

POLITY PART-I

The British East India Company came to India in 1600, has exclusive right of trading in India under a charter granted by Queen Elizabeth I. The Mughal Emperor, Shah Alam granted 'Diwani' rights to the company after Battle of Buxar. In 1858, after the 'sepoy mutiny', the British Crown assumed direct responsibility for the governance of India. In 1946, a Constituent Assembly was formed for framing of Indian Constitution. However, there are certain events in the British rule that laid down the foundation of our Constitution.

Some important constitutional acts during British rule are as follows:

- **Regulating Act of 1773** - It was first Act by British Government to regulate and control the affairs of East India Company.

Important features of the Act are as follows:

1. It designated the Governor of Bengal as the 'Governor-General of Bengal' and made governors of Bombay and Madras presidencies subordinate to Governor-general of Bengal. Lord Warren Hasting was first Governor-general of Bengal.
 2. It created an Executive council of four members to assist Governor-general and he jointly with four council members called as the Governor-general in council.
 3. It provided for establishment of a Supreme court at Calcutta (1774) comprising one Chief Justice and three other judges. Lord Elijah Impey was the first Chief Justice.
 4. It prohibited the servants of the British East India Company from engaging in any private trade or accepting bribes.
 5. The control of British Government strengthened by requiring the company directors to make public all correspondence on civil, revenue and military matters with Indian authorities before the British authorities.
- **Pitt's India Act of 1784** - The act was named after William Pitt the Younger, Britain's Prime Minister when the act was passed. It was passed by British Government to correct the defects of the Regulating Act of 1773.

Important features of the Act are as follows:

1. It allowed the Court of Directors to manage the commercial affairs but created a new body called Board of Control to manage the political affairs. It resulted in dual control of the British Government and the East India Company.
2. The Company territories in India were for the first time called as the 'British possessions in India'.
3. This act established the British Crown's authority in civil and military administration of its Indian territories. Commercial activities were still a monopoly of the Company.

4. This act made the East India Company directly subordinate to the British Government.

- **Charter Act of 1793** - This Act was passed by British Parliament to renew the Charter of East India Company. It continued the company's trade monopoly in India for another 20 year.

- **Charter Act of 1813** - It was passed by British Parliament to renew the charter of British East India Company for 20 years.

The main features of the Charter Act of 1813 are as follows:

1. It ended company monopoly except trade in tea and with China.
2. This act also grants permission to the missionaries to come to India and engage in religious proselytization.
3. There was also a provision that Company should invest Rs. 1 Lakh every year on the education of Indians.

- **Charter Act of 1833** - It was final step towards centralization in British India.

The main features of the Act are as follows:

1. It made the Governor-General of Bengal as the Governor-General of India and vested in him all civil and military powers. Lord William Bentick was the first governor-general of India.
 2. All the commercial activities of East India Company were closed down. It provided that company's territories in India were held by it 'in trust for His Majesty, His heirs and successors'.
 3. The Governor-general of East India Company was given exclusive legislative powers for the entire British India.
 4. The Charter Act of 1833 attempted to introduce a system of open competition for selection of civil servants, and stated that the Indians should not be debarred from holding any place, office and employment under the company. However, this provision was removed after opposition from the Court of Directors.
 5. Under this act, India's first law commission was set up and Lord Macaulay was made its Chairman.
- **Charter Act of 1853** - This was the last Charter Act passed by the British Parliament.

The main features of this Act are as follows:

1. It extended the Company's rule in India and allowed it to retain Indian territories on the trust of the British Crown. But it did not mention the time period for which the company charter was being renewed.
2. It separated the legislative and executive functions of the Governor-General's Council. It provided for

addition of six new members called legislative councilors to the council.

3. It introduced, for the first time, local representation in legislative council. Of the six new legislative members four were appointed by the local (provincial) governments of Madras, Bombay, Bengal and Agra.
 4. It introduced an open competition system of Selection and recruitment of Civil servants. The Covenanted Civil Service was thus thrown open to the Indians also. Accordingly, the Macaulay Committee on Indian Civil service) was appointed in 1854.
- **Government of India Act of 1858** - This act is government of India because it was enacted in wake of revolt of 1857.

Important features of this Act are as follows:

1. It abolished British East India company and transferred the power of government, territories and revenues of India from East India company to the British crown.
 2. It changed the designation of governor-general of India to that of viceroy of India and the powers of the British crown were to be exercised by secretary of state for India.
 3. A 15-member council is set up to assist the secretary of state.
 4. The secretary of state-in-council as a body corporate capable of swing & being sued in India and in England.
 5. Lord Canning became the first viceroy of India.
- **Indian Councils Act of 1861**- This revolt of 1857 necessitated the cooperation of the Indians in the administration of their country.

