CHAPTER 1

"DEFENCE" AS A FUNCTION OF GOVERNMENT.
AND THE POSITION AND IMPORTANCE OF THE
CHIEFS OF STAFF COMMITTEE IN THE
POLITICAL ORGANISATION OF THE STATE

THE SUBJECT DEFINED - ITS SCOPE AND EXTENT.

Clemenceau's dictum that "War is too serious
a matter to be left to soldiers" appropriately
emphasises the importance of the civil element
in the efficient performance of the defence
function of Government. Though wars are fought
and won by the armed forces and the territorial
integrity of the State is dependent on their
strength, the defence forces can at best be
describing as constituting but one essential
limb of the body politic even though they remain
the most potent weapon of the executive. It is
ture that in a totalitarian State with a military
dictatorship, the civil element of the government
machinery is completely eclipsed by the military.
Nevertheless, Clemenceau's dictum is perhaps
historically more or less accurate, as more often
then not the upsetting of the just balance of the
constitution by a military dictatorship has led
to disastrous consequences on the battle field.
In short, therefore, a study of the political
organisation of the State, whether democratic or
totalitarian, must essentially comprise a study of
two distinct spheres - the civil and the military.

The ...
The former controls the latter in a democracy, whereas the latter controls the former in a totalitarian military dictatorship. Though in a democracy the military sphere forms a part of the executive organisation of the State, it is such an important element both in political theory and practice that it may be described as constituting a sphere of its own, the proper and effective control of which by the civil organs of the State has presented a continuous problem in history. From the days of Emperor Claudius in 69 A.D. when the Praetorian Guard took upon itself the right to auction the Imperial Roman throne to the highest bidder and even earlier dating back to 324 B.C., when Pushyamitra, the Commander-in-Chief of the mighty Maurya Empire, killed King Brihadrata to start his own line of succession, the problem has furnished the Gordian knot for the political theorists and the Empire builders to untie.

Let alone the Janissaries of the Ottoman Empire and Hitler and Mussolini of recent times, the world today has witnessed military coups d'etat not only in the Latin American States, but also in Egypt, Middle-East and Siam, if not quite in Pakistan. The central problem of defence is, therefore, fundamentally based upon the relationship between the civilian head of the State, be he the President as in USA or the Prime Minister of a parliamentary government, on one side, and the ...
the professional soldier, with those holding the highest ranks, on the other. We are, therefore, concerned here exclusively with the study of the relationship between the civil and the military and the organs of the State on which that relationship revolves to bring about the efficient performance of the defence function of the State. As in the determination of that relationship, the Institution of the Chiefs of Staff Committee plays a vital role and its location in the political setup along with its functions, influences the nature and character of the State to such an extent as to make it truly democratic or dictatorial, this study as a monograph on that Committee has been undertaken. It, therefore, excludes from its purview that part of the military organisation which is not concerned with this relationship and also omits from its study those political organs of the State which do not come in contact with the military system. In this connection, the broad zone of study which concerns the relationship between the political and the military spheres is best explained by the diagram.
The circles 'P' and 'M' in the diagram represent the exclusive spheres of political and military organisation respectively. The constitutional link up at 'D' which functions as an effective lever to control the military organisation and to subordinate it to the will of the people, represents the higher defence mechanism in a democracy and is essentially a part of 'P' and not of 'M'. In the UK, the Chiefs of Staff Committee and the Secretariat connected therewith form a part of the Defence Ministry set up. In all democratic States which have a fundamental law of the constitution, either written or unwritten, the defence mechanism which is organised to control the armed forces has a political head at the top, who is in some form or the other directly responsible to the electorate, be he the President as in USA or the Prime Minister and Defence Minister as in a parliamentary set up. He is assisted by a civilian staff and is in constant (consultation) with the highest command of the military organisation.

The political and the military spheres, therefore, meet at 'D' which is the broad zone of this study. As published works exist on the constitutional organs of the State such as the Prime Minister, Cabinet and the Defence Committee of the Cabinet, as much as on the military formations, their manoeuvres and strategy, the raison d'être of this work is to throw light on an institution which, though the key-stone of the military arch
arch, also furnishes the iron constitutional link that ties the mighty armed forces to the will of the electorate enabling the parliamentary government to function effectively in peace and war.

In a totalitarian or a military State, the organs which would normally constitute the sphere of 'P' would be dominated by men in uniform supplied by 'M'. Thus when the higher political command comes into the hands of the supreme military officials, both 'P' and 'D' become a part and parcel of 'M'. This variation in totalitarian States is as much a part of this study as the normal functioning of the lever in a democracy. While Part II is devoted to the latter, the whole of Part III deals with the former. The importance of the Chiefs of Staff Committee in organisations of collective defence like NATO also merits attention and is examined in Part IV.

In short, therefore, the scope and extent of the subject is restricted to portion marked 'D' on the diagram whereas the microscope is put down to study in detail the vital iron link of the Chiefs of Staff Committee which connects the two spheres and furnishes a subject of all-absorbing interest, because when it forms part of 'P' it gives birth to a type of State which is quite different from the one which exists when 'D' is a part of 'M'. In the latter event, a military dictatorship results. Thus on the proper and effective working of the Chiefs of Staff Committee and ...
and the mechanism at 'D' depends the extent to which the armed forces can be subordinated to the will of the people, or, conversely, how far the will of the people is tied down to the iron rod of the armed forces.

Before the origin and evolution of the institution are examined historically, it is necessary first to state the general importance of the defence function both in political theory and organisation as the very raison d'être of the Chiefs of Staff Committee is the efficient performance of the defence responsibilities of the State.

"DEFENCE" AS A FUNCTION OF GOVERNMENT.

Defence has been a time-honoured function of government and an essential attribute of sovereignty ever since the birth of the political State. The standards relating to functions may have varied from age to age and country to country, but it is indeed of the very essence that every State which has sprung from the earliest days of recorded history, has had an armed force to defend itself. Even the Empire of Asoka (232 B.C.) based on the Buddhist philosophy of non-violence started with an efficient army. Tibet, an essentially theocratic State of priests, has also an army and a Minister responsible for Defence. The latest addition to the international community, Israel (1949), though one of the smallest political entities in the world, has a Defence Minister, Chiefs of Staff and an armed force - a modern defence mechanism in miniature ...
Switzerland also, which has long been recognised in international law as permanently neutralized, today maintains an elaborate system of mountain defences backed by a small regular army and a large fully trained militia force.

