*CHAPTER I*

INTRODUCTORY
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(a) Growth of Representative Institutions in India
A Historical Background (1858-1958)

This thesis is concerned with the presentation of the developments that have taken place in the electoral system of the Uttar Pradesh State and in order to have a proper understanding of the present phase of the electoral system in the State of Uttar Pradesh, a historical perspective and a background is very necessary and, therefore, we have undertaken in this chapter a description of the evolution of representative institutions in our country from the period the governance of India passed into the hands of the King-in-Parliament.

As we know the administration of India was formerly transferred by the East India Company to the Crown in 1858, by an Act of Parliament and the same was announced by a Royal Proclamation of the Queen Victoria on 1st November, 1858.

From this period we have a faint beginning of some elements of associating Indians also with the administrative set-up of the country and, therefore, for some years from 1858, we have the beginning of what is known as the Policy of Association to which we now draw the attention.
The Policy of Association:

The Indian revolt of 1857 was due to lack of real contact and relation between the rulers and the ruled. The British Indian Administrators failed to learn the lessons of the Indian Mutiny and deliberately kept Indians out of administrative responsibility. This was amply elucidated by Sir Saiyid Ahmad Khan who pointed out that the exclusion of Indians from the Councils deprived the Government of the opportunity of knowing the views of the people and of removing any misunderstanding that may have existed regarding the views and intentions of the Government.  

This anomaly, however, attracted the attention of some of the British Administrators and that is why in 1860, Sir Bartle Frere conceded that "the addition of the Native Element was necessary to the Council".  

The suggestion to giving representation to Indians came up for consideration before the British Parliament in 1858, but at that time it was considered impractical and politically inexpedient. Provision for associating Indians in the Legislative work in India was, however, made in the year 1861.

1. C.L. Ahand, Introduction to the History of Government in India, Part II, pp. 72 and 73.
In the constitutional history of India, the India Council Act of 1861, assumed importance because of two main reasons viz., (1) that the Governor General got the power to associate the people of the country in the work of legislation, and (ii) that the legislative powers of the Bombay and Madras Government were restored and provisions were also made for the establishment of similar Legislative Councils in other provinces. This was done for Bengal in 1862, for North Western Provinces in 1886, for Burma and Punjab in 1897, and for Eastern Bengal and Assam in 1905. This was the first step to prepare the foundation of the policy of the legislative Decentralisation. This policy ultimately culminated in complete internal autonomy to the provinces in 1937.

Formerly, the laws enacted by the local legislatures were complete in themselves and came into operation of their own force. From 1861, previous sanction of the Governor General in Council was made requisite for legislation by the Local Councils in certain cases, and all acts of the Local Councils required subsequent assent of the Governor General in addition to that of Governor. The Governor General thus became the head of all legislative authorities in British India.

The Act of 1861, enlarged the executive council
of the Governor General by adding the fifth ordinary member "a gentleman of the legal profession, a jurist rather than a technical lawyer."

Out of the five members of the executive council, there were to be "from among such persons as shall have been, at the time of such appointment, in the service in India for at least ten years." Among the remaining two members "one shall be barrister or a member of the Faculty of Advocates in Scotland of not less than five years standing." The Act of 1861, also enlarged the central Council of the Viceroy for making laws and regulations for the country. However, the Act "provided that not less than one half of the persons so nominated shall be non-official members." In other words not less than six and not more than twelve nominated for two years, of whom not less than half were to be non-official. The Governor General was also endowed with absolute right of veto and promulgation of ordinances.

3. Clause VI of the Act, Ibid.
The idea behind the Act was to by-pass the demand of popular representation by nominating the council of big persons like Indian Rajas or their Dewans or great Landholders or retired officials of high rank. It was hoped that the additional members act as intermediaries between the Government and the people. But none of these members knew the full bearing of the methods of legislation adopted in 1861. These members regarded elevation to the Councils as a reward for their loyal services. They were too conservative and docile to act as interpreters of public opinion and could hardly convey to the Government the reactions of the people about projected measures of the council.

The Indian Council Act, 1892.

