



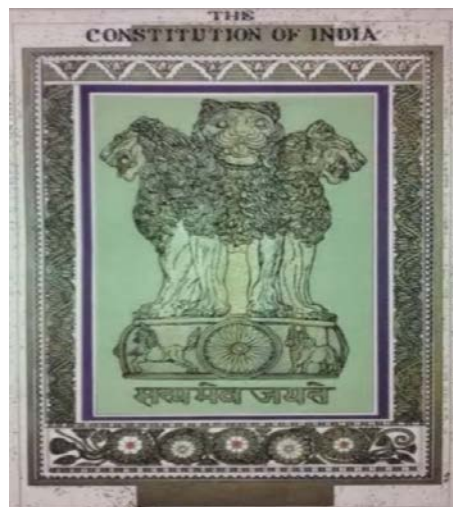
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THE EVOLUTION OF INDIAN CONSTITUTIONAL LAW



~ *Mitali Nishad*

Background of Indian Constitution :

- Britishers came to India as East India company in 1600 for the purpose of trade.
- A royal charter was received by the British East India company from the _queen Elizabeth_ on 31 December 1600.
- Based on the terms of such charter, East India Company got exclusive _diwani rights_ or the right to collect taxes on behalf of the emperor from province of Bengal, Bihar, Orissa.

- >1600- Queen Elizabeth issued a charter with rights of exclusive trading to British East India Company.
- >1609- Trade Monopoly extended indefinitely.
 - Capital Hawkins arrived in the court of Jahangir.
- >1757- Battle of Plassey :- fought between East India Company headed by Robert Clive and Nawab of Bengal (Siraj-ud-Dullah) and his French troops.
- >1764- Battle of Buxar :- laid real foundation of English power .
 - Diwani rights of Bengal, Bihar, Orissa.
- >1773- Officers became rich which results in mismanagement, corruption etc.
 - British government started to control East India Company by passing Regulation act.

Overview :

Company rule (1773 -1858)

- Regulation Act of 1773
- Settlement Act of 1781
- Pitts India Act of 1784
- Charter Act of 1793
- Charter Act of 1813
- Charter Act of 1833
- Charter Act of 1853

Crown rule (1858-1947)

- Government of India Act 1858
- Indian Councils Act 1861
- Indian Councils Act 1892
- Indian Councils Act 1909 (Morley-Minto Reforms)
- Government of India Act 1919 (Montague Chelmsford Reforms)
- Government of India Act 1935
- Indian Independence Act 1947

Regulation Act of 1773

- For the first time, the British parliament resorted to regulating the affairs of the East India Company.
- The 'Governor of Bengal' was made the 'Governor General of Bengal' . (Warren Hastings)
- 4 members together constituted an executive council of Governor General.
- Supreme Court was established at Calcutta as apex court in 1774.
- Since company officials involved in corruption therefore prohibited from engaging in private trade and accepting gifts from Indians.

Settlement act of 1781

- This Act was enacted to correct the defects of Regulating Act of 1773.
- Separation of executive from judiciary_ i.e. exemption of Governor General and Councils from the jurisdiction of Supreme Court.
- This act also eliminated the matter of revenue from jurisdiction of Supreme Court.

Pitts India at 1784

- This act was made on the name of "William pit" the Britain's prime minister.
- Bifurcations was made in the commercial and political functions of the company.
- Court of directors was made for management of the commercial activities.
- Board of control was made for the management of the political affairs.
- The company territories in India were called "British possession in India".
- Governor's council was setup in Madras and Bombay.

Charter act of 1793

- Governor-General was provided with more powers and control over the Government of the subordinate presidencies of Bombay and Madras.
- Trade Monopoly of East India Company was extended by 20 years.
- Member of board of control and their staffs were paid out of the Indian revenues.

Charter act of 1813

- By this act, monopoly of East India Company over trade was ended with India except in tea and opium. Trade with India was open to all British subjects.
- Allowed "Christian missionaries" to come to India to enlighten people.
- Local governments were authorised to impose taxes and punish those who were not paying.

Charter act of 1833

- 'Governor -General of Bengal' was made 'Governor- General of India'.
- Laws made were called _'Acts'_ instead of _'Regulation'_
- For consolidation and codification of Indian laws, the law commission was established.
- Attempt was made to introduce the system of open competition for selection of civil servants ,but was rejected by court of directors.

Charter act of 1853

- Open competition system for selection of civil servants was approved by Macaulay committee 1854.
- Executive functions was separated from legislative.
- Governor -General Legislative Council was consist of members known as 'Indian Legislative Council'.
- Companies rule could be terminated anytime.

Crown rule

Background-

Since British government wanted direct control over India's administration. But on 2 August 1858, "Government of India Act 1858" was passed which resulted in abolishment of East India Company and its all powers transferred to British Crown. Thereby, Company Rule ended and Crown Rule started.

Government of India Act 1858

- It abolished East India company and transferred power to British Crown.
- Also known as 'Act of Good Government'.
- Designation of 'Governor General of India' was changed with "Viceroy of India".
- System of double government was ended by abolishing Board of Control and Board of Directors.
- 'Secretary of State for India' was created.

Indian Councils Act 1861

- Representative institutions were made by law making process.
- Viceroy nominated 3 Indians as Non-official members.
- Legislative powers of the Governor General's Council was decentralised and vested in the Government of Bombay and Madras.
- Established new legislative councils for Bengal, North- Western provinces and Punjab.
- Act gave recognition to Portfolio system.

Indian Councils Act 1892

- Indian National Congress came into force in 1858.

- Non- official members of Indian Legislative Council, nominated by Bengal Chamber of Commerce and Provincial Legislative Council.
- Non-official members of Provincial Legislative Council, nominated by local bodies as Universities, zamindars, municipalities etc.

Indian Councils Act 1909

- Commercial representation was introduced which gave separate electorate to Muslims, which was known as 'Legalised communalism' because Muslim members were elected by Muslim voters only.

Government of India Act 1919

- "Office of High Commissioner" created in London.
- "Central Public Service Commission" established in 1926.
- Indian women provided with voting rights.
- Extended communal electorates for Sikhs, Christians, Anglo Indians and European.
- Provincial budget separated from Central Budget.
- Indian legislature was made - Bicameralism
- Upper house was named- Council of States
- Lower house was named - Legislative assembly

Government of India Act 1935

- It was the longest act enacted by British parliament.
- This act separated Burma from India and two new provinces of Sind and Orissa were created.
- Legislative powers divided between centre and provinces.
- 'Provincial autonomy' introduced in place of Dyarchy and Dyarchy introduce the central level.
- Introduced bicameralism in 6 out of 11 British India provinces.
- Extended communal electorate for Supreme Court, women and labours.
- Established - Federal Public Service Commission, Provincial Public Service Commission, Joint Public Service Commission.
- Established- Reserve Bank of India (RBI)

Indian Independence Act 1947

- British rule in India ended and India declared as an Independent Sovereign State.

- India partitioned into two independent dominions of India and Pakistan.
- Office of Viceroy was abolished and empowered constituent assemblies to frame and adopt any dominion.
- Abolished office of Secretary of State Commonwealth affairs.
- Dropped the title of emperor of India and India got independence.

Conclusion

Dr. Rajendra Prasad was appointed as the chairman of constituent assembly and a drafting committee was established under the chairmanship of Dr. B.R. Ambedkar.

A draft of the Indian constitution was published in January 1948. On 26 November, 1949, The Indian Constitution was passed and then came into force on 26 January, 1950.

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