

By Akash Kumar Sir

Constitutional Development of India

- Constitution is a legal document which reflects the faith and aspirations of the people of that country. The background for the creation of the Indian Constitution was laid during the British rule, but the pace of its gradual development was very slow during this period.
- We can divide the constitutional development of India into two parts:
- Under the rule of the East India Company, and
- Under the rule of the British Government.
- As long as the East India Company was in power (1858 AD), the British Parliament kept a check on the Company's rule by issuing various Acts or Charters on various occasions and even when it took the rule of India in its own hands, it made various laws for the rule of India. We include all those orders and laws in the constitutional development of India. As:

Charter of 1600 A.D.

- Constitutional development of India begins with the establishment of East India Company. This work was done through a Raj Lakh, which was called Raj Lakh of 1600 AD.

Examination Perspective

- Under which Charter Act was the East India Company established in India?
- Under the Charter Act of 1600 AD
- Queen Elizabeth established the East India Company and gave permission to trade in the eastern countries under whose chairmanship?
- Lord Mayor
- From where does the foundation of the creation and development of Anglo-Indian law codes begin?
- From the Charter of 1600 AD
- By which Raj Lakh, the right of law making of the Board of Directors of the company based in England was vested in the Governor and the members of his Council?
- By the Raj Lakh (Charter) of 1726
- By which Act was the post of Governor General created in the company?
- Regulating Act of 1773
- Through Raj Lakh, Queen Elizabeth I established the 'East India Company' on 31 December 1600 and granted it the right to trade in the eastern countries for 15 years. At the time of establishment, the total capital of the company was 30133 pounds and it had a total of 217 partners. The entire



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administration of this company was handed over to a council at the top of which were the Governor and Deputy Governor and 24 other members. It was called the 'Governor and his Council'. It is worth noting that later this council was named as 'Court of Directors' and 'Board of Directors'.

The Royal Decree of 1726

- By this charter, the governors of Kolkata, Mumbai and Madras Presidencies and their councils were given the 'power to make laws'. Earlier, this power was vested in the Board of Directors based in England.

Regulating Act of 1773

- This Act was made on the basis of the suggestion of Edmund Burke, the Chairman of the Select Committee of the British Parliament, to remove the serious practical defects inherent in the Regulating Act, 1773. It is also called the 'Amending Act' or Bengal Judicature Act, 1781.
- Through this Act, the Government of Calcutta was also given the authority to make laws for Bengal, Bihar and Orissa. Thus, now the Government of Calcutta got two sources of making laws. First, under the Regulating Act, it could make laws for the Calcutta Presidency and second, under the Act of Settlement, it could make laws for the Diwani regions of Bengal, Bihar and Orissa.
- The Supreme Court was also ordered to keep in mind the religious and social customs and traditions of the Indians while making orders and laws.
- Governor-General-in-Council was freed from the jurisdiction of the Supreme Court. That is, whatever rules the Governor General's Council will make now, it will not be necessary to register them with the Supreme Court.
- Appeal against provincial courts Governor General's Council Examination View
- Who were the councillors in the four-member council of Governor General Warren Hastings?
- Could be sent to the British. Then, cases worth 5000 pounds or more could be sent to the British Emperor with Council.
- By limiting the power of the Supreme Court, its revenue jurisdiction was abolished and instructions were given to enforce new laws keeping in mind the local rules. Thus, this Act removed many disputes and difficulties of the Regulating Act. Its objective was to strengthen the government. It also solved the problem of revenue and established revenue boards. Along with this, emphasis was also laid on not violating the social and religious customs of Indians in making and implementing laws in India.

Act of Settlement, 1781

- This Act was made on the basis of the suggestion of Edmund Burke, Chairman of the Select Committee of the British Parliament, to remove the serious

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practical defects inherent in the Regulating Act, 1773. It is also called the 'Amending Act' or Bengal Judicature Act, 1781.

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- The Supreme Court was also ordered to take into account the religious and social customs and traditions of Indians while passing orders and laws.
- The Governor-General-in-Council was freed from the jurisdiction of the Supreme Court. That is, the rules made by the Governor General's Council will not be required to be registered with the Supreme Court.
- An appeal against the provincial courts could be made to the Governor General's Council.
- Observation Point • Who were the four members of the Bengal Council of Governor General Warren Hastings?
- Philip Francis, Clavering, Monson and Barrell.
- The representatives of the Governor General and his Council were subordinate to?
- Board of Directors (Board of Directors) based in England.
- The management power of the East India Company was vested in whom?
-The Governor General and his Council.
- By which act was the Supreme Court established in Kolkata?
- By the Regulating Act of 1773.
- Which judges were members of the Supreme Court and who was the Chief Justice?
- Four members; Chief Justice Sir Elijah Impey.
 - By which Act, taking bribe from Indian people was banned by the
- Regulating Act (1773)
 - Who was the first Governor General of Bengal?
- Warren Hastings.
 - When was the Supreme Court established in Kolkata under the Regulating Act 1773.
- In 1774 A.D.
 - By which act was the first attempt made to exercise parliamentary control over the East India Company?
By the Regulating Act 1773
 - Why is 1765 A.D. called the 'era of revolution' in Anglo-Indian history?
-Ilbert.

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- Further, cases worth 5000 pounds or more could be sent to the British Emperor with the Council.
- The power of the Supreme Court was limited and its revenue jurisdiction was abolished and instructions were given to implement new laws keeping in mind the local rules. Thus, this Act removed many disputes and difficulties of the Regulating Act. Its objective was to strengthen the government. It also solved the problem of revenue and established revenue boards. Along with this, emphasis was also laid on not violating the social and religious customs of Indians in making and implementing the laws in India.

