

INDIAN CONSTITUTIONAL HISTORY

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Class-room live lectures edited, enlarged
and updated**

INDIAN CONSTITUTIONAL HISTORY

(1909 to 1950)

Topics

Chapter 1 : Minto-Morely Reforms 1909.

Chapter 2 : Montague-Chelmsford Report : Circumstances leading to the Report - Salient Features of Government of India Act 1919 - Dyarchy. Chapter 3: Simon Commission: Nehru Report - Round Table

Conferences. Chapter 4 : Government of India Act 1935 : Salient Features

- Powers of Governor-General and the Legislature - Federal Court.

Chapter 5 : Cripps Mission - Quit India - Simla Conference. Chapter 6 : Cabinet Mission Plan - Constituent Assembly -

Mountbatten Plan - India Independence Act 1947 - Lapse of Paramountcy.

Textual & Reference Books :

1. Keith A. B.: *Constitutional History of India*
2. B.N. Rao : *Constitution in the Making*
3. Pylee : *Constitutional History*

INTRODUCTION

Vasco-da-Gama landed at Calicut in 1498, a historical date to reckon with in Indian History. In fact, he had discovered the sea route to India, and had hastened commercial contacts between the European Countries and India. Among those who came, it was the Britishers who succeeded in establishing themselves. In 1600, the East India Company was founded. The development from this date to 1857 is interesting and filled with many memorable historical incidents.

The Company was wound up in 1857 and the Crown took over the rule in the Indian sub-continent. 1857-1909, is a short period which saw some Constitutional changes. But, the period from 1909 to 1950 seems to be most interesting, containing a number of reforms with far reaching consequences. Attention is to be paid to this period and the sequences must be studied in detail if the mighty and heroic efforts of our great Indians are to be appreciated. It is the solemn obligation of all of us, to remember with heart-felt gratitude and respect all those who have sacrificed their lives, to make India free. Let their soul rest in peace/ Let our path always be on democratic lines!

QUESTION BANK

1. Discuss Minto-Morely Reforms.
2. (a) Explain the Salient features of the Montague-Chelmsford Report; (b) Discuss the concept of Dyarchy and account for its failure.
3. Assess the three Round Table Conferences.
4. (a) What are the Salient features of the Government of India Act 1935?
(b) Discuss the Powers of the Governor-General.
(c) Explain Legislative Distribution and the Federal Court.
5. Discuss Cabinet Mission.
6. Write a note on : (i) Simon Commission; (ii) Nehru Committee Report; (iii) The Cripps Mission; (iv) Quit India; (v) Simla Conference; (vi) Mountbatten Plan; (vii) India Independence Act; (viii) Lapse of Paramountcy.

Chapter 1

MINTO-MORELY REFORMS : 1909

The War of Independence of 1857 ended with the suppression of the Indians by the Britishers. However, the East India Company was wounded up and the crown established direct rule over India. The Indian Council Act 1882 introduced certain reforms, but this did not satisfy the aspirations of the people of India. The Indian National Congress, founded in 1885, had been divided into extremists and moderates. Tilak and Arvind Ghosh advocated a terrorist policy while Gopal Krishna Gokhale, Lala Lajpatrai and others were the moderater who believed in Constitutional means to achieve freedom. Gokhale visited England and discussed the Indian problems with the Secretary of State, Lord Morley. A Royal Commission consisting of Lord Minto and Lord Morely was appointed by the British Government.

The essential function of this was to suggest reforms to tone up the administration in India. Its members made a broad survey of Indian administration taking into consideration the following factors :

1. The difficulty of administering India from a single headquarters;
2. The varied problems of the Provinces with their different traditions, languages and interests;
3. The lack of consciousness of responsibilities in the Provinces and the States;
4. The varied problems of Educating the people in public affairs;

It suggested the following reforms :

(i) It strongly recommended for de-centralisation. In fact, a Royal Commission on de-centralisation was later appointed by the British Government. ■

(ii) It recommended for an increase in the membership of Indians in the Councils.

(iii) In the Governor General's Legislative Council, the reforms called for an increase in the proportion of the non-official members, substantially.

(iv) It suggested for a thorough change in the mode of selection of these members i.e., it recommended for an In-direct Election.

