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PROBLEMS OF  
INDIAN STATES

BY

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*September 1930.*

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## PREFACE.

These pages are written to help, as far as possible, those who are at present engaged in considering the future relations of our States with the Crown and the rest of India, in arriving at conclusions which should be consistent with the best interests of the States as well as of the Provinces of India and of the country as a whole. It is quite possible that one who seeks to reconcile conflicts, might please none of the parties between whom harmony is desired and desirable. A task involving such risks is more than difficult for a writer who also holds an official position in a State. I think, however, that the interests of the States and of India justify the taking of risks by every one who hopes to serve, however humbly, the great purpose of harmonising the aspirations of the two sections of our country, so as to advance both of them towards their goal.

During some months past, several able writers have contributed their thoughts to the 'problems of the States/ I hope I shall not be unjust to any of them, if I venture to say, that, inspite of these fairly numerous publications on the subject, an attempt is still required to be made to look at the problems from all the stand-points together. The first one of them is the point of view of the Princes themselves. Then comes the view of their people. Thirdly, we have to consider how British Indians will be affected by what we in the States think or say. Last, but not the least important, is the

view-point of the British Empire represented by the Paramount Power. I hope the following pages will be of some use to those who may be desirous of seeking to harmonise the claims of all these sides, though I am pretty sure that some parts of this little book are bound to be disagreeable to some of these four sides. It is easy enough to emphasise one's own demands and rights or to express general sympathy for one's opponent, while one is putting forward a case which must conflict with the requirements of others. That, however, is the straight road to the defeat of both the contestants. It is far more enlightened selfishness to attempt a search for strength in unity and in harmony with what at first sight seems like an opposite view, rather than in a shortsighted insistence on one's own rights and nothing but those rights. I have dealt with this point at length in various parts of the booklet and need not dilate on the point at this place.

Let me make it quite plain that I am individually and exclusively responsible for the views I have expressed in these pages. Indeed I could not have written them, without my master H. H. The Ghhatrapati Maharaja Saheb of Kolhapur's kindness, in providing me time and facilities for doing so. My gratitude is, therefore, due to him in a very large measure. But the views advocated in the book are my own. I trust that what I have done will be of as much use to the State I love and serve, as to all the States in India. But the responsibility of the views is my own.

• I am thankful to Mr. R. P. Sawant B.A., LL.B. -  
at-Law, for helping me in reading the proofs and to

Mr. A. V. Patawardhan B.A. for printing the book within a very short time.

The index has been entirely due to the labours of my friend Mr. A. G. Bavadekar, B.A., LL.B., Advocate, Bombay, to whom my best thanks are due.

**Poona,**        }  
**26-9-30.**

**A. B. LATTHEK.**



# PROBLEMS OF INDIAN STATES.

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## CHAPTER I.

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### CLASSIFICATION OF STATES.

**Structural and other varieties of States—Need of correct classification—The principles of classification—The Salute basis misleading—Historical considerations also not a reliable basis—Lord Olivier's classification—Classification for constitutional policy in future—Probable results of this classification.**

The official list of Indian States with and without salutes makes a total of 560 States.\* The figure is, however, slightly different as given by the Report of the Indian Statutory Commission which gives a total of 562 States in India. Whichever the correct figure, the fact that the States which we call "Indian India" are so numerous, presents great difficulty to those who may wish either to speak of them as a whole in discussions regarding their own States and their position and powers or to make an attempt to define their relations with the rest of India. Some of them are big as Hyderabad, Mysore or Kashmere while others do not cover more than a few acres of land. Some are very ancient while others can trace their origin to very recent times. Prior to the arrival of the British Power

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\* Vide "The Indian States" corrected upto the 1st January 1928. Published by authority of Government. Sir W. Lee Warner speaks of 693 States in his "The Native States of India\*".

in India, as the Paramount Power in the land, some were independent States while others were feudatories or dependancies of Princes, who are today themselves in a similar position in relation to the British Power. Only 40 States out of these 560 base their relationship with the British Power on formal Treaties. Not all these forty States, however, have the same kinds of Treaties, which differ from one another in many respects. These facts make a proper classification of the States for constitutional discussions, on the one hand, a very difficult task and on the other, a very essential task. The classification of the States is essential, firstly because no principle can be laid down so as to apply to all of them and therefore different principles must be laid down for different classes of States, before constitutional relations can be established with reference to them. Secondly, an attempt to deduce principles for application to all States as one class is bound either to be derogatory to the bigger and more advanced States by their being treated like petty Jahagirs or to elevate the latter to a status and authority which they can never justly claim or maintain. In fact, the absence of a definite classification of the States has already led to grave injustice by countenancing the attempt to establish in respect of higher States such usages as may justifiably be applicable to the lesser or inferior States. The restrictions imposed on a particular State under peculiar or even transient circumstances are sometimes taken by implication to be enforceable against other States, irrespective of their Treaties or other circumstances. An even greater evil, perhaps the greatest evil from

the constitutional point of view, arising out of the absence of a proper classification of the States is that every attempt<sup>4</sup> to establish well-defined relations between the States, the Paramount Power and British India becomes futile, owing to its being compelled to start on an impossible basis. No constitution can ever be framed in which 560 States, with such fundamental diversities, can be placed under a single category capable of uniform treatment. A classification of the States, so as to make the treatment of each class on a single basis possible, is therefore the first need of any attempt to fit the States into their satisfactory positions in the future polity of India.

On what principle, then, should the States be classified for constitutional purposes? Previous attempts at such a classification do not appear to have been founded on uniform principles. The question received considerable attention when the formation of the present Chamber of Princes was being considered. Ultimately the Government of India divided the States into those that were entitled to a permanent salute of eleven or more guns and those who were not entitled to this or any other salute. The Rulers of the first class were given seats in the Chamber by: their own right. Considering the history of the salutes allowed to the States, this could never be a satisfactory basis of classification. Among these eleven guns Rulers, as many as ten do not receive more than three lacs and a half, as their revenue, while one has only less than two lacs and another even less than a lac of annual revenue and an area of 53 miles with a population of about ten thousand people. Some nine-gun-salute States have

larger areas and yet they were excluded from the Chamber. Among the Non-Salute States, there are about 14 States whose revenue exceeds five lacs. That comparatively smaller States should be placed in a higher class and the bigger ones should be relegated to inferior positions is the anomalous result of the salutes having been given in the past on various grounds, some historical and some personal. When, however, we have to consider the constitutional question of the future relation of the States with British India or with the Government as the Paramount Power, accidents of salute ought not to be the main considerations.

In order to minimise the anomalies resulting from the adoption of this basis, it was decided that Rulers of States " who exercise such full or practically full internal powers as in the opinion of the Viceroy qualify them for admission " should be so admitted to the Chamber of Princes. What is it that constitutes 'full or practically full internal powers' ? The question is answered by defining these as consisting of full judicial powers and power of legislation without interference from outside. Few States have however <sup>4</sup> full ' powers in respect of criminal jurisdiction. Even first class States are, for instance, debarred from trying European British subjects for capital punishment without the consent of the Resident. As we shall see later, the British Government has extended its jurisdiction in what are called ' full power ' States in numerous ways. That is why they are described as " practically full-power " States. But even these States differ so widely in their size.

and resources that it would be impossible to treat them all alike, in the constitutional arrangements of the future. Some of the Southern Maratha and Satara States, for instance, are so small, though practically full-power States, that they can never be dealt with in the same way as Hyderabad or Baroda. They cannot by themselves form units of a Federal Constitution. They cannot also afford to maintain administrations which could be efficient to the extent to which all modern administrations are invariably expected to rise.

