movement. "It was in this atmosphere of revolution and counter-revolution that Hitler created his Nazi organisation, hovering at first between the demand for Bavarian separatism and the creation of a powerful pan-German State."† It soon gained

*Ibid 592.

†Cole. *The Intelligent Man's Review of Europe To-day*, p. 643.

considerable support, particularly in 1923, when Ludendorff joined its ranks. It became extremely militant in attitude, and tried to overthrow the Republican Constitution. The Bavarian Government repressed it, for the time being, and in April 1924 sentenced Hitler to five years' imprisonment. He was, however, released within a few months, contested the elections of 1924 and gained 32 seats. But the Nazis again lost ground and in the elections of 1928 they could capture only 12 seats. However, the world slump after 1928 gave Hitler his chance in Germany which was then facing gigantic economic crisis. The Nazis began to acquire considerable popular support. In the elections of July, 1932, they polled 13¾ million votes and captured 230 seats in the Reichstag. Hitler refused to agree to the formation of a coalition government and the Nationalists were allowed to form government with von Papen as Chancellor. By this time the centre of gravity had shifted from the south to the north, and the Nazis became the strongest party in Prussia. Four months later, they again suffered a set-back and in the elections of November 1932, they got only 106 seats and 11¾ million votes to their credit, and it was expected, in certain quarters, that Nazism had started on its downward march. At this time the Chancellor was von Schleicher who tried to appease the general discontent in the country by following a more moderate policy. He could not, however, continue in power for long. President Hindenburg was

then compelled by the force of circumstances to offer Chancellorship to Hitler who formed his first Nazi government, including therein Papen and the Nationalists who were friends of the President. Though Papen was made Vice-Chancellor, the real power passed into Nazi hands.

* *Failure of German Parliamentarianism.* The Weimar Constitution had established a federal, republican, parliamentary government in Germany. The German constitutionalists had hailed the introduction of parliamentarianism, hoping that the system would stabilise democracy and lead to the happiness and prosperity of the nation. But within a decade of its working the system showed signs of complete failure, and in 1933 it yielded place to Fascist dictatorship under Adolph Hitler.

Various writers have attributed the failure of the Weimar parliamentary, republican, federal system to different reasons on account of the many view-points from which they have looked at the subject. Some of them hold that the weakness of German politicians and parliamentarians led to the failure of the Weimar Republic; others assert that the Treaty of Versailles was responsible for the failure of the German parliamentary system. Neither view is entirely correct; the truth lies

That the establishment of the Republic was enthusiastically received by the German people, on the whole, cannot be questioned. But mere popular enthusiasm was not enough to make this important constitutional experiment a success. Certain conditions are necessary to make parliamentarianism a success. Firstly, as the system involves the formation of political parties, two and only two political parties are necessary for the successful working of parliamentary government. This has been demonstrably established by the working of the English and French systems. In the former country, parliamentarianism was a great success till the rise of the third party (the Labour Party), and in the latter the existence of the multi-party system—to be more accurate, the existence of the many political "groups"—has led to the extreme instability of character of the French Cabinets, forcing them to perform political experiments of kaleidoscopic nature. In Germany the Weimar Constitution introduced the Baden system of proportional representation which, while it satisfied the claims and demands of the many political parties to obtain seats in proportion to the support they obtained at the polls, directly encouraged the continuance of the multi-party system. None of the parties commanded the support of the majority in the Reichstag, and hence from its very outset the parliamentary system suffered the inherent weakness of coalition, and unstable, cabinets. That the first eleven cabinets had

an average life of 7½ months each clearly proves how the German cabinet system was inclining towards the French system.

Secondly, the new German parliamentarianism needed financial stability for its success. But the treaty of Versailles had imposed extremely heavy financial obligations, the war reparations. Even when the reparations question was being discussed in 1918-19, far-sighted thinkers had protested against the inadvisability of loading Germany with excessive indemnities. Among notable writers on the subject, Mr. Henry N. Brailsford had contributed a series of articles on the *Folly of Indemnities*, showing therein how in the past it had resulted in financial instability in the world and, in the earlier years, in the industrial development of the defeated nation. Counsels of this nature did not appeal to the Allied Powers who seemed to be bent upon exacting the heaviest penalties from Germany, expecting that payments would be made by the latter sufficient in amount to cover their own expenditures on reconstruction of devastated areas and rehabilitation of soldiers. On the other side, the German people were not minded to pay reparations at all; they felt that the promise to pay was extorted from them under duress, and they and their governments would pay only when they were compelled to pay. No fixed sum had been mentioned in the treaty which had not even specified the percentage shares of the various Allied Powers.

These haggled for preferential treatment of their respective claims and the Conference at Spa (1920) fixed their shares thus: France 52%, British Empire 22%, Italy 10%, Belgium 8%, and all the rest 8%. A conference had suggested the total reparations at fifty-six billion dollars but later on it was reduced to thirty-two billion dollars. Anxious to pay the Allies, the Germans developed their industries with the greatest speed and consequently cheap German goods flooded every nook and corner of most countries. Other countries then raised high tariff walls against German imports, to protect their own manufactures. This accentuated the financial difficulties of the German government. Consequently, the German *mark* fell incredibly low and in the latter part of 1922 Germany declared her inability to pay. Thereupon, despite British criticism, the French government, presided over by Raymond Poincare, resolved to apply force and occupied Ruhr, the very nerve centre of German industrial life. The Germans felt outraged by the hostile incursion, but, though unable to resist by force of arms, they were firmly welded together in patriotic fervour and stubborn determination to offer passive resistance.

As a result of international negotiations, an economic commission, under Charles Dawes, recommended new arrangements for payments spread over longer years. Germany cancelled her inflated currency and imposed new taxes; France withdrew her forces. But

even this "Dawes Plan" proved only a temporary device. Accordingly in 1929, a new economic experts' commission, under the chairmanship of another American financier Owen Young, met at Paris and radically revised the "Dawes Plan." The total amount was reduced to eight billion dollars and payments were spread over fifty-eight years. Foreign supervision was withdrawn and the Allied Powers had to immediately and completely evacuate the Rhineland.

Two years later, the world experienced a general economic depression of the most serious kind, and consequently the German national sentiment, roused to the highest point, became solidly inimical to further payment of reparations. In 1932, an international conference met at Lausanne, which recommended the reduction of the remaining German indemnity to 700 million dollars, subject to the United States correspondingly slashing the inter-allied debts. And although the United States would not agree, the Allied Powers (including England, which for the first time in her history took such a step) refused payment of their debts to the United States. "Practically, though not legally, both reparations and inter-allied debts were thus wiped off the slate of international accounting, but only after they had grievously impaired the economic and political stability of the chief nations of the world during the thirteen years following the Peace of Paris." And thus the

Weimar constitution received too great a blow within the first years of its working. The successive coalition cabinets proved unfit, rather powerless, to cope with the financial crisis created by the reparation problem.

Thirdly, the humiliation inflicted on the German nation by the severe terms of the treaty had created a new psychology of the defeated nation. Anxious to avert complete destruction of their State and nation, the German leaders had signed the treaty. Their military strength was crushed, but not their military spirit and patriotism. In Thuringia, for example, under the National Socialist administration the teacher or a pupil recited aloud : "Hear the article which Germany's enemies thought out in order to shame us forever. 'The Allied and Associated Governments affirm and Germany accepts the responsibility of Germany and her allies for causing all the loss and damage to which the Allied and Associated Governments and their nationals have been subjected as a consequence of the war imposed upon them by the aggression of Germany and her allies." The class would instantly answer: "Germany's shame shall burn in our souls until the day of freedom and honour !" This was fundamentally a doctrine of predestination and the practically inevitable result of the treaty of Versailles, a document that humiliated and hindered but not really crippled an over-ambitious nation. The Weimar

parliamentary system was, no doubt, unable to satisfy the growing German generation which was bent upon wreaking vengeance on their enemies. What was needed was a system that could concentrate all power in one place and in a few hands, without any chance of a change in policy. The young German mind was thus prepared for according a warm welcome to the party that made promises of an early retribution.

Fourthly, experience has shown that certain traditions are necessary to train a nation to work parliamentary institutions. The pre-war German Empire had developed extreme form of aggessive militarism under Prussian control. The parliament there was, but the Bundesrath—in fact, the Imperial Chancellor—exercised all control, and the Reichstag was a virtual nullity. The abnormal circumstances created in Germany by the defeat in the war needed a strong administration which, if Parliamentary, could have been successful only when the general voters were highly trained to confide in the efficacy of the ballot and the leadership of a responsible cabinet. These conditions were absent in the second Reich.

Thus the experiment in Parliamentary institutions failed to solve the fundamental problems facing the defeated Germany. The Coles have very poignantly stated the reasons of the replacement of the second by the third Reich in these words:

The Weimar Republic, born out of Germany's defeat in the war, and fatally compromised by its attempts at 'fulfilment' of the obligations imposed by the treaty, became in the eyes of the patriotic Germans the symbol of national impotence and humiliation. The Nazis were finally raised to power under the intense pressure of economic distress arising out of the world crisis; but it is unlikely that they would ever have conquered Germany if they had depended on economic forces alone. They were victorious because they were able to rally behind them the support not only of a large middle-class threatened with proletarianism and a peasantry ground down by economic attrition, but also of that great mass of nationalist sentiment which saw in the Republic the embodiment of national humiliation, and blamed its economic adversities upon the politicians who had attempted to meet the demands for reparations and had trusted to conciliation rather than defiance as a means of restoring Germany to her place among the great powers.

The Third Reich. With the assumption of power by the Nazis under Hitler on January 30, 1933, Germany actually entered the Third Reich, despite the formation of a seemingly "coalition" cabinet with Hitler as Chancellor. Germany waited with bated breath to see what Hitler would do to implement the promises the National Socialists (the Nazis) had made. January 30 was celebrated as the dawn of a new era. Evidently Hitler was more in office than in power. His party, the National Socialists, were still not in majority in the Reichstag. He impatiently awaited for holding fresh elections. The opportunity was provided on the night of February 27, 1933, when there occurred a spectacular mysterious event. The Reichstag building

was found to be in flames. The miscreant, one van der Lubbe, was arrested and the documents discovered on his person included his passport and the membership book of the Communist Party of Holland. The incident was dramatized effectively by the Nazis. Hitler, on seeing the mounting flames, cried out, "It is a sign from Heaven that we must exterminate those dogs!"

General election was ordered for March 5. It resulted in triumph for Hitler. The National Socialists obtained 44% of the votes and thus captured 288 seats out of a total of 647, and with the tacit help of their supporters, the German National People's party, they commanded 340 seats for fifty-two per cent of the votes. The following table illustrates the position of the National Socialists in the four elections held from 1930 to 1933 March:—

Elections of	Sep. 14, 1930.	July 31, 1932.	Nov. 6, 1932.	Mar. 5 1933.
Parties.	Seats.	Seats.	Seats.	Seats.
National Socialists ...	107	230	196	288
German National People's	41	37	51	52
German People's ...	30	7	11	2
Economic	23	2	1	...
Other Parties ...	55	9	12	7
Catholic Centre ...	68	75	70	74
Bavarian People's ...	19	22	20	18
State	14	4	2	5
Social Democratic ...	143	133	121	120
Communist... ...	77	89	100	81
Total ...	577	608	584	647

Thus was the success of the National Revolution assured. It is true to say that no similar revolution had been effected in post-war Europe with less bloodshed. The Nazis *came into p wer* by constitutional means. That they were determined to continue in power *under cover of constitutionalism,* too, cannot be doubted.

Immediately after the installation of the Nazis into power in March 1933, Dr. Rust, Prussian Minister of Education, and subsequently Reich Minister of Education, issued the following official circular:

I ask the school authorities to take special care for the provision of the schools with suitable text-books. First place has, of course, to be given to the Leader's *Mein Kampf.* There must soon be not a single boy or girl who has not read this work, and it is the task of every teacher to elevate the spirit of true National Socialism as it is embodied in *Mein Kampf* as the guiding principle of his teaching.

It is, therefore, not incorrect to say that the Nazi regime in Germany has been directed toward a realisation of the ambitions, and that along the ideas, Hitler has expressed in this book. Its English edition *My Struggle* is much too abridged. The 171st edition officially circulated in Germany depicts the true picture of Hitler's mind. He holds war as the ideal for the human race and peace as ruin; war is to be the aim of all alliances; the central principle of German foreign policy

is to strike down every other military power; lost territories are to be achieved by war; territorial expansion must be achieved, particularly in Eastern Europe; efforts must be made to form alliances with England and Italy; German world-hegemony must be established.

The following excerpts from the book clarify Hitler's aims and views:

"In eternal warfare mankind has become great—in eternal peace mankind would be ruined." (p. 149).

"An alliance whose aim does not include the intention of war is senseless and worthless" (p. 749).

"The political testament to the German nation for its external activity will and must always proclaim: Never permit two continental powers to arise in Europe. In every attempt to organise a second military Power on the German frontier, even though it be only by the formation of a State capable of becoming a military Power, you must see an attack on Germany, and you must consider it not only your right, but your duty, to prevent such a State coming into existence by all possible means, including the use of force of arms, and if such a State has already come into being, it must once again be shattered" (p. 754).

"It is necessary to understand clearly that the reconquest of the lost territories cannot be achieved by solemn appeals to Almighty God or pious hopes in a League of Nations, but only by armed force" (p. 708).

Suppressed provinces are not led back into the lap of an empire by flaming protest, but through a well-sharpened sword. To forge this sword is the object of a

people's domestic policy; to see that this process of forging is carried out in security and to seek allies in arms is the object of its foreign policy" (p. 689).

"The demand for the restoration of the frontiers of 1914 is a political lunacy.....The frontiers of the Reich in 1914 were anything but logical. They were in reality neither complete, as regards the unification of people of German nationality, nor reasonable in respect of their military-geographical suitability.....The frontiers of 1914 mean for the future of the German nation nothing whatever" (pp. 736-738).

"For Germany the only possibility for the carrying out of a sound territorial policy lay in the winning of new land in Europe itself...When one would have new territory and land in Europe, this could in general only happen at the cost of Russia" (pp. 153-154).

"We stop the eternal march to the south and west of Europe and turn our eyes towards the land in the East.... If we speak of land in Europe to-day we can only think in the first instance of Russia and the border States under her influence. Fate itself seems here to point the way forward for us.....The giant State in the East is ripe for collapse" (p. 743.)

"At the present day we are not fighting for the position of a world power, but for the existence of our country, the unity of our nation and bread for our children. If we look from this stand-point for allies in Europe, there are only two States, England and Italy" (p. 699).

"For the significance of such an alliance lies precisely in this, that Germany is thereby not at the mercy of a sudden invasion. but that the opposing alliance is broken, the Entente, which has caused us so much misfortune, is dissolved, and thereby the mortal enemy of our nation, France, is condemned to isolation.....The effective

initiative would lie in the hands of the new European English—German—Italian alliance, and no longer with France. The further consequence would be that at a stroke Germany would be freed from its unfavourable strategic position (pp. 755-756).

"A State, which in the age of racial poisoning devotes itself to the fostering of its best racial elements, must one day become the lord of the earth" (p. 782).

These aims of Hitler are but the essence of National Socialism, which the original theorist Feder, had thus set out in an official commentary: "All people of German blood, whether they live under Danish, Polish, Czech Italian or French rule, must be united in the German Reich.....We will not renounce a single German in Sudeten, in Alsace-Lorraine, Poland, in the League of Nations colony Austria, or in the succession states of old Austria." The Nazi *Political B. A. C.* also declares: "The Third Empire is to be a future Christian—German Empire of the Middle Ages and of the Imperial Empire of Bismarck, and which is to bring about the unification of all Germans living in Central Europe."

Alfred Rosenberg, Director of the Foreign Affairs Bureau of the Nazi Party, clearly enunciated the aims of the Nazis in these words: "Racial honour demands territory and enough of it.....In such a struggle there can be no consideration for worthless Poles, Czechs, etc. Ground must be cleared for German peasants." And he further said, "A

Nordic Europe is the solution of the future, together with a German *Mitteleuropa*. Germany as a racial and national State from Strassburg to Memel, from Eupen to Prague and Laibach, as the central Power of the Continent, as a guarantee for the south and south-east. The Scandinavian States and Finland as a second alliance to guarantee the the north-east and Great Britain as a guarantee in the west and overseas necessary in the interest of the Nordic race."

With a view to achieving these high aims, it was necessary to suppress all opposition to National Socialism in the Reich, to concentrate all authority in a few hands—nay in one hand, to introduce a system of internal administration suited to the needs of aggressive militarism, and finally to control all the activities of the individual so as to make him completely subservient to the will of the State. Evidently, parliamentary system, existence of many political parties, freedom of the press, uncertain results of a free ballot, and autonomy of the states according to Weimar federalism were impediments to the prosecution of Nazism.

The new Reichstag held its first solemn session at the Garrison Church in Potsdam, which included a ceremony at the tomb of Frederick the Great. The same afternoon the Reichstag met at Berlin and re-elected Goering as its president. On March 23, Herr

Hitler outlined his policy in a speech, while introducing an important legislative measure which, when passed by the two Houses the same day, became "Law to Combat the Misery of People and Reich." It is popularly known as the *Enabling Act*; it came into force on March 24, 1933. This Law runs as follows :

The Reichstag has enacted the following law which with the consent of the Reichsrat and after determining that the requirement for laws changing the constitution have been complied with, is hereby promulgated :

Article 1.

National laws can be enacted by the Reich cabinet as well as in accordance with the procedure established in the constitution. This applies also to the laws referred to in article 85, paragraph 2,* and in article 87† of the constitution.

Article 2.

The Reich laws enacted by the Reich cabinet may deviate from the constitution in so far as they do not affect the position of the Reichstag and the Reichsrat. The powers of the President remain undisturbed.

Article 3.

The Reich laws enacted by the Reich cabinet are prepared by the Chancellor and published in the *Reichsgesetzblatt.* They come into effect, unless otherwise

*The paragraph reads : "The Budget must be passed into law before the opening of the financial year."

†The article reads: "Funds may be obtained by way of loan in case of special necessity, and, as a rule, only for expenditure on productive undertakings. Such a proceeding, as well as the giving of a security on behalf of the Reich, may be effected only upon the authority of a law of the Reich."

specified, upon the day following their publication. Articles 68 to 77* of the constitution do not apply to laws promulgated by the Reich Government.

Article 4.

Treaties of the Reich with foreign states which concern matters of national legislation do not require the consent of the bodies participating in legislation. The Reich cabinet is empowered to issue the necessary provisions of these treaties.

Article 5.

This law becomes effective on the day of its publication. It becomes invalid on April 1, 1937; it further becomes invalid when the present Reich cabinet is replaced by another.

This Act did not formally abrogate the Weimar Constitution which still continues to be, in theory only, the constitution of the third Reich. But in effect this Act transferred all legislative power from the Reichstag and Reichsrat (without, however, abolishing these bodies) to the Reich cabinet. The laws promulgated under Article 1 of the Act could deal with all matters not excluding the budget, and they were not to be subject to the process of legislation provided in articles 68 to 77 of the Weimar Constitution. They could even deviate from that Constitution. Moreover, as the Chancellor prepared the

*These articles related to the procedure of legislation in the Reich, the moving and passing of measures in and by the two chambers, etc.

laws on behalf of the Reich cabinet the Enabling Act practically gave all legislative power in the Reich, including the making of treaties with foreign states, to one single individual, viz. the Chancellor. The only limit imposed was that the Enabling Act had force for 4 years, i. e. till 31st. March 1937. Before the four years expired, the Reichstag decided on January 31, 1937, to continue the Enabling Act for a further period of four years. In this way personal dictatorship of Adolph Hitler was established in the Reich, without, however, admitting the cancellation of the Weimar Constitution.

The Enabling Act has brought to an end "negative parliamentarianism. Anonymous responsibility is replaced by consciousness and joy of the responsibility of leaders." It "signifies the manifestation of the special confidence of an overwhelming majority of the Reichstag in the government of national concentration. It has concentrated all legislative and financial powers in the hands of Adolph Hitler who can act with quickness and effectiveness without having to await the consent of any deliberative body. No doubt the Act continued the Reichstag and the Reichsrat for the time being (though without any legislative powers); on February, 14, 1934, the government issued a decree abolishing the Reichsrat, thus depriving the states of direct representation in the national parliament. The constitutionality of this decree is

challenged by many on the ground that the Enabling Act clearly stated in Article 2 that the Reich laws enacted by the Reich cabinet could not affect the position of the Reichstag and the Reichsrat.

A week later, i.e. on March 24, 1933, the Reich cabinet promulgated the *Provisional Law for Coordinating of the States with the* Reich which came into force on April 3, 1933. If the Enabling Act put an end to parliamentarianism in the central government of the Reich, this new law put an end to parliamentarianism in the states for it gave the same legislative powers to state cabinets as the Enabling Act gave to the Reich cabinet. The state cabinets were, however, forbidden from promulgating any law making departure from the Reich constitution. But they could promulgate laws deviating from the state constitutions. All the state diets, except the Prussian diet, were dissolved and fresh elections ordered. The communist party was deprived of the right of representation, and all other parties were apportioned seats in the diets in proportion to their support in the Reichstag elections of March 5, 1933.

On April 7, 1933, the Reich cabinet promulgated another law for coordinating of the states with the Reich. It is popularly known as the Reich Regents law. By this law, Hitler concentrated in his own hands the complete administration of the states, which were to be

administered through the Reich Regents appointed by the President and responsible to the Chancellor. It was the duty of the Reich Regent to see that the general policy laid down by the Chancellor was observed in the state for which he (the Regent) was appointed. The provisions of this law were the following:

Article 1.

In the German states, with the exception of Prussia, the Reich President, upon the proposal of the Reich Chancellor, is to name the Reich regent. The Reich regent has the function of requiring the observance of the general policy laid down by the Reich Chancellor.

The following powers of state authority appertain to him:

(1) Appointment and removal of the head of the state cabinet, and upon his proposal, the other members of the state cabinet:

(2) Dissolution of the legislature and designation of new elections;

(3) Preparation and publication of state laws, including the laws which are determined upon by the state cabinet according to.....the temporary law of March 31, 1933... ...Article 70 of the Reich constitution of August 11, 1919, applies accordingly;

(4) Upon the proposal of the state cabinet, appointment and dismissal of higher state officials and judges, so far as this formerly was accomplished by the highest state officials;

(5) The power of pardon

(2) The Reich regent may preside over the meetings of the state cabinet.

(3) Article 63 of the Reich Constitution of August 11, 1919 remains unaltered.

Article 2.

(1) A Reich regent may not be, at the same time, a member of a state cabinet. He shall belong to the state whose sovereign powers he exercises. His official residence is at the seat of the state cabinet.

(2) For several states, in each of which there are less than two million inhabitants, a common Reich regent, who must be a resident of one of these states, may be named. The Reich President shall designate the regent's official residence.

Article 3.

The Reich regent is appointed for the duration of a state legislative period. He can be recalled at any time by the Reich President on the proposal of the Chancellor.

Article 4.

Votes of no confidence of the state legislature against the head and the members of the state cabinet are not permitted.

Article 5.

(1) In Prussia, the Reich Chancellor exercises the rights specified in section 1. He may transfer the rules in Article 1, paragraph 1, number 4 and 5 to the state cabinet.

(2) Members of the Reich Cabinet, may at the same time, be members of the Prussian state cabinet.

Article 6.

This law goes into effect on the day after its proclamation. Conflicting provisions of the Reich constitution of August 11, 1919 and of the state constitutions are suspended. So far as state constitutions provide for the office of a state president, these provisions go out of force with the naming of a Reich regent.

The passing of the Reich Regents Law effected constitutional changes of a far-reaching character. It ended the sovereignty of the states which continued to exist only as administrative units in a unified Reich. German "federalism" came to an end. Administration of every state passed into the hands of the Reich Regent, a political appointee of the Reich. The Official Commentary on the Reich Regents Law thus described the position of the Reich Regent: "The regent is a political subordinate leader of the political leader. It accords with the structure of the present state that *Gauleiter* of the National Socialist German Workers' party should be appointed regents. The Reich regent is to a particularly high degree an instrument of co-ordination and therefore is bound to the Reich Chancellor by special discipline and loyalty. His service and office take on significance and dignity through his discipline and loyalty to the political leadership of the Reich Chancellor." The regent represented the Reich authority in the state; he exercised authority over the state Government through the power of dismissing

and appointing the president and the members of cabinet of the state; he prepared and promulgated the state laws. The *Reichswehr* law of July 20, 1933, further gave him the following power: "In case of public emergency or of a threat to public order the military forces must render assistance at the request of the Reich regent, or, in the case of Prussia of the Reich Chancellor or officials designated by him."

The special treatment of Prussia in the Reich Regents Law was not a new thing; it was a recognition of the high and important place Prussia had always occupied in the German Empire and the Weimar Republic both on account of its being two-thirds of Germany in area and population and on account of its having been responsible for chalking out the final policy of German politics.

On October 14, 1933 the Reichstag was dissolved, and a new one elected on November 12, when only the Nazi party was allowed to contest the elections. On January 30, 1934,—just a year after Hitler's accession to power—a bill was moved in the Reichstag by Dr. Frick, Reich Minister for the Interior. It was passed the same day by both the Chambers, and enacted as *Law Concerning the New Structure of the Reich*. The following is the text of this Law:

The Plebiscite and the Reichstag elections of November 12, 1933, have proved that the German people has been blended into an indissoluble unity which has done away with all inner political barriers and differences.

The Reichstag has therefore unanimously accepted the following law, which with the unanimous consent of the Reichsrat is herewith proclaimed, after it has been determined that the requirements for legislation changing the constitution have been complied with.

Article 1.

The popular representation of the states is abolished.

Article 2.

(1) The sovereign rights of the states are transferred to the Reich.

(2) The state Governments are subordinate to the Reich Government.

Article 3.

The Reich regents are subordinate to the Reich Minister of the Interior.

Article 4.

