

Constitutional Development — Part 3 (1921–35)

Earlier in this book, you have learnt about the Constitutional developments during the period 1892–1920. In this chapter, you will learn about the constitutional developments during the period 1920–35. This will help you to understand the basic character of the Indian Constitution as it stands today, the story of its evolutions and the challenges faced by the Indian people particularly with reference to minority problems in dealing with constitutional reforms. Finally, you will learn how the freedom struggle and constitutional development went hand in hand and proved complementary to each other.

FACTORS LEADING TO THE ACT OF 1935

Dissatisfaction with the Reforms of 1919

The Act of 1919 suffered from major defects including the introduction of dyarchy which proved to be unworkable and it failed on many fronts. Further, the

Reforms came at a time when conditions in India were not conducive to a favourable reception of the reforms. The year 1918–19 saw a bad monsoon and trade depression. The **Rowlatt Bills** were being bitterly opposed. On 13th April 1919, the **Jallianwala tragedy** occurred and relations between the government and the people reached a new low. Owing to all these factors, the objections to the new reforms hardened into rejection. Muslims were unhappy with the hostile attitude of the British towards the Khalifa, the ruler of Turkey and the years during 1920–22 saw the launching of the **twin movements of Khilafat and Non-Cooperation** under the leadership of Mahatma Gandhi and the Congress. In this way, disappointment with the new Act gave rise to a new unity and a new movement led by Mahatma Gandhi which soon gathered momentum and grew into a full-fledged agitation demanding complete transfer of power into Indian hands.

National Movement during 1920–27

The disillusionment with the Act of 1919 contributed to a great extent to the growth of the national movement during 1920–27. Following the withdrawal of Non-Cooperation Movement, various national as well as anti-national forces emerged. The prominent among them were:

- The Swarajists and their program of council entry (1922–29)

- The No-changers and their Constructive work (after 1922)
- Growth of Communalism and revival of Muslim League and Hindu Mahasabha (1922–37)
- Growth of Revolutionary and Terrorist Movement (after 1922)
- Growth of the Left Movement and spread of Socialist and Communist ideas (1920s–1930s)
- Peasants' and Workers' Movements (1920s–1930s)
- States People's Movement (1920s–30s)

In May 1927, the country united once again against the Simon Commission.

Reform Proposals during 1920–27

Disillusioned with the Act of 1919, the Indians put forward many reform proposals in the period between 1920 and 1927. In 1921, a non-official resolution was introduced in the central legislative assembly demanding the establishment of full responsible government in the provinces, but to no avail. In 1924, Swarajists led by Motilal Nehru introduced an amendment demanding the framing of an **Indian Constitution** by an Indian Constituent Assembly. Motilal also moved a resolution in favour of a **Round Table Conference** of all Indian, European and Anglo Indian interests to recommend a scheme of full responsible government. This forced the government of India to appoint a **Reforms Enquiry Committee** under **Sir Alexander Muddiman** to enquire into the working of the Act of 1919 and suggest remedies. Around this time, Muslim League met at Lahore under the presidentship of MA Jinnah. It also demanded the establishment of full responsible government, a federal constitution with full autonomy for provinces and adequate representation for minorities through separate electorates.

Simon Commission (November 1927)

The British government virtually recognised the failure of the Act of 1919 by appointing the Simon commission two years in advance. The all white commission to enquire into the working of the Government of India under the Act of 1919 and suggest fresh reforms was unanimously rejected by the nationalists. **Lord Birkenhead**, the then Secretary of State, justified the exclusion of Indians from Simon Commission on the plea that there were vital differences among various Indian political parties and then threw a challenge to Indians to produce a constitution acceptable to all sections of Indian society. After this challenge, the following proposals emerged:

- By Muslim League- **Delhi Proposals** (December 1927)
- By Congress and other parties- **Nehru Report** (August 1928)
- By British Government- **White Paper** (which became the basis for the Act of 1935)

Delhi Proposals (December 1927)

With the aim of bridging the gulf between the Congress and the Muslim League and to enable them to present a common set of demands before the British, Jinnah and his men declared that they would withdraw the demand of Separate Electorates provided four main demands of the League will be accepted by the Congress. During Madras Congress Session in December 1927,

the Congress passed a resolution accepting most of the demands. However, the Muslim League split over the issue and a separate annual session of the League was held at Lahore under the presidency of Sir Mian Muhammad Shafi, worsening the communal situation in India.

All Parties Conference (February 1928)

The Indians accepted the challenge and the representatives of the Congress as well as other organizations such as Muslim League, Hindu Mahasabha, etc., met at a conference in February 1928 which came to be known as the All Parties Conference. In the conference, it was decided that while framing the constitution, the principle of **full Dominion responsible government** should be kept in mind.

