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Section (A)

Indian Constitution & Polity

Total Marks : 200 and Time : 3 hours

The question-paper of the Indian Constitution, Polity and Public Administration shall consist of two distinct sections i.e. one on Indian Constitution and Polity, and the other one on Public Administration & Good Governance, each of 100 marks. The candidates will be required to answer one compulsory and two optional questions from each section. The compulsory question of each section, covering the entire syllabus of the concerned section, shall have ten objective type of questions, each of two marks (10x2=20). In addition, there shall be four optional questions in each section, of which candidates will be required to answer only two questions, each of 4-0 marks. The optional questions shall be answered in the traditional, descriptive form; requiring long answers.

Basic structure of the Indian Constitution

The Indian constitutional development start from the year of 1858. It was after the first war of independence (Sepoy Mutiny) in 1857, the transfer of power from the East India Company to the British crown was affected by the Government of India Act, 1858. It was subsequently followed by the Indian Councils Act, 1861 and the Indian Councils Act, 1892.

Though the British Govt. repeatedly asserted its desire of providing better and more participatory government to the Indians, all the acts cited above, in effect, strengthened the hands of the British government. The much lauded Indian Councils Act, of 1909, which, in fact, initiated the process of decentralisation had a positive vice in the form of introduction of communal representation for the first time.

The seeds of separation between the Hindus and the Muslims were sown for the first time aiming to weaken the nationalist agitation. During the First World War, which started in 1914, the British government, in order to elicit Indian support, declared on 20th August 1917 its desire to associate the Indians in a significant manner in the administration after the end of the war. However, the Government of India Act, 1919, which was subsequently enacted, was a big disappointment for the Indians. Apart from retaining the unitary and centralised features of administration, it sought to perpetuate the communal representation system introduced in 1909.

Subsequent to the enactment of the 1919 Act, a seven-man Statutory Commission was appointed in 1927 under the chairmanship of Sir John Simon to report on the working of the 1919 Act. The Indian National Congress boycotted the Commission as all the members were English men. The report of the Commission was placed before a Round Table Conference which was boycotted by the Congress.

The findings of the conference was again examined by a Joint Select Committee of the British Parliament and on the recommendations of the Select Committee, the Government of India Act, 1935 was enacted. While this Act, promised to set up a federal government in India, an attempt was simultaneously made to deepen the communal cleavages in the country further by providing separate representation not only to the Muslims, but also to the Sikhs, the European, Indian, Christians and Anglo-Indians.

The Congress won overwhelmingly in the 1937 elections held as per the provisions of the 1935 Act. However, with the outbreak of Second World War in 1939, the Indian National Congress governments resigned demanding right of self determination by framing their own Constitution through a Constituent Assembly. Such a demand was earlier made by the Congress for the first time in 1935 and repeatedly made several times between 1935 and 1939. It was never paid any attention by the British Government till 1942, when it was faced with the danger of defeat at the hands of Germany.

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The *Cripps Mission* which came to India in 1942 though accepted the demands of an elected Constituent Assembly to frame a constitution, it indirectly accepted the plans of the Muslim League for a separate state i.e. Pakistan.

The rejection of Cripps proposal was followed by the dynamic Quit India Movement in August 1942. It was only after the end of the war, the British Government despatched the Cabinet Mission to India in March 1946. As per its recommendations, elections were held to the Constituent Assembly.

The Muslim League members, though elected, boycotted the proceedings of the house which started on 1 Dec. 1946. The grouping clause of the cabinet recommendation indirectly accepted the Muslim League's demand. Ultimately on 20th February, 1947 the British Government announced its decision to transfer power to India by June 1948, keeping the option open to hand over power to a truncated India.

The Mountbatten Plan envisaged by Lord Mountbatten clearly decided in favour of partitioning India. With surprising speed, the Indian Independence Act 1947 was passed by the British Parliament on 4th July and received royal assent in 18th July 1947. Accordingly, India and Pakistan were to emerge as two independent Dominions and the Constituent Assembly of each Dominion was to have unlimited powers to frame and adopt any constitution it liked. India and Pakistan became two completely sovereign states on the 'appointed day', that is 15 August 1947.

Landmarks

The Constitution of India, as opted by the Constituent Assembly in 1949, was not something absolutely new. It was, to a great extent, influenced by the Government of India Act of 1935 that was passed by the British Parliament. In order to understand and appreciate the Constitution, it is necessary to glance at the constitutional development during the British rule in India. Some of the landmarks in the constitutional development are given in the following passages.

The foundation of British authority in India was laid in down through the establishment of East India Company in England under a Charter of the British Queen Elizabeth. Under the Charter the Company was given an exclusive right of trading with India. In the beginning the Company was purely a trading organi-

zation, but later on due to political circumstances, it acquired territorial power.

Regulating Act of 1773

With the expansion of political power of the Company, it was felt in England that the affairs of the Company needed some regulation. As a result, the Regulating Act of 1773 came into being. Some of the salient features of the Act were as follows - (i) it set up a government in Calcutta Presidency consisting of a Governor-General and a Council of four members who exercised their authority jointly, (ii) the governments of the Presidencies of Bombay and Madras were subordinated to the government in Calcutta and (iii) it empowered the British Crown to establish a Supreme Court in Bengal with jurisdiction over Bengal, Bihar and Orissa.

The Act subjected the legislative authority of the Governor-General and Council to certain limitations: (i) the rules and regulations made by them were not to be repugnant to the laws of England, (ii) they required registration by the Supreme Court which was given the power to veto them, (iii) there could be an appeal against them to the British Government and (iv) the Governor-General and the Council were under the duty to forward all such rules and regulations to England and the King-in-Council was competent to disapprove them at any time within two years.

The Charter Act of 1833

To make the legislative functions of the government distinct, the British Government enacted the Charter Act of 1833. It made substantial changes in the constitutional set up of India. The sole legislative power in India was vested in the Governor-General-in-Council. The Council was to consist of four members, of whom one was to be a Law Member, who could attend the Council meetings, as a matter of right, only when it was to perform legislative functions. The Council's functions were, thus, divided into two categories.

When it performed executive functions, it consisted of the Governor-General and three members only. But, when it performed legislative functions, it consisted of the Governor-General and the four members. In this way, the Act laid the foundation of the future Central Legislature, also called Imperial Legis-