The Reich Government may determine new constitutional law.

Article 5.

The Reich Minister of the Interior issues the orders and regulations necessary to carry out the law.

Article 6.

This article goes into force on the day of its proclamation.

Thus by this one single, simple law proclaimed on January 30, 1934, the states ceased to be political units, and remained only as territorial units for administrative convenience, completely subordinate to the Reich. On the following day, the purpose of the law was explained by Dr. Frick, in a radio broadcast, in these words: "The historical task of our times is the creation of a strong national unitary state to replace the former federal state. There is no longer room in the new Germany for States (*Lander*) in the former sense or for State frontiers.....The State Governments from today on are merely administrative bodies of the Reich.....The law concerning the new structure of the Reich.....gives the Reich Government complete power to undertake the constitutional reconstruction the Reich" The law removed even the few restrictions contained in the *Enabling Act*, regarding the authority of the Reich cabinet to promulgate Reich laws.

On February 14, 1934, the Reich Government issued a decree by which the Reichsrat, the only remnant of states' individuality, was abolished.

Hitler's Government had already removed the weakness of government inherent in the multiparty system by abolishing all the political parties other than the Nazis (National Socialists). The Communist Party

was banned. The Socialists also ceased to function as a separate party; 94 out of 120 of the Socialist deputies had voted for the Enabling Act; the Nazis had seized all control over the socialistic organizations like trade unions, and arrested principal socialist leaders; a decree of July 7, 1933, had abolished the socialist representation in the Reichstag and the Prussian Diet. The Democratic Party had been banned on June 22, under an order of the Reich Minister for the Interior. The other smaller parties also disappeared, some of them merged themselves in the Nazis, and others voluntarily dissolved themselves. Finally, on July 14, 1933, *Law Prohibiting the Formation of New Political Parties* was promulgated by the government, which recognised the National Socialist German party as the only political party in Germany. Articale 2 of this law penalised the formation of new political parties by providing that whosoever made such an attempt to form a new political party would be "punished with imprisonment in a penitentiary up to three years or with confinement in a jail from six months to three years unless the act is punishable by a higher penalty under other provisions."

By these steps all power in the Reich was placed in the hands of the Nazi party; this position was legalised by a law made on December 1, 1933, and put into force the following day. It was called *Law for Safe-*

guarding the Unity of Party and State. It declared that "After the victory of the National Socialist Revolution the National Socialist German Workers' party has become the carrier (*Tragerin*) of the government and is inseparably connected with the state. It is a corporation of public law. Its constitution is determined by the leader (Fuehrer)." Further articles of the law gave full powers to the leader to maintain discipline in the party and to punish any violations.

Thereafter the dictatorship of the Nazi party virtually became the personal dictatorship of Hitler. This aroused some dissatisfaction among some of Hitler's followers, as the party had a "left wing" and a "right wing." There was a conspiracy in the spring of 1934, between Ernst Rohm and von Schleicher, to overthrow Hitler. Hitler, in conjunction with Goebbels, Goering and the secret police, took steps to nip it in the bud. Consequently, Rohm, Schleicher and several hundreds of other suspects were murdered, mostly in Hitler's presence, at Munich, on grounds of "reasons of state" and of "morality." This purge of June 1934 made Hitler's position more secure. About a month later, President Hindenburg (elected April 26, 1925, and re-elected April 10, 1932) died on August 2, 1934. That very day Hitler published a law combining in his person the two offices of President and Chancellor, and adopted the designation of "Fuehrer and Chancellor."

On January 29, 1935, the government published another law called the *Statthalter Law* by which each Reich Regent may become head of the government of his territorial division, but completely subordinate to the Fuehrer and Chancellor. This has given to Hitler fullest control and power over the Reich.

Government of the Third Reich. We may now briefly state the form of the government now existing in the Reich. All authority of government has been handed over, constitutionally, to the Nazi party. So that according to Hitler it is not the state that controls the party, but the party controls the state. The constitution of the party is prepared, amended or interpreted by the *Leader,* i.e. at present Hitler. All members owe unquestioned obedience to him and are liable to such punishment for violation of discipline as the leader might consider proper.

The leader (*Fuehrer*) forms the cabinet according to his own choice. At present, besides the *Fuehrer and Chancellor*, there are the ministers of Interior, Foreign Affairs, Defence, Finance, Food and Agriculture, Economic Affairs, Posts, Transport, Aviation, Justice, Learning and Education, Church Affairs, National Enlightenment and Propaganda, and two ministers without portfolio. Of these last Rudolf Hess is the personal deputy to the Fuehrer.

In addition to the above cabinet, Hitler created on February 4, 1938, a new secret cabinet, smaller in size and entrusted with the task of advising him on all foreign and political questions. It consists of Herr Hitler, General Goering, Herr von Ribbentrop, General Keith (chief of the Supreme Command), Herr Rudolf Hess, Dr. Goebbels and Admiral Reader. The new decree has given Hilter untrammelled control over the armed forces. It has resulted in the closer merging of the state and the Nazi party. The new secret cabinet may well be compared to the committee of the Imperial Defence in Great Britain as its constitution is similar and the purpose apparently the same. Three new functions of Chief of the Air Force, Inspector General, and Chief of the Ministers' Personal Staff have been created. All these changes were approved by the Reichstag which met on February 20, 1938.

The old legislature set up by the Weimar Constitution has practically disappeared. The Reichsrat was abolished on February 14, 1934. The Reichstag remains, but in an altered form. The list of 400 members, all Nazis, that compose it is prepared by the Fuehrer. Voters are required to say 'yes' or 'no' to the list; no other party being in existence, there is no other list to vote upon. Thus the Baden system of proportional representation has disappeared. All legislative powers have been transferred by the Enabling

Act of 1933 (renewed in January 1937) from the Reichstag to the Reich cabinet wherein the Fuehrer's will is final. The Reichstag is convened if and when the Fuhrer considers it necessary. It listens to the account of the government's achievements and, according to the party discipline, ratifies the actions of the government.

The judicial system has been renovated. By the law of April 1, 1935, uniform law-courts have been instituted throughout the Reich. They are vested with varying degrees of power, civil and criminal. There have been instituted commercial chambers to try commercial cases. The highest court is the Supreme Court (*Reichsgericht*) consisting of 100 judges. It sits at Leipzig and exercises revisory jurisdiction over all inferior courts. A law promulgated on July 5, 1935, has introduced a new principle of criminal law laying down that the courts shall punish offences not punishable under the Criminal Code if they are deserving of punishment "according to the underlying idea of a penal code or according to healthy public sentiment."

The one-party government now seated in power in the Third Reich has thus introduced great constitutional changes. The Nazi party in theory, and through it the Reich cabinet (completely under the Fuehrer and Chancellor's control) in practice, now rules the Reich. W.B. Munro has thus described the fate of the

Weimar Constitution: "It has been virtually annulled by action of the Hitler government, especially by the governmental reorganization law of September 1935. To-day there is no real distinction in Germany between constitution and laws, or between laws and decrees. The distinction, if it exists at all, is purely technical. Yet the Weimar constitution has never been definitely abrogated as a whole, with another constitution issued in its place. Powers have merely been transferred to the Reich ministry by laws having the effect of constitutional amendments and this transfer of power has become the basis for the issue of decrees having all the force of constitutional enactments." In fact, the whole power over German law and German constitution has passed into the hands of Hitler himself.

Achievements of the Third Reich. The aims of the Third Reich are the same as the main planks in the Nazi platform, *viz.* the establishment of a totalitarian state wherein all power is concentrated in one place and one party; the Aryanisation (intense Germanising) of the whole Reich by insisting on purity of Aryan blood and the expulsion of the Jews who, the Nazis argue, have been the cause of German weakness and defeat in the war; restoring Germany to her pre-war legitimate position of the strongest power in Europe; bringing back into the Reich all German territories in Central Europe; renouncing of the Versailles Treaty and of all other inter-

national treaties and agreements which deny to Germany her natural right to determine her own line of action.

It has already been described in the foregoing pages that the Nazis have successfully established a strong central power in the Reich and absolute authority of the political central parliament over the entire Reich and all its organizations.

Regarding the Jews, it will not be incorrect to say that the advent of the Nazis to power was really inaugurated by a ruthless drive against the Jews. General boycott of the Jews was proclaimed by the Nazis. Lawyers, doctors, professors and businessmen of Jewish descent were subjected to ill treatment and disgrace in several ways. Placards containing slogans like "Germans defend yourself against Jewish lies! Buy only at German shops!" were pasted on the doors and windows of Jewish shops which had to be closed for fear of being looted. All persons of Jewish descent were excluded from public services. Though the boycott was lifted on the foreign powers protesting strongly against it, the Jews lost all rights of citizenship in the Reich.

The whole Civil Service was purged of all non-Aryan element by the Law which provided that "officials who are of non-Aryan descent must be retired; in so far as concerns

honorary officials, the latter must be dismissed from their positions." The Law defined a non-Aryan as one who was descended from non-Aryan, expecially Jewish, parents and grand-parents. Every official had to give full details of his descent, his blood-relations. Those about whose Aryan descent there was any doubt were required to take the following oath :

I hereby testify on oath that : despite careful examination, no circumstances are known to me which could justify the supposition that I am not of Aryan descent or that any of my parents or grandparents at any time professed the Jewish religion. I am aware that I am liable to legal prosecution and dismissal from service if this declaration does not contain the truth.

Those who fought for Germany in the great war or for its allies, and those whose sons or fathers fell in the war were exempted from the operation of the "Aryan paragraph." Lack of necessary education and training made officials liable to dismissal or forced retirement without pension. By these measures the Nazis purged the whole Civil Service of all non-Aryan or anti-Nazi elements. The official commentary on the Civil Service law thus explained the object of the measures : "Only by cleansing the service of these elements, part of which are of an alien race, can a national civil service be created which will not be primarily interested in material advantages but, as formerly, will recognize that its highest goal

is uncompromising fulfillment of duty and will prove worthy of the national honour which is placed in its hands" The aim of the Jewish boycott and perfect Aryanisation was to deprive all non-German people of the rights of German citizenship and participation in the state so that intense nationalism, as opposed to internationalism which the Jews professed in general, might contribute to the regeneration of the German State.

Having accomplished the *purification* of the German nationalism Hitler turned his attention to establishing complete state control over all industries and vocations in the Reich so as to realise his ideal of a "totalitarian state." This was the foundation of *National Socialism*. It needed a perfect strengthening of the nation. Physical sports and military training were made practically compulsory for improving the physical and psychological character of the youth and so eventually for improving the entire race and recreating its Nordic character. Spartan and warlike virtues in the German youth were encouraged. Measures for wholesale sterilization of the degenerate, effete, unmanly and unfit were adopted.

National Socialism has not been friendly towards the Catholic Church. Numerous Catholic Societies have been dissolved. Criticism of the old conception of Christianity by Alfred Rosenberg and an attempt to

create a national German religion out of Christianity (though not yet successful) bear testimony to the fact that no aspect of human life is unaffected by the principles of National Socialism.

In the economic field, National Socialism is opposed to the old capitalistic system as well as to the liberal notion that if each individual follows his own selfish economic interest the highest good of the community would automatically result. It views the Marxian socialistic doctrines with hostility. The National Socialists believe that the interests of the community must always be supreme. Hence all economic organizations, enterprises and industries have been placed in the hands of individuals who give the first place to the interests of the state. For example, the directors of a corporation are not allowed to consider primarily the interests of their stock-holders but those of the whole community. A new National Economic Chamber has replaced the Economic Council of the Weimar Republic. The membership of the Chamber is no longer voluntary. All organizations of production and marketing have been brought within its control. The National Economic Minister appoints the Leader of the Chamber, the latter being entirely responsible to the former.

The National Economic Chamber is organised on two bases, functional and

regional. Industry, Commerce, Handi-crafts, Banking, Insurance, Power, and Transportation are the seven functional groups. Within each of these National groups there are main groups (economic and functional) comprising different branches. Thus there are in all 43 economic and 393 functional groups, spread over the whole Reich.

Under the National Economic Chamber there are eighteen Provincial Economic Chambers which in their turn have under them local Chambers.

The organization and functions of the National Economic Chamber were made clear in the decree issued by the National Economic Minister on May 3, 1935. The Chamber started its first year on April 1, 1936. The Chamber operates, (*a*) as an organ of self-management for the general welfare of the National Groups, the Economic Chambers, the Chambers of Industry and Commerce, and the Handicrafts Chambers; (*b*) performs duties laid upon it by the National Economic Minister. The Leader and his Deputy Representative are appointed by the Minister, and they represent the Chamber judicially and extra-judicially. The Leader is responsible for seeing that the various functional and regional groups carry through the measures proposed by the Chamber.

Thus the state controls all the productive elements in the Reich, through a new pattern

of capitalistic regime. Unfair competition in industry, strikes, lock-outs and the general rivalry between capital and labour are prohibited. There has been achieved an extreme form of business centralisation by converting the various central co-ordinating (industrial) bodies into politically minded and fascist agents.

Foreign Policy of the Third Reich. The crux of the foreign policy of the Third Reich, as is evident from Hitler's own words,* is two-fold, *viz.* reaction against the "inequality" clauses of the Versailles Treaty and the desire "to gain, or regain, influence, if not control, over all territories where German is spoken." On November 12, 1933, the plebiscite held in Germany, along with the general election to the Reichstag, approved the general foreign policy outlined in Herr Hitler's Proclamation to the German Nation, October 14, 1933. According to this Germany left the Disarmament Conference and the League of Nations "In view of the attitude adopted by the heavily armed States, and more especially France, at Geneva during the disarmament negotiations." In this connection the Memorandum communicated by the German Government to the French Ambassador in Berlin, December 18, 1933, made her position clear.

The reaction to the declaration of German foreign policy in Hitler's Proclamation and

* The appropriate citations from Hitler's *Mein Kampf* have already been given, *op. cit.* pp. 174-76.

the Memorandum, referred to above, was favourable to Germany. For example, in England, Mr. Lloyd George, the chief man responsible for the Treaty of Versailles, thus spoke in the House of Commons on November 28, 1934:

In a very short time, perhaps in a year or two, the Conservative elements in this country will be looking to Germany as the bulwark against Communism in Europe. She is planted right in the centre of Europe, and if her defence breaks down against the Communists,.....and if Germany is seized by the Communists, Europe will follow; because the German could make a better job of it than any other country. Do not let us be in a hurry to condemn Germany. We shall be welcoming Germany as our friend.*

On May 1, 1935, Lord Lothian, spoke in the House of Lords:

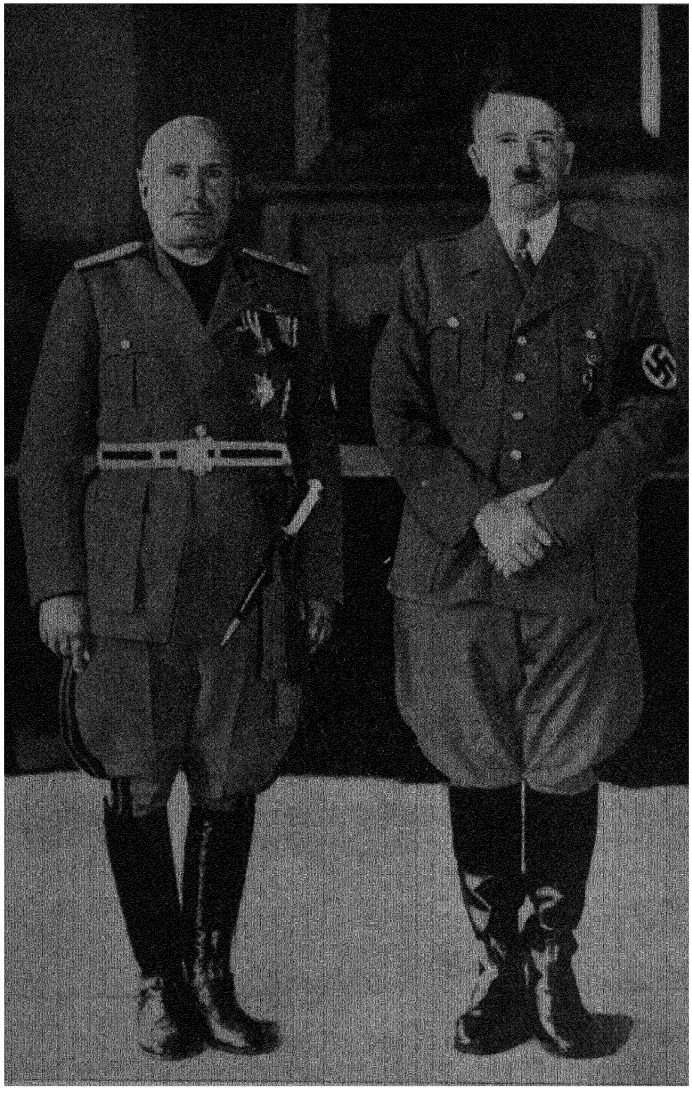
Germany must be given a position appropriate to a nation which would normally be regarded as the most powerful single State in Europe.

The adoption of this attitude towards Germany was supported by *The Times*, in its editorial of May 3, 1935, which stated that the Versailles system had been tried but it had not given Europe peace. In June, the British and German Governments signed the Anglo-German Naval agreement which has re-established the German Navy at 35% of the British naval strength, giving Germany the

* But Llyod George did hurriedly condemn Germany in the Peace Treaty.



HERR HITLER



MUSSOLINI & HITLER

right to equality with the British Empire in respect of sub-marines.

A year later Germany denounced the Locarno Treaty and on March 7, 1936, enacted a new drama, the remilitarization of the Rhineland, without causing any ferment in Europe. "To soothe international feeling and to keep Great Britain in an expectant attitude, Hitler promised that the Rhineland effectives would remain at the same strength for a definite period." In reality, reinforcements were added every week. This coupled with the occupation of the Saar Basin already concluded by an agreement between the Saar Governing Commission and the German Government, February 18, 1935, strengthened German position in the west.

Germany sought to form an alliance with Italy. These two powers had a common factor between themselves, a new form of intense nationalism (expressed respectively through Nazism and Fascism) against the internationalism of Geneva and certain grievances against the Treaty of Versailles. The only impediment in the way of Italo-German rapprochement was the independence of Austria guaranteed by Italy which would not allow Germany to approach the Brenner frontier. But when Italy, encouraged by Germany's methods in disregarding international agreements and understandings, invaded Ethiopia in violation of the Covenant of

the League of Nations, Germany derived the fullest advantage by refusing to apply the economic sanctions against Italy as voted by the League. The sanctions collapsed and Italy came out victorious in her Abyssinian campaign. Italy then exercised her influence —pressure would be a more correct expression —on Austria to make new concessions in favour of Germany.

Thereafter the common line of action pursued by Italy and Germany changed the whole aspect of European politics. The Franco-Russian Pact, concluded in May 1935, was looked upon as a source of danger both by Italy and Germany who then agreed at a common policy at Berchtesgarden in October 1936. The exchange of visits between Mussolini and Hitler to each other's country resulted in the strengthening of the Rome-Berlin Axis which was an alliance against democracy and communism.

The Anschluss. It was a long standing ambition of the Germans to found a greater Reich including within its territory all the German-speaking territories in Europe. Bismarck had succeeded in establishing Prussian hegemony in the German Confederation by expelling Austria. On the collapse of the Austro Hungarian Empire, the Allied Powers created, under guarantee of the Treaty of Versailles and the League of Nations, a new state of Austria. This meant

to Germany a division of the German speaking peoples. Germany had never accepted the position as a final settlement. The delegates to the Constituent Assembly at Weimar had incorporated a clause in one of the articles of the draft constitution to permit Austria to join the Reich, if and when she chose to do it. This was seriously objected to by the Allied Powers and therefore dropped. With the rise of the Nazis into power in the Reich, German ambition for annexing Austria revived again. Nazi movement was started in Austria where it soon gained considerable influence.

Austria had given herself a new constitution which was put into force on May 1, 1934, and by which the "Christian, German Faderal State" was placed on a corporative foundation. Its area was 32,369 sq. miles and population (as in 1934) 6,760,233.

The Austrian Nazis continued to cause considerable trouble to the Austrian Government. They attempted in 1934 to upset the Government and take forcible possession of the state. Dr. Dolfuss was shot dead, and attempt was made to take possession of Vienna. The insurrection failed; but the Nazi movement was not crushed.

Encouraged by the sympathetic attitude of Italy and by the failure of the Powers to stem the tide of Franco's fight against the Spanish

Government, Hitler decided to act. With a view to arrive at a better understanding between Austria and Germany and to settle Austro-German differences, a meeting took place between Herr Hitler and Dr. Von Schuschnigg, Austrian Federal Chancellor, at Berchtesgarden, on February 12, 1938. The talk lasted for eleven hours. Signor Mussolini too felt interested in the meeting which was kept a closely guarded secret. As a result of the meeting, Dr. Schuschnigg agreed to the release of Nazi prisoners in Austria and the appointment of Herr Seyssinquart as Minister of the Interior, including within his portfolio affairs of public security and certain spheres of internal administration.

The agreement of Schuschnigg to Hitler's demands was looked upon in Austria as capitulation to German demands which were backed by military demonstration. Dr. Schuschnigg, thereupon, proclaimed a plebiscite for Sunday March 13, 1938, on the question of "a free and German, independent and social, Christian and United Austria, for peace, work and the equality of all who profess their faith in the people and the Fatherland." In a broadcast talk, on March 9, the Chancellor declared: "I do not want Austria to build up a Fatherland idea on a personal basis or personal Government. For years we have been challenged to prove that we are ready to make a stand for indepen-

dence. I stand or fall by the success of the Austrian people on Sunday."

On March 11, Hitler demanded cancellation of the plebiscite and resignation of Dr. Schuschnigg. The latter in reply postponed the plebiscite but refused to resign. Thereupon, within an hour and a half of this refusal, German troops advanced in the night into Austrian territory* Herr Milkas, President of the Austrian Federation, advised Schuschnigg to yield to force rather than shed German blood. The Austrian Government, therefore, yielded. Dr. Schuschnigg said to the Austrian people on the radio: "So I take my leave of the Austrian people with German word and heartfelt wish that God may protect Austria."

Thus Austria became a part of the German Reich. Speaking in the Reichstag on March 18, Hitler thus spoke of his action:

If I had not acted immediately Austria might have had the same fate as Spain. I prevented a terrible nightmare. I pursued a great aim and led my home country to Germany. Dr. Schuschnigg did not believe that I will intervene. He and his supporters can thank God for what I did because my prompt action saved the lives of tens of thousands of Austrians. Behind my decision stand 75 million people and before it stands the German army."

The *Anschluss* of Austria and Germany was officially announced by the enactment of a

* This was done at the request of Herr Seyss-Inquart who asked Hitler by a telegram to despatch troops to restore order in Austria.

law, *Federal Constitutional Law regarding the reunion of Austria with the German Reich*, March, 13, 1938. This law announced a free secret plebiscite of the German men and women over 20 years of age to be held on April 10, regarding reunion with the German Reich.

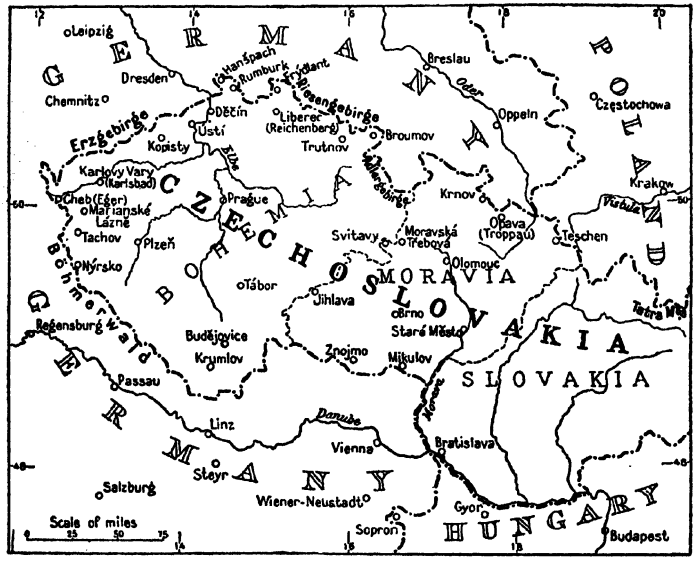
The French Government proposed to Great Britain and Italy concerted action against Germany in connection with the rape of Austria. While Great Britain quietly answered in vague terms, desiring to keep cool in pronouncing final judgement, Italy firmly rejected the French proposal.

Hitler telegraphically expressed his gratitude to Mussolini for not intervening, saying, "I shall never forget this," and wrote him a letter, making out three points:

Firstly, his action in Austria was only to be regarded as an act of legitimate national defence 'which any man of character would have done. You too could not have acted differently if the destiny of the Italians had been at stake.'

Secondly, 'at a critical hour for Italy I demonstrated to you the strength of my sentiments. Do not doubt that in future also nothing will change this respect (the reference is to Germany's abstention from the sanctions campaign).'

Thirdly, 'whatever may be the consequence of the coming events, I have drawn a definite German frontier with France and I now trace one equally definite with Italy. It is Brenner. This decision will never be touched



CZECHOSLOVAKIA AND HER NEIGHBOURS

or questioned. I did not take this decision in the year 1938 but immediately after the end of the Great War.'

In reply Mussolini said, "My attitude was determined by the friendship between our two countries which was consecrated in the Rome-Berlin axis."

General Goering announced a programme of Austrian reconstruction. The plebiscite was held on the question of *Anschluss* on April 10, 1938, both in Germany and Austria, besides all other parts of the world where arrangements were made for recording of votes. The following were the figures of the vote in Austria and Germany:

	Votes cast.	'Yes' votes.	'No' votes.	Invalid votes.
Austria ...	4,284,795	4,267,819	11,281	5,695
Germany ...	45,041,996	44,531,450	440,899	69,647
Total ...	49,326,791	48,799,269	452,180	75,342

Thus Austria by 99·65 % and Germany by 98·47 % voted for the *Anschluss*.

