



MODULE 3

SOVEREIGNTY



SOVEREIGNTY

The word 'sovereignty' is a derivative form Latin word 'superannus', which means the highest authority. Thus, sovereignty means the supreme power of the state. This power separates the state from the other associations and individuals residing in it, and bestows the state with the coercive authority over them. According to Laski, "It is by possession of sovereignty that the state is distinguished from all other forms of human associations."

The concept of sovereignty is as old as the state itself. With the change in the form of the state, the point of view regarding sovereignty also went on changing. Because, there has been difference of opinion among the political scientists regarding the origin and aims of the state, therefore, they have not been unanimous about the sovereignty. Lord Bryce has said that this is the most controversial subject in the history of Politics. In fact, sovereignty is mainly a legal concept and it indicates the supremacy of the state from the legal point of view. By interpreting sovereignty it has been said that this is such a special quality of the state that no limit can be put legally on it except by its own will, nor can any other authority limits its authority. Thus, because of sovereignty, the state has become the supreme association, and, on the other hand, no other foreign authority has any power to issue order to it nor to limit its

authority. This is the legal aspect of sovereignty. When various philosophers discussed political, moral, and popular sovereignty, the main controversy rose about it. In fact, these days, there can be any institution like the king, president or parliament for using the sovereign authority which has the supreme authority for making the laws, issuing me orders and taking political decisions. These orders, laws and decisions are applicable to all citizens and associations. Not only this, if these are disobeyed the sovereign has the unlimited power to punishment.

Though, from legal point of view, sovereignty implies a supreme "Which is used by the sovereign in an unlimited, undivided or Unrestricted manner, yet it does not mean that it can be used arbitrarily. Modern era, no sovereign can use it without reason, against the feeling of justice or against the traditions and custom well established in society.

The history is a witness that the sovereigns who used it.

Arbitrarily, there were struggles against them and efforts were made to take it away from them. Thus, when it is called unlimited and unrestrained authority, the implication is its legal aspect, according to which a sovereign, while taking a decision, issuing an order or awarding punishment, cannot be forced to consult or know the will of any individuals or institution. He has the power to take decisions according to his will or discretion which all persons and institutions have to obey. Definition of Sovereignty

Definitions of Sovereignty

Different writers of Politics have defined sovereignty in different words, but all agree on one point that sovereignty is the supreme power of the state. This is the highest authority. Everybody has invariably to obey the orders. Where there is lack of sovereignty, it can not really be called a state the following are some definitions of sovereignty given by some writers.

According to Bodin "Sovereignty is the supreme power of the state over citizens and subjects unrestrained by the laws.

Grotious says that "Sovereignty is the supreme political power vested in him whose acts are not subject to another and whose will cannot be overridden."

According to Burgess, "Sovereignty is that characteristics of the state by virtue of which it cannot be bound except by its own will or limited by any other power than itself."

Willoughby defines that "Sovereignty is the supreme will of the state."

According to Pollock, "Sovereignty is the power which is neither temporary, nor delegated, nor subject to particular rules which it cannot alter nor answerable to any other power on earth."

Two Aspects of Sovereignty

The definitions of sovereignty given above have laid emphasis on two aspects of it. Internally, it is above all other persons and associations and, from external point of view, it is free from the control of any other state. Both the aspects of sovereignty have been discussed below:

(1) Internal Sovereignty,

(2) External Sovereignty.

(1) Internal Sovereignty. Every individual and association, within the state, has to accept the sovereign power of the state. The human society should obey, by nature, every order of the state. Even the great one has no right to claim superiority over the state. Similarly, no association, religious, political, social or economic has any authority to work against the orders of the state. The power to work within their jurisdiction is given by the state of these associations. Sovereignty itself accepts no restrictions from any corner. Discussing the internal aspect of sovereignty Laski says, "It issues orders to all men and all associations within its area. It receives orders from none of them. Its will is subject to no legal limitations of any kind."

