

37

Landmarks in Constitutional Development (1909, 1919, 1935 and 1947)

37.1 INTRODUCTION

India's road to freedom from the British yoke was the result of numerous demands made through the national movement and the consequent concessions given by the British authorities. Following the transfer of power from the English East India Company to the British Crown in 1858 and the establishment of the Indian National Congress in 1885, there had started a series of acts passed one after the other by the British Government for India. Throughout the period from 1885 to 1947, the nationalist movement in India kept increasing its pressure on the government through its demands of reforms (1885) to Swaraj (1906) and from Swaraj to Purna Swaraj in 1929. This ultimately helped in obtaining Independence in August 1947, at the cost of partitioning the country into two Dominions: India and Pakistan. The constitutional development during this period in India, is reflected through a number of acts passed by the British Government for India, especially the Indian Councils Act (1909), the Government of India Acts (1919 and 1935), and the Indian Independence Act of 1947. Let us see each of them.

37.2 OBJECTIVES

After studying this lesson, you will be able to :

- explain the provisions of the Indian Councils Act of 1909;
- trace the growth of communal representation;
- recall the provisions of the Government of India Act, 1919;
- analyse the defects of dyarchy as introduced through the Act of 1919;
- identify the main features of the Government of India Act, 1935;
- evaluate the provisions with regard to 'federation' and 'provincial autonomy' as introduced through the Act of 1935;
- recall the important characteristics of the Indian Independence Act, 1947; and-highlight the significance of the Act of 1947.

37.3 THE INDIAN COUNCILS ACT (1909)

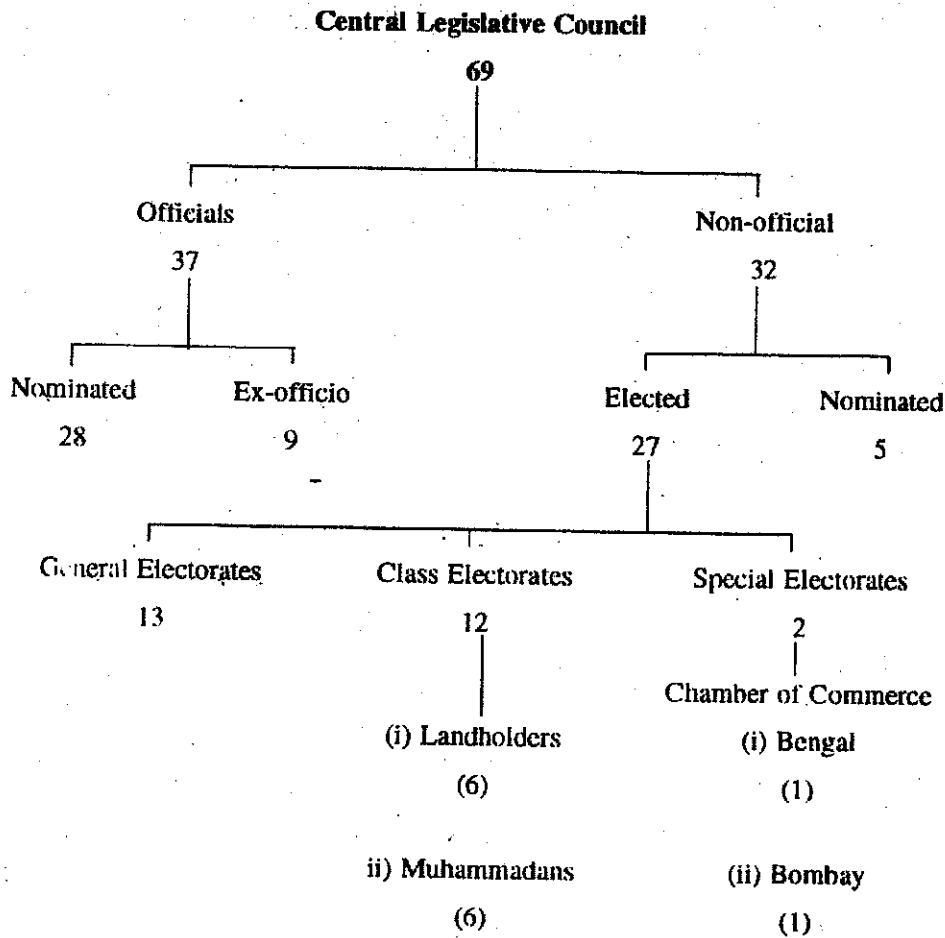
The Indian Councils Act (1909), also known as the Morley-Minto reforms, marked a definite advance over the Indian Councils Act (1892). The Indian Councils Act, 1892 was an improvement over the Indian Councils Act, 1861 in a very small way. The former raised the strength of the additional members from the maximum 12 in 1861 to 16 in 1892 in the central legislature and from the maximum 8 in 1861 to 20 in 1892 in the provincial legislatures. The Act of 1892 empowered the members of the central and the provincial legislatures to discuss the annual budget. They also addressed questions under certain rules and regulations. The Act of 1909 did meet the demands of the Indians in enlarging the membership and the powers of the legislative bodies in the country.