(v) Further it suggested that there should be a separate linguistic constituency to represent the muslim population in India. It may be noted that this seed sown under these reforms,

sprouted up, in later years, into a big tree culminating in the partition of India and Pakistan in 1947.

(vi) The functions of the Council were enlarged. It could propose resolutions, could ask questions and supplementaries and also could vote. It could discuss the budget also.

The reforms were introduced as revolutionary changes to tone up the administration but they neither fulfilled the objectives nor helped to satisfy the Indian objectives or aspirations. However, it is salutary to note that it introduced certain changes in respect of decentralisation and also provided for more Indian participation in administration.

Chapter 2

MONTAGUE-CHELMSFORD REPORT

2.1: Circumstances leading to Montague-Chelmsford Report :

(i) The Minto-Morely Reforms were a failure as they did not satisfy the moderates and the extremists. Gopal Krishna Gokhale strongly demanded the introduction of western values like liberalism and freedom.(ii) The separate Muslim representation, introduced by the Reforms, was resented to and a resolution was moved in 1911 against the reform in the imperial Legislature.

(iii) The muslims had been much perturbed by the Balkan wars, and also by the partition of Bengal.

(iv) The Irish movement for independence was an encouraging factor for Indian people to demand self-government in India.

(v) Various measures introduced to associate the Indian people in the administration were in general theoretical and inadequate. The Indian National Congress and the Muslim League suggested a scheme for direct elections to provincial council and for increased membership of Indians to the Central Legislature.

(vi) As a gesture to these developments the British Government declared its policy (1917) that it was for increasing association of Indians in every branch of the administration and for the gradual development of a self-government in India as part of the British Empire.

(vii) Indian army had been sent to the middle east and Africa during the First World War. There was support by the Indians for the British War measures.

As a result of these the British Government sent Montague to India. He toured with the Viceroy Chelmsford and prepared a report containing certain proposals. This is the Montford Report. It is on the basis of this that a bill was introduced in the British Parliament which

later became the Government of India Act 1919.

The Report had taken the following basic principles into consideration.

(i) The provincial government should have independence and be free from the control of the government of India. There should be the popular representation. Hence in local government, popular control was to be introduced.

(ii) The Government of India was to remain responsible to the Parliament. The councils were to be enlarged. The general control over the provinces by the Secretary of State and the Parliament and the Government of India should be minimised.

2.2 : Salient features of the Government of India Act 1919 :

(i) The basic principles were as follows : In order to standardise the provinces they were grouped and the Governors were to head the executives.

2. Decentralisation was introduced with a view to bringing about provincial autonomy.

3. Some changes were made in respect of the revenues.

4. In the legislative field there was division on the items of legislation.

5. Dyarchy was introduced at the provinces,

(ii) Details of Government India Act 1919.

Three broad heads may be made :

1. Devolution (division) of Legislative powers between the Centre and the Provinces.

2. Provinces: (a) Legislature (b) Provincial Executive : Governor and his Powers, Dyarchy.

3. Centre: (a) Central Legislature (b) Government of India. (Central Executive)

1. Devolution :

(i) Basic rules were made to classify the subjects into Central and Provincial.

(ii) The Provinces had powers to Legislate for peace and good Government of the provincial territories, in those subjects.

(iii) The Provinces could act or repeal any law made before 1919, in the Provinces, (previous sanction of the Governor General was required in some matters).

(iv) Some financial powers were also given to impose taxes and appropriate the proceeds.

(v) Many administrative powers were also given to Provinces under Regulations.

Thus the Provinces gained a distinct position.

2. Provinces :

(a) Provincial Legislature (unicameral) was called as "Legislature Council". It consisted of officials (20%) and, others were elected members. The membership varied from Province to Province.

The duration of the Council was 3 years. The Governor had the power to dissolve the Council. The Council was presided over by the President elected by the Council.

(b) Provincial Executive (Dyarchy). The Governor was the Head of the Executive. Dyarchy was introduced. Under this there were British Ministers in charge of Reserved subjects ; and also the Indian Ministers in charge of transferred subjects.

3. Centre :

(a) **Central Legislature had two Houses:** The Council of States and Legislative Assembly. The Council had 19 officials, 6 non-officials and 34 elected members (Total 59). The duration was 5 years. The president of the Council was nominated by the Governor-General.

Legislative Assembly : This had 143 members, officials 25, non-officials 15 and elected 103.