(2) External Sovereignty. The external aspect of sovereignty implies that it is free from every outside control. If the policy of a country is framed because of pressure from any other country, that country cannot be called a state. The questions like as to what should be their foreign policy and the policy regarding war, peace, trade agreements etc., are the questions of the country concerned decision regarding which is taken by itself, keeping its own interest in view. A country doing like that can be called a state. It does not mean that the obedience of international law is a limitation on sovereignty, because on the one hand, it obeys those laws according to its own will, on the other hand, these laws are, similarly, obeyed by all the other countries of the world also. Therefore, to strengthen universal brotherhood these limitations have been accepted by all the countries of their own accord. So, none restrains others.

Different Forms of Sovereignty

Though sovereignty is mainly a legal concept, yet various writers have used it in different ways. Therefore, it is necessary for a student of politics that he should understand every point of view which has been discussed, thus for, about sovereignty, which influence the form and scope of the state. All these aspects and forms of sovereignty have been discussed below :

(1) Nominal or Titular and Real Sovereignty. In the modern states, the sovereignty resides somewhere else and seems to be somewhere else. The nominal or titular sovereignty is with the man who is said to be having sovereignty but cannot make use of it. But that sovereignty is used by someone else in his name. It will be clear from the example of England. These days, in England, constitutional monarchy prevails. There the king or queen is powerless. She has got nominal sovereignty. She cannot use this sovereignty according to her own will, an all work is done in her name. Meaning thereby that the Sovereignty with her is nominal or ornamental. Even today the government of England is called Her Majesty's government. Every law is made in her name. In fact, she is a rubber stamp in the hands of the cabinet, which is used by the cabinet according to its sovereignty is used by the cabinet and the Parliament of England so, the queen of England is a nominal sovereign. Whereas, the cabinet and Parliament, these are real sovereign. This division of sovereignty is available in those countries where the parliamentary government, In India also, the President is the nominal head and the cabinet the Parliament are the real sovereign.

(2) Legal and Political Sovereignty. In country, the legal sovereignty lies with the person or institution who has the full power of framing laws. It can make laws and can give final form of it. The lawyers admit only this sovereignty. In dictatorship, this power is with the dictator, because he himself exercises the power of making laws. Instead of one man, this legal sovereignty may be with a group of persons. These days, in the democratic countries, this legal sovereignty is with the parliaments. The parliament is authorised to make laws with queen in England and with the President in India. So, they are the legal sovereign. According to Garner, "The legal sovereignty is, therefore, that determinate authority which is able to express in legal form the highest

commands of the state, that power which can override the prescriptions of divine law, the principles of morality, and the mandates of public opinion.” Thus, it can be said that in every politically organised society, there is sovereignty which is nurses trained, unlimited, indivisible, original and not-transferable. The command of this sovereign is law which is necessarily obeyed by all men and associations. This command may be even against the moral principles, divine laws or public opinion, This sovereignty is the legal sovereignty of that society. The following are characteristics of that sovereignty:

- (i) This sovereignty is determinate and it lies in any person group of persons.
- (ii) It is organised and definite and it is accepted by law.
- (iii) Legally it can announce the will of the state.
- (iv) It gives result to the people, but they have no right again
- (v) Its disobedience is a punishable crime.
- (vi) It is above divine laws, moral principle and public opinion
- (vii) The lawyers and law courts accept its orders.

In addition to this legal sovereignty, there is sovereignty in the state, and that is political sovereignty. Though this author make laws itself, nor can amend laws, yet the legal sovereignty has to bow before it. It has always this political sovereignty in mind.

Dicey says. “Behind the sovereign which the lawyer recognise. there is another sovereign to whom the legal sovereign must bow that body is legally sovereign, the will of which is ultimately obeyed by the citizens of the state.”

Defining the political sovereignty, Gilchrist writes, “The political sovereignty is sum total of the influences in a state which lie behind law.”