The Reich and Czechoslovakia. The *Anschluss* was only the first big step towards an expansion of the Reich. While Soviet Russia threatened, perhaps more for show than for practice, to intervene on behalf of Austria if the other powers did likewise, the show of first wrath by France cooled down when Great Britain finally decided, after registering

"flaming" protests against the annexation of Austria, that she would accept the Anschluss as an accomplished fact. These three Powers were then awakened to the immediate next danger to European peace if and when Germany turned her eye on Czechoslovakia.

This state of Czechoslovakia was formed at the close of the war. Even before the outbreak of the war in 1914, there were strained relations between the Czechs and the Germans in Bohemia, which caused considerable trouble to the Austrian Government. Professor Masaryk, the acknowledged leader of the Czechs, had thought of gaining an independent status for the Czech territory, but the outbreak of the war arrested the Czech movement, and he escaped abroad where he was supported by the Allies After the conclusion of the war, the Allies espoused the cause of the Czechs, acknowledged Masaryk as their accredited leader and succeeded in creating a new and independent Czechoslovak Republic which gave itself a constitution on February 29, 1920. Its territory, as defined in the Treaty of St. Germain, comprised Bohemia, Moravia, Slovakia. part of Silesia, and a portion of Ruthenia south of the Carpathians. Article 81 of the Treaty of Versailles recognised the old frontier as it existed on August 3, 1914, between Austria-Hungary and the German Empire as the frontier between Germany and the Czechoslovak state.

The total area of Czechoslovakia is 54, 244 sq. miles, and the population according to the census of 1930, is 14, 729, 536. Of this population, 9, 688, 770 are Czechoslovaks, 3, 231, 688 Germans, 691, 923 Hungarians, 549, 169 Russians, 81, 737 Poles, 186, 642 of Jewish nationality, and 49, 636 others; the aliens numbered 249, 971 in 1930. Thus the Germans are over 20% of the population, forming the majority in some of the districts of Bohemia, and minority in others. The other important minorities are the Hungarians and the Poles. Czechoslovakia was required to sign, at the Peace Conference of 1919, one of the minority treaties for the protection of these non-national subjects. Her constitution, therefore, guaranteed equality before the law to all subjects without any kind of distinctions of race, religion or culture. In accordance with these promises special schools have been provided for the minorities; arrangements have been made for the conduct of official business in a minority language, where one-fifth of the population uses that tongue. Banknotes are printed in three languages; proportionate representation has been granted in the parliament.

Ruthenia* was given to Czechoslovakia, subject to conditions and safeguards contained in Chapter II of the Treaty between the principal Allied and Associated Powers and

*Area 4, 871 sq. miles and population (in 1930) 725. 857.

Czechoslovakia. Ruthenia was to continue her own Diet, while sending her proportionate representation to the Czechoslovak parliament. The Diet enjoys "powers of legislation in all linguistic. scholastic and religious questions, in matters of local administration, and in other questions which the laws of the Czechoslovak State may assign to it." The Governor of the Ruthene territory is appointed by the President of Czechoslovak Republic, and is responsible to the Ruthene Diet. All questions of dispute arising between Czechoslovakia and Ruthenia are referred to the League of Nations of which "the Council may thereupon take such action and give such direction as it may deem proper and effective in the circumstances.

The constitution of Czechoslovakia is extremely democratic. It declares the people as the source of all power in the Republic, and the Constitutional Charter determines the organs through which the sovereign people express their will. The State is declared a Democratic Republic, of which the head is a President, elected by the National Assembly (i.e. a joint session of the Chamber of Deputies and the Senate.) He is elected for a period of four years. He represents the State in its external relations and negotiates and ratifies international conventions; receives and appoints diplomatic representatives; proclaims the existence of a state of war, declares war with the prior consent of the National Assembly,

and presents Treaties of Peace to the Assembly for its approval; summons, adjourns and dissolves the National Assembly; reports to the National Assembly upon the state of the Republic and recommends measures for its consideration; appoints and dismisses Ministers, and fixes their number; appoints all professors of higher education, judges, and all state officials, etc.; grants donations and pensions on the recommendation of the Government; is the Commander-in-Chief of all the armed forces of the Republic; has the right to grant pardon.

The legislative power is vested in the National Assembly consisting of a Chamber of Deputies (at present numbering 300) elected for a period of six years, and a Senate of 150 members elected for eight years. The Chamber and Senate are elected by universal, equal, direct and secret suffrage on the basis of proportional representation; all citizens of 21 years or more are entitled to vote for the Chamber, and those of 26 years or more can vote for the Senate. The two Houses are equal in power, even with regard to initiation of measures including Government Bills: Only the Budget and the Army Bills must first pass through the Chamber which alone can compel the resignation of the Government by passing a vote of no confidence. A measure passed by the Chamber can become law despite refusal of the Senate, if the former adheres to its first decision by an absolute

majority of all its members. Declaration of war or amendment of the constitution requires a three-fifths majority of all the members in each Chamber. The Chamber may vote for the impeachment of the President by a two-thirds majority of all the members present. The Senate then tries him in accordance with regulations laid down for the purpose.

The government is vested in a Council of Ministers appointed by the President but responsible to the Chamber. The President has a right to preside at the meetings of the government. A motion of lack of confidence in the government must be signed by not less than 100 Deputies and referred to a committee for report within eight days. The government resigns only when the motion is carried "by an absolute majority of votes, the voting being taken by roll call and an absolute majority of Deputies being present."

Rights, Liberties and Duties of the citizens are mentioned in detail (articles 103—127). Privileges of sex, birth or occupation are not recognised. All nationals of the Republic, while residing in it, enjoy "full and absolute protection of life and liberty without distinction of origin, nationality, language, race or religion. Exceptions to this principle may be made only in cases recognised by international law." Liberty of person and property is guaranteed to all alike, subject to restrictions prescribed by law. Freedom of the

press, of meeting and of association is guaranteed, subject to restrictions imposed by law. Every person enjoys right of petition, guarantee of secrecy of correspondence, and freedom of education, conscience, and opinion.

The constitution (arts. 128—134) guarantees the protection of national, religious and racial minorities.

It is admitted on all sides that though this extremely democratic constitution augured well for the future of the newly created Czechoslovak Republic, the circumstances under which it has to work have retarded its success. The Republic is surrounded on all sides by states which have their own interests in it. It is surprising indeed that amid the surrounding dangers (from outside) and the discontent of her minorities, Czechoslovakia has kept her calmness to a great extent. Nowhere are the minorities so well treated as in Czechoslovakia

But the Germans of the Sudeten territory (in Bohemia) had never accepted their inclusion in Czechoslovakia as *fait accompli*. They could not start open resistance, but the pro-German feeling aiming at going into the Reich never disappeared. This attitude of the Germans only served to confirm the Czechoslovak Government in its extreme centralizing mood. It, however, secured to the Germans certain rights the essentials of which may thus he summed up:

(1) Germans enjoy exact Proportional Representation in parliament and in municipal life.

(2) In the field of education they possess their own University, two technical High Schools, an Academy of Music, 90 secondary schools, 14 training colleges, 629 commercial and agricultural schools, 430 higher and 3,363 lower primary schools, and 501 kindergartens.

(3) They possess a complete network of cultural institutions and societies, a highly developed musical and theatrical life and a large daily and periodical press. It is true that the "conflict of ideologies", resulting in the growth of totalitarian views among the Sudeten Germans, has made the censor more active in recent years.

(4) They are assured the right to use their language in intercourse with all state and municipal authorities, and especially the law courts, in all districts where their minority exceeds 20 percent of the population.

With the conclusion of the Franco-Soviet Pact (May 2,1935) which was interpreted by Germany as an alliance against herself, Czechoslovakia leaned towards the Pact and refused to fall in line with Germany. This provided the Sudeten Germans with a pretext to insist on greater autonomy of their region. They enumerated several grievances. The main grievance centred around the fact that the great majority of the official posts were filled by Czechs or Slovaks. Dr. Hodza, the Premier, wanted a year's time to rectify the mistake. Herr Henlein, the leader of the Sudeten Germans, rejected this proposal and insisted on racial autonomy. Such was the situation in the beginning of 1937. By the

end of that year the Czechs too admitted that the process of complying with the reasonable Sudeten demands had been slow.

Hitler's success in accomplising the *Anschluss* encouraged the Sudetens. A few frontier incidents between the Czechs and the Germans precipitated a serious crisis. This was not a new thing. In post-war politics it has become an important feature of tactics to precede any aggressive move by frontier incidents. It happened in the Manchurian, Abyssinian, and Chinese affairs, and so it happened in the Czech affair. The Czech Government, in order to reach a peaceful settlement with the Sudeten Germans offered the following proposals on September 7, 1938, which were regarded the utmost limit to which Czechoslovakia could go:

(1) A recommendation for the principle of proportional employment of officials according to population. (2) Employment of officials in districts of their own nationality. (3) Division of security service among local state police so that local regions may have a police force of their own nationality. (4) A new linguistic law based on complete equality in language. (5) Assistance to industrial life in German districts most affected by the crisis, including a loan of 700 million crowns on advantageous terms. (6) Creation of equality of national status on the basis of national autonomy by introducing a system of *gaue* (cantons) whereby Germans will enjoy self-government within territories where Germans are in a majority. All questions not concerning national unity will be dealt with locally. Integrity of frontier and unity of state will be effectively guaranteed. (7) Special sections for cantons will be created in all central administrations, which will

be run by nationals who will deal with matters affecting their own nationality. (8) The national right of the citizens will be protected by special laws, and the elected representatives of the various nationalities in the various representative bodies will have the right to complain against any interference with the rights or interests of their nationals. A special register will be established for each nationality. (9 Immediate steps will be taken to reach an agreement on those points which do not require legislation.

The interview between Konrad Henlein and Hitler, regarding these proposals, resulted in complete agreement which meant demand for a plebiscite and nothing less. The British Prime Minister, Neville Chamberlain, dashed to Germany by air and had an interview with Hitler on September 15, to arrive at a peaceful settlement. The details of the talk between these two great men were not declared but they appreciated each other's view point. The British cabinet then listened to Chamberlain's latest view, and in agreement with the French Government, suggested readjustment of boundaries between Germany and Czechoslovakia. It is difficult to forecast the final solution of the German Czech dispute, but one thing is clear, *viz.* the predominantly German speaking territories will cause great trouble to the Czech Government if not transferred to the Reich.

Encouraged by the apparent success of German demands, the Polish and Hungarian Governments made similar demands regarding the Polish and Hungarian minorities in

Czechoslovakia. The sudden interview that took place between Hitler and Admiral Horthy (representing the Hungarian Government) resulted in some agreement between Germany and Hungary, whereby the latter Government was reported to have promised neutrality in the event of a conflict between Germany and Czechoslovakia.

Hitler in his speech at Nuremberg declared on September 12, 1938: "I demand that the oppression of 3½ millions in Czechoslovakia should cease or the free rights of self-determination should take place. We are resolved to see that wrong does not remain a wrong. .....The Germans in Czechoslovakia are not defenceless or deserted. Italy and Germany are renovated nations. One may not love them, but one cannot remove them."

Such is the result of the policy underlying the Rome-Berlin axis in Europe, or ultimately of the anti-Comintern Pact of the Rome-Berlin-Tokio triangle. That these developments have been made possible by the establishment of totalitarian or authoritative states is apparent. Democracies of the world and Communistic Russia are thus face to face with a new conception of the State.

CHAPTER FOUR

U. S. S. R.

Constituent Republic with capital.		Area in sq. miles (Jan. 1, 1936.)	Population (Jan. 1, 1933.)
R.S. F. S.R. (Moscow)	...	6,368,768	105,650,900
Ukrainian S.S.R. (Kiev)	...	170,998	31,901,400
White Russian S.S.R. (Minsk)	...	49,022	5,439,400
Azerbajjan S.S.R. (Baku)	...	32,956	2,891,000
Georgian S.S.R. (Tiflis)	...	26,865	3,110,600
Armenian S.S.R. (Erivan)	...	11,580	1,109,200
Turkmen S.S.R. (Ashkhabad)	...	171,384	1,268,900
Uzbek S.S R. (Tashkent)	...	66,392	5,044,300
Tadzhik S.S.R. (Stalinabad)	...	55,040	1,332,700
Kazakh S.S.R. (Alma-Ata)	...	1,047,797	6,796,600
Kirghiz S.S.R. (Frunze)	...	75,926	1,302,100
Total for U. S. S. R.	...	8,095,728	165,847,100

Russia upto 1917. Geograhically Russia has been more Asiatic than European. And historically and culturally, she had been an autocratically governed state ever since her history was written. The head of the state was the Czar whose authority was unlimited and whose very word was law. Attempts had been made now and then to introduce a

few reforms but without appreciable success. In the sixteenth and seventeenth centuries there was an elected national assembly summoned whenever the sovereign thought fit. It dealt with questions of peace and war. But as its form of election varied at hazard and it had no well defined procedure, its work was never successful. "The whole movement, though at one time very important, faded away in consequence of the simultaneous stabilization of serfdom as the basis of the social structure of the country."

In the eighteenth century, Catherine the Great summoned (in 1766) an elected and widely representative assembly, the "great commission," which discussed the question of serfdom, the relations of the peasantry to the state, the extension of local self-government, and the position of the non-Russian nationalities in the Czar's dominions. But the war with Turkey, the rising of the peasants in Pugachev, and the outbreak of the French Revolution prevented it from arriving at any decisions.

Early in the nineteenth century Czar Alexander I attempted several serious reforms, and even instructed his liberal minister Speransky to draft a constitution. Though Speransky's draft provided for the expression of popular will and the establishment of a "pyramidal scheme of local councils, all based on election, and culminating in a national

assembly," more or less akin to the system established during the earlier years of the Communist regime, it was not put into effect on account of Napoleon's invasion in 1812. Nicholas, the successor of Alexander I, did not introduce any reforms. But his successor, Czar Alexander II, was a man of liberal views; he was the first ruler of Russia since 1598 to mount the throne of his fathers in peace. Spurred on by the example of the neighbouring empire of Austria (where the serfs had been emancipated in 1781), he expressed the wish that the nobles should take the work of emancipating the serfs into their own hands. Though the nobles unanimously agreed to the suggestion, they held different views on the question whether the land should be given to the peasants (who formed 95% of the population) as free-hold. On March 3, 1861, an imperial rescript proclaimed the emancipation of the serfs on private estates and of the domestic slaves. The holdings of the peasants were declared to be their property, and they were required to pay a reasonable sum to their landlords. Three years later, he emancipated the peasants of Poland. For these reforms Alexander II was hailed and cheered as liberator. Tne people expressed boundless rejoicings. He then started on the scheme of further reforms which included the separation of the judicial system from the executive; introduction of trial by jury; regulation of the taxation system; establishment of local autonomy;

liberalisation of the educational system. His motto was "Justice, light, and freedom," and yet he found great adversaries in the Nihilists who would oppose benevolent reforms. Nihilism led some of the students astray and one of them even attempted to shoot Alexander. The Nihilists started secret societies, preached terrorism and finally bombed the Czar (13th March 1881) who was blown to pieces. The murder came as a blow to the free-thinking party who asserted that the people did not know the proper use of liberty.

Since then nothing was done in the way of democratising the administration till the disaster of the Russo-Japanese war (1905), when the Government of the Czar lost "its glamour of sanctity and the paternal authority." The Czar attempted to consult popular opinion by organising an elected assembly (the Duma). A widespread rebellion broke out. All attempts of the Czar to please the people by an extension of franchise failed, and he was compelled to issue a manifesto to grant to the population "the immutable guarantees of civil liberty upon the basis of real inviolability of person, of liberty, of conscience, of speech, of assembly, and of association" and "to establish an immutable rule that no law shall become effective without the approval of the Imperial Duma, and that the representatives of the people be granted the right of exercising an effective supervision as to the legality of the acts of

the Imperial authorities." The first Duma that met in 1906 demanded direct universal suffrage, complete parliamentary government, expropriation of the landlords, etc. It was dissolved in July. The Second Duma met in March, 1907, and proved equally ineffective. The Czar tried to go back on the manifesto by trying to keep all elective power in the hands of the property-classes, without ostensibly depriving anybody of the right to vote.

Article 4 of the fundamental laws of May, 1906, had declared: "The Emperor of all the Russias wields a supreme autocratic power. To obey his authority, not only through fear, but for the sake of conscience, is ordered by God himself." In such an atmosphere, even the Third Duma of November 1907 failed to achieve any results. All legislative power was exercised, finally, according to the will of the Czar whose government could continue the operation of the previous year's Budget, if in any year the Duma threw out the Ministry's financial proposals. The Executive was entirely responsible to the Czar, not to the Duma. It could be interpellated only as regards the legality of their acts and not as regards the policy. The Czar had the right of suspending the constitutional laws and declaring a state of siege. The system was in fact autocratic though garbed in democratic principles.

So during the Great War, the people of Russia, unable to bear the strain and suffer-

ings caused by that greatest conflict in living memory, rose into rebellion and compelled Emperor Nicholas to abdicate (March 12, 1917).

The Revolution of 1917. In the Great War, Russia was one of the principal Allies against the Central Powers of Europe. She could not, however, continue the fight because of the autocratic and despotic rule at home. The increased demands made for democratising the government met with persistent refusal by the Czar whose vacillation slowly goaded the liberal minded men into rising into revolt. The Czar issued ill-advised decrees, ordering the members of the Duma to go home and the workingmen in Petrograd to end the strike and resume work, which precipitated the Revolution. The remote causes of the Revolution were the starving condition of the millions of Russian peasantry, whose fate was no better than that of the Indian peasantry till recently, the rise of democracy in Europe, the sufferings caused by the Russo-Japanese war, and the impatience of the Russian youth. The Duma resisted till the Czar Nicholas II abdicated. Within a week the Czar and all members of his family were made prisoners.

The Provisional Government set up by the Duma immediately issued decrees which (i) eased the censorship of the press; (ii) released large numbers of political and religious prisoners;. (iii) recognised the right of work-

men to unionize and strike; (iv) humanized the disciplinary codes in the army and the navy. This government proved short-lived as the Petrograd Soviet instructed the army and the fleet to disregard all instructions of the government which conflicted with the regulations of the Soviet. Consequently, soldiers and sailors set up local revolutionary committees; some men desired to remain loyal to the old regime while others refused to fight at all.

In 1917, the Petrograd Soviet convened the first All-Russian Congress of Soviets, numbering a thousand delegates. But even the Social Revolutionary Government set up by the Congress failed.

The soldiers staged the greatest mutiny in military history. The peasants rose into revolt and seized whatever land they could get, whether peacefully or by bloodshed. The workers too raised their demands. The Kerensky administration proved unequal to the task of restoring order. In October 1917, the Bolsheviks held a party meeting and decided on a *coup d'etat*. On November 6 and 7 they seized Petrograd by force and arrested the members of government; only Kerensky managed to escape. The All-Russian Congress of Soviets which met on November 7, received the announcement with joy and constituted itself as the Supreme authority in Russia. It appointed a new executive

committee and an administrative board with Lenin as chairman, Trotsky as commissar for foreign affairs, and Joseph Stalin as the commissar for nationalities.

The chief spirit of the new Revolution of November 1917, was Lenin and his ablest lieutenant was Lev Davydovich Bronstein, *alias* Leon Trotsky. The cabinet drew up a programme which included: (i) immediate conclusion of peace with the Central Powers; (ii) quelling of local revolts and combating of the separatist tendencies; (iii) complete revision of the social, political and economic structure of the state so as to establish the dictatorship of the proletariat as a preliminary to an entirely communistic government; (iv) spreading of the proletarian revolution in the whole world.

By the Treaty of Brest-Litovsk (March 3, 1918) peace was concluded with the Central Powers, followed by two more pacts. Russia gave up 500,000 sq miles of territory with a population of sixtysix millions, and agreed to pay a heavy indemnity. In the resulting turmoil Estonia, Latvia, Lithuania, Finland, and the Transcaucasian states declared the independence of their regions.

The Allies then intervened in the Russian affairs and declared blockade of Russia, for they desired "to rebuild the eastern front against Germany." The foreign troops co-

operated with the anti-Bolshevik bands, but the Bolsheviks raised a monster "Red Army" which ultimately achieved success, both against foreign blockade and against the anti-Bolsheviks at home. Encouraged by their success in Russia proper,* the Bolsheviks overthrew the governments in the Ukraine and White Russia, and seized control in other border territories.

Amendments were then made in the constitution of 1918, necessitated by the inclusion of other Soviet Republics in the Union, till the Union of Socialist Soviet Republics was completed in 1923.

The Constitution of U. S. S. R. till 1936. This constitution was of an extremely unique type and made a complete departure from the other constitutions of the world. It was the product of the mass rebellion of 1917, and was thus a reaction to the autocratic regime of the Czar. It put into practice the Socialistic Theory of Karl Marx, making every question a political question, and every worker a State employee.

It aimed at a complete suppression of Capitalism, and therefore, declared Russia as "a Republic of Soviets of Workers', Soldiers', and Peasants' Deputies". In form, the Union

*This was the Russian Socialist Federal Soviet Republic (R.S. F.S.R.) with the constitution adopted by the Fifth Congress in July 1918.

was a close federation, that is to say, the powers which were given to the federal authority were very large indeed, and all the chief features of political and economic life of the people were concentrated in the federal machinery, and the component units, the seven Republics forming the Union retained autonomy in all local matters, including cultural autonomy. It aimed at the establishment of a Soviet Federation of the whole world. Hence the Union was "not in theory a national unit, but a federation based on the possession of common Socialist institutions and a common social theory," and on paper at least, it allowed the component republics the right of secession, undoubtedly a great departure from the accepted concept of a federation.

The constitution established the government of the proletariat, hence, the franchise was uniform, and "open to all of either sex, excepting persons employing hired labour for profit (this included *Kulaki*) or living on unearned income, monks and priests, imbeciles, and former agents of the Tsarist regime".* Another novel feature of the constitution was the method of indirect election to all the Soviets of the "district", the "Government", and the "central Executive Committee." Direct election was in existence only for the formation of village or factory soviets which had a very narrow jurisdiction.

*Cole. A Guide to Modern Politics, p. 223.

"As a form of organisation for a political party, such a system is not unknown but it is singular as a form of organisation for a State."*

The later tendency in the Union was towards greater centralisation which was enforced by insisting on a rigid adherence (in all the units and soviets) to the instructions received from the central organisation. The political structure of the U. S. S. R. was novel and widely different from the frames of government in all other States.

Local and Provincial Governments. The structure of the U. S. S. R. was like a pyramid whose base was the large number of village and factory Soviets and the apex was the Central Executive Committee and the Presidium. The constitution considered the village soviet as 'the supreme organ of authority within its own competence, and within the boundary of the locality it served.' All persons of either sex, with the exception of those already described above, enjoyed franchise. The disfranchised class numbered 8,000,000 persons (or about 8 per cent. of the total population) who had been denied the right to vote for economic or political considerations. The government had been "careful to point out that lists of disfranchised persons should be drawn up exclusively by local electoral com-

*Select Constitutions of the World, p. 244

missions on the basis of information furnished by local soviets, administrative organs and courts, and not by factory committees, collective farms or other unofficial groups". Still, in actual practice, the local soviets "frequently use their own discretion in according or withholding the franchise, and local officials have on occasion resorted to disfranchisement for the purpose of avenging personal grievances."

Soviet political theory considered the vote as not a "right" but merely a social function, and, hence, constituting an effective instrument of protection of the workers' rights. Even foreign workers, resident in the Soviet Union, enjoyed the right to vote. In the year 1931, there were registered 84,000,000 voters out of a total population of 160,000,000. Of the registered voters as many as 71·8 per cent went to the polls. On an average, about 20 per cent. usually went to the polls, and in the rural areas, this percentage was as low as 8 or 9 even though the supporters of the Soviet rule viewed the elections as "the most important school for the political education of the labouring masses," and the voters were constantly urged to participate in the several elections, all agencies including schools, clubs, trade unions, the press, the theatre, the movies and the radio taking a keen interest in training the huge population. The reason of the apathy of the voters was the power and influence which the Communist Party exercised in getting its own nominees elected even by using unfair means at elections. Hence

the voters felt that their free choice was of no avail.

All details with regard to elections, *e. g.* place, time and manner of voting were determined by a commission appointed for the purpose by the executive committee of the administrative unit concerned. Voting took place not on territorial or regional, but on occupational or professional, basis, each factory, or trade union, or collective farm, forming a single electoral college by itself. There was no secret ballot; each voter appeared before the electoral officer and expressed his choice. In case of elections to the village or factory soviet, votes were taken by show of hands in the open. Candidates who received majority of votes were declared elected. Though the soviet constitution was based on the sovereignty of the proletariat, there was considerable inequality in the rights of citizenship (if the value of a vote were the criterion) enjoyed by the workers of the towns and factories and the peasants in the countryside. For every 25,000 persons of the former class there was one representative in the All-Union Congress, whereas the village soviets elected one representative for every 125,000 of population. The difference in the voting rights of workers and peasants was justified on the ground that, during the transition period from capitalism to communism, the class-conscious and politically educated workers must assume leadership over the back-

ward peasant masses. And it was said that when the peasants had acquired the necessary political consciousness, the inequality would disappear.

The primary unit of administration was the village or the factory, each having its own soviet entrusted with the administration of all important local matters. Villages with a population of less than 300 either governed themselves directly (all adults forming the assembly) or combined in small groups and each such group elected a soviet. Similarly smaller factories employing less than 100 operatives combined together (3 or 4 in each group) to have a common factory soviet. The factory committee was entrusted with the work of looking after the social life of the factory workers, the factory kitchen, club, housing estate (in case there was one attached to the factory), and, to a great extent, the education of the factory children.* Thus there were rural and urban soviets consisting of villages and factories, respectively, and having separate existence. Though each village or factory soviet enjoyed considerable autonomy in managing strictly local matters, it had to follow, rather rigidly, the instructions received from above (the central organisation) and the communists in the village or the factory did almost spying work in this respect.