We have thus seen that neither the salute test nor the powers test can yield satisfactory results from our point of view. Historical importance and Treaty relationship are sometimes suggested as the basis on which the classification may be made. Historically they may be divided into ( 1 ) States which were independent Sovereignties prior to the entry of the British Government into relationship with them and ( 2 ) States which were tributaries, dependencies, feudatories, or creations of some other pre-British Power in India. In the first place, this test would drive many larger States into an inferior order to which it would now be impossible to assign them. Gwalior and Baroda were the Jahagirs of the Satara Chhatrapatis. The Nizam was a dependent of Delhi Emperors. Most of the Rajput States paid tribute to the Maratha Government. For generations now, these States have stood in the very first class of Indian States and considering their size, importance and Treaty relationship with the British Government, it would be impossible to give them any other rank. If, again, the absence of

restrictive terms in the Treaty is taken as the index of a State's higher position, some of the most ancient\* most advanced and largest States in India, like Mysore, will lose their rightful and proper place.

" Broadly speaking " says Lord Olivier " the Governments of the Indian States fall into three classes. First, that of Quasi-sovereign States, whose relations with the Government of India rest upon Treaties, in which sovereignty and rights of internal Government have never been surrendered. Secondly, those in which certain right of interference has been established by treaty and whose independence is thus admittedly only partial and subject to effective supervision; and thirdly, that great number of petty States, the sovereign control of which has been taken over by British authority by the transference of their vassalage from some other Indian sovereign State which previously exercised or claimed dominion over them".\* The first criticism this classification is open to is that complete internal sovereignty is reserved, strictly speaking, to none of the Indian States, even by Treaty and even assuming for argument that it is so reserved, political usage has already made several inroads, as we shall see later on, on the internal sovereignty even of these States. Paramountcy as defined by Lord Reading in his letter to H. E. H. the Nizam and by the Indian States' Committee supports the same view Secondly even in the case of States, who have surrendered to the British Government the authority to interfere in certain matters, it is often provided that

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\* Foreword to Mr. Pannikac's "Relations of Indian States with the Government of India" P. V II,

that surrender, temporary or otherwise, was not intended to affect the sovereignty of the Ruler of the State. In reality, the distinction between the first two of Lord Olivier's classes is more nominal than substantial. The third class would embrace not only petty States but even the bigger States which were once vassal States. As I have shown above, the present position of a State has not much to do with its pre-British history and to attempt a classification on the strength of that history must land us into the greatest difficulties.

The aim which a thinker on the constitutional future of the States must have in view is twofold. The first is to find out, which of the States have a position, in respect of the powers at present enjoyed by them, which should justify their occupying the internally autonomous status of a constituent member of the Indian Federation. And if some of them are found entitled to that internal autonomy and are yet found incapable, by their size and resources, of carrying out the duties of such a status, is it possible to devise a system by which the defects of this incapacity can be overcome? By this process, we shall have fully respected—and as I shall show, more than respected—the Treaty rights of the States. And the States which will have been eliminated from these two classes may be dealt with as a class by themselves. The three classes to be thus arrived at may be characterised as follows. :—

(1) States which have or may have as ' full powers of internal autonomy as possible;

(2) States which have or may have the same powers of full internal autonomy consistently with their being grouped together to form such units of a Federation; and

(3) States which have limited Jurisdiction and powers of legislation even at present and are not entitled by Treaty or usage to full Jurisdiction and unlimited powers of legislation.

Not only will this classification be conducive to the constitutional aim of federating all Indian States into one whole, with British India, but it will fully maintain the present position of the States and in some cases, add to their prestige by enhancing their powers where necessary.

I need not enter into the full details of such a classification. A small Committee of Political Officers, Princes and representatives of British India and of the State people will be able to make a just classification of the States on the basis proposed above without infringing any of the rights of any single existing State. It will, however, be useful to consider for a moment what the probable results of this classification will be, so that its bearing on the constitutional problems we are considering may be approximately realised.

From the revenue point of view, we find that 30 States receive thirty lacs and above as their annual income. Sixteen States receive between 15 and 30 lacs of revenue. Excluding these 46 States, the remaining States numbering over five hundred have less than 15 lacs as their revenue. Of these 73 are salute States, while the rest are non-salute States,

Among these 73 Salute States, 25 get less than 5 lacs as their revenue while 2 of them get even less than one lac. Of the 441 Non-salute States, only 14 receive more than 5 lacs annually and 49 range between one to five lacs of yearly income. Of the remainder, 340 States receive less than a lac in a year while 38 have to content themselves with less than one thousand rupees a year. Taking the salute and non-salute States together, we have the following results :—

( 1 ) States with 25 lacs and above . . . . .	32
( 2 ) States between 15 and 25 lacs . . . . .	14
( 3 ) States between 5 and 15 lacs . . . . .	62
( 4 ) States between 1 and 5 lacs . . . . .	72
( 5 ) States with less than a lac . . . . .	380
	560*
Total . . . . .	560*

The Position of the States may also be considered from the point of view of Population.

- |   |     |
|---|-----|
| ( 1 ) States with about a population of 7 lacs and more . . . . . | 20  |
| ( 2 ) The rest . . . . .  | 540 |

In the first of these divisions, I have included Bhopal with a population of 692448 in 1921, Bikaner with a population of 659685 in the same year and Kotah with a population of 630060 which may be expected to have reached the figure of 7 lacs by now.

The position of the remaining over 25 lacs revenue

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"These figures are taken from the " Indian States " published by Government in 1928. Except otherwise specified, figures in this work should be understood to have been taken from the same source.

States is that while one of them, Cooch Behar, has nearly 6 lacs population, the majority have a population between 4 and 5 lacs, while the smallest in point of population are Rajapipla (population 168000) and Gondal (Population 167000). The case of Tripura is peculiar in the sense that though its revenue is nearly 30 lacs, that revenue includes revenue of the Zamindaries in British India. This State has a population of 304000. Perhaps the claims of these States to be classed with those who by their population and financial position, would be considered available units for membership of a Federation must be considered carefully before a decision is arrived at. Roughly, however, the twenty States may be taken to be big enough to be entitled to a place, each by itself, in an All-India Polity.

Obviously the remaining Full Power States must be grouped together to yield sufficiently big units. What is their number? I have fairly accurate information about the Bombay States including the Kathiawar States, whose total number is 183. Of these only 46 appear to possess what may practically be described as Full Power. The remaining 137 States have criminal power of trying cases punishable with imprisonment from a few days to seven years and their civil powers extend to the trial of suits valued at limited amounts. This class of States is thus sub-divided :—

" (a) Those which cannot in certain cases make laws without the sanction and approval of the British Indian Government. Their judicial powers are limited to the trial of minor offences. Serious offences are

tried by the Political Agent or Resident attached to the State. In the matter of general administration these States are subject to larger outside control than are the States of the First Division. The Indian Government's rights of intervention in the internal affairs of these Second Division States is larger than in the case of States with full power—that is to say, the Government can, both in theory and in practice, inter fere in individual cases of injustice and oppression.

