**Unit-1**

***The Constituent Assembly And The Constitution: Framing Of The Constitution-Acts Of 1909, 1919, 1935 And 1947;The Preamble And The Major Features Of The Constitution, Fundamental Rights, Fundamental Duties And Directive Principles Of State Policy.***

**INTRODUCTION:**

The British rule in India developed in three distinct phases. The first phase of this development was from 1600-1765, when the English east India company and was involved in rivalry with the other European trading companies in india.the second phase, from 1765 to 1858,was marked by acquisition of territories and consolidation of acquired dominions. During this phase is observed from 1858 onwards until 1947 when the British crown took over the reins and control of administration in India from the English east India Company (EEIC) and finally at the end of this phase India gained independence from the British rule. When the officials of the east India Company acquired control over Bengal in 1765, they had little intention of making any innovations in India’s administration. They only desired to carry on their profitable trade and to collect taxes for remission to England. From 1765 o 1772. In the period of the Dual government, Indian officials were allowed to function under the overall control of the British governor and British officials. The Indian officials had responsibility but no power while the company’s officials had power but no responsibility. In 1772 the company ended the dual government and undertook to administration Bengal directly through its own servants. Now the rich resources of Bengal had fallen into the hands of the company whose proprietors immediately of the company whose proprietors immediately raised dividends to the east India Company’s English servants took advantage of their position to make quick k fortunes through illegal and unequal trade and forcible collection of bribes and gifts’ from Indian chiefs and zamindars. The company’s high dividends and the fabulous wealth brought to England by its officials excited the jealously of the other merchants of British society. These merchants in England were kept out of the east by the monopoly of the east India Company. Also, these merchants in England were kept out of the east by the monopoly of the east India Company. Also, these merchants in England wanted to share in the profitable Indian trade and the riches of India which the company and its servants alone were enjoying. They therefore worked hard to destroy the company trade monopoly and in order to achieve this they attacked the company’s administration of Bengal.

**HISTORICAL BACKGROUND:**

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 character 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, 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 bering.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 done the legal framework for the organization and functioning of government and administration in British india.these events have greatly influences our constitution and polity. They are explained here in a chronological order:

**Brief Review of Constitutional Development in India during 1773-1947**

**The Company Rule (1773-1858)**

**Regulating Act of 1773**

This act is of great constitutional importance as (a) it was the first step taken by the British government to control and regulate the affairs of the east India company in India(b) it recognized, for the first time, the political and administrative functions of the company and (c) it laid the foundations of central administration in India.

**Features of the Act**

1. 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.
2. It made the governors of Bombay and madras precedence subordinate to the governor-general of Bengal, unlike earlier, when the three presidencies subordinate to the governor general of Bengal, unlike earlier when the three presidencies were independent of one another.
3. It provided for the establishment of a supreme court at Calcutta (1774) comprising one chief justice and three other judges.
4. The aim was to give justice to Europeans, their employees and citizens of Calcutta.
5. The other purpose was to streamline Indian administration. So that legal framework could be established and corruption could be reduced.
6. In 1781, the act was amended. In this amendement, the governor-general, the council and the servants of the government were immune if they did anything while discharging their duties.
7. It strengthened the control of the British government over the company by requiring the court of directors to report on its revenue, civil and military affairs in India.
8. This Act prohibited the servants of the company from engaging in any private trade or accepting presents or bribes from the ‘natives’.
9. Legislative powers were granted to the governor general and council to make rules, ordinances and regulations for the civil government of fort William and subordinate factors.
10. For the first time, this act recognized the political and administrative functions of the company.

**Significance of the Regulating Act 1773**

The act created a centralized administration in India, making the Bombay and madras governors subordinate to the governor-general of Bengal .it sorted the problem of dual government and established government control over the company. It strengthened the control of the British government over the company by requiring it to report on its revenue, civil and military affairs in India.

The creation of the Supreme Court made for better justice to British subjects. The regulating act brought in a system of checks and balances. It made the governor-general subordinate to his council and the Supreme Court effective in its control over the governor-general in council.

However, the regulating act was mostly ineffective as the governor general had no overriding g powers over his council, often resulting in a deadlock over legislative decisions. The governor general had to face the opposition of his council, who united against him. Through in case of an equal division he had a casting vote, but unity of the council members prevented him from solving extent and internet problems of a serious nature. The president of madras and Bombay were under the general controlling power of the governor general and council proves in efficient in actual working.

