CHAPTER 1

INTRODUCTION

Part I

The relationship between the Legislature and the Administration has evoked in recent times a variety of opinions. Many scholars greeted the predominance of administration as a product of pragmatic realism, while others looked at it with suspicion. Discussions on the subject engaged the attention of the students of Political Science and Public Administration. In India, where the people planted the tree of the parliamentary system and where many elements operated to queer the pitch,\textsuperscript{1} the environs demand a close examination of the present practice. In the context of the Indian experience, though of a short period, the facts, with all the variety of different units at the centre and the states, remain unexplored. The prelude of the institution of a full-scale parliamentary model was however quite promising.

The Act of 1935 was put into execution for two years and the experience was not discouraging. The nationalist organization, Congress, could enjoy majority in eight provinces, and got an opportunity to form ministries. For the first time, Indians got the opportunity to form Councils of Ministers based upon the principle of joint responsibility.\textsuperscript{2} Respect was shown to the minorities and little scope was left
for the Governor's intervention. Further, the tenure of the Ministries was based on the confidence of the Legislature rather than the pleasure of the Governor.

With longer experience in course of time, the parliamentary institutions developed further, while the ever increasing responsibilities of the State made an impact on their character and functions. The growing powers of the Executive overshadowed the significance of the Legislative body, which could not save even its own work of law-making from the influence of the Executive. One of the most marked systems of the administrative revolution in modern times was the administrative leadership symbolised by the Executive's invasion of what had hitherto been regarded as the province of Legislature and Judiciary.³

A responsible and trusted British parliamentarian argued that parliament's business was to check the government, throw it out if it wanted to, go for it, attack it, criticise it by all means, for Parliament was not a body which was organized for current administration in Great Britain.⁴

Canada, like India, borrowed political institutions, from Britain. Some of these major institutions are the titular executive responsible to elected legislature and the predominance of the party system in the legislature. In a federal type of government parliament becomes an ineffective body.⁵ The condition of the private member of the Canadian
Parliament is pitiable as of the British Member of Parliament. It has been complained that the Parliament is a rubber-stamp used by the cabinet, that true parliamentary control is a myth, and that the sole business of the Private Member is to vote as he is told. There might be some element of exaggeration in such clamouring. Some scholars point out the absolute solidarity among the members as a reason for the strength of the executive. Sir Wilfrid Laurier contended that the necessity for solidarity among the members of the same administration is absolute; that the moment a policy has been determined upon, it becomes the duty of every member of that administration to support it.6

This marked change is the outcome of ever growing party discipline. The case might not be true with India to the same extent. If cabinets were regularly overthrown by fluctuating combinations of parliamentary groups, as they were in Great Britain between 1851 and 1868, the legislature in effect has to pick and choose a policy.7 Therefore stress is laid on the solidarity of the party.8 But it has been observed by Harold Laski that the number of members motivated by their own judgement, even in trivial matters, is quite negligible. This reduces the significance of the member of parliament to a considerable extent. In the era of enormously growing activities of the State, parliamentary control can be exercised by employing various methods such as the question hour, ventilating grievances and extracting information etc.
Laaski does not seem to be taken aback by the increasing powers of the executive. Still he serves a warning that a Cabinet that tries to carry off its policy with too high a hand is almost always riding for a fall. But there would be few chances for the Parliament to exercise an effective control over the administration.

Hence a gloomy forecast has been made out for the sovereignty of Parliament.

**Dangers**

Arthur Salter points out that the real danger to the parliamentary system is the absence of two competent parties in the country. Other reasons for the decline of the parliamentary system are:

(i) Concentration of economic power in the hands of the executive,

(ii) Waning laissez faire policy and introduction of a planned programme,

(iii) Extension of social services,

(iv) Growth of the delegated legislation,

(v) Sizable enlargement of the electorate,

(vi) Financial dependence of the Members of Parliament on the parties or on the government.

In Britain, without party support, the prospects of election are negligible.

