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## The Charter Act of 1833: A Study

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### Abstract

*The Charter Act of 1833 marked the beginning of a system of government for all India. Later, it adopted a representative character, which distinguished it fundamentally from the earlier rule of despotism. It marked the beginning of the Indianisation in services. It also tried to separate and decentralize executive and legislative functions.*

The Charter Act of 1833 renewed the East India Company's privileges for another twenty years. The Charter Act of 1833 like its predecessor was the outcome of much enquiry and consideration. It was produced when whig and liberal principles were politically dominant in England. Macaulay was the Secretary of the Board of control and James Mill, a disciple of Bentham, was examiner of correspondence at the India House. It was as much in the logic of history as in consonance with the zeitgeist.<sup>1</sup> The ideal of laissez faire was the weapon with which newborn western capitalism dismantled the relics of feudal economy at home and raised abroad its own edifice of international economics.<sup>2</sup> By this act the monopoly of the East India Company had been put an end to and private traders were or free merchants were permitted under special license to trade laofully".<sup>3</sup>

The Company, till then was fast outgrowing its role and becoming a Raj. It was carrying its livelihood by wars and conquests, government and diplomacy and its original occupation of commerce was

proving a while elephant. Holt Hockenzie, confessed before the parliamentary committee in 1832" the Government of India has quite enough to do in the political management of the country without having any concern with commerce, they never have paid and never can pay that attention to the commercial affairs of the country which they ought to pay in order to trade to the most advantage.<sup>4</sup> Since 1825 the company was not exporting goods to India on their own account for sale and had abandoned the imports into British of all articles except raw, Saltpetre and indigo. Hence the statutory termination of the spent up mercantile character of the company was called for.

The Industrial Revolution in Britain rendered the old Mercantilist policy of the British unprofitable. Britain became a manufacturer of cotton and other factory goods on a large scale and she required foreign markets for their consumption.<sup>5</sup> But the decrees of Napoleon against British commerce and the closure of the continental ports frustrated the quest for foreign markets

and the British industrialists were obliged to explore new markets in British colonies. A vast country like India naturally provided great scope for the realisation of their ambition for, besides constituting a large market for the manufactured goods and capital; India could supply the much needed raw materials. The British power in India after 1800 as no more than an accessory, an instrument for ensuring the necessary conditions of law and order by which the potentially vast India market could be conquered for the British industry.<sup>6</sup> There was a tremendous political change in India since 1813 which imposed on the company political responsibilities incompatible with maintenance of its commercial character.

The annexation of the peshwa's dominions, of Assam and of a part of Erma and the extension of British supremacy over Rajputava the company became the defacto paramount power in India. Wallesey's dream of converting the British Empire in India into the British Empire in India into the British Empire of India.<sup>7</sup> was realised within less than a decade through diplomacy and the use of arms.

Lord Ellenborough who became the president of the Board of control in September 1828, was in favour of radical change. He opined that "the company was to be abolished the Directors being retained as advisory commissioners and the government of India was to be placed in the hands of a secretary of state".<sup>8</sup> But in 1830 Lord Grey formed a new ministry and Charles became president of the Board of control. He was a canningite in his political affiliation. It was a significant political change. The whigs, coming to back power after a long political exile. Thomas Macaulay was in the House of Commons and he became an Assistant Commissioner of the Board of control in June 1832 and its Secretary six months later.<sup>9</sup> James Mill a disciple of Bentham

became examiner of the company's India correspondence in 1831.

The age of utilitarianism was another cause to pass the Act of 1833. Utilitarian influence expressed themselves more distinctly in the field of cultural and social policy than in the constitutional reforms. Bentinck who adopted utilitarian views gave great attention to social policy.

The Anglo-Burmese war of 1824 had caused to severe strain on the financial resources of government. In addition to increase in its civil expenses, its military expenses had also increased by £ 10,000,000. In 1828-29 the revenue of India amounted to £ 22,000,000. The consideration of the constitutional problem was, therefore, entrusted to the civil finance committee,<sup>10</sup> instituted in pursuance of an order of the court of Directors who had asked the supreme government in 1827 to reduce expenditure to the level of 1823-24. This committee was directed on 11 May 1830 to extend its investigation to the expediency of the plan on which the several presidencies had been constituted by the legislature.<sup>11</sup>