The act failed short of defining the jurisdiction of the Supreme Court leading to unnecessary conflicts between its functions and those of the governor general’s council.

It was a compromise throughout and intentionally vague in many of its provisions. Although based on the theory of checks and balances, it broke down when put tom operation, under stress of Indian circumstances and its own inherent defects.

The Regulating Act 1773 is said to be one of the most important acts in the further steps of administration. But this act was having many drawbacks also. Firstly, as per this act, the governor-general had no veto power. Secondly, it totally neglects the concerns of the Indian population who were paying revenue to the company officials. Further the powers of the Supreme Court were not well-defined. Lastly, the parliamentary control that was sought in the activities of the company proved to be ineffective as there was no mechanism to study the reports sent by the governor-general in council.

**The Act of Settlement, 1781:**

To remove the defects of the regulating act of 1773, parliament passed the act of settlement of 1781. However, this act could not cure the defects of the regulating act and agitation for an effective control over the company‘s Indian affairs continued. However, the Pitts’India acts, 1784 made some crucial changes. The act distinguished between commercial and political functions of the company. The court of directors were allowed to manage commercial affairs of the company, but for political affairs board of six commissioners, known as board of control, was appointed to control such affairs. The commissioners, known as board of control, were appointed to control such affairs. The commissioner was appointed by the king and was to hold office during his pleasure.

**Pitt’s India Act Of 1784**

**I**n a bid to rectify the defects of the regulating act of 1773, the British parliament passed the amending act of 1781, also known as the act of settlement. The next important act was the Pitt’s India act of 1784.

**Features of the act**

With respect to board of directors and court of directors:

1. The act established a board of control. It would consist of six commissioners including two cabinet ministers of the British parliament.
2. The governor general executive council would consist of the governor general executive council would consist of the governor general and three members.’
3. By reducing one member of the executive council of the governor general his position was strengthened.
4. The act clearly stated that the presidencies of Madras and Bombay were to be subordinate to the presidency of Bengal in all matters of war, diplomatic relations and revenue.
5. It distinguished between the commercial and political functions of the company.
6. 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.
7. It empowered the board of control to supervise and direct all operations of the civil and military government or revenues of the British possessions in India.

The governor general found it easier to get a majority in any decision as it reduced the governor general council’s members to three. In case of tie, governor general had final say, thus the act; to more centralization.

The centralization of power was evident from the provision that subordinated the governor of madras and Bombay to the governor general of Bengal. It has been held that centralization of power led to unification of India. Slowly with every act the possessions of the east India Company in Indian was placed on tight control of the British government.

The act divided authority and responsibility. The governor general had two masters, the court of directors and the board of control, which allowed the governor general, especially lord Cornwallis, to stretch his authority to the wides possible limit. As the one government was unaware of the happenings in India, it provided the governor general the liberty to act in is discretion even on matters of importance.

The Pitt’s act of 1784, for the first time called the company’s territories in India the “British possessions in India” through an act of 1786, the governor general of Bengal was also made the commander in chief it also empowered the governor general to overrule his council in important matters of safety, pace and interest of the crown in India on his own responsibility.

However, the governor general had two masters, the court of directors and the board of control. This dual conflicting management hampered the British administration. The actual state of affairs of the company was not known to the home government 9british government in Britain).

Thus, the act was significant for two reasons: first, the company’s territories in India were for the first time called the British possessions in India and second the British government was given the supreme control over company’s affairs and its administration in India.

**Charter Act 1793**

Usually, the company‘s charter was renewed every 20 years and a renewal of the company’s privileges was due in 1793.the charter act of 1793 was brought about to renew the rights and privileges enjoyed by the company.