Nehru Committee Report (August 1928)

In May 1928, the All Parties Conference appointed a sub-committee headed by Motilal Nehru to draft a constitution. The Nehru Report firmly laid down that full responsible government was not to be considered as a remote step but as an immediate step, as opposed to the principle of gradual advancement envisaged by the Act of 1919 and demanded **Dominion status** within British Empire.

Within the Congress itself, young nationalists led by J. Nehru and SC Bose objected to the Nehru Report because of its acceptance of Dominion Status. In August 1928, the '**Independence of India League**' was launched by J. Nehru with the support of Subhas Bose as a pressure group within the Congress with the aim of countering the concept of Dominion Status and pleading for complete independence of India from the British.

Jinnah's Fourteen Points (March 1929)

In December 1928, another All Parties Conference was held at Calcutta. The Conference failed to pass the Report as objections were raised by the Muslim League, the Hindu Mahasabha and the Sikh League. Jinnah parted ways and joined the groups led by Aga Khan and Muhammed Shafi. Jinnah after consulting the Muslim leaders formulated the "Fourteen Points" for safeguarding the rights and interests of the Muslims in any future constitution of the country.

Congress Gives Ultimatum to Government

Calcutta Session of Congress (December 1928)

During the Congress Session at Calcutta, December 1928 (presided by Motilal Nehru), the Congress resolved in one voice that in case the government did not accept the Nehru Report by **31st December 1929**, the Congress would declare **complete independence as its goal** and would also launch a civil disobedience movement to achieve that goal.

Labour Government Comes to Power in Britain (May 1929)

In May 1929, Labour Party headed by **Ramsay MacDonald** came to power in Britain. The effective boycott of the Simon Commission had opened many eyes and Viceroy Irwin was called to London

for deliberations. Upon his return to India, Irwin famously declared on 31st October 1929 that as per the new government, natural progression to Dominion Status is implicit in Montagu Declaration of 1917. He also gave assurance of Round Table Conference to enlist the concurrence of all sections in India, as soon as the Simon Commission submitted its report.

Delhi Manifesto (2nd Nov 1929)

Two days later, major national leaders met and issued the Delhi manifesto, demanding that the **purpose of Round Table Conference** should not be to discuss when Dominion Status would be granted, but to draft a scheme for its implementation. Even though the Viceregal statement was welcomed all round, it soon became a subject of much controversy in the British Parliament. The trend of discussion in the House of Commons showed that the British were against giving Dominion Status to India.

On 23rd December 1929, Irwin, reversing his previous stand, himself told Gandhiji and other leaders that he was unable to give any such assurance. With this, the grace period of one year for the government was over. The stage was now set for another round of confrontation and mass action.

Congress Adopts Purna Swaraj as Goal

Lahore Session of Congress (Dec 1929)

On 31st December 1929, the annual session of the Congress was held at Lahore, the capital city of Punjab. The Congress announced that the Nehru Report had ceased to be valid and that Purna Swaraj was now the goal for India. It was also announced that civil disobedience will be launched under the leadership of Gandhi.

Gandhi's Eleven Points (Jan 1930)

However, Gandhi was not sure about his plan of action and tried to negotiate with the government once again before launching the movement. He formulated 'Eleven Points' of administrative reforms and placed them before Lord Irwin in a letter dated 31st January 1930. He insisted that there would be no need for any agitation if his Eleven Points were accepted, which constituted for him the substance of purna swaraj. Many national leaders looked at the Eleven Points as a climb down from the demand of purna swaraj. Government's response was also negative and Lord Irwin made no assurance for acceptance of Gandhi's Eleven Points.

Civil Disobedience Movement

Dandi March (March 1930)

Seeing the uncompromising attitude of the government, Gandhi now decided to start the movement. On **12th March 1930**, Gandhi started his historic '**Dandi March**' and launched the Civil Disobedience Movement. However, by September-October 1930, the movement began to show signs of fatigue and declined with almost all leading Congressmen were put behind bars.

First Round Table Conference (12th November 1930, London)

Meanwhile, the **First Round Table Conference**, first conference between the Indians and the British as equals, took place in November 1930 in London to discuss the Simon Commission Reports. The Congress boycotted the Round Table Conference and its proceedings proved to be quite meaningless. The British government grew anxious to secure Congress participation. The British Prime Minister **Ramsay Macdonald** and the Viceroy of India unconditionally released the Indian leaders so that they could deliberate and agree to participate in the next Round Table. In this context, Gandhi decided to retreat.

Gandhi-Irwin Pact (5th March 1931)

On 14th February 1931, Gandhi initiated a talk with Viceroy Irwin. The fortnight long talks culminated in the **Delhi Pact on 5th March 1931**, also known as Gandhi-Irwin Pact. As per the Pact, the Congress decided to withdraw the Civil Disobedience Movement and participate in the Second Round Table Conference, more or less on British terms.

