**Question: Explain the features of British judicial system.**

**Answer**

**Introduction**

The British judiciary is one of the most renowned judicial systems in the world. Britain has an impartial, well organized and independent judiciary. It has been working as a guardian of the rights and liberties of the people. It has its unique organizational pattern along with some exceptional features not to be found anywhere in the world. The impartial and quick delivery of justice provided by the British judiciary has made it a model judicial system in the world. The salient features of the British judiciary can be discussed under the following heads-

**Features of the British judiciary**

1. **No single form of organization:** One of the most important peculiarities of the British judiciary is the absence of any single uniform organization of judiciary all throughout the country. While the judicial systems of England and Wales are almost similar, the guiding principles, procedure and organization of judiciary in England, Scotland and Ireland differ from one another. Each of these three systems has its own distinctive characteristics. It is only after the passage of the Judicature Acts of 1875-76 (as amended in 1925) that a well organized system came into being.
2. **Absence of administrative courts:** Unlike France, United Kingdom does not have separate administrative courts. In France and some other continental countries there are two types of law i.e. ordinary law and administrative law and accordingly there are two types of courts- ordinary courts and administrative courts. The ordinary courts are for general citizens and the administrative courts are meant for government officials for certain acts committed by them under official capacity. But in the United Kingdom, under the provision of the Rule of Law, all British citizens are equal in the eyes of law and so there is no provision for separate court for the government officials or governmental matters. All cases are taken into account by ordinary court.
3. **Two categories of lawyers:** There are two types of lawyers in Britain to deal with the case- the Barristers and the Solicitors. A case is prepared by the Solicitors and is taken by the Barristers to the court. The Barristers have the exclusive right to plead in the higher courts. The Solicitors on the other hand have to interact with the client, make case for them and also need to appear in the county and magistrates’ courts on behalf of the client.
4. **Absence of judicial review:** Supremacy of the Parliament does not allow any scope for judicial review for the courts. Parliament is supreme and is beyond any judicial review. The courts are not allowed to declare any law passed by the Parliament as ultra vires. The courts cannot declare any law of the Parliament as unconstitutional even if it breaks some provisions of the Magna Carta, Petition of Rights, or any earlier Act of the Parliament. But they can review delegated legislation just to see that these are according to the statutes of the Parliament.
5. **Bifurcation between civil and criminal cases:** In Britain civil and Criminal cases are heard separately in separate courts. A criminal case is counted as a case between the crown and the accused, where the latter is charged with crimes like theft, murder etc. i.e. all kinds of activities that violate certain law of the land. A civil case is a dispute between two persons, groups, or institutions over property, breach of contract and the like
6. **Jury system:** The jury system is a special feature of the judicial system of Britain. The accused has the right to demand for a bench of jurors to decide his or her case in all British courts except the lowest and the highest court. Jurors are selected from the local area itself but they must not be related with legal practice. Barristers, judges, doctors, clergymen, commissioned officers, peers cannot act as jurors. The lawyers defending the accused can object to the name of not more than seven jurors without assigning any reason. It is obligatory for the jurors to attend the meetig whenever they are called for the same except on some medical ground. The number of jurors in the jury bench of England and Wales is 12, whereas for Scotland it is 15. In England the jurors have an unanimous decision, whereas in the case of Scotland it must be a majority decision. In the failure of the decision, the judges will form a new jury bench for hearing the case. The concerned judges always listen to the views of the jury bench in deciding the case. Jury system is a successful system and the jurors have been playing their role in the adjudication process in a most fearless and Impartial manner over the decades.
7. **Independence of judiciary:** In Britain, the judges are provided with statutory security. They are appointed by the Crown from among the middle age group members of the bar. The King appoints them with the consultation of the Lord Chancellor. Thus, the judge need not appease any one. Besides, this security is guaranteed through the provision that a county court is never promoted to High court and though promotion from High court to the Court of Appeal is possible, but it does not add much except a raise in income or dignity. Judges hold office during good behaviour.