On the other hand, on behalf of the multi-party government system, it has been pointed out that it has the great
advantage of avoiding 'violent oscillations' from one side to another and that it makes 'reasonable compromises and adjustments of views' both possible and necessary. Ramsay Muir traces the true development of the two-party system to the evolution of its elaborate organization. This had led to the strict discipline which has involved the 'dictatorship of the Cabinet'. Nonetheless, the significance of the supremacy of Parliament has been belittled by some. It has been argued on their behalf that Parliamentary supremacy has been erected on the support of loyal and well disciplined group of members, even though the members play the role of the 'yes-men' of the Ministers or of the big bosses of the party. This reduces the power of the party even though it is equipped with the device of no-confidence motion. All that the minority party—the opposition—can do without support from the members of the majority party is to question, inquire and criticise, but whilst this does not amount to control it is an important method of checking abuses of power.

There are many party rewards, alluring the party members for their honesty and discipline. The proportion of 'career' politicians has greatly increased. The politician who is found useful to a party may rise to the front bench with £5000 per year and many perquisites. Thus the members might have to forgo their own individual ideology for the sake of party solidarity. The principle of Responsible
Government as propounded by Iver Jennings is wont to disappear. The Parliamentary system put into operation in India might not suffer from the same defect as the British Parliamentary System suffers. But there are many indigenous elements which are more difficult to tackle. Some of these inter alia, are:

(i) Bureaucratization of the government,
(ii) Declining spirit of nationalism,
(iii) Tremendous growth of population and the resulting pressures on government,
(iv) Language conflicts.

Remedies

Though the nature of problems confronting the Parliamentary system are different in different countries some measures for refining this system might be common. In Britain, the finished form of Parliamentary democracy is the consequence of an evolution over centuries. Experiments of this system in other countries naturally lack this peculiar feature of the British system.

In fact the most effective safeguard for building up a healthy parliamentary system is to provide a suitable atmosphere for the growth of the Opposition Party. If there is a keen rivalry between the Opposition and the Majority Party and they are in a semi-equilibrium position, the Opposition can make the government behave. Nearly all functions to be carried out by the Legislature can be carried out by the
Opposition. The Members of the Ruling Party wander in the realm of complaisance, while the ruling party can be moderated by the Opposition.

The parliamentary system in practice has arrested the growth of democracy in different ways. The Opposition's impact on administration is negligible and the members of the majority party have no independent say apart from the party bosses and ministers. The people especially in a developing country like India fail to take interest in the day-to-day business of the transaction of the Legislature. Nor are the legislators in constant and active fruitful contact with their constituents, serving their genuine interests.

The problem of a live public opinion in the Indian context is not as easy as it is conceived in European countries. In India many adverse factors mar the creation of a healthy public opinion. The Governments at the Centre and in the States do not seem to have sized up the problem in India. Very few members visit their respective constituencies, and make the people follow the happenings in the Legislature. In Maharashtra the device of correspondence with the Members of the Legislative Assembly is used rarely. For some personal interest the people see the Members of the Legislative Assembly. It is therefore very essential to educate the people. On trivial issues the public opinion appears very sharp. The tendency of political parties to
dance to the tune of mass psychology instead of guiding the masses on proper lines, is alarming.  

The recent thinking on the present issue does not swing between the two extreme poles of executive's and legislature's dominance. However, it halts at a compromising spot. Douglas V. Verney believes that one constituent of the Parliament cannot dominate the other constituents completely. The existence of a particular government in parliamentary democracy needs the support of the Assembly. Nonetheless, it does not mean that the Assembly is supreme because its life might be put an end to by the Government's right to dissolve the parliament. The government can run smoothly in case the constituents of the parliament are accommodative.

Various countries provide different degrees of such accommodation sometimes in favour of one constituent, and at other times in favour of the other. In Britain and Scandinavia greater emphasis is laid on the Cabinet and opposite is the case of France. Particularly in the French Third and Fourth Republics, the Assembly had played the dominant role. However, the interdependence of the constituents of the Parliament leads the students of politics to believe that the co-operation between the government and the assembly might be conducive to the efficient conduct of the parliamentary business. It is advisable that the Government might not fret at the constant challenge which the Assembly might offer to its programme nor it might wince at the
criticism made of its administration. In the same manner the Assembly might not usurp the functions of the Government. Thus the principle underlying the parliamentary set-up is that of co-operation and not that of enmity.