Perhaps the most unique feature of political organisation common to all its varieties, however much those varieties may differ in other respects, is the necessity of some kind of armed force. Tribes, cities, savage hordes, feudal societies and modern States, in so far as they have claimed an independent existence, have provided for it either by a professional standing army or by mercenary force or even by conscription of the whole citizen body.

THE IMPORTANCE OF DEFENCE IN POLITICAL THEORY.

Both according to ancient scriptures of the East as well as the great philosophers of Greece, the machinery to wage war and defend territories is an integral part of the State which is destined to perform its functions and to continue its existence. Kautilya in his Arthasastra has quoted Bhishma (Mahabharata) to indicate that the business of administration is dependent on the army, for "in the absence of the army it is certain that the treasury will be lost .... With the army finance can be secured .... The army being ever at hand it can exercise the functions of a minister."  

Again, ...

1 Arthasastra - VIII (1)
Again, Plato in his "Republic" was fully alive to the need of the 'guardian class to defend the state'.

Plato regarded the soldier as an integral and permanent part of the State and he may well have subscribed to the remark of Xenophon that war is fated always to be among men. Again, Aristotle in his "Politics" has reiterated the same sentiments when accepting the warrior class as an essential element of the State.

According to Aristotle the various classes that compose the State are as follows:

(a) the food producing class;
(b) the mechanic class;
(c) the trading class;
(d) the serfs;
(e) the warrior class;
(f) the judges;
(g) the official class; and
(h) the deliberative body.

In his analysis of the 'warrior class' Aristotle has made fundamental observations of a permanent political and historical value which deserve to be reproduced.

He says "they (the warrior class) are as necessary as any of the others, if the country is not to be the slave of every invader. For how can a state which has any title to the name be of a slavish nature? The state is independent and self-sufficing, but a slave is the reverse of 'independent'." Aristotle has criticized Plato and has gone to the extent of saying that as "the soul may be said to be more truly part of an animal than the body, so the higher parts of states, that is to say, the warrior class, the class engaged in the administration of justice, and in deliberation, which is the special business of political ..."

1 See Plato's Republic ii, 369
2 See Aristotle's Politics - Ch IV(4).
political commonplace, - these are most essential to the state than the parts which minister to the necessities of life.

It is not only the ancient political thinkers but also the builders of imaginary commonwealths or of new international constitutions who have found it necessary to give an appropriate place to the armed forces in their idealistic conceptions. In his "Utopia", More accepts war as a normal element in the life of his Republic and, therefore, assigns a distinct place to the armed forces in his conception of the State. Similarly, Bacon in his 'New Atlantis' presents a militaristic state which honours with a statue "the man that was the inventor of ordnance and gunpowder". Bacon regarded war as an essential ingredient of national greatness and his conception of State, therefore, gave a more prominent place to the armed forces of the State. Among the prominent Italian political thinkers is Machiavelli who declared that "a Prince ought to have no other aim or thought; nor select anything else for his study than war and its rules and discipline". In his classic entitled "The Prince", he clearly brings out the fact that "the main foundations of all States, whether new, old or mixed, are good laws and good arms. But since you cannot have the former without the latter, and where you have the latter, are likely to have the former. I shall omit all discussion concerning laws and speak only of arms". Machiavelli may...

2 Machiavelli - "The Prince" - translated from Italian by N.H. Thomson - Chapter 12, p. 34.
may have given undue importance to the place and position of the armed forces and their functions but taking into consideration the political condition of the world in which he lived, he was right in assessing the need for force both inside the State and in international relations, since he held the view that in the political world "all armed prophets have been victorious and all unarmed prophets have been destroyed." And Hobbes, in his "Leviathan", has appreciated the need for force in his conception of things when he said "Covenants, without the Sword, are but Words and of no strength to secure a man at all". Thus there can be no social contract according to Hobbes unless there is set up a power excluded from the contract, against whom the contract gives no appeal. Hobbes, therefore, goes on to say "The only way to erect such a Common Power, as may be able to defend them from the invasion of Forraigners and injuries of one another, and thereby to secure them in such sort, as that by their own industries, and by the fruits of the Earth, they may nourish themselves and live contentedly: is to confer all their power and strength upon one man or upon one Assembly of men, that may reduce all their wills, by plurality of voices, unto one Will ...... This done, the multitude so united in one Person, is called a Commonwealth, in Latine Civitas." Thus political theory from Plato to the present day recognizes beyond doubt that the armed forces constitute an essential part of the mechanism of a State.

1 Machiavelli - "The Prince" - translated from Italian by J.M. Robertson - Chapter 12, page 36.
THE IMPORTANCE OF "DEFENCE" IN POLITICAL ORGANISATION.

The State depends for its existence as an independent entity upon its ability both to preserve order within its territories and to protect its citizens against external attacks. "The Governmental business classed as executive", according to Mr. H. Sidgwick, "should include all the measures required for the protection of the interests of the community and its members in their relation with foreigners, especially the organization and direction of the military forces of the State". Sir John Marriott has, therefore, very aptly summarised that "the executive is concerned with the defence of the realm against external or internal enemies, with the maintenance of law and order, and with the performance of such other functions as may be claimed for the State by the Legislature". Again, Alexander Hamilton, while exposing the "vulgar error" that a vigorous executive was inconsistent with the "genius of republican government", has brought out the necessity for "energy in the executive" and has significantly remarked that the same was essential for the "protection of the community against foreign attacks". Hence, in the Constitution of the United States of America, Article IV, Section IV, provides that the Federal Government "shall protect each of them (constituent federating units) against invasion and ..."