The Indian Councils Act (1909) was the result of numerous factors. The rise of extremism as a reaction to the moderate policies of the Congress (1885-1905) and to the autocratic rule of Lord Curzon and also the deteriorating economic conditions of the people had prepared an atmosphere of hatred towards the Britishers. The anger of Indians was clearly visible in the Congress demand for Swaraj (1906) in place of mere reforms. Unruffled with the growing nationalistic and patriotic feelings of the Indians, the British in India as well as in England invoked the policy of "divide and rule". The Muslim Deputation, headed by Agha Khan, was not only received but was favourably heard at Shimla in 1906, seeking separate representation. The birth of the All India Muslim League later (1906) confirmed the British policies of sowing seeds of disunity among the Indians. The Indian Councils Act of 1909 was a response to the situation then existing in India.

The main provisions of the Indian Councils Act, 1909, can be briefly summed up as under :

1. The size of the Central Legislative Council was enlarged. It was to have a total strength of 69, including nine members of the Governor-General's Executive Council. Among the remaining 60 additional members, 28 were to be official-nominated members and 32 non-official elected members. Among the 32 non-official members, 27 were to be elected and 5 to be nominated. Among the 27 elected members, 13 were to be elected from the general electorates; 12 from the class electorates; and 2, from the special electorates. The twelve members from the class electorates were to be taken from landholders (6) and the Muhammadans (6). Fig. 1 explains the composition of the Central Legislative Council.
2. The size of the Provincial Legislative-Councils was also enlarged. The actual strength as fixed by the Regulations was as under :

Strength of the Members of Provincial Legislatures		
Bengal Legislative Council	:	52
Madras Legislative Council	:	47
Bombay Legislative Council	:	47
U.P. Legislative Council	:	47
Eastern Bengal and Assam Legislative Council	:	41
Punjab Legislative Council	:	25
Burma Legislative Council	:	16



Central Legislative Council

Fig. 1

As in the Central Legislative Council, the members of the Provincial Legislative Councils were classified as officials (nominated and ex-officio) and non-officials: the non-officials into nominated and elected and elected into general, class and special electorates.

3. The powers of the legislative councils were enhanced. The members could ask questions, discuss and move resolutions on financial statements.
4. The Act of 1909 introduced separate electorates on religious basis. This act gave separate representation to the Muslims and the subsequent British laws, until 1947, extended this divisive measure to other communities.
5. The franchise, as introduced by the Act of 1909, was restrictive and discriminatory.
6. The Act of 1909 provided for the appointment of the Indians on the Executive Council.

Though the Indian Councils Act of 1909, was an improvement over the Indian Councils Act of 1892, but it did not satisfy the Indians, especially the extremists. The enlargement in the size and the powers of the legislative councils was too late and too little. Moreover, the Act of 1909 was no nearer to the Congress's demand of Swaraj, i.e. responsible

government in the country. The narrow restrictive and discriminatory franchise created no admirers among the Indians. The Act of 1909 created, to a great extent, a bureaucratic state, for, in the Act, the officials were either in majority in the legislative councils; or could be made so. Thus, the Act of 1909 provided the people only a shadow of reforms.

The greatest demerit of the Act of 1909 was the introduction of the system of separate electorates on grounds of religion. The Act sought to divide the people of India into Hindus and Muslims, into watertight compartments, putting one religion against the other. As a result there arose demands of separate electorates by other communities. The Act of 1909 made the beginning of what had happened in 1947 when the country was divided on communal grounds India and Pakistan. The Act-sowed a crop whose taste was very bitter.

INTEXT QUESTIONS 37.1

- I. Fill in the blanks with the words given in the brackets.
 1. The early Congress (1885–1905) sought to demand _____
(reforms, Swaraj, Purna Swaraj).
 2. The All India Muslim League was founded in _____
(1905, 1906, 1907).
 3. _____ headed the Muslim Deputation which met the Viceroy in 1906 at Shimla. (M.A.Jinnah, Aga Khan, Liaquat Ali Khan).
 4. The strength of the additional members, as per the Act of 1909, in the Central Legislative Council was fixed at _____. (50, 60, 70).
 5. The system of separate electorates was introduced through the Indian Councils Act of _____. (1861, 1892, 1909).

37.4 THE GOVERNMENT OF INDIA ACT (1919)

The Indian Councils Act of 1909 did not meet the demands of the Indian National Congress which had been asking for the grant of Swaraj since 1906. The Act really gave a narrow and discriminatory franchise, communal representation, and anti-democratic device. On the whole, the Act of 1909 annoyed more people than those who were happy with it. The British government, on its part, did everything to introduce the policy of oppression and suppression ever since the Act of 1909 was put into operation.