Thus, political sovereignty, in democratic countries, is the will of e people. This will is indicated by newspapers, platform and voting etc. The legal sovereign can not ignore and political sovereignty because if the legal sovereign does not do public welfare, people will dismiss it

Relation between Legal and Political Sovereignty. In fact, legal and political sovereignty are two aspects of sovereignty of the state and not two sovereignties; these are of course, shown separately. In a good government, it is essential that these two aspects of sovereignty must be closely related. According to Ritchi, the problem of a good government is the problem of showing these two aspects of sovereignty rightly related mutually. It is democratic countries that these two aspects of parliament elected by them is legal sovereign. This legal sovereign has to work

according to the will of their electors, i.e., the political sovereign. Till the legislature obeys the will of the people, the relations between the two aspects are cordial and it does more public welfare. If the legal sovereign does not behave according to the will of the people, there will be more possibility of the establishment of a welfare state, because the legal sovereign is elected for obeying the will of the political sovereign. If political sovereign is the master, the legal sovereign is its servant. Establishment of cordial relations between the two is necessary, otherwise, the people will make efforts, in the ensuing elections, to hand over the power to some other persons, so that a welfare state may be established.

De Facto and De Jure Sovereignty

(i) De Facto Sovereignty. The de facto and de jure sovereignty are also differentiated. When a de jure sovereign is thrown out by force a revolution or mutiny, and there is none to replace it as de jure sovereign, the person or persons holding sovereignty in such

Circumstances is called the de facto sovereign. It is not necessary that de facto sovereign, is simultaneously, de jure sovereign also. Discussing the de facto sovereign, Garner says, that a person or group of persons who has the authority to get its orders obeyed by the people, from some time, he is the de facto sovereign. A person who dominates a state by force, he may be a king, self-appointed Council. Military dictator Priest or Prophet, his authority is based on physical or spiritual and not on legality. For example, Cromwell, who established his authority by ending the long Parliament in England, or Napoleon established his rule in France, by ending the Directory sovereign. Similarly in the U.S.S.R., the Bolshevik Revolution of 1917, the communist rule of Mao in China after the rule of Chiang-Kai-Shek, the military rule of Ne Win in military dictatorships in countries like Pakistan are all examples of de facto sovereigns. But a de facto sovereign becomes a de jure sovereign if after, ruling for some time, it gets the recognition of the constitution through elections and after being recognised by the foreign state

(ii) De jure Sovereignty. De jure sovereignty is based on law. It is not based on the physical force of a man or group of men when sovereign's government is on legal basis, he is called a de jure sovereign. He has the legal right to issue orders and to get them obeyed. In fact for a de jure sovereign, it is essential that he should be de facto sovereign also, because if he is dismissed he remains de facto sovereign only. Whosoever becomes the de facto sovereign in his place, he either, after some time, becomes de jure sovereign also or he has to vacate the seat for de jure sovereign.

In fact, de facto sovereign should be de jure sovereign also because it is in this position that it is convenient for him to get his orders obeyed. Normally, a de facto sovereign, after some time, being accepted by the people, becomes de jure sovereign also. A de facto sovereign changes his sovereignty into de jure sovereignty through elections. It gives moral right also to the sovereign to get his orders obeyed by the people and there remains no scope of any revolution or conspiracy by the people in

favour of the previous de jure sovereign. Bryce has said that the power which is based on force only, it is naturally opposed by the people.

Popular Sovereignty

Popular sovereignty means that the final authority lies with the people. In fact, it is originated as a result of the struggle of the people against the kings. Ancient Indian political scientist also were not ignorant about popular sovereignty. The authorities of the Roman Empire also got their power from the people. In the 16th century, popular sovereign we into being to oppose dictatorship. Rousseau, through his theory of general Will, established that the supreme power lies with the people,

This was the basis of French Revolution also. Later on, this theory was accepted in the U.S.A. also. On the basis of this popular sovereignty, Democratic governments were established, When all the adult persons .A country vote in the elections or make the laws themselves, the popular sovereignty is said to be present there. According to Ritchi, During the elections, people use their supreme power directly. According to Dr.Ashirvatham, "In actual practice popular sovereignty seems to mean nothing more than public opinion in time of peace and the might of revolution in the case of conflict."

0.2. Define Sovereignty and discuss its characteristics. What are its different types?

What do you understand by Sovereignty? What are the different kinds of Sovereignty? Explain.