There was a provision for joint sitting to resolve the differences between the Houses.

(b) **Central Executive** : The Governor-General was the Head of the Central Executive (Govt. of India) the British Parliament controlled the Government of India through the Secretary of State, with a council consisting of Experts. The Governor-General had wide powers under the concept of safety and tranquility of British India. He could withhold his assent to Bills in the financial field, he could make the demand as essential to discharge his responsibilities. His sanction was required in introducing financial bills etc.

2.3: Dyarchy:

Dyarchy was introduced at the Provinces by the Government of India Act 1919. Lionel Curtis had written a book by name 'The Round Table', in which he had recommended dyarchy as the solution for the executive problems. On the basis of this, the Montford Report recommended dyarchy.

Essential features:

The various items of legislation were classified into : (i) Reserved Subjects (ii) Transferred Subjects.

The first was reserved by the British Ministers but the second was handed over to the Indian Ministers. It was therefore intended to be co-operative team of the British and the Indian Ministers with specified port-folios. The Governor was the head of the executive.

The British Ministers were responsible to the Governors. But the Indian Ministers were responsible to the elected representatives. This was therefore a peculiar combination leading to the peculiar cabinet responsibility. In consequence thereof instead of a team-spirit, there were differences of opinion and quarrels in respect of powers concerning reserved and transferred subjects.

Dyarchy died a natural death. It was an unfortunate experiment at the Provincial levels in India. Some of the reasons for the failure were as follows :

(ii) There could hardly be any joint deliberation of the cabinet, and the differences were dominant than the meeting points. In respect of cabinet responsibility there was a split. The reserved group was responsible to the Governor but the transferred group was responsible to the legislature. Hence Joint responsibility was impossible if not a misnomer.

(iii) The civil servants hardly co-operated with the Indian Ministers as the latter had hardly any control over them.

(iv) Finance was in the reserved half. Hence Government could completely control and water down the aspirations and enthusiasm of the Indian Ministers who toiled to prepare big plans for development.

The net result was that Dyarchy miserably failed. This created more disgust than confidence in the minds of the Indian people. Further Dyarchy was a mistaken misconception within itself.

Chapter 3

SIMON COMMISSION

The failure of dyarchy at the Province and the dissatisfaction among the Indian people resulted in an agitation against the British rule in India. This reached its highest level in 1927. The British Government being aware of this situation appointed a Commission called the Simon Commission. This Commission was charged with the duty to make enquiries into the actual working of the Government of India Act 1919 and also to point out ways and means to find out the possibility of establishing a *responsible government*,

The Commission had no Indian representative. It prepared a report in 1929. It was published in 1930. The Commission recommended that the Governor-General was to be given powers of an American President. He could become more powerful without being responsible to the legislature.

The report of the Commission was declared as anti-national and all political parties in India condemned and boycotted it. The Commission was against an All India Federation. Indian demands had been ignored. In consequence, the Commission was a failure.

3.2 : Nehru Committee :

As a fitting reply to the Simon Commission, Motilal Nehru formed a Committee to consolidate and to report to the British Government the Indian aspirations. The Simon Commission was an official body appointed by the British Government, but the Nehru Committee was a private political body self-appointed to express Indian feelings and demands. The Committee made the following recommendations.

(i) It strongly recommended the formation of an All India Federation and a Supreme Court in India.

(ii) It called for the immediate transfer of powers to the Indian hands.

(iii) The entire Indian Sub-continent should be considered as a single organic unit for the purpose of a political solution. Powers were divided between the Centre and the Provinces.

(iv) The linguistic, cultural and religious minorities should be viewed on the score of Indian unity.

(v) It listed 19 Fundamental Rights.

(vi) It recommended to abolish separate electoral system.

This admirable report of the Nehru Committee had its own tremendous impact. In fact, it had truly reflected the aspirations of the Indian people.

3.3 : Round Table Conferences :

The failure of the Simon Commission and the impact of the Nehru Committee Report perhaps lent colour to the British thinking on India.

The first R.T.C. which met in England passed through a gloomy atmosphere. The civil disobedience movement in India had also created a tension as reports poured into London, from India. The Prime Minister Mcdonald suggested the topics 1. Federation 2. Provincial autonomy 3. Partial responsibility at the Centre. Discussions were made on these. The Maharaja of Bikaner came out with a suggestion that he would co-operate in All India Federation. The British Parliament also approved of the Federation but it postponed matters. As a result the first R.T.C. was a failure.