The First World War (1914–18) brought a tremendous change in Britain as well as in India. The Britishers, fighting against Germany and her United Powers, wanted the Indians to help them in war. The atmosphere, in India, too had changed: the moderates and the extremists had united; the Congress and the Muslim League came closer through the Lucknow pact of 1916.

The effects of war had necessitated the formation of a definite policy of the British Government towards India. The result was the Montague Declaration (August 1917) promising the Indians a responsible government with their successive association in self-government.

The Government of India Act, 1919 (also called the Montford reforms) was, thus, the first step towards the establishment of responsible government in India. The main provisions of the Government of India Act, 1919, can be summed up as under :

1. The introduction of the partial responsible government, as envisaged by the Act of 1919, necessitated the division of subjects into two lists: central subjects had 47 items including defence, foreign relations, currency, communication etc.; provincial subjects had 51 items including local self-government, public health, sanitation, education etc. etc. The Centre was empowered to make laws on the central subjects while the provincial governments were authorised to make laws on the provincial subjects.

The Provincial subjects were further divided into 'reserved' and 'transferred' ones. The 'reserved' subjects were those which included finance, irrigation, European education, law and order, land reforms etc. They were to be under the charge of Executive Councillors, mostly English, responsible directly towards the Governor. The 'transferred' subjects which included local self-government, public health, sanitation, education etc. etc. They were to be under the charge of ministers, mostly Indians and from the provincial legislative council. These ministries were to be administered by the Governor acting through the ministers.

2. The Act of 1919 provided for the appointment of a High Commissioner in England. The High Commissioner was to act as the agent of the Central and Provincial government and look after the trade interests of India.
3. The Montford reforms rebuilt the central legislature. The central legislature was to consist of two chambers: (1) The Council of States, and (2) The Legislative Assembly. Both the Houses were to be directly elected where the provision of election was concerned. The system of separate electorates remained as before and was also further enhanced. The composition of the two Houses are given in Fig. 2.

The tenure of the Council of States was five years and that of the Legislative Assembly, three years. The franchise continued to be limited and discriminatory. For the Council of States, the strength of the voters was about 17,000 and for the Legislative Assembly, it was about ten lakh in a population of 25 crores.

The two Houses, as per the Act of 1919, had co-equal powers. The members could move bills on the central subjects and could criticise the government. A great part of the national budget was non-votable.

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4. The powers of the Governor-General, according to the Act of 1919, were enormous. The Governor-General possessed unrestricted and unlimited powers. He had the power to superintend, direct, control and supervise the civil and military administration of the country. He was free in the appointment of the Central Executive. He was, in fact, the real governing authority in the country. He too possessed the right to restore cuts in the budget and promulgate ordinances.