Over the village or factory soviet, the next

*A Guide to Modern Politics, p. 226.

higher administrative unit was the district soviet, consisting of the representatives from the soviets of the villages and factories that composed the district. The representatives to these district soviets were elected not directly by the village peasants or the factory workers, but by the village soviets and factory soviets. Here, therefore, began the system of indirect election which was an important feature of the soviet system of government. The district soviets conducted the administration of all matters of local interest within the district, following at the same time the instructions from above.

The next higher administrative unit was the "region", consisting of several districts. The representatives that composed the "regional" congress were elected, partly by the various district soviets (another link in the chain of indirect election) and partly by the town and factory soviets, the latter thus acquiring greater importance than village soviets which did not send any direct representatives to the regional congress. The functions of these regional congresses were of a higher nature than those of the district soviets. In each of the seven Union Republics that composed U. S. S. R., there were several "regions" as local administrations. The regional congresses within each Republic elected representatives to the Congress of the Republic. Thus the next higher administration over the "regions" was the Republic.

Seven autonomous Republics composed the Union of Soviet Socialist Republics. In the beginning (1918) there was only the Russian Socialist Federal Soviet Republic, but between 1918 and 1923, six other Republics joined the R.S.F. S.R. to form the Union of Socialist Soviet Republics.

The following were the seven constituent Republics of the U.S.S. R. with their capitals (in brackets), area and population:—

Republic.	Approx. Area (in sq. miles) in thousands.	Population in thousand (1933).
R. S. F. S. R. (Moscow) ...	7,627	113,983
Ukrainian S. S. R. (Harkoff) ...	174	31,901
White Russia S. S. R. (Minsk)	49	5,439
Transcaucasian S.S.R. (Tiflis)	71	7,074
Uzbeck S.S.R. (Tashkent) ...	75	4,918
Turkoman S.S.R. (Ashkhabad)	190	1,269
Tajik S.S.R. (Stalinabad) ...	57	1,183

Several of these Republics were themselves unions of smaller and independent republics each having a Soviet constitution. The constituent Republics enjoyed a large measure of autonomy in education, public health, full cultural autonomy in education, public health, full cultural autonomy of speech, writing and printing. This was a great improvement on the Czarist system which had rigidly denied even the smallest amount of freedom to the provinces. Each Republic had, in theory at least, the right to secede from the Union. This was a novel departure which the Soviet

Federation made from the prevailing federations.

Each Republic had its own congress consisting of the representatives elected by the regional congresses within it. The Republic congress was a very numerous body and met once or twice a year. It elected, from amongst itself, a central executive committee (having generally legislative and some administrative functions). The central committee of a Republic was also a numerous body, meeting generally once in 3 months, and consisting of a few hundred members. It again elected a presidium (a smaller body) which acted on behalf of the committee when the latter was not in session (*i.e.* during the intervals between one meeting and another of the committee), and a council of people's commissaries consisting of heads of departments within the Republic. The council of people's commissaries might be likened to a cabinet in a modern state, but it had to carry out the instructions received from the presidium of the Republic. Uniformity of administration within the seven Republics was enforced by the members of the Communist Party who formed the bulk of the Republic congress. Each Republic had a branch of the Supreme Court of the U.S.S.R., and several other smaller courts, which together formed the judiciary of the Republic, over which the Republic had the right to make certain modifications with regard to the application of the

code of law which was the same for the whole Union.

The Central Government of U.S.S.R. At the apex of the pyramid of Soviet Government was the Central Government of the Union of Socialist Soviet Republics.

The most numerous body of the central administration was the Congress of Soviets of the Union of the Socialist Soviet Republics. It was composed of representatives of the town and township soviets on the basis of one Deputy for each 25,000 electors, and of the representatives of the regional soviets on the basis of one deputy for each 125,000 of the population. The Congress was the supreme authority in the Union. Its strength was nearly 2,000 and met once a year. It elected the Council of the Union (which formed the legislature of the U.S.S.R.). The Council consisted of 472 members (since March 1931) elected on the principle of proportional representation of the seven constituent Republics. The Congress also elected a Council of Nationalities composed of 138 members "elected on the basis of 5 members for every independent and autonomous republic, and 1 member for every autonomous region." These two bodies together formed what was called the Union Central Executive which, between the sessions of the Congress, acted as the sovereign legislative, administrative, and judicial authority of the U.S.S.R. It met once in three months

and during the intervals, its functions were performed by the Presidium, a smaller body consisting of 21 members entrusted with all powers which the Central Executive Committee was entitled to exercise. The Central Executive Committee also elected Union Council of People's Commissaries consisting of 17 heads of departments, which was akin to the British Cabinet. Each of these Commissaries was assisted by two more deputies, and occupied one of the following portfolios: President; Vice-President; Foreign Affairs, War and Marine; Home Supplies; Foreign Trade; Agriculture; Land Transport; Water Transport; Posts and Telegraphs; Workers' and Peasants' Inspection; Heavy Industry; Light Industry; Timber Industry; State Farms; Finance; and President of the State Planning Commission.

So that by a zigzag method of indirect elections the Presidium and the People's Commissaries were the elected bodies that actually conducted the central administration of the U.S.S.R. The functions of the Central Government included foreign trade and foreign relations, defence, the direction of national economic policy and internal trade, taxation, labour and labour legislation, besides a general supervision of the government.*)

To understand the constitution of the Soviet Administrative system, the following

*A Guide to Modern Politics, p. 222.

list of the various administrative units (beginning with the base of the pyramid) and the graph (beginning with the central machinery) will prove helpful:—

The Units of Administration.

1. The village soviet (representing the peasants) and the town or factory soviet (representing the workers).

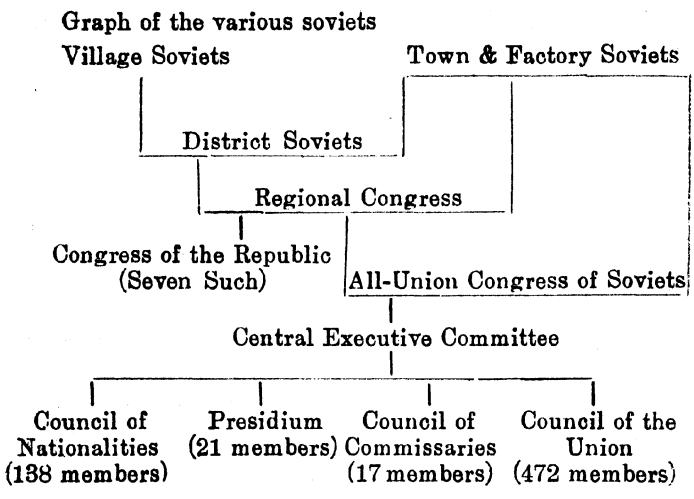
2. The district soviets (consisting of the deputies elected by the village soviets and town or factory soviets, within the district).

3. The Regional Congress of the "Regions" (consisting of deputies elected by the district soviets, and the town and factory soviets directly).

4. The Seven Autonomous Republics (congress of each of which consisted of the deputies elected by the regional congress within the Republic).

5. All-Union Congress of Soviets, forming the central administration of U.S.S.R., (consisting of deputies elected by the regional congress and the town and factory soviets).

This shows that the town and factory soviets directly elected deputies not only to the district soviet but also to the regional soviet and the Union Congress. In this way the workers had a greater voice than the peasants, in the administration of the U.S.S.R. (a fact already explained).



The U.S.S.R. had a uniform judicial system throughout the seven Republics. The whole system aimed at simplicity and easy access to the population.

In each of the Seven Republics the judicial system was generally uniform, subject to minor modifications made by each Republican Congress. Each Republic had one Supreme Court, several regional courts (one for each region) and people's courts.

The people's court was the primary unit of the judicial system; it consisted of a judge and two co-judges (or judge jurors, as they were called), all exercising equal powers. Each co-judge was chosen by the executive committee of the region from the list of persons

elected by the village and factory soviets. He served for not more than six consecutive days in each year. The judge was appointed by the regional executive committee for one year.

Each regional court had several judges appointed by the regional executive. It supervised the working of the people's courts and also heard appeals from them.

Then there was the Supreme Court of the Republic, consisting of judges appointed by the Central Executive Committee of the Republic. The Supreme Court was the highest judicial tribunal for the Republic. It tried "cases referred to it from regional courts," and had "original jurisdiction over cases of exceptional importance referred to it by the republican central executive committee, the prosecutor of the republic," or those "involving offences in office committed by members of the republican government"*

Soviet Law comprised general instructions only which alone were binding and not every letter or word of the law. Severer punishment was inflicted for offences committed against the Soviet Government or for efforts to upset the government. The highest penalty for such offences was death. Comparatively light punishments were awarded for lesser crimes like avoiding work and breaking economic laws. For such offences the offenders

*New Governments in Europe, p. 385.

were sentenced to imprisonment ranging from one to ten years. "The Soviet judicial system aimed at reforming the criminal and retraining him for life, rather than victimising him aimlessly."

There was a Supreme Court of the Union, attached to the Central Executive Committee, and not being an independent court like those in other federations. It consisted of a president, a deputy president and thirty judges, all of whom were appointed by the Union Presidium. It was divided into three sections, civil, criminal and military, and examined 'cases involving offences committed in office by members of the Union Government; dealt with conflicts between the constituent republics, and might appeal against them to the Union Central Executive Committee on the ground that they contradicted the general legislation of the Union or affected the interests of other republics...'† It also offered opinion to the C.E.C, whenever asked to do so, "regarding the constitutional validity of acts and decrees of organs of Union and republican Government." Besides, there were other regular courts of Soviet Union dealing with special questions. ✓

The Communist Party. The Soviet system of government, described above, was run mainly by the Communist Party which was the carrier of government. Yet the party and the government must not be confused together, the one being different from the other.

†Ibid. p. 886.

The Communist Party is open to any one belonging to any nationality, because the principles of communism have no place for narrow nationalism and aim at the establishment of the rule by the proletariat all the world over. Communism does not, in its fundamental concept, recognise political frontiers, but seeks to organize the workers in the whole world. And yet admission to the Communist Party is an extremely difficult affair; a prospective candidate has to undergo a training period on completion of which he is admitted to the party if recommended by important and known members. On the other hand, it is very easy to leave the party; one has just to express one's desire. From time to time the party is purged of all non enthusiastic or insincere members who have either lost faith in the principles and practice of communism or have been suspected of disloyalty to the party.

The total membership of the party in the beginning of 1938 was estimated at less than 3 millions including members and probationers. The recruitment to the party is made from amongst the *Komsomol* comprising of young men and women between the ages of sixteen and twenty-three years, who are undergoing training. Those whose ages range from ten to sixteen years are called Pioneers and below these are *Octiabrists*, consisting of children between the ages of eight and ten. Thus the system consisting of the

party and the three under-associations may be likened to the scout organization wherein there are definite stages to pass through before being admitted as a full-fledged member. The total strength of the Communist Party and the under-societies is over twelve millions.

Strict party discipline is rigidly observed. Every member or candidate has to subordinate all his personal feelings to the welfare of the party ; each is at the disposal of the superior whose orders have to be implicitly obeyed. A member has to go wherever he may be sent, and he has to devote all his spare time to spreading the principles of communism and defend the same even if it entails sacrifice of his own life. Nearly 14 % of the members are women and girls.

Communism aims at giving a practical shape to Marxian doctrines ; abolition of class distinctions ; basing political and social rights on one's personal labour ; abolition of capitalism and its replacement by state control of all means of production and distribution ; abolition of religion. Whosoever is found guilty of drunkenness, disobedience to superior authority in the party, attending church service, want of zeal in propagating party gospel, or giving any kind of help to "bourgeois" class is dismissed from the party. On the other hand, those who distinguish themselves by greater devotion to party, turning

out of more than normal work, or literary activity are specially rewarded. Officials of the party are entitled to travelling allowances, residential quarters and the use of automobiles. In theory at any rate, equality in treatment is emphasized. In practice, however, the officials in charge of factories and farms enjoy greater privileges ensured by the distribution of extra-profits. The accounts given of the practical working of the communistic doctrines in Soviet Russia are conflicting, due largely to the predilections of the visitors and writers. Human nature being what it is, it is impossible to expect perfect adherence te an ideal in practice. However, the network of organizations of the party in the U. S. S. R. is an attempt to control the administration.

The primary unit of the party is the "cell" (*yacheika*) which contains at least three members and may be formed in a village or factory. The cell carries out the policy of the Central Party by means of propaganda. "Of a total of 39,321 party cells in 1928, 25.4 per cent, were formed in factories, 52.7 in villages, 18.5 in offices and enterprises, and 1.8 in educational institutions." The cells elect delegates to the party organ of the division. The provincial and regional organs of the party elect delegates to the All Union Party Congress. The Congress meets once in two years. During the intervals a Central Executive, elected by the Congress, conducts the

work. The most important official of the Central Committee is the Secretary General (at present Stalin occupies that office) who controlled not only the Party but also the Government till 1956. Though the Party and the Government were distinct institutions, the former virtually controlled the latter. And the Seventh Congress held in the beginning of 1934 resolved to obliterate the outward distinctions between the Party and the Government.

Though within the Party there is freedom of discussion and expression of views, once a dicision is taken, it becomes binding on the members. Whosoever tries to flout Party directions is expelled or otherwise punished. Generally speaking, a member of the Communist Party must be prepared "to put himself at the service of the State," by doing all sorts of works required of him. The various branches of the Party spread over the Union keep strict vigilance over the working of the Soviets and thus enforce the intructions received from the centre. As the most important organs of the Government till 1936 were those in the upper layers of the pyramid, the Communists cared to have more of themselves elected to those Soviets, and in villages and factories they contented with candidates put up by them but not necessarily being registered members of the Party.

The following table which gives the

percentage of Communists and non-party members in the different Soviets explains the importance which the Party attached to a control of the higher organs in the State:—

(The figures are for the elections of 1922.)

	Communists Percentage	Non party Percentage.
Village Soviets ...	11·7	88·3
District Soviets ...	54·4	45·6
Regional Soviets ...	78 8	21·2
All-Russian Soviet ...	94·9	5·1

As the real policy of the Government was dictated from above, the Communists had a full control over the Government. "The Communist Party is thus the driving and directing force of new Russia. Even where Communists are not in direct control, there is Communist influence, as in the famous "Red Triangle" to be found in all factories, whereby a representative of the Communist Party sits with a representative of the factory committee and with the manager to determine factory policy."*

On coming into power, the Communist Party started on the various economic programmes, which were considered as parts of the politico-economic system contained in the constitution of the U. S. S. R. In the process, conflicts arose between Stalin and Trotsky, after Lenin's death, each of whom claimed to represent the correct view of Leninism. The

*Cole. Europe To-day, p. 890.

final triumph of Stalin and the consequent expulsion of Trotsky led to the secret plots against Stalin's administration which ruthlessly put down all opposition to the administration, by inflicting the heaviest penalties on those who were found involved, or who were made to confess their participation, in the plots.

The U. S. S. R. and Foreign States.

The orthodox theory of communism naturally excited the fears of all democracies who relied on freedom of thought, speech and press, and the government by majority. The establishment of the Third International of Communistic political parties (called the Comintern) and the Red International of Labour Unions (Profintern) was looked upon as a danger to world democratic order. The British Empire was particularly hostile to the Comintern. The later activities of the Comintern dissipated the fears of some of the democratic countries. On (February, 1, 1924), the Government of Great Britain recognised "the Union of Socialist Soviet Republics as *de jure* rulers of those territories of the old Russian Empire which acknowledge their authority", and appointed Mr. Hodgson as British *Charge d' Affairs* in Moscow. In reply the Government of the U. S. S. R. declared its "readiness to discuss and settle in a friendly spirit all questions arising directly or indirectly out of the fact

of recognition." Three years later, on May 26, 1927, occurred breach of diplomatic relations between the two countries on the ground of the Soviet Government secretly carrying on military espionage and subversive activities throughout the British Empire, although the Soviet Government decisively rejected all the accusations against itself. But on December 20, 1929, diplomatic relations were again resumed as a result of the signing of a Protocol at Paris on October 3 of that year. According to this, the two governments engaged themselves to confirm the pledge with regard to propaganda contained in Article 16 of the Treaty signed between them on August 8, 1924, which said:

> The contracting parties solemnly affirm their desire and intention to live in peace and amity with each other, scrupulously to respect the undoubted right of a State to order its own life within its own jurisdiction in its own way, to refrain and to restrain all persons and organizations under their direct or indirect control, including organizations in receipt of financial assistance from them from any act overt or covert liable in any way whatsoever to endanger the tranquillity or prosperity of any part of the territory of the British Empire or the Union of Soviet Socialist Republics, or intended to embitter the relations of the British Empire or the Union with their neighbours or any other countries.

The entry of the U.S.S.R. into the League of Nations on September 15, 1934, marked a new epoch in Soviet foreign policy. Before that date doubts were entertained regarding the mission and intentions of the U.S.S.R, in view of the activities of the Third International, in

foreign states. Responding to a telegram signed by several Members of the League, inviting the U. S. S. R. to join the League and cooperate in the establishment of peace, it replied:

The Soviet Government, which has made the organization and consolidation of peace the main task of its foreign policy, and has never been deaf to proposals for international cooperation in the interests of peace, considering that, coming as it does from an overwhelming majority of Members of the League, this invitation represents the real will to peace of the League of Nations, and their recognition of the necessity of cooperation with the Union of Soviet Socialist Republics is willing to respond to it, and become a Member of the League, occupying therein the place due to itself, and undertaking to observe all the international obligations and decisions binding upon Members in conformity with Article 1 of the Covenant.

The Council of the League decided by a resolution, on September 15, 1934, to appoint the Union of Soviet Socialist Republics to be a permanent Member of the Council as soon as its admission into the League was agreed to by the Assembly. The Assembly approved of this decision and admitted the U. S. S. R. to the membership of the League of Nations.

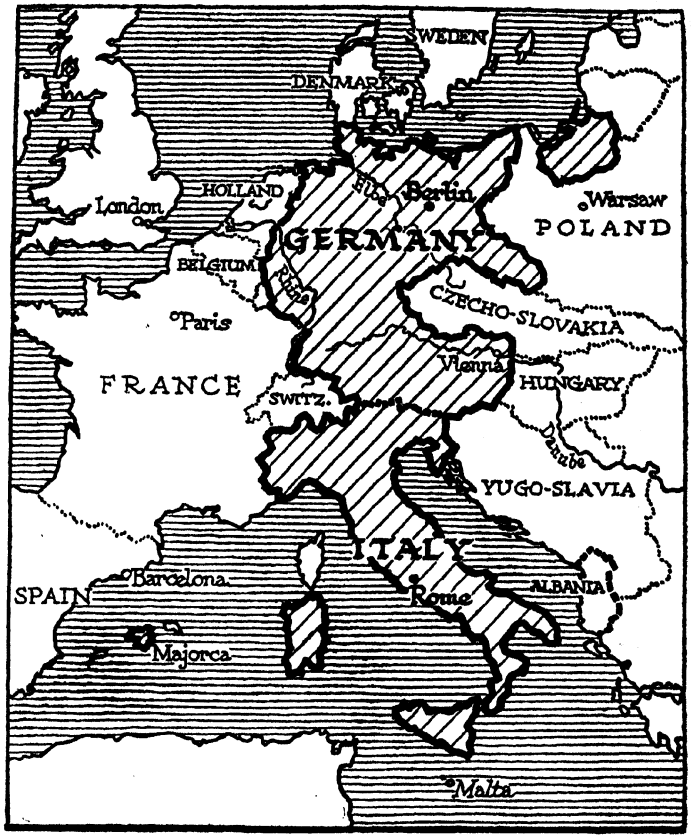
Thus the U. S. S. R. was brought into the sphere of that body of nations which works for the reorganization of international peace. The establishment of proletarian communism had presupposed the disappearance of national boundaries, and the first Bolsheviks had fully shared the assumption. Facts, however,

proved too strong for this missionary plan. Germany and Japan left Geneva in 1933. And thereafter, menaced by the growing aggressiveness of these two ambitious nations, the U. S. S. R. took a decisive step in the transformation from an international rebel into an international conservative, by joining the group of static, respectable and satisfied nations. This action of the Soviet Union is undoubtedly the most remarkable metamorphosis of the most dramatic revolution of modern times And now the foreign policy of Soviet Russia, as also that of the Comintern, no longer depends upon Marxian doctrine as contained in textbooks, but on practical considerations of enlightened self-interest and a realisation of the fundamental principles of democratic, national ambitions.

Within two years of its joining the League, the Soviet Government entered into a pact with France, called the Franco-Soviet Pact of May 2, 1935, which declared that "In the event of France or the U. S. S. R. being threatened with or in danger of, attack on the part of a European state, the U. S. S R., and, reciprocally, France, undertake to proceed mutually to immediate consultation as regards the measures to be taken for the observance of the provisions of Article 10 of the Covenant of the League of Nations." This brought the U. S. S. R. immediately into friendlier relations with Czechoslovakia on account of the *Treaty of Alliance and Friendship*

between France and Czechoslovakia, Paris, January, 2, 1924, and to guarantee the integrity and independence of the Czechoslovak republic in the event of her being attacked by Germany or any other power.

As early as April 24, 1926, the U. S. S. R. entered into a treaty with the German (Weimar) Republic, which was agreed to on the two Governments desiring to do all in their power to promote the maintenance of general peace and having been "convinced that the interests of the German people and of the peoples of the Union of Socialist Soviet Republics demand constant and truthful cooperation." By this treaty they agreed to observe perfect neutrality if any one of them were "attacked by one or more third Powers" And in furtherance of the execution of this treaty, and "animated by a desire to strengthen the friendly relations which exist between the two countries," they entered into a *Treaty of Conciliation*, Moscow, January 24, 1929, whereby they agreed to refer all the disputes arising between them to a commission of conciliation. But the rise of Nazism in Germany changed German attitude towards the U S. S. R. Nazism looks upon communism as its worst foe, and has, therefore, formed an alliance with Fascism. Hitler viewed the Franco-Soviet Pact of 1935 as an attempt to form an aggressive alliance against Germany. As a result, the Rome-Berlin axis was consecrated as an alliance against communism



EUROPE (CENTRAL) ROME-BERLIN AXIS AND GERMANY
AFTER THE ANSCHLUSS, THE BRENNER FRONTIER.

which raised the banner of anti-Bolshevism about which Mussolini, in his Milan speech of November 1, 1936, declared : "We were born under this sign ! We have fought against this enemy ! We have conquered him through our sacrifices of blood!" And in the same month (November 25, 1936) *German-Japanese Agreement on Communism* was signed at Berlin, the object of which was explained in the opening paragraph in these words :

> The German Government and the Japanese Government ; recognizing that the aim of the Communist Internationale known as the Comintern is directed at disrupting and violating existing States with all means at its command and convinced that to tolerate the Communist Internationale's interference with the internal affairs of nations not only degenerates their internal peace and social well-being but threatens world peace at large, animated by a desire to work in common against Communist disruptive influences, have arrived at the following agreement.

The two Governments agreed "to mutually inform each other concerning the activities of the Communist Internationale, to consult with each other concerning measures to combat this activity, and to execute these measures in close co-operation with each other." They also agreed to invite third parties whose domestic peace was endangered by the Comintern's activities. On Italy joining the pact, the Rome-Berlin-Tokio triangle against the U. S. S. R. was completed. Soviet Russia has, therefore her enemy abroad in the pro-Fascist and Fascist States.

Soviet Constitution under Revision.

In this combination of Germany, Italy and Japan, Soviet Russia saw danger of imminent aggression from the east and the west. She felt the necessity of enlisting fullest support from her own populace and such friendly support from abroad as could be obtained from the anti-Fascist democracies of the west. The concluding of Franco-Soviet Pact and the entry of the U. S. S. R. into the League of Nations gave her considerable hope of help and security from abroad. At home, while purges of the Communist Party continued with unabated energy, a new direction was given to the domestic policy so as to give satisfaction to the wishes and needs of the people. It was discovered as a result of the novel experimentation of the Marxian doctrine that the super-ideology of socialism was difficult of translation into practical realism. As a consequence, several amendments were made in the constitution. The following represent the most important of them :

People of the Far Eastern Provinces, which were the poorest territories of the U. S. S. R., were exempted from taxation (Dec. 11, 1933).

Persons who had run into arrears of grain deliveries were granted exemption (February 27, 1934).

Wages were allowed to be calculated in terms of the quality and quantity of the output of work (March 17, 1934).

Laws regarding strict teaching of civics and giving of political training to the children were modified (April 23, 1934).

System of rations was abolished (November 29, 1934).

Statutes relating to collective farming were revised, and rights of private property widened and extended (February 17, 1935).

Laws made to control homelessness and neglect of children (June 1, 1935).

Laws made to reorganize the educational system and establishment of discipline in schools (September 4, 1935).

Birth restrictions were removed and admission to universities regulated (December 29, 1935).

Legislation was made to make currency more stable (February 29, 1936).

Laws regarding abolition of State subsidies and selling prices in heavy and timber industries were made (April 11, 1936).

The tendency towards a democratization of the constitution, as evidenced by the above changes, culminated in the appointment of a committee in July 1935, including Joseph Stalin (as chairman) and among other important members Litvinov, Radek, Vyshinsky, Voroshilov, Molotov, Bukharin, Akulov, Chubar, Zhdanov, and Kaganovitch, to frame a new constitution. The Committee laboured for nearly a year and produced the draft constitution which, after confirmation by the Central Executive Committee, was published on June 12, 1936, for eliciting public opinion and inviting suggestions for amendments. It was then considered by the All Soviet Congress and with slight changes passed on December 5, 1936. It was later put into force in 1937.

