

But vivid distinction  
between legislation  
and administration.



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But the normal situation is that the executive leadership is concerned, as Chester Bernard argued in *Functions of the Executive*, with the determination of objectives, the initiation of policy, the manipulation of the means, control over the instruments of action, and stimulation of coordinated action. The core of political power in modern systems, both developed and developing, lies in the executive organ of government and the administration it serves. Its legislative leadership is unchallengeable both in Parliamentary and Presidential patterns. It initiates guides and pilots legislation in a Parliamentary government. When Cabinet has determined on a policy, the appropriate ministry or department carries it out either by administrative action within the framework of the existing law or submits a new bill to Parliament so as to change the law for the effective implementation of the new policy.

Legislation is the handmaid of administration and Cabinet is the instrument which directs Parliament to action in a certain way and so long as it can command a majority in Parliament it gets the necessary approval. We cannot make a vivid distinction between legislation and administration. “ In modern State,” writes Jennings, “ most legislation is directed towards the creation and modification of administrative powers.” The Cabinet plans the legislative programme at the beginning of each session of Parliament.

Public bills are introduced and piloted in Parliament usually by a Cabinet Minister or by some other Minister acting on Cabinet’s approval. Cabinet is, therefore, the legislative leader and, truly speaking, it legislates with the advice and consent of Parliament. Even the Opposition expects the government to lead the legislature, as the Opposition of today is the

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government of tomorrow. Summing up the leadership of the executive, Ogg maintains that the Cabinet “ formulate policies, make decisions, and draft bills on all significant matters which in their judgment require legislative attention, asking of Parliament only that it gives effect to such decisions and policies by considering them and taking the necessary votes.” In the Presidential system, the President is not merely a chief executive, but he is also the executive. In the presence of checks and balances the legislature considers itself as equal to the executive. But really it is not.

The status and position Of the President is exalted. He has been justly described as a party leader, chief legislator, and general mobilizer of public opinion. The role played by outstanding Presidents of the present century, such as Wilson and Roosevelt, is an accurate description of leadership both in the legislative and executive branches. The President has a direct access into the legislative field through his constitutional powers to send messages, to recommend measures, to summon special sessions, and to veto bills. In addition, he has many other means to supplement his political strategy.

By the use of patronage, “ Jobs could be traded for votes. By effective appeals to the voters through the spoken word, press, radio, and lately television, chief executives have been able to dramatize their programmes and compel consideration of their views” and get them accepted even if the legislature is hostile. The issue of executive leadership is projected in the comparative analysis Harold Laski made about the President. He said that the President of the United States is “ both more and less than a king; both more and less than a prime minister.” The executive, apart from and in addition to its work of suggesting and guiding the process of law-making

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through the legislative assemblies, also acts as a legislature when it issues Decrees, Ordinances, Rules, Regulations and Orders.

The power of issuing rules and regulations is exercised in virtue of delegation of a legislative power authorised by the legislature itself. It has now become a normal practice with all legislatures to pass laws in general terms, leaving discretionary authority with the executive to fill in the gaps, and this is tantamount to legislating in fact. In 1931, the Gold Standard (Amendment) Act empowered the Treasury in Britain to legislate for the control of the Exchange. The National Economy Act empowered the King-in-Council to effect reductions, including cuts in salaries, in certain public services. The National Recovery Act, 1933, authorised the President of the United States to organise and regulate the industries, to create new agencies, to make regulations for them, to delegate functions for subordinates, and to do other things deemed necessary to bring about economic prosperity.

The Trade Agreement of 1934 empowered the President to make trade agreements with foreign nations and lower the existing tariff rates by 50 per cent. The extension of services, particularly social services, which has largely caused the growth of executive legislation, has also caused the growth of judicial jurisdiction of the executive. This aspect is rather more serious than is the growth of executive legislation. When the legislature confers a measure of legislative power upon the executive, it takes something away from itself; but when it confers upon the executive a measure of judicial power, it is diminishing not itself, but an organ other than itself.”

Administrative adjudication, as it is called, is the latest addition in the armory of executive powers.

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It may be defined as the process by which administrative agencies settle issues arising in the course of their work when legal rights are in question.

According to Leonard White, “ Administrative adjudication means the investigation and settling of a dispute involving a private property on the basis of law and facts by an administrative agency.” The exact role of the modern executive is reflected in the increased activities of the State.

Planning and active service, the essence of a Welfare State, need unified action that is, anticipating problems and finding solutions for them. This may include gearing the entire life of the nation to maximise production and equalise the channels of distribution embracing controls over prices and wages to check inflation or restore a favourable balance of payment account. It may involve the stimulation of economic growth, development of public works programmes, ownership or sponsorship of industry, reduction of unemployment to the lowest manageable level.

It implies control over taxation and banking loans, over public expenditure and the total volume of expenditure in the community. The State has become increasingly concerned with the extension of education, in all fields of knowledge, not only because this is desirable in itself; but also to provide the supply of competent, well-equipped and specialised man-power to man the complex structure of administration and the various fields of industry and commerce. The “ concert of leadership”, as Herman Finer names it, is now provided by the executive. Emergencies call for quick action in order to maintain the safety of the nation from external attack. Legislatures are not appropriate forums for the discussion of military tactics and strategy. Some decisions must be taken on the basis of confidential information concerning

the might and military capability of the enemy and it is usually not considered expedient to give too many hints to the other side concerning one's own intentions.

The instability of international relations in the modern era had led inexorably to enhanced importance of the military, and consequently also of the branch of government best able to direct the military. Power accumulated in this area has added to the executive's powers in all other regards. The growth of political parties, with rigid organizational discipline, the need for rational action in the interest of the public, and the urgency of dispatch in military and foreign affairs, in brief, have resulted in the shift of leadership in all modern democracies. Executive leadership has, in fact, at all times been essential to the success of government.

But "constitutionalism and constitutional democracy," observes Carl Friedrich, "have been confronted with a most delicate task: how to discover institutional patterns which would provide vigorous and effective action, without allowing those who are called upon to take such action to turn into irresponsible despots."