

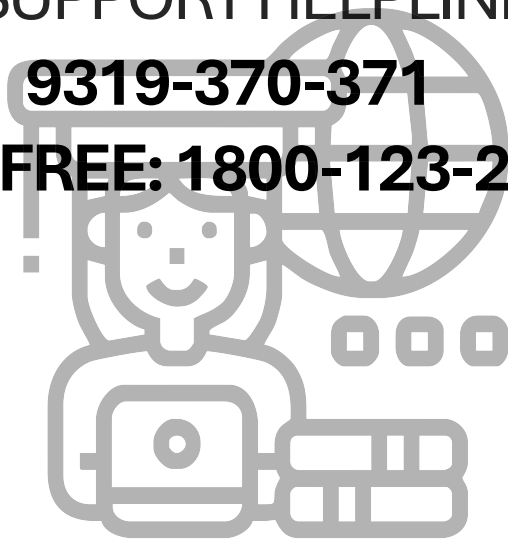
# MIPS PVT. LTD.

CAREER MAKERS SINCE 2012

STUDENT'S SUPPORT HELPLINE NUMBER:

**9319-370-371**

**TOLL FREE: 1800-123-2012**



## VIRTUAL COLLEGE

A UNIT OF  
MIPS PRIVATE LIMITED

**PAPER – V**  
**INDIAN LEGAL AND CONSTITUTIONAL HISTORY**  
**(Paper Code : BL – 3005)**

This course is intended to introduce students to the Legal and Constitutional History of India (1600-1950). Emphasis will be laid on the following :

**I. Legal History :**

The Early Charters and the Administration of Justice by the East India Company, the Mayor's Courts; Judicial Reforms of Warren Hastings and the Advent of Adalat System; the Regulating Act, Pitts India Act, and the Act of Settlement; Judicial Reforms of Cornwallis and Lord William Bentick; the High Courts; Privy Council; the Supreme Court of India; the Law Commissions and Codification, Development of Criminal Law, Law of Contract and Law of Evidence in India; Personal Laws of Hindu and Mohammedans.

**II. Constitutional History :**

Position of Native States and the development of the Doctrine of Paramountcy, Development of Legislative Institutions, Indian Council Act 1861, Government of India Act 1909, Government of India Act 1919, Government of India Act 1935, Independence Act, 1947, The story of Framing of Indian Constitution.

**BOOKS RECOMMENDED**

Jain, M.P., *Outlines of Indian Legal History*  
Kulshreshtha, V.D., *Landmarks in Indian Legal and Constitutional History*  
Pranpe, N.V., *Legal and Constitutional History of India*  
Puri, S.K., *Legal and Constitutional History of India*  
Ramajois, M., *Legal and Constitutional History of India, Volume-I,II*  
Shilwant, S.S., *Turning Points in Indian Legal and Constitutional History*  
Singh, M.P., *Outlines of Indian Legal and Constitutional History*

## **Important questions from exam point of view:**

### **1. Write a short note on Simon Commission and its outcome.**

Ans1) The Simon Commission, officially known as the Indian Statutory Commission, was a constitutional commission established by the British government in 1927 to report on the working of the Indian Constitution and suggest reforms.

Background:

The commission was formed due to growing demands for Indian self-rule and constitutional reforms. The British government aimed to assess the effectiveness of the Government of India Act, 1919, and propose changes.

Membership:

The commission consisted of seven members, all British:

1. Sir John Simon (Chairman)
2. Sir Clement Attlee
3. Lord Burnham
4. Sir George Schuster
5. Sir Vernon Hartshorn
6. Sir Ernest Simon
7. Sir Robert Richards

Controversy and Boycott:

The commission faced widespread opposition and boycott from Indian leaders and parties, including:

1. Indian National Congress
2. Muslim League
3. Hindu Mahasabha
4. Liberal Federation of India

Reasons for boycott:

1. No Indian representation on the commission
2. Perceived bias towards maintaining British control
3. Lack of consultation with Indian leaders

Outcome:

**VIRTUAL COLLEGE**  
A UNIT OF  
**MIPS PRIVATE LIMITED**

Despite the boycott, the commission submitted its report in 1930, recommending:

1. Gradual introduction of provincial autonomy
2. Increased representation in legislatures
3. Reservation of seats for minorities
4. Strengthening of the Centre's powers

Impact:

The Simon Commission's report led to:

1. Government of India Act, 1935: Implemented provincial autonomy and expanded legislative representation
2. Round Table Conferences (1930-1932): British government's attempt to engage Indian leaders in constitutional discussions
3. Increased nationalist movement: The boycott and subsequent protests strengthened the Indian independence movement

Key Players:

1. Jawaharlal Nehru
2. Mahatma Gandhi
3. Muhammad Ali Jinnah
4. Lala Lajpat Rai

Legacy:

The Simon Commission's report, though flawed, marked a significant step towards Indian constitutional reforms. Its recommendations paved the way for the Government of India Act, 1935, and ultimately contributed to India's journey towards independence.