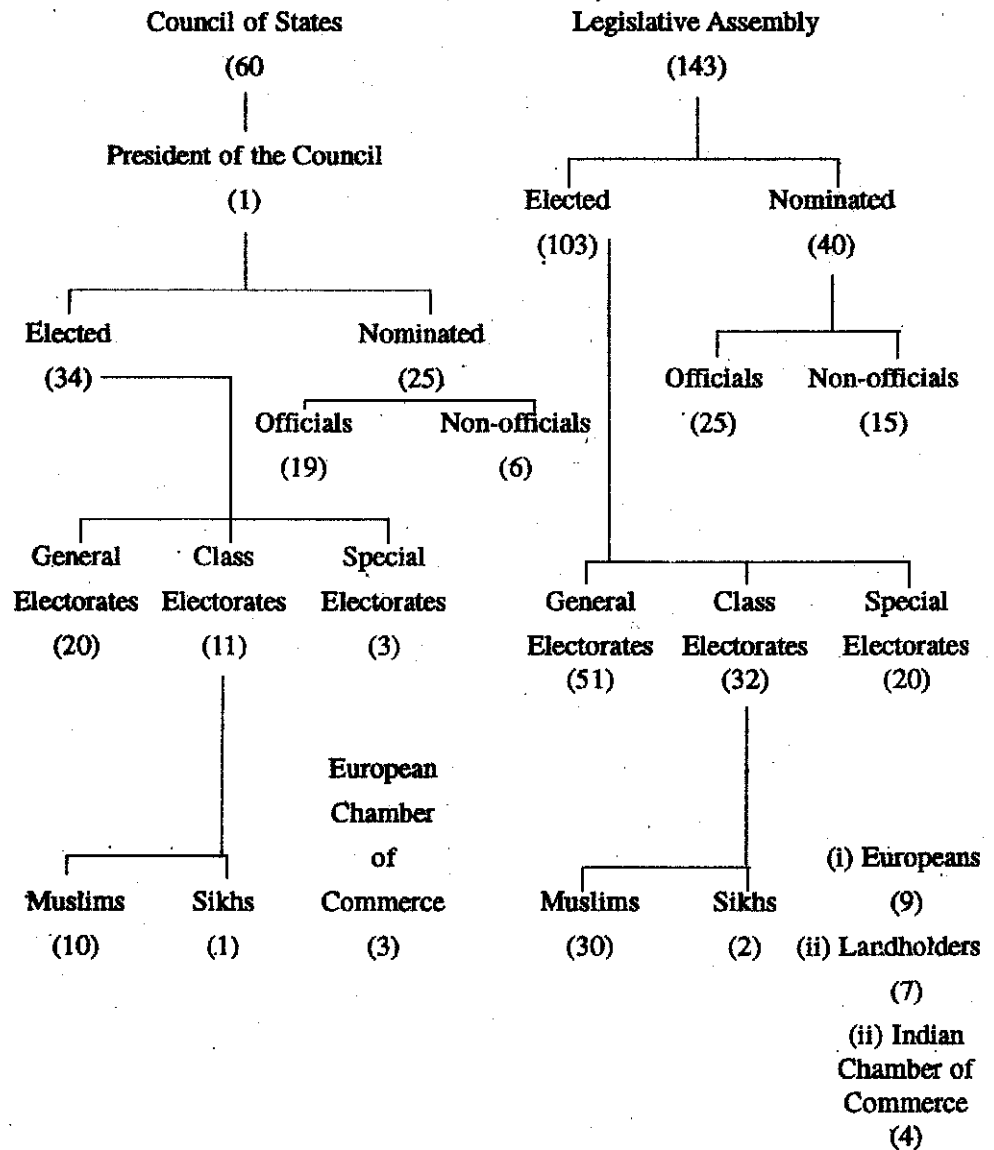


Fig. 2 : Structure of the Central Legislature as per Montford reforms of 1919

5. The provincial legislatures had unicameral system. The strength of the members of the provincial legislature was expanded. The maximum strength of a provincial legislature was 140, and the minimum, only 60. Assam, was the only exception with 53. In each provincial council, roughly 70 per cent of the members were elected, 20 per cent nominated officials and 10 per cent nominated non-officials. Here, too, the franchise was narrow, limited and discriminatory: only 2.8 per cent of the population had the right to vote. Among the elected members, there was the provision of the general, communal and special constituencies.

The powers of the provincial legislatures were enhanced so to include, among others, (i) making of laws on the provincial subjects, (ii) discussing the provincial budget, (iii) asking questions etc. The special and discretionary powers, vested in the Governor had made the provincial legislatures weak legislative bodies.

6. The Act of 1919 had made the position of the Governor of the province a significant one. In fact, he had the real powers vested with him. He possessed discretionary powers as well. He could dominate his councillors and also his ministers. He could control the provincial legislature. In provincial administration, his position was nothing less than a dictator.

The most important provision of the Government of India Act, 1919 was the introduction of a new system of administration in the provinces. It is known infamously as 'dyarchy'. Its immediate object was to train the Indians in the art of administration through the increasing association of the Indians.

Dyarchy is the name associated with the rule of two types of governors: councillors and ministers over a people of a province.

The word 'dyarchy' is a combination of two words: 'dei' and 'archia' meaning thereby dual rule: rule of the councillors and the ministers over the people of the province. According to the Government of India Act, 1919, the provincial subjects were divided into 'reserved', reserved for the Governor-in-Council; 'transferred', transferred to the Indian ministers but were administered by the Governor acting through the ministers. Thus, a system of administration, in the provinces, where there had existed two halves, one Governor-in-Council, and another Governor acting through ministers; one, wholly foreigner while another, totally native; one, in-charge of the reserved subjects, another, of transferred ones; one responsible to the Governor and another, responsible to the provincial legislature; one, dominating while another, recessive, is called by the name of dyarchy.

The dyarchical system was introduced in April 1921 in Bengal, Bihar, Assam, Madras, Bombay, Punjab, United Provinces and Central Provinces while in 1932, it was extended to North West Frontier Provinces, and worked until 1937 in disturbed circumstances at times. The Minority Report of the Reforms Enquiry Committee stated that the new system (i.e. dyarchy) operated well during the first three years, but after 1924, it proved unsatisfactory and unworkable. The new system had such inherent defects as had sealed its successful working from its very inception. These defects, to sum up briefly, were :

1. To divide the provincial government into two watertight compartments was to work against the principle of efficient system of administration. It was, indeed, impossible to run the administration in two halves. Any government is like an organism whose parts cannot be separated from each other.
2. The demarcation of the provincial subjects into 'reserved' and 'transferred' had no logical and scientific base. While 'agriculture' was a transferred subject, 'irrigation' closely related to agriculture, was made a reserved one.
3. The position of Governor of the province, under the dyarchical system, should have been that of a constitutional head. But it was not so. Rather, the Governor enjoyed powers of a real ruler. He could appoint any member of the provincial legislature as a minister, and could dismiss any other. The responsibility of the ministers towards the provincial legislature was a mere formality. The ministers could remain ministers only if they enjoyed the patronage of the Governor. Obviously, such a position of the Governor was opposed to any parliamentary system which was then making a beginning in India.
4. The ministers' position in the provinces as against the 'reserved' subjects was really

deplorable. They had no voice in the formulation of the policies, nor they were consulted on vital issues relating to provincial administration. Their position with regard to the 'transferred' subjects was no better. They could hardly enjoy the confidence of the provincial legislature to which they were expected to be responsible. In fact, the majority of the members of the provincial legislature were with the Governor. In such a type of legislature, there could hardly be a situation of ministerial responsibility.