Ans. Definition of Sovereignty

Derived from the Latin term Superanus meaning supreme, sovereignty of the state means the supreme power of the state beyond which no other power exists. The concept of sovereignty has been viewed and desined by scholars differently.

Grotious defined sovereignty as "the supreme political power vested in him whose acts are not subject to any other and whose will cannot be overridden."

Bodindesines sovereignty as "the supreme power of the state over citizens and subjects, under strained by law."

According to Jellinek sovereignty is "that characteristic of the state in virtue of which it cannot be legally bound except by its own will, or limited by any other power than itself. ugit considers sovereignty as "the commanding power of the slate; it is the will of the Dnation organised in the state; it is the right to give unconditional orders to all individuals in the territory of the state."

Willoughby describes sovereignty as "the supreme will of the state."

Pollock defines it as, “the power which is neither temporary nor delegated nor subject to particular rules which it cannot alter.”

Characteristics of Sovereignty

A perusal of the various definitions of sovereignty indicates the following characteristics of sovereignty:

1. Absoluteness- Absoluteness of sovereignty means that there is legal power within the state or outside the state superior to it. The authority of the sovereign is not subject to any internal or external limitations. Internally it is supreme over all the individuals and groups within its jurisdiction. Externally it is free to pursue any policy without any interference from any outside authority. It is a different matter that the authority of the sovereign is subject to certain internal as well as external limits, but these limits are self-imposed. For example, internally the authority of the sovereign is limited by the constitution and laws enacted by it. Similarly, externally to sovereign subject to international law. But these limitations are not legal limitation sovereignty and are accepted by the state due to practical consideration

2. Permanence – The sovereignty, like the state, is permanent does not come to an end with the death of a ruler or the change of a particular system of government. It lasts as long as the state exists. Emphasising the permanent character of sovereignty Justice Sutherland of U.S.A. said : “Rules come and go; governments end and forms of government change; but sovereignty survives. A political society cannot endure without a supreme will somewhere. Sovereignty is never held in suspense.” The sovereignty does not come to an end with the death of a particular bearer or the reorganization of the state. It immediately shifts to the new bearer in the same manner as “the centre of gravity shifts from one part of a physical body to another when it undergoes external change.”

3. Universality- This characteristic of sovereignty implies that all the persons and associations falling within the jurisdiction of the sovereign are subject to its authority and do not fall beyond its control. No person or association can claim exemption from its authority as a matter of legal right. It is a different matter that the foreign diplomatic envoys are exempted from the laws of the state and are governed by the laws of their own state even while they are posted in a foreign country. This concession is extended to them as a matter of international courtesy and the state reserves the right to deny them this privilege. Further, in return for this concession extended to the foreign envoys the envoys of the state posted in other countries get similar concession: This concession extended by the state does not in any way legally rest the sovereignty authority of the state.

4. Inalienability- Sovereignty is inalienable and no state can relinquish it without jeopardizing its existence, the sovereignty is the very essence of the state. A state may transfer a part of its territory to another state, but it does not in any way mean alienation of some surrenders its sovereign rights over that part of the territory without destroying

its sovereignty. Prof, Leiber has rightly observed Sovereignty can no more be alienated than a tree can alienate its right out or a man can transfer his life and personality without self-destruction.”

5. Exclusiveness – The sovereign power is the exclusive prerogative of the state and is not shared by it with any other authority or group. In a state there can be only one sovereign who can legally compel obedience from all persons and associations within its territorial jurisdiction. to conceived of more than one sovereign within a state to Deny the unity of the state and admit the possibility of an imperium in imperia, which is a self-contradiction.

