

The Government of India Act 1935
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Background

1. After the 3rd Round Table Conferences, a **White Paper on the new Constitution of India** was prepared in **1933**. It contained 3 major proposals (a) Federation. (b) Provincial Autonomy. and (c) Safeguards which vested special powers in Central and Provincial Executives. This White Paper was submitted to **Joint Parliamentary Committee** of the Parliament.
2. **Sources:** (1) Simon Commission Report. (2) Report of All Parties Conference (Nehru Report) (3) White Paper (4) Joint Select Committee Report (5) **Lothian Report** which determined the electoral provisions of the Act.

Provisions of Government of India Act 1935

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The Act consciously chose federal structure because it would act primarily to protect £ interests rather than hand over the control in the vital areas / The Act only proposed to protect £ interests in India by sharing power with the loyalist elements / If any change happened at all, the apex of the system moved from London to Delhi.

1. All India Federation (Centre-state relations):

1. It **never came into being**. The **Central govt** continued to be governed **on the lines of Montform Reforms, 1919**.
2. It was to comprise of Governor's provinces + Chief Commissioner's provinces + the Indian Princely States.
3. Accession to federation was optional to states and conditional.
4. The federation would come into **existence only if** > 50% of the princely states formally acceded to it by signing the Instruments of Accession which would override their previous treaties w £.
5. But it established a federation and **gave provinces autonomy in their sphere of legislation**.
6. The **3 lists were created**. There were also **emergency provisions**.
7. They were no longer delegates of the center.
8. **Governor now derived his powers from the crown and not Governor-General**.
9. Even though the Federation was not there, **Federal Bank (RBI, 1935) + Federal Court (1937) were established**.

2. Federal Executive:

1. **Governor-General** was the **pivot of the entire constitution**.
2. **Dyarchy** which was **rejected by Simon Commission** was **introduced at the Center**.
 1. Subjects were divided into **Transferred and Reserved** (internal security, foreign affairs, defense, etc.) subjects.
 2. **On Reserved, Governor General (GG) acted solely in his discretion**. On the **transferred** subjects, he was to act in accordance with the **advice of the Council of Ministers (CoM)** who were responsible to the legis. But even here, the GG could act contrary to the advice tendered by the CoM if **it affected his 'special responsibilities'**.
 3. **In practice, even CoM was never appointed**.

3. Federal Legislature:

1. 2 Chambers of Legislature
 1. **Council of State (Upper House like Rajya Sabha) = Direct Election**.
 2. **Legislative Assembly (Lower House like Lok Sabha) = Indirect Election**.
2. It can make laws for the whole or any part of India.
3. For Federal and Provincial laws, there were **3 lists** – Federal, Provincial and Concurrent. **Residuary power was vested w Governor-General**.
4. **80% of the budget was non-votable**.

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4. **Dyarchy in Provinces replaced Provincial Autonomy (came into force in 1937)**
 1. They were broadly freed from superintendence, direction, and control.
 2. They were to **derive their power directly from the crown.**
 3. **The distinction between Transferred and Reserved subjects was abolished.**
 4. **Full responsible govt was established in provinces** subject to certain safeguards.
 5. The **Governor in Province** was now required to act on the advice of the CoM who was responsible to the council.
 6. But this was balanced by giving **special executive powers (discretion)** to the governors on matters like law and order, administering tribal regions, safeguarding minority rights, privileges of civil servants, and £ business interests. And finally, they could take over and run the administration of a province indefinitely.
5. **Provincial Legislature:**
 1. **Bicameral in 6 provinces.**
 2. There was to be a separatist system of representation by religious communities and groups.
 3. **Seats were reserved for** Muslims, Christians, Sikhs, SCs, and AI.
 4. There were separate constituencies for labor, landholders, commerce, and industry, etc.
 5. Powers of councils: GG (and governor in provinces) could veto, suspend proceedings/discussion on a bill, needed to give assent for the introduction of the bill.
 6. The governors in provinces were invested with special executive powers. They could exercise discretion in matters like law and order, interests of minorities and the people of backward areas, the protection of the British commercial interests, and those of the rulers of states.
6. **London - Delhi relations:** There was to be a **transfer of financial control from London to Delhi** in response to the long-standing **demand of the GoI for fiscal autonomy.**
7. **Electorate:** The electorate was enlarged to 30 mm but high property qualifications meant only 10% could vote. In rural India, thus, voting rights were given to the rich and the middle peasants who were staunch supporters of the congress. + communal electorates to everybody.
8. **Federal Court w original and appellate powers** to be established (in 1937). **Also Federal Bank (RBI in 1935).**
9. The new constitution **could be amended only by the British govt.**
10. The **Indian council was abolished** and instead, SoS was given advisors.