**Features of this Act**

1. In this act, the governor general was empowered to disregard the majority in the council in special circumstances. Thus more powers were entrusted to him. This owner had been given specially to Cornwallis in 1786.
2. The governor general was present in Madras or Bombay he would supersede in authority over him governors of madras and Bombay.
3. When the governor-general was present in Madras or Bombay, he would supersede in authority over the governors of madras and Bombay.
4. The company trade monopoly was continued for a further 20 years.
5. This act made provision that the company after paying the necessary expenses, interest, dividend, salaries etc from the Indian revenues will pay 5 lakh British pounds annually out of the surplus revenue to the British government
6. Salaries for the staff and paid members of the board of control were also now charred to the company. This was continued up to n1919.
7. The company was granted the authority to grant licenses to individuals and company employees to carry on trade in India. This was known as privilege or country trade. This led to shipments of opium to china.
8. This act reorganized the courts and redefined their jurisdictions. The Supreme Court’s jurisdiction was increased o the high seas.
9. The revenue administration was separated from the judiciary functions. Hence, this led to the disappearance of the meal adalats. (Revenue courts).

The act laid the foundation of government by written laws, interpreted by courts. A departure from the past when the personal laws of the rulers were in use. It was an important change that borough about an era of civil laws, enacted by a secular human agency and applied universally. The act also furthered the centralization of power in the office of governor general, which began wit the Pitt’s India act of 1784.

**Charter act 1813**

The charter act of 1813 gave the company a lease of life over its possessions in India for another 20 years. But, a number of factors had been in play which resulted in other provisions of the act.

A renewal of the company’s privileges was due as the charter act of 1793, had renewed them for a period of 20 years only. The free trade enthusiasts in Britain had been for quite some time demanding a share in the trade with India. They become vociferous in to wake of napoleon’s continental system, which closed the European ports to British trade.

A number of ideological groupings, such as the benthamite reformists, the evangelical and traditionalists, aiming to safeguards the stability of Europe, tried to influence British politics and its policies towards British India.

The charter act of 1813 incorporated I a significant way all these aspirations for change in Britain’s India Policy. It Renewed The Company Charter For Twenty Years.

**Salient features of the Act**

1. The East India Company’s monopoly over trade in India ended except the trade with china and the trade in tea. The Indian trade was thrown open to all British merchants.
2. Every year, a sum of one lakh rupees was to be set aside for promotion of education among the natives of India. So, in this act we can find the genesis of education policy from the state.
3. The constitutional position of the British territories in India was explicitly defined for the first time.
4. Christen missionaries were also permitted to come to India and preach their religion.
5. Company was allowed to have territorial possessions for another 20 years.

**Before and after of the Charter Act of 1813 (brief analysis)**

The British need for a new administration and laws varied with the change in the British interest in India. They also represented the interests of different social groups In Britain in different stages. Charter act of 1813 demarcates British interest sift.

**Charter Act 1833**

A renewal of the company’s power and privileg**e was** due in 1833. A large section of British parliamentarians had been demanding the takeover of Indian administration by the British crown. After the passage of the reform act of 1832 in Britain, reforms had become a common feature in Britain in those days. In this regard charter act (1833) was passed (also charter act of 1813 was to be reviewed after the expiry of 20 years) a parliamentary inquiry was held , and the act of 1833, which followed from its recommendations, become a landmark in the constitutional history of India, the company’s monopoly over trade with china and in tea ended.

**Charter act of 1833**

This act was the final step towards centralization in British India.

**Features of the Act:**

1. It made the governor-general of Bengal as to governor-general of India and vested in him all civil and military powers.Thus,the act created, for the first time, a government of India having authority over the entire territorial area possed by the British in India. Lord William Bentinck was the first governor-general of India.
2. It deprived the governor of Bombay and madras of their legislative powers. The governor-general of India was given exclusive legislative powers for the entire British India. The laws made under the previous acts were called as regulations while laws made under this act were called as acts.
3. It ended the activities of the east India Company as a commercial body, which become a purely administrative body. It provided that the company’s territories in India were held by it in trust for his majesty, his heirs and successors.
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 negated after opposition from to court of directions.’
4. For the first time, the charter act of 1833 made provision to freely admit the natives of India to share an administration in the country.
5. No Indian citizen was to be denied employment under the company on te basis of religion, color, birth, descent etc.
6. The charter act of 1833 also provided that the haileybury college of London should make a quota to admit the future civil servants.
7. This act also directed the governor general in council to adopt measures to mitigate to state of slavery, persisting in India since sultanate era. Thus slavery was abolished in 1843.
8. Te governor general in council was also directed to pay attention to laws of marriage rights and authorities of the heads of families, while drafting any laws.
9. The lease of 20 years to the company was further extended. Territories of India were to be governed in the name of the crown.