Grey recommended the formation of a Legislative Council with power to make laws for all places, persons and courts. In its composition, he suggested, it might include representatives of the Supreme Court and the church of the services and the subordinate governments, but definitely not of any Indians.<sup>12</sup> Copies of all minutes and discussion on the constitution of the Indian Government were transmitted to England for the consideration of the home authorities, who were considerably influenced in their decision by the nature of these recommendations. We have to solve one of the hardest problems in politics. We are trying to make bricks without straw- to give a good government. We have to engraft on despotism those blessing are the natural fruits of liberty.<sup>13</sup> Even J. S. Mill the great

advocate of representative Government declared it as “utterly out of question for India”.<sup>14</sup>

Meanwhile, Select Committee had been constituted thrice in 1830-31 to investigate “the affairs of the company and the trade between Great Britain and China” but their work was interrupted by dissolutions of parliament in connection with the Reform Bill.<sup>15</sup> The investigation really began after the reconstruction of the Select Committee of the House of Commons for the fourth time in January 1832. The Select Committee was divided into various branches, financial, revenue, judicial, military, and political. Evidence, oral and written was collected.<sup>16</sup> A Report concerning the Reform Bill was submitted in August 1832.

The Finance Committee recommend that the armies of the three presidencies be united into one or at least be placed under the immediate orders of the Supreme Government and under one commander in chief. In that recommendation Metcalfe said, there may be difficulty in amalgamating the expedient to retain with each description the officers to whom they are most accustomed. It may therefore, perhaps be desirable to adhere generally to the same local distribution that at present prevails. But there loss not appear to be any difficulty in considering all as belonging to one army or in placing the whole under the Supreme Government and commander in chief.<sup>17</sup>

With regard to the consideration of the economy of this new system, Dalhousie advised that “such details can only be well arranged by the Supreme Government when formed, and from what I have seen in this country. He has also objection to commercial changes now in progress have been rapidly urged and recorded, but without attending their probable effect on the national revenue and on the interests of

the British consumer without insisting on their tendency to disturb our relation.<sup>18</sup>

Henry St. George Tucker also gave suggestion for the administrative system of the East India Company’s government.

There was a strong section in parliament which advocated the immediate transfer of the company’s government in India to the British crown. Buckingham considered it preposterous that the government of an immense country should be entrusted to a joint-stock company. He even suggested that the Governor-General’s council should include representatives of both British and Indian population in order to make a beginning, at least, of that system of self-government to which they ought to advance with all colonies as fast as possible.<sup>19</sup> Macaulay on the other hand, forcefully advocated the cause retaining the company as an organ of government for India. His main argument was that a revenue of twenty million a year- an army of two hundred thousand men- a civil service abounding with lucrative situations- should be left to the disposal of the crown without check whatever, is what no minister, I conceive, would venture to propose.<sup>20</sup> He admitted that the constitution had provided the House of commons a check on the abuse of the royal prerogative. But, he argued, that the ready and it would not have the necessary time to look into Indian affairs as its members looked neither had the necessary knowledge, nor has it motives to acquire that knowledge.<sup>21</sup> The British public was extremely indifferent to India affairs Macaulay asserted “A broken head in cold bath fields produces a greater sensation among as then, three pitched battles in India..... Even when..... the president of the Board of control made his most able and interesting statement of the measure which he intended to propose for the government of a hundred millions of human beings, the attendance in the House of common was not

so large as I have seen it on a turnpike bill or rail road bill.<sup>22</sup> Macaulay then concluded that there must be an efficient check on the authority of the crown, and that the House of common is not an efficient check. We must then find some other body to perform that important office. We have such a body- the company shall we discard it.<sup>23</sup>

Macaulay agreed with the members of the House who advocated immediate winding up of the company that it was a political anomaly, but he asserted that there was no substitute available for the company. The Government which always took a party view of all public matters and problems confronting the country, opposed at every stage by the vexations tactics of the opposition. Such a nature of the Government Macaulay argued, was no solution of the Indian affairs. What we want, he emphasized, is a body independent not a tool of the treasury not a tool of the opposition no new plan which I have heard would give us such a body. It is, as a corporation, neither whig nor tory, neither high church nor low church, it has constantly acted with a view not to English politics but to Indian politics. We have seen the country convulsed by faction..... And amidst all these agitating events the company has preserved strict and unsuspected neutrality. This is to think, an inestimable advantage.<sup>24</sup>