6. Indivisibility – The sovereignty is indivisible and there cannot be more than one sovereign. in a state. According to Calhoun, “Sovereignty is an entire thing to divide it is to destroy it. It is the supreme power in a state, and we might just as well speak of half a square or half a triangle as of half a sovereignty.” Prof. Gettell also says that “the concept of divided sovereignty is a contradiction in terms. If sovereignty is not absolute no state exists; if sovereignty is divided, more than one state exists.” Certain scholars hold that sovereignty can be divided and have probably the example of American Federation in their mind in which the national government and the states are sovereign within the sphere reserved for them by the constitution. But, this is not division of sovereignty. As Gettell puts it, “What is divided in federal system is not sovereignty, which resides as a unit in the state as a whole, but the exercise of its various powers, which are distributed in accordance with a constitutional system among various, governmental organs.” Tickner Curtis clarifies this point thus “there cannot be two supreme powers in the same community, if both are to operate on the same objects. But there is nothing in the nature of political sovereignty to prevent powers from being distributed among different agents for different purposes.”

Kinds of Sovereignty

After examining the meaning and characteristics of sovereignty it is desirable to have an idea about its kinds.

(a) Internal and External Sovereignty- In the first instance, the political scientists draw a distinction between internal and external sovereignty. Internal sovereignty means the power of the state to enforce laws within its territorial limits. It can issue commands and enforce obedience from **persons and associations within its jurisdiction**. There are no legal limitations on its authority in this regard. The external sovereignty, on the other hand implies the freedom of the state without outside restrictions in the external sphere. If the state accepts certain limitations of international law or accepts other obligations under some international treaty, it does not in anyway constitute a limitation on its authority in the external sphere. Such limitations are accepted by the state due to practical considerations and do not constitute legal limitation on the authority of the state.

(b) Nominal and Real Sovereignty-Sometimes a distinction drawn between the nominal and real sovereignty. This distinction is generally found in countries that have a democratic system of government but are still ruled by hereditary monarchs. For example in Great Britain the sovereignty still resides in the king, even though he has ceased to exercise real authority and has become a symbol of the state. The real authority is exercised by the Council of Ministers, although even now all the actions are taken in the name of the king. This changed position of the British monarch has been brought out by Prof. Lowell thus, "According to early theory of the constitution the ministers were the counsellors of the king. It was for them to advise and for him to decide. Now the parts are almost reversed. The king is consulted, but the ministers decide. In short, in Britain the king is the nominal sovereign while the real sovereignty rests with the council of Ministers."

(c) De Facto and De jure Sovereignty- Distinction is also drawn between de facto and de jure sovereignty. De facto sovereignty means sovereignty in fact. This means the sovereign whose authority is actually acknowledged by the people even though he does not enjoy any legal or constitutional basis. His authority rests on the fact that he is able to force the people to obey him. In the words of Lord Bryce, "The person who can make his or their will prevail whether according to the law or against the law, he, or they, is the de facto ruler, the person to whom obedience is actually paid."

On the other hand the de jure sovereign has its foundations law. It is the sovereign which is recognised by the law or the constitution of the country and is vested with necessary authority to govern and command obedience. The real sanction behind the de jure sovereign is not actual force but legal sanction. Quite often a person who enjoys de facto sovereignty is able to gain recognition as de jure sovereign because in the course of time people tend to develop the habit of rendering to such a sovereign. In other words illegal might can in course of time become legal right. It may be noted that distinction between the de facto and the de jure sovereignty comes into play only when a revolution takes place in a country or military conquers or annexes it. For example, after the First World War de facto Governments were set up in Russia, Austria, Hungary and Germany. Similarly during the Second World War Hitler emerged as de facto sovereign in the various States of Europe, which were over-run by the German forces. However, the Allies, recognized the rulers of these countries (Greece, Norway, Belgium etc.) as de jure sovereigns, even though they had been dethroned by Hitler.