The failure of the first led to the second R.T.C. which met in London. After the Gandhi-Irwin Pact, Gandhi was released from the Jail. He represented the Indian National Congress as its sole representative. The Princes represented the States. They had assured Gandhiji, when in India, about the cooperation for forming an Indian Federation. But, in the Round Table Conference at London there was a dramatic move by them. They stood against the idea of a Federation. Gandhiji was sorely disappointed and had to rest content with the meagre achievements of the conference. He returned to India with a sad heart deeply hurt. He reported to the Indian National Congress that he had achieved nothing, but, he said, he had not lowered the prestige and the honour of the Indian people.

The second conference **was a failure**. This led to the third R.T.C. The conference was condemned by the Indian National Congress and Gandhiji refused to attend. Added to this, the Labour Party in England also did not participate. The result was the conference made its deliberations and finally arrived at certain conclusions, to form a New Constitution for India, on the following basis.

(i) At least fifty percent of the Indian States should join the Indian Federation.

(ii) The Muslims should be given one third representation in the Central Legislature.

These and other proposals were embedded in the white paper of 1933. The Joint Select Committee also declared in

favour of a Federation. On the basis of this, the Government of India Act was passed.

Chapter 4

GOVERNMENT OF INDIA ACT 1935

The sequel to the Round Table Conferences was the introduction of a bill in the British Parliament which later became the Government of India Act 1935. The provisions of the Act had been drafted on the report of a joint select committee. The bill was assented to by the Crown and this became the Constitution of India to operate from 2-8-1935.

The Salient features of the Act are briefly as follows:

(i) **Federal structure.** The Act had provided for the creation of a federation and the federal frame work had to be drawn up.

The units were :

1. Provinces (Governors as Executive Heads e.g.: Madras, Bombay, Calcutta etc. Eleven Provinces).

2. States (called princely States e.g. Mysore, Hyderabad etc.)

3. Chief Commissioner's Provinces.

Delhi, Coorg, Andaman and Nicobar etc.

Here the provinces under (1) and (3) were brought under the Federal Structure.

But there was no binding force to the princes. In other words, the princes at their violation could join the federation. An instrument of accession had been devised for this purpose *with* varied conditions.

(ii) **Federal Executive.** The Governor-General was the Executive Head. He was appointed for five years by her Majesty. He was responsible to the Crown and to no other authority in India. His salary was charged on the consolidated Fund of India.

Dyarchy which had suffered at the Provinces now got recognition at the Centre under the Act of 1935. The Governor-General, his

counselors and the Ministers formed the Federal Executive. Some of the items of legislation like defence, external affairs were given to the Governor-General. The Counsellors advised him on these subjects. The Central Cabinet Ministers were responsible to the federal legislature.

The Governor General was almost a virtual dictator under the chair of the crown. The Governor-General played a dual role. He was the Governor General of India with reference to British India but, was the Crown's representative as regards Indian States.

(iii) Federal Legislature : Consisted of the Council of States and Federal House (Upper and Lower houses).

Distribution of Legislative powers :

The Federal Legislature itself had a peculiar foundation, democratic and autocratic. The Legislative powers were divided into three lists—Central Provincial and Concurrent.

(a) The Central (Federal) list had 49 subjects of legislation: Defence, external affairs, coinage, posts and telegraphs etc.

(b) The Provincial list had 54 subjects : Police, Public Order, Agriculture Land Tenure etc.

(c) The concurrent list had 36 subjects : Criminal law, marriage, testamentary Succession etc.

(d) The Residuary was with the Governor-General.

Many restrictions had been imposed. (1) Some subjects required the prior sanction of the Governor-General e.g. matters relating to police, matters touching European British subjects etc. (2) Some matters e.g. touching sovereign or royal family, could not be discussed even:

(3) In respect of Bills passed, the Governor-General could with-hold his assent or send for reconsideration to the Federal legislature.

(iv) **Federal Court:** The Act provided for the formation of a Federal Court at Delhi consisting of Chief Justice and two other judges

.The Act provided that judges should be appointed by the Crown and that they were to hold their office until 65 years of age. It provided for the qualifications of and for the mode of appointments of judges. The court had independence and the conduct of judges could not be questioned in the legislature.