The elevation of governor general of Bengal as governor general of India was a step towards consolidation and centralization of the administration of India. It changed the company from a commercial body to a political one. The provision for codification of laws had a seminal impact on the application of laws in the country. The clause on no discrimination in matters of employment under the crown proved to be of great importance for the nationalists towards the end of the nineteenth century as they used it to demand equal opportunities for Indians in employment.

**CHARTER ACT OF 1853**

This was the last of the series of charter acts passed by the British parliament between 1793 and 1853.it was a significant constitutional landmark. There was a growing demand to end the double control, i.e., the court of directors and the board of control of the company as their existence only resulted in unnecessary delay in the business and undue expenditure. The legislative machinery established und rte charter act of 183 was also felt to be inadequate. A need was felt to constitutionally accommodate the newly acquire territories, send and Punjab.

There was growing demand for the decentralization of powers and for giving the people of India a share in the administration their own affairs.’ the British Indian association, madras native association and Bombay association, all former in the 1852, sent separate petitions demanded greater participation in administration complaining against expensive and incompetent administration and high taxation. Thus after twenty years of the acts of 1833, the time approached for the renewal of to company’s charter in the form of charter act (1853)

**Features of the Act**

1. 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 councilors to the council. In order to known as the Indian central legislative council. This legislative wing of the council functioned as a mini-Parliament, adopting the same procedures as the British parliament. Thus, legislation, for the first time, was treated as a special machinery and special process.
2. 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 (the committee on the Indian civil service) was appointed in 1854.
3. It extended the company’s rule and allowed it to retain the possession of Indian territories on trust for the British crown. But; it did not specify any particular period, unlike the previous charters. This was a clear indication that the company’s rule could be terminated at any time the parliament liked.
4. 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, abolished the east India Company, and transferred the powers of government, territories and revenues to the British crown.

**Features of the act**

1. It provided that India henceforth was to be governed by, and in the name of, her majority. 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 become the first viceroy of India.
2. It ended the system of double government by abolishing the board of control and court of directors.
3. It created a new office, secretary of state for India, vested with complete authority and control over Indian Administration. The secretary of state was a member of the British parliament.
4. It established a 15 member council of India to assist the secretary of the state for India. The council was an advisory body. The secretary of state was made the chairman of the council.
5. It constituted the secretary of state in council as a body corporate, capable of suing and being sued in India and in England.

‘The act of 1858 was, however, largely confined to the improvement of the administrative machinery by which the Indian government was to be supervised and controlled in England. It did not alter in any substantial way the system of government that prevailed in India.

**Indian Councils Act of 1861, 1892 1nd 1909**

After the great revolt of 1857, the British government felt the necessity of seeking the cooperation of the Indian in the administration of their country. In pursuance of this policy of association, three acts were enacted by the British parliament in 1861, 1892 and 1909.the Indian council’s act of 1861 is an important landmark in the constitutional and political history of India.

**Features of the act of 1861**

1. It made a beginning of representative institutions by associating Indians with the law-making process. It thus provided that the viceroy should nominate some Indians as non-official members of his expanded council. In 1862, Lord Canning, the then viceroy, nominated three Indians to his legislative council the Raja of Banaras, the 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. It thus reversed the centralizing tendency that started from the Regulating Act of 1773 and reached its climax under the Charter Act of 1883.This policy of legislative devolution resulted in the grant of almost complete autonomy to the provinces in 1937.
3. It also provided for the establishment of new legislative councils for Bengal, north-western provinces and Punjab, which were established in 1862, 1886 and 1897 respectively.
4. It empowered the Viceroy to make rules and orders for the more convenient transaction of business in the council. It also gave recognition to the council. It also gave recognition to the system ‘portfolio’ system, introduced by lord canning in 1859. Under this, a member of the viceroy’s council was made in-charge of more departments of the government and was authorized to issue final orders on behalf of the council on matters of his departments.
5. It empowered the viceroy to issue ordinances, without the concurrence of the legislative council, during an emergency. The life of such an ordence was six months.

**Features of the act of 1892**

**The** Indian council act of 1892 empowered legislative council in British India by means of increasing their size. It is said that increase in size of legislative councils further laid the foundation of parliamentary system in India and it is also seen as the landmark in the constitutional development of India.