**Total 4 law commissions (pre independence)**

**Total 22 law commissions till now (post-independence)**

**What is law commission of India?**

The Law Commission of India is an executive body established by an order of the Government of India. The commission's function is to research and advise the government on legal reform, and is composed of legal experts, and headed by a retired judge. The commission is established for a fixed tenure and works as an advisory body to the Ministry of Law and Justice

## **2. First law commission of India pre independent India**

Ans 2) The First Law Commission of India was established in 1834 under the Charter Act of 1833. Its primary objective was to codify and simplify Indian laws.

Chairman:

1. Thomas Babington Macaulay (1834-1838)

Members:

1. James Stephen
2. George Norton
3. William Massey
4. Sir John Peter Grant

#### Objectives:

1. Simplify and codify Indian laws
2. Remove inconsistencies and ambiguities
3. Introduce uniformity in laws
4. Adapt British laws to Indian conditions

#### Key Contributions:

1. Indian Penal Code (IPC), 1860
2. Code of Criminal Procedure (CrPC), 1861
3. Civil Procedure Code (CPC), 1859
4. Evidence Act, 1872
5. Contract Act, 1872

#### Reports:

The Commission submitted four reports:

1. Report on Indian Penal Code (1837)
2. Report on Civil Procedure Code (1840)
3. Report on Law of Evidence (1840)
4. Report on Contract Law (1841)

#### Impact:

The First Law Commission's work laid the foundation for modern Indian law, influencing:

1. Indian legal system
2. Judicial administration
3. Legislative reforms
4. Uniformity in laws across India

#### Legacy:

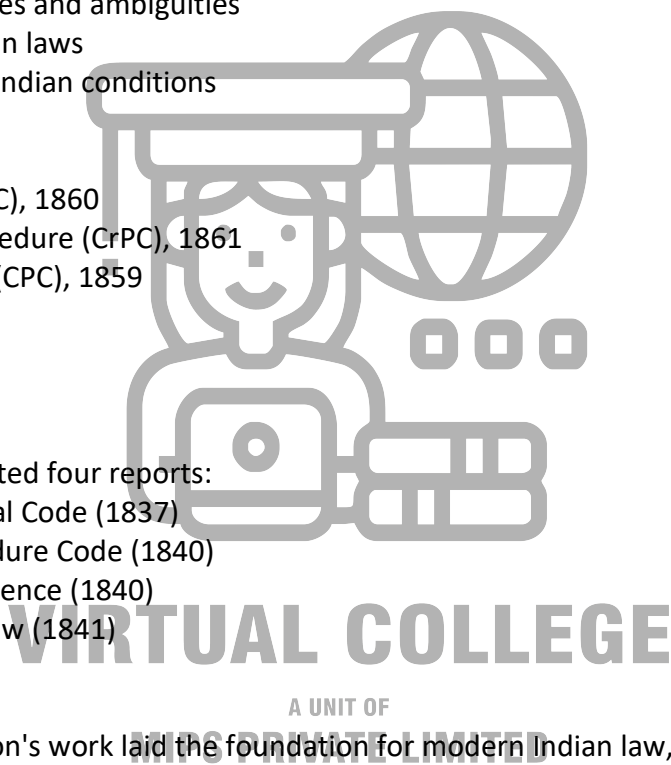
The First Law Commission's contributions have had a lasting impact on Indian law, with many of its recommendations still in force today.