Macaulay was correct that parliament had neither the time nor the knowledge nor the will to interest itself in Indian affairs. At no stage during the discussion of the charter Bill, 1833 the attendance in the House of commons exceeded 150 members, and clause after clause of the Bill was passed without discussion at all. Thus view for the retention of the company was accordingly bound to prevail and the Act of 1833, the company secured a further lease of life for twenty years. But the Act also envisaged an earlier dissolution of the company as a

“government agency” for it made the provision nor the accumulation of twelve million pounds for purchasing the company’s stock”.<sup>25</sup>

Grant had already informed the company that the China monopoly was to cease. The company’s establishment charges and freight were too high to permit it to reduce the price of tea to a level at which private merchants would be able to keep them. When tea became cheap the demand would increase too.<sup>26</sup> Again, as in the case of the India trade, the end of monopoly would promote a vast extension of British exports. It was expected that, the immense population, and the wealth of China and the inferiority of its manufactures would offer a much larger market for the cottons and woolens of Manchester and Glasgow, and the hardware of Birmingham and Sheffield.<sup>27</sup> The Government was bound to take steps to counteract the depression which had began, and the prospect of a new inexhaustible market in China seemed to offer an appropriate remedy. The company offered little opposition, indeed as early as 1825 it had anticipated the loss of the China monopoly and decided to give its China shipping short term contracts creating in 1834.

But the continuance of company’s administration in India was decided in favour of the company on two political grounds. In view of the Governments pre-occupation with the Reform Bill it was not prepared to assume direct responsibility for the administration of India. The abolition of the company would leave patronage in the hands of the Government and expose the whigs to the charge of political corruption. But the retention of the company’s political authority was to be subject to two conditions, it must give up all commercial interests, and it must the opinion of the chair would make the court of Directors, a Government Board”.<sup>28</sup> Grant did not hesitate

to intimate the Directors that if they rejected the Government's terms, he would propose to parliament" a plan for the future government of India without the instrumentality of the company.<sup>29</sup> A guarantee fund was created out the company's commercial assets as a collateral security for its capital stock. The court of Directors was afraid that as a result of the loss of commerce, the company would be reduced to "a state of weakness and dependence incompatible with the performance of its duties and became an instrument for carrying out the wishes of the president of the Board of Control.<sup>30</sup> It claimed the right of appeal to parliament in case of a difference of opinion with the Board of at least the right of giving publicity to such difference by communicating them, when relating to important subjects to parliament.<sup>31</sup>

Grant introduced the Bill into parliament in June 1833 and briefly outlined the terms that had been agreed on between the court and the Board.<sup>32</sup> But after his illness Macaulay took over the proceedings and carried the Bill. The presence of the members in the House was quite large, of whom most of them were hostile to the company when the Directors, Fergusson presented the company's petition for the renewal of its privileges, "half the members present deliberately walked out and the rest made so much noise that he could not be heard".<sup>33</sup> Clause after clause of the Bill was passed without adequate discussion and consistently with the recent policy of the India House, not even the company interest made its presence felt.<sup>34</sup>

Wynn, the former president pointed out during discussion that the independence of the Directors would be completely taken away by the bill. He added by that the presence of city merchants in the court of Directors was justifiable and useful only so long as the company's functions were partly

commercial. He suggested that "the correlative of the destruction of the courts independence and of the abolition of the company's trading function was a reduction in the number of Director to eight, each of whom should be qualified by at least twelve year's residence in India'.<sup>35</sup> He also proposed that "the patronage of India should be thrown open to public competition, but that a reasonable number of families that had long maintain in connection with India.<sup>36</sup> Macaulay's speech was more brilliant in style but in thought perhaps less origin. He asserted the very meaning of compromise is that each party gives up his charge of complete success in order to be secured the chance of utter failure. The company is an anomaly, but it is a part of system where everything is anomaly..... I will not, therefore, pull down the existing system..... which sanctioned by experience.<sup>37</sup>

Macaulay gave parliament the assurance which in its jealousy and fear of an extension of the executive power, it was anxious to receive what we want, he said, is a body independent of the Government and no more than independent- not a tool of the treasury not a tool of the opposition.....<sup>38</sup> It was most impressed by the noiselessness with which the administrative machinery is worked.<sup>39</sup> and it accepted Macaulay's statement without question. The company's administrative functions were, therefore, continued for twenty years, and the existing dual organisation of the home government confirmed.

