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**Unit-III**

Indian Councils Act, 1909 - The Government of India Act, 1919 – The  
Government of India Act, 1935

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# The Indian Councils Act, 1909

- The Indian Councils Act, 1909 was an act of the British Parliament that introduced a few reforms in the legislative councils and increased the involvement of Indians (limited) in the governance of British India.
- It was more commonly called the Morley-Minto Act named after the Secretary of State for India, John Morley and the Viceroy of India, the 4<sup>th</sup> Earl of Minto.

- The legislative councils at the Centre and the provinces increased in size.
  - Central Legislative Council – from 16 to 60 members
  - However, with the addition of 9 ex-officio members, there were 69 total members (37 Official members and 32 Non-official members).
  - Legislative Councils of Bengal, Madras, Bombay and United Provinces – 50 members each
  - Legislative Councils of Punjab, Burma and Assam – 30 members each

**The legislative councils at the Centre and the provinces were to have four categories of members as follows:**

- **Ex officio members** - Governor-General and members of the executive council.
- **Nominated official member** - Government officials who were nominated by the Governor-General.
- **Nominated non-official members** - nominated by the Governor-General but were not government officials.
- **Elected members** - elected by different categories of Indians.

- The elected members were elected indirectly. The local bodies elected an electoral college that would elect members of the provincial legislative councils. These members would, in turn, elect the members of the Central legislative council.
- The elected members were from the local bodies, the chambers of commerce, landlords, universities, traders' communities and Muslims.

- Indians were given membership to the Imperial Legislative Council for the first time.
- It introduced separate electorates for the Muslims.
- Some constituencies were earmarked for Muslims and only Muslims could vote their representatives.

- The members could discuss the budget and move resolutions. They could also discuss matters of public interest.
- They could also ask supplementary questions.
- No discussions on foreign policy (or) on relations with the princely states were permitted.
- Lord Minto appointed Satyendra P Sinha as the first Indian member of the Viceroy's Executive Council.



# **The Government of India Act, 1919**

- The Government of India Act 1919 was an act of the British Parliament that sought to increase the participation of Indians in the administration of their country.
- The act was based on the recommendations of a report by Edwin Montagu, the then Secretary of State for India, and Lord Chelmsford, India's Viceroy between 1916 and 1921.
- Hence the constitutional reforms set forth by this act are known as **Montagu-Chelmsford reforms**.

# Preamble

- The act laid down in its preamble.
- These principles were more or less the same as embodied in the declaration of August 20 1917.
- British India is to remain an integral part of British empire.
- Responsible government in British India is the objective of the declared policy of parliament.
- In order to achieve responsible government it is necessary to provide two things
  - ❖ Increasing association of the Indian in every branch of administration
  - ❖ The gradual development of self governing institutions

# Features of Government of India Act, 1919

## Home Government

- ✓ The Secretary of state for Indian who used to be paid out of the Indian Revenues was now to be paid by the British Exchequer, thus undergoing an injustice dating from 1793.
- ✓ Some of his functions taken away from him and given to high commissioner for India who was to be appointed and paid by the government of India.

## Provincial Government

### Executive:

- Dyarchy was introduced, i.e., there were two classes of administrators – Executive councilors and ministers.
- The Governor was the executive head of the province.
- The subjects were divided into two lists – reserved and transferred.
- The governor was in charge of the reserved list along with his executive councilors. The subjects under this list were law and order, irrigation, finance, land revenue, etc.

- The ministers were in charge of subjects under the transferred list. The subjects included were education, local government, health, excise, industry, public works, religious endowments, etc.
- The ministers were responsible to the people who elected them through the legislature.
- These ministers were nominated from among the elected members of the legislative council.

- The executive councilors were not responsible to the legislature, unlike the ministers.
- The Secretary of State and the Governor-General could interfere in matters under the reserved list but this interference was restricted to the transferred list.

## Legislature:

- The size of the provincial legislative assemblies was increased. Now about 70% of the members were elected.
- There were communal and class electorates.
- Some women could also vote.
- The governor's assent was required to pass any bill. He also had veto power and could issue ordinances also.