(b) The other States, having limited powers, are those in which the executive, legislative, and judicial powers are divided between Chiefs and the Political Agents or Residents attached to those States. " \*

It will thus be seen that about 20 States may be found to elect one or more members of the Federal Assembly while the remaining full-power States, whose number will have to be ascertained but will not probably exceed two hundred will have to be grouped together to become units for representation in a federal Assembly. The problem of the remaining States and Estates with limited jurisdiction must be considered separately. Not being internally autonomous, they cannot in any case be even representative members of a Federation which must consist of internally autonomous States or Provinces. In matters in which their powers are limited, the residuary powers over them should be transferred to the Provinces in which they may be situated. These residuary powers may be legislative as well as judicial. They cannot be

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\* Mr. Chudagars "Indian Princes linden British Protection"  
P4-5.

considered as constitutional members, direct or representative, of the All-India Government. But their people may be allowed to vote with the electorates of the adjoining Province for electing representatives to the Federal Assembly, while their Chiefs may properly be classed with Sardars and Zamindars in British India for the purposes of representation. Whatever that may be, it should be clearly understood by the readers of the following pages that I refer only to the practically full-power States; when I refer to 'States' or 'Princes'. The problem is thus reduced to not much more than 200 States enjoying some thing like full power and possessing capacity to develop as autonomous entities. The remaining petty Chiefships can never hope to rise to the level of full-power States and have no title whatever to that position. They must, therefore, be content with a lot, which much bigger land-holders in Bengal have been content to be in. The present study does not concern itself with them.

Would it be justifiable to simplify the States Problem by such a process of elimination? Historically these small chiefs were the Jahagirdars or Feudatories of one or the other of the then-existing bigger States. When the British Power was established in India, they were mostly under the authority of the Mahratta Empire or owed allegiance to the Delhi Kings. They are mostly confined to Kathiawar and Central India, 145 in each of these areas, where the Gaikwad or the Scindia or the Holkar exercised his sway. It is true that they were allowed to exercise undefined powers of administration in the internal

affairs of their territories. But this was merely due to the absence of a regular system of laws to be enforced by any Government in India. The Villages throughout were self-contained and self-sufficient. The Panchayats generally administered civil and criminal justice. The Chief was approached only in rare cases in such matters and even when he decided a matter, an aggrieved party could appeal to the Peshwa, even against the decisions of a powerful Feudatory. Practically the Chiefs were capable of exercising any authority, but there was no bar to the Feudal Lord intervening in any branch of the Chief's administration. It is even more important to remember that these Jahagirs or Feuds of the Chiefs never enjoyed the kind of permanent tenure which British policy gave them. They were subjected to new restrictions and obligations, according as circumstances might necessitate ; their financial liabilities were varied from time to time at the will of the higher authority, their holdings themselves were reduced or enlarged according to needs, and not infrequently they were wiped out or replaced by a new person by the fiat of the overlord. British rule changed their status in many ways. It freed them almost wholly, barring tributes of course, from the hold of their suzerains. It gave them a permanence, which they had never before enjoyed. It turned their limited jurisdiction into an exclusive authority, without appeal or revision. In short, it partially lifted them from their position of all-round subordination to the status of the Princes, under whose sway they used to live before. In times gone by, they lived by the

strength of their character and a weak Chief lost his estate in no time. But the British Paramountcy assured them of their powers, formerly subject to control in every way but now exclusive, whether they were weak or strong, good or bad. The fear of destruction, a wholesome check on autocracy, ceased to threaten them and guaranteed to them an unending lease of life perennially affected by illness and disease but never subject to death. It was thus that many of the Chiefs of Kathiawar and Central India, who should have been compelled to survive, if they could, the struggle for existence by sheer merit, were allowed to swell the ranks of Indian Rulers without any possibility of their ever being able to maintain decent States or administrations. The realm of British Paramountcy has become as it were a hospital with numerous patients, incurable but undying, a museum of decrepid and sickly administrations artificially propped up. Left to themselves, they would have either grown into larger bodies or been swallowed and absorbed by the bigger fish. The artificial protection of British Paramountcy has filled Kathiawar and Central India and, to some extent other parts of India, with States which have been led to aspire to positions to which they could never before hope to rise. This policy has perforce to be changed in the larger interests of India by relegating the petty Jahagirs and Estates to their proper place and by separating them from States which could be treated as autonomous in the Indian Empire.

, Some idea of the number of such feudatory holdings of a small size, elevated to the dignity of States

by British Government, may be obtained from the fact that most of the 441 non-salute States in the Government list belong to this class. For administrative convenience or for policy, the British Government has enhanced their powers. The Satara Jahagirs, now represented on the Chamber of Princes by one member, were invested only with limited criminal jurisdiction in earlier days of British rule and offences punishable "with imprisonment above seven years were " tried in a Court presided over by a British Officer, in association with the Jahagirdar " and the confirmation of the British Government was required before the sentence could be carried into effect\*. They can now dispose of cases of capital punishment and are looked upon as States with practically full powers. The agreement by which the Gaikwar transferred his control over the Kathiawar and Mahikantha States to the British described them, as no more than 'Zamindaries.' The whole territory belonging to these Zamindars was declared *annexed* to the British Dominions and in the words of Mr. Pannikar, " they are liable to such control as the British Government may see fit to exercise ". None of these over four hundred States, can fall back on the solemn promise of treaty engagements and there should be no difficulty

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\* Aitohison Vol. VII p. 123. The Satara Jahagirdars have protested against this statement and they are claiming full internal sovereignty for their States. From the Original Vernacular Agreements of some of these Jahagirdars it becomes plain that important words have been inadvertently omitted in the English translations of these Agreements. But Government recently has put these Jahagirdars on the same level as that of the S. M. O. Chiefs by doing away with old restrictions on their powers. The argument is not however affected by these facts.

in assigning to such of them, as are incapable of maintaining efficient administrations, a position which, in their own interests they should occupy. In the Central Provinces alone, we had 115 such Chiefships, out of which 15 alone were later on classed as Chiefships " of the rank of feudatories " and the rest were treated as mere British subjects. In the case of all these States, therefore, no treaty commitments of the British Government prevent a new classification which would suit the requirements of modern and future India.. Their financial interests need not be injured into. But Jurisdiction is not a part of property and where the progress of ideas and civilization render it necessary,, the former ought to be restricted so as to secure good Government. Treaty States and such of the Non-Treaty States as are fitted to be autonomous without prejudice, either to the interests of the States themselves or India as a whole, must now be classed together, as the States of India and the rest must be Indian Chiefs with such jurisdiction as may properly be conferred upon them from time to time, and with the residue vested in the Government of India, an India to which they must belong as part and parcel\* without loss of their financial interests.

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## CHAPTER II

### THE POSITION TODAY.

A review of the States' relations with British Government—Internal and External Powers curtailed—The resultant dissatisfaction—The rise of democratic forces in British India—The nature of British influence in States—The two-fold claim of the States—Opposition of British Indian leaders—Success of the first claim and non-acceptance of the second—What does this mean?—Autocracy of the Political Department will increase—States would be divorced from British India forever—They would be weak themselves and will weaken India—Considered as a whole results of Butler Committee detrimental to the States.