Pitt's India Act, 1784

- **Act of Settlement:** After the failure of 1781, Pitt's India Act was the first legal document of the British Crown's claim of ownership over the Indian territories acquired by the Company; titled - British Dominion in India.
- The main facts of this Act are as follows. As-
- Through this Act, the commercial and political activities of the Company were separated.
- While keeping the commercial activities in the hands of the Company's directors,
- Do you know? That...
- With the objective of removing the defects prevalent in the Regulating Act,
- first the 'Dandaaj Act' was introduced in 1783 and again in November, 1783 Fox's India Bill was introduced. But both the above bills could not be passed. Hence, due to the bill presented by Fox not being passed in the House of Lords, the coalition government of Lord North and Fox had to resign. It is worth noting that this is the first and last instance of the fall of an English government on an Indian issue. Thereafter Pitts India Act 1784 was introduced.
- It is worth noting that without the permission of the Board of Control, the Governor General had no power to take any action. a 6-member 'Board of Control' was established in England to control and supervise political activities (military, civilian and revenue related). It is worth noting that without the permission of the Board of Control, the Governor General did not have the right to start a conflict with any native king or to assure help. The right to appoint and remove these members was given to the emperor. Out of the 6 members, one was Chancellor of Exchequer, one was State Secretary and 4 persons were members of Privy Council. Thus, now there were two rulers of the Indian colony, first- Board of Directors of the company, and second- Sammad through the Board of Control. This situation continued till 1858 AD.

Exam Point of View

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- By which Act was the Governor-General-in-Council freed from the jurisdiction of the Supreme Court
- **By the Settlement Act of 1781**
- By which Act was the revenue jurisdiction of the Supreme Court abolished?
Settlement Act of 1781
- Which Governor General and by which Act were the powers of both Governor General and Commander-in-Chief given for the first time?
- **Lord Cornwallis; By the Act of 1786**
- By which Act were the commercial and political activities of the Company separated from each other?
- **By Pitt's India Act 1784**
- When was the Company's employees banned from accepting gifts?
- **In 1784 (Pitt's India Act)**
- When was the British Government's control established for the first time in the Company's affairs?
By Pitts India Act in 1784
- Who was the President of the Board of Control formed under Pitts India Act?
- **A member of the British Cabinet**
- By which Act the Governor-General was again given the power to reject the decisions of his Council and this was extended to future Governors as well?
Charter Act 1793
- Under which Act the provision for paying salary to the members of the Board of Control from Indian revenue was made?
Under the Rajgrach of 1793
- Which Rajgrach gives permission to Christian missionaries to preach religion in India?
- **Rajgrach of 1813.**
- How much amount was fixed for expenditure on the education of Indians by the Charter of 1813?
One lakh rupees
- By which Charter it was made compulsory for the British coming to India to settle and do business to take license?
Charter Act of 1813
- By which act the number of members of the Governor General was reduced from 4 to 3, out of which one province was required to have a Commander-in-Chief? -
By Pitts India Act of 1784

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- The number of members of the Governor General's council was reduced from four to three. This council was given the power to supervise administration in India such as military power, war, treaty, revenue and native states etc.
- The number of members of the Provincial Council was reduced from 4 to 3. One of these members was made the commander of the province.
- This act gave the Governor General the right to dismiss provincial governments if they did not comply with the central government.
- A court was established in England to prosecute illegal activities of British officers posted in India.
- This act prohibited the company employees from accepting gifts.
- This act made it compulsory for the Governor General to take permission from the company directors before going to war or entering into treaties with native kings.

Act of 1786

- Through this Act, the Governor General was given the right to cancel the decision of his council in special circumstances and implement his own decision (UPPCS-90) and the Governor General was also given the powers of Commander-in-Chief. Both these rights were first obtained by Lord Cornwallis.

Charter Act of 1793 This situation continued till 1858 AD.

- Through this Act, the rights of the company were extended for 20 years and the power to cancel the decisions of his council which was given to Lord Cornwallis was also given to the upcoming Governor Generals and Governors. Through this Act, a provision was made to pay the salary of the members of the Board of Control from Indian revenue. The foundation of administration was laid through written laws in British Indian areas and the court was given the right to interpret all laws and regulations. Charter Act of 1813
- This charter was passed in view of the demand of ending the monopoly of the company, establishing more effective control over it and the Christian missionaries' demand for more autonomy in India. The following provisions were made by this charter. As-
 - For the first time, Christian missionaries were given permission to preach religion in India by this charter (UP.UDA-02)
- The company's trade monopoly was abolished and all British citizens were given the right to trade, but the monopoly of trade with China and tea trade was maintained.
- A provision was made to spend Rs 1 lakh per year on the education of Indians (BPSC-08)
- Local autonomous institutions were given the right to levy taxes.
- It is worth noting that by this charter, the approval of the laws made by the governments of Calcutta, Bombay and Madras by the British Parliament was

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made mandatory and the company was given the right to appoint Governor General, Governors and Commanders-in-Chief with the approval of the British Emperor.

Charter Act of 1833

- After the Charter Act of 1813, the empire of the company in India grew considerably, to establish proper control over which the British Parliament granted some rights to the company through Acts in 1814, 1823 and 1829;
- Do you know?
- 'Fort William College' is a centre for the study of oriental studies and languages located in Kolkata, which was established on 10 July 1800 by the then Governor General Lord Wellesley. The main objective of its establishment was to provide education of Indian languages to British officers (IAS: 2021). It is noteworthy that its first principal was Gilchrist.
- The laws made before the 1833 Raj Lekh were called Regulations while the laws made by this Act were called Acts. In other words, the law made by the Council of the Governor General of India was called Act.
- The Raj Lekh of 1853 was the last charter in the history of Indian rule (British period).
- After independence, the first Law Commission in India was constituted in 1955 and its chairman was M.C. Setalvad, who was also the first Attorney General of India.
- but these Acts could not give the desired success. Hence, the third Charter Act was passed in 1833 and the following provisions were made. As-
- The rights of the company were extended again for 20 years.
- The Governor General of Bengal was made the Governor General of entire India.
- Thus, the country's governance system was centralized by this Charter (IAS-03).
- The Governor General with Council was given the right to make laws for the whole of India; but the Board of Control could reject this law and make its own law. The law passed by the Governor General's Council
- Exam Perspective
- When did the right of the Commander-in-Chief to automatically be a member of the Governor General's Council end?
- By the Charter Act of 1793
- By which Act were the trading rights of the East India Company completely abolished?
By the Gazette of 1833
- Who was the first Governor General of India?