In India the two Houses of Parliament have not been particularly effective bodies to date. It has been observed that many parliamentarians appear to be apathetic about most issues other than those in foreign affairs, economic development or matters of concern to their own constituents. It has been stated that very few of the members of the Parliament had pursued a close study of the debates of the Parliament held in the past. The cabinet system in India ensures identity of Assembly's and Government's interests. The conflict in the cabinet system is very remote at least at the Centre because of the absence of two powerful political parties.

To examine the relationship between the executive and the legislature one must determine the orbit of the activities of the legislature and the executive and then efforts have to be made to circumscribe the problem more closely to record where the decline of legislature has taken place. The Assembly carries out the following four functions:

1. It puts pressure on the government to frame some rules,
2. It holds discussions and debates in order to accept or to reject the rules submitted by the government,
(iii) It adopts or rejects rules and proposals coming from the members of the Assembly, and

(iv) It examines, scrutinises and controls the rule application.

Jean Blondel points out three types of legislative intervention in the functioning of the executive which are closely related with the activities of the Assembly: (i) Individual mode of intervention, (ii) Collective mode of intervention, and (iii) Intermediate mode of intervention. Individual actions are of a behavioural type, while the second mode of intervention lays more stress on the constitutional type of constraints. The third is concerned with the procedural methods.

In the initial stage of the development of an Assembly the individual member's positive motivation in putting pressure, examining, scrutinizing and controlling the rule-application is more likely. The activities of accepting and rejecting the proposals coming either from the government or from the members, can be carried out by the Assembly. It is possible, in the former case, that the small groups of individuals might be more effective than the individuals, and in the latter case the entire Assembly remains more powerful.

However, both individual members and the Assembly have to confine themselves to a limited field by virtue of government measures. The effectiveness of Assembly can be checked by restricting the roles and the powers of groupings. The
government might not raise such question which entail grave consequences. The government might use some procedural techniques to control the Assembly but they cannot be applied to informal discussions and might have little effect on the Assembly.

The individual actions are subject to some constraints.

1. The first constraint is about the time. The Members of the Assembly have to carry out many activities and this restricts their efficiency.

2. As the party members, the individuals have to be disciplined and have to forgo personal opinions for the sake of their party ideology.

3. The individuals might intervene in fields in which their party policy is not involved.

The effectiveness of members might depend on the role of the Assembly. But this fact in no way underestimates or denies the importance of the individual members. The collective actions of the Assemblies have been fair indicators of influence they exert on government.

The Assemblies have to be under the constraints of their size. If it is big one then debates might be reduced to small number of subjects. The discussion cannot take place on unimportant matters. The Assembly might be prevented from referring a bill to the committee and restricting the discussion of a bill at general level. The lack of second chamber
also affects the efficiency of the Assembly. The second chambers small in size can produce better discussions.

The Government might control the collective actions of the Assembly through behavioural and procedural methods. The former is used through party discipline and latter in its formidable form if used as dissolution of the parliament. The methods of controlling the Assemblies vary from country to country.

The government also exercises control on the growth of the committees because government treats them as a rival in rule making. Limitations on the growth of committees are serious. On the contrary, opportunities need to be given to the Assemblies to be involved in intermediate matters, if they are to become most effective.

In fact the responsibility of leading the polity rests with the government. The Assembly has to express faith in the programme of its senior partner. The government formulates the policy and executes it. It undertakes several programmes through its various departments in the larger interests of the people. Its field of activities is expanding.

Recently in changed circumstances the Assembly has also become one of the important elements in the communication process. It communicates the demands of the people to the government and government policies and their execution to the people. There is no substitute for Assembly in its role
in the communicating process. While the "decline" of legislatures may be apparent in relation to some limited aspects of rule making, the decline of Assemblies as communicating mechanisms can scarcely be substantiated and the existence of authoritarian governments is no more a sign of the decline of legislatures in the contemporary world than it was in the past.

Part II

The present thesis attempts to find out the relationship between the legislature and the administration in the State of Maharashtra in the light of the discussion in Part I above. The ensuing chapters analyse how far the Maharashtra Legislature influenced the administration during the period 1957-1967.