(d) Legal and Political Sovereignty – Again distinction is drawn between the legal and the political sovereignty. Legal sovereignty means the body which enjoys supreme-law making powers in the state. The legal sovereignty may be a single person or a group of persons, who enjoy the authority to issue commands of the state. This body also enjoys the power to override the prescriptions of divine law, the principles of morality and mandates of public opinion. The decrees of the legal sovereignty are accepted as binding and applied by the courts of law. Even the rights enjoyed by the citizens of a state emanate from the legal sovereignty and are enforced by it. The legal sovereignty grants rights to the citizens and can take them back as and when it

desires. The lawyers and the law-courts recognise only the legal sovereignty. As Ritchie has put it, "The legal sovereignty is the lawyer's sovereignty, the sovereignty beyond which lawyers and courts refuse to look." The legal sovereignty has following features :

- It is definite, determinate, organised, precise and known to laws,
- It alone has the power to issue final commands in the shape of law,
- Disobedience of the commands of the legal sovereignty is visited by punishment.
- All legal rights emanate from the legal sovereignty, which can withdraw them at will.
- The legal sovereignty enjoys absolute unlimited and supreme authority and is not subject to any control within the state.

The legal sovereignty in Britain resides in King-in-Parliament. Legally no person can override or derogate from an act of Parliament.

On the other hand in countries like U.S.A. the legal sovereignty consists of the combination of authorities that have the power to amend the constitution

"Behind the legal sovereignty, there is another sovereignty, before whom the legal sovereignty must bow." This sovereignty is the Political Sovereignty. For example the Queen-in-Parliament is the legal sovereignty, but it can never go against the wishes of the electorate which constitute the political sovereignty. According to Prof. Gilchrist the political sovereignty is "the sum total of influences in a state which lie behind the law." Similarly, Dicey says, "that body is politically sovereign, the will of which is ultimately obeyed by the citizens of the state." However, it is not an easy task to locate the political sovereignty. Prof. Leacock rightly says, "the more one searches the political sovereignty, the more it seems to elude one's grasp." While some scholars identify the political sovereignty with the electorate, the others equate it with the whole mass of the people, the public opinion, the general will, etc. All these views are only partially correct and cannot be accepted in its entirety. In view of the difficulty in the location of the political sovereignty some scholars have preferred to abandon the concept altogether. For example, Prof. Gettell says that any attempt to find a political sovereign at the back of the legal sovereignty destroys the value of the entire concept and "reduces sovereignty to a mere catalogue influence." The political sovereignty may not be determinate and organised but it none-the-less influences the legal sovereignty. According to Gilchrist the legal and political sovereignty are aspects of the one sovereignty of the state. They constantly react on each other. In direct democracy they coincide but in representative democracy the legal sovereignty belongs to the legislature whereas the political sovereignty belongs to the electorate. In a true representative democracy the legal sovereignty should manifest the will of the political sovereignty. In the words of Gettell "Legal and political sovereignty should

be different manifestations of the same sovereignty through different channels.”

(e) Popular Sovereignty – Popular sovereignty means that the ultimate authority rests with the people in their corporate capacity. It is considered as the basis and watchword of representative democracy. The concept of sovereignty can be traced back to the times of the early Rome Empire when it was held that the authority to the common wealth is derived from the corporate power of the people. In the modern times the concept of popular sovereignty and which the people in their collective capacity became sovereignty and continue to remain so. The growth of democracy in the nineteenth century provided a further impetus to this doctrine. But the concept is quite difficult to define. In view of this difficulty Prof. Garner says, “Unorganised public opinion, however powerful, is not sovereignty unless it is clothed in legal form, no more so than the informal or unofficial resolution of the members of a legislative body is law.” Again it has been argued that the concept of ‘popular sovereignty’ is an obstruction because sovereignty has to be exercised through persons or institutions. The concept of sovereignty in the sense of ‘sovereignty of the people in a corporate capacity is abstract and philosophical and has no practical existence or a practical utility.” Despite these limitations, it cannot be denied that the concept of popular sovereignty has immensely contributed to the study of political theory. It has asserted that the government exists for the good of the people and if the wishes of the people are deliberately ignored there is the possibility of a revolution. It has also emphasized the need of properly channelizing the public opinion and responsibility of the government towards the people through periodical elections etc.”