**Short Note**

**Rule of Law:**

It implies that every British citizen is equal in the eyes of law. No one can be punished except for some breach of law and that also must be proved in the court. Under the Rule of Law the judiciary is the guardian of all rights and liberties of the British citizen. Many rights like freedom of speech and expression and freedom of worship are guaranteed by convention and usage and enforced by the courts.

Let us now discuss in greater detail the implications of the concept of Rule of Law.

**General Interpretation of Rule of Law**

Rule of Law means the supremacy of law under which all are equal and are amenable to the same law. It implies that no one can be punished unless and until his guilt has been proved. Again, it also means that the government is subject to the Parliament and through Parliament to the people.

**Interpretation of Dicey**

A.V. Dicey has given a classical formulation of the concept of Rule of Law. He interprets it in three ways which can be discussed under the following way-

1. In its first meaning Dicey says “that no one is punishable or can be lawfully made to suffer in body or goods except for a distinct breach of law established in ordinary courts of the land…”. It implies that no one in the United Kingdom can be punished arbitrarily. His or her guilt must be proved in the court. The accused must have the opportunity to have a lawyer of his/her own choice. Judgment should be made in open court and the accused should have the right to appeal in the next higher court. It guarantees security of life, liberty and property.
2. In its second meaning Dicey holds that “not only with us is no man above the law, (but what is a different thing) here every man, whatever be his rank or condition, is subject to the ordinary law of the realm and amenable to the jurisdiction of the ordinary tribunals”. In simple words it means that irrespective of their social and official status all citizens are equal before law and that everyone is amenable to the ordinary court for any violation of the law. That is why there is no separate administrative court for the government officials in Britain.
3. In its third meaning it means that “the general principles of the constitution are…, the result of judicial decisions determining the rights of private persons in particular cases brought before the Courts.” In Britain the rights of the people do not flow from the constitution but from the judicial decisions from the courts.

**Criticisms**

There a number of criticisms leveled against Dicey’s formulation of the Rule of Law. The major criticisms against Dicey’s interpretation are-

1. The King or Queen is above law. He or she cannot be tried in any court of law.
2. It is a myth that everyone in Britain is equal in the eyes of law. There are certain special immunities extended to its public officers.
3. There are certain rights and privileges not available to the ordinary citizen, but to the civil servants such as that they are not to be arrested without the consent of the respective department whereas an ordinary citizen can be arrested at any time.
4. The diplomatic envoys and ambassadors enjoy some special privileges and also immunities. No action can be taken against judges for lapses that might be committed by them during the course of giving judicial decisions.

Though these criticisms are of great importance which Dicey himself accepted later on, the inherent implication of the Rule of Law serves as the guiding principle of the British Constitution. The judiciary in Britain very carefully protects the virtue in it and thus enhances the scope and availability of justice in the country.

**Question: Explain the Growth and Development Political Parties in the United Kingdom.**

**Answer**

**Growth and Development of Political Parties in England**

The question of a political party did not come to the forefront till the Parliament stopped working as an advisory body to the Monarch. The first seed of political party was sown during the Tudor period when the Puritans started behaving as an organized group against the religious toleration shown by Queen Elizabeth I. The Long parliament summoned by King Charles I also depicted a sharp division between the Cavaliers or Royalists and Roundheads or Parliamentarians. The former wanted the expansion of the power of the King while the latter was in favour of shrinking down the powers of the King with the interference of the parliament. The issue of limiting further power of the Monarch led to a division among the members of the parliament. Hence there emerged two groups, known as Whigs and Tories. Whigs wanted reform and cut in the power of the Monarch, while Tories supported Monarchy. Both of these were active during the Glorious Revolution of 1688 wherefrom the sovereignty of the parliament was accepted. This is a milestone in the growth of political party in the United Kingdom as it gave a formal recognition to the country’s political parties.

