

# MA SEM-I

## PAPER V: CONSTITUTION AND ADMINISTRATION

### UNIT 1: EVOLUTION OF THE CONSTITUTION OF INDIA

---

The foundation of the Indian Constitution was laid during the British rule. The British who came as traders in the form of the East India Company, gained territorial power over a period of time and laid down a legal framework for the functioning of government and administration of these territories. Thus, it can be said that, though the Constitution of the Republic of India, was adopted and enacted after independence, it has been in the making ever since the British Government took the first step to control and regulate the affairs of the East India Company in India. Various Acts, rules and regulations were made and amended during their rule and became important events in the evolution of the constitution of India. These landmarks can be studied as under:

Constitutional development under British rule can be divided into two phases:

- A. The Company Rule (1773-1858)**
- B. The Crown Rule (1858-1947)**

#### **A. The Company Rule (1773-1858)**

##### **Regulating Act of 1773**

It was the first step taken by the British Government to control and regulate the affairs of the East India Company in India. It laid the foundations of a central administration in India.

- It designated the Governor of Bengal as the ‘Governor-General of Bengal’ and provided for a 4 member executive council to assist him.
- It subordinated Governors of Bombay and Madras presidencies to the Governor-General of Bengal.
- It provided for the establishment of a Supreme Court at Calcutta (1774) with one chief justice and three other judges.
- It prohibited private trade by East India Company.

##### **Pitt’s India Act 1784**

It was introduced by the British parliament to rectify the defects of the Regulating Act. It is also known as the Act of Settlement.

- It placed Indian Affairs under the direct control of the British Government.
- It established the Board of Control (for political Affairs) over, the Court of Directors (responsible for commercial affairs).

### **Charter Act of 1883**

- It made Governor-General of Bengal, the Governor-General of India and all civil and military powers were vested in him.
- It deprived Bombay and Madras presidencies of their legislative powers.
- It ended commercial activities of the East India Company.

### **Charter Act of 1853**

- It separated the legislative and executive powers of the Governor-General's Council.
- Provided for an Indian Legislative Council with 6 members.
- Introduced a system of open competitive examination for civil services.

## **B. The Crown Rule (1858-1947)**

### **Government of India Act of 1858**

This Act was also known as the Act for Good Government of India. It transferred the territories, revenues and governance of India from the East India Company to the British Crown.

- It provided that the government of India will be henceforth ruled by, and in the name of, Her Majesty.
- It provided that the powers of the British Crown were to be exercised by the Secretary of State who was a member of the British Cabinet. He was to be assisted by the Council of India, having 15 members.
- The Viceroy was to be the direct representative of the Crown in India.

### **Indian Councils Act of 1861**

- It introduced representative institutions for the first time in India. It provided that the Governor-General's executive council must have some non-official Indian members while transacting legislative business.
- It restored legislative powers of Bombay and Madras presidencies.
- It gave statutory recognition to the portfolio system.
- It gave the Viceroy the power to issue ordinances in case of emergencies and when the legislature was not in session.

### **Indian Councils Act of 1892**

- Introduced the principle of elections (indirect).
- Enlarged the functions of legislative councils, giving them the power to discuss the budget and address questions to the executive.

### **Indian Councils Act of 1909**

- This Act is also known as the Morley-Minto Reforms (Lord Morley was the then Secretary of State and Lord Chelmsford was the then Governor-General).
- It increased the size of the legislative councils both central and provincial.
- It enlarged the deliberative functions of the legislative councils by allowing members to ask supplementary questions, move resolutions on the budget and so on.
- Introduced the system of communal representation for Muslims (Separate Electorate).

**Government of India Act 1919**

- This Act is also known as the Montague Chelmsford Reforms (Montague was the then Secretary of State and Lord Chelmsford was the then Viceroy of India).
- It demarcated and separated central and provincial subjects.
- Introduced the system of Dyarchy or dual government in provinces. The provincial subjects were divided into transferred subjects and reserved subjects.
- Introduced bicameralism and direct elections for the first time.
- Expanded Communal Electorate to Sikhs, Indian Christians, Anglo Indians and Europeans.

**Government of India Act 1935**

- Provided for the establishment of an All-India Federation consisting of British provinces and Princely States as units.
- Divided the powers in terms of three lists Federal List, Provincial List, and the Concurrent List. Residuary powers were given to the Viceroy.
- It provided for adoption of Dyarchy at the Centre.
- It abolished dyarchy in provinces and introduced provincial autonomy in its place.

**Indian Independence Act 1947**

- It declared India as an independent and Sovereign State.
- It empowered constituent assembly to frame and adopt any constitution
- It assigned dual functions to the Constituent Assembly and empowered it to perform legislative functions.

All these Acts influenced the constitution of India. However, it greatly differs from the constitutional documents of preceding centuries as it was composed by a sovereign constituent assembly and not imposed by an imperial power. Even after independence, the Constitution has been amended time and again (104 amendments till 2020), to fulfil the needs of the state and wishes of its citizens.

Shilpi Tanwar  
27.04.2021