The British members were inclined to give representative institutions to Indians but such a more failed because of Macaulay who stood strongly for the continuation of company's rule in India. The Act was finally passed on 28<sup>th</sup> August 1833 and put into force on 22 April 1834. It introduced important changes into the constitution of the East India Company and the system of

Indian administration. This Act was based on the “papers respecting to the negotiation with His Majesty’s Ministers and the subject of the East India Company’s Charter, parliamentary papers Hansard and Historical introduction the Government of India” by Courtenay Ilbert.<sup>40</sup>

These are the summary of the provisions of Charter Act of 1833 which was adopted by British parliament:-

This Act is for affecting an arrangement with the East India Company, and for the better government of His Majesty’s Indian territories, till the 30<sup>th</sup> day April 1854.

That from and after the 22<sup>nd</sup> day of April 1834, the exclusive right of trading with the dominions of the Emperor of China, and of trading in tea shall cease.

That the said company shall with all convenient speed after the said 22<sup>nd</sup> day of April 1834, close their commercial business.

That the said Board shall have and be invested with all full power and authority to superintend, direct and control all acts, operations and control all acts, operations and concerns of the said company which in anywise relate to or concern the government or revenues of the said territories is mentioned.

That the territories now subject to the Government of the presidency of Fort William in Bengal shall be divided into two distinct presidencies..... to be styled the presidency of Fort William in Bengal, and the other of such presidencies to be styled the presidency of Agra.

That there shall be Four Ordinary Members of the said council, three of whom shall from time to time be appointed by the said court of Directors from amongst such persons as shall be or shall have been servants of the said company and each of the said three ordinary members of council shall at the time of this appointment have been in the service of the said company for at least

ten years the Fourth Ordinary member of council shall from time to time be appointed from amongst persons who shall not be servants of the said company by the said court of Directors provided that such last mentioned member of council shall not be entitled to sit or vote in the said council except of meetings thereof for making laws and regulation.

That all vacancies happening in the office of Government-General of India shall from time to time be filled up by the said court of Directors, subject to the approbation of His Majesty, to be signified in writing by his Royal sign Manual, countersigned by the president of the said Board.

That the said Governor-General in council shall have power to make laws and regulations for repealing, amending or altering any Laws or Regulations whatever now in force or hereafter to be enforce in the said territories or any part thereof, and to make laws and regulations for all persons, whether British or Native, foreigners or others, and for all courts of justice whether established by His Majesties Charters or otherwise and the jurisdiction thereof..... except that the said Governor-General in council shall not have the power of making any Laws or Regulations which shall in any way affect and prerogative of the crown, or the authority of parliament or the constitution or Rights of the said company or any part of the United Kingdom of Great Britain and Ireland.

That all Laws and Regulations made as aforesaid shall be of the same force territories as any Act of parliament would or ought to be within the same territories and it shall not be necessary to register or abolish in any court of justice or any Laws or Regulations made by the said Governor-General in council.

Provided that it shall not be lawful for the said Governor-General council, without the previous sanction of the said

court of Directors, to make any Law or Regulation whereby power should be given to any courts of justice, other than the court of justice established by His Majesty's charters, to sentence to the punishment of death any of His Majesty's natural born subjects born in Europe or the children of such subjects or which shall abolish any of the courts of justice established by His Majesty's Charters.

Provided always, and be it enacted, that all Laws and Regulations shall made at some meeting of the council at which the said Governor-General and at least three of the ordinary members of council shall be assembled, and that all other functions of the said Governor-General in council may be exercised by the said Governor-General and one or more ordinary member or members of council, and that in every case of difference of opinion at meetings of the said council where there shall be an equality of voices the said Governor-General shall have two votes or the casting vote.

That..... nothing herein contain shall extend to affect in any way the right of parliament to more laws for the said territories and for all the inhabitants thereof, and it is expressly declared that a full, complete and constantly existing right and power is intended to be reserved to parliament to control, supersede or prevent all proceedings and Acts.

That the executive Government of each of the several presidencies of Fort William in Bengal, Fort St. George, Bombay and Agra shall be administered by the Governor and three councilors, to be styled. The Governor in council of the said presidencies of Fort William in Bengal, Fort St. George Bombay and Agra respectively.

