

FACULTY OF JURIDICAL SCIENCES

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Lecture-15



The Act of Settlement, 1781

The Act of Settlement

The Act of Settlement was an Amending Act of 1781, which was passed by British Parliament on 5th July 1781 to remove the defects of the Regulating Act 1773. It is also known as Declaratory Act, 1781.

Circumstances that led to the passing of Act of Settlement

- Though the Regulating Act of 1773, brought a great level of change both in the regulation of affairs and judiciary, there were some significant loopholes which this act failed to resolve. Basically, to remove the defects of the Regulating act of 1773, the Act of Settlement 1781 was enacted.
- Firstly, some serious issues with the administration of the Warren Hastings were there. The relevant examples of such issues are Patna case, Cosijurah Case and particularly the Nand Kumar case where (Nand Kumar was hanged). These all issues led to a lot of criticisms of administration of Warren Hastings.
- Secondly, there was a big tussle between the Supreme Court and Governor-General in Council which disturbed the balance of administration to a great extent.
- Also, there was interference in the personal laws of the communities which had agitated the people.

Also, in the year 1777, a complaint was made by the directors of the company against the Supreme Court as for them it was difficult to run the administration. To address this complaint, the House of Commons, appointed a committee known as Touchet Committee to do an inquiry about the administration of Bengal, Bihar, and Odisha.

The report of this committee led to the enactment of the Act of Settlement of 1781.

The Aim of the Act

The main objectives of the enactment of this Act were :

1. To remove ambiguity regarding the few provisions of the Regulating Act and the Charter which had created the division between the court and the government.
2. To support the lawful government of Bengal, Bihar, and Orissa, so that revenue could be collected smoothly.
3. To maintain and protect the laws and customs of the native people.

Key Provisions (features) of the Act

The Act had the following features :

- **Change in the powers of the Supreme Court**

The servants of the company which earlier came within the jurisdiction of the Supreme Court were now exempted from the jurisdiction of the Supreme Court.

By the enactment of this Act, the court's geographical jurisdiction became limited to only Calcutta.

- **Non-interference in Revenue matters**

The court now had no jurisdiction in the revenue matters concerning revenue, or any act was done in the collection thereof, the government now became independent of the control of the court in the matter of revenue.

- **The Shift of Appellate Jurisdiction from Court to the Governor-General and Council**

The Appellate jurisdiction shifted in the hands of the Governor-General and Council. Now, the appeals went from Provincial Courts to the Governor-General in council.

- **The Assertion on the application of the personal laws**

This act asserted that Mohammedan law should be applied on the Mohammedan cases and similarly, the Hindu law must be applied to Hindu cases.

Impacts of the Act of the Settlement

The major impacts of this act were :

- The act gave superior authority to the council over the court and favored the council.
- This act made the position of the council very strong so that it could continue to have a good control over the Indian empire.
- It was the first attempt to separate the executive from the judiciary by defining the respective areas of jurisdiction.

Still, the Act failed to give a vibrant impact and to remove all the flaws of the Regulating Act of 1773.