TheIndian council’s act of 1892 achieved three things:

1. It increased the number of members in the central and provincial council.
2. Introduced the election systems partially and
3. Enlarged the functions of the councils.

**Main features of Indian councils act, 1892:**

1. It increased the number of additional (non-official) members in the central and provincial legislative councils, but maintained the official majority in them.
2. It increased the functions of legislative councils and gave them the power of discussing the budget and addressing questions to the executive.
3. It provided for the nomination of some non-official members of the (a) central legislative council by the viceroy on the recommendation of the provincial legislative councils and the Bengal chamber of commerce, and (b) that of the provincial legislative councils by the governors on the recommendation of the district boards, municipalities, universities, trade associations, zamindars and chambers.

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. The word “election “was, however, not used in the act. The process was described as nomination made on the recommendation of certain bodies.

**Morley-Minto reforms-the Indian Councils Act of 1909**

This Act is also known as Morley-Minto Reforms (Lord Morley was the then secretary of state for India and Lord Minto was the then Viceroy of India).By this act the size and power of legislative councils, central as well as provincial, was considerable increased. The councils were empowered to discuss any matter. The councils had also the right of discussing and moving a resolution of the financial statement but they were not given the power of voting.

Further, through this act, British also introduced communal electorates so as to create dissent between Hindus and Muslims. Some seats in the councils were reserved for Muslims to be elected by Muslim voters. The Morel Minto reforms did not introduced any significant change in the powers of the councils.

**Features of the Act Of 1909**

1. It considerably increased the size of the legislative councils, both central and provincial. The number of members in the central legislative council was raised from 16 to 60.the number of members in the provincial legislative councils was not uniform.
2. It retained official majority in the central legislative councils to have non-official majority.
3. It enlarged the deliberative functions of the legislative councils at both the levels. For example, members were allowed to ask supplementary questions, move resolutions on the budget, and so on.
4. It provided for and first time) for the association of Indians with the executive councils of the viceroy and governors. Satyendra Prasad Singh becomes the first Indian to join the viceroy’s executive council. He was appointed as the law member.
5. It introduction 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. Thus the act’legalised communalism and 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.

**Montagu-Chelmsford Report -Government of India Act Of 1909**

On August 20, 1917, the British Government declared, for the first time, that its objective was the gradual introduction of responsible Government in India.

The government of India act of 1919 was thus enacted, which came into force in 1921.this act is also known as Montage-Chelmsford reforms (Montage was the secretary of state for India and lord Chelmsford was the Viceroy of India).

**FEATURES OF THE ACT**

1. It relaxed 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 contained to be centralized and unitary.
2. It further divided the provincial subject into two parts-transferred and resaved. The transferred subjects were to be administrated 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. This dual scheme of governance was known as ‘diarchy’-a term derived from the Greek word diarchy which means double rule. However, this experiment was largely unsucceful.
3. It introduced, for the first time, bicameralism and direct elections in the country. Thus, the Indian legislature council was replaced by a bicameral legislative council was replaced by a bicameral legislature consists ting of an Upper house (council of state) and a lower house (legislative assembly). The majority of members of both the houses were chosen by direct election.
4. It required that three of the six members of the Viceroy’s elective council (other than the commander in chief) were to be Indian.
5. It extended the principle of communal representation by providing separate electorates for Sheikhs, Indian Christians, Anglo-Indian and Europeans.
6. It granted franchise to a limited number of people on the basis of property, tax or education.
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. It provided for the establishment of a public service commission. Hence, a central public service commission. Hence. A central public service commission was set up in 1926 for recruiting civil servants.
9. It separated, for the first time, provincial budgets from the central budget and authorized the provincial legislatures to enact their budgets.
10. It provided for the appointment of a statutory commission to inquire into and report on its working after ten years of its coming into force.

**Simon Commission**

In November 1927 itself (i.e., 2 years before the sedule), the British government announced the appointment a seven-member statutory commission under the chairmanship of sir john Simon to report on the condition of India under its new constitution. All the members of the commission submitted its report in 1930 and recommended the abolition of diarchy, extension of responsible government in the provinces, establishment of a federation of British India and princely states, continuation of communal electorate and so no. To consider the proposals of the commission, the British government convened three round table conferences of the representatives of the British government, British India and Indian princely states. On the basis of these discussions, a white paper on constitutional reforms’ was pared and submitted for the constitutional reforms ‘was prepared and submitted for the consideration of the joint select committee of the British parliament. The recommendations of the committee were incorporated in the next government of India act of 1935.