Provided also, that no Governor or Governor in council shall have the power of creating any new office or granting any salary, Gratuity or Allowance without the previous sanction of the Governor-General

of India in council that it shall and may be lawful for the Governor-General in council of Fort William in Bengal, Fort St. George Bombay and Agra respectively to propose to the said Governor-General in council drafts or projects of any Laws or Regulations which they said Governors or Governors in council respectively may think expedient together with their reasons for proposing the same.

And be it enacted that no native of the said territories- nor any natural born subjects of His Majesty resident therein, shall, by reason only of his religion, place of birth, descent, colour, or any of them, be disabled from holding any place, or employment under the said company.

And be it enacted, that every power Authority and Function of this or any other Act or Acts given to and vested in the said court of Directors shall be deemed and taken to be subject to such control of the said Board of commissioners as this is mentioned, unless there shall be something in the enactments conferring such construction, and except as to any patronage or right of appointing to office vested in or reserved to the said court.

And be it further enacted, that the court of Directors of the said company shall, within the first fourteen sitting days next after the first day of May in every year, lay before both Houses of parliament an account made up according to the latest advices which shall have been received, of the annual produce of the Revenues of the said Territories in India.

The Charter Act of 1833 was a great land mark in the constitution history of India. It sought to bring about centralization in the administration, especially in legislation. Till now, parliament had been making laws even on local issues for India because the presidency Governments issued regulations without having them registered and published in the Supreme Court.

Regulations which could not be made effective on Europeans.<sup>41</sup> This was a very inconvenient system, moreover, the engross of Europeans was multiplying the legal problem concerning them. Laws regulating their conduct and protecting their interests in India were obviously to be made in India. The talk could not be left to three separate agencies, “to do so would be the surest means of leaving them to three separate and not infrequently conflicting system of law”.<sup>42</sup> That was needed as Macaulay said, “one single paramount council armed with legislative council.<sup>43</sup> only the central authority, the Governor General and council, could function as “one single parliament” law making body. The enlargement of the supreme Governments legislative jurisdiction was a natural corollary to the change in the Governor-Generals designation. The Governor-General of Bengal would henceforth be the Governor-General of India.<sup>44</sup> The laws for India were to be made in India, and parliament was to divest itself of its responsibility in this respect as far as possible. It was to be central authority that transfer of legislative power could, with the least disadvantage be made. The supreme Government, Macaulay said, would legislate for Europeans as far as natives and its law would “blend the king’s court as they blind all other courts.<sup>45</sup>

It was pointed out in Buckingham’s case against the press Regulation that supreme Government’s legislative power “was to be confined to more police regulations for preserving the peace, preventing and punishing nuisances and the like and was not to be extended to a general power of making original laws affecting the liberty or little to property of the inhabitants of Calcutta.... through a new law should be given by the local Government to affect the inhabitants of the provinces in the same respects.<sup>46</sup>

But with the limited powers of legislation in respect of the inhabitants of Calcutta, the supreme Government could not be expected to control the situation arising out of the “free ingress of Europeans”.

Some of the most important of the Indian Government have made without the direct or express authority of parliament and are most easily justified, as being in the exercise of the old legislative powers of the former governments not superseded, and therefore continuous to subsist. Some of the Regulations, about 1793, were of this description. The imposition of the taxes in the provinces is perhaps an instance, and it is a power which might come to be a subject of serious discussion and, if British persons are to be permitted to hold lands throughout India, of vital importance.<sup>47</sup>

Charles Grant, president of the Board of control summed up the defects “The first was in the nature of laws and regulations by which India was governed, the second was in the ill-defined authority and power from which these various laws and regulations enacted and the third was the anomalous and sometimes conflicting, judicatures by which the laws were administered, or in other words the defects were in the laws themselves in the authority for making them, and in the manner of executing them.<sup>48</sup>

The act made five important provisions in regard to law making the executive power of making laws for the whole of the company’s territories in India was vested- subject to the overriding authority of parliament and the vests of the court of Directors in the Governor-General in council. Second, as a subsequent provision, Madras and Bombay were deprived of their power of making regulations. Third the system of registration of laws in the supreme courts was abolished. Fourth, the Governor-General’s council was strengthened by the addition of a new member, called the fourth ordinary member,

who would be a legal expert engaged solely in the making of laws. Fifth provision was made for the appointment of law commission for consolidation and codification of Indian laws.<sup>49</sup>