That the Indian Princes should be pressing their own claim to have their position defined and their status, dignities and rights safeguarded before any attempt is made to introduce a radical change in the system of the Indian Government, is perfectly natural. They, or at any rate some of them, were practically independent sovereigns when the British Power came into contact with them. The first relationship they established with the new Power was that of friends and allies!) Events which we need not describe in this place developed in a way which led to the curtailment of many of their cherished powers even beyond the terms of the Treaties they had signed. Whatever theorists may say, even the limitations which they agreed to, by written engagements were accepted under stress of circumstances, which cannot fairly be interpreted as suitable for the exercise of free will on the part of the Princes. Those who were 'friends and allies' were

driven into positions of subordination to a Power which possessed superior strength and a will to use that strength as occasions arose. Sometimes they found that the hand which they welcomed as a protection against enemies, wielded a power which often became heavy and irksome. Slowly new questions arose between the Princes and the British Government and unanticipated limitations on their own authority had to be imposed from one side and accepted from the other. Restrictions on military activities led to results which few of the Princes had consciously bargained for when the Treaties were signed by them. It is unnecessary to blame one side or the other for these developments. The British Power began to interest itself in the affairs of the Princes either in its own commercial interests or in response to or on receipt of invitations from contending factions in the States. It tried the policy of remaining within its own ring-fence. But from the very nature of the geographical position of the British territory and the surrounding Indian Kingdoms, it was impossible to maintain this policy for a long time. The policy of military control from within the States, as the Subsidiary System of Wellesley may be described, was then tried. Even before it was given up, it gave the British Power a position of advantage and superiority, which could not fail to reduce the strength and prestige, and therefore the powers, which the surrounding kingdoms theretofore enjoyed. An attempt was then made to keep the Princes in subordination to the British Power, without any attempt being made by the British Power to stop the decay of the Princely rule which, absence of any stimulus to healthy

life, started in the States. Annexations of the States when that decay reached a certain stage became the order of the day, until the Mutiny of 1857 set afoot a new epoch by the direct assumption of Indian rule by the British Crown. The Mutiny opened the eyes of the British to the danger of either neglecting the internal affairs of the States altogether or annexing them on the plea of misrule or failure of heirs. The States stood by the British Power during the dark days of the rebellion, which was itself the result in a large measure of the discontent which annexations of the previous years created. The cause of this discontent was removed by the promise of Queen Victoria that she would treat the rights and dignities of the Princes of India 'as her own' and by the assurance, which the Sanads of adoption held, that failure of heirs of the body would not lead to the wiping out of the States from the Indian map. But these policies had their own implications, and as occasions arose, intervention in various affairs of the States began to be made by British authorities. The allies became vassals. The equals became no more than powerless subordinates, who had to bend to the will of the British Power at every step. The old idea of complete independence, at least in internal matters, gave place to insistent demands of change and reform, which was foreign to the time-honoured notions of autocracy, which the Princes had been trained from generation to generation to cherish.

This demand for internal reform and the resultant need of interference from the British Power, was bound to lead to some anxiety in the minds of those who expected to enjoy their full, untrammelled powers within

the boundaries of the States. (The anxiety was deepened by the growing influence of a new power, which the establishment of Universities in British India brought into existence. Common Indians, whose lot in ages past was simply to obey, began to assume a new role in the life of British India until it was one day realised that they could rise to the highest places of power in the administration of the British Indian Provinces. These educated classes of Indians would not stop short of displacing British Officials at every stage. More than this, they began to claim and even obtain a footing at the very centres of power in the British Empire. The climax came when Parliament announced that its goal in India was to introduce, although progressively, a completely responsible government. The States at their best had continued to be autocratic, even if benevolently so. The rise of an Indian democracy to power and influence in British Indian Government, which had hitherto exercised an all-absorbing sway over the States, gave a rude shock to the fond hopes of those who looked upon *Pax Britannica* for maintaining them in their positions of ease and power, though under limits, as against the demands of their own people. (The Princes began to feel that the time had come when they must review their own position and strengthen it, lest they may be swept off their feet by the rising tide of democracy in British India, which was not only beating on their borders but was trying to submerge their own territories.)

When the Princes turned their introspective eyes to their own position, what did they find ? The British Power was spreading its influence far and wide in

almost all spheres of the life of the States. The nature of this influence was subtle. It was indefinable. It was invisible and yet it was all-powerful. It worked silently, slowly, nevertheless surely and effectively. "It may be freely admitted," said Lee Warner, "that there are dangers in inconvenient precision and in premature inferences. There is no question that there is a Paramount Power in the British Crown, but perhaps its extent is wisely left undefined. There is a subordination in the Native States, but perhaps it is better understood and not explained." With Paramountcy thus undefined, the prospect of its transference to an Indian Democracy, could not fail to produce apprehensions in the minds of the Princes. The natural result of these apprehensions was the twofold demand of the Princes (1) that their entire relationship, based only on treaties and other engagements, is and must remain with the British Crown, which could not transfer it to any one else without the consent of the Princes and (2) that the full scope of the Paramountcy exercisable by the Crown should be definitely settled and of course, should be confined to narrow limits. Indian politicians have attacked these demands of the Princes as selfish, unpatriotic, calculated to keep India in perpetual subjection, the result of an intrigue with the enemies of Indian freedom and a conspiracy hatched in league with those who wish to treat India as a milchcow for the foreign exploiters.

And what is the attitude of the other partners, in the conspiracy which the Princes have formed, towards the demand of the Princes? The Butler Committee has conceded the claim of the Princes to direct relationship

with the Crown. The Simon Commission has also endorsed the finding of the Butler Committee on this point. The Commission has done so, very readily by stating that "We must at once emphasise its important recommendation that the Viceroy, and not ( as at present ) the Governor-General in Council, should be the Agent of the Paramount Power in its relations with the Princes." The Commission had admittedly no opportunity to study the question in all its aspects. The Government of India themselves have not as yet expressed any opinion on the question. But the Royal Commission affirm, without hesitation and without a full study, the need of this change. If this is to be taken as an indication of the anxiety, which the Indian States' Committee and the Statutory Commission felt for the interests of the States, it is very difficult to understand why none of them said one word to remove the more substantial grievances of the Princes on the other question of defining the limits of Paramountcy and laying down a procedure for the exercise of the Crown's powers, so as to safeguard the Princes' interests. During the hearing of the Princes' case before the Butler Committee, the Princes laboured hard to point out to the Committee numberless cases of encroachments on the Treaty rights of the Princes. Mr. Nicholson's book\* had made some of the striking instances of these invasions on the rights of the Princes available to the public. The records placed before the Committee is still more voluminous and contains convincing proofs of the many ways in which an autocratic Political

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\* "Scraps of Paper" by A. P. Nicholson ; published by Mersrs. Ernest Benn Ltd. 1930.

Department has ridden roughshod over the rights of the Princes. "It is impossible to give any definite explanation," said Cambell long ago "of what things we do meddle with, and what we do not". It would perhaps be still more impossible to give any explanation at all of the motives which prompted some of the interferences of which the Princes complain. While all these grievances have remained unredressed and while no attempt is made to devise a better procedure for the settlement of questions, arising between the Government and the States, how is it that everybody is so much anxious to establish relationship of the Princes with the Viceroy and not the Governor General-in-Council ?

The answer to this question may be clear, if we look at it from another point of view. The Princes have been insisting that their principal demand is to have the present autocracy of the Political Department changed and have it substituted by a more open and trustful agency, through which the Paramount Power may exercise its powers in respect of the States. What is the answer to this demand? Instead of the Governor-General-in-Council, it will be the Viceroy who should exercise those powers. The meaning of this change, at least in theory ( though being placed actually it is so even now in practice) is that the grievance of an Indian State will not have even the remote chance of before six eminent Members of the Executive Council, three of whom are distinguished Indians, and giving their consideration to the question, before a decision is arrived at and that the Governor-General alone will dispose of the claims of the States under the name and title of Viceroy. If any thing, this procedure would be worse

than what it is today. Autocratic as it is now, the Political Department would be a still more undiluted autocracy. The Indian Ministers are to have no voice in the decisions to be arrived at by the Viceroy, as they would represent British India and the Princes are supposed not to like their countrymen to share Paramountcy. The Indian Princes cannot be associated with the Viceroy, to share with him the responsibility of exercising Paramountcy rights, because no Prince who has a question to get decided likes his brother princes or any of them to sit in judgment over a case in which he is concerned. No alternative, therefore, exists to the Viceroy alone, acting on the advice of a Secretary to Government in matters relating to the States.