The court had original appellate and advisory jurisdictions.

Jurisdiction :

(1) Original Jurisdiction : Disputes between the Provinces and States or Provinces inter se, or States inter se.

(2) Appellate Jurisdiction Constitutional matters i.e., Interpretation of the Government of India Act or Orders in Coun

cil. Criminal and Civil appellate jurisdiction from the High Courts.

(3) Appeals from the Princely States on the interpretation of the Act or Orders in Council.

(4) Advisory Jurisdiction: The Governor-General could consult the Federal Court on matters of Law or of fact.

The Federal Court was not the final court of authority. Appeals were allowed from the Federal Court to the Privy Council in England.

It goes to the credit of the judges that the federal court delivered admirable and impartial decisions in an atmosphere of independence. The judges were honest, straight-forward, impartial and sober in their attitude. Of all the institutions, established under the Act, the federal court was the most successful institution. This court was abolished and the Supreme Court of India was established under the Constitution of India 1950. Appeals to the Privy Council were also abolished.

Chapter 5

CRIPPS MISSION

5.1

The Second World War created a demand in Britain for new declaration of policy towards India. This was discussed by the British Cabinet. It sent Sir Stafford Cripps, a War-Cabinet Minister to try for a settlement through direct negotiations with the Indian Political Parties. Cripps arrived in India on 22 March, 1942 and presented his proposals for consideration.

The main provisions :

(i) The object was the creation of a New Indian Union as part of the Dominion in the British Common Wealth. This was not to be subordinate to Britain.

(ii) Steps shall be taken to set up in India an Elected Body charged with the duty to frame a New Constitution for India.

(iii) Provision should be made for the participation of Indian States in the Constitution Making Body.

(iv) The British Government was to accept and implement forthwith the Constitution so framed, subject only to certain conditions.

(v) Until these are achieved the British Government must bear the responsibility to defend India.

This scheme satisfied none. The I.N.C. criticised the manner of selecting the States Representatives. The Muslim League criticised it as it had ignored Muslim interests. Gandhiji branded it as a 'post dated cheque on a crashing Bank'.

5.2 : The Quit India Resolution :

The All India Congress Committee which met at Bombay in August 1942 was convinced that nothing but positive action could bring a change of Gandhiji demanded the British to "Quit India" and allow the Indians to solve their problems themselves.

Among other things the resolution said 'The Committee is of the opinion that the immediate ending of the British Rule in India is an urgent necessity.

The continuation of that rule is degrading and enfeebling India'.

Gandhiji had piloted this resolution. The British Government reacted by arresting all the Congress Leaders and banning Congress Organisation throughout India

. The arrest of the leaders provoked a widespread revolution in India called, the '**August Revolution**'.

Thousands were arrested and put in Jail. The Revolution, was suppressed with an Iron hand, by the Govt.

5.3 : The Simla Conference and Wavell Plan :

Lord Wavell, the Governor-General announced in June 1946 his proposals to advance India towards her goal of full Self Government. He called for an All Party Conference at Simla to discuss the Wavell Plan on 25th June, which included Gandhiji and Jinnah, representatives of Provincial Governments of various political parties and minority groups.

The main purpose was the formation of a New Executive Council representing the organised political opinion in the country. The conference made a sincere attempt. Mr.Jinnah, claimed that the muslim league was the sole representative of the muslims in India .He objected to the Indian National Congress nominating a muslim to the Viceroy's Executive Council. The Congress refused to agree on this. Thus the Wavell plan failed.

Chapter 6

CABINET MISSION

6.1

The British General Election had given a big victory to the Labour Party. Japan had surrendered unconditionally. The Labour Party Government realised that the situation in India called for a different approach. It announced on 19th February 1946 that a Cabinet Mission consisting of Lawrence, Cripps and Alexander would soon visit India to seek a settlement of the Constitutional Issue.

The Cabinet Mission arrived in New Delhi on 24th March 1946. It held negotiations with the Viceroy and the Leaders like Gandhiji, Nehru, Jinnah, and others. It did its best to bring the Congress and the League together for a settlement, but failed.It put forward the

proposals known as the 'Cabinet Mission Plan.'

The plan had three parts :

1. The Examination of the proposals for the partition of India and the creation of a New Independent State called 'Pakistan'.