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1 Sidgwick, H. "Elements of Politics" - p. 335
2 Marriott, Sir John - "Mechanism of a Modern State".
3 videlicet Federalist LXX.
and on application of the legislature or of the executive against domestic violence". This important function of the Federal Government is discharged by the President by means of the armed forces of the nation. Thus by an Executive Order of the President, the functions of the armed forces include not only the 'defence of the United States against all enemies, foreign or domestic', but also the safeguarding of the 'internal security of the United States'. The importance of this aspect of the function of the State cannot be overemphasised since in several written Constitutions it finds an express mention. For example, even in the Constitution of India, Section 355 prescribes that "it shall be the duty of the Union to protect every State against external aggression and internal disturbance". This important function is performed by the President of India with the assistance of the "Defence Forces" of the Union of which he is in "supreme command" in accordance with Article 53(2) of the Constitution.

To prove that the "Defence function" is an invariable concomitant of an independent sovereign State, General MacArthur's policy statement regarding Japan deserves a mention. The occupation-dictated Japanese Constitution, which in 1951 forbade Japan its armed forces, did not meet with General MacArthur's conception of "self-preservation". In his New Year (1951) message to Japan, General MacArthur said "If international lawlessness continues to threaten peace and to exercise dominion over ...
over the lives of men, it is inherent that you (Japanese) must arm in obedience to the law of self-preservation. By implication, General MacArthur thereby challenged Japan's renunciation of war for ever, as embodied in the Constitution which he had himself approved and which in part was personally drafted by him six years ago. Thus when a political unit is raised to statehood it must have its inevitable adjunct the "Defence Forces" to protect itself. The right to defend is, therefore, not only a function of government but is also an essential attribute of sovereignty.

DEFENCE AS AN ATTRIBUTE OF SOVEREIGNTY.

The ability to defend relates to the very existence of the State and is, therefore, a sine qua non of its independence. This is clearly brought out by the facts of history, as every country rising to statehood or breaking off from another State and becoming independent like India or Indonesia has regarded the right to defend its frontiers as the very essence of its sovereignty. India, in 1942, rejected the famous "Cripps' Offer" because 'Defence' was to continue to be a subject reserved to the Viceroy and Governor General and power in this regard was not to be transferred to Indian hands. Dr. Pattabhi Sitaramayya, in his "History of the Indian National Congress", has very appropriately described the importance which was attached to Defence when Sir Stafford Cripps visited India in 1942. He says "It

1 Sitaramayya, Dr. Pattabhi : History of Indian National Congress : Vol. II - p. 316
"It was no wonder if the subject of Defence held the field during Sir Stafford Cripps' visit to Delhi and gripped public attention exclusively"...
There were aspects of the problem which required to be studied by the public as the literature relating to it "was as yet a sealed book to them".
Dr. Pattabhi goes on to say that "the proposals of the British Cabinet sent up to India for the approval of the parties in the country, did not include the subject of Defence". Nor was it all.
Sir Stafford Cripps stated in the very first press conference held in Delhi that Defence could not be transferred even if all the parties joined in making a united demand in that behalf. That was clinching.
That clinched the decision of the Working Committee of the Congress to reject the Cabinet's proposals".
This indicates the importance which was attached by His Majesty's Government and by the freedom-loving politicians of India to the control over Defence. Without control over Defence there could be no birth of a sovereign, independent India, which goes clearly to establish that the right to control 'Defence' is an attribute of sovereignty. It is when 'Defence' is located outside its frontiers that territory is known as a 'dependency' or a 'protectorate', a 'possession' or a 'colony' or even a 'mandate'. It is now a well-established fact that when the 'Defence' responsibility of a State falls in the hands of another State, the latter is the suzerain and the former ...
The former Indian States were in this sense vassals of Great Britain as the right of "Defence" had been surrendered by agreements and treaties to the Crown which also controlled their foreign policy.

In French Indo-China, the rising nationalism was not satisfied with the transfer of power promised by France so long as it did not include control over "Defence" and "Foreign Affairs". A more significant example is furnished by the recent problem of German rearmament wherein the close connection of Defence with Foreign Policy and the sovereignty of a State is so clearly emphasized. The German attitude that if they were to be armed, they must have something to fight for and hence their status should be raised to that of an equal partner in the North Atlantic Treaty Organisation proves beyond doubt that the right to defend is the very basis of sovereignty and the mainspring of all foreign policy.

Thus 'Defence' has a key function to perform both within and without the State and it is an essential attribute of a sovereign 'International person'. Oppenheim has, therefore, appropriately stated that "armed forces are organs of the State which maintains them, because they are created for the purpose of maintaining the independance, authority, and safety of the State. And in this respect it matters not whether armed forces are at home or abroad; for they are organs of their home state, even when they are on foreign territory".  

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DEFENCE AND FOREIGN POLICY.

Again, control over external affairs has been one of the essential attributes of a fully sovereign State, but foreign policy in its turn is so intimately related to defence considerations that it tends inevitably to be weak or strong according to defence capabilities. In fact one of the well-known maxims of strategy is that what is politically desirable must be equated to what is strategically (Defence) possible. When foreign policy is divorced from basic strategic considerations, the result is more often than not disastrous. This is illustrated by the recent events in Korea. Politically it might have been desirable and even essential to repel aggression and penalise the aggressor, but strategically or from the point of view of Defence, this was not possible once the might of China was dragged into the conflict after the crossing of the 38th Parallel. If the defence capabilities had been properly assessed, the political step might not have been taken. Defence and foreign policy are thus so inter-dependent that it is difficult to say which comes first. It is possible that requirements of strategy and defence would mould foreign policy and it is equally possible that considerations of foreign policy ...
policy may expand or contract the defence mechanism of a State. This is very well brought out by recent American history which has witnessed a remarkable change from isolationism and Monroe Doctrine to Marshall Aid, North Atlantic Treaty Organisation, South-East Asia Defence Organisation and Korean defence. It is a big jump from the principle of seclusion to a trans-continental foreign policy and all this is dictated, rightly or wrongly, by conceptions of basic defence and strategic assessment.