The provision of the Fourth ordinary member was a “substitute for the sanction of the Supreme Court”<sup>50</sup> The legal position of the Fourth ordinary member under the Act of 1833 was thus defined by Peacock 1859- the duty the Fourth ordinary member was confined entirely to the subject of legislation, he had no power to sit and vote except at meetings for the purpose of making laws and regulations and it was only by Courtenay and not by right, that he was allowed to see the papers of correspondence or to be made acquainted with the deliberation.<sup>51</sup>

The subordinate Governments lost their legislative power but the act<sup>52</sup> gave the Governors or Governors in Council of Bengal, Madras, Bombay and Agra<sup>53</sup> to submit “drafts or projects of any laws or regulations which they might think expedient together with their reasons for proposing the same.”<sup>54</sup> The Governor-General in Council were required to take the same and to communicate their resolutions thereon to Governor or Governor in council concerned. Ishwar Prasad said that the act of 1833 created a real Indian Legislative council.<sup>55</sup> The distinction, according to him lay “not in relation to the personal of the bodies but to the function.”<sup>56</sup> The significance of the act lay in definitely assigning the function of legislation to the executive and making it powerful and able to perform that function.<sup>57</sup>

Bentinck in 1835 created a separate department called “Legislative Department”. Thus there was established in India one central legislative authority in place of three councils which was existed before. The new council was armed with authority to pass laws and regulations for the whole of the

British territories in India. It continued to exist with some changes and modifications till 1861.

So, it is quite clear that this act centralized the administration of the country; Governor-General of Bengal became the Governor General of India. The Governor-General in council was given the power to control, superintend and direct the civil and military affairs of the company. Bombay, Madras, Bengal and others placed under the complete control of the Governor-General in council. All revenues were to be raised under the authority of the central Government and it was to have complete control over the expenditure provincial Governments were to spend only that money which was approved for them. Governor-General in council could suspend any member of the Governments of Bombay and Madras who disobeyed them. If a provincial government failed to carry out the orders of central government, it could be suspended. When the Governor-General went to a presidency, he superseded the Governor and exercised the right of overriding the local council. The result of all these provisions was that all power was centralised in the hands of the central government. Provincial governments had kept the central government informed of their progress in all departments. The central government could criticise the provincial governments on any matter and also give directions. Before, 1833, the powers of central government were inadequate and ill-defined. It had no power to make laws for the whole country on matters of common concern.<sup>58</sup> Before this, although the regulation passed by the governments of Madras and Bombay had to be confirmed by the government of Bengal before they became valid this power was never exercised and the result was that there were many discrepancies. All these regulations were passed by the governments without proper legal advice or assistance;

they were in many cases ill- drawn and ill-expressed. It was also not certain as to what was the exact nature and extent of the legislative powers of the various governments.

But according to this act, Governor-General in council could make articles of war and code of military discipline and provided for the administration of justice. This power of making laws included the power of making, repealing, amending and altering any laws and regulations in force in India. However, there were certain limitations on the law-making power. Governor-General in council could not alter the constitution of the company or amend the charter Act itself.<sup>59</sup> It could not alter the Minting Act it could not alter the prerogative of the crown. It could not pass laws against the laws of England. It is true that the process of law-making was simplified, but it is too much to say that the Act of 1833 decentralized the Legislative and Executive functions in India. What was done was that the law-member was to be consulted whenever a new law was passed.<sup>60</sup>

It provided for the codification of law in India. Before 1833, laws were “so imperfect that in many cases it was quite impossible to ascertain what the law was.”<sup>61</sup> Before this act, there were several types of laws enforceable in India. It was a difficult question to decide as to which law was applicable in a particular case. There was always a conflict of laws. There were the English Acts, Hindu Law and custom, Muslim law and custom and Bombay, Madras and Bengal regulations. So, this act authorised the Governor-General to appoint the Indian law commission to study, collect and codify various rules and regulations prevalent in India.<sup>62</sup> The first Indian Law Commission was appointed in the year 1834 and Macaulay was the first Law Commissioner. As a result of the labour of this commission, the Indian Penal Code and

codes of civil and criminal procedure were enacted. These codes simplified and codified the substantive law procedural law.<sup>63</sup> The code remained a draft for about a quarter of a century. It was enacted by legislative council in 1860, a year after Macaulay’s death.