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- Lord William Bentinck

- **By which Act was the provision made for the appointment of a law member in the Governor General's Council?**
- By the Gazette of 1833
- **Under which Act were the British given the freedom to travel, settle and trade in India without a license.**
- Under the Act of 1833 A.D.
- **In which Act is the attempt to centralize governance in India seen for the first time?**
- In the Gazette of 1833
- **This document was particularly influenced by Lord Macaulay as well as utilitarian thinkers Jeremy Bentham and James Mill.**

Also know these

- **In 1823, 'General Committee of Public Instruction' was formed. This committee comprised 10 European members and Lord Macaulay was made the chairman of the said committee. The objective of the committee was to grant sanction of 1 lakh rupees for education.**
- **The bill presented by Lord Ripon in 1883, in which Indian magistrates were given the right to hear the cases of Europeans settled in India, is called Ilvert Bill.**
- **By the India Council Act 1861, the Viceroy was given the power to make rules for the council to perform its work more efficiently. Viceroy Lord Canning gave different departments to different members who were responsible for its administration. Thus, 'Cabinet system' started in India.**
- **By the Act of 1858, the Governor General of India came to be called Viceroy. Governor General and Viceroy were the same person. When he used to look after the administration of British provinces, he was called Governor General and when he used to work as the representative of the British Emperor with the Indian kings, he was called Viceroy. • In 1833 AD, almost the entire area of the United Province (present-day Uttar Pradesh) was separated from the Bengal Presidency and placed under the Agra Presidency (UPPCS: 2021).**
- **Exam View**
- **Under which Act was the first Law Commission constituted under the chairmanship of Lord Macaulay?**
- Under the Act of 1833
- **By which Governor General was the practice of Sati abolished?**
- By William Bentinck (through the 17th rule of 1829 AD)
- **By which Act the executive and legislative functions were separated by establishing a 12-member Legislative Council for India?**
- By the Charter Act of 1853

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- **By which charter the principle of regional representation was implemented in the Indian Legislative Council?**
By the charter of 1853
- **When was the Law Member made a full member of the Governor General's executive?**
- In 1853
- **By which Act the competitive examination was made the basis for the appointment of employees?**
- By the Charter Act of 1853
- **By which Act was slavery declared illegal?**
By the Charter Act of 1833.
- **(It was banned by Rule 5 of 1843 A.D.)**
- **came to be called an Act. It is known that the laws made before this were called regulations.**
- **The law-making powers of the Bombay and Madras Councils were withdrawn.**
- **A fourth member was included in the Governor General's Council as 'Law Member' for legal advice (LAS-03).**
- **He had the right only to participate in the meetings of the Council, not to vote.**
- **The Company's trade monopoly (including tea and trade with China) was completely abolished and the Company was given administrative and political responsibilities.**
- **The Governor General was given the authority to form a commission for the codification of laws. In 1834, the first four-member Law Commission was formed under the chairmanship of Lord Macaulay.**
- **This Act declared slavery illegal in India and finally abolished it in 1843 (by rule five).**
- **Under Section 87 of the Act, a provision was made that no person should be disqualified on the basis of religion, birthplace, race or colour for selection to government posts under the company.**
- **While giving full authority to the Governor General's Council regarding revenue, the Governor General was given the right to prepare a single budget for the entire country.**
- **This charter was particularly influenced by Lord Macaulay as well as utilitarian thinkers Jeremy Bentham and James Mill.**
- **A partial indication of the formation of the Constitution in India is seen in this charter.**

The Gazette of 1853

- **The Charter Act of 1853 was passed in the context of the demand by Indians for ending the reactionary rule of the company and the report presented by**

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Governor General Lord Dalhousie for reforms in the company's rule. Its main provisions are as follows. As-

- **This act provided for separating legislative functions from administrative functions. For law making, a separate 12-member "Vidhan Parishad" (All India Legislative Council) was established for India. The principle of regional representation was implemented for the first time by making representatives of different regions and provinces its members.**
- **The main function of the Legislative Council was to make laws for the country, but for this law to become an Act, the assent of the Governor General was necessary. The Governor General could also veto such laws.**
- **A separate Lieutenant Governor was appointed for the administrative functions of Bengal.**
- **The law member was made a full member of the Governor General's Council. Competitive examinations were made the basis for appointment of company employees instead of nomination (BPSC-03).**
- **British Parliament was given the right to end the rule of the company at any time.**
- **The number of members of the Board of Directors was reduced from 24 to 18. Out of them 6 were to be nominated by the Crown. This charter was the last charter in the history of Indian rule (British period). It is worth mentioning that a Law Commission was formed in England to consider the report of the Indian Law Commission.**

Government of India Act 1858

- **Lord Palmerston presented a bill in Parliament on 12 February 1858 to remove the defects of dual rule in India. But due to certain reasons, Palmerston had to resign. After this, Lord Derby became the Prime Minister. The bill presented during his tenure was passed on 2 August 1858 after the signature of Queen Victoria. It was called the Government of India Act, 1858. Its purpose was to prevent the recurrence of an incident like the revolt of 1857 and also to use India in British colonial interest by establishing an administrative system.**
- **The main points of the provision of the Government of India Act 1858 were as follows:**
- **By this law, the rule of India was taken away from the company and it was placed under the British crown. This was done by a royal proclamation of Queen Victoria, which was announced by the first Viceroy of India, Lord Canning, in Allahabad on 1 November 1858.**
- **The 'Court of Directors' and the 'Board of Control' were abolished and all their powers were given to the Secretary of State for India. The Secretary of India was necessarily a member of the British Parliament and the British Cabinet.**

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- To assist the Secretary of India, a 15-member assembly - India Council - was established. The right to appoint 8 of its members was given to the Crown of Britain and the right to select the remaining 7 members was given to the directors of the company. But in every situation it was necessary that at least 9 out of 15 members should be such who had served in India for at least ten years and at the time of their appointment they should not have left India for more than 10 years. This part of the administration (including the Secretary of India and the Council of India) was named Home Government.
- The salary and other expenses of the Secretary of India and the members of his council had to be paid from Indian revenue. The main function of this council was to give advice and help to the Secretary of India in the work of governance of India. The Secretary of India could not remove the members of his council from their posts, only the British Parliament had the right to remove them from office.
- The Secretary of India was the President of the Council of India. The decisions of this council were taken by majority. In this,