Important features of this act are as follows:

1. This act provided that the viceroy council should have some Indians as non-official members Accordingly, Lord Canning nominated three Indians- Raja of Banaras, Maharaja of Patiala and Sir Dinkar Rao.
 2. It initiated the process of decentralization by restoring the legislative powers to the Bombay and Madras presidencies.
 3. It provided for the establishment of new legislative councils for Bengal, North-Western frontier province (NWFP) and Punjab, which were established in 1862, 1866 and 1897 respectively.
 4. This act empowered viceroy to issue ordinances in case of emergencies & when legislature was not in session.
 5. 'Portfolio' system was firstly recognized under this Act. Under this, a member of the viceroy's council was made in-charge of one or more departments of the government and was authorized to issue final orders on behalf of council on matters of his department.
- **Indian council Act of 1892** - It increased the number of non-official members in the central and provincial legislative council by a limited and indirect provision

of election, Though the word "election" was not used in the act. It also enlarged the function of legislative council by giving them the power of discussing budget.

- **Indian Council Act of 1909** - Also known as Morely-Minto (Lord Morley was the then secretary of state for India and Lord Minto was the then viceroy of India).

Main features of this act are as follows:

1. It renamed the central legislative council to the Imperial legislative council & considerably increased its size.
 2. The deliberative functions of the legislative council were enlarged for e.g., members were allowed to ask supplementary questions, move resolutions on the budget etc.
 3. It retained official majority in the central legislative council but allowed the provincial legislative councils to have non-official majority.
 4. For the first time, Indians were associated with the executive councils of the viceroy & governors. Satyendra Prasad Sinha became the first Indian to Join the viceroy's executive council as the law member.
 5. Most important feature of this act was introduction of 'Communal Electorate'. Under this the muslim voters Lord Minto came to be known as the father of communal Electorate.
 6. It also provided for the separate representation of presidency corporations, chambers of commerce, universities and zamindars.
- **Government of India Act of 1919** - The Government of India Act of 1919 was introduced with an objective of gradual introduction of responsible government in India. This act is also known as Montagu-Chelmsford or Montford Reforms (Montagu was the Secretary of State for India and Lord Chelmsford was the Viceroy of India).

Important features of the Act are as follows:

1. This act relaxed the central control over the provinces by demarcating and separating the central and provincial subjects. The Central and provincial legislatures were authorized to make laws on their respective list of subjects. However, the structure of government continued to be centralized and unitary.
2. It introduced scheme of Dual Governance 'Dyarchy' in the Provinces by dividing provincial subjects into two parts-transferred and reserved. The transferred subjects were to be administrated by the governor with the aid of ministers responsible to the legislative council and the reserved subjects were to be administrated by the governor and his executive council without being responsible to the legislative council.
3. For the first time, bicameralism and direct elections in the country is introduced by this Act. Thus, the Indian Legislative Council was replaced by a bicameral legislature consisting of an Upper House(Council of



State) and a Lower House(Legislative Assembly). The majority of members were chosen by direct election.

4. This act make compulsory that the three of the six members of the viceroy's executive council (other than commander-in-chief) were to be Indian.
5. It extended the principle of communal representation by providing separate electorates for Sikhs, Indian Christians, Anglo-Indians and Europeans.
6. Provincial budget was separated from the Central Budget for the first time and railway budget was also separated from General Budget by this Act.
7. It created a new office of the High Commissioner for India in London and transferred to him some of the functions hitherto performed by the Secretary of State for India.
8. Direct elections were first time introduced in the country in the country by granting franchise to a limited number of people on the basis of property, tax or education.
9. It provided for the establishment of a Public Service Commission. Hence, a Central Public Service Commission was set up in 1926 for recruiting Civil servants.

This Act also provided for appointment of a statutory commission to inquire and report on working of the Act after ten years of its coming into force.

Simon Commission- The Government in England announced its decision in November 1927 to appoint the statutory commission under the Chairmanship of Sir John Simon to report on the condition of India under its new constitution. In the commission all the members were British and hence opposed by Indians. Its important recommendations include - abolition of diarchy, extension of responsible government in the provinces, establishment of a federation of British India and princely states. On the basis of this, a 'White Paper of Constitutional Reforms' was prepared and submitted for the consideration of Joint Select Committee of the British Parliament and the recommendations of this committee were incorporated in the Government of India Act of 1935.

- **Government of India Act of 1935** - This act was most important Act towards a completely responsible government in India. It was lengthy and detailed document having 321 sections and 10 Schedules.