While introducing the draft constitution for consideration by the Congress, Stalin stated that it proceeded "from the fact of the liquidation of the capitalistic system, from the fact of the victory of the socialist system in the U. S. S. R. The chief basis of the draft of the new constitution of the U. S. S. R. consists of the principles of Socialism, of its mainstays which have already been won and realized; Socialist ownership of the land, forest, factories, plants and other implements and means of production ; abolition of exploitation and the exploiting classes ; abolition of poverty for the majority and of luxury for the minority ; abolition of unemployment ; work and labour as an obligation and a matter of honour of every able-bodied citizen." He declared that it represented a summing up of the path that had been covered, a summary of achievements already won. And, therefore, it was a recording and legislative consolidation of that which had already been attained and won in fact.

The New Constitution of 1936. The constitution opens with the organization of Society (Ch. I) and declares the U. S. S. R. to be a socialist state of workers and peasants, the political basis of which is formed by the Soviets of the toilers' deputies. "All power in the U.S.S.R. belongs to the toilers of city and village...." Socialist ownership has been defined to be one of either State ownership or co-operative collective farm ownership. All

land, minerals, forests, mills, factories, mines, railroads, water and air transport, and all undertakings and institutions are declared to be state property, *i.e.* the property of the whole people.

The land occupied by collective farms is secured to them without payment and for ever. Each collective farm household is allowed for its own use a small piece of land attached to the homestead and the auxiliary economy on this attached piece, a dwelling house, productive livestock, poultry and minor agricultural implements. Small private economy of individual peasants and handicraftsmen, derived from personal labour, but free from exploitation of another's labour is secured by law. Citizens are also guaranteed by law the right of personal property "in the income from their toil and in their savings, in their dwelling house and auxiliary domestic economy, in articles of their domestic economy and use, in articles of personal use and comfort, as well as the right of inheritance of personal property....."

The following two articles indicate the scope of, and the principle underlying, the economic life of the Soviet State :

Article 11. The economic life of the U.S.S.R. is defined and directed by the State plan of national economy in the interests of the increase of the public wealth, the constant rising of the material and cultural level of the toilers, the strengthening of the independence of the U.S.S.R., and the strengthening of its defensive ability.

Article 12. Toil in the U.S.S.R. is an obligation and a matter of honour of each citizen who is fit for toil, according to the principle: "He who does not work, does not eat."

In the U.S.S.R. there is being realised the principle of socialism: "From each according to his ability, to each —according to his toil."

An important feature of the new constitution is the declaration of *Fundamental Rights of the Citizens*, contained in its tenth chapter. The citizens, of the U.S.S.R. are guaranteed (i) the right to work, ensured by the socialist organization of national economy, the steady growth of the productive forces of Soviet society, the absence of economic crises, and the abolition of unemployment; (ii) the right to rest, ensured by the reduction of the working day to seven hours for the overwhelming majority of the workers, establishment of annual vacations with pay for workers and employees, and provision for a wide net-work of sanatoriums, rest homes, and clubs for the accommodation of the toilers; (iii) the right to material security in old age as well as in the event of sickness and loss of capacity to work, ensured by the wide development of social insurance of workers and employees at the expense of the State, free medical aid, and the provision of a wide net-work of health resorts for the use of the toilers; (iv) the right to education, ensured by universal compulsory elementary education, free of charge, including higher education, by the system of State

stipends for the overwhelming majority of students in higher schools, instructions in schools in the native language, and organization of free industrial, technical and agronomic education for the toilers at the factories, State farms, machine and tractor stations and collective farms.

In the enjoyment of rights no distinction is made between different sexes. Women equally with men enjoy the right to work, payment for work, rest, social insurance and education, State protection of the interests of mother and child, granting pregnancy leave with pay, and the provision of a wide network of maternity homes, nurseries and kindergartens.

No distinction is made in the rights of citizens on ground of their nationality or race, in the fields of economic, State, cultural, social and political life.

Freedom of conscience has been granted. Therefore the church in the U.S.S.R. is separated from the State, and the school from the church.

Citizens are granted freedom of speech, of the press, of assembly and meetings, and of street processions and demonstrations. These are secured by placing at the disposal of toilers and their organizations printing presses, supplies of papers, public buildings, streets,

means of communications, and other material conditions necessary for their exercise.

Inviolability of the person is guaranteed. Hence no one may be subjected to arrest except upon the decision of a court or with the sanction of the prosecutor. Similarly inviolability of the homes of citizens and secrecy of the correspondence are protected by law.

Every citizen is required (*a*) to observe the constitution, to carry out the laws, observe labour discipline, honestly fulfil his social duties, and respect the rules of the Socialist community (*b*) to safeguard and consolidate public Socialist property as the sacred inviolable foundation of the Soviet system, as the source of the prosperous cultural life of all the toilers.

Military service is universal because the defence of the Fatherland is the sacred duty of every citizen. Treason to the Fatherland: violation of oath, desertion to the enemy, impairing the military might of the State, espionage for a foreign State, is punishable with the full severity of the law as the most heinous crime.

Organization of the Union. Chapter II of the Constitution deals with the *Organization of the State.* The Union is based upon a voluntary association of the eleven Soviet Socialist

Republics* all of which enjoy equal rights. Its emblem consists of a sickle and hammer, and the capital is the city of Moscow.

According to Article 14, the following powers fall within the jurisdiction of the Union:

(*a*) the representation of the Union in international relations, the conclusion and satisfaction of treaties with other States;

(*b*) questions of war and peace;

(*c*) the admission of new republics into the organization of the U.S.S.R.;

(*d*) control over the observance of the Constitution of the U.S.S.R. and the ensurance of conformity of the Constitutions of the Union republics with the Constitution of the U.S.S.R.;

(*e*) the approval of the changes of boundaries between Union republics;

(*f*) the approval of the formation of new provinces (krai) and regions (oblast) and also of new autonomous republics within Union republics;

(*g*) the organization of the defence of the U.S.S R. and also the direction of all the armed forces of the U.S.S.R.;

(*h*) foreign trade on the basis of a State monopoly;
(*i*) the protection of State security.

(*j*) the establishment of the plans of national economy of the U.S.S.R.;

* The names of the constituent Republics, their capital towns, area and population have already been mentioned, op. cit. p. 218.

(*k*) the approval of a single State budget of the U.S.S.R., and also of the taxes and revenues, which serve to form the budget of the Union, republics and localities;

(*l*) the administration of banks, industrial and agricultural establishments and enterprises, and also trading enterprises of All-Union significance;

(*m*) the administration of transport and communications;

(*n*) the direction of the monetary and credit system;

(*o*) the organization of State insurance;

(*p*) the contracting and granting of loans;

(*q*) the establishment of basic principles for the use of land and also for the use of its contents, as well as of forests, and waters;

(*r*) the establishment of basic principles in the field of education and the public health;

(*s*) the organization of a single system of national economic accounting.

(*t*) the establishment of the bases of legislation on toil;

(*u*) legislation on the judicial structure and judicial procedure; criminal and civil codes;

(*v*) laws on Union citizenship; laws on the rights of foreigners;

(*w*) the issuing of All-Union acts of amnesty.

All powers other than those mentioned in Article 14 belong to the Republics of the Union, and the U. S. S. R. protects their sovereignty.

constituent Republics is separate, based on the special features of the Republic "and is drawn up in conformity with the constitution of the U. S. S. R." Each Republic retains, in theory, the right to withdraw from the U. S. S. R. The territory of a Republic cannot be changed without its own consent.

The constitution sets up a federal citizenship for the whole Union. All Union laws are enforceable throughout the Union territory, and in case of conflict between a Union law and the law of any Union Republic, the former prevails.

The R. S F. S. R., the Ukranian S. S. R., Azerbaijan S. S. R., and the Georgian S. S. R. contain several autonomous republics, provinces, regions, and autonomous regions (Arts. 22–25), and each of the Uzbek S. S. R., the Tadjik S.S.R. and the Kazakh S.S.R. contains one or more regions. The remaining four constituent Republics contain no provinces or regions or autonomous republics.

Structure of the Union Government. The highest organ of state power in the U. S. S. R. is the Supreme Council which exercises exclusively all the legislative power, in accordance with Article 14, without, however, interfering with the competent powers of the Presidium, the Council of People's Commissars and the People's Commissariats, of the U.S.S.R. The Supreme Council is bicameral, consisting

of the Council (Soviet) of the Union and the Council (Soviet) of Nationalities.

The Council of the Union is the popular (or lower) chamber representative of the people, directly elected by the citizens on the basis of one representative for every 300,000 of the population. For this purpose the Union territory is divided into electoral districts.

The election is made by the direct process "all citizens of the U.S.S.R., who have reached the age of eighteen, independent of racial and national affiliations, confession of faith, educational rank, domicile, social origin, property status and past activity, have the right to take part in the election of deputies and to be elected, with the exception of the insane and persons condemned by a court to be deprived of electoral rights." Every citizen has one vote; women can elect and be elected on the same basis as men. Even citizens serving in the Red Army can vote or seek election. Voting is by secret ballot. Candidates seeking election are nominated, in the electoral districts, by public organizations and societies of toilers; the Communist Party organizations, professional unions, co-operative societies, organizations of youth, and cultural societies. The Council is elected for a four year term. A deputy has to render account of his work to his constituents and can at any time be 'recalled on the decision of the majority of electors in the manner established by law.

This system of election has made a great improvement upon the system in vogue till 1936.

The first elections, under the new constitution, to the Council were held on December 12, 1937, when 91, 113, 153 voters went to the polls. The representatives elected to the Council came from all parts of the Union including among them the Eskimos of the north and the Caucasions of the South, speaking over one hundred languages and differing widely also in their manners and customs due to the variety of geographical and cultural conditions of that vast country.

The Council (Soviet) of Nationalities, the upper house, is also directly elected by the citizens of the Union and Autonomous Republics, autonomous regions, and national districts, on the basis of 25 deputies for each Union republic, 11 for each Autonomous region, 5 for each autonomus district, and one for each national district. It is elected simultaneously with the Council of the Union for a four-year term, and by the same process of election.

Each chamber controls its own procedure, elects its chairman and two vice-chairmen, and examines the credentials of its members.

The two chambers possess co-equal legislative power, including the right to initiate a

legislative measure. A law is considered to have been passed when it has been accepted by each chamber by a simple majority. It is then published in the languages of the Union republics, over the signature of the chairman and secretary of the Presidium of the Supreme Council.

In case of disagreement between the two chambers over a legislative measure, the question is referred to a conciliation commission established on a party basis. If the conciliation commission fails to arrive at an agreed solution, or in case its decision is unacceptable to any chamber, a second opportunity is offered to the chambers to consider the question. In case there is again a disagreement, the Supreme Council is dissolved and general elections ordered.

Joint sessions of the two chambers are held (presided over alternately by the Chairmen of the Council of the Union and Council of Nationalities) for electing the Presidium of the Supreme Council and the Council of People's Commissars of the U. S. S. R. Sessions of the Supreme Council are held twice a year but extraordinary sessions may be convened by the Presidium either on its own initiative or on demand by one of the Union republics.

Elections to the Supreme Council must be held within two months of the expiry of its

term of four years, or of its premature dissolution, and the new Supreme Council must meet within a month of the elections.

The Presidium of the Supreme Council consists of 28 members, and is accountable to the Council for all its activities. According to Article 49, this Presidium: '(a) convenes sessions of the Supreme Council of the U. S. S. R.; (b) gives the interpretations of the laws of the U. S. S. R. in force, issues decrees; (c) dissolves the Supreme Council and orders new elections; (d) orders and carries out referendum of the whole people on its own initiative or on the demand of one of the Union republics; (e) annuls the decisions and orders of the Council of People's Commissars, of the U. S. S. R. or of the Union republics, when they do not conform to the law; (f) in the period between sessions of the Supreme Council of the Union, carries out the functions of the Council and appoints individual People's Commissars of the Union at the suggestion of the chairman of the People's Commissars, and subject to subsequent confirmation by the Supreme Council; (g) bestows distinctions and titles of honour; (h) exercises the right of pardon; (i) appoints and removes the high command of the armed forces of the Union; (j) when the Supreme Council is not in session, proclaims a state of war in case of armed attack on the Union or in case of necessity of carrying out international treaty obligations for mutual defence

against aggression; (k) proclaims general or partial mobilisation; (l) ratifies international treaties; (m) appoints and recalls plenipotentiary representatives of the U. S. S. R. in other states; (n) receives letters of credence and recall of diplomatic representatives of foreign states accredited to it.'

Thus the Presidium exercises all powers usually belonging to heads of states and also some of the powers exercised by cabinets in other countries.

The highest executive and administrative power of the U. S. S. R. is vested in the Council (Soviet) of People's Commissars of the U. S. S. R. It is responsible to the Supreme Council of the U. S. S. R. and accountable to it, and when the Supreme Council is not in session to the Presidium of the Supreme Council. On the basis, and in pursuance, of the laws in force, the Council of the People's Commissars publishes decisions and orders (which are binding throughout the territory of the U. S. S. R.) and supervises their execution. According to Article 64 of the constitution, the functions of the Council of People's Commissars are: (i) to coordinate and direct the work of the All Union and Union republic People's Commissariats of the U. S. S. R. and other economic and cultural institutions within its jurisdiction; (ii) to adopt measures to enforce the plan of national economy, the

state budget, and to strengthen the monetary system ; (iii) to maintain public order, defend the interests of the state and protect the rights of citizens; (iv) to conduct and direct the foreign relations of the U. S. S. R.; (v) to direct the general organization of the Union armed forces and to determine the yearly period of the citizens' quota of military service; (vi) to institute, when necessary, special committees to deal with matters of economic, cultural or defence character.

It can also suspend decisions and orders of the Councils of People's Commissars of the Union republics and to annul the latter's ordinances and instructions in those branches of administration and economics, which are included within the jurisdiction of the U. S. S. R.

It is formed by the Supreme Council of the U. S. S. R. and consists of:

the Chairman of the Council (Soviet) of People's Commissars of the U. S. S. R.;

the Vice-Chairman of the Council (Soviet) of People's Commissars of the U. S. S. R.;

the Chairman of the State Planning Commission of the U. S. S. R.;

the Chairman of the Commission of Soviet Control;

the People's Commissars of the U. S. S. R.;

the Chairman of the Committee of Reserves (warehouses);

the Chairman of the Committee on the arts;

the Chairman of the Committee on higher education.

The total strength of the Council of People's Commissars of the Union, as formed on January 19, 1938, is twentyeight.

The Government of the U. S. S. R. can be interrogated in either Chamber, and the People's Commissar concerned must give an answer (oral or written) within three days of the interrogation. The different People's Commissars are to direct the branches of State administration falling within their competence. They issue orders and instructions regarding the departments in their charge and supervise their execution, subject only to the restrictions placed on them by the Union laws or decisions and orders of the Council of People's Commissars.

There are eight All Union People's Commissariats (departments of administration) of the U. S. S. R., *viz.* Defence, Foreign Affairs, Foreign Trade, Railways, Commu-

nications, Water Transport, Heavy Industry, and Defence Industry.

The judicial system of the U. S. S. R. is uniform throughout the Union. The highest court of justice is the Supreme Court of the U. S. S. R., and the other courts below it are the Supreme Courts of the Union republics, provincial and regional Courts, Court of Autonomous republics and autonomous regions, district court, special Courts of the U. S. S. R. (established by the Supreme Council of the U. S. S. R.), and People's Courts.

The Supreme Court of the U. S. S. R. supervises the judicial activity of all the judicial organs of the Union and Union republics. Its judges as well as those of the special courts (constituted by the Supreme Council) are elected by the Supreme Council of the U. S. S. R. for a term of five years.

Similarly the Supreme Courts of the Union republics are elected, for five years, by the Supreme Council of each Union republic. Each Autonomous republic* too has its own Supreme Court elected by its Supreme Council for a five year term.

Provincial, and regional soviets or the soviets of toilers' deputies of the autonomous

*Union republic is different from an Autonomous republic.

regions elect the provincial and regional Courts, Courts of autonomous regions, and district courts, each for a term of five years.

The People's Courts are elected directly by the citizens of a *rayon*, all citizens voting secretly and with equal rights. These courts have a three years' term.

The proceedings in the various courts are held in the language of the territory concerned. But in case of persons unacquainted with that language, an interpreter is provided, besides allowing them to address the court in their own language. The proceedings in all courts are open; the accused enjoy full right of defence; people's assessors are attached to all cases except those specifically mentioned by law. All judges are independent, subject only to law.

Each Supreme Council (of the All Union, of the Union republic, of the Autonomous region, etc.) appoints an Attorney whose primary duty is to supervise the execution of the laws by all People's Commissariats and institutions responsible to it. All Attorneys are subject only to the Attorney of the U. S. S. R., but otherwise they work independently.

Governments of the Units. The constitution describes the organization, powers and

functions of state Power of the Union republics as well as of the Autonomous republics. The seven Union republics are the direct units of the Union, but many of them contain a few Autonomous republics and are thus themselves federations within a federation. The organization of government in all these units and sub-units is based upon the principles underlying the government of the U. S. S. R.

Each Union republic has a Supreme Council (Soviet) of its own, elected directly by the citizens for a term of four years. It is the sole legislature of the republic. Its functions include: a) adoption of the Constitution of the republic and amending it according to Article 16 of the Constitution of the U.S.S.R., (b) approving the Constitutions of the Autonomous republics, if any, in its territory and defining the boundaries of their jurisdiction; (c) approving the plan of national economy and the budget of the republic; (d) exercising the right of amnesty and of pardon in case of persons sentenced by the judicial organs of the Union republic.

The Supreme Council (Soviet) of every Union republic elects its own chairman and his vice-chairmen to conduct its meetings; forms its own Presidium, consisting of the the chairman of that Presidium, vice-chairmen, the secretary of the Presidium, and its other members; it also forms the Council

(Soviet) of People's Commissars of the Union republic, which is the Government of the Union republic.

The highest executive and administrative organ of each Union republic is the Council of People's Commissars of that republic. The ten Commissariats (departments) under its charge are those of Food Industry, Light Industry, Timber Industry, Agriculture, Grain and livestock, State farms, Finances, Internal Trade, Internal Affairs, Justice, and Public health. The Council of People's Commissars of the Union republic is responsible to the Supreme Council of the republic; it performs the latter's functions between its sessions and at that time it is accountable to the Presidium of the republic.

The Council of People's Commissars of a Union republic consists of the chairman of the Council of People's Commissars of the Union republic; the Vice-Chairmen; the Chairman of the State Planning Commission; the People's Commissars (14 in number, of: Food industry; Light industry; Timber industry; Agriculture; Grain and livestock—State farms; Finances; Internal trade; Internal affairs; Justice; Preservation of health; Education; Local industry; Communal economy; Social security); a Delegate of the Committee on reserves; the chief of the Administration of the arts; Delegates of the All Union People's Commissariats.

The People's Commissars direct the administration of the various departments in their charge, and issue orders and instructions on the basis and in execution of the laws of the U. S. S. R. and the Union republic. They carry out the orders and instructions of the People's Commissars of the U. S. S. R. and of the Commissariats of the Union republic.

The Council (Soviet) of the People's Commissars of the Union republic can suspend and annul the decisions of the People's Commissars of the autonomous republics, and of the executive committees of the various soviets of the provinces, regions, and the autonomous regions, within the territory of the union republic.

The Autonomous Soviet Socialist Republics are sub-units of Union Republics. Each of the Autonomous Soviet Socialist Republics (A. S. S. R.) has a Supreme Council (Soviet) of the A. S. S. R. which is the highest organ of State power within its territory. It is elected by the citizens of the A. S. S. R. for a term of four years.

Each A. S. S. R. has its own constitution which takes into account the special features of its territory, and is drawn up in general accordance with the constitution of the Union republic. The Supreme Council of the A. S. S. R. elects a Presidium and a Council of People's Commissars of the A. S. S. R.

There are provinces, regions, autonomous regions (in most of the Union republics) and A. S. S. R., and autonomous regions, districts rayons, cities, rural areas (in all Union republics), each of which has its own council (Soviet) consisting of the deputies elected by the toilers for a two year term. These soviets of the various territories ensure the maintenance of State order, observance of laws, and the protection of the rights of citizens. They look after the economic and cultural life of the locality and establish the local budget. They are responsible both to the superior soviets (of the next higher territories) and to the toilers who elect them.

The New Democracy of the U. S. S. R. The new constitution of the U. S. S. R. is a distinct improvement on the previous one, so far as the democratization of the state is concerned. It has abolished the inequality of representation formerly enjoyed by the workers and the peasants. Not only franchise has been widened, but also the restrictions or disqualifications of voting have been narrowed down. Secret ballot has replaced the former open voting. Direct election has replaced the indirect election in all Soviets. The new Supreme Council of the Union (a truly bicameral legislature) now controls the executive, *i. e.* the Council of People's Commissars of the U. S. S. R. Provision is also made for referendum, if and when needed. Private property has been recognised, subject to

certain restrictions. Individual farmers can own a house, allotment, household instruments of agriculture, cows up to three, and pigs and poultry without any limit.

The regulations for the regular sitting of the national assembly (Supreme Council of the U. S. S. R.) have been made more precise. The constitution can be amended only when the proposed amendment has been accepted by a majority of not less than two-thirds of the votes in each chamber.

All these provisions coupled with the definitely guaranteed rights of the citizens make the constitution extremely democratic in its form and theory. Joseph Stalin, in his historic speech before the Eighth Congress, while describing the "thorough-going democracy" of the new constitution said: "From the point of view of democracy, bourgeois constitutions may be divided into two groups. One group of constitutions directly denies or actually reduces to nil the equality of rights to citizens and democratic liberties. The other group of constitutions readily accepts and even makes a display of democratic principles. But in doing so, it makes such reservations and restrictions that the democratic rights and liberties prove to be completely mutilated. They speak of equal electoral rights for all citizens but right then and there limit them by the residence and educational and even property requirements.

They speak of equal rights of citizens but then and there make the reservation that this does not apply to women or applies to them partly. And so on". And finally, answering the question: What is democracy ?, he says, "Democracy in capitalistic countries where antagonistic classes exist is in the final analysis democracy for the strong, democracy for the propertied minority. Democracy in the U. S. S. R., on the contrary, is democracy for the toilers, that is, democracy for all. But from this it follows that the foundations of democracy are violated not by the draft of the New Constitution of the U. S. S. R. but by the bourgeois constitutions. That is why I think that the constitution of the U. S. S. R. is the only thoroughly consistent democratic constitution in the world."

So far as the letter of the constitution goes, there can be little objection to Stalin's praise of the democracy of the new constitution. In actual practice, however, the high praise bestowed on it loses much of its charm. Though elections are free, no political party other than the Communist Party is allowed to form. Moreover, the strict vigilance exercised by the Communist Party which alone, or organizations under its fullest control, can nominate candidates seeking election to the various legislative bodies (soviets), is so great that freedom of speech and of the press is reduced to nullity. The Party has its organizations in territories

co-existent and co-extensive with the Union republics, autonomous republics, regions, autonomous regions, districts, rayons, provinces, villages and factories. It, therefore, practically controls the government whose real policy is dictated by the Central Organization (the Congress) of the Party. Furthermore, while it may be frankly admitted that under the Communist regime the lot of the worker and the peasant has considerably improved, it is more than doubtful if the principles of the Revolution of November 1917, have been actually worked out.

And finally the extreme penalties inflicted on those who have tried to make changes in the existing system clearly demonstrate the falsity of the claim of thorough-going democracy of the new constitution.

The executions of leading communists in Russia on charges of treason appear to have created a feeling of disgust among a number of communists in other countries. One of them is M. Charles Rappoport who has resigned his post as press correspondent of the Moscow paper *Izvestia* and also his membership of the French communist party. He has been a revolutionary for over fifty years and a leading French exponent of Marxism and he intimately knew many of those recently executed in Russia. In a letter to the *Manchester Guardian* he writes that the principal defendants in the Moscow

terrorist trials were old and intimate friends of his. He regards the charges made against them as monstrous and absurd. Describing the state of affairs prevailing in Soviet Russia he says:

"In all the vast territory of the Soviet Union there exists neither a free press nor free assemblages nor independent organizations. In no period of history, in no country, has there ever been so vast a hetacomb of statesmen, ambassadors, ex-ministers. And even the Byzantine emperors who put out the eyes of possible rivals and the sultans who threw their brothers into the Bosphorous did not first make them confess to abominable crimes and dishonour themselves before all posterity. Stalin's policy is removing every trace of the Revolution. He is setting up a military and police state. Denunciation abounds, and even the holders of power are beginning to tremble before it. The high officials are living under a Terror, with the menace of a charge of 'sabotage' hanging always over their heads. Sometimes they punish themselves and assign themselves subordinate posts in order to escape responsibilities. The peoples of the Soviet Union are suffering horribly."

This is not capitalist propaganda but the view of a staunch French communist about the state of affairs prevailing in 'the workers' paradise'.

Pleasant pictures have been drawn by the propaganda agencies of the dictators of the happy, contented and united peoples who are ever scaling new heights of material prosperity under their autocratic and beloved leaders, but the very fact that extraordinary care is taken to prevent adverse criticism reaching their subjects and to smother free discussion shows that the dictators are mightily afraid of the true state of affairs being disclosed to their peoples. "Regimes that have built up huge standing armies and and police forces," writes Mr. W. H. Chamberlin in his *A False Utopia*,"fly into a mixture of rage and panic if they discover that a few copies of some critical pamphlets have been smuggled accross the frontiers, that a few of their subjects have been secretly meeting for free discussion. In order to prevent such developments they resort to the most subtle espionage, to the most brutal terrorism". The dictators fear nothing so much as free expression of opinion. In India communists and socialists have constituted themselves as the champions of civil liberties and want that the fullest latitude should be allowed to them to carry on their revolutionary propaganda. But in the country from which they derive their inspiration,civil liberties are not only non existent but any agitation for their recognition is heavily punished. "Independent thinking" writes Mr. Chamberlin, "is one of the gravest crimes in the communist calendar. Party members who express dissent with

the official "Party line" invite, at the least, expulsion from the party, which 'often carries with it loss of employment; imprisonment, exile, even shooting are the penalties for the incorrigibly recalcitrant." In the Soviet Union, he writes, fascists are shot at sight or imprisoned. A similar treatment is accorded to communists in Germany and Italy. In democratic countries like Britain and France, including their dependencies, self-governing units and colonies, there is much more tolerance and a greater recognition of the principles of civil liberties than in totalitarian states whose first and foremost creed is intolerance of differences of opinion.