The only advantage, if advantage it be, in this concession to the wishes of the Princes would be, that it would mean a total divorce, for all time to come, of the States from the rest of India. To those who fear that the States will be insecure and their interests unsafe, even under a Government of India of which the States will be integral parts and in which all power will be shared between British India and the States, the theory of direct relationship with the Crown acting through the Viceroy gives an advantage. That the theory makes an United India impossible, except under foreign domination is clear. That even British India cannot carry on, under this theory, without looking up to an external authority, in numerless matters which concern All-India, is equally obvious. Apart from these results of this theory on the future wellbeing of British India or the country as a whole, how will it affect the States themselves ? I have shown that its first result will be the

worsening of **the** disease for which the States are seeking a cure. The second result would be, that the incubus of undefined and indefinable Paramountcy will sit tight upon the States for all time. All the implied rights of Paramountcy being part and parcel of the rights of the Crown, which in England has its peculiar meaning, which must be borne in mind in forecasting the results, their exercise will always remain in an irresponsible authority, over the Princes. Thirdly, the States must, under this theory, always remain weak, effete and dependent institutions without the possibility of growth and vigour of life. They must always be spoonfed for nourishment. The disabilities they have at present to suffer from, must continue to sap their vitality for ever. The conquered provinces of British India may become autonomous. Responsible Government may be conferred upon them. They may even attain the promised Dominion Status. But the States must remain under tutelage without hope of ever attaining majority. External sovereignty they have admittedly lost. Internal sovereignty is already reduced to narrow limits under the influence of Prerogatives, Acts of State, Engagements and Usages established in the interests of higher claims. These can never even partly be regained. What remains to the States must remain cut off from the main currents of Indian national life. They are to be like dead pools of water left on all sides **after the waters of the sea have ebbed away into a distance from which they are never again to return. Except** as members of an United Indian **Dominion, the States can never hope for real life. At present they are, and cut off from the rest of India; they**

**will always** be so, phantoms of organisms and shadows of political entities and nothing real.

**The** Butler Committee's answer to the second demand of **the** Princes throws a good deal of light on the concession made to the Princes, on the first point **raised** by them, by the Committee itself as well as by the Simon Commission. The two answers must be considered together, each to be studied in relation to the other. According to the Committee, the Paramount Power is the " Crown acting through the Secretary of State for India and the Governor-General in Council, who are responsible to the parliament of Great Britain." In this sense, the proposition that the States have relationship with the Government of India ( who are admittedly at present responsible only to Parliament ) and the counter-proposition that their Treaties are made with the Crown and not with the Government of India, are exactly the same and mean the same thing. If the Princes mean by the Crown, only the King-Emperor, the Butler Committee does not concede the point. The Crown is only a name in the definition of the Committee. It is admittedly to act through the Secretary of State and the Governor-General in Council. But are they responsible to the Crown ? They are not. They are responsible only to Parliament. Where then does the Crown come in ? The Princes argue probably on the analogy of the old oriental notion of loyalty to the person of the King-Emperor. But though that loyalty is insisted on and acknowledged, it is in fact purely a ceremonial business. The powers which are connoted by the term 'Paramountcy' have nothing **to do with either** the **Crown** or loyalty to the Crown. **The real**

centre of authority is in the Parliament, which appoints the Secretary of state, as well as the Governor-General, a fact admitted by all. The question, is whether in future these powers should be delegated to an All-India Parliament. The Crown still remains, what it is, as long as India remains within the Empire, an equal member of the British Commonwealth of Nations. The transfer would leave the sense of personal loyalty to the King-Emperor untouched. If the transfer is to be a transfer to the Parliament of British India, with whom the States would be expected to be in "subordinate cooperation", the answer of the Princes and their States would certainly be and should be, an emphatic 'No'. In that case, the Princes would be justified, and they would be fully supported by the people of the States, in insisting that they would resent the change. But as I hope to show at some length later on, the transfer of Paramountcy to a Government of All-India would not be subordination to an outside authority and under a constitution of this kind, Paramountcy will cease to be an external will forced or imposed upon the States. Leaving this for a moment aside, the present point to emphasise is, that the Butler Committee's recommendation, endorsed by the Statutory Commission, leaves the position of the States exactly as it was, makes no improvement of any kind and having retained Paramountcy of the type of which the States have been complaining, in the hands of an authority, which will be even more autocratic than it has been in the past, the change will be entirely detrimental to the interests of the States in India.

The net result of this is, that the States have not yet been able to obtain any redress of their grievances and all the causes of anxiety and apprehension in the minds of the Princes still remain. The Committee, as well as the Commission, have recommended certain arrangements for the safeguarding of the future interests of the States, but based as they are on the unsatisfactory basis of their answers to the fundamental demands of the Princes, it is hardly to be expected that the recommendations could be found acceptable from the States' point of view.

## CHAPTER III

### THE PRICE OF PROTECTION.

**The sorereignty of States always modified by British Paramountoy—British Sovereignty supreme in all India-- Analysis of the basil of Paramountcy—Treaty-position modified from time to time—Validity of Usages—They are alternatives to new Treaties which would be unavoidable—Military weakness of States, cause of this Paramountcy—Classification of the rights of Paramountcy—Matters of Common concern largely necessitate Paramountcy.**

There has been considerable discussion as to whether the Indian States are sovereignties, albeit of a limited type. "The British Government has drawn to itself", as Lee Warner says, "the exercise of the entire external sovereignty of the Native States, and it has also gathered into its own hands some of the internal sovereignty of even important States, leaving to petty Chiefs, as in Kathiawar, merely shreds of internal sovereignty." With the position varying in this way from State to State, it is impossible to venture upon any generalisations about the Indian States as a class. The variations between the positions of the States may be described as being as numerous as the States themselves. The East India Company made Treaties with each State separately and although several Treaties of a period contain some very similar provisions, each Treaty stands by itself. The Company never cared to be guided, and could not be restricted, in its relations as they came into being, with the Rulers, by any definite principles or policies. Each occasion was dealt with according to its necessities. And even when the

Treaties between the Company and any other States were nearly of the same nature, that would not be sufficient warrant for asserting that the status of those States was the same. General discussions, affecting all Indian States, as a class, are, therefore, very difficult if not almost impossible. When a State is solemnly promised that "the Maharaja and his heirs and successors shall remain absolute rulers of their territory, and their dependents according to long established usage" (The Jaipur Treaty of 1818), there can be only one inference, namely, that the State retains its internal sovereignty. But when the State is "advised" to do this or that and finds it impossible to resist, the inference loses a great deal of its force. This is very well illustrated in the well-known Baroda Case of Malharao Gaikwad. The proclamation by which Maharaja Malharao was deposed (1886) by the Government of India begins by saying that Her Majesty's Government has given consideration to the question whether H. H. Malharao "shall be restored to the exercise of sovereign power in the State of Baroda," and declares on various grounds that he "shall be deposed from the sovereignty of Baroda". It then proceeds to lay down certain arrangements, regarding the selection of a person for adoption into the Gaikwad family, "upon whom to confer the sovereignty of the Baroda State." The repeated use of the word 'Sovereignty' here makes it certain that the Government of India did not use the term through oversight. It would, therefore, be safe to assert that States like Baroda are, internally at any rate, sovereign States. But in this very document, the reasons for the deposition are stated to consist in Malharao's notorious