5. The department of finance was under the 'reserved' category. It was the department through which finance would flow towards the other departments. The finance councillor used to be stingy towards the transferred departments. His greatest anxiety was to see that the reserved departments got all the money they required before the transferred subjects got what they really wanted. As to the financial requirements of the ministers, the finance councillor used to put all technical hurdles.
6. The ministers' position with regard to their civil servants was, indeed, painful. They had no control over their permanent officials. In fact, the officials working with the ministers owed allegiance to the Governor. No minister was permitted to appoint any official, determine his conditions of service or dismiss him.

The defects of the dyarchical system, as envisaged in the Act of 1919, apart, the Montford reforms themselves contained inherent weaknesses. The government, at the Centre, was autocratic with the Governor-General possessing unlimited powers. The government, in the provinces, gave no signs of partial responsible government with the Governor dominating the whole arena of administration. The restrictive and discriminatory franchise was against all the principles of democratic polity. The extension of the separate electorates to other religious communities was not only injurious to the nationalist struggle but was one that strengthened further the communal forces in the country.

INTEXT QUESTIONS 37.2

- I. Fill in the blanks with the words given in the brackets.
 1. The Lucknow Pact was signed in _____
(1914, 1915, 1916)
 2. Partial responsible government is infamously known as _____
(dyarchy, provincial autonomy, swaraj)
 3. _____ was a transferred subject under the Government of India Act, 1919.
(Finance, Agriculture, Irrigation)
 4. The Montford Reforms created the post of _____ in England.
(Secretary of State, High Commissioner, Viceroy).
 5. The Council of States, under the Act of 1919, had the total strength of _____
(60, 140, 145).

37.5 THE GOVERNMENT OF INDIA ACT (1935)

Between 1919 and 1935, there was intense political activity in India. Having assumed the leadership of the Indian National Congress, Mahatma Gandhi had launched the Non-Cooperation Movement (1920-1922) and the Civil Disobedience Movement (1930-1934); and in the process had made the Congress an organization of the masses by bringing in every section of the Indian society together. His fight was not against the British as it was

against the oppressive policies of the government. He rose against the Rowlatt bill, against the Jallianwala Bagh massacre and against the Salt Law; in short, against every evil which the British rule in India encouraged. His was the fight for truth and through non-violence.

Alongside Gandhiji's movement, the Swarajists sought to wreck the Act of 1919 from within, by becoming the members of the legislative bodies and condemning the policies of the government. The revolutionaries led by Bhagat Singh and his colleagues attempted to overthrow the British rule. The Simon Commission, appointed by the Conservative British Government, had already highlighted the need to introduce a new legislation for India. The three Round Table Conferences (1930, 31, 32) and the White Paper made the Government of India Act, 1935 possible.

The prominent provisions of the Government of India Act, 1935 can be summed up briefly as under :

1. The Government of India Act, 1935 was a very long statute. It ran into 451 clauses with fifteen schedules. It contained provisions with regard to proposed federation, provincial autonomy, powers of the Governor-General, Governors, legislative bodies and the like.
2. Provincial autonomy is one of the important features of the Government of India Act, 1935. Under this, provincial governments were accorded a new constitutional status : dyarchy was done away with and the entire provincial administration was put under the charge of ministers responsible to their respective provincial legislatures. The Governors were expected to act as the constitutional heads.
3. The Act of 1935 provided for an All-India Federation consisting of the British Indian provinces, six Chief Commissioners' provinces and such princely Indian states as agreed to accede to it.
4. The Government of India Act, 1935 introduced dyarchical system at the Centre. The federal subjects were divided into 'reserved' and 'transferred' subjects. The 'reserved' subjects included defence, ecclesiastical affairs, external relations and administration of the tribal areas. These were to be administered by the Governor-General through his councillors and at his discretion. The rest of the subjects formed 'transferred' subjects and were to be administered by the Governor-General acting through his ministers, taken from the central legislature and responsible to it.
5. The Act of 1935 provided 'safeguards and reservations'. These were the checks and reservations imposed on the legislative bodies, and as such were limitations on the powers and functions of the legislatures.

Safeguards and reservations, under the Act of 1935, were powers given to the Governor-General in whose name the powers of the legislative bodies could be limited.