# Central government

## Executive:

- The chief executive authority was the Governor-General.
- There were two lists for administration – central and provincial.
- The provincial list was under the provinces while the centre took care of the central list.
- Out of the 6 members of the Viceroy's executive council, 3 were to be Indian members.
- The governor-general could issue ordinances.
- He could also certify bills that were rejected by the central legislature.



## Legislature

- A bicameral legislature was set up with two houses – the Legislative Assembly (forerunner of the Lok Sabha) and the Council of State (forerunner of the Rajya Sabha).
- **Legislative Assembly (Lower House)**
  - The nominated members were nominated by the governor-general from Anglo-Indians and Indian Christians.
  - The members had a tenure of 3 years.
  - It consist of 145 members 104 were elected and 41 nominated

## Council of State (Upper House)

- The members had a tenure of 5 years.
- The Council of State 60 members had 26 nominated and 34 elected members.
- The legislators could ask questions and also vote on a part of the budget.
- Only 25% of the budget was subject to vote.
- Rest was non-votable.
- A bill had to be passed in both houses before it became law.
- There were three measures to resolve any deadlock between both houses – joint committees, joint conferences and joint sittings.

# Governor-General

- The governor-general's assent was required for any bill to become law even if both houses had passed it.
- He could also enact a bill without the legislature's consent.
- He could prevent a bill from becoming law if he deems it detrimental to the peace of the country.
- He could disallow any question, adjournment motion or debate in the house.

# **Government of India Act, 1935**

- The Government of India Act was passed by the British Parliament in August 1935.
- There was a growing demand for constitutional reforms in India by Indian leaders.
- India's support to Britain in the First World War also aided in British acknowledgement of the need for the inclusion of more Indians in the administration of their own country.

- The Act was based on:
  - Simon Commission Report
  - The recommendations of the Round Table Conferences
  - The White Paper published by the British government in 1933 (based on the Third Round Table Conference)
  - Report of the Joint Select Committees.

- This Act divided powers between the centre and the provinces.
- There were three lists which gave the subjects under each government.
  - Federal List (Centre)
  - Provincial List (Provinces)
  - Concurrent List (Both)
- The Viceroy was vested with residual powers.

# Features of the Govt. of India Act, 1935

- The Act gave more autonomy to the provinces.
- Diarchy was abolished at the provincial levels.
- The Governor was the head of the executive.
- There was a Council of Ministers to advise him. The legislature could also remove the ministers.
- However, the governors still retained special reserve powers.
- The British authorities could still suspend a provincial government.



- The subjects under the Federal List were divided into two: Reserved and Transferred.
- The reserved subjects were controlled by the Governor-General who administered them with the help of three counsellors appointed by him.
- They were not responsible to the legislature.
- These subjects included defence, ecclesiastical affairs (church-related), external affairs, press, police, taxation, justice, power resources and tribal affairs.

- The transferred subjects were administered by the Governor-General with his Council of Ministers (not more than 10). The Council had to act in confidence with the legislature. The subjects in this list included local government, forests, education, health, etc.
- A bicameral federal legislature would be established.
- The two houses were the Federal Assembly (lower house) and the Council of States (upper house).
- The federal assembly had a term of five years.

- Both houses had representatives from the princely states also. The representatives of the princely states were to be nominated by the rulers and not elected.
- The representatives of British India were to be elected. Some were to be nominated by the Governor-General.
- Bicameral legislatures were introduced in some provinces also like Bengal, Madras, Bombay, Bihar, Assam and the United Provinces.

- A federal court was established at Delhi for the resolution of disputes between provinces and also between the centre and the provinces.
- It was to have 1 Chief Justice and not more than 6 judges.
- The Indian Council was abolished.
- The Secretary of State for India would instead have a team of advisors.

- This federation was to consist of British India and the princely states.
- The provinces in British India would have to join the federation but this was not compulsory for the princely states.
- This federation never materialised because of the lack of support from the required number of princely states.

- This Act introduced direct elections in India for the first time.
- The British Parliament retained its supremacy over the Indian legislatures both provincial and federal.
- The Act was a milestone in the development of a responsible constitutional government in India.
- The Government of India Act 1935 was replaced by the Constitution of India after independence.