Exam Vision

- By which act was the Company rule in India ended?
-By the Act of 1858
- After the end of Company rule in India in 1858, in whom was the power of governance vested?
- In the India Minister or India Secretary and the 15-member India Council.
- Who used to appoint the members (15) of the India Council?
- 8 members were appointed by the Emperor and 7 by the Board of Directors.
- By which act was direct British parliamentary control established over Indian affairs?
- By the Act of 1858
- By which act were the 'Board of Directors' and 'Board of Control' established by Pitt's India Act 1784 abolished?
-By the Act of 1858
- By which act was the name of the Governor General of India changed to Viceroy?
-By the Act of 1858
- Which act was called the Magna Carta of rights by the educated class of India?
- British Queen Victoria's declaration of 1 November 1858.
- By which act was representative government introduced in India?
- By the India Council Act 1861.
- By which act the foundation of decentralization of government in India was laid?

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- By the Act of 1861

- the Minister of India had the right to give a general vote. Also, in case of a tie on an important question, he had the right to give an additional vote or casting vote. The Secretary of India also had the right to send or receive important and secret letters of the Governor-General (Viceroy) without informing his council.
- The Secretary of India was bound to accept the opinion of the Council of India in matters of economy and All India Services. He could reject its opinion on all other matters. He had to compulsorily present an annual report of his work before the British Parliament.
- The Indian Governor-General (Viceroy) was bound to work as per the orders of the Secretary of India. The Governor-General started working as the representative of the British Emperor in India and due to this he was also called Viceroy.
- The British Emperor divided the right to appoint to posts under the Indian administration between the Secretary of India with Council and the high officials stationed in India.
- The 'Legal Member' and the 'Advocate General' of the Governor General's Council were appointed by the Emperor.
- In 1861, the first budget in India was presented by 'James Wilson' and the 'Indian High Court Act, 1861' and the 'Indian Civil Service Act, 1861' were passed.

(The Indian Council Act, 1861)

- Constitutional development in India was initiated by the Act of 1861. Through this law, the British started a policy which is called the 'Policy of Association' or 'Benevolent Despotism'. Because through this, for the first time an attempt was made to make Indians partners in governance. The following arrangements were made through this Act. As-
- The Governor General was given the right to create a new province for legislative work and to appoint a Governor or Lieutenant Governor in the newly created province. He was given the right to divide any province, presidency or any other area, or change its boundaries.
- The number of members of the Central Executive was increased from 4 to 5 by the Act. It was made mandatory for the fifth member to be a jurist.
- The central government was given more rights than the provincial government in matters of public debt, finance, currency, post and telegraph, religion and title.
- The 'India Council' was made a legislative body and was given the right to make laws in relation to all British and Indian subjects living in India,

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employees of the Government of India, persons living under the Indian princely states and the territories of the Emperor, all places and things.

- The Governor-General was given the right to increase his council from 6 to 12 members, all of whom were nominated. These members were to assist him in law-making. At least half of these members were required to be non-official and their tenure was two years. These members had no right to control the executive. The Governor-General had full right to veto their opinion.
- This Act allowed the Viceroy to make rules for more convenient functioning of the Council, on the basis of which Viceroy Lord Canning introduced the 'Portfolio System' in India (IAS-02). Canning gave different departments to different members, who were responsible for the administration of

Exam Vision

- Under which Act was the power to issue ordinances given to the Governor General of India?
- **Under the Indian Council Act 1861**
- Who introduced the departmental system in India?
Lord Canning.
- Who is the founder of the ministerial system in India?
- **Viceroy Lord Canning.**
- Under which Act did Indian members get the right to debate on the annual budget?
- **Under the Indian Council Act 1892.**
- By which Act was the foundation of representative government laid in India?
- **By the Indian Council Act 1861**
- When was the provision of separate representation for the Muslim community made for the first time?
By the Morley-Minto Reform Act, 1909
- On whose report was the Morley-Minto Act 1909 passed?
- **Sir Arundel Committee**
- Which Act supports the policy of divide and rule?
- **India Council Act, 1909**
- By which Act was an Indian member included in the Viceroy's Council for the first time?
- **Indian Council Act, 1909.**
- Which Indian was included in the Viceroy's Council for the first time?
Satyendra Prasad Sinha.
- that department. Thus the foundation of the 'Cabinet System' was laid in India.
- The Governor General could ignore the majority of the Council for the peace, security and British interests of India.

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- The Governor General was given the right to issue ordinances without the permission of the Legislative Council in times of emergency (UPPCS-97)
- The governments of Madras and Bombay were again given the right to make laws and amend them. It is worth noting that the law made by the provincial councils was valid only after the permission of the Governor General. Later, under this Act, Legislative Councils were established in Bengal, North-Western Province (modern Uttar Pradesh) and Punjab in 1862, 1886 and 1897 respectively.

Do you know?

- The 'Native Marriage Act' 1872 was introduced during the time of Governor General Lord Northbrook with the efforts of Keshav Chandra Sen. Under this Act, inter-caste marriages were recognized. In this, the minimum age for marriage of girls was fixed at 14 years and that of boys at 18 years and through this Act, the practice of polygamy prevalent in India was banned.
- The Governor General's Council met once a week and was chaired by the Viceroy.
- The Act of 1861 AD was very important from the point of view of constitutional development. For the first time, the cooperation of Indians was obtained in law-making because for the first time non-official members were appointed. Also, through this, the Bombay and Madras provinces regained the power to make laws. Arrangements were made to establish such Legislative Councils in other provinces as well. Hence, this Act initiated the policy of decentralisation instead of centralisation.

Know these too!

- The Act of 1853
- This Act provided that the East India Company could be dissolved at any time. Following which, the East India Company was formally dissolved on 1 January 1884.
- Royal Title Act, 1876
- This Act appointed the sixth member in the central executive of the Governor General and entrusted him with the work of the Public Works Department. On 28 April 1876, Queen Victoria was declared the Empress of India by a proclamation.