6. The Government of India Act, 1935 proposed an Upper House, called the Council of States with 260 members and a Lower House with 375 members. In six, out of the eleven British Indian provinces, bicameral system was introduced. The size of the legislative bodies in the provinces was also enhanced. Though the system of separate electorates was kept and even enhanced, still more than 10 per cent of people got franchise.
7. The Act of 1935 provided for the division of powers. Three lists were proposed : the Federal List with 59 items, the Provincial List with 54 items, and the concurrent

List with 35 items. The federal subjects included defence, currency, post and telegraph, railways, central services and the like, and on these the federal legislature had the right to make laws. The provincial subjects included education, land revenue, local self-government, law and order, public health etc. and on these, the provincial governments had the power to make laws. The concurrent subjects included criminal law procedure, civil procedure, marriage, divorce etc., and on these, both the federal and the provincial legislatures had the power to make laws. In case of any conflict, the federal law on the concurrent subject was to prevail.

8. The Government of India Act, 1935 provided for a federal court with one Chief Justice and not more than six judges. The judges were to be appointed by the Crown and held office until a judge completed the age of sixty-five. The federal court had original, appellate and advisory jurisdiction, but was not the final court. Appeals could be made to the Privy Council against the decisions of the federal court.
9. The Act of 1935 abolished India Council.

Privy Council is the highest executive and judicial organ of the British political system, but powerful only in theory

10. It reasserted the supremacy of the British Parliament in matters relating to India. The federal and the provincial legislatures could make recommendations and suggestions, but it was the British Parliament which had the power to take the final decisions on India.

The Act of 1935 was criticized by almost all the political parties. M.A. Jinnah had described it as "thoroughly rotten, fundamentally bad, and totally unacceptable." Nehru also had said that the Britishers had given as "a machine with strong brakes but with no engine." Some of the weaknesses of the Act of 1935 were :

1. The proposed federation was full of peculiarities and that made it one which never came into operation. The formal incorporation of some federal features: written constitution, division of powers, federal court could hardly ensure the existence of a federation. The proposed federation was a union of unequal units: it had a legislature which had no power of amendment: it had an Upper House which did not represent the federating units.
2. Provincial autonomy, as was granted by the Act of 1935, was an autonomy on paper. In the face of autocratic Governor and a Governor-General with powers of 'safeguards and reservations', there could hardly be autonomy for the provinces. The ministers, indeed, were given independent charge and were to administer their ministries independently, but they could hardly work freely. The permanent civil servants owed no allegiance to the ministers: without officials loyal to them, the ministers could not function effectively. Provincial autonomy proved only to be a great myth.
3. The provisions of 'safeguards and reservations' in the Act of 1935 were measures to exploit the fears of the natives in the interests of the foreigners. They were, in fact, calculations to keep the Indian house divided against itself: they were checks on the functioning of the legislatures.
4. The executive, through the Act of 1935, was made more powerful than the legislature. Whenever such a situation arises, it smacks of a dictatorial tendency. The Governor-General overpowered the federal legislature through the devices of 'safeguards and

reservations'. The Governor could overpower the provincial legislature in the name of 'special responsibilities' thrust upon him. The keynote of the Act of 1935 was not a responsible government but was democratic in form and dictatorial in essence.

5. The weak legislative bodies, restrictive and discriminatory franchise and the communal-ridden system were the other demerits of the Act of 1935.

INTEXT QUESTIONS 37.3

I. Fill in the blanks with the words given in the brackets.

1. The device of provincial autonomy was introduced under the Act of _____ (1909, 1919, 1935).
2. _____ was a reserved subject under the Government of India Act, 1935. (Ecclesiastical affairs, Currency, Finance).
3. The Concurrent List was shared by the Federal Legislature and _____ (Governor, Provincial Government, Governor-General).
4. The Federal Court, under the Act of 1935, had one Chief Justice and the other _____ judges. (five, six, seven).
5. The number of clauses in the Act of 1935 were _____ (451, 452, 453).

37.6 FEDERATION AND PROVINCIAL AUTONOMY

The two striking features of the Government of India Act, 1935 were: federation and provincial autonomy.

All-India federation, as envisaged by the Act of 1935, consisted of three types of federating units: (i) the British Indian Provinces (11); (ii) the Chief Commissioners' provinces (6); and (iii) Princely States subject to agreement. It was compulsory for the British Indian units to join the federation while it was voluntary for the Indian Princely States.

