

**THE INDIAN CONSTITUTION**  
**AND**  
**ITS ACTUAL WORKING**

BY

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WITH A FOREWORD BY

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**LONGMANS, GREEN & CO.**  
**BOMBAY, CALCUTTA, MADRAS**  
**LONDON, NEW YORK AND TORONTO.**

1926

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## EXPLANATIONS OF THE ABBREVIATIONS USED IN THE BOOK

Joint Report = Report on Indian Constitutional Reforms.

Montagu-Chelmsford Report = Do.

Crewe Committee = The Committee on the Home Administration of Indian Affairs.

L. A. = The Legislative Assembly.

C. S. = The Council of State.

B. L. C. = The Bengal Legislative Council.

P. L. C. = Provincial Legislative Council.

E. R. = Electoral Rule.

Sch. = Schedule.

The Act = The Government of India Act (unless it appears otherwise from the context).

J. S. C. R. = Report of the Joint Select Committee on the Government of India Bill, 1919.

*Imp. Gaz.* = *The Imperial Gazetteer.*

S. O. = Standing Order.

U. P. = The United Provinces.

C. P. = The Central Provinces.

## PREFACE

THE object of this book is to describe the present Constitution of India, with special reference to its working since its inauguration. The book is primarily intended for those students of our Universities and Colleges who have to take up the Indian Constitution as part of their course; and I have attempted, as far as possible, to treat the subject in an impartial and scientific way. I have not, however, hesitated to express my own views on undecided points of law, in the hope of eliciting expressions of opinion from others who are more competent to judge of them than myself. Nor have I refrained from pointing out what appeared to me to be inherent defects in our constitutional system, by comparing it with the political systems of England and of self-governing Dominions like Canada, Australia and South Africa. Another point which I should like my readers to keep in view, is that this book treats of the existing Constitution of India and not of its Administration. The foregoing statement will, I hope, suffice to explain the general scope and plan of the work.

I have purposely entered into the details of electoral matters for three reasons. First, the electoral rules and regulations in force in different parts of British India, even in respect of elections to the same legislative body, e.g., the Legislative Assembly or the Council of State, are of bewildering variety. Secondly, as this book is intended for the use of students of different provinces, I have thought it desirable that it should deal, as far as space would permit, with the electoral rules and regulations obtaining in all the provinces. In the third place, the official documents containing those rules and regulations are not always easily accessible to our students. This has, much to my regret, extended the length of the book beyond what would perhaps have been desirable. I may state here, however, that Chapters IX and X are intended solely for the students of the provinces to which those chapters relate.

I take this opportunity of expressing my thanks to Dr. P. J. Hartog, C.I.E., Vice-Chancellor of Dacca University, for the assistance I have received from him both in the preparation and publication of this book. I have, while engaged on it, always enjoyed his genuine sympathy and encouragement. I am also deeply indebted to Professor P. B. Rudra of Dacca Intermediate College, who has read through practically the whole of the book in manuscript, and favoured me with a number of corrections. I must also thank Dr. R. C. Majumdar, Mr. C. L. Wrenn and Mr. P. K. Guha of the University of Dacca for the help I have received from them in connection with this work.

I have tried to bring the book, as far as possible, up to date. As it has been prepared under the constant pressure of official duties, I may perhaps have fallen into errors on some points. I shall be extremely grateful if any of my readers will kindly call my attention to any errors which they may discover.

D. N. BANERJEE.

DACCA UNIVERSITY,  
February, 1925.

*Postscript.*—As the work was completed about a month before the publication of the Report of the Reforms Enquiry Committee, 1924, it has not been found possible either to consider the Report or to make any use of it in the text. It is hoped, however, that every student of the Indian Constitution will make a very careful study of this indispensable document.

It is at once a duty and a pleasure to express here my sense of obligation to Sir Evan Cotton, C.I.E., late President of the Bengal Legislative Council, who has kindly written a Foreword for the book, and to Mr. H. D. Bhattacharyya of Dacca University, who has gone through all the proofs with great care and made valuable suggestions upon them.

November, 1925.

D. N. BANERJEE.

## FOREWORD

THE Government of India Act of 1919 is admittedly not a perfect Act. I have yet to learn of a legislative enactment which can be described as such. But it represents an honest and considered attempt to provide India with a workable Constitution on Western lines. It is therefore to be regretted that a considerable volume of criticism has been directed against the measure by those who (to judge by their utterances) have devoted little attention to its contents; while, as far as Bengal is concerned, it must be acknowledged that no serious effort has been made to explore and develop the opportunities which are afforded by the Act.

I welcome, therefore, the valuable and suggestive contribution which Mr. Debendra Nath Banerjee offers in the following pages towards a careful and sustained study of the present constitutional position. But with regard to the resubmission of rejected grants, I venture to disagree with him. The total rejection of a grant does not supply the most adequate method of expressing dissatisfaction with the policy of a Minister or Ministers. That end is more properly achieved by the carrying of a token reduction—which by Parliamentary convention is fixed at £100—in the amount of a grant: and I note that the point has not been overlooked in dealing with the question of Ministers' salaries. The same principle must be held to apply to grants for the administration of those departments which have been placed under Ministerial control. In such cases total rejection is likely to result in dislocation of that portion of the administrative machinery for which the money is required. No

constitution can be worked if it is to remain liable to a succession of shocks which must deprive transferred subjects of the funds necessary for their administration. The wholesale rejection of grants forms no part of the English political system, and this is no doubt the reason why Mr. Banerjee has been unable to find English precedents: but he may rest assured that, if the practice became common, steps would promptly be taken to prevent its recurrence.

No discussion is, however, possible without a healthy difference of opinion; and I can recommend Mr. Banerjee's book with confidence to the rising generation of Bengal, with whom the rightful guidance of the future of their country rests.

EVAN COTTON.

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## ERRATA

- P. 4, line 7 from top: *for* 'act' *read* 'Act.'
- P. 8, note 2, line 3: *for* 'is' *read* 'are.'
- P. 9, line 11 from top and also line 3 from bottom: *for* 'Unitary' *read* 'unitary.'
- P. 29, line 7 from bottom: *for* 'Andamans' *read* 'Andaman.'
- P. 30, line 8: *after* 'elected members' *add*: except in the case of the Burma Council in which the minimum percentage of elected members is fixed at sixty.
- P. 41, line 5 from bottom: *for* 'has recently been amended partially in favour of political prisoners' *read* 'has recently been amended.'
- P. 92, line 1 from bottom: *for* 'oint' *read* 'joint.'
- P. 133, note 2, line 9 from bottom: *for* '1922 and 1923' *read* '1922-23.'
- P. 153, line 15: *for* 'must' *read* 'must be.'
- P. 252, line 14 from bottom: *for* 'that' *read* 'than.'
- P. 284, line 6 from top: *for* 'Beluchistan' *read* 'Baluchistan.'
- P. 292, note 2, line 2: *for* '1924' *read* '1921.'
- P. 353, note 5. *Add*: The Pargana of Manpur has also been recently formed into a Chief Commissionership. The Agent to the Governor-General in Central India is its Chief Commissioner.
- P. 370, line 18 from top: *for* 'the Indian Councils Act' *read* 'the Government of India Act.'
- P. 415, line 15: *for* 'by' *read* 'in'.
- P. 416, line 7: *for* 'o' *read* 'to.'

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- Winterton, Lord, 261*n*.

PRINTED IN INDIA  
BY GEORGE KENNETH AT THE DIOCESAN PRESS,  
MADRAS—1926 C8988.