(The Indian Council Act: 1892)

- The state revolution of 1857 and the spread of education strengthened the feeling of nationalism among Indians. After the establishment of Congress in 1885 and the Ilvert Bill controversy, the demand for giving more representation to Indians in administration and law making gained momentum. As a result, this Act was passed. Its main provisions are as follows. As such-

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- The number of additional (nominated) members of the Central Legislative Assembly was fixed at a minimum of 10 and a maximum of 16. Out of these, 10 members were required to be non-official.
- The number of non-official and total members of the Legislative Assembly was increased in the provinces as well. In Bombay and Madras, the minimum and maximum 8 and maximum 20, in Bengal it was 20 and in the North-Western Province this number was fixed at a maximum of 15. • The introduction of the electoral system is a major feature of this Act. The non-official members of the provincial councils were indirectly elected by the municipality, district board, university and chamber of commerce. These were called nominated members.
- The rights of the council were increased and the Indian members were given the right to debate on the budget and ask questions to the executive on a 6-day prior notice (UP. UDA.-02). But they did not have the right to vote or ask supplementary questions.
- Thus, the law of 1892 AD was more progressive than the law of 1861 AD. Although till that time the government majority was maintained in the center and the provinces, yet the number of Indian members of the legislative assemblies had increased. The rights of the members had also increased somewhat and arrangements for indirect election were made for the members. But the said reform could not satisfy the feeling of intense nationalism of the Indians.

(The Indian Council Act: 1909 AD)

- The aim of the Morley-Minto Reforms was to remove the defects of the Act of 1892 and to deal with the growing extremism and revolutionary nationalism in India. The intention of the government was to suppress extremism and revolutionary nationalism by inciting communalism.
- This act is also called the Morley-Minto Reforms Act after the names of the then Secretary of India (Morley) and Viceroy (Minto). It was passed in February 1909 on the basis of the report of Sir Arundel Committee.
- By this act, the number of additional members in the Central Legislative Council was increased from 16 to 60. Now there were a total of 69 members in the legislature, out of which 37 were official members and 32 were non-official members. It is worth noting that - out of the official members, 9 were ex-officio members. The number of members of Provincial Legislative Councils of Bombay, Madras, Bengal and Uttar Pradesh was increased to 50. For smaller provinces, this number was made 30. Thus, the members of the Legislative Assemblies (Central and Provincial) became of four types (1) Ex-Officio Members such as Governor General and members of his executive at the centre and Governor and members of his executive in the provinces; (2)

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Nominated Government Officers; (3) Nominated Non-Officials; and (4) Elected Members.

- **By this Act, Professional and Communal Representative or Separate Electoral System was adopted for provincial elections in India. Provision of three types of electoral colleges was made for elections; Such as- (i) General (ii) Special class and (iii) Special.**
- **The policy of 'divide and rule' was adopted by providing separate voting rights and separate electorate for Muslims. Regarding separate electorate, Lord Morley had written to Lord Minto - We are sowing the teeth of a snake and its result will be terrible.**
- **While increasing the power of the Central and Provincial Legislative Councils, the members were given the right to discuss the budget, discuss matters of public interest and ask supplementary questions. But they did not have the right to vote on the budget.**
- **Under this Act, Indians were given representation in both administration and law making. It is noteworthy that for the first time under this Act, Indian members were included in the India Council and the Viceroy's Executive Council. Two Indians K.C. Gupta and Syed Hussain Wilgrami were appointed to the India Council in England. While S.P. Sinha was included as a legal member in the Viceroy's Executive Council, he was the first Indian to be included in the Viceroy's Executive Council. Who was later honored with the title of 'Lord'.**
- **Thus "The Act of 1909 AD was made to satisfy the moderate nationalists; but in reality its purpose was to confuse the nationalists, create divisions in the nationalist group and not allow unity among the Indians." By giving separate elections and special facilities to the Muslims, the British government broke the unity of India. Still, the above reforms were not completely useless. Indians got introduced to parliamentary government through these reforms. After establishing the institutions of parliamentary government, it was impossible to stop the establishment of responsible government. Indirect election system and increase in the rights of the members of legislative assemblies were also important steps. These reforms were the extreme limit of 'Benevolent Despotism' or 'Policy of Association'.**

Government of India Act, 1919(Montagu-Chelmsford Reforms)

- **The Government of India Act, 1909 could not fulfill the demand of self-rule of Indians. Discontent arising from the policy of voting system on communal basis, agreement between Congress and Muslim League in 1916, Mesopotamian Commission report published in 1916-17 declaring British as incapable of ruling India, national consciousness awakened among Indians**

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due to Home Rule Movement and expectation of Indian cooperation in the First World War, in view of which the then Secretary of India 'Montagu' announced the proposed reforms of the British Government on 20 August 1917, in which it was first said to provide the status of independent Dominion (self-rule) to India.

Exam Vision

- When were Indian members given the right to ask supplementary questions?
- In 1909
- Under the Indian Council Act, 1909, who were the first Indians to be appointed in the Indian Council of England?
- K.C. Gupta and Syed Hussain Vilgrami.
- By which Act was the ruling majority in the provinces abolished?
- By the Act of 1909.
- Under which Act was Satyendra Sinha appointed as the first Indian law member in the executive of the Governor General?
Indian Council Act, 1909
- By which Act was the bicameral system established at the Centre?
- By the Government of India Act 1919
- When was responsible and dual governance established in the provinces?
- In 1919
- Who was the founder of dual governance?
- Leonil Cartis
- Who first described the system of Dyarchy in his book Dyarchy?
- Leonil Cartis
- By which act was the High Commissioner appointed to reduce the workload of the Secretary of India?
By the India Council Act-1919
- By which act was the system of Dyarchy abolished in the provinces?
- By the Act of 1935 AD
- Who was the chairman of the committee to investigate the failure of the Dyarchy system?
- Sir Alexander Moodyman
- By which act was the administrative power divided between the center and the provinces?
By the Act of 1919
- When was the salary of the Secretary of India and his council stopped from being paid from Indian revenue?
-In 1919
- By which Act in British India, provision for reserved seats for women in the legislature was made?- By the Act of 1935