**Communal Award**

In august 1932, Ramsey Macdonald, the British prime minister, announced a scheme of representation of the minorities, which came to be known as the communal award. The award not only continued separate electorates for the Muslims. Sikhs, Indian Christians, Anglo-Indian and Europeans but also extended it to the depressed classes (schedule castes). Gandhi was distressed over this extension of the principle of communal representation to the depressed classes and undertook fast unto death in yeravada jail (Poona) to get the award modified, at last, there was an agreement between the leaders of the congress and the depressed clases.the agreement, known as Poona pact, retained seats to the depressed classes.

**GOVERNMENT OF INDIA ACT OF 1935**

After holding three sessions of round table conference in 1930m, 1931 and 1932 respectively, their recommendations were embodied in a white paper published in 1933. A joint select committee was formed to analyze the recommendations and formulate a new act for India, and that committee produced a draft bill in February 1935 which was enforced as the government of India act of 1935 in July 1935.

The act marked a second milestone towards a completely responsible government in India. It was a lengthy and detailed document having 321 sections and 10 schedules.

**Provisions of the act:**

An all India federation:

It was to comprise all British Indian provinces, all chief commissioners’ provinces and the Indian states princely states). The federation’s formation was conditional on the fulfillment of:

1. States with allotment of 2 seats I n the proposed council of states should agree to join the federation.
2. Aggregate population of states in the above category should be 50 percent of the total population of all Indian states. Since these conditions were not fulfilled, the proposed federation never came up.

**Federal level: executive**

1. The governor-general was the pivot of the entire constitution.
2. Subjects were divided into reserved and transferred.
3. Reserved subjects were foreign affairs; defense, tribal areas and ecclesiastical affairs etc.They were to be exclusively administered by the governor general on the advice of executive councilors.
4. Transferred subjects included all other subjects. They were to be administered by the governor-general on the advice of the ministers elected by the legislature.
5. Governor-general could act in his individual judgment in the discharge of the special responsibilities for the security and tranquility of India”

**Federal level: legislature**

* The bicameral legislature was to have an upper house(council of states) and a lower house (federal assembly)
* The council of states was to be a 260 member house, partly directly elected from British Indian provinces and party (40 percent) nominated by the princes.
* The federal assembly was to be a 375-mmember house, partly indirectly elected from British Indian provinces and partly (one –third) nominated by the princes.
* The council of states easy to be a permanent body with one –third member’s retiring everybody with one-third members retiring every third year. The duration of the assembly was to be 5 years.
* The three lists for legislation purposes were to be federal, provincial and concurrent.
* Members of the federal assembly could move a vote of no-confidence against ministers. The council of states could not move a vote of no-confidence.
* 80 percent of the budget was non-votable.
* The governor-general had residuary powers. He could (a) restore cuts in grants

(b) Certify bills rejected by the legislature

(C) Issue ordinances and (d) exercise his veto.

* The system of religion based and class based electorates was further extended.

Provincial autonomy:

* diarchy was replaced by provincial autonomy
* Autonomy and separate legal identity were granted to provinces.
* Provinces were relieved from “the superintendence, direction” of the secretary of state and governor-general.
* Now onwards, provinces derived their legal authority directly from the British crown.

Provinces: executive

* Governor was to be the crown’s nominee and representative to exercise authority on the king’s behalf in a province.
* Special powers regarding minorities, rights of civil servants, law and order, British business interests, partially excluded areas, princely states, etc with the governor.
* Governor had power to take over and run the administration indefinitely.

Provinces: legislature

* Separate electorates based on communal award were to be made operational
* All members were to be directly elected. Franchise was extended; women got the right on the same basis as men.
* Council of minister all provincial subjects in the council of ministers.
* By the adverse vote of the legislature, ministers could be removed and hence they were answerable.
* Provincial legislature could legislate on subjects in provincial and concurrent lists.
* All parts of the budget were still not votable (only 40 percent was votable).
* Governor could (a) refuse assent to a bill, (b) promulgate ordinances, (c) enact governor’s acts.