#### Later Law Commissions:

India has had 21 Law Commissions since 1834, with the most recent being:

1. 21st Law Commission (2015-2018)
2. 22nd Law Commission (2018-2021)

### **3. second law commission of India**



## Second Law Commission of India (Pre-independence)

Year of establishment	1853
Tenure of the Commission	3 years – 1853 to 1856
Chairman of the Commission	Sir John Romilly
Members of the Commission	7 members commission, including the chairman. Sir Lord JervisSir Edward RyanR. LoweJohn MacleodCharles Hay CameronT. E. Ellis
Reports by the Commission	The Second Law Commission of British India contributed to the legal reforms through the following reports – Penal Code, 1860 was formed based on the Penal Code of 1837 introduced by the first law commission of British India. Introduction of the Code of Civil Procedure in 1859. Introduction of the law of limitation in the year 1859. Introduction of the Code of Criminal Procedure in 1861.

### 4. Third law commission of India

The Third Law Commission of British India played a significant role in shaping the country's legal framework. Established in 1861, it contributed to various legal reforms through several reports and drafts <sup>1 2</sup>.

Key Contributions:

- Introduction of a Code on Inheritance: The commission introduced a code that amended various prevailing laws regarding inheritance, applicable to Indians, with exceptions for Hindu and Muslim communities <sup>1</sup>.
- Changes to the Code of Criminal Procedure, 1860: The commission's suggestions were later adopted by the authorities, leading to significant reforms in the criminal justice system <sup>1</sup>.
- Drafts on Key Laws:
  - Negotiable Instruments Law (1867): A draft law facilitating transactions and commerce <sup>1</sup>.
  - Contract Laws (1866): A draft law governing contracts and agreements <sup>1</sup>.
  - Laws on Evidence (1868): Draft law standardizing evidence collection and presentation <sup>1</sup>.
  - Transfer Laws on Property (1870): A draft law regulating property transactions <sup>1</sup>.
  - Insurance Code (1871): A draft law providing guidelines for the insurance sector [1].

These contributions demonstrate the Third Law Commission's impact on India's legal landscape, laying the groundwork for future reforms.

### 5. trial of Raja Nand Kumar case

The Trial of Raja Nand Kumar, also known as the "Nand Kumar Case," was a landmark and controversial trial held in 1775 in Calcutta, India.

#### Background:

Raja Nand Kumar, a prominent Bengali Zamindar (landlord), accused the British East India Company of violating trade agreements and exploiting local resources. The Company, seeking to silence him, fabricated charges of forgery against Nand Kumar.

#### Charges:

Nand Kumar was accused of forging a deed to secure a large sum of money from the Company.

#### Trial:

The trial was held at the Calcutta Supreme Court, presided over by Chief Justice Elijah Impey and Judges Robert Chambers and John Hyde.

#### Key Witnesses:

1. Warren Hastings (Governor-General of Bengal)
2. Sir Elijah Impey (Chief Justice)
3. Mohan Prasad (Nand Kumar's servant)

#### Defense:

Nand Kumar's defense argued that:

1. The deed was genuine.
2. The charges were fabricated.
3. The trial was biased.

#### Verdict:

Nand Kumar was found guilty and sentenced to death by hanging.

#### Execution:

Nand Kumar was executed on August 5, 1775.

#### Controversy:

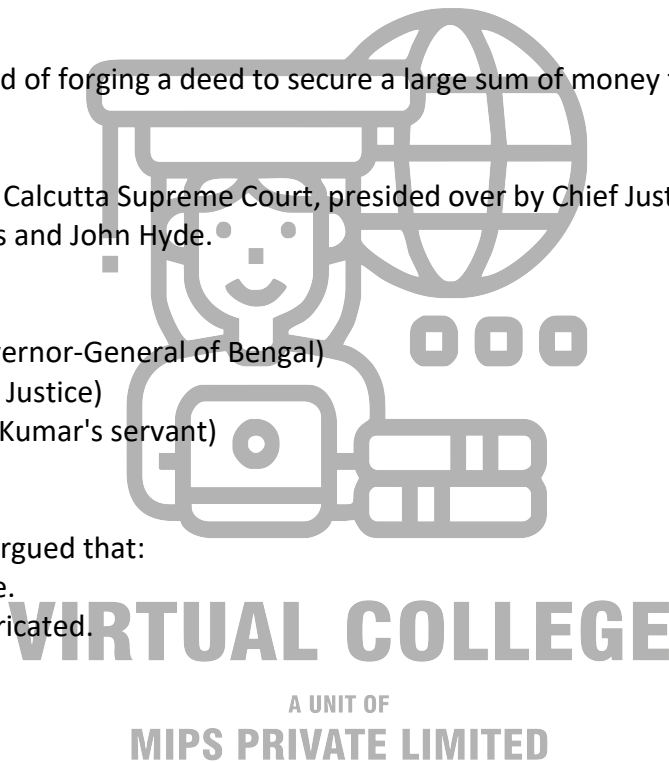
The trial was widely criticized for:

1. Lack of evidence.
2. Biased judges.
3. Political motivations.

#### Significance:

The Nand Kumar Case marked a turning point in Indian-British relations, highlighting:

1. British disregard for Indian law and justice.



2. Exploitation and manipulation of Indian leaders.
3. Growing resistance against British rule.

Historical Records:

The trial is documented in:

1. British East India Company records.
2. Indian historical texts.
3. Memoirs of British officials.

Important Figures Involved:

1. Warren Hastings
2. Elijah Impey
3. Robert Clive
4. Jawaharlal Nehru (later wrote about the case)

Legacy:

The Nand Kumar Case remains a symbol of British colonial injustice and a catalyst for Indian nationalism.

## **6. Discuss the Minto-Morley Reforms of 1909 and their constitutional importance**

The Minto-Morley Reforms of 1909, also known as the Indian Councils Act 1909, were a significant constitutional development in British India. Key aspects of the reforms include:

Main Provisions:

1. Expansion of Legislative Councils: Increased membership and representation.
2. Elective Principle: Introduced elections for council members.
3. Separate Electorates: Created separate electorates for Muslims, Sikhs, and Indian Christians.
4. Reservation of Seats: Reserved seats for specific communities.
5. Increased Indian Representation: More Indians in legislative councils.

Objectives:

1. Associate Indians with governance.
2. Increase representation and participation.
3. Address growing nationalist sentiment.
4. Counterbalance extremist elements.

Impact:

1. Increased Indian involvement in governance.
2. Recognized community interests.
3. Paved the way for future reforms (Montagu-Chelmsford Reforms, 1919).
4. Strengthened Muslim League's position.



Legacy:

1. Shaped India's constitutional development.
2. Influenced future reforms.
3. Contributed to India's eventual independence.
4. Remains a topic of historical debate.

### **And its constitutional importance**

The Minto-Morley Reforms of 1909 hold significant constitutional importance in Indian history:

Constitutional Significance:

1. **Expansion of Legislative Councils:** Increased membership and representation, paving the way for future reforms.
2. **Elective Principle:** Introduced elections for council members, laying the groundwork for democratic participation.
3. **Separate Electorates:** Created separate electorates for Muslims, recognizing community interests and influencing future communal representation.
4. **Reservation of Seats:** Reserved seats for specific communities, addressing diversity and representation concerns.
5. **Increased Indian Representation:** More Indians in legislative councils, marking a shift towards greater Indian involvement in governance.

Impact on Indian Constitution:

1. **Influence on Government of India Act (1935):** Minto-Morley Reforms' principles shaped this landmark legislation.
2. **Preparation for Independence:** Reforms laid groundwork for India's transition to self-rule and eventual independence.
3. **Communal Representation:** Separate electorates influenced the development of communal representation in India.
4. **Federal Structure:** Reforms' provisions on provincial autonomy contributed to India's federal structure.
5. **Democratic Principles:** Introduced democratic participation, paving the way for India's democratic framework.

Legacy:

1. **Shaping Indian Democracy:** Minto-Morley Reforms played a crucial role in India's democratic evolution.
2. **Influence on Future Reforms:** Reforms set precedent for subsequent constitutional developments.
3. **Addressing Diversity:** Recognized community interests, shaping India's approach to diversity and representation.
4. **Transition to Self-Rule:** Marked a significant step towards India's transition from British rule to self-governance.

The Minto-Morley Reforms of 1909 were a pivotal moment in India's constitutional history, laying the groundwork for future reforms and shaping the country's democratic framework.

### **7. What reforms were introduced by Lord Warren Hastings in the Adalat system of Bengal?**

Lord Warren Hastings (1732-1818) was a British statesman and colonial administrator who served as the first Governor-General of Bengal (1773-1785) and later as the Governor-General of India (1774-1785).

Governor-General of Bengal and India:

Hastings' tenure as Governor-General was marked by significant events:

1. Reorganization of Bengal: He reorganized the administration, establishing a more centralized and efficient system.
2. Anglo-Mysore Wars: Hastings led British forces against Hyder Ali and Tipu Sultan, expanding British control in southern India.
3. Rohilla War: He annexed the Rohilla Kingdom, expanding British territory.
4. Establishment of Supreme Court: Hastings established the Supreme Court in Calcutta, introducing English law to India.