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- **When was the election system on communal basis applied to Sikhs, Christians and Anglo-Indians?**
- By the Act of 1919
- **After this Montagu came to India and held discussions with Governor General Chelmsford and other leaders in Shimla. Thereafter Montagu-Chelmsford Report was published in July 1918. On the basis of this joint report, "Government of India Act, 1919" was passed. Its main provisions were as follows. As-**
- **In this act, the term 'responsible government' was used for the first time.**
- **Since 1793, the expenses of the Secretary of India were paid from the revenue of India. Now a provision was made to pay these expenses from British revenue.**
- **The number of members of the Council of India was fixed at minimum - 8 and maximum 12.**
- **For the first time a 'High Commissioner' was appointed to assist the Secretary of India.**
- **Direct election system was adopted for the first time by this act.**
- **Expanding the election system on communal basis, it was also applied to Sikhs, Christians, Anglo-Indians and Europeans.**
- **Through this Act, a bicameral legislature was established at the centre for the first time. That is, the Central Legislative Council was replaced by a bicameral legislature consisting of 'State Council' (Upper House) and 'Vidhan Sabha' (Lower House). The number of members of the State Council (Upper House) was 60, out of which 34 were elected and the rest were nominated and their tenure was 5 years. The Central Legislative Assembly had 145 members (according to NCERT, 144) out of which 104 were elected and the rest were nominated. Their tenure was up to 3 years. Both had equal powers but only the Legislative Assembly had the right to approve the budget.**
- **The main feature of the Act of 1919 was the establishment of Dyarchy in the provinces. For this, central and provincial subjects were separated. After this, provincial subjects were again divided into two parts- (i) Reserved Subjects, such as revenue, justice, finance, police etc. (IAS:22) and (ii) Transferred Subjects, such as local self-government, education and health etc. The Governor used to govern the reserved subjects with the advice of the members of his Executive Council and the Governor used to govern the transferred subjects with the advice of Indian ministers. These ministers were taken from the members of the Legislative Assembly and it was expected from them that they would also be answerable to him, although legally the**

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Governor had the right to appoint and dismiss them. Due to this arrangement, the Governor's executive was also divided into two parts (1) Governor and his Council, and (ii) Governor and Indian Ministers. Due to this, the provincial administration was divided into two parts. The first was the part of the administration which had reserved subjects under its authority, i.e. Governor and his Council, which was the non-responsible part of the administration; and the second was the part of the administration which had transferred subjects under its authority, i.e. Governor and Indian Ministers, which could be considered the responsible part of the administration. The first part had no responsibility towards the Legislature, but the second part was expected to be responsible towards the Legislature. Due to this division of the administration, this system was called Dyarchy.

- From 1 April 1921, dual governance was introduced in Bengal, Madras, Mumbai, Uttar Pradesh, Punjab, Bihar, Odisha, Madhya Pradesh and Assam. When Burma Legislative Council was established in 1923 and North-West Frontier Province was established in 1932, it was also included in dual governance.
- It is known that the founder of Dyarchy was Leonil Cartis. He described Dyarchy in his book 'Dyarchy'.
- This Act provided for the formation of a Lakh Sawa Commission in India and gave the Secretary of India the power to appoint the Comptroller and Auditor General of India.
- By this Act, for the first time, the Central Budget was separated from the State Budget.
- For the first time, 'property and tax' was made the basis for direct elections to a limited number of candidates.
- Government of India Act 1935.
- It was provided in the Government of India Act-1919 that a commission would be constituted after 10 years to review the progress made by this Act, but in view of the failure of dual rule and the demand for more autonomy by Indians, a 7-member commission was constituted on 8 November, 1927 under the chairmanship of Sir John Simon even before 10 years. Its other members were- (i) Lord Burn (ii) Edward K. Daggan (iii) Bernard Harmson (iv) C.R. Attlee (v) G.R. Lanfox and (vi) Ham Earl Conna. All the members of the commission were British. Hence, it is called the 'White Commission'.
- There was widespread opposition to the commission as no Indian was included in it. In the Madras session of the Congress (1927-President M.N.

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Ansari), it was decided to completely boycott the commission. The commission reached Mumbai on 3 February 1928 and submitted its report on 30 June 1930. Despite the opposition to the commission, many of its points were included in the Government of India Act of 1935.

- India Secretary Lord Birkenhead challenged the leaders opposing the Simon Commission to prepare a constitutional draft acceptable to all parties, which the Congress accepted and formed a 10-member Nehru Committee under the chairmanship of Pandit Motilal Nehru. The Nehru Committee presented its report on 10 August 1928, which is known as the Nehru Report. Its main recommendations were - (i) Colonial Swaraj, (ii) Full responsible rule at the center, (iii) Provincial independence, (iv) Immediate establishment of the Supreme Court, (v) Bringing the native princely states under the center, (vi) End of the communal electoral system and (vii) Fundamental Rights etc.
- In protest against Nehru Report, Jinnah presented his 14 point demand on 29th March 1929. After this, first Round Table Conference was organized in 1930, second in 1931 and third in 1932 in Britain to discuss constitutional reforms. Finally, British Government presented the outline of new constitution through White Paper in 1933. To discuss on this, a Joint Committee was constituted under the chairmanship of Lord Linlithgow. After the bill prepared on the basis of the report of this committee was passed by the Parliament, it became Government of India Act-1935 after getting permission of British King on 4th August 1935.
- This was the last and the biggest and most complex document among the constitutional proposals prepared for India. It had a total of 321 articles, 10 schedules and 14 parts. This Act has had the most influence on the present Indian Constitution. Its major provisions were as follows-

Establishment of the All India Federation

- According to the Act, the All India Federation was to be formed by 11 British provinces, 6 commissionerates and those native princely states which joined it voluntarily (IAS-07). It was necessary for the British provinces to join the Federation. But it was voluntary for the native princely states to join the Federation. The native princely states did not join the Federation. Hence this proposal could not take concrete shape. Although the All India Federation

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could not come into existence, provincial autonomy was implemented on 1 April 1937.

Dyarchy at the centre

- The dual rule established in the provinces by the Act of 1919 was abolished by this Act and implemented at the centre (IAS-04). For this purpose, the subjects of the central administration were classified into 'reserved' and 'transferred' subjects. The reserved subjects (defence, foreign affairs, religious subjects and tribal areas etc.) were administered by the Governor General with the help of his council and was answerable to the British government for his actions through the Secretary of India. The transferred subjects were administered by the Governor General with the help of his council of ministers which was answerable to the Legislative Assembly. Thus, the central executive had two parts; (i) Governor General and his council and (ii) Governor General and the council of ministers.