CHAPTER FIVE.

ITALY.

Area of the Kingdom	119,714	Sq. Miles
Population of the Kingdom	(in 1936)	42,527,561

Italy till the Rise of Fascism. Italy rightly feels proud of a very ancient civilisation, and an inheritance rich in culture and traditions. Before the Christian era the Roman Empire had extended in the north upto the southern half of Britain, in the south upto the northern parts of Africa. Its conquering hordes established Roman rule which gave a new turn to the life of its subject peoples. The Romans evolved an entirely novel system of law which forms the foundation of the legal systems of several European countries.

Later Rome fell an easy prey to the invading hordes from the north. She lost her Empire and her own independence. For centuries, during the Middle Ages, Italy remained under the subjection of Germany. The fall of the Hohenstauffen dynasty implied liberation from an alien rule. During the first half of the thirteenth century Italy displayed fair possibilities of development to an independent and national course of exis-

tence. In this direction, the preaching of St. Francis of Assisi and the consequent wanderings of his disciples occupy an important place. The national life of Italy in the thirteenth century displayed the most varied features. Geographical configuration and climate, position, with reference to neighbours and the world at large, had produced different effects in Sicily, Rome, Milan and Venice. Institutions were in a state of flux; no constitution of a town resembled any other.

Then began the Italian Renaissance (1250-1500), which was characterised by the extraordinary efflorescence of creative human energy of which the Italian communes were the principal scene. The great impulse given to the spirit of enquiry and criticism, the recovery of Aristotle's works, the revival of the study of Roman Law, all these influences combined to bring about secularisation of the European point of view and the undermining of the intellectual supremacy of the Church. Released from the constant pressure of Empire and Papacy, the native forces of Italy (social, political and economic) found themselves free to work out their own destinies. The bigger commercial cities entered a race for territorial expansion due mainly to the growth of commerce and accumulation of capital.

The hope inspired by the phenomenal growth of the cities (in art, culture, wealth,

etc.) for the establishment of a national federation was soon extinguished by the mutual jealousies and selfish ambitions of their rulers. Italy was, in this respect, a miniature replica of Europe where the Powers were preparing for a trial of strength, urged definitely by economic motives. Italy became the prize of contest between France and Spain. Finally Italy passed under Spanish control (1494-1529).

For nearly three centuries (till the end of the eighteenth century) the European Powers were continually engaged in wars of religion, wars of economic domination and balance of power. During that period Italy lay crushed and paralysed, unable to take any active part in European history. But Italy was *not dead*. "She was like a tree which has shed its blossom, borne its fruit and has entered upon its winter sleep of recuperation. Beneath the surface the sap was still flowing and the plant still drew its food from the soil. The movement of ideas which lay behind the wars of Europe percolated, thanks to the printing-press, to Italy also."

The outbreak of the French Revolution did not leave Italy unaffected. Napoleon entered Italy at the head of his army of liberation, in May 1800, and in less than a year succeeded in driving out the Austrians and establishing his complete mastery over the peninsula. But Napoleon's final defeat

ended French rule in Italy, and the Congress of Vienna (1815) restored Italy to Austria. Italy was then divided into eight independent states, the rulers of all acknowledging Austrian supremacy. Her people were largely ignorant, the peasantry stupid, and the aristocracy bigoted and Catholic. It was only the middle class and the intelligent part of the aristocracy which was spurred on by the modern ideas of nationalism and self-rule. Hence the first few attempts at raising national revolts against foreign domination proved abortive. The supreme need for the success of nationalism was a general awakening of the masses who were till then indifferent to all ideas of self-rule so long as they enjoyed peace.

It was at this time that Mazzini, the philosopher-liberator of Italy, appeared on the scene. He put forward the great "Idea" of a united and independent Italy. His whole political gospel was founded on intense faith in religion and God. He attributed the failure of the French Revolution to lack of religion. He viewed with horror the atheistic materialism of Socialism, and equally detested the idea of a narrow nationalism. The very loftiness of his gospel and the unlimited demand for self-sacrificing heroism appealed with extraordinary force to a young generation nurtured in the literature of Romanticism. He worked for the liberation and prosperity of his country not that it might

compete with other European Powers but that it might again become the torchbearer of a new culture founded on a thoroughly religious ideal. He realised very correctly that the resurrection and liberation of Italy could be achieved only by the efforts of the people themselves.

Contemporary events favoured Mazzini in his noble mission. Italians, in general, were still religious at heart. The poetry of that day stirred the enthusiasm of patriotic youths. The following stirring ode "Fratelli d'Italia" by Goffredo Mameli, the poet-soldier, quickened the youths' desire for the emancipation of their country:

"*Oh, brothers, your Italy*
Wakes from her sleep."

Mazzini formed a secret league for the liberation of Italy, the members of which were required to take the vow: "By the blush which reddens my face when I stand before the citizens of other countries and convince myself that I possess no civic rights, no country, no national flag...by the tears of Italian mothers for their sons who have perished on the scaffold, in the dungeon, or in exile...I swear to devote myself entirely and always to the common object of creating one free, independent, and republican Italy by every means within my power." The league spread its branches throughout Italy. Mazzini

pursued his purpose with passionate zeal, till he was joined by Giuseppe Garibaldi who, ultimately, was called upon to lead Italy to victory.

Italy's fight for national independence and self-rule lasted from 1848 to 1870. The year 1848 is famous in European history for the general rise of nationalism and democratic ideals. It was in that year that the city of Milan threw off the foreign yoke. Milan's example was soon followed and on March 22, Carlo Alberto, King of Piedmont, formally declared war on Austria and issued the following proclamation on March 28, from Turin:

"Peoples of Lombardy and Venetia! The destiny of Italy is ripening. Happier times smile for the bold defenders of violated rights. For love of our race, seeing the conditions of the hour, by unanimity of votes, WE associate ourselves with the admiration that Italy accords to you. Peoples of Lombardy and Venetia! OUR troops, which are already concentrated upon Our frontiers when you anticipated the glorious liberation of Milan, are now coming to extend to your final efforts that aid which a brother expects from a brother, a friend from a friend. WE second your just desires, confiding in the help of God Who visibly is on our side in that He has given Pius IX to Italy, in that God Who so marvellously placed Italy in a position to provide for herself [*in grado da fare da se*]. And in order yet better to show by external signs that Italy is united in sentiment, We will that our troops on entering the territory of Lombardy and Venetia shall bear the escutcheon of OUR house of Savoy impressed upon the Italian flag.

The enthusiasm aroused by the proclamation sustained the Italian people through more

than two decades of the struggle for freedom against Austrian and the French imperialism. In 1861 Italy was free but it was on September 20, 1870, that the last French troops withdrew from Rome. Thereafter, monarchical and parliamentary rule was established in Italy, thus ending successfully the movement of the unification of Italy, inspired by Mazzini, and finally led to triumph by Garibaldi.

The ousting of foreign rule did not, by itself, make an Italian nation. "The Italian people as a whole, divided for centuries, into semi-feudal principalities, oppressed by foreign rule and absorbed in matters of local concern, had no sense of national unity, no knowledge of freedom and no experience with parliamentary institutions."* The remark of the great Italian statesman D' Azeglio, *viz.*, "We have made Italy, now we must make Italians", depicted the real state of Italy in 1861. The country was poor; it was hopelessly divided; the north was industrial and the south agrarian; it had no colonies to profit by. And yet the glory of the past was encouraging the illiterate Italians to revivify their national life and secure for their country a position of prestige and honour among free nations.

A choice had to be made in 1861, and accepting the cult of liberalism and

*Buell: New Governments in Europe, pp. 36-37.

democracy, which was finding favour with all other European nations, the Italians introduced parliamentary government. The *Statuto* which Charles Albert had granted to Piedmont in 1848, was made the basis of the new constitution of Italy. Thus was introduced a limited monarchy with legislative authority vested in the King and a bicameral legislature, consisting of the Chamber of Deputies elected on a narrow franchise and a Senate composed of life nominees appointed by the King from twentyone classes of people. "Parliamentary government, imposed from above at a time when a large minority of the population were illiterate, never became thoroughly acclimated in Italy's political life."* This was due not so much to any lack of political leadership, as to "the absence of any solid basis economic or political, for the parliamentary system". From 1861 to 1914, Italy worked the new system of government under the leadership of her Liberals, the political pendulum swinging only beween the left and the right wings of their party. And though the Socialists had organised a party in the last decade of the nineteenth century, they could not gather sufficient momentum to become a factor of any reckoning. In 1910 a Nationalist party was formed to follow 'a policy of expansion and imperialism'. In the next two years, Italy entered a war against Turkey, and on its conclusion obtained

*Buell: New Governments in Europe p. 87.

possession of Tripoli and Cycenacia, just to begin her colonial empire.

When the world war broke out in 1914, Italy refused to observe her terms of the Triple Alliance with Austria and Germany and declared her neutrality. A majority of the Socialists, and the Church opposed Italy's entry into the war, but a band of Socialists, mainly composed of youths, led by Mussolini, preached the gospel of war and insisted on Italy's siding with Great Britain and France, hoping thereby that Italy would become a great power. As for the Triple Alliance, Mussolini dismissed it, saying, "It had been a marriage without respect and without trust, brought about more in order to counter-balance military power than by political necessity".* So far Italy had failed to get a recognition of equality with great Powers, and to found a colonial empire as great as that of Britain or France, and though she had wrested Tripoli from the already collapsing Turkish Empire, it was more of a liability than an asset. In short, Italy was seriously suffering from an *inferiority complex* in the midst of European Powers of the first rank. "Such was the mood in which Italy entered the European war, largely as a result of balancing the offers made to her by either side, and hoping to find that in the end, if the wild promises of

*Sharma: Mussolini, pp. 28-29.

the Allies were fulfilled, she would at least be a really great Power. But the experiences of the war were disappointing".* She had contributed to the success of the Allies in the war ungrudgingly and with all the zeal of the nation trying to prove her mettle. Her sacrifices had made her almost a starving nation but the victory continued to warm the heart and soul of her youth. But when it came to settling the terms of the Treaty of Versailles, and dividing the spoils of war, her Allies deserted her. She had entered the war with hopes of augmenting her empire and her status. But though victorious in the battle-field she was utterly defeated in the diplomatic battle. After four years of fighting "she awakened to the realities of political game at Versailles and learnt the real lesson of the war".† Mussolini, who had been the greatest supporter of Italy's entry into the war, was now the most dissatisfied man in Italy. He attributed this failure to the incapacity and weakness of Italian statesmen at the helm of affairs. Consequently, he organised a vigorous opposition to the government and founded the Fascist Party to wrest power from the Liberals and push forward a vigorous programme for the regeneration and rehabilitation of Italy.

After all was ready for the revolution

*Cole: Modern Politics, pp. 164-65.
†Sharma: Mussolini, p. 39.

Mussolini published the Proclamation in the columns of his own paper *Popolo d'Italia* and with the help of the other newspaper correspondents and through independent publications he spread it throughout the country. The Proclamation ran.

"Fascisti! Italians!

"The time for determined battle has come! Four years ago the National Army loosed at this season the final offensive, which brought it to victory. To-day the army of the Black Shirts takes again possession of that Victory, which has been mutilated, and going direct to Rome brings Victory again to the glory of that Capital. From now on principi and triari are mobilised. The martial law of Fascism now becomes a fact. By order of the Duce all the military, political and administrative functions, of the Party management are taken over by a secret Quadriumvirate of Action with dictatorial powers.

"The Army, the reserve and safeguard of the Nation, must not take part in this struggle. Fascism renews its highest homage given to the Army of Vittoria Veneto. Fascism, furthermore, does not march against the police, but against a political class both cowardly and imbecile, which in four long years has not been able to give a Government to the Nation. Those who form the productive class must know that Fascism wants to impose nothing more than order and discipline upon the Nation and to help to raise the strength which will renew progress and prosperity. The people who work in the fields and in the factories, those who work on the railroads or in offices, have nothing to fear from the Fascist Government. Their first rights will be protected. We will even be generous with unarmed adversaries."

"Fascism draws its sword to cut the multiple Gordian knots which tie and burden Italian life. We call God

and the spirit of our five hundred thousand* dead to witness that only one impulse sends us on, that only one passion burns within us—the impulse and the passion to contribute to the safety and greatness of our Country.

"Fascisti of all Italy!

"Stretch forth like Romans your spirits and your fibres! We must win. We will.

"Long live Italy! Long live Fascism!

"The Quadriumvirate."

The Proclamation couched in assuring and brave words had a telling effect on the people of Italy. Few felt perturbed at the coming event, the Facta Government being among the most puzzled.

The Fascists attacked several important cities and there was some bloodshed too. Everywhere they won and took possession of the towns. Mussolini quickly got information of these preliminary victories through his trusted messengers. He felt assured that Fascism would win the day. He also knew that the Royal Guards would not let him keep peace in Milan. Although he was secretly directing the movement from the office of the *Popolo d'Italia*, every one in Italy knew that the spirit of the whole movement was Mussolini. The Government too knew it. The people were astonished at the Fascist victories but were jubilant at heart, for they knew well that none but Fascists could give Italy a

*This refers to those who died in the war, 1914-18.

stable government. Mussolini took precautions to fortify his editorial offices against the assaults of the Royal Guards. Soon these soldiers were seen parading the deserted streets of Milan. The city wore all external signs of a civil war. The offices of the *Poplo d'Italia* then witnessed a fight. There was exchange of shots between the soldiers and Mussolini. An officer of the Guards conversed with the latter and established a temporary truce. Influential men of Milan, including some of the members of the Legislature, visited Mussolini and tried to dissuade him from declaring a civil war and bringing ruin on the country. They offered terms of compromise, hinting at a coalition ministry. Mussolini assured them that the fight was of a more serious nature and extent than they had innocently considered it to be. And he finally added: "This time I will not put down weapon until a full Victory is concluded. It is time to change the direction not only of the Government, but also of the whole Italian life..... War is declared! We will bring it to the bitter end. Do you see these communications? Well, the struggle is blazing all over Italy. Youth is in arms. I am rated as a leader who precedes and not one who follows.....I tell you that it is the last chapter. It will fulfil the traditions of our Country. It cannot die in a compromise." After showing these persons the messages of Fascist victories in the various towns and particularly the encouraging letter received

from the hero of Fiume, Commander Gabriele D' Annunzio, he flatly refused to lay down arms until he had won complete victory.

Apprised of the determination of Mussolini, Facta, the premier, ran to the King for sanctioning the declaration of martial law. But the King refused to do so. Then the Facta ministry, in its last struggle for existence, issued an appeal to the people declaring that the country was in the throes of a civil war and that the Government was determined to suppress the insurgents by all means in its power and at any cost, and appealing to them to help it in maintaining peace and order in the country.

Mussolini received overtures for a compromise to form a coalition government, from the Nationalist Party of the Right, but he replied that "Fascism was under arms, it was dominating the centres of national life, it had a very well defined aim, it had followed deliberately an extra-parliamentary path and it could not allow its victory to be mutilated or adulterated in such a manner". Mussolini was by this time assured of a complete victory and was definitely opposed to any compromise with any party in the Italian Parliament.

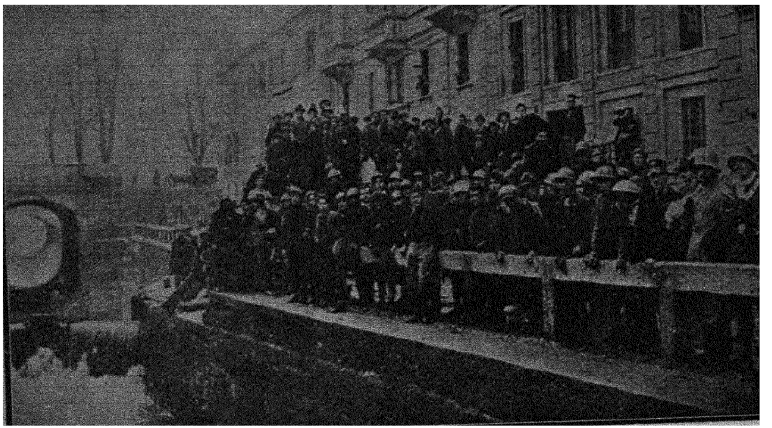
The Fascisti continued their march and reached the gates of Rome. The King realised the situation correctly and asked his chief



MADAME MUSSOLINI.



BENITO MUSSOLINI.



FASCIST MARCH ON ROME.

aid-de-camp General Cittadini to call Mussolini to form the ministry. The General spoke to Mussolini on the phone and communicated His Majesty's pleasure. Mussolini suspecting that there might be some mischief in this, asked for a telegraphic confirmation of the message. The demand was obviously against court regulations, but the General realising the extraordinary nature of the situation in the country, soon sent the following telegram:

"On. Mussolini, Milan,

"His Majesty the King asks you to come immediately to Rome, for he wishes to offer you the responsibility of forming a Ministry. With respect".

'General Cittadini'.

This was on October, 29.

Mussolini published this message in an extraordinary issue of his paper and apprised the headquarters at Perugia, of these events.

He then entrusted the direction of *Popolo d'Italia* to his faithful brother Arnaldo and after exchanging farewell greetings with the whole staff of the paper and his friends in Milan, he departed for Rome. On arrival at Rome, he went straight to the Fascist Camp. His presence infused a new spirit in his followers. After reviewing the Black Shirts, he motored to the Royal Palace putting on a black shirt. What passed at the interview

is not all known. But Mussolini frankly explained his plans to the King who gave his formal approval and entrusted him with the task of forming a ministry.

He introduced into Italy a new system of government, and transformed her into the new Italian Corporative State, founded on the cult of Fascism.

The Theory of Fascism.—To understand the real significance of the present Corporative State of Italy, it is necessary to know what Fascism implies.

It is often asserted that the great war was fought to make the world safe for democracy. Nothing, however, is farther from the truth than the above assertion, if we concede that results are the indications of the object. It is true that with the signing of the Treaty of Versailles, the League of Nations came into existence to preach internationalism or *international democracy.* But a vigorous reaction to democracy soon captured the imagination of the youth in several European countries. In Russia, it took the shape of a violent revolution; in Italy, it started its career as an *evolutionary revolution*, founded on the old regime but removing from it the causes of its inherent weakness. Fascism, thus, began as a product of failure in war. It adopted as its symbol a bundle of rods and an axe. This symbolism has a double

meaning. The axe represents the State authority and the bundle of rods represents the idea that in unity lies strength. Hence the whole symbol indicates authority and co-operation.

Fascism places before the Italian Youth a definite standard of character. Right and wrong are related, essentially, to questions of character, upon the proper formation of which depends the salvation of a nation. It aims at solving social and economic problems by renouncing, in the first place, materialism in all its forms; secondly, by developing "aesthetic sensibility;" thirdly, by substituting religious and truly Roman sense of social solidarity in place of the extreme Greek individualistic spirit; and lastly, by 'ruralising civilisation.' Fascism claims that all this "would make possible a social unification of the Western world, the emergence of a new and vital synthetic civilisation compounded of the two great formative traditions of Europe, the Greek and the Roman, spreading the fire of its faith by the force of example and enthusiasm, and by blending to its purpose all the powers of authority which it can succeed in infusing with spirit."*

Fascism is fundamentally "mystical as well as idealistic." It includes Hegel's conception of the Nation-State, *minus*, of

*Laski: Fascism, pp. 77-78.

course, his dynamic treatment of human society. It inherits from the French Revolutionaries its *Totalitarianism.* Fascism demands of the individual unquestioned and active loyalty to the Nation-State which is the highest form of its political edifice; for to the Fascist there is "Nothing without the State; nothing against the State; nothing beyond the State." The citizen's activities must all be directed towards the exaltation of the State and if he feels no such loyalty, he has no claim to be a good citizen. Consequently, Fascism involves the ancient Greek concept of citizenship. Viewed in this sense, the Fascist State is a spiritual and moral fact in itself. It does not rest solely on the present, but is also linked with the past, and transmits itself to the future. "It is the State which educates its citizens in civic virtue, gives them a consciousness of their mission and welds them into unity; harmonizing their various interests through justice, and transmitting to future generations the mental conquests of science, of art, of law and the solidarity of humanity. It leads men from primitive tribal life to that highest expression of human power which is Empire; it links up through the centuries names of those of its members who have died for its existence and in obedience to its laws; it holds up the memory of its leaders who have increased territory and the geniuses who have illumined it with glory as an example to be followed by future generations." These words of

Mussolini, sentimental and emotional, have made a successful appeal to the Italian youth which is now at his beck and call. Such a conception of the State naturally limits individual freedom to make the State omnipotent. And yet, "the individual in the Fascist State is not annulled but rather multiplied, just in the same way as a soldier in a regiment is not diminished but rather increased by the number of his comrades." The Fascist State is not indifferent to religion; it does not create its own God; it respects the God of the simple folk.

The Fascist programme is, in consequence, intensely national. It rules out the necessity of a political opposition and, therefore, disapproves of the nineteenth century Liberalism and democracy. It rests on the supremacy of the Nation and, consequently, opposes socialism. The Fascists do not claim they have a definitely prescribed programme. They believe in action, in sentiment, and in what is actually taking place. "Political and economic factors, according to Fascism, are neither predetermined nor eternal, but mobile and subject to change in different historical environments".* This largely accounts for the every-day changes in the Fascist State. All activities of the citizen are, primarily, required to be directed towards the well-being of the State, for the will of the individual

*New Governments in Europe, p. 48.

must not differ from the will of the State. In the words of Mussolini, "Discipline must be accepted. When it is not accepted, it must be imposed. There is no such thing as popular sovereignty; "Sovereignty resides not in the people, but in society juridically organized as a state". This means the leadership of one man "who can crystallize its ideals".

And the most significant part of Fascism is the economic—not the political—standard from which the well-being of a Nation is to be judged. Thus Fascism has established the Corporative State with national economic development as its chief aim.

The Legislature. When we begin to understand the present frame of Italian Government, we must remember that Mussolini has tried to keep, at least in all outward appearances, all the older parts of the machinery which were established under the Piedmontese *Statuto* of 1848. But what he has really done is to change the whole spirit of the constitution so as to take away all its democratic (as conceived in the Liberal sense) features, replacing them by a quicker method. This is true of all branches of the administration.

The legislature consists of, as it did before the Fascist rule, two chambers, the Senate and the Chamber of Deputies.

Mussolini had entered the Italian Parliament as the leader of a very compact and strong minority party. Consequently, he retained in his first (coalition) cabinet leaders of several other groups. These were, however, driven out (or rather forced to leave the cabinet) one by one when they could not reconcile themselves with the 'New Deal' policy of *Il Duce*. Even then, he found that he had to depend upon uncertain votes of the non-Fascists in the Chamber of Deputies to have his measures accepted. This was definitely against his intentions. Therefore, he dissolved the Chamber and appealed to the country. New elections were held on 24th April, 1924, under a new system of elections which he had introduced. According to this system, the country was divided into fifteen large constituencies. Each party contesting the elections produced its list of candidates in each constituency. The voters were asked to vote for party lists *e. g.* a voter had to vote either for the Fascist list or for the Social Democrats' list, or the People's Party list, and so forth. He had no choice to select his candidates from the lists. The votes secured by each party in all the fifteen constituencies were then added up. The party which secured the largest number (at least 40 per cent.) of the votes polled was automatically assigned two-thirds of the total seats (in the Chamber) to be filled up, *viz.* 356 seats out of the 535, and the remaining 179 seats were distributed among other parties in proportion to the votes secured by them.

In that particular election the Fascists obtained 356 seats for 4½ million votes polled, against 179 seats of the opposition parties for 3 million votes.

In the new Chamber, Giacomo Matteotti, a Socialist Deputy, denounced this system of election (30th May, 1924) and attacking the Fascists for their efforts to retain a majority at all events, in the Chamber, demanded annulment of the elections. On June 6 and 7, Mussolini delivered a provocative speech, warning the anti-Fascists that but for his tolerance they would have been in prison, and that if they showed indifference they would be condemned to "political exile from history." On 10th June, 1924, Matteotti suddenly disappeared, and a rumour spread that Fascists had played foul. Police investigation resulted in the discovery that five Fascists had kidnapped Matteotti and had him murdered. Mussolini tried to pacify the deputies by assuring them that he was himself grieved at the affair and condemned in most emphatic terms the culprits. Some of the most influential Fascists were brought to trial; two were acquitted, and three sentenced to imprisonment but only two months later released. This affair made the Fascists unpopular, both in the Senate and the Chamber, and the Opposition withdrew from the latter. Though it appeared for the moment that the Fascists were in grave danger of a sudden downfall, they somehow

carried on for four years. In the meanwhile, the Oppositionists melted away and the temporary excitement, created by the Matteotti affair, also cooled down. In January, 1926, the secessionists tried to re-enter the Chamber, whereupon Mussolini declared that they would be tolerated only if they unquestioningly supported Fascism. Thus parliamentary government came to an end in Italy.

On May 17, 1928, a new Electoral Law* came into effect. The whole country was considered as one electoral unit. The Fascist syndicates were asked to nominate eight hundred names for filling up 400 seats in the Chamber (its total reduced strength). The other legally constituted bodies and associations, the object of which was "cultural, educational, charitable or propagandist," and which existed because they had a national importance, were asked to nominate two hundred candidates. The object of this scheme was, as Mussolini had himself made it clear in his farewell speech to the Chamber dissolved on December 8, 1928: "If the Chamber which is about to conclude its labours to-day has been, from the point of numbers, eighty-five per cent Fascist, the Chamber which will assemble for the first time on Saturday, April

*According to this law franchise is granted to men of 21 years of age, and also to men of 18 years, if married or widowers with sons, who are paying a syndicate rate, or taxes to the amount of 100 lire, or are receiving a salary or pension from any public institution.