Karachi Special Congress Session (29th March 1931, presided by Sardar Patel)

A special session of the Congress was called at Karachi to ratify the Gandhi-Irwin Pact. The session reiterated the goal of Purna Swaraj and also adopted two significant resolutions—one on **Fundamental Rights** and the other on **National Economic Programme**.

Gandhi participates in the Second Round Table Conference (December 1931)

In the intervening period between Gandhi-Irwin Pact (March 1931) and the 2nd Round Table Conference (December 1931), there occurred a change of government both in India and Britain. MacDonald's Labour Cabinet resigned and a new coalition government dominated by the Conservatives was formed under him, hardening the government stand.

Gandhi's participation in the Second Round Table Conference ended in a fiasco. He found himself involved in endless squabbles with Muslim leaders, BR Ambedkar (leader of the Scheduled Castes) and the Indian Princes. The session ended with MacDonald's announcement of the prospect of a unilateral communal award if Indians failed to agree.

While Gandhi was away to London, the new Viceroy Lord Willingdon as well as the higher officials in India realized that the Delhi Pact had been a mistake. They now decided to launch a hard and immediate blow to the revival of national movement, and arrest Gandhi from the very outset. Gandhi landed in Bombay on 28th December 1931. The CWC met the next day and decided to resume the CDM, soon followed by Gandhi's arrest on 4th January 1932.

Civil Disobedience Again (or Second Civil Disobedience, 1932–34)

The CDM was restarted; however, in the face of abominable torture, the movement was effectively crushed within a few months. Afterwards, it just lingered on and was formally withdrawn in April 1934.

Communal Award (or MacDonald Award, 16th Aug 1932)

Meanwhile, on 16th August 1932, MacDonald announced the proposal on minority representation, known as the 'Communal Award' or 'MacDonald Award'. The communal award declared the **depressed classes** as minority and entitled them to separate electorate.

Poona Pact (24th Sep 1932)

To persuade BR Ambedkar (the Depressed Classes leader), Gandhi, then in Yerawada jail, sat on a fast unto death on 20th September 1932. On 24th September 1932, the Poona Pact was concluded between Gandhi and Ambedkar, who had grown anxious to save Gandhi's life. As per the Pact, Ambedkar accepted joint electorates in return for greater reservation for depressed classes in central legislature and civil services.

The Third Round Table Conference (17th November to 24th December 1932)

As an outcome of the third session of Round Table Conference, a **White Paper** was issued in March 1933 giving details of the basis of new constitution of India. Under the supervision of Samuel Hoare, the Secretary of State for India, the proposed reforms took the form of Government of India Act 1935.

THE GOVERNMENT OF INDIA ACT OF 1935

The Government of India Act 1935 was based on the White Paper on Indian Constitution prepared by the British Government after the Third Round Table Conference. Falling short of complete independence, the White Paper was criticised by all Indian parties. However, under the supervision of Samuel Hoare, the Secretary of State for India, the proposed reforms took the form of Government of India Act 1935. It contained **four major provisions**—All India Federation, Provincial Autonomy, dyarchy at the centre and safeguards which vested special powers in the central and provincial executive.

The Act was a **bulky** and elaborate document as it dealt with a highly-complicated type of federal constitution and provided legal safeguards against misbehaviour of Indian ministers and legislators. Another notable feature of the Act was the **absence of a preamble** (whereas the Act of 1919 had a preamble based on Montagu Declaration of 20th August 1917).

The basic conception of the Act of 1935 was that the government of India was the government of the Crown, conducted by authorities deriving functions directly from the Crown.

Sources of the Act

The principle sources of the Act included the following:

- The Simon Commission Report
- The Report of All Parties Conference (Nehru Report)
- Discussions at the three Round Table Conferences
- The White Paper
- The Joint Select Committee Report
- The Lothian Report which determined the electoral provisions of the Act