The expansion of education in the country awakened political consciousness which soon manifested itself in the birth of the Indian National Congress in 1885. The Congress at its first session passed a resolution expressing great dissatisfaction at their existing system of Government and suggested "the reform and expansion of the councils by the admission of a considerable proportion of elected members." The resolution also sought to create "similar councils for North Western Provinces and Oudh, and also for the Punjab,"
and also suggested the right of discussing the budget and interpelling the executive in regard to all the branches of the administration."

The question of the reform of the councils, therefore, began to attract the attention of the Government of Lord Dufferin. The second step in this direction was taken when in order to improve the status of the provinces in the sphere of legislation the Indian Councils Act of 1892, was placed on the statute book.

The Act of 1892, enhanced the total membership of the councils but there was a great difference of opinion on the question of introducing the principle of election. The then Secretary of State Lord Cross argued, "it would be unwise to introduce a fundamental change of this description without much more positive evidence in its favour than was forthcoming." On the other hand the Government of Lord Lansdowne urged that "they should not be precluded from resort to some form of election where conditions justified belief in it; and they asked for power to make rules for the appointment of additional members by nomination or otherwise."

2. Report on Indian Constitutional Reforms, 1918, pp. 44.
The compromise between the conservative principle of nomination and the method of election was embodied in the so-called "Kimberley Clause."  

An Indian Council Act of 1892, increased the number of additional members of the Supreme Council to not less than ten and not more than sixteen; and, in case of Councils of the Madras and Bombay the number was to be not less than eight and not more than twenty.  

The maximum for Bengal, N.W.P. and Oudh was twenty, fifteen and fifteen respectively. Mr. Schwann, M.P. described the additional members "as a very paltry and miserable addition."  

At the same time Mr. Curzon defended the same by putting forth the plea, "that the efficiency of a deliberative body is not necessarily commensurate with its numerical strength over large bodies do not promote economical administration, but are apt to diffuse their force in vague and vapid talk."  

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1. Kimberley Clause:  
This clause empowered the Governor General in Council, with the sanction of the Secretary of State in Council, to make regulation as to the conditions of nomination of the additional members to the Council.  


3. Ibid.  


5. Ibid.
in Council was invested with power by the Act to make regulations for nominations of additional members and to prescribe the manner in which such regulations should be carried into effect. Another important clause of the Act was that the Provincial Councils now enabled to discuss the annual financial statement or budget according to the rules framed by the Governor or Lieutenant Governor but "not to vote the budget.....item by item......but to indulge in a fully, free and fair, criticism of the financial policy of the Government." Lastly, for the first time in the constitutional history of India, right of interpellations was granted to the members.2

Rise and Growth of Extremism — Repression and Reforms.

The atmosphere of the country at the beginning of the 20th century was surcharged with revolutionary activities. This was to a greater extent a sequel to the imperialistic pursuits of Curzon who was a die-hard conservative. The Indian feeling was becoming more and more intense under the influence and direction of two schools

2. Section 2 of the 1892 Act.
of thought viz., the Extremists and the Revolutionaries.

The Extremist agitation started with the famines of 1896-97, which according to Sir Lovat Fraser were "the most intense and severe famines even then known under the British Rule." The earthquake and the plague in 1897 further intensified the hardships of the people. The measures adopted and enforced by the Government were inadequate and insufficient and could not satisfy the people.

The cumulative effect of all this on Indian people was the birth of a new spirit—the spirit of self respect and self reliance and readiness to strive towards the goal of national emancipation. The period between 1892-1909, and specially the later six years was of great unrest and turmoil "internally indeed the period was one of marked unrest, to which the Russo-Japanese was of 1904-1905, the University Act of 1904, and the Partition of Bengal had contributed." The apathy towards the British rule in India found its manifestation in the line of action decided


by the All India National Congress. The Congress began by
propagating the boycott of British goods and use of Swadeshi.
With a view to face the repression of the Government, it
also attempted to establish National Institutions which
were also to serve as custodians of India's first for
independence. This volcanic atmosphere, which prevailed
throughout the length and breadth of the country, was not
unknown to the Government who were busy in chalking out
their plan of suppression and repression. At the same time
Lord Minto appointed a committee of his Council to consider
the question of increase of the representative element in
the Indian and Provincial Legislative Councils. The
committee submitted its report in due course of time. The
Government after giving due consideration to the report
made a scheme and released it under the circular of
24th August, 1907, for comments and suggestions of the
local Government. The Government of India conveyed their
final scheme to the Secretary of State for India vide
their despatch No.21 dated October 1, 1908. Lord Morley
who was then the Secretary of State for India scrutinised
the scheme, made certain changes and finally introduced
the British Parliament a bill which contained the suggested
scheme for future Government of India. The bill when passed
came to be termed as the Indian Council Act of 1909.

