

THE EVOLUTION OF THE INDIAN CONSTITUTION.

PART I.

CHAPTER I.

Representative Institutions in ancient India.

1. (a) Representative institutions were not unknown in ancient India. They were not created by any Central authority but were of spontaneous origin. We have abundant evidence in the various ancient texts that such institutions flourished from the Vedic Period. From these texts we find that the 'elective principle' was also prevalent in ancient India. Some instances where the subjects 'elected' their King are referred to.* Not only did the people take part in electing the King, but they also exercised effective control over the King through their assemblies styled 'Samithis', 'Sabhas' and 'Mantra Parishads.'

'Election' in the
Vedic Period.

Thus, the Rig Veda†, Book 10, Hymn 124, Verse 8 says,

“And they, *like people who elect their ruler*, have in abhorrence turned away from Vritra.”

Again, the Atharva Veda†, Book III, Hymns 3 and 4 say,

“Let thine opponents call thee back. Thy friends have *chosen* thee against them. Indra and Agni and all the Gods have kept thy home amid the tribe.”

“The tribesmen shall *elect thee for the Kingship*. These five celestial regions shall elect thee.”

Again, Macdonnel in his “History of the Sanskrit Literature”, reviewing the basis of Vedic society as revealed by the Rig Veda says, “The basis of Vedic society being the Patriarchal family, the Government of the tribes was naturally monarchical. . . . Occasionally, however, *the King was elected* by the districts of the tribe.”

* Mr. K. P. Jayaswal states in his 'Hindu Polity', quoting a passage from the Aitreya Brahmana, that Kingship was, in its origin, elective.

† Griffith's translation.

King-makers are referred to in the following texts :

- (i) The Kings and makers of Kings, troop-leaders, masters of the house, make all the men on every side, oh parna, obedient to my will.

(This verse is addressed to an amulet or charm made of a leaf (parna)).

- (ii) The Sathapatha Brahmana also refers to King-makers.*

(b) All these relate to the Vedic period. During the Post-Vedic period also we have the following evidence :

“ When King Sagara died, the *subjects selected* the pious Amsuman as their King.”

Ramayana, Balakanda, Chapter 42, Verse 1.

“ When Dasaratha wanted to instal Rama as King, he called an assembly of representative people, he formulated his proposal before them and accepted their decision.”

Ramayana, Ayodhyakanda, Chapter 1, Verse 46.

”	”	2	”	15—20.
”	”	3	”	1.

“ After Dasaratha’s death, the officers of the Royal household belonging to the twice born order, and several Rishis, and the counsellors, assembled together and asked Sage Vasishtha *to select a King* from the Ikshvaku Family, saying that Rama and Lakshmana had gone to the forests, and Bharatha and Satrugna were in their maternal grandfather’s house.”

Ramayana, Ayodhyakanda, Chapter 67, Verse 2.

“ King Yayati wanted to instal his youngest son Puru as King, to the supersession of the eldest. The people objected. Yayati assigned reasons and requested the people’s consent, and the people consented.”

Mahabharatha, Adi Parva, Chapter 85.

“ King Prathipa made preparations for installing his eldest son Devapi on the throne. The installation of Devapi was forbidden by the Brahmins, all the aged persons among the citizens, and the inhabitants of the provinces, on account of his skin-disease. Then Devapi’s brother, Santhanu, was made King, with the consent of the people.”

Mahabharatha, Udhya Parva, Chapter 148.

* *Vide* references in Mazumdar’s ‘Ancient India,’ p. 37 *et seq.* King-makers are referred to in Chap. 79, Verse 1 of Ayodhyakanda.

Mr. Dikshithar in his "Hindu Administrative Institutions" says, after referring to the relevant ancient texts,

"The character of ancient Indian monarchy was thus both hereditary and elective. It was elective in the sense that people acquiesced in the choice."

(c) Numismatic and other evidence also support the above contention.

An inscription in Khalimpur, in the Maldah District, Bhagalpur Division of Bengal, says, that Gopala, the founder of the Pala dynasty in Bengal, was elected King by the people.

Inscriptions.