Main Provisions Regarding the Provincial Part

- **Provincial Autonomy**- It meant that all provincial departments would be controlled by elected members. For the first time, the Act recognized **provinces as separate legal entity**, free from the direction and control of the GOI and the Secretary of State except for specific purposes. The provinces derived their power and authority **directly from the British Crown**.
- **Abolition of dyarchy in provinces**-It also meant that dyarchy in the provinces was abolished and replaced by provincial autonomy. The distinction between Reserved and Transferred subjects was abolished and **full responsible government was established subject to certain safeguards**.
- **Provincial legislatures were further expanded**- Bicameral legislature was introduced in 6 provinces—Bengal, Madras, Bombay, United Provinces, Bihar and Assam.
- **Creation of new provinces**-New provinces of Sind and Orissa were created. In this way, the Act provided for the establishment of in all 11 provinces including Sind and Orissa. Burma was separated from India.
- **Franchise**- Franchise was lowered, though it still remained tied to **property qualifications**.
- **Communal Electorates**- Unfortunately, the principle of communal electorates and weightage were further extended.
- **Special powers of Governors**- The Act gave arbitrary powers (under the phraseology of 'safeguards and special responsibilities') to the Governor to act 'in his discretion' in matters like summoning of the Legislature, appointment of Ministers, giving or withholding his assent to bills. The Governors were also invested with special executive powers in matters concerning law and order and interests of minorities, backward classes, Indian princes and British commercial interests. The Governors could also issue ordinances or enact Governor's Acts.

Main Provisions Regarding the Federal Part

- **Proposal for an All India Federation** - The Act prescribed federal structure for the Government of India. It was to comprise of provinces (Governors' and Chief Commissioners' provinces) and Indian States with federal central and provincial legislatures. For the States, accession to Federation was voluntary and Federation could not be formed unless two conditions were met-
 - States entitled to at least half of the seats (i.e. 52 seats) allotted to the states in the proposed Council of States should agree to join the federation.
 - The aggregate population of states in the above category should be at least 50 per cent of the total population of all Indian states.

(Since the above conditions were not met, the **proposed federation never came up**. The Central government carried on upto 1946 as per the provisions of the **Government Of Indian Act 1919**).

- **Dyarchy at the centre**- Dyarchy abolished in the provinces was proposed for the Centre. Reserved departments under the Governor General included Defence, Foreign Affairs,

Ecclesiastical Affairs and Excluded and Partially Excluded Areas (tribal areas) to be administered by the GG through Counsellors appointed by him and responsible only to him. Transferred departments, subjected to safeguards, were to be administered by the GG on the advice of popular ministers answerable to the federal legislature.

- **Bicameral Central legislature (Federal Legislature)**-The Central Legislature was to consist of His Majesty represented by the GG and two houses—the Council of State and the Federal Assembly. (Both Houses were to comprise of representatives from both the British India as well as the Indian States. While the representatives from British India were to be elected by the people, those of the States were to be nominated by the rulers. The States were also given disproportionate weightage. In short, **the States were expected to act as checks upon the nationalists**).
- The Council of States (or the Upper House) was to have a maximum of 260 members—consisting of 156 members from British India and 104 members from the Indian States, to be nominated by the rulers concerned. It was to be a permanent body with one-third of its members being vacated and renewed triennially.
- The Federal Assembly (or the Lower House) was to have a maximum of 375 members consisting of 250 members from British India and 125 from the Indian States. The Assembly's tenure was normally for a period of 5 years.
- **Other Federal Institutions**- The Act laid down the setting up of a **Federal Bank (Reserve Bank of India)** and a **Federal Court** established in 1935 and 1937 respectively. The Act of 1935 vested the control of Railway in a new authority called **Federal Railway Authority**, free from control of ministers and councillors. The authority comprised seven members who reported directly to the Governor-General, thus assuring the British Stakeholders of the railways that their investment was safe.
- **Extension of Separate Electorates**-Separate electorates and the system of weightage were further extended to include not only **General (Hindus and Scheduled Castes), Muslims, Sikhs, Europeans, Indian Christians and Anglo Indian electorates** but also **women** (General), Sikh women in Punjab, Mohammedan women, Indian Christian women in Madras, Anglo Indian women in Bengal besides electorates for **Commerce and Industry, Landlords, labour, University, Backward areas and tribes**, etc.
- **Abolition of Indian Council**-The Act abolished the India Council of the Secretary of State (established by the GOI of 1858) on account of much agitation in India against its anti-India policies. The Secretary of State was now given advisers who might or might not be consulted, except in respect to the Services.

PECULIARITIES OF THE FEDERAL SYSTEM CONTEMPLATED UNDER THE ACT OF 1935

The federal system proposed under the Act of 1935 was perhaps the most complex ever known in the history of federalism. It was an attempt to satisfy several diverse and contradictory interests at the cost of good federalism.

● Ill-conceived Federation-

- (a) The Federation under the Act tried to bring together two disparate elements—Indian States under the autocratic rule of the Princes and British India provinces enjoying responsible government to some extent. Such a grouping was bound to be ridden with squabbles.
- (b) Moreover, the process prescribed for the formation of the Federation was also illogical. Joining the federation was kept voluntary for the States but compulsory for British India. Again, the federation could not be formed unless a certain number of the states had acceded to it. In order to induce the States to join the federation, they were given unduly large representation in the Central Legislature (the Indian States constituting merely 24 per cent of total population were given 40 per cent of seats in Council of State and 33.33 per cent of the seats in the Assembly).
- (c) Another odd feature of the proposed bicameral legislature was that while the representatives of Indian Provinces were to be elected, those of Indian states were to be nominated by the ruling princes. The whole purpose was to use the nominated representatives of the States as a **solid conservative block** to counter the weight of the elected representatives of British India.
- (d) Oddly enough, election to the Council of States was direct and that to Federal Assembly, indirect.