**Indian Councils Act, 1909.**

The main burden of the Act lay in the direction
of enlarging the councils and making them more representative
and effective. This included the Provincial Legislative
Councils as well, wherein non-official majority was also
provided for. The first schedule of the Act fixed the
maximum strength of the councils.

**Changes made by the Act of 1909 in the Constitution.**

The constitution of the councils was changed
in three respects.

(a) Number.
(b) Proportion of Official members.
(c) Methods of appointment or election.

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1. The Regulations appear in F. Mukherji,
Number - The number of members was doubled or more than doubled by the Act of 1909.

Proportion of Official & Non-official members.

Under the Regulations of 1909 and 1912, there was to be an official majority in the Governor General's Legislative Council and non-official majority in Provincial Legislative Councils.

Method of appointment or election.

Under the Act of 1909, the additional members were to include not only nominated members but also members elected in accordance with Regulations made under the Act.

The Legislative Council consisted of three classes of members - the officials, the elected, and the nominated non-officials. The relative strength of the Legislative Councils of the various provinces is shown below excluding the Head of the Government or expert.

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<table>
<thead>
<tr>
<th>Name of the Council</th>
<th>Elected</th>
<th>Nominated non-official</th>
<th>Official</th>
<th>Total</th>
</tr>
</thead>
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<tr>
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<td>27</td>
<td>5</td>
<td>36</td>
<td>68</td>
</tr>
<tr>
<td>Madras</td>
<td>21</td>
<td>5</td>
<td>20</td>
<td>46</td>
</tr>
<tr>
<td>Bombay</td>
<td>21</td>
<td>7</td>
<td>18</td>
<td>46</td>
</tr>
<tr>
<td>United Provinces</td>
<td>21</td>
<td>6</td>
<td>20</td>
<td>47</td>
</tr>
<tr>
<td>Eastern Bengal and Assam</td>
<td>18</td>
<td>5</td>
<td>17</td>
<td>40</td>
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<tr>
<td>Bengal</td>
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<td>4</td>
<td>20</td>
<td>52</td>
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<td>8</td>
<td>6</td>
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<td>Burma</td>
<td>1</td>
<td>8</td>
<td>6</td>
<td>15</td>
</tr>
<tr>
<td>Bihar and Orissa</td>
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<td>4</td>
<td>18</td>
<td>43</td>
</tr>
<tr>
<td>Assam</td>
<td>11</td>
<td>4</td>
<td>9</td>
<td>24</td>
</tr>
</tbody>
</table>

The members of the Provincial Legislative Councils which were elected were returned from three different categories of constituencies. They were general, class, and special. Certain qualifications for the candidates offering themselves for election and for the voters were prescribed by the Regulations. It was laid down that "No person shall be eligible for election if such person
(a) is not a British subject, or (b) is an official, or
(c) is a female, or (d) has been adjudged of unsound mind;
or (e) is under twenty-five years of age or (f) is an
uncertified bankrupt or undischarged insolvent, or (g)
has been dismissed from the Government Service, or (h) has
been sentenced by a criminal court to imprisonment for an
offence punishable with imprisonment for a term exceeding
six months or to transportation, or has been ordered to find
security for good behaviour, or (i) has been debarred
from practising as a legal practitioner, or (j) has been
declared by the Governor General in Council to be of such
reputation and antecedents that his election would be
contrary to the public interest.¹

The Governor General in Council was empowered
to remove some or the disqualifications.²

Indian Legislative Council.

The Indian Legislative Council consisted of
69 members, but of these 37 were officials and 27 were

1. Regulation No. IV, Mukherjee, Indian Constitutional

2. Disqualification (a) also could be removed by the
   G.G. in Council after 1914.
The greatst innovation made by the Act was the provision of the separate representation to the Mohamedans. The Morley-Minto Reforms thus introduced for the first time in the History of India, the system of communal electorates.