If, therefore, Defence considerations lie at the root of the existence of the State, its sovereignty, its independence as well as the maintenance of internal peace and law and order, as the armed forces provide the necessary sanction for the authority of the government of the day, it becomes necessary to examine the various organs both military and political that help the body politic to perform this important function of Government. As the institution of the Chiefs of Staff Committee at the apex of the military hierarchy becomes the principal instrument of the Executive, the general constitutional position is examined below as a brief introductory to the discussions in Parts II & III.
The Chiefs of Staff Committee, which is the supreme planning and coordinating body responsible for issuing instructions to the Commands and Formations of all the three Services in any theatre of operations, normally consists of three members representing the Army, Navy and the Air Force at the highest level. This is ordinarily the basic composition of the Committee, the members of which are picked from among the most versatile officers of the three Services who have had varied experience both in staff and Command work and who, because of their outstanding career, are chosen as expert professional advisers to the Government of the day. This brief introductory is hardly the place to discuss the principles governing the composition of the Committee or the variations in the same noticed in different countries; nor the nature and functions of different staff systems such as the Prussian or the Hitler model or the UK pattern. This is left for detailed examination in Parts II and III which follow. At this stage it is necessary to indicate the high-powered character of this Committee which is the source of all important policy decisions in peace time and responsible for issue of orders to Commands in modern wars which are generally three-dimensional in character. Its importance in a democracy is the greatest because of the existence of the salutary...
salutary military principle that once a bullet is fired, the man in uniform would only obey another in uniform of a higher rank which raises the problem of how the civil power is to have its orders implemented in the military sphere. This problem is completely answered by the institution of the Chiefs of Staff Committee which may be regarded in one sense as the greatest constitutional triumph of the 20th Century making democracy possible by enabling the civilian wielder of political power to have his orders implemented through the agency of this very institution in the various theatres of war wherever the armed forces of the State happen to be employed. With this background, a brief survey may be made of the constitutional position in (A) Democracies; and

(B) Totalitarian States.

(A) Democracies.

As the armed forces constitute the most powerful weapon of the executive, their control can only be entrusted to the most important organ of the State. By analysing, therefore, as to who controls Defence, we shall be able to locate the real power in the State. Take, for example, the history of the country (England) which gave birth to the Parliamentary form of Government. As long as the Crown wielded unfettered executive power, the control over armed forces remained the exclusive prerogative of the "King's Most Excellent Majesty". When, however, the will of the people triumphed and power passed from the Crown .....
the Crown to its 'consultative oracle', the Cabinet, the control over the armed forces came to be vested in the latter. The position was, however, never so clearly defined as in 1946 when, after World War II, a White Paper (Command 6743) was published detailing the organisation of the new Defence Ministry in the United Kingdom. This Command Paper lays down in Article 20 that "the Prime Minister will retain the supreme responsibility for Defence." There can be no dispute that England has entrusted to the so-called key-stone of the Cabinet Arch (Prime Minister) control over the most potent arm of the executive. Though there is a Defence Minister immediately in charge of defence matters, the ultimate responsibility is nevertheless that of the Prime Minister. The functions of the Chiefs of Staff Committee are expressly described in Command Paper (6743) and this expert professional advisory body has been given the right of access to the Cabinet and the Prime Minister. It is clear from Churchill's works on World War II that he was in constant consultation with the Chiefs of Staff and regarded his contacts with them so vital that he even devised the office of the Chief Staff Officer to the Defence Minister who supplied the very effective fourth wheel of the Chiefs of Staff mechanism in England.

Similarly, in the United States of America, the highest executive power is vested in the President who is also in supreme control of the armed forces. His power in providing for the "Common Defence" of the realm is indeed great because he can even "engage in war" .......
in war" without waiting for the Congress to declare war. Though the framers of the Constitution designed a scheme of checks and counter-checks and vested the "right to declare war" in the Congress, actual practice has shown that from Abraham Lincoln in 1861 to Truman (in Korea) in 1950, the President has exercised the right of "engaging in war" by virtue of his position as the Supreme Commander-in-Chief of the Armed Forces. He too is assisted by the institution of the Joint Chiefs of Staff, a very powerful organisation whose advice is constantly sought by the President in all matters pertaining to strategic appreciation and assessment.

Again, in India, in accordance with democratic principles, the control of Defence is exercised by the Defence Committee of the Cabinet of which the Prime Minister is the Chairman. Thus, here too, there is no divorce between the supreme political power and control over the armed forces. It is true that the President of India is the Supreme Commander-in-Chief of the armed forces but he is merely a nominal head and the supreme responsibility rests with the Prime Minister, who, as Chairman of the Defence Committee of the Cabinet, is vested with effective control over the armed forces. He shares this responsibility with the Cabinet but as Prime Minister he is not only the spearpoint of the Cabinet but that of the nation and the ultimate responsibility, therefore, rests with him. The Prime Minister, in his capacity as the Chairman of the Defence Committee......
Committee of the Cabinet, is assisted by the Chiefs of Staff Committee which has the three Chiefs of Staff of the army, Navy and Air Force as members representing their respective Services.

Similarly, in the Commonwealth countries of Canada and Australia as well as South Africa, the Prime Minister is entrusted with the defence responsibility of the State and he is assisted by the Chiefs of Staff Committee which may be broadly categorised as coming within the organisation of the Defence Ministry of these respective countries.

In France, the President of the Council of Ministers who is equivalent to the Prime Minister is entrusted with functions in respect of military services under Article 47 of the new Constitution. The French President is assisted by a number of Councils such as the Committee of Scientific Activities for National Defence and the Committee for Intelligence Services of which the most important is the Chiefs of Staff Committee. It is through this last-named agency that the President of the Council of Ministers as well as the Minister for National Defence is able to send directives which are obeyed in peace and war throughout the armed forces.

