INTRODUCTION

Objective

The purpose of the present study is to examine the basic concepts of the Indian Constitution in their historical perspective. No other method has been found as suitable for the purpose as the study of the Indian Constituent Assembly, the originator of the Indian Constitution. The relevance of it has been poignantly outlined by C.H. Alexandrowicz in 1957:

"Whereas the American Constitution was framed more than 160 years ago, the Constitution of India came into force only recently, in 1950. Those who framed the constitution enjoy at the same time undisputed national leadership, and the need for adjusting the constitution, in accordance or inspite of the intentions of the founder fathers, to new conditions of life are still non-existing. Quite to the contrary, it is the Constitution, which is intended to bring about social and economic reform. Moreover, whereas recorded evidence as to the intentions of the Constitution-makers in the United States has by now been fully exploited, Indian Constitutional lawyers seem hardly
to have acquainted themselves with the Constituent Assembly debates ........... Whereas new contributions to the understanding of the intentions of the original framers of the American Constitution and its amendments are not likely to be forthcoming, all contributions in this respect may have still to be made in India, in the first instance by academic lawyers whose task it is to explore thoroughly the background of the constitution" (1).

The task is, admittedly, difficult. It involves a study of the constitutional progress, as well as the political struggle, of India, leading to the establishment of the Constituent Assembly along with its problems. The mind and working of the Assembly will be better understood in this setting than through any mechanical analysis. The developments of Indian politics even during the prolonged working of the Constituent Assembly form a part of this setting no less vital than the collective political and socio-economic background of the fathers of the Indian Constitution. It is, at the same time, well remembered that the collection of a

(1) Constitutional Developments in India 1957, p. 17.
vast store of knowledge of the European Constitutions formed the comparative background of constitution-making in India.

Abstract

The discourse on "Constituent Assembly of India and the Indian Constitution", is divided into two major parts. The first part deals with the problems, birth, structure and working of the Constituent Assembly of India. The second part analyses the mind of the Constituent Assembly and the process of its framing the basic structure of the Indian Constitution.

In part I the first two chapters trace the growth of constitutionalism in the Indian national movement in response to the classical "Indian Problem", which was said to consist in the communal and the states questions. The Indian Problem was counterpoised with the demand for responsible government in India - a demand which ultimately led to the demand for a Constitution made by Indians.

As a result of the exaggerated fear of 'majority' rule the Cabinet Mission Plan, which
produced the Constituent Assembly (Chapter III) placed the rather impossible condition of Congress-League agreement on all major issues of the Constitution. The scheme of grouping of Provinces proved, however, the most decisive issue on which the Congress and the League could never agree. The Constituent Assembly started work without the League (Chapter IV). During the period of constitution-making an Interim Government was to work (Chapter V). Whereas the League was willing to work in the Interim Government, it refused to join the Constituent Assembly unless the grouping clause was accepted by the Congress. The Congress was, on the other, hand, in a hurry to proceed with constitution-making even without the League. The inevitable result was the splitting of the Assembly, followed by the partition of India (Chapter VI). This only made the Assembly Sovereign (Chapter VII).

Once the Assembly earned the sovereign status, it did not remain difficult to formulate the general outline of the Constitution. The Constituent Assembly was dominated by only one party which had before it...
an overall socio-political programme and an established leadership. Most of its decisions were, therefore, taken by the informal party caucus.

Yet the party, due to historical reasons, was not organically a monolith. It represented almost each of the several ideological and socio-economic trends that had developed under the aegis of the national movement. (Part II, Chapter I).

Hence, these different ideological forces and socio-economic interests have been analysed (Chapter II). A survey has been made of national political trends and economic perspective of the period in order to show their effect on the Assembly's work (Chapter III). On the whole, there was a general tendency towards a centralised state with a stable parliamentary government at its head. Several local aspirations, of course, had to be satisfied, along with the expectations of millions of Indian people about socio-economic reforms.

The achievement of the Constituent Assembly of India was limited in many respects. It could not resist partition
of India, though it registered the participation of all the native States, which had formed one-third of India, against several odds (Chapter IV). Popular movements in States, pressure from the Government of India and their own powerlessness to meet them compelled most of the States to gradually merge with the Indian Union. The other part of the Indian Problem, the question of the Minorities, was also solved by the changed political situation (Chapter V). Formulation of the Fundamental Rights of the citizens created the foundation of the new political set up (Chapter VI).

The present shape of India was, thus, very much brought about in the Constituent Assembly. In this Assembly, slowly, emerged the state-structure of modern India (Chapter VII). A highly centralised state with a parliamentary government was the result of the whole process (Chapters VIII and IX).