"The glorious Gopala whom the people made King, to put an end to the lawless state of things."

Epigraphica Indica, Vol. III, page 248.

The date of Gopala is the middle of the 8th century A. D.*

An inscription in Kasakudy, near Karaikal, says that the Pallava King Nandi Varman was 'chosen' or 'elected' by the subjects.

South Indian Inscriptions, Vol. II, Part III, page 35.

• Nandi Varman ruled in the 8th century A. D.

In the 'Indica' of the Greek writer, Arrian, we find the following :—

"When a failure of heirs occurred in the Royal House, the Indians elected their sovereigns on the principle of merit."

Greek writers.

McCrinkle's "Ancient India," page 206.

Kautalya's Artha Sastra (written about 320 B. C.) contains references to Mantra Parishads.

Kautalya.

Shama Sastry's translation—Book I, Chapter 15, pp. 29 & 33.

So also do the Dharma Sastras, and also the Ramayana.†

Various South Indian Inscriptions contain references to Sabhas or Assemblies.

Indian Antiquary, Vol. XXIV, pp. 308—9, refers to the Sabha of Kodainallur in Travancore.‡

2. There were also non-monarchical States in ancient India with oligarchical forms of Government. Such institutions were not unknown even in the Vedic Period.

Non-monarchical States in ancient India

* Mr. K. P. Jayaswal in the "Modern Review" of August, 1933, page 139, refers to the establishment of a republic in Bengal and the election of a Sudra as King who ruled for 17 years, and states that this happened some years before Gopala himself was elected King.

† Ayodhyakanda, Chap. 79, Verse 1.

‡ For a full description of these assemblies and also of other assemblies styled 'Paura' and 'Janapada,' vide Jayaswal's "Hindu Polity," Chap. 27 *et seq.*, and Dikshithar's "Hindu Administrative Institutions," pp. 152 to 162.

Thus, we have the following passages which relate to the Vedic period :—

(a) *“ They who themselves were ten-hundred, and who ruled over a thousand men, the Vaithahavyas, were destroyed, because they ate a Brahmin's cow.”*

Ancient Texts.

Atharva Veda, Book V, Hymn 18, Verse 10.

(b) The Aitreya Brahmana VIII (14) contains a passage mentioning that among the Uttarakurus and Uttara Madras, the whole community was consecrated to rulership, and their institutions were called Vairajyas or Kingless States.*

There are references in the Mahabharatha to assemblies or political associations, called Ganas and Sanghas.

Vide Chapters 81 & 107 of Santi Parva.

There were a number of Republican States at the time of Gautama Buddha. The various Buddhist Jatakas, which relate to the 6th and 7th century B. C., contain references to them. Thus Professor Rhys Davids, in his “Buddhist India” says that in those parts of India which came very early under Buddhism, there were “still surviving a number of small aristocratic republics”, and that “the earliest Buddhist records reveal the survival, side by side with more or less powerful monarchies, of republics with either complete or modified independence”, and gives a list of such republics. The most important of these Republics were those of the ‘Lichavis and the Sakyas.’

The following passages from the Indica of the Greek writers, Magasthenes and Arrian which relate to the 4th century B. C., also support the above contention :—

- (i) “At last, after many generations had come and gone, the sovereignty, it was said, was dissolved, and democratic forms of Government were set up in the cities.”†
- (ii) “All the country beyond the Hupanes (River Sutlej) is allowed to be very fertile, but little is accurately known regarding it.....They mention also an aristocratic form of Government consisting of five thousand councillors, each of whom furnishes the State with an elephant.”‡

Kautalya's Arthasastra also refers to a number of these non-monarchical States. This shows that at the beginning of the Mauryan period the whole of Northern India

Kautalya.

* Referred to by Mr. K. P. Jayaswal in his “Hindu Polity”, p. 92.

† McCrindle's “Ancient India”, pp 36 & 37.