The present thesis is based on the following sources

(i) the debates held in the Maharashtra Legislature during the period from 1957 to 1967;

(ii) the reports of different committees of the Maharashtra Legislature during the period from 1957 to 1967;

(iii) several other publications of the Government of Maharashtra;

(iv) the journals like Parliamentary Studies, Parliamentary Affairs and Indian Journal of Public Administration; and

(v) election programmes and other literature of the main political parties.

Dr. Usha Mehta and Dr. Aloo Dastur have published their
research work on the topic under present investigation in a book 'Congress Rule in Bombay 1952 to 1956'. Some other scholars in India have also contributed on this topic on national level in a book 'Parliament and Administration in India'. Dr. Partyal has evaluated the role of the Opposition Party in his work 'Role of Opposition'. The book 'Parliament in India' by Morris Jones outlines the basic issues of the present subject.

Besides these learned contributions in India some foreign writers have also made an attempt to analyse the legislature-executive relationship. Scholars like Laski, J. J. Craik, Henderson, Salter, Lowenberg, and Ronald Butt tried to determine the scope of the work of the legislature and the executive and have also studied the pros and cons of the encroachment of the former by the latter. Alexander Brady has examined the subject in the context of the British Dominions. The French model in this respect, has attracted the attention of Jean Blondel. However, none of these seemed willing to come at an honourable compromise. In the Comparative Politics (edited by Eckstein and Apter, The Free Press, New York, 1963) Douglas V. Verney has pointed out that no one constituent of the Parliament can dominate the other completely. Ward and Macridis have elaborated their research on the Indian Model.

Jean Blondel looks at this problem still differently and lays emphasis on the communication function of the legislature.
After this introductory chapter, "The Elements in the Setting of the Forum of the Legislature" are set out in the next chapter. It contains two parts. The first part relates to the Mechanics in the Proceedings of the Legislature, while the second part covers the elements in the setting of the forum of the Legislature. Government (including back-benchers), Opposition and Speaker are the three main elements which are dealt with.

To examine the relationship between the legislature and the administration in greater detail the policies of the government and its attitude towards several administrative issues vis-a-vis the Opposition have been analysed.

The question hour is a mechanism by which the legislature seeks to elicit information and check the misuse of power by the administration. The twin objective of questions is to elicit information and to expose the government. The fifth chapter attempts to reveal various aspects of this device. It examines how the Honourable Members have succeeded in criticising the government and in raising various administrative matters. The stand the legislators have taken on specific issues like the government employees and injustice done to the Nava-Boudhahs has particularly been referred to. The instances in which information given by the government has been challenged have been noted. Some instances where the interests of the Honourable Members were safeguarded have also been pointed out.
Legislation is the main business of the Legislature. Numerous Bills initiated by the Government, the Members of the Ruling Party as well as by the Members of the Opposition parties have been examined in the next chapter. The Government's attitude towards the Bills of the Members of the Legislature has been analysed. The support of the Opposition to some Government Bills has also been recorded. Instances where the Members of the Legislature have made informal liberal suggestions while discussing various Bills have been noted. Almost all Bills studied have been looked at from the point of view of the competition or co-operation they generated between Government and the Opposition. The working of the Subordinate Legislation Committee is analysed in the context of the control exercised by the legislature over this legislation.

The Honourable Members of the Legislature attempt to ventilate the grievances through Adjournment Motions, Calling Attention Motions, Resolutions, General Discussions and Half-an-Hour Discussions. The seventh chapter deals with this aspect of the Maharashtra Legislature. All these devices cover a wide range of subjects such as the problems of the cultivators, industrial workers, teachers, students, government employees, Nawa-Bouddha, Vidarbha and Marathwada. It has also been analysed how far the members succeeded in ventilating grievances in respect of foodgrains, the Krishna-Godawari Water Dispute and other important subjects. The
facts have been delved into to find out the extent of truth in the statement of the Opposition that Government's policy in regard to firings has affected the delicate fabric of democracy. The difficulties of the Backward Classes, Adiwasis, demanding immediate solution, have been reviewed. The discussions on serious riots in the State have been analyzed. Certain grievances of the people, injustices done and inconveniences they suffered from, have also been taken into consideration. The working of the Government Assurances Committee is also reviewed.

