The Government of India Act, 1935 partially came into operation from April, 1937. As opposition to the federal scheme came from all quarters, although for different reasons, the introduction of the federal scheme, as contemplated by the Act, was postponed. So far as the Provinces were concerned, they were given an autonomous existence, however incomplete that autonomy might be. Although the reconstruction of the Central Government on the new lines was postponed, the Federal Court of India came into operation in October, 1937, with the same jurisdiction to decide issues between the Centre and the Provinces as it would have if the federation had been established. The Centre was to be governed according to the provisions of the Ninth Schedule to the Act of 1935, which virtually reproduced the provisions of the Government of India Act regarding the matter. This Ninth Schedule, expected to serve as a temporary expedient under Part XIII of the Government of India Act, 1935, became a permanent provision and continued in force practically till the 14th of August, 1947, i.e., till the coming into operation of the Government of India Act, 1935, as adapted by the India (Provisional Constitution) Order, 1947 (hereinafter referred to as the adapted Government of India Act, 1935).
Events moved very quickly when the Second World War broke out in 1939. The impact of the Second World War convinced the authorities in Britain of the necessity of securing active and willing co-operation of the people of India. A series of negotiations followed and as a consequence of continuous pressure from India and also as a consequence of international situation, on February 20, 1947, the then British Prime Minister made a historic announcement that in any case, the British Government would transfer power to the Indian hands not later than June, 1948. In the meantime, the Muslim League was moving farther and farther along the path of separatism and the demand for Pakistan was growing keener and keener. The strained relationship between the two communities continued and it was decided to partition India into two Dominions - India and Pakistan. By the prolonged efforts of Lord Mountbatten, the Governor-General of India at the time, a plan for the transfer of power was accepted by the two major political parties in India. The British Government lost no time and with amazing speed passed the Indian Independence Act, 1947.

Mr. Attlee, while introducing the Indian Independence Bill in the House of Commons observed:

"There have been many instances in history when States at the point of sword have been forced to surrender government over another people. It is very rare for a people that have long enjoyed power over another nation to surrender it voluntarily."

The object of the Indian Independence Act, 1947 was not to provide a Constitution for India. It was in the nature of an enabling Act - an Act to enable the representatives of India and Pakistan to frame their own Constitutions. So, there was no detailed constitutional provision laid down in the said Act.

The Indian Independence Act, 1947 provided for the division of British India into two independent Dominions. Clause 6 of the above-mentioned Act was pivotal in conferring sovereign powers upon the Dominion Legislatures. There was no provision for disallowance of any law, passed by the Dominion Legislatures, by His Majesty. No Act passed by the British Parliament could be extended to any of the Dominions.

The transfer of power to Indian hands also required some adjustments with the Indian States. The Cabinet Mission in their memorandum informed the States that His Majesty's Government could not in any case transfer Paramountcy to an Indian Government. By Clause 7(8) of the Indian Independence Act, the Paramountcy of the British Crown over the States lapsed on the 15th of August, 1947. All treaties and engagements and mutual rights and obligations arising therefrom of the Crown and the States terminated on that date. "The reason for this is," explained Mr. Attlee in the British House of Commons, "that they all depended for their implementation on our part, on the continuance of the responsibility of Great Britain for the Government of India; and with the transfer of power

to two Dominion Governments it would be impossible for the British Government to carry out these obligations." The States became independent in every sense of the term. But it was inconceivable that they would remain separate from either of the Dominions. It was also observed in the course of debates in the House of Commons that it would be unfortunate, 'if, owing to the formal severance of their Paramountcy relations with the Crown, they were to become islands cut off from the rest of India.'

The structure of Government in each Dominion remained as before. The Government was to be carried on until any new Constitutional arrangement was prepared, according to the Government of India Act, 1935, which might be amended by the Governor-General to suit the altered conditions. The Governor-General was to take steps also for carrying on the work of the Governor-General in Council otherwise than in accordance with the provisions of the 9th Schedule to the Act of 1935. There was one significant change in the Central-Provincial relationship. By S.8(C) of the Indian Independence Act, not only the Governor-General but also the Provincial Governors were shorn of their discretionary powers. This meant the relaxation of control of the Central Government over the Provincial Governments; because, as we have seen before, whenever a Provincial Governor would act in his discretion, he would be subject to the control and supervision of the Governor-General.

The distribution of powers between the Centre and the Provinces remained, however, as before, excepting some minor additions and alterations required to suit the changed circumstances. As for instance, some changes were

6. Ibid.
required as the discretionary powers of the Governor-General and the Governors were abolished. Besides these among the other changes may be mentioned the addition of Sub-section (5) to Section 102 in the adapted Government of India Act, 1935 which empowered the Governor-General to issue a Proclamation of Emergency even before the actual occurrence of war or internal disturbance threatening the security of India, if the Governor-General was satisfied that such a danger was imminent. Mention may also be made of 3.126 (A) of the said Act which authorised the enhancement of the control of the executive of the Dominion over the Provinces. In the domain of finance also there were some changes. It may be noted for instance that the provision governing the Corporation tax in the Federated States was omitted. Again, 3.142(A) was a new insertion which authorised the levying of taxes on professions, trades, callings and employments by a Province or any municipality or any local authority in a Province. But there was no major change in the scheme of distribution of powers under the Government of India Act, 1935 and this scheme remained in force until the provisions of the new constitution for the Republic of India came into operation in the month of January 1950.