misconduct, his gross misgovernment of the State, and his evident incapacity to carry into effect the necessary reforms" and in the conviction of the Government of India "that it would be detrimental to the interests of the people of Baroda" that Malharrao should be restored to powers. What does this mean, except that the Crown may take even the most drastic step of depriving a Prince of all his powers and "rights, honours, and privileges" on the ground that his conduct was bad, that he grossly misgoverned the State, that he could not carry out the necessary reforms in his State or that his reinstatement would be detrimental to the interests of the people in the State ? Are these liabilities of the Ruler of a State consistent even with his 'internal sovereignty?' The fact seems to be that the powers of Paramountcy have been held to be so elastic that they could include the power to intervene in many internal affairs of a State and the use of the term "sovereignty" with reference to an Indian Prince must be always understood to be modified by the almost all-embracing grip of Paramountcy from which nothing could really escape. One of the grounds advanced to justify the enforced abdication of the Maharaja of Nabha was "the deliberate perversion of justice by his Courts" than which a "more subtle or insidious form of oppression" consisting in "the deliberate and methodical perpetration of injustice under cover of legal forms" could not be conceived. The demand made on the late Maharana of Udaipur goes one step further and includes among the reasons for interference, the belief that the Ruler was too old to carry on the centralised administration of the State. "The mere fact, however," the Maharana

was told, "that the whole of the administrative arrangements have been concentrated in your Highness' hands, has lately rendered your task impossible of achievement/' The result, it was alleged, was "that education in the State was backward ; that roads and irrigation were neglected; that currency was not stabilised; that there were disputes between the State and the Thakurs; that criminal trials were dilatory; that subordinate officials were low-paid; that the central hospital was out of date and that the dispensaries in the State were too few ." It was on these grounds that the Maharana was compelled to abdicate most of his powers in favour of his son.

in the discussions with the Government of India on the question of Berars, H. E. H. the Nizam, the foremost of the Indian Princes, tried to stand on his rights of internal sovereignty by claiming that he stood in respect of internal affairs in his State on a footing of equality with the British Government in respect of internal affairs in British India. Strictly speaking, the Nizam's contention was a theoretically correct conclusion from the assertion that States like Hyderabad were internally free and independent and therefore \$wo\$\*-sovereignities. " The sovereignty of the British Crown," replied Lord Reading, " is supreme in India," not in British India alone, but in all India. " Quite apart from its prerogatives in matters relating to foreign powers and policies," continued the Viceroy, " it is the right and duty of the British Government, while scrupulously respecting all treaties and engagements with the Indian States, to preserve peace and good order throughout India. The consequences that follow are so well-known and so

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^clearly apply no less to Your Exalted Highness than to other Rulers, that it seems hardly necessary to point them out." Proceeding a little further, we find His Excellency say that "the right of the British Government to intervene in the internal affairs of Indian States is another instance of the consequences necessarily involved in the supremacy of the British Crown. The British Government have indeed shown again and again that they have no desire to exercise this right without grave reason. But this internal, no less than the external, security which the Ruling Princes enjoy is due ultimately to the protecting power of the British Government, and where Imperial interests are concerned, or the general welfare of the people of a State is seriously and grievously affected by the action of its Government, it is with the Paramount Power that the ultimate responsibility of taking remedial action, if necessary, must be. The varying degrees of internal sovereignty, which the Rulers enjoy, are all subject to the due exercise by the Paramount Power of this responsibility. ")

Briefly analysed, this Viceregal pronouncement means :—

- (1) That the right to interfere in the internal affairs of a State is based on grounds, independent of Treaties and other documentary engagements ;
- (2) That the guarantee of external and internal security of the States implies this right of interference in internal affairs;
- (3) That this interference may be —
  - (a) for securing Imperial-interests,

- (b) for securing the general welfare of the people of a State;  
and, as suggested by the Butler Committee\*
- (c) for the Good Government of India as a whole,
- (d) for suppressing barbarous practices,
- (e) for the saving of human life, and
- (f) for dealing with cases in which Rulers have proved unfit for their position.

On what right are all these claims to a right of unlimited intervention based? Lord Reading proceeds on the very general ground that the right is implied in the security, internal and external, which the British Government assures to the States. The Princes urged before the Butler Committee, that even Paramountcy is a mere contractual relation, based on Treaties or usages agreed to voluntarily by the Princes. The Committee stoutly rejected this contention. It emphasised the binding force of all established usages and sufferances as (1) supplying guidance where the Treaties were silent or absent, (2) as helping the interpretation of Treaties and (3) as consolidating the position of the Crown as Paramount power. "In the life of States," says the Committee, "as well as of individuals, documentary claims may be set aside by overt acts; and a uniform and long-continued course of practice acquiesced in by the party against whom it tells, must be held to exhibit the relations which, in fact, subsist between them." It should here be added, that the relations of the States with the Government being what they are, every act of the latter is bound to be acquiesced in by **the** former and even if a protest is made, the Govern-

ment's decision is final and must, therefore, be acted upon and given effect to. The history of various Treaties, made from time to time, with one and the same State, shows how new conditions were imposed upon the State concerned, irrespective of previous Treaties. The Treaty of 1818 with Udaipur, perhaps the most ancient of the Indian States, admitted that the Maharana "shall always be absolute ruler of his own country," "As the existing arrangement entails upon the British Government considerable expense," says the Agreement of 1833, "it is stipulated and agreed that the Darbar of Udaipur shall pay to the British Government" a certain tribute. Though the former Treaty bound the British Government not to introduce its jurisdiction into the Udaipur State, in 1868 the State had to agree that a non-Udaipuri criminal 'committing a heinous offence' in the State should be tried by "such Court as the British Government may direct." The Koulnama of 1827 was agreed to by Udaipur as the Covenant of 1818 was "found insufficient to resulate the relative rights and duties of the respective parties." Various Koulnamas between the Maharana and his Nobles were at different times made, interfering with the former's authority over the latter. The one of 1840 was "signed in the presence of" the British Agent. The second dated 1845 was "mediated by" him. By the third one of 1854, it was decided that whichever of the two sides, the Maharana and his Nobles, did not adhere to the arrangements then made, would "be considered an offender against the British Government and liable to punishment" of course by that Government. In case of

dispute between the parties, it was agreed, the decision of the Agent" will be final " .

A glance at the many Treaties, Agreements, Covenants, Koulnamas and other documents which many States had to agree to from time to time would show that they resemble ordinary legal contracts only in being liable to modification, alteration or abrogation according as circumstances might necessitate. But they differ from these contracts enforceable at law in the fact that there is no tribunal, except that of resort to military strength or of appeal to the sense of justice of the stronger of the two parties, which could secure the observance of these political agreements. The British Government has always pledged itself to scrupulously respect all these Engagements and there is no reason to doubt that it means to honour its pledges strictly. The point, however, which should be noted is that in effect these agreements between States and the British Government are alterable or modifiable at the will of the stronger of the two. Assuming for argument that usages and other rights of the British Power, implicit in its Paramountcy in India, are agreed to be *ultra vires* and without any binding force, what will be the result? Supposing an occasion arose on which that Power considered a change essential in the interest of the Ruler of the State himself, or in the interests of the State as an entity to be protected, or in the interests of India as a whole or of the British Empire, the plain course open to the Government would be to communicate to the State or States concerned its desire that a new agreement embodying the necessary provisions should be entered into. Even entirely independent

States can propose to each other such a new agreement or a modification of an existing agreement. In such a case, the other independent State is free to accept or reject, partially or wholly, any new proposals. Is this freedom exercisable by an Indian State? If it rejects the proposal, what is the result? The British Government has in circumstances of this kind said before, and will when necessity arises say again, that the new agreement is essential in its view and must be accepted. The States have no alternative open to them under such a contingency.