1. Regulation No. 11, P. Mukherjee, Indian Constitutional Documents, pp. 307 and 308.
"No documentary evidence can be cited to prove that the concept of separate electorates for Moslems originated with the authors of these Reforms, yet it can not be denied that the system was deliberately introduced with the fullest consciousness of its evil effects on the growth of Indian Nationalism." However, there was no statutory provision for separate Muslim electorates, but for this purpose regulations were made under the Act of 1909.

The electoral system as enforced under the Act of 1909, was unjust and unfair to the various communities in India. The representation of Muslims was not determined on their numerical strength but on the basis of their political importance. An illustration in this regard can be cited from Bengal where 'a Hindu voter must pay Rs.5,000 as revenue, a Mohammadan Rs.750/-only. The payment of income tax, the receipt of a Government Pension and the fact of being a honorary magistrate do not qualify Hindus for voting. They do qualify Mohammedans.'

   "A deputation of Muslims headed by H.H. the Aga Khan demanded separate representation thinking to be the good opportunity, the demand was considered" Lord Morley said, "the whole thing has been as good as it could be." - Letter to Minto of October, 26, 1906.

2. Mac Donald, Awakening in India, pp.222.
"The object of Morley Minto Reforms", observes the Mont-Ford Report, "was to create a constitution about which conservative opinion would crystallize and offer substantial opposition to any further change."\(^1\) But in effect the Act as a whole and especially the electoral system and innovation of separate electorate was wrong, defective, disappointing and against all principles of democracy. "Such a system could not provide political education to the people. The so-called representative system was a sham."\(^2\)

Towards Montford Reforms.

Even the moderate politician of the country was not satisfied by the undemocratic character of the Act. The annoyed and dissatisfied National Congress clamoured for Self-Government.\(^3\) The congress launched the Home Rule agitation in order to create public opinion in favour of self-determination. British intervention in the affairs of Turkey, a Muslim country gave a further fillip to the Indian National feeling. The Muslim community in India reacted quickly and organised the Khilafat movement. Consequently the All India Muslim League also changed its political objective and thus the Congress and the League

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2. Lionel Curtis, Rarchy, pp.368.
came nearer to each other. A common plan for India's liberation was carved out by them. A joint scheme, popularly known as Congress League Scheme was formulated in 1916. At that time the first world war had a critical phase and the British wanted to gain maximum help from India and her people. Pressed by their needs, the British Government showed their willingness to grant more constitutional concessions to the people of this country.

Accordingly on August 20, 1917 an announcement was made by the British Government. Mr. Montague, the Secretary of State for India and the Viceroy, Lord Chelmsford told all over the country and their proposals were published in July, 1918 in the report that has since become popular under the name of 'Montford Report'. The Government of India bill was introduced in the House of Commons on June 2, 1909 on the basis of the report. After its second reading, the bill was referred to a Joint Select Committee. In accordance with the suggestions made in the report of the Joint Select Committee, the bill was passed by both the Houses and received the Royal assent on December 23, 1919.

**Government of India Act, 1919.**

A new era was ushered in the annals of British Indian History by the Government of India Act, 1919.
for it made a beginning in the direction of Responsible Government, although the process was slow. The M.C. Report observed: "But this process of relation cannot go on at the same place on all levels. The Secretary of States relaxation of control will be retarded, if for no other reason, by the paramount need of securing Imperial interests, that of the Government of India by their obligation of maintaining the defence of India, and of the Provincial Governments by securing of law and order. As we go upwards, the importance of retarding factor increases and thus it follows that popular growth must be more rapid and extensive in the lower than in the upper levels."  

Mont-Ford Report laid down four principles, mentioned below:

1. "There should be, as far as possible, complete popular control in Local Bodies, and the largest possible independence for them of outside control."  

2. "The provinces are the domain in which the earlier steps towards the progressive realisation of Responsible Government should be taken. This meant that partial transfer should be made and complete responsibility to be given as soon as the conditions would permit."

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1. M.C. Report, pp. 188.  
3. The Government of India must remain wholly responsible to parliament and saving such responsibility, its authority in essential matters must remain indisputable, pending experience of the effect of changes now to be introduced in the provinces.

4. In proportion as the foregoing changes take effect, the control of Parliament and the Secretary of State over the Government of India and the Provincial Governments must be relaxed."