20 of Year VII (1929), will be a one hundred per cent Fascist Chamber".*

The eight hundred candidates nominated by Fascist syndicates were assigned to them thus: Agriculture 192 (Employers 96, Employees 96); Industries 160 (Employers 80, Employees 80); Commerce 96 (Employers 48, Employees 48); Ship and Air Transport 80 (Employers 40, Employees 40); Land Transport and Inland Navigation 64 (Employers 32, Employees 32); Banks 48 (Employers 24, Employees 24); and Professional Men and Artists 160. This meant that Fascism aimed at obliterating the rivalry between capital and labour and treated the whole country as one unit, essentially economic, where no election was to be held on territorial basis, but occupational groups were considered the best units for electing representatives to the Chamber. The whole list of 1000 candidates was then examined by the Grand Fascist Council; only 400 names were retained (the Council was authorised to reject any names and substitute new ones of its own choice). This final list of 400 candidates was submitted to the voters who were merely asked to say *Yes* or *No* to it, without choosing any candidates on it. That is to say, they were simply asked to approve the Fascist programme or reject it. In case the affirmative votes out-numbered the negative ones, all the 400 candidates were declared

†Buell: New Governments in Europe, p. 81.

elected. But in case of an unfavourable verdict, the various associations were to prepare their own lists to be resubmitted to the voters. All candidates on the list securing the largest votes were declared elected, and the seats reserved for minorities were then distributed among the other lists in proportion to the votes polled by each.

According to the above electoral plan, the first plebiscite was held on 24th March, 1929. The list consisted of 400 Fascist candidates (who were of at least 25 years of age), and groups and associations opposed to Fascism were denied every chance to seek election. The voters who attempted to cast a negative vote were intimidated. Thus, out of the total of 9,673,049 registered voters, as many as 8,663412 went to the polls, and of these 8,519559 voted for the lists and only 135,761 against it. In this way, the first all Fascist Chamber came into being on 24th March, 1929. As Mussolini had declared on 11th December, 1933, the Chamber did not please him. Consequently, the present Chamber, elected on 25th March, 1934, was elected on corporative basis, all the 400 candidates on the Fascist list having been elected. At that election 95·5 per cent of the registered voters went to the polls. And of these 99·84 per cent voted in favour of the national list of candidates.

It is clear, therefore, that the lower house

of the Italian legislature is composed entirely of Fascists and there is no question of any parliamentary opposition to the Fascist party. The Chamber quietly approves all measures introduced by the Fascist Grand Council through its mouthpiece, the head of the government. The Chamber must meet annually. Each deputy receives 21,000 lire a year.

The Senate, too, received its share of new modelling at the hands of the Fascists. Under the *Statuto* of 1848, it was composed of princes of the royal house, and an indefinite number of members nominated by the King from 21 specified categories, *viz.* Archbishops and Bishops; President of the Chamber of Deputies; Deputies who had served for six years or in three legislatures; Ministers of State; Ministers' Secretaries of State; Ambassadors; Envoys extraordinary of at least three years service; first presidents and presidents of the Court of Cassation and the Court of Appeals; the Attorney General, Procurator-General; Presidents of chambers of Courts of Appeals, of three years service; Counsellors of the Court of Cassation and Court of Accounts; Advocates and officials of five years standing; Generals of the army and the navy; Counsellors of State of five years service; Members of Provincial Councils; Prefects; Members of the Royal Academy; Members of the Supreme Council of Public Instruction; those who had, in any other capacity, honoured the nation;

and persons who had for three years paid 3,000 lire in direct taxes. This clearly indicates that the Senate, both for the qualifications of its members and their age, was an extremely cautious body of conservative—yet enlightened, responsible and cultured—persons representing the best riches, talents and aristocracy of the nation. Naturally, it opposed some of the Fascist measures, denounced the abolition of parliamentary system, condemned the Matteotti affair, and even disapproved of the Electoral Law of 1928. The chief opposition came from a band of forty liberal Senators. In the design of Mussolini, opposition finds no place. Therefore, he filled it with a large number of members, nominated by the King from the 21 categories above mentioned, but all of them of the Fascist Party. This enabled him to make the Senate too a docile body, ready to ditto the measures introduced by the head of the government.

The Italian Senate was modelled, from its very inception, on the lines of the British House of Lords. Even during the last fifteen years it has undergone very few changes, though it has gained much in prestige, "because the real authority and influence of the Chamber have been diminished". Before the advent of the Fascists, if the Chamber rejected a Bill, the Senate had no opportunity to consider it, nor could a ministry resign on an adverse vote of the Senate. It is now provided that the head of the government

may refer a measure, even if it has been rejected by the Chamber, to the Senate and on the latter's favourable vote he may "transmit it to the Chamber for reconsideration without debate and for decision by secret ballot".

The President of the Senate is appointed by the King; the Senate decides by a secret ballot as to who should be recommended for appointment by the King. But for all practical purposes the head of the government (Mussolini) has so far controlled the appointment. Each Senator gets 100 lire for each day of attendance, the maximum payable per annum being 10,000 lire.

The Senate consists of 408 members (including 8 Royal Princes). It appoints seven standing committees for pre-consideration of measures referred to it. Of these, the Committee on Foreign Affairs has enjoyed great prestige on account of the nature of measures it considers; it discusses all treaties Italy enters into. The discussions in the Senate are valuable, but they are more or less "academic", and "irresponsible". Hence, the Senate "does not fit into the whole scheme as a thoroughly useful organ of national power".* Proposals have often been made for a reform of the Senate, but so far with no practical results; and "the wisdom of establishing a

*Spencer: Government and Politics of Italy, p. 157.

body which would duplicate the Chamber of Deputies is doubted in some quarters".* The present government commands a majority in the Senate, and has cent per cent membership in the Chamber. Therefore, the importance of the Italian Parliament is gone; any measure introduced by the head of the government is sure to pass, there being almost no opposition to it. It would not be incorrect to say that the skeleton of the Parliament is continued because the Fascists pay lip-loyalty to the *Statuto* of 1848, but in essence the whole power of law making has really shifted to the head of the government.

The Executive. The King of Italy still continues to be the nominal ruler. Succession to the Italian Throne is governed by Salic Law, according to which it passes to and through males; "but it is now monarchy not by divine right or inherited right, but by the cordial acceptance of the Italian people, manifested in the plebiscites (1860-1870) of the several regions. It is firmly based on the Italian people's regard for the Savoy Dynasty's public services and the people's free loyalty to the King as the symbol of national unity, above parties and factions and region".† The count of Savoy, and later on its duke, was accepted as King in 1861, on his granting to the Italians the

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*Buell: New Governments in Europe, p. 88.

†For a detailed account of this event, see Sharma's Mussolini, Chapters VI and VII.

extension of the Piedmontese *Statuto* of 1848 to the whole country. And his grandson, King Victor Emmanuel III, is the reigning King of Italy.

On December 24, 1925, a law was passed which introduced a very significant change in the executive branch of the government. Till the advent of the Fascists, kingship was of the limited type. The real power lay with a cabinet responsible to the parliament, though in theory the King continued to exercise the nominal power of appointing the prime minister and dissolving the Chamber. When in October, 1922, King Victor Emmanuel (Vittori Emanuele) refused to sign premier Facta's decree for declaring martial law in Italy, to combat the Fascist revolution, it was considered to be a very bold act of the King. But the new law of 1925, though still retaining the King as the nominal ruler of the country and the Commander-in-Chief of all the armed forces, transferred all effective power to "the head of the government" (the Prime Minister who, till 1925, was a conventional chief of the cabinet), by legalizing the latter's *position and functions.* This law states that the executive power is to be exercised by the King with the aid of his government. And *government,* here, means the head of the government (the dictator, (at present Mussolini) who is nominated and removed by the King alone, to whom he is reponsible.

The "head of the government" is, therefore, the real head of the executive. He appoints his colleagues, members of the cabinet who have a right to attend either Chamber but vote only in the Chamber of which they are members. He directs the whole policy of the government and co-ordinates its work; he is responsible to the King alone, for the administration of the country; he can remove any cabinet minister from his office. He controls all legislation too; no question or measure can be included in the agenda of either house of the legislature without his clear consent; he can demand that a bill rejected by the legislature be reconsidered by it, after a lapse of three months, when there is no debate but only voting by secret ballot; he may demand that a measure rejected by any chamber be further considered by it. He is, in fact, the head of all political, economic and moral forces of the country. There is only one political thought and one policy of the state in Italy, and that is the thought and policy of the head of the government. He can create any ministry and likewise abolish it; his life has now been made secure, any attempt on it being punishable with death penalty.

The cabinet as reorganised on June, 9, 1936, consists of, besides the Prime Minister (Chief of the Government and Minister of the Interior, of War, of the Navy, and of the

Air), ten more ministers who are respectively in charge of Foreign Affairs, Colonies, Corporation, National Education, Agriculture and Forests, Finance, Justice, Communications, Press and Propaganda, and Public Works.

The law of 1926 has extended, very largely, the powers of the executive. The head of the government, with the consent of the King (and under the present circumstances the King's power is nominal), can promulgate any decree, having the force of law, affecting "the executive power, and the organization of the state administration".* Whenever urgent action is necessary, any other decrees with full force of laws can be issued; they must, however, be published immediately and referred to the parliament within two years. Conferment of such vast powers upon the executive has been subjected to severe criticism. Though the Fascist government maintains that the law of 1926 "regulates and limits a power which would otherwise be subject to abuse", the critics attack it on the ground that "the government has frequently promulgated legislation by decree without giving it publicity, that it has failed to consult Parliament within the prescribed period of time, and that the law of 1926 legalises a dangerous encroachment of the executive power on the legislature".† There is, undoubtedly, much truth in the criticism.

*Buell: New Governments in Europe, p. 65.
†Ibid.

The executive has acquired further power under other laws. A law of December 24, 1925, empowers the government to dismiss any civil or military officer who has failed to be loyal to his office or has acted in a way hostile to the government. Another law of the same date authorises the government to amend the penal code and the civil code, and to reorganize the whole structure of the judiciary. The government has, since then, introduced several changes in the law codes.

Thus the executive in Italy has been considerably strengthened of late. It exercises almost unlimited powers; the head of the government is responsible to the King alone; there is no such thing as joint responsibility of the cabinet; there is no hostile legislature and therefore no fear of break in the policy of the government.*

The Fascist Party and the Government. No account of the government of Italy is complete without a full understanding of the place of the Fascists in the administration. Prior to the Fascist rule, Italy, like all other parliamentary countries, had several political parties in the country and in the legislature. The first act of the Fascists, after assumption of office, was the gradual driving out of all other political parties from participation in the government. They assigned two reasons

*Goad: The Making of the Corporate State, pp. 107-110.

in support of this act, viz., the parties had vacillating programmes ill-suited to the needs of Italy, and secondly, the country required one fixed political as well as economic thought to guide its progress. In 1929, therefore, none but the Fascists were allowed to seek election to the Chamber of Deputies. Such a result gave the party complete control of the machinery of administration. All other political parties have, consequently, become extinct.

Though started for the first time in November, 1919, the Fascist Party adopted a definite national programme two years later (1921). It was, at that time, a 'voluntary militia placed at the service of the nation'. Its membership was then estimated at 151, 644, and included men from almost all profession. The party professed to be a band of selfless national workers, yet in its ranks were many persons who had joined it with selfish ends. These were slowly driven out of the party. The aim and methods of the party may be found in the following stray sentences from Mussolini's speeches :

1. We want to make Rome the city of our ideals, a city cleaned and purified of all those elements which corrupt and defile her.

2. Discipline must show itself under the form of a command or of an act of force.

3. Violence is not immoral. On the contrary, it is moral.....On the other hand, violence is decisive.

4. Our programme is simple: we wish to govern Italy.....It is not programmes that are wanting for the salvation of Italy, but men and will-power.

5. I think that the regime can be largely modified without interfering with the monarchy.

And further :—

I do not think that the monarchy has really any object in opposing what must now be called the *Fascista* revolution. It is not in its interest, because by doing so it would immediately make itself an object of attack, in which case we could not spare it, because it would be an object of life or death for us.

6. We want Italy to become Fascista, because we are tired of seeing her governed by men whose principles are continually wavering between indifference and cowardice. And, above all, we are tired of seeing her looked upon abroad as a negligible quantity.

7. As a matter of fact, at turning points of history force always decides when it is a question of opposing interests and ideas. This is why we have gathered, firmly organised, and strongly disciplined our legions, because thus, if the question must be settled by a recourse to force, we shall win.

Such a programme and aim necessitates, undoubtedly, co-operation and discipline for success. Therefore, admission to the Fascist party is not open to everybody without question and without distinction. Only those who have given definite proof of their loyalty to the Fascist regime and policy are allowed to become members. The youth of Italy has largely responded to the Fascist call, and students have smilingly gathered round Mussolini's banner. Each member of the party is made to take the oath of firm loyalty to the leader (*Il Duce* as he is called) in these words: "I swear to follow without discussion the orders of *Il Duce*, and to serve the cause of the Fascist revolution with all my strength and, if necessary, with my blood". To enforce rigid discipline, there is a disciplinary court, presided over by the Secretary-General of the party, which examines all cases of failure of the members to be true to the party. Those found guilty of disloyalty are "warned, admonished, suspended and, in the gravest cases, expelled from the party".

An important feature of the party is the close relation between those who constitute the ruling element and the masses. It does not, therefore, believe in the creation of a "closed professional class" of the rulers. It really serves as a training school for those to be put in charge of administration of the school. The total membership of the party (as in October, 1933) was 5,467,560, inclusive of all classes of members from the rulers down to children and youths. The membership is continually increasing, the object being to fuse, ultimately, the party with the nation. The party has three classes of organizations. The elementary groups are the local organizations, each called *fascio di combatlimento.* Several *fasci* (local groups) are then federated into provincial organizations and the latter then form the National Directorate and the Grand Council.

The Grand Council is the central organization established under the law of December 9, 1928. It is presided over by the 'head of the government,' *viz.*, Mussolini. It has a Secretary-General, appointed by the King on the recommendation of the head of the government. The Secretary-General conducts the work of the Grand Council under the directions of the president, and he may, whenever he likes, attend the meeting of the ministers.

It is the business of the Grand Council to co.ordinate the activities of the government.

It is convoked by the head of the government who also regulates its procedure. There are three categories of members of the Council, *viz.*, life-long members, *i. e.*, the *quadriumvirate* who closely followed the party from the beginning and guided the March on Rome; the second class includes *ipso facto* members, the presidents of the Senate and the Chamber, all important ministers, Secretary and joint-secretaries of the party, the presidents of the Italian Academy and the National Confederations; the third category includes the nominees of the head of the government who is authorised to appoint those who have deserved well of the nation, and the cause of the Fascist revolution, for a period of three years. The members, as such, receive no salary. They cannot be arrested without the permission of the Council. The meetings of the Council are held in secret. The chief business of the Council includes the laying down, rather adoption, of the party programme, general direction of the administration, appointment and removal of officials, and the selection of members for election to the Chamber. As an advisory body, it exercises considerable influence on all constitutional questions on which its advice has to be sought. "These include all bills concerning the following subjects: succession to the throne; the attributes and prerogatives of the Crown; the composition and functions of the Grand Council, the Senate and the Chamber of Deputies; the attributes and preroga-

tives of the head of the government; the right of the executive to issue decrees having the force of law; the organisation of syndicates and corporations; relations with the Holy See; and international agreements involving territorial changes. In addition, the Grand Council acts in an advisory capacity on all political, economic and social questions which the head of the government may submit to it".* It is, to a great extent, the final source of power, both executive and legislative, in the State, responsible only to the head of the government.

Though, in the beginning, the Grand Council was merely the highest organ of the Fascist Party organization, a law of December, 9, 1928, merged it with the State of which it, therefore, became a constitutional organ. The old dualism has given place to Fascist totalitarianism, the State having, in fact, been captured by the party. In the words of Mussolini himself, "The Nationalist Fascist party has in this manner been incorporated in the State and has become one of its fundamental institutions.....Thus is completed the evolution by which the National Fascist party, from a simple private association like the parties of the old regime, has been transformed into a great institution of public law, the fundamental instrument of the regime.....Fascism henceforth

* Buell: New Governments in Europe, p. 69.

identifies itself with the Nation and with the State. To say Grand Council of Fascism is equivalent to saying Grand Council of the Nation and the State".* And the leader of the party now also means the head of the government, his left and right hands being the Grand Council and the ministry. On him is really pivoted the whole life, political and economic, of Italy. This position of the Grand Council has been the subject of severe criticism on the ground that "it constitutionalizes and perpetuates the rule of a single political party, while materially curtailing the functions of both King and Parliament".† On the other hand, its supporters claim for it a *juxtaposition* essential for the State, with the Parliament, because they believe that the Council assures "both unity and continuity in administration", and this is a condition very necessary for the development of intensive nationalism in Italy.

The Judiciary. For her legal and judicial system, Italy owes a great deal to France. In the Piedmontese Statuto six articles were devoted to the judiciary. It was stated that justice emanated from the King and is administered in his name through judges who are appointed by the Crown. Individual liberty was sought to be protected by the inclusion of provisions like the one forbidding the creation of extraordinary tribunals

*Corriere della Sera, November, 9, 1928.
†New Governments in Europe, p. 70.

requiring that "no one may be drawn from his habitual jurisdiction".

For the most part Italian law is not formed by the judge, but made by the legislature.* Immediately after the foundation of the Italian kingdom the Italian Parliament, true to the then widespread Napoleonic tradition, gave the kingdom a series of national codes. These embody the civil law, the criminal law, civil and criminal procedure, commercial law, and so on. The Code of Criminal Procedure which was revised in the early years of the twentieth century going into effect in 1912, has been said to "represent in many respects the most advanced view in continental criminal procedure",† The Fascist government framed and adopted (1931) under Rocco, the Minister of Justice, a new criminal code. The death penalty of whose abolition Italy had been so proud since her eighteenth century criminologist, Beccaria, has been revived.

The system of courts is simple and symmetrical. At the bottom of the hierarchy are the praetors. These officers, corresponding to the English justices of the peace, have "very little jurisdiction. They have more or less to be arbitrators, preventing cases rather than trying them as judges. The Fascist government, as an economy measure, at first abolished a large number of them, but since

*H. R. Spencer: Government and Politics of Italy.
†W. E. Mikell, (Editor) Esmein. Continental Criminal Law.

1925 many have been reestablished to reward local Fascist leaders.

The lower courts of Italy are organised on a district basis. The country as a whole is divided into 982 primary judicial areas (*mandamenti*) and in each there is a court. Above them there are 138 Tribunals of first instance, which hear appeals from them and have original jurisdiction in more important cases. For serious criminal cases there are courts of assizes which formerly used to sit with a jury. The jury was first introduced in 1848, modelled on the French plan. By the revised code of 1874 the qualifications for jurors were raised above mere mediocrity. The new Fascist Code has, however, abolished the jury.

Above these Tribunals of First Instance are eighteen courts of appeal with headquarters in various court districts of the kingdom like Rome, Milan, Naples, Venice, etc. These courts have branches or sections which hold sessions in the less important cities. Each court of appeal has a special section which serves as a labour court and decides cases arising under the provisions of the "labour charter" and other laws affecting the rights of employers and workers.

At the apex of the system, there is a court of Cassation at Rome with final jurisdiction in all civil and criminal cases. Prior to 1923,

there were five courts of Cassations at Turin, Florence, Naples, Palermo, and Rome with no supreme court for the whole kingdom. This was a serious defect in the judicial system and gave rise to innumerable difficulties in the interpretation of the law. One interpretation of a rule would hold good in the north, another in the south. The Roman court from time to time received legislative grants of special jurisdiction for determining conflicts between different courts, between the courts and the administration, and for correcting error in criminal cases generally. But that did not solve the difficulty. It must be recognised as a distinct achievement of the Fascist government that their regime accomplished the long needed abolition of four of these courts and the integration of their work in the Roman Court of Cassation, which has become a supreme court. To-day there is uniformity both in the rules of law and the meaning of these rules

The head of the judicial system is the Minister of Grace and Justice, a politician in the cabinet. The judges in all the regular courts are appointed by royal decrees, on the recommendation of the minister of justice; but they must be persons who possess certain qualifications in the way of legal training and experience as laid down by the law. Judges of the higher Italian courts are ordinarily appointed by promotion from the lower ones. The judges are, however, chosen from men

who have prepared themselves for a career on the bench and not from among practising lawyers. By the terms of the Statuto judges are irremovable after three years of service. This does not, however, exclude the removal of judges in case of crime or neglect of duty. No judge may be removed from office except after a hearing before the Superior Magisterial Council, a body made up of high judicial officers with the president of the court of Cassation as chairman. This Superior Magisterial Council also prepares and keeps up-to-date a schedule showing the qualifications and experience of all the judges and public prosecutors. This schedule is followed by the minister of justice in making promotions. Like other fields of administration, centralization has not left the judiciary unaffected. In the new law of 1925, giving to the minister the power to purge the bureaucracy of persons found to be "in a position of incompatibility with the general conduct of the government", the Chamber definitely rejected a motion to make an exception for the judiciary. This also, said Mussolini (June 20, 1925), must be "combed out in the interest of Fascism".*

On the French model, the Italian constitution provides a special court for persons presumed to be beyond the reach of ordinary justice. Article 36 of the constitution declares:

*James Murphy, New Statesman, Oct. 31, 1925.

"The Senate may be constituted a high court of justice by decree of the King to try crimes of high treason and attempts upon the safety of the State and to try ministers impeached by the Chamber of Deputies". As far as ministers are concerned the quasi-judicial process of impeachment has been completely supplanted by the British method of control over the ministry through the Chamber's vote of no confidence.

Italy, like France, has a system of administrative law and administrative courts. Administrative officers may not be sued without the royal consent. In each Italian province there is an administrative court, the provincial Giunta, made up of the prefect and certain other provincial officers together with 6 additional members appointed by the provincial council to decide cases between a citizen and an administrative officer. Appeals from these courts are heard by a special section (Section VI) of the Council of State, with a president and 8 associates. The provincial Giunta is largely under the influence of the prefect, who as the mainspring of provincial administration controls the whole machinery. The Councillors of State too are under the influence of the administration. The special section which acts as the supreme administrative court enjoys a higher degree of protection than other councillors. Not more than four may be removed in any one year. And yet during the past few years all councillors not

amenable to Fascist control have been eliminated by one means or the other.

The constitution places the power of pardon in the King's hands. But it is actually exercised on the advice of the Minister of Grace and Justice. From time to time amnesties have been proclaimed, for whole categories of persons under condemnation. After a revolutionary period, with much homicide and assault and destruction of property incidental to virtual civil war, these amnesties, granted by a minister, particularly in politics, are used frequently to exonerate officials of the victorious party. There were Fascist amnesty decrees in 1922, 1923, and 1926 affecting persons who had been guilty of specified offences, political and otherwise. The decree of August 1, 1925, on the occasion of the King's accession benefited four thousand persons.

Local Government. Extreme centralization, the keynote of the Fascist State, is visible in all local government institutions as much as in the central authority. It is true that all the outward forms of these institutions, as much as in the central authority. It is true that all the outward forms of these institutions, as they existed in Italy in the pre-Fascist days, have been retained, but their methods of working have been radically changed in order to fit them as harmonious parts of the new governmental machinery.

In 1861, Italy copied the British model of government so far as the central machinery was concerned, but in establishing local autonomous institutions she preferred the example of her neighbour France. Piedmont had, for the first time in Italy, established communes (cantons) and provinces (departments) as the areas of local government. And when Piedmont passed on the *Statuto* of 1848 to the greater Italy, these units of local government followed the central form of government.

The Italian State is divided into 94 provinces, their average size being 1252 square miles with an average population of 452,420 souls. In the pre-Fascist days, the prefect was the head of the governing machinery of the province. He had with him an elective provincial council, elected for six years, half of it being renewable at intervals of three years. The strength of the provincial councils varied from 30 to 60 according to the size and population of the province. These members were elected by voters in the electoral districts into which a province was divided. The council met once a year. It had its own president. Its chief functions included maintenance of provincial institutions, poor-relief, care of the insane, education, and public works like roads, canals and agricultural farms. It also controlled the provincial budget, for which purpose it elected a "deputation" of 6 to 10

members for a period of 4 years. In each province there was a prefectoral council of 3 to 5 members nominated by the central government, 'to advise the prefect in all matters of administration.' To supervise the work of the communes within the province, there was a *Giunta*, a court in the administrative law system of Italy, consisting of 2 members of the prefectoral council and 4 members elected by the provincial council. It was presided over by the prefect.

On coming into power, the Fascists retained the outward structure of the provincial administration, but changed, almost completely, the spirit of its working. The provincial council has ceased to exist. The prefect is still retained; he is appointed by the Minister of the Interior (at present Mussolini) through a royal decree. The prefect "is the central government's agent in the province to keep all provincial organs within the law. He publishes the law, conducts the police, watches over the theatre, the film, and the newspaper—maintains order".* He is now assisted by a provincial council of economy consisting of persons appointed by the Minister of National Economy from among the lists of nominations made by the various syndical organizations in the province. Though this council is appointive, "it is the one remaining sign of popular

*Spencer: Government and Politics of Italy, p. 205.

participation in the government of the province, as is the essentially appointive Chamber of Deputies in the nation's government".