Important features of the Government of India Act of 1935 are as follows:

1. This act provided for the establishment of an All-India Federation consisting of provinces and princely states. The Act divided the powers between the centre and units in terms of three lists-Federal list(for Centre with 59 items), Provincial list(for provinces with 54 items) and the Concurrent list(for both with 36 items). While residuary powers were given to the Viceroy.

2. Provincial autonomy was introduced by which provinces were allowed to act as autonomous units of administration.
3. It abolished diarchy and introduced responsible governments in provinces in which the Governor was required to act with advice of ministers responsible to the provincial legislature.
4. This Act divided the power between Centre and Provinces in terms of three lists- Federal lists, Provincial list and Concurrent list. However, this Act did not come into operation at all.
5. Bicameralism was introduced in six out of eleven provinces in Bengal, Bombay, Madras, Bihar, Assam and the United Provinces were made bicameral consisting of a legislative council(upper house) and a legislative assembly(lower house).
6. It further extended the principle of Communal representation by providing separate electorates for depressed classes, women and labour(workers).
7. Adult Franchise was extended to about 10% of total population.
8. It provided for establishment of a Central Bank(Reserve Bank of India) to control currency and credit of the country.
9. It provided for the establishment of Provincial Public Service Commission and Joint Public Service Commission for two or more provinces.
10. It provided for the establishment of a Federal Court, which was set up in 1937.

- **Indian Independence Act of 1947** - The British Prime Minister Clement Atlee on February 20, 1947 declared that the British rule in India would end by June 30, 1948. On June 3, 1947 Lord Mountbatten, the viceroy of India announced the Mountbatten Plan for the transfer of power and partition of India. The plan was accepted by the Congress and Muslim League. Immediate effect was given to the plan by enacting the Indian Independence Act of 1947.

Important features of the Act are as follows:

1. This Act declared India as an Independent and sovereign state from August 15, 1947.
2. It created two independent dominions of India and Pakistan.
3. Till 1947, the Government of India functioned under the provision of 1919 Act only and not the 1935 Act.
4. This act designated the Governor-General of India and the Provincial Governors as the Constitutional heads. It also abolished the office of Viceroy.
5. It assigned dual function to the Constituent Assembly i.e. Constituent and legislative functions.
6. All treaty relations with the tribal areas and the princely states were proclaimed to be lapsed from August 15, 1947.
7. It granted freedom to the princely states to join either Dominion of Pakistan or Dominion of India or to remain independent.



8. It dropped the title of Emperor of India from the royal titles of the King of England.
9. It discontinued the appointment to civil services but allows its members appointed before August 15, 1947 to enjoy all benefits that they were entitled to, till that time.
10. It empowered the Constituent Assemblies of the two dominions to frame & adopt any constitution for their respective nations.

This came into force on August 15, 1947. Lord Mountbatten became the first governor-general of India and Pakistan. Jawahar Lal Nehru sworn in as the first Prime Minister of Independent India. The Constituent Assembly of India formed in 1946 became the Parliament of the Indian dominion.

Members of Interim Government of 1946 with their portfolios

1. Pt. Jawaharlal Nehru - Vice President of the Executive Council, External Affairs and Commonwealth Relations
2. Vallabhbhai Patel - Home, Information and Broadcasting
3. Baldev Singh - Defence
4. Dr. John Mathai - Industries and supplies
5. C. Rajagopalachari - Education
6. C.H Bhabha - Works, Mines and Power
7. Rajendra Prasad - Food and Agriculture
8. Asaf Ali - Railways
9. Jajjivan Ram - Labour
10. Liaqat Ali - Finance
11. TT Chundrigar - Commerce
12. Abdur Rab Nistar - Communication
13. Gazanfar Ali khan - Health
14. Jogendra Nath Mandal - Law.

First Cabinet of Free India (1947) with their portfolios

1. Pt. Jawaharlal Nehru - Prime Minister, External Affairs & Commonwealth Relations, Scientific research
2. Sardar Vallabh Bhai Patel - Home, Information & Broadcasting, States
3. Dr. Rajendra Prasad - Food Agriculture
4. Maulana Abul Kalam Azad - Education
5. Dr. John Mathai - Railway and Transport
6. R K Shanmugham Chetty - Finance
7. Dr. B R Ambedkar - Law
8. Jajjivan Ram - Labour
9. Sardar Baldev Singh - Defence
10. Raj Kumari Amrit kaur - Health
11. C H Bhabha - Commerce
12. Rafi Ahmed Kidwai - Communication
13. Dr. Shyam Prasad Mukherji - Industries & Supplies
14. V N Gadgil - Works, Mines & Powers.