Throughout the 18th century the Whigs and Tories group remained very active and held power from time to time. Towards the end of the same century, Whigs strongly supported democratic reforms while the Tories wanted to restore Monarchy. After the passage of the Reform Act of 1832, Whigs were named as Liberals and Tories were come to known as Conservatives.

The Labour Movement started to grow after the Industrial Revolution. Thereafter many organizations were formed in the United Kingdom like Social Democratic Federation in 1881, Fabian Society in 1883, and Independent Labour Party in 1893 and they started to assert due labour representatives in the Parliament. For this purpose Labour Representative Committee was set up in 1899 which came to be known as Labour Party from the year 1906.

By the first part of the 20th century, United Kingdom had four parties- the Conservative Party, Liberal Party, Labour Party and Unionist Party. At the beginning the first two parties were prominent, but since 1922 election when the Labour Party got the second largest majority in the House of Commons, the influence of the Liberal Party came down. Since then either the Conservative party or the Labour party has been in power to form the government. Thus bi-party system is prevailing in Britain even though there are some minor parties like Communist Party, Social Democratic Party and so on.

**Question: Explain the silent Features of the British party system**

The major features of the party system of United Kingdom can be discussed under the following heads-

1. **Bi-party system:** A significant characteristic of the British party system is the existence of the two well organized political parties since the 17th century when political parties can be said to have come into existence. Earlier, there was a contest between Conservative and Liberal Party and now the Labour party has come to the limelight by overriding the Liberal party. It is not that there is not a third party in Britain, but these are always insignificant. The Englishmen are more familiar with the two party culture. The role of some minor parties like Social Democratic party, Communist party and now Liberal party is not very significant. The two party system has provided stability and permanence to the political system of Britain. People are now habituated with this bi-party system with the elections centering on a clear contest between the Conservative party and the Labour party.
2. **Extra -Constitutional Entity:** Political parties are extra constitutional growth in Britain. These are not mentioned either in the constitution or any law of the country. Political parties have emerged gradually throughout the history of the British political system.
3. **Highly Centralized Political Party:** In the United Kingdom, the political parties are highly centralized. Each major party has a strong organization both at the national and local levels. Each party has a high degree of leadership and the members of the party follow the party leaders. Members of all the parties follow strict discipline as envisaged by their respective party leaders. The candidates for elections are nominated by the central rather than local units. If a member votes against the wishes of the party he is likely to be expelled from the party.
4. **Moderation and Compromise:** The political parties of Britain are characterized as very moderate in their attitude. Just as the Conservative Party does not comprise only the rich and the business classes, the Labour party has also some other members drawn form sections other than the working class people. All workers do not necessarily vote for the Labour party, nor all businessmen vote for the Conservative party. The Conservatives have liberalized their conservatism while the Labour party has moderated its socialism. Today, the Labour party also supports market economy, free economy and globalization. Even in the House of the Parliament political parties are never aggressive and the opposition party always provides constructive criticisms.
5. **Strong Organizational Structure:** Political parties in the United Kingdom are also characterized by the existence of strong party organizations. There are regular party elections and their inner party discipline is very strong.
6. **Organized Opposition Party:** The opposition party in Britain is also no less important than the ruling party. The organized opposition with its ‘shadow cabinet’ acts as an instrument of control over the ruling cabinet. It has vigilance over the working of the government. It brings into light the omission and lapses of the ruling party. The leader of the opposition is regarded as the next alternative Prime Minister and his views are respected by the ruling government.
7. **Continuity in Operation:** The political parties in Britain remain active in both electoral and political activities throughout the year. As soon as an election is over all the political parties begin to prepare for the next election. In this way they keep a good look at the wishes of the people all the time. This has contributed to the success of the British democracy as an institution that caters for the needs of people for all time.
Besides these, political parties of the United Kingdom are also featured by the absence of political defection, adherence to strict party discipline and also by the absence of deep ideological differences among the parties.