It is significant that none of the members of the Chiefs of Staff Committee are a part of government as such. They may attend an important Cabinet meeting which discusses defence problems, as professional advisers to government, but never as members. This must essentially be the position in every democracy. The recent exception of Pakistan may, however, be cited ......
cited because the Commander-in-Chief and Chief of
the Army Staff has been made the Minister for Defence.
Though in uniform, he attends Cabinet meetings as a
regular member. He also continues to remain a member
of the Chiefs of Staff Committee. This elevation of
a member of the Chiefs of Staff to Cabinet rank
violates the fundamental principle of governmental
responsibility to the electorate and is discussed
later at length. It is sufficient to indicate here
the importance of the subject under study because
though the Chiefs of Staff have no constitutional
position as such, since they are not mentioned in any
written Constitution, they play a very important part
because the exact position assigned to them determines
the nature and character of the State.

(i) The location of Defence in a
written Constitution of the Federal
type.

Again, an examination of the written or
unwritten Constitutions of the world, whether of the
federal or the unitary type, will definitely reveal
that the centre of political power always controls
Defence. In USA, as in India, where the citizen is
subjected to two governments, one at the Centre and
the other in the State, it is one of the basic
functions of the Centre "to provide for the common
defence of the realm." In fact, one of the funda-
mental considerations bringing warring federating
units together, as in the United States of America,
has been to provide for a common defence. The power
to declare war, to raise and support armies and to
provide and .......
provide and maintain the Navy is vested exclusively in
the Centre.\footnote{1} This is the position whether the Centre
is constituted deliberately weak by allowing residuary
jurisdiction to vest in the federating units as in the
United States of America and Australia or it is con-
istituted a strong Centre by vesting it with residuary
jurisdiction as in the Constitutions of India and
Canada.\footnote{3}

The extreme example on the point that a federal
centre cannot be constituted without Defence is furnished
by the Cabinet Mission's Plan of 1946 for the constitu-
tional development of India which included 'Defence'
among the only three subjects assigned to the Centre.

The all-important question, therefore, arises
as to how best this powerful weapon of State machine
is to be controlled and who is to control it.

(ii) The Control of Defence in a
Democratic State.

The army depends upon the State for its creation
and its maintenance. We have located the organ of the
State which must decide upon its size and its disposi-
tion and be responsible for its employment. Yet there
remains always the danger of patricide; the child
of arms which the State has reared may turn and

\footnote{1} Article 1, Section VIII of the USA Constitution.
\footnote{2} Section 51(6) of the Commonwealth of Australia
 Constitution Act, 1900.
\footnote{3} Article 246, Schedule VII of the Indian Constitution.
\footnote{4} Section 51(7) of the British North America Act, 1867.
\footnote{5} The three subjects for the Federal Centre were
(1) Defence; (ii) External Affairs; and (iii) Finance.
read. its creator, unless provisions for its control are devised. Even a single armed force of the State, namely, the army, has the power to coerce the community and impose upon it the form of civil government of its choice. Even England had to experience the rule of the army of Cromwell which is but one of the several examples in history of the enslavement and control of the political system by the army. The so-called dictatorship is only an over-growth of the defence mechanism of the State. A democracy, therefore, has to ensure that every safeguard is provided to keep the armed forces under proper check and control of the will of the people as symbolised by the Parliament of the State.

To start with, the most effective safeguard is to be found innate in the system of Cabinet Government wherein the Prime Minister vested with supreme control over 'defence', is the first born child of the will of the people. He is brought to the top by the responsible electorate of the country and, therefore, supreme power is placed in safest hands. Though his political birth is so plainly popularly based, yet, to safeguard against the danger of his becoming autocratic, his tenure and position, along with that of his Cabinet, are made wholly dependent on the will of the sovereign Parliament. This is true of every democracy where the legislature gives birth to the executive but would not apply to the United States of America where the President is directly born (elected).

In that ....
In that case other methods such as impeachment, etc. have been devised in case the President has to be removed from office for assuming unconstitutional powers.

Moreover, Parliament not only controls the Prime Minister but also the working of the government machine from day to day by exercising an extremely effective financial control. It was in 1689, by the Bill of Rights and subsequently by passing the Army Act, that the Parliament deprived the Kings of England of their supremacy over the armed forces. From that date onwards the Parliament alone could, by voting money, keep the armed forces in existence. The financial control of Parliament is, therefore, the most effective safeguard of democracy. Even though the armed forces constitute a permanent feature of the State, Parliament votes money from year to year thereby sanctioning the maintenance of the armed forces from one period to another. This financial control by Parliament is a major feature of a democracy and is enshrined in written Constitutions of most of the important countries of the world like USA, Canada, Australia, France, India and South Africa.

Again, last but not least important is the existence of the Chiefs of Staff Committee which implements the orders of the civil government in peace and war. It is for the Prime Minister or the President to select his loyal expert advisers as members of ....
members of the Chiefs of Staff Committee whom he can dismiss at pleasure so that through the trusted machinery of the Chiefs of Staff, the supreme civil authority is able to enforce the will of the people even in the military sphere. It is necessary to emphasise that without this last link the supremacy of Parliament over all the executive organs would not be complete. This last link which registered the triumph of democracy was no mean achievement since it was attained after Charles I was executed in England and Louis XVI guillotined in France when at last the power to control the armed forces passed from the crown to the commoner. In the implementation of this transition, the Chiefs of Staff Committee has furnished the necessary instrument by which hitherto inaccessible regions of military administration have come within the purview of effective executive control under the overall supremacy of Parliament.

(b) Totalitarian States and military Dictatorships

In totalitarian countries the dictator personally controls the armed forces and usually assumes the highest military position. For example, in Russia, Marshal Stalin who was the Chairman of the Council of Ministers was personally vested with the supreme power of determining all military affairs although he had a Defence Minister to assist him in the discharge of this all-important function. The same principle appears to have been followed in China too where Mao Tse-tung, in whom all powers are centered, is personally vested with the supreme responsibility of controlling the armed forces of the...
forces of the State. In the previous dictatorships of Germany and Italy, both Hitler and Mussolini had placed themselves in personal charge of the armed forces of their respective countries. However, even when the military machine dominates the civil set-up and a man in uniform becomes the head of the State, the Chiefs of Staff are as important as ever. The only difference is that as the dictator is not responsible to anyone, he can disregard their expert advice according to his whim or caprice. Such was, for example, the case of Hitler who disregarded the expert advice of his Chief of Staff in World War II and ultimately came to grief. The important fact to note is that the institution of the Chiefs of Staff does exist even in totalitarian States whether in Russia of today or in Hitler's Germany or Mussolini's Italy of yesterday.