2. A scheme for the setting up of an Interim Government and

3. A plan for a long term settlement.

It rejected the plea for the partition. It commended the following plan for a long term settlement.

(i) There should be a Union of India, containing both British India and the States which should deal with the following subjects, Defence, Foreign affairs and Communications.

(ii) The Union should have an Executive and Legislature consisting of British Indian and States representatives.

(iii) All subjects other than the Union subjects and all Residency powers should vest in the Provinces.

(iv) The Constitution making body should be constituted immediately through indirect election.

(v) The elected representatives should meet in New Delhi as one body, together with the Representatives of the Indian States to constitute a Constitution making body.

(vi) The Constituent Assembly should negotiate a treaty with the United Kingdom to provide for certain matters arising out of the transfer of power.

(vii) It envisaged the setting up of an interim Government and all the portfolios of the Central Ministers would be held by Indians.

Consequences:

The Cabinet Mission proposals were accepted partially by the Indian National Congress and fully by the Muslim League. The Sikh rejected the compulsory grouping of Provinces.

Mr.Jinnah grew wild and called for 'Direct Action' on 16-8-1946. Lord Wavell invited Pandit Nehru to form the interim Government. The Muslim which had not first joined, joined later and five members were given place in the Ministry. This continued until the date of partition of India.

6.2 : Constituent Assembly :

As per the Cabinet Mission Plan, Elections were conducted in July 1946 and the Constituent Assembly met in New Delhi in December 1956. The Muslim League refused to participate in the meetings.

The constituent Assembly acted in Dual capacity. As the interim Government until the newly elected Government took office, it also acted as the Constitution making body.

Dr. Ambedkar was the Chairman of the Drafting Committee. Dr. B.N. Rao was the Constitutional Adviser. Dr. Rajendra Prasad was the President of the Constituent Assembly.

The Constituent Assembly consisted of the following.

(i) Representatives elected by the members of the Provincial Legislative Assemblies as per the Cabinet Mission Plan: 292 Members.

(ii) Princely States were allowed to send their representatives : 93 Members.

It did the commendable job of framing the Indian Constitution. It discussed the draft constitution thread-bare and after the third reading, it passed the Constitution of India. It was adopted on 26-11-1949 and put into operation on 26-1-1950.

6.3 : The Mountbatten Plan :

Though elections were held to the Constituent Assembly, the Muslim League refused to participate in the Assembly. But Lord Attlee, The Prime Minister of England declared duly approved by all the parties in India.

However, Mr. Jinnah desired to have a separate 'Pakistan'. Hence, Lord Attlee announced that June 1948 was the deadline date, to hand over power. Lord Mountbatten was entrusted with the task of transferring power in a manner best suited to the interests of India.

He visited India, met leaders and others returned to London and submitted his plan which, inter alia, recommended for the partition of undivided India into India and Pakistan.

The plan carved out the land territories of Pakistan. It also provided for Boundary Commissions to settle differences if any.

This plan was accepted by the Muslim League and the All India Congress Committee (A.I.C.C.)

It is on the basis of this plan that the India Independence Act was passed by the British Parliament.

6.4 : The India Independence Act 1947 :

Lord Mountbatten's Plan was given effect to by the British Parliament by passing an Act called the India Independence Act 1947.

The salient feature of the Act are :

(i) **Undivided India was partitioned into India and Pakistan, from the appointed day 15th August 1947. Both became independent and sovereign states.**

(ii) The Crown's Powers were transferred to the Constituent Assemblies of India and Pakistan. They would act as Dominion

Legislatures until the new constitutions were framed and put into operation by them.

(iii) **Princely States** : The Paramountcy of the Crown over the Princely States was not transferred to the Dominions, but it lapsed. Hence, they became independent. Option was given to them to join India or Pakistan.

Sardar Vallabhai Patel with his shrewdness did the commendable job to secure the Princely States join India, which they did by signing the instrument of accession.

6.5 : Lapse of Paramountcy :

(i) The Princely States in India had a peculiar status i.e., subordinate to the East India Company. They were to some extent independent but not sovereign.

The company never interfered in the internal affairs of the States except in rare circumstances. The resident was the Company's Representative who had all powers in the States.