● **Instrument of Accession-** This document was devised to rope in the Indian States into the proposed federation. But it was not a uniform document and could vary from ruler to ruler, thus creating as many federal compacts as there were Indian States (there were some 600 Princely States!).

● **Dyarchy at the center-** The government at the centre was not to be a fully responsible government. The principle of dyarchy introduced in the provinces under the Act of 1919 was now transplanted in the centre. Important departments like defence, External affairs and lion's share of the budget were kept as reserved (the GG had control over non-votable items, comprising about 80 per cent of the budget).

● **Discretionary powers of the GG-** The GG had discretionary powers over four subjects—Defence, External Affairs, Ecclesiastical Affairs and Excluded and Partially excluded Areas (Tribal Areas). The Federal Legislature had no right to question the actions of the GG with respect to these subjects.

● **Larger representation to States-** The Indian States were given larger representation in the Federal Legislature than they deserved on the basis of their population. While the provinces were to send elected representatives, the States were given the freedom to send their nominees.

● **Quasi-federal elements-** The Governor General was given vast powers of intervention in the affairs of the Provincial Governments which greatly modified the federal features to unitary elements. As a result, some authors have classified the government formed under the Act as 'quasi-federal'.

● **Three Lists-** The legislative powers were divided into three elaborate lists—the Central, the Provincial and the Concurrent Lists.

● **Residuary Powers vested in the GG-** The residuary legislative powers are normally located in the Centre or in the units. But under the Act of 1935, it was vested in the GG. The residuary powers in case of Indian States were vested in the Rules thereof.

Thus, the powers vested in the GG made him the **pivot of the entire constitution**.

CRITICISMS OF THE ACT OF 1935

- Dominion Status was not introduced by the Act of 1935. Thus, the Act was meant for the transition period from responsible government to complete independence, with the transition period not defined.
- The Act was based on two basic principles namely, federation and parliamentary system. The Federation principle was introduced with a built-in unitary bias and was seriously distorted by the provisions of safeguards and special responsibility.
- Dyarchy at the centre meant fully responsible government at the centre was not introduced.
- The representatives of the States to the federal legislature were to be appointed directly by the Princes (and were to be used to check the nationalists).
- Franchise still remained tied to property qualifications. Though the number of voters increased from 5 million (in 1919) to 30 million (in 1935), yet the franchise was limited to only one-sixth of the adults. Only 14 per cent of the total population in British India was given the right to vote.
- The vicious system of communal and caste electorates was further extended.
- The special powers of the Governor ensured that both political and economic power remained concentrated in British hands.
- India's constitutional status as a dependency did not improve as the Federation of India was not intended to be a sovereign legislature. It could not amend the Indian constitution and the right remained with the British Parliament. Responsibility for Indian administration still remained with the British Parliament.
- The Secretary of State retained control over various All India Services.

INDIAN REACTIONS TO THE ACT OF 1935

- The Congress criticised and rejected the Act of 1935 and instead demanded the convening of a Constituent Assembly elected on the basis of adult franchise to frame a constitution for independent India. The Congress criticised the Act on the following grounds-
 - Dominion status was denied and remained a distant dream.
 - Provincial autonomy under the Act was placed under serious limitations.
 - Safeguards and special powers were a clever constitutional device to keep Indians from uniting and delay granting of complete independence.
 - Though these provisions were made for transition period, the transition period itself was not defined.

- Universal adult franchise was not introduced. Property qualifications and separate electorates were criticised as violative of democratic right of the people of India.
- The Act did not represent the will and aspirations of the people of India.
- While the representatives from British India were to be elected by the people, those of the States were to be nominated by the rulers. The nationalists demanded that the representatives of states should also be elected instead of being nominated.
- J Nehru, the then Congress President declared that with the new constitution, “we are provided with a car, all brakes and no engine”.
- Liberals also criticised the Act, but were willing to make the reforms work as a step towards responsible government.
- The Muslim League also criticised the Act, but it was also ready to give it a chance. Jinnah denounced the act as “thoroughly rotten, fundamentally bad and totally unacceptable”.

Linlithgow, Chairman of the Joint Parliamentary Committee on the Act of 1935 and Viceroy of India from 1936 had stated, “the Act had been framed because we thought that was the best way of maintaining British influence in India. It is no part of our policy, I take it, to expedite in India constitutional changes for their own sake or to hurry the handing over of the controls to Indian hands...”