M.C. Report laid down the following comprehensive formula:

"We propose that there shall be an enlarged Legislative Council, differing in size and composition from province to province, with a substantive elective majority, elected by direct election on a broad franchise, with some communal and special representation as may be necessary." Montford Report further recommended that the "Indian Legislative Council should be enlarged and made more representative and its opportunities of influencing the Government increased." Under this Act the New Central Legislature consisted of two houses:

1. M.C. Report, pp.188.
Council of State and the Legislative Assembly. According to this Act the maximum number of members in Council of State would be 60 and the total number of members in Assembly would be 140. In both the Chambers there would be elected majority.

**Provincial Legislatures:**

According to the Reforms of 1919, the Provincial Legislatures had to undergo drastic changes. They were tried to be made more democratic in nature. They were enlarged and made more representative. Greater share of administration was given in the popular hands. The strength of the Council varied from 53 in Assam to 140 in Bengal. Directly elected members, in proportion, were to be at least 70% and officials not to exceed 20%. The unrepresented portion of the group was to be nominated by the Governor in order to give due share to the unrepresented groups. The United Provinces Legislature consisted of 123 members and out of whom hundred were elected, 18 were officials and five were non-officials.

**Constituencies.**

By the new Act of 1919 the old principles of restricted electorate and indirect election system were

1. Section 17, Government of India Act, 1919.
2. Section 72A(2)a, by Rules.
3. First Schedule to the Act, 1919.
4. Section 72A(2) Act of 1919.
made the edifice of the Provincial Government which as a matter of fact needed the application of the system of direct election and low franchise. Keeping in view the conditions of the citizens of the country with 90% illiteracy, 70% rural habitation and unequal distribution of education among the various communities, the formation of the constituencies and definition of the franchise would have been made. M.C. Report further observes, "the politically minded educated Indians, though they have done a great deal for the political and social improvement of the masses, have not yet identified their interests with those of masses. Nor can we be blind to the division of Indian Society by races, creeds and castes. Inspite of these real difficulties, however, the experiment of responsible Government must be tried. It will be agreed that the character of political institutions reacts upon the character of the people. This fact, that the exercise of responsibility calls for the capacity, for it is the best ground for confidence in the working of self-government in India."

The task of defining the constituencies and franchise in detail was entrusted to the Franchise Committee of Lord Southborough. Districts were considered as the convenient units, for rural representation, each sending one or more members according to its size and population.

In the old councils this distinction between rural and urban representation was completely absent. Due to the towns becoming more important in the country, the Government of India said in their despatch, "After religion and race, the boundary between town and the country is the greatest dividing line that runs through the Indian people. It corresponds closely with the division between progress and conservatism; between English-educated and vernacular; between experience of self-government and lack of such experience; between the existence of newspapers, professions, bar-libraries and societies, and their absence. It is roughly the difference between the old India and new, the forces that are forcing us forward and the forces that are holding us back."

All the constituencies were not territorial because of certain potent factors. Special constituencies were created for Landlords, Commercial and Industrial interests and Universities. In the Central Legislative Assembly the seats filled by Landlords, Europeans and Indian Commerce were 7, 9 and 4 respectively. For the representation of labour and depressed classes nominations were also provided in the law.

The classification of constituencies was as follows:

Constituencies

- General
- Special
  - Communal
  - Non-Communal
  - University Industry Landholders
    - and Commerce
  - Rural
  - Urban
    - Rural
    - Urban

Communal Representation.

The election were held on the basis of separate, communal and class electorate. In respect of communal representation, the Joint Committee laid down certain important principles with comments on 72A(4)C. of the Act. The claim of Mohammadans of Separate Communal Representation was beyond revocation and they were in enjoyment of that privilege in the old councils. The Lucknow Pact of 1916, "allowed the Mohammadan members equal to 50% of the total elected Indian Members in the Punjab, 30% in United Provinces, 40% in Bengal, 25% in Behar and Orissa, 15% in the Central Provinces, 15% in Madras and 33% in Bombay." On the basis of the Lucknow

1. Sapre, B. G. The growth of Indian Constitution and Administration, pp. 297.
2. Ibid
3. Ibid
Pact the Franchise Committee decided the number of seats for Mohammans in the Provincial Councils.

Franchise.