‡ McCrindle's “Ancient India”, p. 66.

was studied with these democratic States. This is corroborated by numismatic evidence.* The most important of the States were,

- (1) The Yawdheyas in Eastern Punjab.
- (2) Malawas in Punjab.
- (3) The Arjunyanas in the territory, corresponding to modern Bharatpur and Alwar.
- (4) The Audumbaras in Northern Punjab.
- (5) The Kunindas in the tract between the Bias and the Ganges.
- (6) Vrishnis } also in Northern India.†
- (7) Sibis }

3. The procedure of deliberation in Hindu Republics may also be briefly adverted to. The Buddhist Sangha, according to Mr. Jayaswal, was copied from the Political Sangha. Therefore if we can get at the procedure of either of the two, we would be having a picture of the common type. We have a detailed description of the procedure adopted by the

Buddhist Sangha. Seats were assigned to members.

Deliberation in Hindu Republics. Deliberations were initiated with a motion (gnapti) in these terms :—" Let the venerable sangha hear me."

Then the resolution (pratigna) was moved. The rule of the quorum was strictly observed. It was the duty of the Ganapuraka (the whip) to gather the minimum number of members. Votes (chanda) were taken. Even the absentees gave their votes. A system of ballot voting (salaka) is described. The voting is carried on with the help of voting tickets which were coloured. Sometimes committees were appointed to consider debated questions. Clerks of the House took down minutes of the deliberations and resolutions, without quitting their seats. Jayaswal observes, " This view, captured from the fleeting past, from the distant 6th century B.C., shows clear features of a highly developed stage, marked with technicality and formalism in language, with underlying concepts of legalism and constitutionalism of a most advanced type. This presupposes a previous experience extending over centuries. The gnapti, the pratigna, the quorum, the Salaka (ballot-voting), the procedure of majorities, the reference (to committees), are all mentioned by the Buddha, without any definition, that is, as terms already current."‡

4. The various ancient texts and the South Indian Inscriptions throw a flood of light on the organisation and functions of the ancient representative institutions. A detailed survey of these institutions is not within the scope of this book, but only a passing reference is made to them as part of the historical development and growth of the Indian constitution.

* See Epigraphica Indica, Vol. VIII, pp. 47 & 79.

† For a detailed description of the non-monarchical States in ancient India, *vide* Mazumdar's " Corporate life in ancient India."

‡ " Hindu Polity."

From the time of the Vedic age, the village was looked upon as a unit. The Rig Veda (Book X, Hymn 62, Verse 11 and Hymn 107, Verse 5) refers to the 'Gramani' or the leader of the village. Griffith translates it as 'chief of the hamlet.' The organisation of the village as a political unit is also referred to in the Buddhist Jatakas. The Jatakas distinctly state that the affairs of the village were transacted by the villagers themselves.* The Artha Sastra of Kautalya also refers to the village as a unit. We have the following passages :—

Village organisations.

- (i) "When the headman of a village has to travel on account of any business of the whole village, the villagers shall, by turns, accompany him.

Those who cannot do this, shall pay $1\frac{1}{2}$ panas for every Yojana."

Page 218 of Shama Sastry's translation.

- (ii) "The fine levied on a cultivator who, arriving at a village for work, does not work, shall be taken by the village itself."

Page 220 of Shama Sastry's translation.

These village corporations had judicial as well as executive functions. For example Kautalya refers to the judicial powers exercised by the Headman together with the villagers. The Jatakas and the South Indian Inscriptions also refer to the judicial powers of the Headman.†

The executive functions exercised by the villagers included those now exercised by the Collector, the Police and the Municipal bodies. Some of the Jatakas show that the Headman was expected to collect the revenues on behalf of the king, and to secure the peace of the country with the help of local men. In the Brihaspathi Smrithi, it is laid down that the duties of the village corporation are, 'the construction of a house of assembly, of a water-shed, a temple, a pool and a garden, affording relief to the poor and the helpless to enable them to perform due samskaras or sacrificial acts enjoined by the sacred texts, the excavation of wells, tanks, and damming of water courses.'

The various South Indian Inscriptions furnish the most interesting examples of village organisations. Thus, the 14 inscriptions in the Vishnu Temple at Ukkal, in the North Arcot District, between Conjeevaram and Wandiwash, published in the South Indian Inscriptions, Vol. III, Part I, furnish a very instructive insight into their nature and constitution.