BRITISH MOTIVES BEHIND THE ACT

Through the Act, the British wanted to weaken the national movement by integrating large segment of the movement into colonial, constitutional and administrative fold. They hoped to revive the political standing of constitutionalists and moderates who had lost popularity during the CDM. It was an attempt to offer concessions and divide the nationalist ranks on the basis of constitutionalist vs non-constitutionalist and Right vs Left. It was hoped that by luring the constitutionalists into the parliamentary game, the leftists would break away from the Congress seeing all this as a compromise with imperialism. Once isolated from the right wing, the leftists could then be crushed through police measures.

It was hoped that once the Congressmen tasted power, they would be reluctant to go back to politics of sacrifice. Provincial autonomy would create powerful provincial leaders, thus provincialising the Congress and weakening its central leadership. Extension of separate electorates was an attempt to keep the Indians disunited while simultaneously gaining the support of certain communities, ensuring the perpetuation of British rule in India.

With the above motives in mind, the British reversed the policy of suppression (followed during CDM) and replaced it with the policy of constitutional concessions by passing the Act of 1935.

THE ACT IN OPERATION

The GOI Bill received the Royal Assent in August 1935. The proposal for setting up the Federation of India never materialised and the Central Government continued to be governed by the

provisions of the Act of 1919. The Federal Bank (the Reserve Bank of India) and the Federal Court were established in 1935 and 1937 respectively. Provincial Autonomy came into force on 1st April 1937. First Elections under the Act were also held in 1937.

CONCLUSION

With all its limitations, it cannot be denied that the Act of 1935 helped India move towards parliamentary democracy. Though the Congress bitterly condemned the Act, yet it decided to participate in the Elections of 1937 with the declared aim of revealing how unpopular the Act was. In the next chapter we will understand how this stand was in no way a compromise to the nationalist's demand for freedom. We will also understand the attitude of constitutionalists within the INC and the challenges they faced.

Critical Analysis: Act of 1935

Federal Executive under the Act of 1935: The Federal Executive was to consist of the Governor General, the Counsellors of the GG and the Council of Ministers. Since the full-fledged **federal executive as envisaged by the Act never came into existence**, the Counsellors and the Council of Ministers need not be discussed. The role of the GG was unique for any executive head. He was the GG of India with respect to British India and the Crown Representative with respect to the Indian States. He was appointed by His Majesty generally for a period of 5 years. He drew an annual salary of Rs 2,50,800 charged on the Consolidated Fund of India.

The GG had **discretionary powers** over four subjects—Defence, External Affairs, Ecclesiastical Affairs and Excluded and Partially excluded Areas (Tribal Areas). He could also exercise his individual judgement in a large number of subjects like law and order, safeguarding interests of minorities, members of the public services, Indian princes and British commercial interests.

It is clear that these powers were not seen as inconsistent with the basic principle of responsible government. It is clear that there was no genuine intention on the part of the British to transfer any real power to the Indians.

The Central Legislature: The central legislature as envisaged by the Act never came into existence and hence a discussion on its provisions is of no great value. Yet it reveals the complexity of the political scenario of the time.

The Central Legislature was to consist of His Majesty represented by the **GG and two houses**—the Council of State and the Federal Assembly. The Council of State (or the Upper House) was to have a maximum of 260 members, consisting of 156 members from British India and 104 members from the Indian States, to be nominated by the rulers concerned. It was to be a permanent body with one-third of its members being vacated and renewed triennially. The Federal Assembly (or the Lower House) was to have a maximum of 375 members, consisting of 250 members from British India and 125 from the Indian States. The Assembly's tenure was normally for a period of 5 years.

The bicameral legislature was a curious mixture of many interests. The States were given an unduly large representation.

The Governor General and the Central Legislature: The powers of the GG in relation to the Legislature were so overwhelming that the latter was more a legislature by courtesy than by its powers. In addition to veto powers, he had the power to issue ordinances or permanent laws in the form of **Governor Gen-**

eral's Acts with respect to certain subjects even when the legislature was in session. The legislature had no power of initiative in raising revenues and hardly any control over items charged on the revenues of the federation. Thus, both in legislative and financial fields, its hands were tied and powers severely restricted.

The Federal Court: Since the Act provided for a federal system of government, it is natural that it provided for a Federal Court and of all the institutions set up under the Act, the Federal Court proved to be the **most successful in operation**. As per the Act, the Court was to consist of at least three judges, a Chief Justice and two associate judges and was located at Delhi.

