# THE INDIAN CONSTITUTION

BY
V. S. KRISHNASWAMI, M.A.

MADRAS. 1933



# DEDICATED

to

# MY FATHER

as a token of
my sincere affection and respect
to his
Plain Living And High Thinking.

### PREFACE.

A study of the Indian Constitution includes a study of the constitutional history of India since the advent of the East India Company. I have tried to bring out in this book the salient features of the constitutional developments in India up to the present day. The nucleus of Indian Constitutional History is the Regulating Act which introduced for the first time a form of Government for the Company's first acquisitions. Beginning from the Regulating Act I have concluded with the Third Round Table Conference which is the latest development as regards proposals for change in the present Indian Constitution. I feel therefore that I have in the course of this small and handy book covered the entire ground of the Indian Constitution.

In particular, I have got to mention three important treatises to which any writer on the Indian Constitution has necessarily to refer. Ilbert's "Government of India" is perhaps the standard treatise on the historical development of the Indian Constitution till 1909. Cowell's "Courts and Legislative authorities in India" is also important as his Tagore Law lectures give an excellent account of the Judiciary in India. Lastly the Simon Commission Report Vol. 1

is a mine of information regarding the working of the constitution as is obtained since the Government of India Act of 1919.

I have got to express my indebtedness to a number of my friends who helped me in the preparation of this book. Mr. V. S. Chinnaswamy, B.A., B.L., was kind enough to give me a number of valuable suggestions from his experience as a journalist. Messrs. T. S. Ramanujam, M.A., Ll. B. (London) and V. Ramaswami, M.A., B.L., rendered me great assistance in completing my book to serve as a guide to students of Indian Constitutional Law. I am also thankful to my friends Messrs. K. V. Narasimhan, M.A., and S. Ramachandran, B.A., Dip. (Econ.) who patiently went through the proofs and prepared the index.

Madras, Dated 7-2-'33.

V. S. K.

# CONTENTS

CHAPI	ER				1	PAGE
I	THE TRADING PERIOD OF THE EAST INDIA					
	COMPANY		•••		•	1
II	THE SECON	D PERIO	D—THE	Regulati	NG	
•	ACT AND	THE AME	nding Ac	r	•••	7
III	THE SECOND	PERIOD.	-Continu	JED /	•••	16
IV	THE THIRD	Perion-	1858—191	.9	•••	30
<b>~</b> ∇	THE MONTA	GUE-CHE	LMSFORD	Reforms	•••	48
VI	THE WORKI	NG OF I	HE INDIA	N CONSTI	ru-	
	TION-HOM	E Gove	RNMENT		•••	<b>5</b> 8
VII	THE GOVERN				ROY	
	AND THE				•••	70
VIII	THE GOVE		of Ind	IA-CENTE	LAL	
	GOVERNM		•••		•••	81
	THE CENTRA				•••	99
X	PROVINCIAL	LEGISLA?	TURES		•••	112
XI	THE PROVIN	CIAL EXP	CUTIVE		•••	125
XII	THE FINANCIAL RELATIONS BETWEEN THE					
				D THE P	RO-	
	VINCIAL (				•••	138
	LOCAL SELF				•••	150
XIV	THE HISTOR					,
				ODUCTION	OF	
	THE HIGH				•••	159
	THE EXISTIN				•••	169
XVI	LEADING (		Indian	CONSTI	TU-	
	TIONAL L	<del></del> ···	•••		•••	193
XVII	INDIA IN THE	MELTIN	G Por		•••	207
	APPENDIX	•••	•••		•••	214
	Index	•••				227

## BOOKS REFERRED

- 1. ILBERT (SIR C.): Government of India.
- 2. EGGAR (A.): The Government of India.
- 3. Cowell (H.): Courts and Legislative Authorities in India.
- 4. SAPRE (B. G.): Growth of Indian Constitution and Administration.
- 5. Baneriee (D. N.): The Indian Constitution and Its Actual Working.
- 6. VARMA (J. N.) AND GAREKHAN (M. M.): The Constitutional Law of England and India.
- 7. THAKORE (B. K.): The Indian Administration to the Dawn of Responsible Government.
- 8. BUTLER COMMITTEE REPORT.
- 9. THE TIMES OF INDIA YEAR BOOK (1930).
- 10. THE ROUND TABLE (1930).
- 11. THE REPORT OF THE INDIAN STATUTORY COMMISSION (SIMON COMMISSION).
- 12. THOMSON (E. J.): The Reconstruction of India.