Next to, and below, the provinces are the communes which are the smallest units of local government in Italy. There are at present 7,339 communes; there were more before, but some of the smaller ones have been amalgamated. The communes are the most vital units of local government. They are rural as well as urban communes, some of them with a glorious tradition for having stood up against the attacks of Emperor Frederick Barbarossa in the twelfth century when Italy was under the rule of Austria.* Each commune had a *Sindaco* (mayor) an official appointed by the central government, and a Municipal Council elected by the inhabitants, male and female, of the commune. The council met twice a year, though extra sessions could be held when found necessary. The council had power to levy local taxation and to legislate regarding property and institutions of the commune, hygiene and sanitation, local police, works of public utility within the commune, elementary education, relief of the poor, theatres, and registration of deaths and births. The council elected from its ranks a *giunta* or executive committee of four to five members, to do all work of the council when

*For a description of this valour of these cities see my 'Federal Polity,' Chapter II, Section B.

the latter was not in session. The Fascists have now replaced the *Sindaco* and the council by a *podesta* appointed by the central government, to exercise all powers within the commune, assisted by a council partly elected by the syndicates and other organizations within the commune and partly appointed by the prefect. The *podesta* is appointed for a five year term, but is eligible for reappointment. He does not get any fixed salary, but receives enough to meet his expenses, all this money being one of the essential charges on the budget of the commune. Sometimes one *podesta* is appointed for two or more communes.

As for the municipal administration of Rome, which has always occupied an important place in Italian history, the Fascists have appointed a governor, two vice-governors and ten rectors. The rectors are the heads of several municipal services, appointed for their technical knowledge. They are merely consulted, and have no deliberative power of any kind; all this work of deliberation and legislation for Rome is done by the national ministry. There is also a *consultori* of 80 members, named by the national government, to suggest measures for the consideration of the governor. "They are not representatives of the people by election, nor are they responsible in the slightest degree for the conduct of the city's affairs."*

*Government and Politics of Italy, p. 219.

Such is, in brief, the system of local government in Italy under the Fascist regime. "Fascist spokesmen commend the reforms effected in provincial and municipal government on the ground that local party-feuds and maladministration by elective officials have given way to unified, continuous and efficient administration. Opponents of Fascism deny that municipal government is either more honest or more efficient than in the past, and deplore the disappearance of autonomous communes which, in their opinion, offered the Italian people with an opportunity to acquire experience in self-government".† In place of the old system, under which there was a series of elective councils headed by officials nominated by the centralgovernment, the Fascists have instituted a hierarchy of dictators, with the head of the government at the top and with prefects and podestas to carry out (in the provinces and communes) the commands of the former. Such a system, however undemocratic it may be, is in keeping with the Fascist ideal of the State where individual liberty has been subordinated to the interests of the nation, where freedom of speech, of association, and of the press has been rigorously put down, under various laws passed in 1925-26, so that Italy may have 'one political thought and only one method of work'.

†New Governments in Europe, pp. 89-90.

The Corporative State. In February, 1934, Mussolini made a very important announcement to institute a corporative state in Italy, which was officially put into operation on November 9, 1934.

Under the present scheme of the *Corporative State* twenty-two corporations of capital and labour, all controlled by the Fascist Party government, have been created by Mussolini. Each one of them comprises the industries and products of the country, viz, cereals; garden products; grape wine; oils; sugar; animal husbandry and fishing; textiles; metallurgy and mechanics; chemicals; clothing; paper and presses; building trades; public utilities; mining; glass and pottery; credit and insurance; arts and professions; shipping and navigation; internal communications; theatre; and hospitality (hotels, travel, restaurants).

In this classification every effort has been made to evolve a system of corporations to include all the interests concerned with each branch of national economy, from the farmer who grows the raw material or the miner who digs it out of the earth to the salesman who places the finished goods in the hands of the buyers. And each corporation includes all classes of people engaged in all processes of the particular product comprising the corporation. This latest invention of the Fascists is through and through based

upon the economic life of the Italian nation. Its chief aim is to protect the collective interests of the people against the undue pressure of special interests. In this system, the officials represent the government and the Fascist Party represents the public. Acts passed by a particular guild must be ratified by the general asembly of the National Council of Corporations which is instituted to take the position of the Chamber to enact laws. But all laws must, in order to become effective, be promulgated by the head of the government (at present Mussolini) in a decree. This insures the supreme control and authority of the State. The system is yet in the making and it has not received final shape. Its evolution and practical working will be watched with considerable interest, as it is the first experiment of its kind ever launched upon, on such a gigantic scale.

The fundamental basis of the Corporative State is industrial, contained in the *Labour Charter*, almost ending individual initiative. It aims at legalising the industrial system; it rules out strikes and lock-outs; the State takes upon itself the duty of maintaining peace between 'classes and industrial bodies'. "In fact, the Government becomes a sort of league of all industrial classes, insisting on arbitration and the maintenance of peace between them. It insists that it is bound to protect the property of those individuals who will inevitably sustain loss and injury if there

is any resort to war. It insists that there cannot be another State or power within the State regulating the economic life of the subject and not acknowledging its authority. It insists that just as no citizen in his private capacity may deliberately conspire to damage the property of another citizen, so no union or group may deliberately take action designed to injure the property of another group, which unquestionably is the significance of all such industrial actions as interrupt the rhythm of production".*

The primary units in the system of the corporative state are the local syndicates or organizations of various industries within the locality, whose legal status has been recognised by the State. There are instituted labour courts to decide all cases of conflict between classes and workers. The councils, corporations and syndicates are composed of the representatives of the employers and employees. They aim at harmonizing and reconciling and promoting the various elements of production and of distribution in accordance with the Charter of Labour.

All these local corporations and syndicates elect representatives to the Nine National Confederations into which all professions and industries have been grouped, four of these are for the employed and four for the workers,

*Goad: The Making of the Corporate State, pp. 81-82.

dealing with Agriculture, Commerce, Credit and Insurance. The ninth comprises Arts and Liberal Professions. From these is constituted the National Council of Corporations which, besides being a consultative and advisory body to assist the head of the government, also acts as a legislative body. It is expected that sooner or later the Chamber of Deputies will transform itself into the National Council of Corporations thus completing the system of the Corporative State.

According to the conception of Corporative State all problems formerly called *political problems* have now been included within the scope of economic problems. From this it follows that the Chamber of Deputies has lost its importance as a legislative body. Such was the gist of Mussolini's pronouncement in the spring of 1936, when he announced the establishment of a truly corporative state. The political citizen is thus transformed into a member of a syndicate or an analogous association, for territional representation has yielded place to functional representation in the syndicates or the National Council of Corporations. The Ministry of Corporations controls the National Council of Corporations which occupies the same position *vis-a-vis* the government in politico-economic questions, as the Fascist Grand Council occupies *vis-a-vis* the Fascist Party in all matters. The four Confederations of the Employers, and four of

the Workers, have under them Federations of Syndicates, further below them Provincial and Regional Syndicates which in their turn have under them Local Syndicates or Occupational Unions. In all these syndicates, the workers and employers are organized separately, and they do not sit together. Only in the 22 corporations, set up in 1933, they meet for joint deliberations.

When the Confederations fail to agree on any matter, the dispute is referred to one of the regular courts of appeal, which creates a special labour court section for the purpose. An official of the Corporations Ministry is present on such occasions.

Before we close this account of the Corporative State, a word may be said about the Charter of Labour, which forms the basis of the State. It was promulgated on April 21, 1927, after having been passed through the Senate which had resisted it much. It declares the State as a moral, political and economic unit and affirms its superiority in all spheres of life, over the individual producers that compose it. Work is regarded as a social duty which every citizen must perform. "The State will only assist and protect individuals as producers. Employers as well as workers are free to form their associations but these must receive legal sanction and follow the prescribed rules of conduct. There can be only one union in one district to represent the

workers and employers of a single industry or profession. The local industry is based upon a labour contract which must be entered into to make the corporation legal. Each worker must get a wage corresponding, not only to the normal needs of life, but also, to the possibilities of production and the value of work. In case of dismissal of a workman without proved fault, he must get gratuity or compensation in proportion to the length of service, which must be paid to his family in case of his death. Workers' insurance has been made compulsory and Employment Bureaux have been set up. Facilities for education and recreation for workers' children have been provided. In order to give the scheme a practical shape, government officials have been appointed to inspect and supervise the working of the local and district corporations. And finally, the National Council of Corporations directs the inferior organizations to conform to the terms of the Charter.

Italy and the Powers. It was by the Treaty of London signed on April 26, 1915, between Great Britain, France, Russia and Italy that Italy went into the war on the side of the Allies. This Treaty promised that in the event of final victory in the war, Italy would get Trentino, Alto Adige, Trieste, Istria, Gorizia-Gandisca, the islands of Cherso and Lussin, a part of Dalmatia (as far as Cape Planka), Valona, the Dodescene, and a part of Asia Minor. Albania also was to be placed

under her protection. It was further agreed that in case French and English colonial possessions increased in Africa (as a result of possible annexation of German Colonies), Italy's claim for a share would receive due recognition.

The war was won. England and France practically ignored Italian claims at the Peace Conference, due largely to the incompetence of Orlando himself. It was only by the firm resolve of D'Annunzio that Italy secured Fiume in January 1924. Great Britain gave Italy, under Article 13 of the Treaty of London (1924), a small strip of land, i. e., Jubaland near Italian Somaliland. And in 1935, France granted Italy some territorial concessions on the borders of Libya.

The Italian disappointment at the Peace Conference largely contributed to the rise of Fascism. On coming into power, Mussolini realised the extreme necessity of first making Italy internally strong before embarking on imperialist ambitions abroad, and spoke to the Chamber of Deputies, while making his first speech as Prime Minister: "The increase of a nation's prestige in the world is proportionate to the discipline that it shows at home." While declaring that Italy would pursue foreign policy of peace but not of suicide, he made a very significant remark which passed unnoticed at that time, *viz.*, "Treaties are not eternal, and they are not

unalterable; they are the chapters of history, not its epilogue." By the Treaty of St. Germain, Italy had been assigned the ex-Austrian territories south of the Brenner. In these territories Italians numbered four hundred thousand and Germans half as many. The Weimar Republic tried for some time to create trouble in the German speaking region, but Mussolini's stern warning to Germany had a telling effect. Germany denied all intention to take back Alto Adige, and, as a result of the Rome-Berlin axis and Italy's non-intervention in the *Anschluss* Hitler has now promised to respect the Brenner frontier of Italy. Even with Russia, Mussolini entered into a Treaty and Convention in February 1924, by which Italy recognised the Soviet Government as the *de jure* rulers of Russia and established with her diplomatic relations.

One of the keynotes of Fascist policy has been the holding out of bright prospects to the nation, and thus concentrating all political power in one man's hand. Mussolini has completely succeeded in acquiring full control over the State and thus is in a position to strike whenever it is necessary to do it. He has fired the imagination of the young Fascists by reminding them of the old grandeur that was Rome's and promising them the restoration of Fascist Italy to her ancient position in the comity of nations. Realising that a nation that can feel no pride in its

past loses the mainstay of its national character, he has ordered vast excavations all over the peninsula not only with the object of antiquarian research but also to focus public opinion upon the achievements of the Roman Republic and the Roman Empire, and thus to convince the Italian youth that "the grandeur that was Rome was infinitely grander than anything that the rest of the world has ever been able to show." And within a distance of a stone's throw from the large open square in the centre of Rome where the Roman populace often meets to hear some inspiring speech of the *Duce*, there have been exhibited handsomely set forth maps showing the limits of the ancient Roman Empire and thus inspiring the Fascists to sacrifice their all for the recovery of old Roman glory. On one of these maps, half of Great Britain is shown as having been part of the Roman Empire, and this has been a source of considerable anxiety to Great Britain.

Convinced that no attempt at regaining Rome's ancient glory abroad would meet with any success unless there was perfect unity at home. Mussolini resolved to end the long-standing quarrel with the Pope and entered into a Concordat in 1929. The Holy See recognised the Kingdom of Italy ; in return the Fascist State admitted sovereignty of the Pope over the Vatican City. The Holy See further promised not to interfere in any dis-

putes arising between Italy and other foreign powers.

Having thus restored internal unity, Mussolini directed his attention to the expansion of the Roman Empire abroad. The conquest of Abyssinia was the first step. Abyssina was the last surviving independent African State which had escaped the imperialistic designs of European Powers. In December 1906, a Tripartite (London) Agreement was concluded by which Great Britain, France and Italy considering it their common interest "to maintain intact the integrity of Ethiopia" pledged themselves to non-intervention in Abyssinian internal affairs. In 1923, at the suggestion of France and Italy, Abyssinia was admitted as a member of the League of Nations on her Government's undertaking to do their best to end the slave trade and slavery. The Emperor of Abyssina did all he could to implement the undertaking. In 1925 Britain and Italy entered into an agreement whereby the former promised to support the latter's demand for construction of a railway from the frontier of Eritrea to the frontier of Italian Somaliland, and an exclusive economic interest in West Ethiopia and the whole territory crossed by the railway.

The Government of Abyssinia protested to the League against this agreement which was concluded without her knowledge and consent. The British Government merely regretted

that the purport of the agreement should have been misconstrued by the Abyssian Government and reiterated that there was really nothing to suggest co-ercion or exercise of pressure.

That Italy had been planning to extend her influence over Abyssinia long before any incident on the Ethiopian border had taken place cannot be doubted. When on November 23,1934, the Walwal incident happened in which a short skirmish between the border soldiers of Italy and Abyssinia took place, the Duce seized the opportunity. It is unnecessary to recount the whole history of the Italo-Abyssinian war. Suffice it to say that the Walwal incident was followed by an unofficial war between Italy and Ethiopia, both members of the League of Nations. On March 17, 1935, the Ethiopian Government invoked Articles 10 and 15 of the Covenant, in its dispute with Italy. The League Council in its meeting of May set up a conciliation commission to settle the dispute, but disagreement between the representatives of Italy and Ethiopia soon resulted on the question of terms of reference of the commission. Meanwhile the unofficial war continued with great vigour. The Assembly session of September 1935 devoted long time to the dispute but with little success. The application of economic sanctions applied by the League against Italy did have some effect but ultimately, as some of the Governments like

Austria, Germany, Switzerland and Japan did not participate in the sanctions, they did not prove effective hindrances in Italy's path. On May 5,1936, the Italian army reached and occupied Addis Ababa, the capital of Ethiopia. The same afternoon Mussolini made the following public announcement.

I announce to the Italian people and to the world that the war is finished.....that peace is re-established..... Abyssinia is Italian—Italian in fact because occupied by our victorious armies, Italian by right because with the sword of Rome it is civilization which triumphs over barbarism.....At the rally of 2 October I solemnly promised that I would do everything possible in order to prevent an African conflict from developing into a European war. I have maintained the pledge ..But ..we are ready to defend our brilliant victory with the same intrepid and inexorable decision with which we have gained it.

On May 9, Mussolini announced that the King of Italy had assumed for himself and his successors the further title of 'Emperor of Ethiopia' and that the territories and the peoples that belonged to the Empire of Abyssinia were placed under the full and entire sovereignty of the Kingdom of Italy. At last the League of Nations lifted the sanctions against Italy on July 15, 1936, after 240 days. Thus Italy augmented her colonial empire by the annexation of Abyssinia with an area of 350,000 sq. miles and a population of 7,600,000 souls. On June 1, a Royal Decree announced the formation of Italian East Africa, including Abyssinia, Eritrea, and Italian Somaliland, under the rule of a Governor General and

Viceroy. Mussolini realised his dream of founding a Roman Empire and he expressed his sentiments in these words:

Italy has her Empire at last: a Fascist Empire because it bears the indestructible tokens of the will and of the power of the Roman lictors, because this is the goal towards which, during fourteen years, were spurred on the exuberant and disciplined energies of the young and dashing generations of Italy. An Empire of peace, because Italy desires peace, for herself and for all men, and she decides upon war only when it is forced upon her by imperious, irrepressible necessities of life. An Empire of Civilization and of humanity for all the populations of Abyssinia. That is the tradition of Rome, who, after victory, associated the peoples with her own destiny.

This justification of one powerful nation's rule over another is but a common factor between all the imperialist nations of Europe. British rule in India is justified on the *theory of trusteeship* and the necessity of advancing Indians on the road to civilization.

'The more you get the more you desire' followed Italian conquest of Abyssinia. Mussolini next turned towards acquiring supremacy in the Mediterranean sea. Speaking from Milan, on November 1, 1936, he said:

Italy is an island which emerges from the Mediterranean.

This sea—I address myself here also toward the English, who perhaps at this moment are listening by radio—this sea for Great Britain is a high road, one of the many highroads or, rather, short cuts through which

the British Empire reaches its outlying territory more rapidly.

If the Mediterranean is for others a highroad, for us Italians it is life.

We have said a thousand times, and I repeat before this magnificient multitude that we do not intend to menace this road, we do not intend to interrupt it. But we demand on the other hand that our rights and vital interests be also respected. There are no other alternatives. The reasoning brains of the British Empire must realise the thing is done and is irrevocable. The sooner the better. Bilateral conflicts are not to be thought of, and even less a conflict which from bilateral would immediately become European.

There is, therefore, only one solution; direct, rapid, and complete understanding on the basis of recognition of reciprocal interests.

But if this does not come about, if in fact—and I refuse to believe it from today on—one is really thinking of suffocating the life of the Italian people in that sea which was the sea of Rome, very well! Let it be known that the Italian people would spring to their feet like one man, ready for combat with a determination which would have scarce precedence in history.

Mussolini found himself in a position to make these claims because of the strength he had acquired through the consecration of the Rome–Berlin axis which he considered not a barrier but "rather an axis around which all European states animated by the will for collaboration and for peace may collaborate". The personal friendship established beetween the two dictators—Hitler and

Mussolini—was a great factor in determining the relative position of the Powers in the Mediterranean.

The two Powers most interested in the Mediterrranean are Great Birtain and Italy. British interests in that sea are both economic and strategic. About 11 percent of the British imports originate in the Mediterranean. As compared with the Cape Route, the Mediterranean effects a saving in distance in favour of the British shipping to the extent of 79% from the Persian Gulf, 50% from Culcutta, 44°/₀ from Singapore, and 10% from Australia. From the political and strategic point of view, Gibraltar and the Suez Canal are the two very important arteries of the British Empire, through which control over Palestine and India is more speedily and effectively maintained, now that Egypt has become virtually independent. British fortifications at Gibraltar, Malta, Cyprus, Haifa, Alexandria and Suez are counteracted by the Italian fortifications (all of them recently made) at Ceuta, Majorca, Sardinia, Sicily, Rhode Island, Libya, and Eritrea.

Italian colonial Empire is and can be controlled entirely through the Mediterranean. In the event of an international war, if Italy and Great Britain take opposite sides, as they are in all probability likely to take, the Mediterranean is bound to be the

most important scene to decide the issue. England experienced the importance of the Mediterranean even against the Central Powers of Europe during the Great War.

It was in recognition of these facts that Italy and Great Britain signed the *Anglo-Italian Mediterranean Accord* at Rome on January 2, 1937. The following is its text:

The two governments of Italy and Great Britain :

Animated by a desire to contribute increasingly in the interests of the general cause of peace and security to the betterment of relations between them and all Mediterranean Powers, and resolved to respect the rights and interests of those powers;

Recognize that the freedom of entry to, exit from and transit through the Mediterranean is a vital interest both to the different parts of the British Empire and to Italy and that these interests are in no way inconsistent with each other;

Disclaim any desire to modify, or, so far as they are concerned, to see modified, the status quo as regards national sovereignty of territory in the Mediterranean area;

Undertake to respect each other's rights and interests in the said area;

Agree to use their best endeavours to discourage any activities liable to impair the good relations which it is the object of the present declaration to consolidate.

This declaration is designed to further the ends of peace and is not directed against any other Power.

The two Powers called it a *Gentlemen's Agreement* which guaranteed the maintenance of the *status quo.* Such agreements, similarly characterised, have often been signed in history which also shows how far they have been kept or violated. That Italian position in the Mediterranean will be further strengthened by the final triumph of General Franco in Spain cannot be doubted. The importance of the Spanish civil war increases on account of its being only the first game between the Communists and the Fascists. The help which Soviet Russia, has given to the Government side in Spain has as its object the checkmating of the growing Fascism. To counteract this move Italy and Germany have openly declared themselves in favour of General Franco whose government they have now recognised as the *de jure* government of the territories he has already occupied.

Italian and German interests in the Mediterranean are, therefore, so much similar—as a joint effort against anti-Fascists—that they have combined all forces to ensure Franco's victory. Great Britain is, no doubt, in a great dilemma. Franco's victory would mean further increase of Italian supremacy in the Mediterranean and the consequent peril to Gibraltar, Cyprs, Malta and the Suez canal. On the other hand, if the Reds come out victorious—which is only a far stretched, probability—Russia will begin her domination

over the Mediterraean through the Dardenelles. And communist Russia is a greater foe to British Imperialism than the two Fascist dictatorships.

In short, the Anglo—Italian Accord has merely postponed the final solution of the Mediterranean problem. Meanwhile British rearmament and refortification in the Mediterranean if carried at the present speed, may outstrip Italian naval strength in that sphere. The Mediterranean is too small for two Great Powers to remain equally supreme. The hegemony in that sea must be either British or Italian. The final issue will depend upon the course of international relations in the next few years, more particularly upon the final fate of Spain.

That after the Great War, Italy having acquired Fieume and fixed the Brenner frontier began to treat Austria as her dependent ally was the cause of conflict between Italy and Germany, for the latter was ever thinking of annexing Austria. The Anschluss effected after the consecration of the Rome—Berlin axis, has settled Italian policy towards the Central European Powers. This has been further demonstrated by the prominent part which Mussolini played at the Munich Conference signed at 1-30 a. m. on September 30, 1938, by which German demands against Czechoslovakia were accepted in *toto*.

POSTSCRIPT.

While these pages were going through the press the German-Czech crisis took a grave turn. Twice the British Premier, Mr. Chamberlain, met Herr Hitler. At the second interview, the latter presented further demands which, in the opinion of the former, went farther than what had been mutually agreed upon at the first interview and later accepted by the Czech Government. Hitler gave the Czech Government six days within which to comply, on the expiry of which, as he announced, he would lead the German forces into the Sudeten territory. The Czech Government peremptorily rejected the demands and preferred to resist the German invasion, The French Government ordered general mobilisation to support the Czechs and the British fleet was moved to battle positions in the North Sea. President Roosevelt made another appeal to Hitler to settle the question by peaceful means. At last on the afternoon of September 29, four great statesmen, Herr Hitler, Signor Mussolini, M. Daladier and Mr. Chamberlain met in a conference at Munich, and after hours of serious discussion arrived at the following agreement regarding the satisfaction of the German claims:

Germany, the United Kingdom, France and Italy have agreed, taking into consideration the agreement already reached in principle for the secession to Germany of the Sudeten

German territory, on the following terms and conditions governing the said secession and by this agreement each hold themselves responsible for the steps to secure its fulfilment.

Firstly, the evacuation will begin on October, 1.

Secondly, Britain, France and Italy agree that evacuation of the territory shall be completed by October 10 without any existing installations having been destroyed and that the Czechoslovakia Government will be held responsible for carrying out the evacuation without damage to the said installations.

Thirdly, the conditions of evacuation will be formulated by an international commission composed of representatives of Germany, Britain, France, Italy and Czechoslovakia.

Fourthly, the occupation by stages of predominantly German territory by German troops will begin on October 1: four territories marked on the attached map to be occupied in sequence.

The remaining territory of predominantly German character will be ascertained by the aforesaid international commission forthwith and will be occupied by German troops by October 10.

Fifthly, the international commission will determine the territories wherein plebiscite is to be held, these territories to be occupied by international bodies until the plebiscite is completed.

The same commission will fix the conditions wherein the plebiscite is to be held taking as basis the conditions in the Saar plebiscite. The commission will also fix the date, not later than the end of November, on which the plebiscite will be held.

Sixthly, the final determination of the frontiers will be carried out by the international commission. This commission will also be entitled to recommend to Germany, Britain, France and Italy in certain exceptional cases minor modifications in strictly ethnographical zones to be transferred without plebiscite.

Seventhly, there will be the right to enter to go into or out of the transferred territories, the option to be exercised within six months from the date of this agreement.

A German-Czechoslovak commission shall determine details of the option, consider the ways for facilitating the transfer of population and settle questions arising out of the said transfer.

Eighthly, the Czechoslovak Government will, within a period of four weeks from the

date of this agreement, release from their military and political forces any Sudeten Germans who may wish to be released and the Czechoslovak Government will within the same period release Sudeten German prisoners who have been serving terms of imprisonment for political offences.

The heads of the Governments of the four Powers declare that the problem of Polish and Hungarian minorities in Czechoslovakia, if not settled within three months by an agreement among the respective Governments, shall form the subject of another meeting of heads of the Governments of the four Powers as at present.

When the question of Polish and Hungarian minorities in Czechoslovakia is settled Germany and Italy for their part will give a guarantee to Czechoslovakia.

This *Four Power Agreement* was accepted by the Czech Government under strong protest which made it clear that Czechoslovakia was dismembered without the consent of the Czech Government, but she was making the sacrifice to preserve the peace of Europe and the world.

Encouraged by the acceptance of the German demands, Polish Government made similar claims for the occupation of predominantly Polish territories in Czechoslovakia. These were also accepted by the Czech Government with a similar protest.

Consequently, German occupation of the Sudeten region began on October 1, 1938. The Polish occupation of Polish territories in Czechoslovakia began on October 2, 1938.

The Hungarian Government has also demanded the cession of Magyar districts in Czechoslovakia to Hungary, for which negotiations are in progress.

After the Munich Conference, Mr. Chamberlain and Herr Hitler met again and issued the following declaration:

We, the German Fuehrer and Chancellor, and the British Prime Minister, had a further meeting to-day and are agreed in recognizing that the question of Anglo-German relations is of first importance for the two countries and for Europe. We regard the agreement signed last night and the Anglo-German naval agreement as symbolic of the desire of our two peoples never to go to war with one another again. We have resolved that the method of consultation shall be the method adopted to deal with many other questions that may concern the two countries. We are determined to to continue our efforts to remove possible sources of difference and thus contribute to assurance of peace in Europe.

Efforts for the settlement of Franco-German differences are in progress. If these succeed, the European Powers, Dictatorships and Democracies, shall accomplish the most important task which the post-war world has so far faced.

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Printed By
Pt. Manna Lal Tewari
at the
Shukla Printing Press, Lucknow.