The Judges could be removed from office only on proved misbehaviour. Their conduct as judges could not be made a subject of debate in the central legislature. Thus, the court's independence was constitutionally protected. The court functioned as an independent impartial institution and laid down the foundations of a real federal judiciary in the country (despite the fact that with regard to interpretation of the constitution, the last word remained with the Privy Council in London!).

Provincial Autonomy: This was the most important provision from point of view of Indian people and evoked considerable enthusiasm in the country. Under the federal scheme of division of powers, there were three legislative lists—a federal list, a provincial list and a concurrent list. For the first time in the history of British India, such clear demarcation of powers entrusted in the provinces was made. The **provincial list** included items such as public works, public services, education, public health, local government, agriculture, land, forest, mines and fisheries.

Provincial Executive: The executive authority of a province was vested in a Governor who was appointed by his Majesty on the advice of the Secretary of State for India, usually Governors. There was an Instrument of Instructions dealing with the manner in which the Governor was to exercise his powers as head of the executive. Provincial Governors were invested with a large number of **special executive powers** in matters concerning law and order and interests of minorities, public services, backward classes, Indian princes and British commercial interests. Hence, many Indians criticised provincial autonomy as more an autonomy for provincial governors rather than the provincial Legislatures.

In exercise of his special powers, he was under the superintendence of the GG in his discretion. This subordination affected the exercise of provincial autonomy.

Provincial Legislature: The Act provided for the establishment of in all 11 provinces including Sind and Orissa. **Bicameral legislature** (Assemblies and Councils) was introduced in 6 provinces—Bengal, Madras, Bombay, United Provinces, Bihar and Assam. Members of the provincial legislatures were elected on the basis of constituencies organised according to religion or race, interest or sex. Main religious or racial communities were—**Muslims, Sikhs, Anglo-Indians, Indian Christians and Europeans**. In so called “general constituencies” the voters belonged to the different Hindu castes or sects. Here also, seats were reserved for the **depressed classes**. Special interests recognized were—Industry, Commerce, Landholders, Universities, Labour, backward areas and tribes, etc. A small number of seats were also reserved for **women**. In this way, the electoral provisions of the Act were governed by communal award as modified by the Poona Pact. It accentuated the communal divisions in the country and paved the way for the eventual partition of India.

Members of the Assembly were elected directly. Franchise varied from province to province. Generally, it was determined on the basis of minimum land revenue a person paid, or house rent. Minimum educational qualification or military service was also considered. The franchise increased from 3 per cent under the Act of 1919 to 14 per cent under the Act of 1935.

Legislative Powers of the Governor: Like the GG, the Governor had also been empowered to enact legislation of a temporary or permanent character, on his own authority, without taking the approval of the Legislature. He had the power to issue ordinances or permanent laws in the form of **Governor's Acts** with respect to certain subjects even when the legislature was in session. Though, normally the Governor was to issue ordinances only after securing the concurrence of the GG. Prior recommendation of the Governor was needed for introduction of finance bills and thus in financial matters, the legislature had absolutely no initiative.

The legislative powers of the provincial legislature were further limited as GG's previous sanction was needed to introduce certain types of Bills. Further, His Majesty could disallow an Act assented to by the Governor or the Governor General.

It is clear that the Governor himself was all in all the legislative field. On top of this were the overriding powers of the GG and the veto power of His Majesty. All this gravely limited the powers of the Legislature.



Previous Years' Questions – Preliminary Exam

1. Which one of the following is not a feature of the Government of India Act of 1935?

[UPSC 2000]

- Dyarchy at the Centre as well as in the Provinces
- A Bicameral Legislature
- Provincial Autonomy
- An All India Federation

2. What was the real intention of the British to include the princely states in the Federal Union proposed by the India Act of 1935?

[UPSC 2002]

- exercise more and direct political and administrative control over the princely states
- involve the Princes activity in the administration of the colony
- finally effect the complete political and administrative takeover of all the princely states by the British
- Use the princes to balance the anti-imperialist doctrines of the nationalist leaders

3. Consider the following statements:

[UPSC 2004]

Some of the main features of the Government of India Act, 1935 were the

- Abolition of Dyarchy in the Governor's Provinces
- Power of the Governors to Veto legislative action and to legislate on their own
- Abolition of the Principle of Communal Representation

Which of the statements given above is/are correct? Choose the correct answer from the following options.

- 1 only
- 2 and 3
- 1 into
- 1, 2 and 3

4. Consider the following statements:

[UPSC 2005]

The Government of India Act, 1935 provided for

- The Provincial Autonomy
- The establishment of Federal Court
- All India Federation at the centre

Which of the following statements given above are correct? Choose the correct answer from the following options.