By an Act passed in 1833, parliament provided for the constitution of a committee of the Privy Council, to be known as a judicial committee consisting of persons holding who had previously held, certain high judicial offices, for the more effectual hearing and reporting on appeal to His Majesty in council.<sup>63</sup>

The appellate jurisdiction of a privy council in respect of the Sadar Dewani Adalat was an extension of the crown’s jurisdiction to the judicial sector occupied by the company. During the years following the charter Act of 1833 there was more extensive employment of Indians in the judicial service. The office of Principal Sadar Ameen was created in 1831; its functions were extended in 1843. In 1843, the Law Commission recommended abolition of the office of Sadar Ameen, but the proposal was not implemented due to opposition from the Government of Bengal.

The process of Indianisation of Indian services was begun. The Indian civil service was considered the spine of the Indian body politic and to it the people generally looked for the protection of person and property and life and liberty. Its form and character developed under rule of the East India Company.<sup>64</sup>

The Charter Act of 1833 incorporated for the first time a principle of competition. But it did so only in a limited form. Under this act, the Governor-General in council was to send for the approval of the Board of Control a complete annual list of vacancies which and when finalised, was to be submitted to the court of Directors. The Directors were then to make

nominations of admission to the East India College to the extent of four times the member of vacancies as announced by the Board.

Charter Act of 1833, marks the starting point of the Indianization in services. From Indian point of view, the most remarkable provision of the charter Act of 1833 was the clause 87 which laid down that no native of the said Territories, nor any natural born subject of His Majesty..... the said company. Nonetheless, the acceptance of a noble principle, even though on paper, is a sign or psychological preparation. Ram Mohan was the first Indian to plead for the appointment of meritorious Indians to covenanted post of the Government of India. Attachment of the Indian intelligentsia to British rule could be secured by “making them eligible to gradual promotion, according to their respective abilities and merits, to situations of trust and responsibility in the state.”<sup>65</sup> Ram Mohan cited the opinions of many distinguished servants of the East India Company, such as Munro and Rickard, in support in his view.

But on the other hand in happened to be the death blow for native industries. Ever since, the beginning of the century Indian industries had been fighting for existence against the imported machine-made goods. It sealed the fate of the great textile industry which was declining but not yet dead.<sup>66</sup>

It was in more than one sense the period of dress rehearsal for British capitalism in India. The period not only distressed the conversion of India into a “quarry” of raw materials as the rapid growth of plantations in indigo, cotton, tea and coffee. The tremendous success of this capitalist enterprise held out the possibilities of development of large-scale modern industries on the soil of India itself. Towards the middle of the 18<sup>th</sup> century British capitalism had attained its apogee and in

near future would be subject to the law of diminishing returns.<sup>67</sup>

Thus, the British parliamentary interferences in company’s affairs in India by the Charter Act of 1833 was laudable Lord Macaulay described this act as most extensive measure of Indian Government between Pitt’s India Act of 1784 and Queen Victoria’s assumption of the Government of India. Lord Morley’s appreciation was correct as it finally decided the future of the company and determined the shape of the government in India to come. It renewed for another twenty years only its political and administrative authority” in trust for His Majesty, his heirs and successors.<sup>68</sup> Lord Morley considered it the most important act passed by the parliament till 1909. The first thing that the Act accomplished was a strong centralised government for the whole of British India with legislative centralisation, it ensured uniformity of laws in the country. Section 87, of the act by its implication meant that there would be no governing caste in British India and that race and religion will not qualify or disqualify a person in matters of higher services and employments. Macaulay called this provision as the most wise, benevolent and noble clause of the Act. It marked the beginning of Indian Legislation.<sup>69</sup>

The Act of 1833 intensified the process of administrative centralization initiated earlier. It provided that no Indian subject of the company would be debarred from holding any office under the company by reason of his religion, place of birth, descent or colour. But the provision was simply grandiose gesture which signified nothing reality.<sup>70</sup> The object of the Act, the Directors emphasized, was “not to ascertain qualification, but to remove disqualification. It does not break down or derange the pally through the instrumentality of our regular servants, civil and military.”<sup>71</sup> In the application of this principle, the Directors

enjoined upon the Governor-General in council that fitness along was, “henceforth to be the criterion of eligibility.”<sup>72</sup> But as A. B. Keith said “the excellent sentiment was not of much political importance, a since nothing was done, despite the views of Munro, Elphinston, Sleeman and Bishop Herber, to repeal the provision of the Act of 1793, which excluded and but covenanted servants from occupying places worth over £ 500 a year.”<sup>73</sup> The clause 87 of the Charter would remain a dead letter because Indian guardians would not allow their wards to take admission in Haileybury as to cross the seas was regarded a sin in the orthodox Hindus.<sup>74</sup> Compulsory education at Haileybury for entering into civil service rendered clause 87 totally nugatory. The Supreme Court was a check on the despotic rule of the executive, but that check was done away with.<sup>75</sup>