The Government of India Act 1935 was an arrangement for the interim period of transition from responsible government to complete independence.

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1. The Government of India Act 1935 was based on two basic principles, namely, the **federation and the parliamentary system**.
2. Although the federation principle was introduced with a built-in unitary bias yet the provinces were invested with a coordinate and not a subordinate authority.
3. No doubt, the **federal character was seriously distorted by** the provisions of **safeguards and special responsibility** which gave extraordinary powers to the executive head at the center and the provinces.
4. An important point to be noted is that a **fully responsible government was not introduced at the center**.
5. The **provincial autonomy** envisaged under the Government of India Act 1935 was **also placed under serious limitations**.
6. The **Dominion Status for India was still a distant dream**.
7. The **incorporation of safeguards was a clever constitutional device to delay the introduction of a fully responsible government**.
8. Although these provisions were made for the transition period, **the extent of the period of transition was not defined**.

The Government of India Act 1935 could hardly satisfy anybody.

1. The **Muslim League (ML) criticized it but was ready to give it a try** because
 1. It was afraid of Hindu domination and feared that the proposed federal structure would be very unitary.
 2. All the representatives of £ India to the central legislature were to be elected by the provincial assemblies (without any provision for proportional representation) and this would go against the Muslims who were minorities in all but 4 provinces.
 3. So although they didn't oppose the federation in public they preferred to allow more autonomy to the provincial governments.
2. The **Congress opposed it**
 1. They rejected the provision of safeguards and repudiated the idea of transition.
 2. They didn't like the proposed federation because ~33 - 40% of seats would be filled in by the princes.
 3. Criticized the grounds that in formulating it, the people of India were never consulted, hence not representing their will.
 4. Voting provisions, property criteria, separate electorates were undemocratic in nature.
3. The **Liberals criticized but were willing to work the reforms as a step towards responsible govt.**
4. **States on Federation**
 1. Their main objection to federation was that the Act still left the question of paramountcy unsettled.

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2. Despite the lapse of all treaties with the crown, **£ were not willing to give away their paramountcy** over the princes.
3. And thus as the paramount power £ still retained the **right to interfere** in their internal matters and **to even overthrow them** if necessary. **So for the princes there was nothing to be gained** in joining the federation.
4. The **1827 Butler Committee** too didn't provide any solution to the paramountcy issue. The only concession it gave to the states was that paramountcy would not be transferred without their consent to any democratically elected government in £ India but there was no dilution of £ paramountcy.
5. The princes supported the idea of the federation in the Nehru report of 1928 hoping to get rid of the £ paramountcy problem. But in the Gol Act, 1935 £ made it clear that their paramountcy will not lapse despite the princes joining the federation. **So joining the federation became meaningless.**
6. Their **second fear** was that the **democratic** government at the **center would have little sympathy for their autocratic causes** and thus **would encourage democratic forces in their territories as well.**

The Government of India Act 1935 was thus to corrode the support base of the congress.

1. The government had curbed CDM by using force. But it knew force can work only for so long. So it decided to divide the INM by drawing the moderates out with the lure of reforms. This would accentuate the differences between left and right wings as the left would be opposed to the constitutional process. Once separated, the left could be crushed. The right-wing once in power would be cut off from the masses and lose popularity.
2. Gandhiji had been persuaded by the £ to participate in the 2nd RTC on the basis of 3 promises - federation, a responsible government, reservations, and safeguards.
3. Provincial autonomy would weaken the central leadership and create strong provincial leaders. Thus Congress organization would be weakened @ all-India level.
4. In rural India, voting rights were given to the rich and the middle peasants who were staunch supporters of the congress.
5. Thus, Congress participated in the elections in 1937 and formed provincial ministries.