Concluding remarks:

Numerous ‘safeguards ‘and ‘special responsibilities ‘of the governor-general worked as obstruction in the proper functioning of the act. In provinces, the governor still had extensive powers. The act enfranchised 14 percent of the British Indian population. The separate electorates and representation of various interests promoted separatist tendencies which culminated in partition of India.

 However, the act also played a role in the drafting of the constitution of India, 1950. Significant chunks of the constitution, particularly the administrative provisions, are borrowed from the act.

**Features of the Act**

1. 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 central and units in terms of three lists-federal lists (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.
2. It abolished diarchy 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. Moreover, the act introduced responsible governments in provinces, that is, the governor was required to act with the advice of ministers responsible to the provincial legislature. This came into effect in 1937 and was discontinued in 1939.
3. It provided for the adoption of diarchy at the centre. Consequently, the federal subjects were divided into reserved subjects and transferred subjects. However, these provisions of the act did not come into operation at all.
4. It introduced bicameralism in six out of eleven provinces. Thus, the legislatures of Bengal, Bombay, Madras, Bihar, Assam and united provinces were made bicameral consisting of the legislative council (upper house) and a legislative assembly (lower house). However, man y restrictions were placed on them.
5. It further extended the principle of communal representation by providing separate electorates for depressed classes (schedule castes), women and labour (workers).
6. It abolished the council of India, established by the government of India act of 1858.the secretary of state of India was provided with a team of advisors.
7. It extended franchise. About 10 per cent of the total population got the voting right.
8. It provided for the establishment of not only a federal public service commission but also a provincial public service commission for two or more provinces.
9. It provided for the establishment of a reserve bank of India to control the currency and credit of the country.
10. It provided for the establishment of a federal court, which was set up in 1937.

**THE CRIPPS MISSION:**

IN the year 1942, when the Second World War passing through a crucial stage, the British government realized that it was difficult to remain indifferent towards the Indian problem any longer and cooperation of the Indian opinion would be an asset. Therefore, on 22 march 1942, the British government sent sir Stafford Cripps to negotiate in the prosecution of war. Sir Stafford Cripps suggested some measures and proposals for the settlement of the Indian problems. However, Indians were not satisfied with measures suggested by sir styafford Cripps and therefore, they rejected it. The Indian leaders found in it the seed of partition of the country.

The labour party came into power in England. The labour government was more sympathetic towards India and wanted to solve the Indian problem. With this end in view. The cabinet mission was sent to India.

**The Cabinet Mission 1946.**

The cabinet mission came to India on 4th march 1946. It consisted of three British cabinet missions Lord Lethick Lawrence, sir Stafford Cripps and Mr. A. V. Alexander. The mission recommended that.” There should be a union of India embodying both British India and the states which should deal with foreign affairs, defence and communication, finance of its own the paramount of crown was to lapse, for the purpose of framing a new constitution assembly was to lapse, for the purpose of framing a new constitution a constituent assembly was to be elected, an interim government was to be set up having the support of major political parties .The proposal of cabinet mission was accepted and in July 1946, elections to constituent assembly took place.

**INDIAN INDEPENDENCE ACT OF 1947**

On February 20, 1947, the British Prime Minister Clement Atlee declared that the British rule in India would end by June 30, 1948; after which the power would be transferred to responsible Indian hands. This announcement was followed by the agitation by the Muslim league demanding partition of the country. Again on June 3, 1947, the British government made it clear that any constitution framed by the constituent assembly in India (formed in 1946) cannot apply to those parts of the country which were unwilling to accept it. On the same day June 3, 1947), Lord Mountbatten, the viceroy as the Mountbatten plan. The plan was known as the Mountbatten plan. The plan was accepted by the congress and the Muslim league. Immediate effect was given to the plan by enacting the Indian independence act (1947).The Indian independence act, 1947,came into force on August 15, 1947, when the British rule in India came o an end. The struggle for independence was thus over by 15t august 1947. Thereafter one of the first tasks undertaken by independent India was framing of a new Constitution.