This provision of act was remained a dead letter. This act had made no provision to secure the nomination of Indians to the covenanted services of the company. The result was that not a single Indian was appointed to the covenanted service during the company’s regime. Indians remained excluded in both the civil and military department from any but the minor posts.

The importance of this provision cannot be discounted, for it became “the sheet-anchor of political agitation in India towards the end of the century. Almost all the political activities in the earlier year of national awakening turned on this clause which came very handy when demands were being made for giving Indians equal opportunities in administration.”<sup>76</sup> It gave the birth of political associations. Land Holders society 1837, society for the Acquisition of knowledge 1838 and the Bengal British Indian society 1843. Several journals were also published by members of the educated community through which they carried on their political agitation.

### Conclusion:

The central government was headed by Governor-General. The expression Governor-General and council was headed by used in the Regulating Act but it was replaced by Governor-General in council in the Charter Act of 1833. The Governor-General was appointed by the court of Directors. The appointment was made on the advice of the prime minister of England. The Governor-General usually held office for a term of five years. This limitation was not imposed by statute or warrant of appointments, its origin has been traced to the five year term prescribed by the Regulating Act for the first Governor-General Warren Hastings under the Queen’s proclamation 1858, the Governor-General had in additional resignation a viceroy.

Under the Charter Act of 1833, the Governor-General’s council was composed of four ordinary members and one extra-ordinary member. The extra-ordinary member i.e. commander in chief of the company’s forces in India and if there be no such commander in chief and of Governor-General shall be vested in the same person then the commander in chief of the forces on the Bengal establishment was accorded rank and precedence at the council Board next after the Governor-General under the Government of India Act of 1858, the name council of India was assigned to the newly constituted council of the secretary of State for India and it was provided that the name of the Governor-General’s council was to be the council of the Governor-General of India.

The monopoly of the China trade was abolished in 1833. The company was completely shown of its commercial function in India. It became a trustee of the crown even in the field of administration.

Besides the Supreme Government, the administration of East India Company was divided into provinces. British India was an agglomeration of territories acquired at different times of different methods. These were initially grouped into three presidencies. Fort William in Bengal (under a Governor-General and a council), Fort St. George or Madras under a Government and a council and Bombay under a Governor and a council. The two latter presidencies retained this form of government. The Governor-General of India under the Charter Act of 1833, but the territories included in the presidency passed different stages of administrative distribution i.e. creation of the North-Western provinces in 1836, creation of the Lieutenant Governorship.

The Decentralisation commission pointed out that parliament originally contemplated the extension of the Madras, Bombay type of the council

system of government to the Major provinces. The Charter Act of 1833 provided for the creation of a fourth presidency the presidency of Agra under a Governor in council.

The Charter Act of 1833 provided for effective centralisation of legislation and finance.

The Charter Act of 1833 incorporated for the first time a principle of competition for Indian civil services. But it did so only in a limited form. Under this act, the Governor-General in council was to send for the approval of the Board of control complete annual list of vacancies which were finalized, was to be submitted to the court of Directors. The Directors were then to make notifications for admission to the East India College to the extent of four times the number of vacancies so announced by the Board.

The Charter Act of 1833 marks the starting point of the Indianisation in services, from the point

of view of the Indians, the most remarkable provision of the Charter Act of 1833 was the clause 87 which laid down that no native of the said territories nor any natural born subject of His Majesty will be debarred from the service of the company. Nonetheless, the acceptance of a noble principle, even though on paper, is a sign of psychological preparation. Ram Mohan Roy was the first Indian to plead for the appointment of meritorious Indians to covenanted posts of the government of India.

Charter Act of 1833 permitted the Indians to be appointed on higher posts on the basis of ability. Hence the policy of liberalisation and Indianisation was adopted.

The Government of India 1833 in fact, marked the beginning of a system of government for all India. Later it developed a representative character which distinguished it fundamentally from the earlier rule of despotism.

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