THE CONSTITUTIONAL PRINCIPLE OF THE HEAD OF THE STATE BEING ALSO THE HEAD OF THE ARMED FORCES.

To elucidate the importance of the 'defence function' of a modern State, it may be emphasised that the head of the State is also the head of the armed forces. Though this constitutional principle is always respected, it is subject to the over-riding consideration that as the armed forces are the most potent arm of the executive it is the most important organ of the State which should control them. The head of the State, therefore, need not always have

* de facto **
de facto control over the armed forces. This aspect is discussed below in detail.

Professor Kraus has very appropriately analysed that there are five possible types of head of State who can be named in the sequence of their importance as follows:

1. The representative head of the State.
2. The head of the State bureaucracy and the armed forces.
3. The guardian of the Constitution.
4. The highest equalising factor in the balance of the State machinery; and
5. The leader of the people.

This classification reveals the various purposes for which the head of the State is constituted. It is significant to note that the heads of the different States fall under one or more of the above-mentioned types according to the particular emphasis which the Constitution places upon their functions.

Though, in principle, the head of the State is the Supreme Commander-in-Chief of the armed forces, a study of the important Constitutions of the world reveals that where the head of the State merely wields de iure authority without any effective power, it is not he but the individual who sits at the pinnacle of political power that exercises real control over the armed forces. A few illustrations will prove this beyond doubt. In England the Queen is the head of the three ...

1 Prof. Kraus: "Crisis of Democracy, 1900", p.171
three Services and is, in theory, the Supreme
Commander. She is also the head of the State. However,
the real political power is vested in the Prime Minister
since by an unwritten convention, the Queen acts only
on the advice and consent of her Ministers.

In the Constitution of USA, Article 2, Section II,
lays down that the President, who is the head of the
State, shall be the Commander-in-Chief of the Army and
the Navy of the United States, and of the Militia of
the several States, when called into the actual service
of the United States. As in USA the head of the State
is not divested of real political power, he is in the
supreme control over the armed forces also.

In Canada, Section 15 of the British North
America Act, 1867, lays down that "the Command in
Chief of the Land and Naval Militia, and of all Naval
and Military forces, of and in Canada, is hereby
declared to continue and be vested in the Queen."
As, after the Statute of Westminster the Queen of
Canada acts on the advice and consent of the Canadian
Ministers responsible to Parliament, the real control
over the armed forces is with the Prime Minister of
Canada who is assisted by a Minister of National
Defence. The head of the State, i.e. the Queen is,
however, the head of the armed forces, in theory.

Similarly .....
Similarly, in Australia and South Africa, the position is the same as in Canada. While de facto control over the armed forces is vested in the Prime Ministers of the respective countries, the Queen of England is, in theory, the head of the armed forces, vide Section 68 of the Commonwealth of Australia Constitution Act 1900, and Section 17 of the South Africa Act, 1909.

In France, by virtue of Article 33 of the Constitution of the Fourth Republic, the President, who is the head of the State, is the "Chef des armées" (Chief of the Armed Forces). However, in accordance with Article 47 of the Constitution, the President of the Council of Ministers, who is the counterpart of the Prime Minister in the United Kingdom, is responsible for National Defence to the French Parliament. The President of the French Republic does not, therefore, have the supreme control over National Defence as has the President of the United States of America, but he wields probably slightly more power than the President of India. This is because the French President presides over not only the Board of National Defence but also the Comité de la Défense Nationale which is equivalent to the Defence Committee of...

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1 Section 68 Commonwealth of Australia Constitution Act, 1900, reads as follows: "The command in chief of the naval and military forces of the Commonwealth is vested in the Governor General as the Queen's representative.

Section 17 of the South Africa Act, 1909, reads as follows: "The command in chief of the naval and military forces within the Union is vested in the King of in the Governor General as His representative."
Committee of the Cabinet in the United Kingdom or in India. The President of the Council of Ministers (Prime Minister) is the Vice Chairman of this Committee, whereas in India the Prime Minister is the President of the Defence Committee of the Cabinet. The President of India does not preside over the Defence Committee of the Cabinet as does the President of the French Republic.

In the Chinese written Constitution of 1946, which was discarded by Mao Tse-Tung, Article 35 made the President the head of the State and Article 36 placed him in command of "land, sea and air forces of the whole country".

In modern China, Mao Tse-Tung is the head of the State as well as the Chairman of the People's Revolutionary Military Council which indicates that he is the military head also. The de jure head is not divorced from de facto control over the State as Mao Tse Tung enjoys dictatorial powers in the political affairs of the country, and hence he wields supreme control over the armed forces of the nation as well.

In the Belgian Constitution of 1831, Article 68 provides that "the King commands the forces both by land and sea, declares war, makes treaties of peace, of alliance ...,", while Article 64 lays down that "no decree of the King shall take effect unless it is countersigned by a Minister who, by that act alone, renders himself responsible for it. Thus while de jure control over the armed forces of Belgium with the
with the King, the Minister concerned is vested with de facto authority, so that while the person of the King is inviolable, his Ministers are responsible.

Again, Article 46 of the Polish Constitution specifies that the President of the Polish Republic is also the supreme head of the armed forces of the State but he cannot exercise the supreme command during war. The Minister for War is responsible to the Diet for all acts relating to the command of the forces during the war and for the control over all military matters. Thus while the head of the State is concurrently the supreme head of the armed forces, the actual conduct of military affairs does not rest with him.

The above illustrations prove beyond doubt that the armed forces enjoy a double honour. They are always headed by the head of the State but when he is only a figurehead, it is the most important organ of the State (Prime Minister) which controls them.