Provincial autonomy

- 'Establishment of self-rule in the provinces' was an important feature of this Act. Out of the central and provincial subjects classified for law making, the provinces were given the ultimate right to make laws on provincial subjects and the centre's control over them was abolished. Now the governors of the provinces worked as representatives of the British government and not under the Governor General.
- Establishment of Federal Court Federal Court was located in Delhi. It could have one Chief Justice and maximum 6 other judges. They were appointed by the Emperor. An appeal against its decision could be made in the Privy Council. This court became functional from 1 October 1937. It had original, appellate and advisory jurisdiction. Its first Chief Justice was Sir Maurice Gwyer. Among the 6 other judges, two were Indians. The first was Justice M.R. Jacob and the second was Justice M.S. Sultan.
- Division of powers: By the Act of 1935, powers were divided between the centre and the provinces in three lists viz. (i) Union List (59 subjects) (ii) Provincial List (54 subjects) and (iii) Concurrent List (36 subjects). Some emergency powers including residuary subjects were handed over to the Viceroy.
- Legislative Assembly was formed in 11 provinces. Bicameral legislature was established in 6 provinces viz. Bihar, Bengal, Assam, United Province, Bombay and Madras. Upper House, Legislative Council was a permanent house. Lower House was Legislative Assembly.



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- The India Council was abolished by this Act.
- The Assembly elections of 1937 were held as a result of the implementation of this Act.
- By this Act, Burma was separated from India in 1935 AD. And two new provinces Orissa and Sindh were created.
- By the Act of 1935, self-government was established in the provinces and dual governance at the centre. For the first time, a federal governance was established for the whole of India, which included the states of Indian princes, a federal court was established, bicameral system, etc. were established. But there were many flaws in it. In reality, the powers of the legislative assemblies were very limited. Similarly, the Indian ministers were powerless due to the special privileges of the Governor-General and the Governors. The communal electoral system was in place as before. Apart from this, there was no such arrangement in it that would force the governors to accept the advice of the Indian ministers.
- Thus, the establishment of provincial self-government was only in name and Indians were not given independent rights even in a limited area. Congress, Muslim League, Indian princes etc. opposed this system. Pandit Nehru said about this Act, "It is an engineless vehicle with many brakes" and Jinnah called it "completely rotten and fundamentally bad".

Provincial Election of 1937

- Under the Government of India Act, 1935, elections to provincial legislatures were held in 11 provinces in February 1937. Congress was a huge success in the elections and it won 711 seats out of a total of 1585 seats and got absolute majority in 5 provinces (Madras, Bihar, Orissa, Central Province and United Province).
- It emerged as the largest party in Bombay, Assam and North West Frontier Province. In Bombay Province, Congress formed government by getting very close to majority i.e. 86 seats out of 175. Congress also formed coalition governments in North West Frontier Province and Assam. Thus, on the basis of its absolute majority and mixed cooperation, Congress formed governments in total 8 provinces. A coalition government of Unionist Party was formed in Punjab and of Krishak Praja Party and Muslim League in Bengal. A government was formed in Sindh Province with government support and coalition.
- In the provincial assembly elections held in 1937, Congress won 134 seats out of 228 in Uttar Pradesh (United Province). Congress formed the

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government alone in the United Province. In this government, Govind Vallabh Pant was the Chief Minister and KN Katju was the Law and Justice Minister while the Finance Ministry was given to Rafi Ahmed Kidwai.

- After ruling for about 28 months, in October 1939, the Congress ministry resigned en masse in 8 provinces due to the following two reasons - (i) India was included in the Second World War without the consent of the Congress, and (ii) Congress's declaration of war aims and the demand for India's independence after the war were ignored. It is notable that after the resignation of the Congress ministry, the Muslim League celebrated 22 December 1939 as 'Mukti Diwas'. Dr. Ambedkar also supported it in this.

August Offer: 1940

- Due to the constitutional crisis arising out of the resignation of the Congress cabinet and the need for India's cooperation in the war, the British government presented a proposal through Lord Linlithgow (Viceroy) on 8 August 1940. Which is called the 'August Proposal'. It was said in this proposal that- (i) More Indians will be included in the Governor General's executive. (ii) A War Advisory Council will be formed. (iii) Making the Constitution of India is the right of Indians, and at the end of the war, colonial self-rule will be established in India.
- It is noteworthy that both the Congress and the Muslim League expressed dissatisfaction over this.
- While the Congress did not want to settle for anything less than India's independence, the Muslim League was adamant on its demand for the partition of India. Hence the August proposal failed.
- Congress started 'Individual Satyagraha' to oppose the August proposal and to prove its separateness from the war. Gandhiji was the promoter of this ideology.
- Individual Satyagraha was started from Pavnar Ashram (Maharashtra) on 17 October 1940. Its first Satyagrahi was Acharya Vinoba Bhave and the second Satyagrahi was Jawaharlal Nehru. This movement is also called 'Delhi Chalo' movement.

Cripps Mission 1942



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- The continuous fight by Indians for their independence and the growing power of Japan in the Second World War attracted the attention of the international world towards India. America, Australia and China put pressure on Britain to free India. Now the British government was convinced that the demand of Indians could not be postponed any more. Therefore, the then British Prime Minister Winston Churchill sent Sir Stafford Cripps, a member of the War Cabinet, to Delhi on 23 March 1942 for talks with Indian leaders. The official negotiators of the Congress with the Cripps Mission were Pt. Jawaharlal Nehru and Maulana Azad.
- In the Cripps proposal presented on 30 March 1942, it was said that-
- After the war, an elected Constituent Assembly would be formed to draft a new Constitution.
- The provinces will have the freedom to accept the Constitution or make a separate Constitution for themselves.
- After the war, an Indian Union would be established which would have the status of a full colony.
- The Muslim League will have the freedom to accept or reject the Indian Union.
- The responsibility of protecting India until the new constitution is created will be on the British government.
- The Muslim League rejected this proposal because its demand for partition of the country on communal basis was rejected. Congress opposed the proposal because it opened the doors to the possibility of dividing India into pieces and Congress also did not agree with the Cripps proposal on the question of security.
- Gandhiji described this proposal as a "post-dated cheque upon a crashing bank".
- Dr. Pattabhi Sitaramayya called it 'merely a modified version of the August proposal'.