(ii) The Company was wound up in 1858. The Proclamation of Queen Victoria declared that the Crown would respect the rights, dignity and honour of the Princes in these States. This relation between the Crown and the Princely States was called Paramountcy. Its main features were :

(a) It evolved as a result of sanads, treaties and usages.

(b) The Princely States were not Sovereign States. The Princes were the Heads of States and had all administrative powers.

(c) For defence, the British Government was responsible,

(iii) Chamber of Princes : After world war I by a Royal Proclamation, a chamber of princes was formed with the Viceroy as the President. A committee called the Butler Committee was appointed, which recommended that the Paramount power over the Princes should not be handed over without *their consent*, to the Indian Government.

(iv) The Cabinet Mission recommended that Paramountcy should lapse and should not be transferred to Indian Govt. The State should not be forced to join any Union.

(v) Under the India Independence Act, this paramountcy lapsed. As such these States became independent. They had an option to join India or Pakistan.

The Iron Man-Sardar-Patel with an Iron-will worked hard with shrewdness and sagacity to make the States accede to India. The Instruments of merger and the other agreements were signed by all States except Junagadh, Hyderabad and Jammu and Kashmir.

There was a popular demand in Junagadh and its Nawab fled to Pakistan. Government of India took over Junagadh. Police action in 1948 in Hyderabad resulted in the Nawab joining India. Jammu and Kashmir acceded to India when raiders of Pakistan invaded the territories of Jammu and Kashmir and Art. 370 of the Constitution is in regard to its special status.

THE END

REFERENCE SECTION

Selected portions

Indian Independence Act 1947

An Act to make provision for the setting up in India of **two independent Dominions**, to substitute other provisions for certain provisions of the Government of India Act 1935, which apply outside those Dominions, and to provide for other matters consequential on or connected with the setting up of those Dominions

[18th July 1947]

1The new Dominions.

(1)**As from the fifteenth day of August, nineteen hundred and forty-seven, two independent Dominions shall be set up in India, to be known respectively as India and Pakistan.**

(2)The said Dominions are hereafter in this Act referred to as “the new Dominions”, and the said fifteenth day of August is hereafter in this Act referred to as “the appointed day”

. 3 No Act of Parliament of the United Kingdom passed on or after the appointed day shall extend, or be deemed to extend, to either of the new Dominions as part of the law of that Dominion unless it is extended thereto by a law of the Legislature of the Dominion.

No Order in Council made on or after the appointed day under any Act passed before the appointed day, and no order, rule or other instrument made on or after the appointed day under any such Act by any United Kingdom Minister or other authority, shall extend, or be deemed to extend, to either of the new Dominions as part of the law of that Dominion.

7 Consequences of the setting up of the new Dominions.

(1)As from the appointed day—

(a)His Majesty's Government in the United Kingdom have no responsibility as respects the government of any of the territories which, immediately before that day, were included in British India;

(b)**the suzerainty of His Majesty over the Indian States lapses**, and with it, all treaties and agreements in force at the date of the passing of this Act between His Majesty and the rulers of Indian States, all functions exercisable by His Majesty at that date with respect to Indian States, all obligations of His Majesty existing at that

date towards Indian States or the rulers thereof, and all powers, rights, authority or jurisdiction exercisable by His Majesty at that date in or in relation to Indian States by treaty, grant, usage, sufferance or otherwise; and

(c) there lapse also any treaties or agreements in force at the date of the passing of this Act between His Majesty and any persons having authority in the tribal areas, any obligations of His Majesty existing at that date to any such persons or with respect to the tribal areas, and all powers, rights, authority or jurisdiction exercisable at that date by His Majesty in or in relation to the tribal areas by treaty, grant, usage, sufferance or otherwise:

Provided that, notwithstanding anything in paragraph (b) or paragraph (c) of this subsection, effect shall, as nearly as may be, continue to be given to the provisions of any such agreement as is therein referred to which relate to customs, transit and communications, posts and telegraphs, or other like matters, until the provisions in question are denounced by the Ruler of the Indian State or person having authority in the tribal areas on the one hand, or by the Dominion or Province or other part thereof concerned on the other hand, or are superseded by subsequent agreements.

(2) The assent of the Parliament of the United Kingdom is hereby given to the omission from the Royal Style and Titles of the words "Indiae Imperator" and the words "Emperor of India" and to the issue by His Majesty for that purpose of His Royal Proclamation under the Great Seal of the Realm.

THE END