



## **Government of Tamilnadu**

### **Department of Employment and Training**

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# HISTORICAL BACKGROUND

## Introduction:

The British came to India in 1600 as traders, in the form of East India Company, which had the exclusive right of trading in India under a charter granted by Queen Elizabeth I. In 1765, the Company, which till now had purely trading functions obtained the 'diwani' (i.e., rights over revenue and civil justice) of Bengal, Bihar and Orissa. This started its career as a territorial power. In 1858, in the wake of the 'sepoy mutiny', the British Crown assumed direct responsibility for the governance of India.

This rule continued until India was granted independence on August 15, 1947. With Independence came the need of a Constitution. As suggested by M N Roy (a pioneer of communist movement in India) in 1934, a Constituent Assembly was formed for this purpose in 1946 and on January 26, 1950, the Constitution came into being.

However, various features of the Indian Constitution and polity have their roots in the British rule. There are certain events in the British rule that laid down the legal framework for the organisation and functioning of government and administration in British India. These events have greatly influenced our constitution and polity.

## THE COMPANY RULE (1773–1858)

### Regulating Act of 1773

The Regulating Act of 1773 opened a new chapter in the constitutional history of the Company. Previously, the Home government in England consisted of the Court of Directors and the Court of Proprietors. The Court of Directors were elected annually and practically managed the affairs of the Company. In India, each of the three presidencies was independent and responsible only to the Home Government.

The government of the presidency was conducted by a Governor and a Council.

- It designated the Governor of Bengal as the 'Governor-General of Bengal' and created an Executive Council of four members to assist him.
- The first such Governor-General was Lord Warren Hastings.

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- It made the governors of Bombay and Madras presidencies subordinate to the governor-general of Bengal, unlike earlier, when the three presidencies were independent of one another.
  - It provided for the establishment of a Supreme Court at Calcutta (1774) comprising one chief justice and three other judges.
  - It prohibited the servants of the Company from engaging in any private trade or accepting presents or bribes from the 'natives'.

### **Pitt's India Act of 1784**

- It distinguished between the commercial and political functions of the Company.
- 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. Thus, it established a system of double government.

### **Charter Act of 1833**

- This Act was the final step towards centralisation in British India.
- 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.
- It deprived the governor of Bombay and Madras of their legislative powers. The laws made under the previous acts were called as Regulations while laws made under this act were called as Acts.
- It ended the activities of the East India Company as a commercial body, which became a purely administrative body.

### **Charter Act of 1853**

- It separated, for the first time, the legislative and executive functions of the Governor-General's council. It provided for addition of six new members called legislative councillors to the council. In other words, it established a separate Governor-General's legislative council which came to be known as the Indian (Central) Legislative Council.
- 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.

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- It introduced, for the first time, local representation in the Indian (Central) Legislative Council. Of the six new legislative members of the governor-general's council, four members were appointed by the local (provincial) governments of Madras, Bombay, Bengal and Agra.

## **THE CROWN RULE (1858–1947)**

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

- This significant Act was enacted in the wake of the Revolt of 1857—also known as the First War of Independence or the 'sepoy mutiny'. The act known as the Act for the Good Government of India
- It changed the designation of the Governor-General of India to that of Viceroy of India. He (viceroy) was the direct representative of the British Crown in India. Lord Canning thus became the first Viceroy of India.
- It ended the system of double government by abolishing the Board of Control and Court of Directors.
- It created a new office, Secretary of State for India, vested with complete authority and control over Indian administration.
- It established a 15-member Council of India to assist the secretary of state for India. The council was an advisory body. The secretary of state was made the chairman of the council.
- It constituted the secretary of state-in-council as a body corporate, capable of suing and being sued in India and in England.

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

- It made a beginning of representative institutions by associating Indians with the law-making process. In 1862, Lord Canning, the then viceroy, nominated three Indians to his legislative council—the Raja of Benaras, the Maharaja of Patiala and Sir Dinkar Rao.
- It initiated the process of decentralisation by restoring the legislative powers to the Bombay and Madras Presidencies.
- It also 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.

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- It also gave a recognition to the 'portfolio' system, introduced by Lord Canning in 1859.
  - It empowered the Viceroy to issue ordinances, without the concurrence of the legislative council, during an emergency. The life of such an ordinance was six months.

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

- It increased the number of additional (non-official) members in the Central and provincial legislative councils, but maintained the official majority in them.
- It increased the functions of legislative councils and gave them the power of discussing the budget and addressing questions to the executive.
- The act made a limited and indirect provision for the use of election in filling up some of the non-official seats both in the Central and provincial legislative councils.