Both the Houses of Central Legislature were represented by directly elected members. The uniform policy of franchise could not be followed throughout the country, although the social and economic conditions of the country differed from one area to other area. There were minorities which were too small or unrecognised to be protected by a seat being reserved for them but which were sufficiently important to have their claims acknowledged. In such cases, the purpose was well served by nomination. Thus Governors nominated members of certain interests in the Provinces like depressed classes, Anglo Indians, Indian Christians and wage earners of Bombay. Nomination, perhaps was inconsistent with full responsible Government.

Those who were assessed to income tax on an annual income of Rs. 10,000 to Rs. 20,000 or paid a land revenue amounting to Rs. 750 to Rs. 5000 got the right of franchise.¹ In general constituencies, past and present members of Local Legislatures, the Chairman or Vice-Chairman of a Municipality, District Board, or

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Cooperative Central Bank, Members of University Senate and persons holding the highest title for oriental scholarship were entitled to vote.¹ The total electorates for the Council of States in 1920, was only 17644 and it rose to 32135 for the election of 1926.²

Qualifications of the electors for the Legislative Assembly also differed from province to province. Those who paid Rs. 15/- to Rs. 20/- as municipal tax per annum or owned a house of rental value of Rs. 100/- annually or income tax payer on annual income of Rs. 2000/- to Rs. 5000/- or paid land revenue of Rs. 50/- to Rs. 150/- were eligible to vote. The number of total electorate in the year 1920 was 904746 and the population of the country was 240 millions.

Provincial Councils.

The franchise of the election was also loosened in the case of Provincial Council. Franchise differed from one province to another province and since different qualifications were presented for each type of constituencies so in each case separate electoral roll was maintained. In general constituencies voting was based upon the

². Ibid.
possession of property, holding of land, occupation of house, payment of municipal taxes, income tax etc. For the University constituencies the registered graduates of seven years standing were also given franchise. For the special constituencies, members of the commercial or professional associations were given franchise. In some provinces a further qualification of residence for six months within the constituency was required. The total electorate for election to provincial councils was 5.3 millions in 1920, against the total population of 241.7 millions.¹ The councils in India lacked the representative character because 2% of the people of the country were given the opportunity to exercise their right of franchise.

Other Electoral Rules.

Nominations were made on the fixed date and they were officially examined and scrutinized. In the District Collector was the Returning Officer. Polling booths were spread throughout the district and the polling used to take place on the same date and time throughout the district. Different dates were fixed for urban and rural voting and for Mohammedan and non-Mohammedan

voting. Votes were given by ballot and in person. In the plural constituencies every candidate had as many votes as there were members to be elected.

**Government of India Act, 1935.**

The Congress leaders had stronger grounds to persist in their demands for the greater transfer of political powers to Indian hands due to failure of dyarchy established by Government of India Act, 1919. The sittings of the Round Table Conferences were a result of the persistent great hue and cry for political freedom of the country raised by the people. In the Round Table Conferences the Indian constitutional problem was discussed from every point of view. After great deliberations on the proposal, it was finally decided to enact the Government of India Act, 1935. The Act embodied the federal scheme for the Government of India. Second world war started in 1939 and the provincial part of the constitution could hardly come into practice. At that time the preparations were going on to bring into practice the federal part of the constitution, though the provinces were unwilling to accede to the proposed federation. But unfortunately the scheme could not be materialised.
The United Provinces Legislature.

A bicameral legislature in United Provinces was given birth to due to the inclusion of the Provincial Autonomy in the Government of India Act, 1935. The legislature consisted of two houses viz., the lower house i.e., Legislative Assembly and upper house i.e., Legislative Council, contained 228 and 50-60 seats respectively.

The Legislative Assembly - The Lower House.

One member of the Assembly represented 466 square miles of area with the population of 217,608 persons, according to the Act. There was the average of 19 members for every four districts.1 Out of the 140 general seats the reservation of the seats for scheduled castes, Mohammdans, Europeans, Anglo-Indians, Industry and Commerce, Labour, Landholders, Universities and women were 20, 64, 2, 2, 3, 3, 6, 1 and 6 respectively. Out of the women seats, 2 seats were reserved for Muslim women.2

1. The area of United Provinces was 106248 sq. Miles, population according to 1931 census, 49644833 and number of districts 48 - P.N. Masaldan, Evolution of Provincial Autonomy in India 1858 to 1950, pp. 120.