**FEATURES OF THE ACT**

1. It ended the British rule in India and declared India as an independent and sovereign state from august 15, 1947.
2. It provided for the partition of India and creation of two independence dominions of India and Pakistan with the right to secede from the British Commonwealth.
3. It abolished the 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. His majesty’s government in Britain was to have no responsibility with respect to the government of India or Pakistan.
4. 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 constitution for their respective nations and to repeal any act of the British parliament, including the independence act itself.
5. 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.
6. It empowered the constituent assemblies of both the dominions to legislate for their respective territories till the new constitutions were drafted and enforced. Not act of the British parliament passed after august 15, 1947 was to extend to either of new dominions unless it was extended there to by a law of the legislature of the dominion.
7. It abolished the office of the secretary of state for India and transferred his functions to the secretary of state for commonwealth affairs.
8. It proclaimed the last of British paramount over the Indian princely states and treaty relations with tribal areas from august 15, 1947.
9. It provided for the governance of each of the government of India act of 1935, till the new constitutions were framed. The dominions were however authorized to make modifications in the act.
10. It deprived the British monarch of his right to veto bills or ask for reservation of creation 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.
11. 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.
12. It dropped the title of emperor of India from the royal titles of the king of England.
13. 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 becomes the first governor-general of the new dominion of India. He swore in Jawaharlal Nehru as the first prime minister of independent India. The constitution assemblies of India formed in 1946 become the parliament of the Indian dominion.

**Significance of the Act**:

This act brought to an end of the freedom struggle of India which was started under the leadership of Mahatma Gandhi for a long time. It divided India into two countries and thereby it gave a new home for the Muslims of India. According to Maulana Abul Kalam Azad,’ the 14th august was for the Muslims of Pakistan a day of rejoining, for the Hindus and Sikhs a day of mourning. This was the feeling not only the most people but also most of the important leaders. “

This act has also paved the way for the end of the princely states in India. All the princely states were brought under the control of these two dominances with the end of British rule in India. Significance is that it also brought to end of the British colonial rule in India. If was also victory of forces which followed the policy of ‘divide and rule’ on the one hand and; divide and quit’ on the other. It was also the victory of the communal forces in our national struggle.

Its significance can be judged from the remarks of the political leaders. Attlee regarded it as the ‘fulfillment of the British mission in India. The culminating point in a long course of events.”

According to Lord Samuel,” it was a treaty of peace with war.”

Dr. Rajendra Prasad also remarked, “The period of domination of British over India ends today and our relationship is henceforth going to rest on a basis of equality, mutual goodwill and mutual profit.

It must be admitted that the Indian independence act of 1947 closed the chapter of British rule in India and ushered the dawn of a free India.

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**QUESTIONS:**

1. The Gandhi-Irwin act included which of the following?
2. Invitation to congress to participate in the round table conference
3. Withdrawal of ordinance promulgated in connection with the civil disobedience movement
4. Acceptance of Gandhi ‘suggestion for enquariry into police excesses
5. Release of those prisoners who were not charged with violence
6. In the federation established by the government of India act of 1935, residuary powers were given to the
7. Federal legislature
8. Governor-general
9. Provincial legislature
10. Provincial governors.
11. The quit India movement was occurred in the year 1942/1940/1944.
12. The non-co-operation movement was launched in the year 1920.
13. Mahatma Gandhi did not take part in the civil disobedience movement of 1930 (write yes or no)
14. Mahatma Gandhi was assassinated in the year 1948/1950/1949.(find out the correct answer)
15. In which year the government of India act was passed? (1935/1936/1930) (Write the correct answer).
16. Discuss the background of the Indian constitution.
17. It would have been difficult for the constituent assembly to complete its historic task of drafting the constitution for independent India in just three years but for the experience gained with the government of India act, 1935. Discuss.
18. Analyze Mahatma Gandhi’s main demands presented to Irwin. How did salt emerge as the central issue for lunching the Satyagraha?
19. Write a note on the quit India movement.
20. Write a short note on Cripps proposal.
21. Point out four causes of failure of Cripps Mission.
22. Write a note on Gandhiji’s participation in the Non-co-operation movement of 1920.
23. Discuss Gandhi is participation in the Quit India movement.
24. The role of Mahatma Gandhi in the freedom movement of India.
25. Write four features of the Indian Independence Act, 1947.
26. Discuss the various provisions of the Indian Independence Act of 1947.
27. Which parliament passed the Indian Independence Act, 1947?
28. The Indian independence act divided India into two parts.( write yes or no)
29. The chairman of the boundary commission under the Indian independence act, 1947 was Sir Radeliff/Cripps/ Ballav Bhai Patel.( find out the correct)

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