Controversies and Impeachment:

Hastings' tenure was also marred by controversies:

1. Exploitation and Corruption: Accusations of exploiting Indian resources and engaging in corrupt practices.
2. Nand Kumar's Execution: Hastings was criticized for the execution of Raja Nand Kumar, a Bengali Zamindar.
3. Impeachment: Returned to England, Hastings faced impeachment proceedings (1787-1795) in the House of Lords.

Lord Warren Hastings introduced several reforms in the Adalat (Court) system of Bengal during his tenure as Governor-General (1773-1785):

Reforms in the Adalat System:

1. Establishment of Supreme Court: Hastings established the Supreme Court in Calcutta (1774) to administer English law.
2. Creation of Provincial Courts: He set up provincial courts (Sadr Adalat) in Calcutta, Dacca, and Murshidabad to handle civil and criminal cases.
3. District Courts: Hastings established district courts (Mofussil Adalat) to handle local cases.
4. Separation of Judiciary from Executive: He separated the judiciary from the executive branch, ensuring independence.
5. Standardization of Laws: Hastings standardized laws and procedures, introducing the Bengal Regulations (1773).

6. Appointment of Judges: He appointed qualified judges, including Indians, to the provincial and district courts.
7. Introduction of Trial by Jury: Hastings introduced trial by jury in certain cases.

#### Reforms in the Revenue Administration:

1. Permanent Settlement: Hastings introduced the Permanent Settlement (1793), fixing land revenue rates.
2. Creation of Revenue Boards: He established revenue boards to oversee land revenue collection.
3. Survey and Settlement: Hastings initiated land surveys and settlements to determine land ownership.

#### Other Reforms:

1. Police Reforms: Hastings established a police force in Bengal.
2. Civil Service Reforms: He introduced competitive exams for civil service recruitment.
3. Education Reforms: Hastings promoted English education in India.

#### Impact of Reforms:

1. Modernization of Administration: Hastings' reforms modernized Bengal's administration.
2. Improved Justice: Reforms ensured faster and fairer justice.
3. Increased Revenue: Revenue reforms increased government revenue.
4. Laid Foundation for British India: Hastings' reforms laid the groundwork for British India's administrative structure.

#### Limitations and Criticisms:

1. Exploitation: Hastings' reforms were criticized for exploiting Indian resources.
2. Cultural Insensitivity: Reforms imposed English law and culture on Indian society.
3. Inefficient Implementation: Some reforms were poorly implemented.

Despite limitations, Hastings' reforms significantly impacted Bengal's administration, justice system, and revenue collection.

#### **Reforms introduced in Adalat system**

the reforms introduced by Lord Warren Hastings in the Adalat (Court) system of Bengal:

#### Reforms in Adalat System:

1. Establishment of Supreme Court: Hastings established the Supreme Court in Calcutta (1774) to administer English law.
2. Creation of Sadr Adalats: Provincial courts (Sadr Adalats) were established in Calcutta, Dacca, and Murshidabad to handle civil and criminal cases.
3. District Courts (Mofussil Adalats): Local courts (Mofussil Adalats) were established to handle petty cases.
4. Separation of Judiciary from Executive: Hastings ensured judicial independence by separating the judiciary from the executive branch.
5. Standardization of Laws: He standardized laws and procedures through the Bengal Regulations (1773).
6. Appointment of Judges: Hastings appointed qualified judges, including Indians, to the provincial and district courts.
7. Introduction of Trial by Jury: He introduced trial by jury in certain cases.
8. Creation of Small Causes Courts: Hastings established Small Causes Courts to handle minor civil cases.
9. Establishment of Appeal Courts: Appeal courts were established to hear appeals from lower courts.
10. Codification of Laws: Hastings initiated the codification of laws, leading to the Bengal Code (1775).

These reforms aimed to:

- Improve justice delivery
- Reduce corruption
- Increase efficiency
- Introduce English law and procedures

## **8. Write a note on 'The Federal Court of India'**

The Federal Court of India was established in 1937 under the Government of India Act, 1935. It was the highest judicial authority in India during the British colonial period.