The legislative supervision over financial administration forms the subject matter of the eighth chapter. Cut-motions proposed during the decade 1957-66 have been reviewed and important ones among them have been studied from the point of view of their effectiveness. The department-wise analysis spotlights the general functioning of the departments and specific grievances regarding their administration. The analysis attempts to search for the local interests lurking in the discussions of the demands. The demands presented in the Assembly have been studied.

The working of the two most vital legislature committees, viz. the Public Accounts Committee and the Estimates Committee, has been reviewed in the next chapter. The chapter has been devoted to find out the range of expectations fulfilled by these two committees. The chapter seeks to assess the extent of influence of the Legislature over the
administration in this particular context. The functioning of the Estimates Committee has also been subjected to a critical review. It has been examined how far the administration has shown respect for the recommendations of this Committee.

Governor's addresses and discussions on them yearwise in the legislature have been reviewed in the next chapter. An attempt has been made to take a survey of the serious and urgent issues, which find place in the speeches of the Legislators. The stereotyped behaviour of the Members of the Majority Party and Minority Parties on some matters has been noted.

During the Budget-Discussions the Members of the Opposition try to subdue the Government. It has been reviewed whether the Opposition Members have brought about any critical situations for the Government. The novelty or the monotony of the problems discussed has also been studied carefully.

The next chapter on the no-confidence motions enquires into the effectiveness of the no-confidence motions in modifying the government's policies or details of their implementation.

Some scholarly, intelligent and public-spirited Members devote considerable time and exert themselves, inter alia, in studying the procedures and the details of the debates. The contributions of such prominent legislators to the analysis and criticism of administration have been taken into consideration in the twelfth chapter.
The working of the legislative wing of the parties and their relations with the organizational wing has been analysed in the same chapter. The interrelationships among various parties, co-operation and conflicts among them on various grounds, have also been dealt with.

In the concluding chapter, the analysis in the foregoing chapters is brought to a focus to answer questions raised in the beginning of the thesis. The relationships between the Legislature and the Administration in Maharashtra have been assessed in the light of the main issues presented in the introduction. A comparison is sought to be offered between the position of the Parliament vis-a-vis the Government at the Centre and the one analysed and assessed in this thesis. A comparative review is also offered in brief of the position in regard to the subject of study obtaining in important countries like Britain, France, and other Commonwealth Countries vis-a-vis the position in Maharashtra State.
REFERENCES

8. In this context, N. V. Gadgil, a cabinet minister in the Central Government during 1947-1952 wrote: "In democracy it is a matter of constant anxiety both for the Government and the political party to which it belongs how to secure smooth working with understanding and co-operation with each other." ("The Government and the Party," The Indian Journal of Public Administration, New Delhi, Vol. III, No. 4, October-December 1957, p. 316.)
10. Salter, A.: Parliament A Survey (George Allen & Unwin, London, 1952) p. 106. Salter wrote: "While one great party means tyranny, a number of more or less equally big parties means anarchy, and that the best foundation for liberty is the existing of two main parties of comparable equal strength and importance."
11. "The increase in the number of members whose main source of income is their parliamentary salary supplemented, as it is, in a number of cases, by payment from external bodies who desire them to exert a certain influence in Parliament," (Ibid., p. 110.)

14. "... but it is impossible for the opposition to defeat a government with a good majority on a vote of no-confidence, unless the government has lost the support of a considerable number of its own followers - and this is likely to become increasingly rare." "Dangers of a Supreme Parliament," in J.J. Creake Henderson: Parliament a Survey, Op. cit., p. 90.

15. Ibid., pp. 92-93.


17. Harold Laski echoed the same view in a different language when he wrote that a democratic government would be benefited more by criticism of its opponents rather than from the flattery of its supporters. Kamalanath: "The Spirit of Parliamentary Democracy," in Parliamentary Studies, August 1970.

18. "This method of influencing legislators is most highly developed in the United States where shoals of letters and telegrams pour into Washington with the object of persuading or dissuading Congressmen. A march is a more formidable weapon than a petition and most legislators take steps to protect themselves against the impact of marches." [Wheare, K.C.: Legislatures (Oxford University Press, London, 1968)] p. 49.


21. Ibid., p. 183.


24. Ibid., pp. 358-59.

25. Ibid., p. 389.

26. Ibid., p. 390.