Constituencies.

'Order in Council' formed constituencies for provincial election purposes.¹ Trade Union Labour and Non-Union Labour were given separate representation and so, for them separate constituencies were formed. There were ten non-territorial seats and rest were territorial. The non-territorial seats were to Landholders, Commerce and Industry, and the Universities. A territorial constituency consisted of one or three tahsils or two or more municipal areas. There were six seats for which the whole province a single territorial constituency². There were 178 rural and 52 urban constituencies in all, excluding the six province wise constituencies.³

Franchise.

Following were the qualifications of a voter to the Legislative Assembly election of United Provinces:⁴

(a) Resident of the Territorial constituency.
(b) Payment of Income tax or Municipal Tax on at least Rs. 150/- a year.

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1. The Government of India (Provincial Legislative Assembly) order 1936.
3. Ibid.
(c) Ownership of a house or building of a rental value of Rs. 24/- a year and for Schedule caste Rs. 12/- yearly.

(d) Ownership of Land whose revenue was Rs. 5/- yearly.

(e) Tenancy of land of rental value of Rs. 10/- yearly.

(f) Under proprietorship of Oudh of Land whose under proprietary rent was Rs. 5/- yearly.

(g) Ownership of free simple estate, or payment of any land, revenue or cesses or being a Khaikar or a Shilpkar's representative in the Hill patties of Kumaon.

Educational Qualifications.

Persons having upper primary or even equivalent qualification were qualified to vote and for women mere literacy was enough.

Military Services.

Persons who served in the Regular Army were entitled to be included in the electoral rolls of territorial constituencies.

Special Qualifications for Women.

(a) Pensioned widows.

(b) Mother of persons who had done military service.

(c) Wives of persons with certain income or property qualifications prescribed for the purpose (which were higher than the property qualifications for an ordinary voter) were also eligible to vote.

Qualifications for Special Constituencies.

(a) Land Holders.

"For Landholders' seats, members of the British Indian Association and of Agra Zamindars' Association paying a land revenue of at least Rs. 5000/- a year were voters in their respective constituencies; the Agra Association and the British Indian Association formed the constituencies." ¹

(b) "For the Commerce and Industry seats, individuals are bonafide nominees of firms, joint Hindu families which had been taxed for five preceding years on an income of Rs. 10,000/- a year from Commerce and Industry, and representative of Corporations with at least one Lakh paid up capital, were qualified to be included in the electoral list provided there were no arrears of subscription against them. The joint Hindu families and firms and corporations had their nominees each, but only one vote." ²

(c) Labour.

"To be voter for the Trade Union Labour Seats, a person must have lived in the province for six months of the preceding year and been a year old

1. Masaldan, P. N., Evolution of Provincial Autonomy in India, 1858 to 1950, pp. 122.

2. Ibid.
member of a Trade Union recognised for the purpose, without arrears of subscription in the case of ordinary members.

For Non-Union Labour seats, the voter must have been employed for at least 180 days of the preceding year at not more than Rs.300/= a month in one or more qualifying factories, in the territorial area of the constituency.¹

(d) Universities.

"The University constituency consisted of members of the Court or Seante, Academic Council, Executive Council, and Graduates of seven years' standing, registered within two preceding years of the Universities of Agra, Allahabad and Lucknow. The Central Universities of Benares and Alligars were not included."²

The total electorates for the Assembly under the New Franchise consisted of 53,35,309 persons, i.e., to say roughly one out of every nine persons had a vote."³

1. Masaldan, P.N., Evolution of Provincial Autonomy in India 1858 to 1950, pp. 122.
2. Ibid. pp.123.
3. Ibid.
(B) Adult Franchise under the New Constitution.

The Central and Provincial Legislatures were allowed a restricted franchise for the elections on the basis of the Government of India Act 1935. There was no uniformity of qualification for the Central and Provincial Legislatures and qualifications differed and varied from one province to another province. However, in every case the franchise was limited and was related to factors like taxation, property, literacy, community etc. The ultimate result was that only 14% of the Indian population exercised the franchise.