Whatever may be the type of the Constitution, whether parliamentary or presidential or a combination of both or even dictatorial, the Chiefs of Staff Committee is linked to the supreme wielder of political power. In a democracy it functions as advising the civil Defence Ministry and its head, the Minister for Defence, and, through him, the Prime Minister with the right of direct access in certain events to the Prime Minister and the Cabinet.
The importance to be attached to Defence in the political programme of a State is a matter of wide controversy. The rival theories are best symbolised by 'welfare' versus 'security'. The post-war modern State is based on the conception of a "welfare State" promising full employment and looking after the health and well-being of the tax-payer which it regards as its first and foremost peacetime duty. Defence of this welfare State is a secondary function attended to the extent that finances permit after the welfare function has been performed. It is argued that in peace-time it would be wrong to place Defence requirements first. It is only when the State is threatened that the change-over of priority from Welfare to Defence takes place and that too with considerable reluctance. However, the recent invention of atomic weapons and the development of air power have considerably modified strategic conceptions. The chief military change lies in the far greater speed of mechanised warfare. To a far greater extent than was true in 1939, a new war - at least in Europe - could be over in an unexpectedly short time. This involves for the democratic countries the most important implication that the period of primary mobilisation should be reckoned as almost nil. There must be standing forces, in place, and on guard in peace-time in a much higher proportion than has ever before...
ever before been practised by the democratic nations of the world. This is a very severe aggravation of the difficulty of defending democracies and brings out the greater importance of building security in peacetime than welfare. It is a question of 'being' before well-being and of 'living' before the standard of living. It is interesting to study the proportion of social to war expenditure in the United Kingdom during the last fifty years and the following figures reveal that in 1949 social services had at last triumphed over the Defence Services.

Social and War Expenditure.
As percentage of national income.

<table>
<thead>
<tr>
<th>Year beginning April 1st</th>
<th>Social</th>
<th>Defence and debt interest</th>
</tr>
</thead>
<tbody>
<tr>
<td>1900</td>
<td>2.1</td>
<td>8.3</td>
</tr>
<tr>
<td>1910</td>
<td>3.1</td>
<td>4.4</td>
</tr>
<tr>
<td>1920</td>
<td>4.4</td>
<td>12.8</td>
</tr>
<tr>
<td>Av. 1920-24</td>
<td>5.7</td>
<td>12.0</td>
</tr>
<tr>
<td>&quot; 1925-29</td>
<td>6.2</td>
<td>11.0</td>
</tr>
<tr>
<td>&quot; 1930-34</td>
<td>10.9</td>
<td>11.9</td>
</tr>
<tr>
<td>&quot; 1935-39</td>
<td>9.9</td>
<td>11.1*</td>
</tr>
<tr>
<td>&quot; 1940-44</td>
<td>8.1</td>
<td>64.8</td>
</tr>
<tr>
<td>&quot; 1945</td>
<td>10.6</td>
<td>59.1</td>
</tr>
<tr>
<td>&quot; 1946</td>
<td>12.9</td>
<td>27.6</td>
</tr>
<tr>
<td>1949</td>
<td>17.5</td>
<td>12.8</td>
</tr>
</tbody>
</table>

* Average of 1935-38

But this triumph of social services appears indeed to be short-lived. There is already a strong feeling that the modern democratic State may or may not be able to survive without spending 17½ per cent of its income on welfare services, but in the present situation of world affairs, it certainly cannot survive without spending enough to defend itself. The United Kingdom had already taken a turn, after the general elections of 1951, towards building up a secure State and the ..
and the welfare aspect was relegated to the second position.

The American theory is that the defence policy of a pacific nation must be conceived in two parts. In the first place it must be designed for peacetime; that is, its object must be to prevent war from breaking out by building up that strength which is necessary to work as a deterrent to any would-be aggressor. In the second place, it must be designed to win a war if it breaks out. These two aspects of policy are closely interlinked, since the conclusive deterrent to an aggressor is the certainty of defeat in an open trial of strength. This inevitably requires considerable war effort in peacetime and we have indeed the unique example of a powerful nation like the United States of America putting its State machine in almost a war gear.

However, under normal peace-time conditions when there is no threat to security, defence has a more balanced function to perform. The acid test provided by the expenditure incurred on the various functions of Government is the best method of assessing the relative importance of government activity. It is, therefore, proposed to examine the extent of military expenditure incurred by the various States of the world when compared with their national income and total Government expenditure. As 1948-49 was comparatively free from fear of war, the figures given below bring out .....
bring out fairly accurately the importance of Defence in the political organisation of a State.

Europe's Defence Provisions - 1948/49 Figures

<table>
<thead>
<tr>
<th>Country</th>
<th>Population</th>
<th>Military Expenditure</th>
<th>Military Expenditure as proportion of National Income</th>
<th>Military Expenditure as proportion of Government expenditure</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td>146.6</td>
<td>14,268</td>
<td>6.4</td>
<td>34</td>
</tr>
<tr>
<td>Canada</td>
<td>12.9</td>
<td>262</td>
<td>2.0</td>
<td>11</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>50.0</td>
<td>3,063</td>
<td>7.6</td>
<td>20</td>
</tr>
<tr>
<td>France</td>
<td>41.8</td>
<td>1,203</td>
<td>4.9</td>
<td>17</td>
</tr>
<tr>
<td>Belgium</td>
<td>8.5</td>
<td>192</td>
<td>3.2</td>
<td>12</td>
</tr>
<tr>
<td>Netherlands</td>
<td>9.9</td>
<td>377</td>
<td>7.7</td>
<td>23</td>
</tr>
<tr>
<td>Italy</td>
<td>46.4</td>
<td>506</td>
<td>6.3</td>
<td>25</td>
</tr>
<tr>
<td>Portugal</td>
<td>8.4</td>
<td>48</td>
<td>4.8</td>
<td>21</td>
</tr>
<tr>
<td>Norway</td>
<td>3.3</td>
<td>83</td>
<td>4.5</td>
<td>17</td>
</tr>
<tr>
<td>Denmark</td>
<td>5.2</td>
<td>63</td>
<td>2.0</td>
<td>14</td>
</tr>
</tbody>
</table>

The above figures indicate that if the mathematics of security were to be calculated on the basis of money spent, Defence will be anything from 1/4 to 1/3 of a State's peace-time functional activity.

Balanced Spending.