Their purport is thus summarised by Mr. Mazumdar :—

"These prove, beyond all doubt, that the village corporations had reached a very high state of perfection. They were looked upon as part

* *Vide* "Buddhist India" by Rhys Davids, pp. 42—51.

† *Vide* the references collected in Mazumdar's book, p. 64.

and parcel of the constitution of the country, and were entrusted with the entire management of the village. They were practically the absolute proprietors of the village land, including the fresh clearings, and were responsible for the total amount of revenue due to Government A careful analysis of the above inscriptions will further show that the corporation practically exercised all the powers of a State over its narrow sphere of activity."

(a) It possessed corporate property which it could sell for public purposes.

(b) It was a trustee for public charities of all kinds, and received deposits of money, land and paddy, under the condition to provide, out of their interest, the things stipulated by the donors, such as

Feeding of Brahmins.

Supplying rice to the God installed in the temple.

Supply of paddy to specific persons.

Maintenance of a flower garden.

Maintenance of boats.

Provision of water and firepans to Brahmins.

(c) The corporation could regulate the market, and assign particular places for the sale of particular commodities.

(d) It could impose taxes.

The executive machinery of these village corporations was the general assembly of the villagers. These assemblies discharged their duties through committees elected from year to year. Some of the

Election of Village Committees. South Indian Inscriptions refer to the procedure adopted by these assemblies for the election of the committees. I give below some extracts from an inscription at Uttaranallur, a village in the Chengleput District, just to show that their method of elections compares very favourably with the system now prevalent.*

5. The village was divided into several groups corresponding to the present wards, and one person for each one of the wards was to be elected. The qualifications for a candidate were prescribed with the greatest detail. Among others, an age limit was fixed, and property qualification was fixed. If the candidate did not own sufficient property, but if he had a prescribed degree of education, he was eligible. The disqualifications of the candidate were also prescribed in great detail. Everyone living in the village, (probably only adults), was entitled to vote.

* Government Epigraphist's Report, 1899, page 23 and also South Indian Inscriptions, Vol. II, Part III. See also Mazumdar's "Corporate Life in ancient India" and Mukherji's "Local Government in ancient India."

The names of the candidates are written in a ticket. A pot is procured for each ward, and the tickets containing the names of the candidates, are put in the pot pertaining to the concerned ward. Then on a specified day, the pot tickets are opened in the midst of a full meeting of the assembly, and in the presence of the temple priests. The eldest of the priests will stand up and lift an empty pot so as to be seen by all present. A young boy is asked to hand over to the standing priest one of the pots containing the tickets. The contents are transferred to the empty pot and well-shaken, and the young boy is asked to pick out one ticket. All the priests present read the name on the ticket openly, and the name thus read out shall be deemed to be chosen for that ward.

Out of the persons thus chosen for the several wards, several committees were elected. In some committees, persons who have already served in the committees for the previous year, and those advanced in age and learning, were elected members. In others, the members were chosen after an "oral expression of opinion," corresponding to the present system of election by show of hands.

Each one of these committees was entrusted with the discharge of specific functions. For example, the 'Tank Committee' concerned itself with the preservation and maintenance of public halls, temples, tanks, rest-houses and wells, and construction of tanks and wells. The Garden Supervision Committee looked after the maintenance of roads. Similarly other committees discharged other functions.

The elaborate rules laid down for the election of these committees, most strikingly demonstrate the ultra democratic character of these village corporations.

6. Not only did each village constitute a separate corporate unit, but, as the several inscriptions show, there were unions of several villages. For example, inscription No. 12, out of the 14 inscriptions of the Vishnu Temple at Ukkal already referred to, **Unions of vil-** refers to the village assembly assigning one of the **lages.** villages within its jurisdiction to the temple, for the requirements of worship there. Again, the following words found in the inscription of King Nandivarman, discovered in Udayendram, a village in the Gudiyattam Taluk of the North Arcot District, clearly shows that there were unions of villages :—

"We the inhabitants of these two villages, (the names of the villages are mentioned), having joined and having become one, shall prosper as one village from this date."*

* Epigraphica Indica, Vol. II, p. 144.