With the passage of time people became democratic minded and started considering restriction like property, payment of taxes etc., as arbitrary, unnatural and retrograde. The Fundamental Rights sub-committee and the Minorities sub-committee of the Constituent Assembly recommended the adult suffrage should be incorporated as fundamental right under the constitution. The sub-committee's report was acceptable to the Advisory with regard to the adult suffrage. It suggested that adult suffrage should not be included in the list of fundamental rights but the same should be given a separate place in the constitution. Accordingly, the adult suffrage was
given place in the constitution in the shape of article 326 and now the elections are held for the House of People and Legislative Assemblies of the States on the basis of adult suffrage.

Franchise — House of People.

The elections to the House of People are to be held on the basis of adult franchise. Every citizen who is not less than 21 years of age is entitled to be enrolled as a voter, provided that he is free from disqualifications and has been ordinary resident for not less than 180 days in the constituency. The disqualifications are:

(a) is not a citizen of India,
(b) is of unsound mind and remains so declared by competent court,
(c) is for the time being disqualified from voting under the provisions of law relating to corrupt practices and other offences in connection with elections.

The disqualifications prescribed under (c) above are as follows:

(a) Conviction for an offence punishable with imprisonment for personation at elections or bribery.

(b) Conviction for an offence for fraudulently taking or attempting to take a ballot paper out of a polling station at an election, or wilfully aiding or abetting of doing of any such act.

(c) Being found guilty of any corrupt or illegal practice upon the trial of an election petition.

(d) In case of a candidate and his election agent being found guilty of default in making the return of election expenses, if such return is found to be false in any material particular.

Franchise - State Legislatures.

The election to the Legislative Assembly of a state are also held on the basis of adult franchise. Attainment of age of 21 years enables a person to be enrolled in the voters list. He must be free from disqualifications like non-residence, unsoundness of mind, crime or corrupt or illegal practices as laid down by the constitution or the law of the appropriate legislature.

Reservation of Seats for Scheduled Castes and Scheduled Tribes.

The provision has been made for the reservation of seats for scheduled castes and scheduled tribes for a period of ten years. The period has been further extended.

extended in 1960. The provisions regarding the reservation of seats for above communities does not forbid the members of these castes and tribes from contesting elections to unreserved seats. It has been laid down in the constitution that the number of such seats was to be proportionate to the population of such Castes and Tribes.

**Adult Franchise - Its Success.**

The introduction of adult franchise, launched a great and fateful experiment unique in the world in its stupendousness and complexities. In true spirit of democracy the constituent Assembly unhesitatingly adopted the principle of adult suffrage with full knowledge of difficulties involved. The first difficulty levelled against the introduction of the adult franchise was the magnitude of task involved and the second one was the illiteracy of voters which would render an election a farce unless an electoral system could be devised under which even an illiterate voter could cast his vote intelligently and secretly. Undoubtedly the difficulties were genuine but even then the adult franchise was boldly launched.

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2. Article 330(2) of the Indian Constitution.
The essence of the responsible Government is the popular judgement, "It is a fundamental fallacy to argue that political behaviour has dependent, or depends upon the passions which are at the most modified by instructions, men and women vote primarily for what they want and not from merely intellectual guidance."¹

"Those responsible for the drafting of the Indian Constitution of 1950 were more than gifted lawyers and political theorists. Men like Dr. B.R. Ambedkar, Jawahar Lal Nehru, and Sir B.N. Rau approached their historic task with rare vision and courage. Acutely aware that most of their fellow citizens were illiterate and without direct experience of modern representative institutions, these leaders none the less determined the elections in India would be based on universal adult suffrage. The twin principles of universal adult franchise and "one man—one vote", then became a part of the organic law of India."²

"Four General Elections have clearly established that citizens do exercise their voting right in India."³

Popular judgment has been exercised with discretion. "The voters, however gave ample proof of having realised

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3. Ibid.
that it was their right as also their duty to participate in the elections by exercising their franchise. They have earned world-wide admiration by the enthusiasm they display during the elections and the orderly and peaceful manner in which they went to the polls. 1

"The Fourth General Elections of 1967 have already been termed 'the second Indian Revolution'. However, it is important to recognize that such a revolution has been based on the use of ballots and not force. 2

It is concluded, therefore, that literary education, however, desirable, is not an essential condition for the successful working of the adult suffrage. What is more needed for the success of adult suffrage is the conduct of elections must be on non-partisan lines by neutral bodies and sincere cooperation of the executive Government so as to ensure fair and free elections.