Q. 3. Discuss Nature and Characteristics of Legal Sovereignty. Ans. Nature and Characteristics of Legal Sovereignty

It is not difficult to understand its characteristics, after discussing its various definitions and the two aspects. The characteristics are as follows :

(1) Originality. It means that sovereignty is an original power. It neither depends on any one else nor has it been taken from any one. It exists by itself. Wherever sovereignty resides, that is sovereign, not anyone else,

(2) Absoluteness. Absoluteness is one of its qualities. It controls all the individuals and the associations. It frames laws, may repeal them and may amend them. These laws are applicable to all the citizens of the state. Those who disobey them are punished. In spite of all these facts, the sovereignty is above these laws. Many writers have opposed the idea of the absoluteness of sovereignty. They say that there are various restrictions on sovereignty and these regularise its limits. According to them, there are restrictions on sovereignty because of natural or divine rules, principles, traditions, customs, international laws etc. Bodin also mentions the natural or divine rules as restrictions on sovereignty. He has said that the sovereign can neither take the personal property nor break the contracts. Bluntschli also feels that the sovereignty is limited by human principles, permanent decisions and the rights of the citizens. According to Henry Maine, the sovereign cannot go against the tradition, customs. According to Laski, international laws have restrained the sovereign power.

The above given point of view about sovereignty is not reasonable because, legally, these limits do not actually restrain sovereignty. If it accepts them, it is because of its own will, not because of outside pressure, but it accepts them, on moral grounds, according to its own will. The acceptance of international laws is based not on outside pressure, but the idea of the welfare of the mankind. Thus, the characteristics of absoluteness is present there. The sovereign, by its own will, accepts various restrictions.

(3) Permanence. The change of governments has no effect on sovereignty because it is permanent. The king may die, he may run away or he may abdicate, the sovereignty goes on. "The king is dead, long live The King," also proves this fact. Sovereignty is an essential element of the state. Therefore, till the state is, the sovereignty is there. It is when the state ends, that the sovereignty also ends. If the sovereign dies or the government changes, the sovereignty does not end. According to Garner, "It does not end with the death or temporary dispossession of particular bearer, as the centre of gravity shifts from one part of a physical body to another when there is an external change."

(4) All comprehensiveness of sovereignty implies that it covers every territory, everything and the people and has control over all of them. None is out of its control. The only exceptions are those who have been left out of its control, by its own will, e.g., foreign embassies, heads of foreign states, foreign army etc. This exception does not affect the sovereignty of the state because it is done because of international courtesy

(5) Inalienability. Sovereignty is not alienable from the state. Sovereignty is the life of the state. Just as, if the soul leaves the body and the individual dies, similarly, if the sovereignty leaves the state, it will die as a state. Lieber says that "Sovereignty can no more be alienated than a tree can alienate its right to sprout or a man can transfer his life or personality without self-destruction."

(6) Indivisibility. Sovereignty can not be divided. This is a political fact. Division of sovereignty ends it. If there are two sovereign authorities in a state, those will be called two states. Sovereignty may lie in the organs of the state but it does not mean that it has been divided. According to Gettell, "A divided sovereignty is a contradiction in terms." The idea of indivisibility of sovereignty has not been accepted by the Pluralists and the federalists. According to them, sovereignty is divided and it is used from different centres. Pluralists consider the state as an association among the many, associations existing in the society. Therefore, they say that all the associations in a society use sovereignty. Thus, the sovereignty is divided among the many associations in which the state is included. On the other hand, the Federalists hold that, in a Federation, sovereignty is divided between the centre and the units, because it is equally used at both the places. At the time of the formation of the constitution of the U.S.A. the theory of Dual Sovereignty was used by writers like Hamilton and Madison and declared that the centre and the units, both had sovereignty. The Supreme Court of the U.S.A. had accepted this theory of dual sovereignty.

The point of view about sovereignty given above is misleading. Whatever power the Pluralists may give to the other associations, the state controls them all. On the other hand, the federalists talk of dual sovereignty, but they forget that, not sovereignty, but the power of running the administration is divided between the centre and the units. Criticising the idea of dividing the sovereignty, Calhoun says, Sovereignty is an entire thing; to divide is to destroy it. It is the supreme power in the state and we might just as well speak of half square or a half triangle as of a half sovereignty.”

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