Key Features:

1. Established on October 1, 1937
2. Located in New Delhi
3. Comprised of a Chief Justice and not more than 15 judges
4. Had original, appellate, and advisory jurisdictions
5. Heard cases involving federal disputes, constitutional matters, and appeals from High Courts

#### Jurisdiction:

1. Original jurisdiction: Heard cases involving federal disputes between provinces and the central government
2. Appellate jurisdiction: Heard appeals from High Courts in civil and criminal matters
3. Advisory jurisdiction: Provided advice on constitutional matters to the central government

#### Significance:

1. Precursor to Supreme Court of India
2. Established judicial review principle in India
3. Shaped constitutional law and federalism
4. Resolved disputes between provinces and central government

#### Key Features:

1. First highest judicial authority in India
2. Introduced writ jurisdiction (e.g., habeas corpus)
3. Heard landmark cases

Transition: Ceased to exist on January 26, 1950 (Constitution of India came into effect); powers and functions transferred to Supreme Court of India.

### 9. 'Mayor's Courts'

The Mayor's Courts, established in 1726, were a significant part of the judicial system in British India, particularly in the three presidency towns of Bombay, Madras, and Calcutta.

#### Structure and Jurisdiction:

1. Established by the British East India Company
2. Presided over by the mayor (a Company official)
3. Comprised of Aldermen (Company officials) and local merchants
4. Jurisdiction: Civil cases involving British subjects, Indians, and Europeans

#### Working:

1. Conducted proceedings in English
2. Applied English law, with some local customs and usages
3. Heard cases related to trade, commerce, and property disputes

4. Decisions were binding, but appeals could be made to the Company's Court of Directors

#### Key Features:

1. Mix of English and local law
2. Informal proceedings (no formal court structure)
3. Emphasis on commercial disputes resolution
4. Limited jurisdiction (mainly civil cases)

#### Limitations:

1. Lack of separation between judiciary and executive
2. Biased towards British interests
3. Limited representation for Indian litigants
4. No clear codification of laws

#### Reforms and Eventual Replacement:

1. 1753: The Mayor's Courts were replaced by the Company's Courts of Judicature
2. 1773: Warren Hastings introduced the Sadr Diwani Adalat (Chief Civil Court)
3. 1774: Establishment of the Supreme Court in Calcutta

#### Legacy:

1. Laid foundation for British India's judicial system
2. Introduced English law and procedures in India
3. Paved the way for modern Indian judiciary

#### Important Cases:

1. The case of Raja Sawai Jai Singh vs. The East India Company (1730)
2. The case of Jagat Seth vs. The East India Company (1740)

**10. Discuss the main provisions of the Act of 1919.**

**11. Write a note on the 'Choultry-Courts'.**

**12. Discuss the main provisions of the Indian High Courts Act, 1861.**

**13. Write a note on the 'Levying of the Court fee' in the Indian judicial system.**

**14. Discuss briefly about Mayor's Court.**

**15. Discuss the judicial system set up by Warren Hastings under his three main plans.**

**16. Discuss the work and achievements of the Second Law Commission.**

**17. Discuss the main provisions of the Government of India Act, 1935.**

**18. What do you understand by codification of laws? Discuss in brief its merits and demerits.**

**19. Main features of Indian independence act 1947. discuss.**

20. Cassijurah Case 1779
21. Present Judicial System
22. Judicial Plan of Warren Hasting
23. Discuss the judicial reforms of Lord William Bentinck.
24. Describe briefly the constitution and jurisdiction of Federal Court in India.
25. Give essential features of the Charter of 1661
26. Write a short note on the 'Recorder's Court'
27. Appellate jurisdiction of Sader Nizamat Adalat.
28. Cabinet Mission Plan, 1946.
29. Hierarchy of Modern judiciary system in U.P.
30. fox's India bill 1783
31. records court
32. main provisions of government of India act 1935
33. When the first admiralty court established in India? What was the object of it.
34. Federal courts in India
35. cripps mission 1942
36. salient features of government of India act 1919
37. Second Law Commission.
38. Privy Council
39. Pitts India Act 1784.
40. What is the Charter of 1726?
41. East India Company?
42. Regulating Act, 1773?
43. main judicial reforms introduced by William Bentick
44. Judicial reforms by Lord Cornwallis
45. Describe the constitution and jurisdictions of the Supreme Court of India as existing presently.
46. What changes were brought in by establishment of the Act of Settlement, 1781 ? Discuss.
47. Essential features of Indian independence act 1947
48. Merits and demerits of codification of laws.
49. cabinet mission plan 1946.
50. charter of 1661