Quit India Movement : 1942

- After the failure of the Cripps Mission, the Congress was convinced that it was futile to expect anything from the British government. Hence, on 14 July 1942, the 'Quit India' resolution was passed in the Congress Working Committee meeting in Wardha. This resolution was approved on 8 August 1942 in the All India Congress Committee session held at Mumbai's famous Gowalia Tank Ground under the chairmanship of Maulana Abul Kalam Azad. In this session, the 'Quit India' resolution was proposed by Pt. Jawaharlal

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Nehru, which was supported by Sardar Vallabhbhai Patel. It was in this historic conference that Gandhiji gave the slogan 'Do or Die'.

- The movement started on 9 August 1942. It is also called the 'August Revolution'.

Wavell Plan

- In October 1943, Lord Wavell was made the Viceroy of India in place of Lord Linlithgow. Wavell presented a detailed plan on 14 June 1945 to remove the constitutional deadlock in India and create a favorable environment, which is called the Wavell Plan. Its main points were as follows. As-
 1. A new executive council will be formed at the centre. Apart from the Viceroy and the military chief, all other members of the council will be Indians and the defence department will be under the Viceroy.
 2. The number of Muslim members in the executive will be equal to that of Hindus.
 3. The Executive Council will be like an interim national government. The Governor General will not exercise veto power without reason.
 4. After the Second World War, Indians will make their own constitution.
 5. All the leaders detained during the Quit India Movement would be released and an all-party conference would be called in Shimla.

Shimla Conference

- An all party conference was called in Shimla between 25 June and 14 July, 1945. Abul Kalam Azad led the Congress delegation in the conference. Gandhiji did not attend the conference. The Muslim League wanted that only it would select the Muslim members to be appointed in the Viceroy's Executive Council, which was rejected by the Congress. As a result, on 14 July, the Viceroy declared the Shimla Conference a failure. Because in this conference, while the Congress was demanding a united India, the Muslim League remained adamant on its insistence for Pakistan.

Cabinet Mission, 1946

- After the Second World War, in the general election held in Britain in 1945, a liberal minded Labour Party government was formed under the leadership of Sir Clement Attlee. On 14 March 1946, Prime Minister Attlee declared in the House of Commons that Indians have the right to independence. For this, he sent a three-member mission of cabinet ministers, whose members were Stafford Cripps (President of the Board of Trade), Lord Panthic Lawrence (Secretary of India) and A.V. Alexander (Navy Minister) and which is called the Cabinet Mission, to India in March 1946. The chairman of the mission was

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Lord Panthic Lawrence. The Cabinet Mission reached Delhi on 24 March 1946.

On 16 May 1946, the mission presented a plan for the immediate establishment of an interim government in India and the formation of a Constituent Assembly and the creation of a Constitution. The following provisions were under the plan; viz:

- **There would be a federation of India, which would include British provinces and native princely states.**
- **Apart from federal subjects, all subjects and residual powers will be vested in the provinces.**
- **The unity of India should be maintained. For this the demand of Pakistan by the Muslim League was rejected.**
- **The Constituent Assembly will be formed by the representatives of the provincial assemblies and native princely states. In this, the members of the Constituent Assembly will be elected by the provincial assembly members through indirect election system (not on the basis of adult suffrage)**
- **Generally, one representative will be elected to the Constituent Assembly for every 10 lakh population.**
- **Each province will be allocated seats according to its population. Which will be divided among the major communities in proportion to their population.**
- **Representatives of each community were to be elected in the legislature by the members of their own community. The recognized communities were- (i) General, (ii) Muslim, and (iii) Sikh (only in Punjab) community. • The election of members of the princely states would be done by mutual consultation between the Compromise Committee (which would be formed from the members elected to the Constituent Assembly from the provinces) and the committee formed on behalf of the princely states.**
- **The total number of members of the Constituent Assembly was fixed at 389, in which there were 292 representatives from British provinces, 93 from native princely states and 4 from Chief Commissioner areas.**
- **The division of 296 representatives (292+4) from British provinces on the basis of community (sect) was as follows- (i) General 213 (ii) Muslims 79 and (iii) Sikhs 4.**
- **British Indian provinces were divided into three parts namely- Part (A), Part (B) and Part (C). The provinces included under Part (A) were- Madras, Bombay, United Provinces (U.P.), Bihar, Central Provinces and Orissa. The provinces**

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included under Part (B) were- North-West Frontier Province, Punjab and Sindh. Assam and Bengal were kept under Part (C).

- There was a provision for making a separate constitution for the provinces.
- Hyderabad was a princely state whose representatives did not join the Constituent Assembly.

(Formation of Interim Government)

- Under the Cabinet Mission Plan, on 1 August 1946, Lord Wavell invited Congress President Jawaharlal Nehru to form an interim government. On 24 August 1946, the first interim national government was announced (UP PCS:22) and on 2 September 1946, an interim government was formed under the leadership of Pandit Jawaharlal Nehru. Its president was Viceroy Wavell while there were a total of 13 members in the council including Vice President Jawaharlal Nehru. Initially, the Muslim League did not join the interim government, but due to the efforts of Lord Wavell, the Muslim League also joined the government on 26 October 1946. Three members of the council - Syed Ali Zaheer, Sharat Chandra Bose and Sir Safta Ahmed Khan were removed from the Council of Ministers and five representatives of the League were included in it. Due to which the number of members of the cabinet increased to 15. The responsibility of an important department like the Ministry of Finance was entrusted to Liaquat Ali Khan, the representative of the Muslim League. The purpose of the League's joining the government was to fight for Pakistan while staying within the Council. Due to the non-cooperation and oppositional attitude of the Muslim League, the Interim Government proved to be a failed body. Regarding the Interim Government, Dr. Ambedkar had said that 'This is the government of one country which is being run by two nations.'

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