- 1 and 2
- 2 and 3
- 1 and 3
- 1, 2 and 3

5. In which one of the following provinces was a Congress Ministry not formed under the Act of 1935?

[UPSC 2005]

- (a) Bihar (b) Madras
(c) Orissa (d) Punjab
6. The distribution of powers between the Centre and the States in the Indian Constitution is based on the scheme provided in which of the following?

- [UPSC 2012]
- (a) Morley-Minto Reforms, 1909
(b) Montagu-Chelmsford Act, 1919
(c) Government of India Act, 1935
(d) Indian Independence Act, 1947



Previous Years' Questions – Main Exam

1. What were the main features of the Act of 1935? What was Jawaharlal Nehru's reaction to the Act? [UPSC 1990]
2. How did the Government of India Act, 1935 mark a point of no return in the history of Constitutional Development in India? [UPSC 2006]



Practice Questions – Preliminary Exam

1. The Act 1935 proposed a federal government with a unitary bias, vesting residuary powers in the centre.
2. The Act of 1935 proposed dyarchy in the centre, retaining it for the provinces as well.
- (a) discuss peace terms with the Congress
(b) endorse Gandhi-Irwin Pact
(c) discuss Nehru Report
(d) discuss the Simon Commission Reports

With regard to the GOI 1935, which of the sentences above are true? Choose the correct answer from the following options.

- (a) 1 only (b) 2 only
(c) both (d) neither
2. Which of the following was not part of the Delhi Proposals?

1. Sind should be separated from Bombay presidency as a separate province.
2. In NWFP and Baluchistan, reforms were to be carried out on the same lines as in other provinces.
3. Residual powers be vested in the provinces.

Choose the correct answer from the following options.

- (a) 1 and 2 (b) 2 only
(c) 2 and 3 (d) 3 only
3. The First Round Table Conference was organised to _____.

Which of the above were not implemented? Choose the correct answer from the following options.

- (a) 1 only (b) 2 only
(c) 2 and 3 only (d) 1, 2 and 3

6. The sources of the GOI of 1935 included-

1. Simon Commission Report
2. Lothian Report
3. Nehru Report
4. White Paper

Choose the correct answer from the following options.

- (a) 1 only (b) 1 and 2 only
(c) 1, 2 and 3 only (d) 1, 2, 3 and 4

7. Examine the following statements with regard to the GOI 1935-

1. The Act began with a preamble.
2. The Act conceptualised the GOI as the government of the Crown.
3. The Act recognized the provinces as separate legal entity.

Which of the above statements is/are true? Choose the correct answer from the following options.

- (a) 1 and 2 (b) 2 only
(c) 2 and 3 (d) 1, 2 and 3

8. Though bitterly opposed to the Act, the Congress decided to contest the elections under the new Act of 1935 with which of the following declared aims?

- (a) wrecking the councils from within
(b) provincialising the Congress

- (c) acquiring as many ministerial seats as possible
(d) showing how unpopular the act was

9. 1. The national leaders had been demanding Dominion status and it was first introduced by the Act of 1935.
2. In a conciliatory gesture for the moderates, the Act of 1935 introduced universal adult franchise for the first time.

With regard to the GOI 1935, which of the statements above are true? Choose the correct answer from the following options.

- (a) 1 only (b) 2 only
(c) both (d) neither

10. Examine the following statements with regard to Delhi Proposals.

1. They were proposals made by Muslim League.
2. As per the proposals, the League was willing to forego separate electorates.
3. One of the demands laid down in the proposals was one-third representation for Muslims in the Central Legislature.

Which of the above statements is/are true? Choose the correct answer from the following options.

- (a) 1 only (b) 1 and 2
(c) 1 and 3 (d) 1, 2 and 3



Practice Questions – Main Exam

1. Why were the Round Table Conferences convened? Discuss their outcome throwing special light on the role of the Indian National Congress.
2. Write short notes on the following:
(a) Main provisions of the Government of India Act 1935 with regard to the provinces.
(b) Central Legislature as proposed by the Act of 1935.
3. Most of the significant provisions of the Act of 1935 were never implemented. Critically evaluate.
4. 'The powers vested in the GG made him the pivot of the entire constitution'. Critically analyse this statement with regard to the GOI Act 1935.
5. The Act of 1935 is considered as the blue print of Modern Indian Constitution. Elucidate.

Answers

Previous Years' Questions – Preliminary Exam

- | | | | | |
|--------|--------|--------|--------|--------|
| 1. (a) | 2. (d) | 3. (a) | 4. (d) | 5. (d) |
| 6. (c) | | | | |

Practice Questions – Preliminary Exam

- | | | | | |
|--------|--------|--------|--------|---------|
| 1. (d) | 2. (d) | 3. (d) | 4. (c) | 5. (c) |
| 6. (d) | 7. (d) | 8. (b) | 9. (d) | 10. (d) |