The scheme of All-India Federation, as provided in the Act of 1935, did possess some features of a federation. There was the written constitution in the form of the Government of India Act, 1935; there was the division of powers between the Centre and the federating units; there was a provision for a federal court. And yet, the proposed 1935-federation was no way nearer to a normal federation. In fact, the kind of federation as proposed by the Act had some peculiar features which are not normally found in any federation. Some of these can be summed up as under :

1. The federating units had a number of dissimilarities. While the British Indian units enjoyed a measure of democracy, the Princely States were ruled autocratically. The inhabitants of the Princely States had no elective bodies; they had no civic or political rights.
2. The proposed federation, under the Act was peculiar because the British Indian federating units had no option but to join. While it was left to the individual Princely State either to join it or refuse to do so. It was also peculiar because each Princely State joining the federation was empowered to delegate as many powers to the Federal Government as it wished.
3. There was no proportionate representation of the federating units in the federal legislature. In the Council of States, the representation of the Princely States was

- about 40 per cent of the total seats, and about 33 per cent in the Legislative Assembly while its population formed less than one-fourth of the population of the British India.
4. Another peculiarity of the 1935 federation was varying methods of representation in the federal legislature. While for the British India, the election was made the method of representation, it was nomination as the method of representation for the Princely States.
 5. In any federation, the power of amendment lies with the legislatures of the federal country. In India's case, the Federal Legislature and the Provincial Legislatures had no participation in amending the Constitution, i.e., the Act of 1935. Amendment here could be made only by the British Parliament.

It has been rightly pointed out that the proposed federation, under the Act of 1935, was a limp federation. Owing to these peculiarities as also because of the popular opposition, the proposed federation never saw the light of the day. It was well said that the federal structure under the Act of 1935 was wholly unnatural, artificial and unknown to any constitution.

Provincial autonomy was another important characteristic of the Government of India Act, 1935. It made a complete departure from the earlier Acts with regard to the governance of the provinces. It gave the provinces a constitutional status of their own by introducing decentralization of powers. It reorganized the administrative machinery of the provinces, abolished the dual character of the provincial government into two halves: 'reserved' and 'transferred' and made the provinces as autonomous political units.

It assigned to the provinces a definite sphere of control, independent of the Centre and granted them an exclusive right to make laws on the subjects contained in the Provincial List.

A system of provincial administration which conferred an exclusive and entire control on provincial authority in certain specified subjects and which made an attempt at the reduction of the central control over the provinces is known as 'Provincial autonomy'.

The important features of the 'Provincial autonomy', as incorporated in the Act of 1935, can be stated as under :

1. Provinces have their independent constitutional status.
2. They derive their administrative, legislative, and financial powers from the Acts of the British Parliament.
3. They possess exclusive authority to make laws on the Provincial subjects.
4. The Federal Government is denied any and every right with regard to matters which fall within the jurisdiction of the provinces.
5. Provinces are to be administered by the Governors acting through ministers responsible to their respective legislatures.

Provincial autonomy, as introduced in the eleven provinces of British India in October 1937, worked for different periods in different provinces. In Sind, Bengal and Punjab, it flourished for ten years. In Bombay, Madras, Bihar, U.P. C.P. and North West Frontier Provinces, it had a very short spell between 1937 and 1939 initially and thereafter the Second World War. In Assam and Orissa, it worked for a couple of months between 1937 and 1939.

The working of the provincial autonomy clearly proved that it was far from reality. It was nothing short of a myth. This was so because it had its inherent weaknesses. Its actual functioning made it amply clear that it had not achieved its desired ends. Provincial autonomy implied two things: freedom from external control and complete autonomy within the province. Both these were clearly denied in the Act of 1935. When provincial autonomy was put into operation, it made the provincial administration neither free from the Central Government nor made them autonomous from within.

As regards the external control, the Governor-General could interfere in the provincial matters taking refuge of special responsibilities. What he was to do was to simply declare that such and such provincial action was an infringement of the special responsibility thrust upon him. Even in the matters relating to provincial legislation, the Governor-General could reserve a provincial bill for His/Her Majesty's pleasure if that bill was put before him for his consideration. Certain bills, however, could not be introduced in the provincial legislature without the prior permission of the Governor-General. All the actions of the Provincial Governor done in his discretion or under special responsibilities were subject to the control of the Governor-General. All these powers vested in the Governor-General could hardly leave any room for external independence as far as provinces were concerned.

As regards the internal autonomy, provincial governments, as were expected to be administered by the responsible ministers, were not autonomous in the face of autocratic provincial Governors. The Governor, who was supposed to act as the constitutional head under the scheme of provincial autonomy, could come out to be the controlling, directing and dominating head of the province. He dominated the provincial legislature. The executive, i.e., the Council of Ministers, was the creature of his will : he could appoint and dismiss any minister : he had full control over the permanent civil servants and through them he controlled the entire provincial administration.

Thus, provincial autonomy was no autonomy for the provinces. The responsible provincial administration was throttled by the Governor from within and the Governor-General from above.

INTEXT QUESTIONS 37.4

I. Fill in the blanks with the words given in the brackets.

1. The number of the British Indian Provinces joining the federation under the Act of 1935 was _____ . (6, 11, 16).
2. _____ had the power to amend the constitution as per the Government of India Act, 1935. (Central Legislature, British Parliament, Provincial legislatures).
3. Provincial autonomy meant two things : freedom from external control and _____ (freedom from Governor-General, freedom from Governor, autonomy within).
4. _____ experienced provincial autonomy for a period of ten years. (Bombay, Bengal, Bihar)
5. _____ had been given special responsibility by the Act of 1935. (Governors, Chief Ministers, Ministers).