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

- This Act is also known as Morley-Minto Reforms. It considerably increased the size of the legislative councils, both Central and provincial. It retained official majority in the Central Legislative Council but allowed the provincial legislative councils to have non-official majority.
- It enlarged the deliberative functions of the legislative councils at both the levels.
- It provided (for the first time) for the association of Indians with the executive Councils of the Viceroy and Governors.
- It introduced a system of communal representation for Muslims by accepting the concept of 'separate electorate'. Under this, the Muslim members were to be elected only by Muslim voters.

### **Government of India Act of 1919**

- The Government of India Act of 1919 was thus enacted, which came into force in 1921. This Act is also known as Montagu-Chelmsford Reforms.
- It relaxed the central control over the provinces by demarcating and separating the central and provincial subjects. The central and provincial legislatures were authorised to make laws on their respective list of subjects.



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- It further divided the provincial subjects into two parts—transferred and reserved. The transferred subjects were to be administered by the governor with the aid of ministers responsible to the legislative Council. The reserved subjects, on the other hand, were to be administered by the governor and his executive council without being responsible to the legislative Council.
  - It introduced, for the first time, bicameralism and direct elections in the country. 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). It required that the three of the six members of the Viceroy's executive Council (other than the commander-in-chief) were to be Indian.
  - It extended the principle of communal representation by providing separate electorates for Sikhs, Indian Christians, Anglo-Indians and Europeans.
  - It granted franchise to a limited number of people on the basis of property, tax or education.
  - It separated, for the first time, provincial budgets from the Central budget and authorised the provincial legislatures to enact their budgets.

### **Government of India Act of 1935**

- It provided for the establishment of an All-India Federation consisting of provinces and princely states as units. 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). Residuary powers were given to the Viceroy. However, the federation never came into being as the princely states did not join it.
- It abolished dyarchy in the provinces and introduced 'provincial autonomy' in its place. The provinces were allowed to act as autonomous units of administration in their defined spheres.
- It provided for the adoption of dyarchy at the Centre. Consequently, the federal subjects were divided into reserved subjects and transferred subjects. However, this provision of the Act did not come into operation at all.
- It introduced bicameralism in six out of eleven provinces

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- It further extended the principle of communal representation by providing separate electorates for depressed classes (scheduled castes), women and labour (workers).
  - It abolished the Council of India, established by the Government of India Act of 1858. The secretary of state for India was provided with a team of advisors.
  - It extended franchise. About 10 per cent of the total population got the voting right.
  - It provided for the establishment of a Reserve Bank of India to control the currency and credit of the country.
  - It provided for the establishment of a Federal Court, which was set up in 1937.

### **Indian Independence Act of 1947**

- It ended the British rule in India and declared India as an independent and sovereign state from August 15, 1947.
- It provided for the partition of India and creation of two independent dominions of India and Pakistan with the right to secede from the British Commonwealth.
- It abolished the office of viceroy and provided, for each dominion, a governor-general, who was to be appointed by the British King on the advice of the dominion cabinet.
- It empowered the Constituent Assemblies of the two dominions to frame and adopt any constitution for their respective nations and to repeal any act of the British Parliament, including the Independence act itself.
- It empowered the Constituent Assemblies of both the dominions to legislate for their respective territories till the new constitutions were drafted and enforced. No Act of the British Parliament passed after August 15, 1947 was to extend to either of the new dominions unless it was extended thereto by a law of the legislature of the dominion.
- It abolished the office of the secretary of state for India and transferred his functions to the secretary of state for Commonwealth Affairs.
- It proclaimed the lapse of British paramountcy over the Indian princely states and treaty relations with tribal areas from August 15, 1947.



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- It granted freedom to the Indian princely states either to join the Dominion of India or Dominion of Pakistan or to remain independent.
  - It provided for the governance of each of the dominions and the provinces by the Government of India Act of 1935, till the new Constitutions were framed. The dominions were however authorised to make modifications in the Act.
  - It deprived the British Monarch of his right to veto bills or ask for reservation of certain bills for his approval. But this right was reserved for the Governor-General. The Governor-General would have full power to assent to any bill in the name of His Majesty.
  - It designated the Governor-General of India and the provincial governors as constitutional (nominal) heads of the states. They were made to act on the advice of the respective council of ministers in all matters.
  - It dropped the title of Emperor of India from the royal titles of the king of England.
  - It discontinued the appointment to civil services and reservation of posts by the secretary of state for India. The members of the civil services appointed before August 15, 1947 would continue to enjoy all benefits that they were entitled to till that time.
  - At the stroke of midnight of 14–15 August, 1947, the British rule came to an end and power was transferred to the two new independent Dominions of India and Pakistan.
  - Lord Mountbatten became the first governor-general of the new Dominion of India.
  - He swore in Jawaharlal Nehru as the first Prime Minister of independent India. The Constituent Assembly of India formed in 1946 became the Parliament of the Indian Dominion.

## Questions

1. Mention the Important Acts in British India & Explain.
2. Discuss the salient features of the
  - a) Government of India act 1935.
  - b) India Independence Act 1947.