That the British Government does not do this in every case is due as much to its desire to avoid frequent modifications of or additions to existing Engagements, as to the readiness of the States themselves to meet the wishes of the British authorities, without insisting upon unessential formalities being observed. That is how usages come into existence and grow. "The relationship of the Paramount Power with the States is not a merely contractual relationship, resting on treaties made more than a century ago. It is a living, growing relationship, shaped by circumstances and policy, resting, as Prof. Westlake has said, on a mixture of history, theory and modern fact." The difference between an ordinary contractual relationship and the relationship between the Government and the States is that the position of the two parties is not the same, that the freedom to refuse to perform new duties is not existent in the case of the States and that the decision of the other party, the Paramount Power, is final when any question between the two is at issue. To put it more plainly, "Paramountcy is the outcome" — I am using

the words of Sir W. Barton—" of military supremacy over the great subcontinent of India, an inevitable corollary of a military protection. "

Those who do not accept this view of Paramountcy, find restrict it to a narrow circle, contend that the States have merely surrendered the power of external defence and such internal matters only, as have been placed within the cognizance of the British Government by a Treaty with a State. The prevention of internal disturbance is one such matter and it is generally admitted that this implies a right of intervention in case of gross misgovernment. Even upon this view, the question remains as to what constitutes ' gross misrule ' justifying intervention; and when that question arises, the sole power of judging what is or is not gross misrule and what steps may be taken to prevent the same or to punish those who may be responsible for it, rests in the hands of the Paramount Power itself. This leaves very wide loopholes for the long arm of the Paramount Power to penetrate into the internal affairs of the States. More important still, this contention ignores the fundamental fact that States are as good organisms as human beings and as no man can leave one of his limbs in a condition of paralysis without having his whole system affected and weakened, no State can enjoy a healthy life in one part of its activities by leaving the other part in a paralysed condition. A State which has lost its power of defence from internal commotions or external dangers can hardly hope to defend itself against internal weakness unless an external power props it up from within and from without. What, after all, is the vital energy which makes a State a living whole ? Either the

•strength of its military arm or the force of the people's Drill or both. It is these which maintain a State and without the one or the other, a State is a dead or dying institution. The Treaties have admittedly deprived the Indian States of their fighting arms. The existence of the vitalising strength of popular will is always remote from autocracies. The very existence of the Indian States is, therefore, an artificial semblance of life, maintained, as it is, only by the good will of the Paramount Power.

Apart altogether from the Treaties, and sometimes even in direct contravention of them, therefore, a large number of rights have been asserted and enforced by the Paramount Power, as against the States. These rights being a growing body of rights, it is impossible to include them in an exhaustive list. The rights hitherto enforced must, therefore, be taken as merely illustrative. It would be convenient to classify them under certain heads, so that each group can be dealt with as an entity by itself. The first group would consist of the prerogatives of the Paramount Power with reference to the Princes and their Houses. The second group relates to the rights in respect of the security and integrity of the States themselves. The third class of rights arises out of the fact that the Defence and Foreign Relations of the States have been surrendered to the British Government. The fourth class of rights refers to the obligations which the Paramount Power is under, on account of its having undertaken to maintain the States in tact against internal commotion. The last group of rights is the result of the States being parts of India as one country

and of the British Empire, with both of whom they have many interests in common.

(I) *With reference to the Princes and their houses:—*  
The right to settle disputed successions and to recognise each succession as it takes place comes first in this group. Until recently, even lineal, undisputed successions had to be recognised by Government before they became valid. This rule has been relaxed in favour of the higher Princes, to whom the Heirs-Apparent succeed automatically on the demise of their predecessors. But in the case of a large majority of States, the old rule still holds good. Sometimes the successor may be a minor, in which case though the succession may take place in the higher States with the requisite status, the administration of the State during minority devolves upon the Paramount Power. During this minority period, everything done by the guardian-Power is binding upon the Ruler when and after he comes to power. There are instances in which revocation of such action, taken during minority, is prohibited without approval by the Government. Measures adopted during minority may be detrimental to the interests of the State. The State may be committed to policies which the preceding ruler may have objected to and may be most objectionable or may entail loss of dignity or of revenue, yet the successor must not set aside the *fait accompli*. All arrangements for the minor Prince's education are made by the Government and even the wishes of the mother in this respect may be disregarded. Complaints have been made that these arrangements are sometimes opposed to the family traditions of the Prince, that he is often cut off from

his surroundings and that the education imparted to him denationalises him. As a result of the agitation recently carried on by the Princes, the right of the deceased Maharaja's wife to be the Regent of her son, during his minority, is recognised to a limited extent. But cases may be cited in which the Regency is merely nominal. The minority of the Prince is availed of, to impose measures on the State which the ruler would not agree to adopt. As to when the minority may end, depends entirely on the discretion of the Government, whose decision as to whether a Prince has become fit to be entrusted with his powers or not is final. In some cases, the occasion of the restoration of powers to the Princes is taken advantage of to compel him to accept new restrictions on his power, without which acceptance, powers may be withheld indefinitely.

Since the Adoption Sanads<sup>1</sup> were given in 1860-adoptions are as a rule allowed. But the selection of a boy for the purpose is finally made by Government. There have been cases in which a boy is first declared to be nominated to the Gadi and *then* the widow concerned is allowed to adopt the boy.

What would be a proper maintenance to the minor or his family is entirely a matter for the decision of Government. Even after the Ruler succeeds to his Powers, the Government may interfere to direct him to grant any maintenance to the other members of his family. In the case of certain States, the Government has bound itself " to give no protection to any of their discontented relations " ( The De was Treaty of 1818 ) and yet in certain circumstances, the Paramount Power

felt it necessary to interfere in favour of a discontented Heir-apparent of such a State.

II *With reference to the integrity of the State* :—No Ruler is entitled to alienate a considerable portion of his State so as to inflict a serious injury upon the State beyond his own life-time. He cannot partition any part of his State even among his sons. Without the sanction of the Paramount Power, he cannot exchange any part of his territory with the territory of any other Ruler.

III *With reference to Defence and External Relations of the States*. All the instruments of Defence having been banned to the States, they retain absolutely no power to assert their rights or seek redress of their grievances in the way in which independent Governments may do so :—The responsibility for Peace and War or for settling disputes between any two States, even though the disputes may relate to internal administration, rests on the Paramount Power. It is true that the States are allowed to maintain a limited number of fighting forces. But their number cannot exceed the limits fixed by the Paramount Power. In the case of what are called Indian States Troops, it is wholly for the British Government to decide what arms and ammunition is to be supplied to them and they are subject to supervision by the military officers of Government. In some cases, the entire control of the State's Forces is in the hands of Government Officers, though the cost of their maintenance has to be borne by the State. The arms provided are generally of an inferior type and therefore the fighting value of these small troops in the States is not

very great, except when the Indian Government may choose to place the more modern arms in their hands.

The responsibility of Defence being on the Paramount Power, it is considered to be an essential duty of the Princes to place all their resources in men and material at the disposal of the Government, in case of need arising out of a condition of war between the British Government and any other Government. Incidental to this is the duty of every State to allow the Paramount Power every facility or concession, which may be considered necessary in the interests of the Army or for the furtherance of the Military plans of Government. The area in a State, which may be required for stationing British Indian Forces, temporarily or permanently, must be placed at the disposal of the Government, who exercise their own jurisdiction in that area with reference not only to their own forces but also the civil population which may grow around the Cantonment for the convenience of the Army. All trade and traffic in and with the areas must be free from restrictions from the State concerned, even though sometimes the growth of business in the Cantonment may be out of all proportion to the needs of the troops themselves and may be injurious to the trade and commerce in the adjoining territories of the State. The right to control trunk roads, railways, posts, telegraph lines, aviation, telephones, wireless stations &c. goes with the control of the military to the Government of India. In connection with this, it will be easily observed that this and many other rights fall under more than one head and the control of certain roads &c. in Indian States may as much be for military purposes as for the service of

interests common to the States and British India. It is only for avoiding repetition that these subjects for Paramountcy interference are placed under one of these several heads.