In India, the figures disclosed by the statement given below establish the fact that there is a just balance between the percentage of defence expenditure and that on social services. For a vast federal country like India with a long coastline to defend, 20 per cent of the receipts being allotted for defence expenditure is not out of proportion to the need for ...
need for social services for which no less than 30% is allotted. There can be no dispute that for the latter there may be a still greater need as poverty abounds in the country but there is no justification for curtailing defence expenditure since national security is equally important.

An analysis of Central and State budgets in order to ascertain the proportion the Defence Budget bears (a) to the Central Budget and (b) to the Social and Development Services.

(1948-49)

<table>
<thead>
<tr>
<th></th>
<th>Central</th>
<th>Part A</th>
<th>Part B</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>States</td>
<td>States</td>
<td>States</td>
<td>Total</td>
</tr>
<tr>
<td>1. Total Revenue Receipts (in crores)</td>
<td>498</td>
<td>315</td>
<td>97</td>
<td>910</td>
</tr>
<tr>
<td>2. Total Expenditure on Social and Development Services</td>
<td>43</td>
<td>178</td>
<td>49</td>
<td>270</td>
</tr>
<tr>
<td>3. Net Expenditure under &quot;Defence&quot;</td>
<td>181</td>
<td>-</td>
<td>-</td>
<td>181</td>
</tr>
</tbody>
</table>

Percentage of item 2 to 1 8.6 56.5 29.7 (or say 30%)

Percentage of item 3 to 1 36.3 - - 19.9 (or say 20%)

* This covers Part C States.

Collective Defence.

Again, the State has usually found that it is unable to stand alone in the family of nations and additional security has, therefore, had to be sought by the formation of alliances and pacts with its neighbours in one form or another. The League of Nations and the United Nations Organisation, are the two great ...
two great experiments in this field in modern times. However, in the specific field of Defence, the most important collective pact is represented by the North Atlantic Treaty Organisation. The latest efforts made by the European Union to evolve some sort of a federal structure for the defence of Europe is another example of collective effort. After the two world wars, Defence has assumed such gigantic proportions both in money and manpower required to build it and the enormous wastage of both in the event of war, that a solitary nation feels incompetent to perform this function unaided. The inevitable result has been the keen urge towards organisation of collective defence but it has been retarded because of the inevitable infringement it involves on a nation's sovereignty. A classic example of this is furnished by Norway which has had a tradition of neutrality going back at least to the period immediately after the Napoleonic wars. She has now become a member of the North Atlantic Treaty Organisation but unlike most other member-nations of this alliance, Norway does not allow foreign North Atlantic Treaty Organisation forces to be based on her soil. This clearly implies that no American, British or Canadian troops or aircraft can be stationed in Norway. Norway has claimed that it would need an amendment to her Constitution if foreign forces were to be....

1 The constitutional 'pundits' have differed as to whether the Norwegian Constitution would need an amendment if North Atlantic Treaty Organisation troops have to be stationed in the country. The relevant Clause in the Constitution reads as follows:

"foreign forces in the service of foreign powers excepting auxiliary troops against hostile attacks, must not be brought into the Kingdom without the consent of the Storting."
to be stationed in the country. There is still a strong distrust in Norway of anything savouring of reduced national sovereignty in the realm of Defence. It is well-known how national parochial considerations have come in the way of the efficient functioning of the North Atlantic Treaty Organisation and the formation of the European Defence Community. The objections of France to the European Defence Community and the viewpoint of UK in this respect are but examples of the fear of nations to pool their defence capacity which amounts to pooling the very essence of their sovereignty. This only further goes to prove beyond doubt that 'Defence' is and has been so cherished a function of Government and such an essential attribute of sovereignty that nations are most reluctant to lose even a portion of it by way of treaties and/or agreement.

The augmentation of the functions of the Chiefs of Staff Committee.

Thus whether Defence is planned individually or collectively, it has been demanding ever increasing attention financially and thereby raising more and more complicated problems for the Chiefs of Staff Committee to resolve.

With the constantly increasing expenditure on Defence by the mighty powers of the world today and the knowledge of the fact that future wars will be three dimensional in character, involving operations on land, sea and air, the need for building the strength of the three Services in their due proportion of importance ......
importance in the context of the defence of the State concerned, has resulted in assigning to the Chiefs of Staff Committee the vital function of recommending to Government the allocation of expenditure between the three Services by settling their competing priorities inter se with a view to achieving the maximum result. This is a task in which the civil machinery of the State has to rely on the expert advice of the Chiefs of Staff.

Again, the 20th century has witnessed the increasing dependence of foreign policy on defence considerations as a result of which the Chiefs of Staff Committee has had to constantly perform the important function of submitting to Government the strategic appreciation and assessments resulting from the complicated moves of nations on the chess-board of world politics. The Chiefs of Staff Committee has a vital role in this respect because the defence possibility of the modern State alters from time to time according to the alliances and pacts which are formed, changing not only the balance of power but also along with it the defence problems and prospects which have to be constantly watched and reviewed. In the formulation of foreign policy of a power like USA, the Joint Chiefs of Staff have, therefore, an important function to perform.

Again, as a peace-time State has to be kept ready for war, the industrial development of a country....
country has to be planned with due regard to the growth of defence industries. The role of each industry in a modern war has, therefore, to be determined in the context of the requirement of each Service which can only be effectively coordinated with the expert advice of the Chiefs of Staff.

Moreover, in all organisations of collective defence, a high-powered agency is required not only to coordinate the competing, if not conflicting, claims of the three Services, but also to attempt at producing an integrated force out of the heterogeneous forces of different nations, probably speaking different languages and even trained in different institutions. Let alone the North Atlantic Treaty Organisation, even a global peaceful organisation like the United Nations has also had to contemplate a military committee (vide Article 47 of the UN Charter) which is but an embodiment of the fundamental concept of the Chiefs of Staff Committee.

These are but a few examples of the ever increasing complex problems which face the national and international planning of Defence and require frequent references to the Chiefs of Staff Committee; thus augmenting its functions and turning it into a veritable consultative oracle of the Cabinet.