## INDEX

### ACT.

of 1786, 18 of 1813, 24 of 1833, 19, 24, 27 of 1853, 20, 27 of 1858, 80 of 1870, 82

ADMIRALTY COURTS, 181

BILLS,

central, 105 provincial, 120 BUDGET, central, 104

provincial, 115
CASES, LEADING, 193-206

CENTRAL GOVERNMENT,

control over provincial matters,

control in the reserved field, 88 control in transferred field, 90 financial control of, 91 relation to Native States, 95 residuary jurisdiction of, 98 relation to Central Legislature,

#### CENTRAL LEGISLATURE.

structure, 99
duration and sessions, 100
procedure, 101
law making powers, 106
financial powers, 109
relation between the two houses,

CHARTER,

of Queen Elizabeth, 1 of Charles II, 8

#### COMMITTEES.

Public Accounts, 103 Standing Finance, 103

COMMISSION,

Law, 28 Royal, 27 Simon, 207

#### COMPANY,

Regulated, 2 New, 4 Amalgamated, 5

CONSTITUTIONAL LAW, 214

CONSTITUTION, classification of, 215

COUNCIL OF INDIA, 59

functions of, 60 financial control, 62 relations with foreign powers and Native States, 62

#### COURTS IN INDIA.

history, 159 at the present time, 169

#### COURT.

of Diwani, 10 of Requests, 160 of Record, 190

DELHI DURBAR, changes introduced by, 36

DEVOLUTION RULES, 145

DISTRICT BOARD, 156

DIWANI, grant of, 7 DYARCHY, 55 EXECUTIVE COUNCIL, CEN- 1 INDIAN COUNCILS ACT. TRAL.

composition, 81 business procedure, 84

FIRST PERIOD. 1

FINANCIAL RELATIONS.

between Central and Provincial Governments, 138

FISCAL POLICY, 65

FOUJDARI, 10

GANDHI-IRWIN AGREE-MENT, 210

GODOLPHIN'S AWARD, 6

GOVERNOR.

legislative powers, 122 relationship with Ministers. 126, 135 with relationship Executive Councillors, 130, 135

GOVERNOR-IN-COUNCIL, legislative powers, 21

GOVERNOR-GENERAL.

powers and responsibilities, 71 extraordinary powers, 72 power of certification, 77 previous sanction, 77

GOVERNOR-GENERAL-IN-COUNCIL,

legislative powers, 21 functions, 86

GOVERNMENT OF INDIA ACT.

of 1858, 40 of 1870, 44

of 1919, See Montague-Chelmsford Reforms.

HIGH COMMISSIONER FOR INDIA, 63

of 1861, 31 of 1865 41

of 1869, 42

of 1874, 32

of 1892, 43

INDIAN HIGH COURTS.

Constitution, 173 Jurisdiction, 174, 175 Act, 41

INSOLVENCY COURTS, 179

JUSTICE OF THE PEACE, 160

JURISDICTION, 189

KING'S COURT, 190

LEGISLATIVE COUNCIL,

of 1833, 26 changes in the third period, 33

LEGISLATURE.

central See under C provincial, See under P

LOCAL SELF-GOVERNMENT.

before 1919, 150 after 1919, 152 in Presidency Towns, 153

MACAULAY, LORD, 28

MADRAS CORPORATION, 154

MAYOR'S COURTS, 6

MESTON'S AWARD, 143

MINOR RURAL AUTHORI-TIES, 152

MINTO-MORLEY REFORMS. ~ 34, 44

MINISTERS.

constitutional position, 125

MONTAGUE-CHELMSFORD 1
REFORMS, 48

three principles, 49
outline, 52
changes in the Executive Government, 54
changes in the Central Legislature, 56
changes in the local Legislative
Councils, 57

MUNICIPALITIES IN INDIA,

of Bombay, Madras and Calcutta, 6

NATIVE STATES, 217

Relationship of Paramount Power, 217

ORDER IN COUNCIL, 96

ORDINANCES, 79

PANCHAYATS, 157

PERIODS OF CONSTITU-TIONAL DEVELOPMENT, 1 PRINCES, CHAMBER OF, 218 PRESIDENCY TOWN,

. system, 150 Magistrate, 161

PRIVY COUNCIL.

constitution, 185 history, 186

PRIZE COURTS, 184
PROVINCIAL.

autonomy, 53
Civil Courts, 161, 169
Criminal Courts, 164, 170
Small Cause Courts, 170
Executive, 125

PROVINCIAL LEGISLATURE,

composition, 112, 113 franchise, 113 business procedure, 115 law-making powers, 117 financial powers, 118 REGULATING ACT, provisions, 10, 17 defects, 12

REFORMS

Minto-Morley, 34, 44 Montague-Chelmsford, 48 Seeunder M

REPORTS.

Nehru, 208 Simon, 209, 209

RESOLUTIONS, 102

REVENUES OF INDIA, 147

ROUND TABLE CONFERENCE.

First, 209 Second, 211 Third, 212

SECOND PERIOD, 16

SECRETARY OF STATE FOR INDIA, 58

Control over transferred subjects, 64 Control over reserved subjects, 64

liability, 65

SINHA, LORD, 35

STATUTE LAW UNTIL 1833, 25 SUBJECTS.

transferred and reserved, 55

SUPREME COURT,

Calcutta. 11, 159 Madras, 24, 160 Bombay, 160

TALUK BOARD, 157

THIRD PERIOD, 30

legislative changes, 38 Changes in Executive Government, 81

VICEROY.

relation with the Princes, 80 relation with the Secretary of State, 80

Kesari Printing Works, Madras.