37.7 THE INDIAN INDEPENDENCE ACT, 1947

The Government of India Act, 1935 was put into operation in April 1937. Some of its clauses were enacted even later, (i.e., provincial autonomy in October 1937). As the Second World War broke out in September 1939 and as the Governor-General declared India a belligerent country, the spirit with which the Act of 1935 was to be enacted went into abeyance. There started a chain of action and reaction between the British Government seeking the help of the Indians in the war on the one hand, and the Indians who, through the Indian National Congress, asked for a national government during the war and independence after it. By 1940, the All-India Muslim League had passed the Pakistan resolution. During 1939 and 1945, the August-1940 offer and the Cripps Mission (1942) failed. The 'Quit India' movement (1942) and the INA trials (1945) created a new zeal among the Indians, now demanding the ouster of the English. As the Second World War ended and Labour Government assumed power in 1945 in England, the Cabinet Mission arrived in India in 1946 and its proposals were accepted by all the sections of the Indian society.

In accordance with the proposals of the Cabinet Mission Plan, the interim government was formed and the election for the Constituent Assembly were held. With the Muslim League obtaining insignificant number of seats in the Constituent Assembly and seeing no chance of having Pakistan through constitutional means, it resorted to direct action which meant communal riots. To save country from civil war, partition was considered a lesser evil. The Indian Independence Act, 1947 based on Mountbatten Plan, not only gave independence, it also partitioned the country into two dominions : India and Pakistan.

The salient features of the Indian Independence Act, 1947 can be given as under :

1. The Indian Independence Act, 1947 provided for the creation of two dominions : India and Pakistan on August 15, 1947.
2. All powers henceforth vested in the British Parliament and the Government in British India were to be transferred to the Governments of India and Pakistan.
3. The territories of both the dominions were defined, at places through referendum and at places by vote of their legislature.
4. Each dominion would have its own Governor-General.
5. The constituent Assembly of each dominion would act both as a Parliament and as a constitution-making body till the constitution is made and elections for the new legislature are held.
6. Paramountcy of the British Government would lapse with the transfer of power. The Princely States would be free to accede to India, or Pakistan or to proclaim their own independence.

INTEXT QUESTIONS 37.5

- I. Fill in the blanks with the words given in the brackets.
 1. The _____ resolution was passed by the Muslim League in 1940.
(Quit India, Pakistan, Purna Swaraj)
 2. The Cabinet Mission Proposals were offered in _____
(1945, 1946, 1947)

3. The Indian Independence Act, 1947 was based on _____
(Wavell Plan, Cripps Plan, Mountbatten Plan).
4. The Act of 1947 provided for _____
(two dominions, three dominions, four dominions)
5. Partition of the country was preferred to _____
(Civil war, confederation, British re-enslavement).

37.6 WHAT YOU HAVE LEARNT

The British Government enacted a series of acts after it took over the administration of the Company's territories in India in 1858. Among these acts, mention may be made to the acts of 1861, 1892, 1909, 1919, 1935 and 1947. The Act of 1909 (Morley-Minto Reforms) introduced divisive separate electorates which sowed the seeds of partition of India in 1947. The Act of 1919 (Mont-Ford Reforms) introduced dyarchical system in the provinces, a system that proved impracticable. The Government of India Act, 1935 was also defective in so far as it proposed a federation which never came into existence in the spirit it was introduced. It was also defective in so far as it introduced provincial autonomy which was nothing more than a myth. Through a long freedom struggle, the Indians were able to achieve liberation from the British yoke in 1947 when with independence, the country was divided into two parts : India and Pakistan.

TERMINAL EXERCISES

1. Discuss briefly the provisions of the Indian Councils Act, 1909 special reference to communal representation.
2. Explain briefly the chief characteristics of the Government of India Act, 1919.
3. What is dyarchy? State its inherent weaknesses.
4. Critically examine the provisions of the Government of India Act, 1935.
5. Write a brief essay on 'All India Federation' or 'Provincial Autonomy' as incorporated in the Act of 1935.
6. Enumerate the important features of the Indian Independence Act, 1947.

KEY TO INTEXT QUESTION

37.1 1. reforms

2. 1906

3. Aga Khan

4. 60

5. 1909

37.2 1. 1916

2. dyarchy

3. Agriculture

4. High Commissioner

5. 60

- 37.3**
1. 1935
 2. Ecclesiastical powers
 3. Provincial Government
 4. Six
 5. 451.

- 37.4**
1. 11
 2. British Parliament
 3. Autonomy within
 4. Bengal
 5. Governors

- 37.5**
1. Pakistan
 2. 1946
 3. Mountbatten
 4. two dominions
 5. civil war

HINTS FOR TERMINAL QUESTION

1. Please refer to 37.3
2. Please refer to 37.4
3. Please refer to 37.4
4. Please refer to 37.5
5. Please refer to 37.6
6. Please refer to 37.7