Another class of duties of the States to the Paramount Power arising out of the loss of foreign relations by the States, relates to the obligations which the British Government may incur by its Engagements with Foreign Powers. For example, the extradition arrangements, which the British Government agreed to with the French or the Portuguese in India have been impliedly held to be binding upon the States without their being parties to those agreements. Still more important is the restriction upon the States in the matter of the trial of European British or American subjects, for offences punishable with death or in some cases, for any offences whatever. The ground on which this jurisdictional restriction is justified is that the British Government, which shields the States from the 'diplomatic fetters,' is bound 'to satisfy other nations that their subjects will be justly treated.' This same reason may be extended to justify the limitation placed on the jurisdiction of some States, which can try only their own subjects, which means that subjects even of British India or other States may not be triable by the Courts of those States.

Though of late, an Indian Prince has been selected as a member of the Indian Delegation to the League of Nations meetings, his position is only that of a nominee of the Government of India, which in fact represents the States as well as British India in all international

matters. The Princely representative represents that Government and its views, rather than the views of the Indian Princes and it is the Government which undertakes all international obligations on behalf of India. In ordinary matters, the Government of India indeed leaves the States free to ratify the conventions of International Assemblies, like the Labour Conference. But when the Government undertakes a definite international duty, e. g., for the suppression of slavery, the States must cooperate with the Paramount Power in discharging that duty.

IV *With reference to the duty of securing the [States from internat disturbance:—*It is under this head that most of the interference in the internal affairs of the States must be described. Such intervention is sometimes permitted by Treaties and then it is not the result of Paramountcy but of positive agreement. But even then, it should be noticed that treaties permitting such interference were themselves the result of internal disturbances for the prevention of which the British Government felt bound to intervene. Thus the blood-shed and breach of peace caused by feuds between a Prince and his Nobles was tantamount to an invitation to the Paramount Power to enter the State and mediate between the Raja and his Sardars. The mediation often led to guarantees to the weaker side, which in their turn necessitated perpetual interference. Sometimes, the army of a Prince was too rebellious to be kept under discipline by him or his financial difficulties involved him into debts whose liquidation became impossible. The Paramount Power was then called upon to intervene for setting the Raja's house in order.

Provisions justifying intervention in such cases have found their way into many Treaties and Agreements.- But even without such provisions, the Government has felt bound to interest itself, and would do so in all such cases, to prevent danger to peace in the State and to prevent misrule which is the one certain result of such developments in a State. Many Treaties entitle the British Power to tender what is politically called 'Advice' in matters of importance or in what may be considered to be such matters by the Political Officers concerned. Whether such a right to advise is or is not included in the Treaty with a State, the Paramountcy of the British Government throughout India has been held to confer upon it a right to intervene in every appropriate case. "The guarantee to protect a Prince against insurrection," says the Butler Committee, "carries with it an obligation to enquire into the causes of the insurrection and to demand that the Prince shall remedy legitimate grievances and an obligation to prescribe the measures necessary to this result." But intervention does not necessarily wait for an insurrection to eventuate. "The promise of the King-Emperor" says the same Committee, "to maintain unimpaired the privileges, rights and dignities of the Princes carries with it a duty to protect the Prince against attempts to eliminate him, and to substitute another form of Government. If these attempts were due to misgovernment on the part of the Prince, protection would only be given on the conditions set out in the preceding paragraph (from which **the** necessary quotation precedes this). If they were due; not to misgovernment, but to a widespread popular

demand for change, the Paramount Power would be bound to maintain the rights, privileges and dignities of the Prince; but it would also be bound to suggest such measures as would satisfy this demand without eliminating the Prince ".

The internal intervention may take several forms. Deposition or compulsory abdication comes at the extreme end of the series of forms which this may take. The assumption of a particular jurisdiction in the State by the British Government is another important mode in which Paramountcy may operate in the States. Some States are directed not to enforce capital punishments without the previous approval of the Political Officer concerned. Limitations of this kind on the jurisdiction of the State are obviously intended to prevent injustice and are an indication that the efficiency of the State's judiciary does not inspire sufficient confidence in the minds of the Political Department. This lack of confidence in the impartiality of the Courts of a State leads to frequent calls for reports in cases in which complaints may reach the Resident. In the case of many smaller States, which are described as possessing complete legislative and judicial powers, revisional applications are often entertained by the Political Officers against the Ruler's decisions, and if they choose to give any advice—and if the Government agrees with the Officer—that advice has to be given effect to. Cases are also known in which this want of confidence in the efficacy of a State's judiciary manifests itself in the transfer of criminal cases to a Political Officer, who is appointed for the particular case as the Judicial officer of that State, Intervention.

may again consist in requiring the State to appoint its Chief Minister or as the head of a Department the person approved by the Government. The appointment may ostensibly be made by the Prince ; but in fact, the nominee is the choice of the Paramount Power and when such is the case, the Prince is required to delegate wide powers to that officer. It is impossible to enumerate all the cases in which such intervention may take place. Equally impossible it is to delimit the extent to which this intervention may go. As a general rule and a policy laid down, it is only in cases of gross misgovernment that the powers of Paramourncy are said to come into play. As it is, this policy opens up a vast field for interference. The individual nature of a Political Officer extends the field sometimes almost to any extent and there is nothing in which that Officer may not interfere. A good-natured Political Officer, on the other hand, narrows down the scope of his authority and influence considerably, but none would agree to lay down a definite line beyond which he may not go. " Paramourncy must remain Paramount," he will say with/the Indian States Committee, " it must fulfil its obligations, defining or adapting itself according to the shifting necessities of time and the progressive developments of the States. "

V *With reference to matters of common interest with India and the Empire* :—Many limitations on the powers of the States may trace their origin to the obligations imposed upon the States as being integral parts of India. Even some of the duties which the States owe and the rights which the Paramount Power correspondingly possesses, partially under other heads

referred to above, fall under this category. For instance the rights arising out of Defence and Foreign or Interstatal relations are based upon the facts that the British Government presides, as the Paramount power in the ^country, over the affairs of India as a whole. The right of intervention in internal matters is based upon the responsibility which the Government has to discharge of maintaining peace and order in the whole country. In fact, the whole body of rights implied in Paramountcy as well as agreed to by Treaties and Engagements, has its origin ultimately in the fact that the Government as representing the British Parliament—the Crown, if we like—is the one Power which controls India as a whole. The Army which defends the States, externally as well as internally, is also the Army which defends India as a whole and serves other Imperial purposes. The cost of this Army is met from the resources of India as a whole. That Army is, therefore, the most outstanding *common concern* of India, if not of the Empire. The maintenance of tranquility in every part of India, be it a State or a Province, is also the common interest of India. The East India Company tried the experiment of living within a ring-fence and failed, because every grave disorder in an adjoining State affects the neighbouring area—covered by the British Provinces. A social evil, which the British Indian Provinces may desire to stamp out from their own territory, cannot be rooted out as long as the numerous interspersed States also do **not** cooperate. Prohibition or Temperance would be impossible as a public policy confined to the borders of British India. Sati, infanticide, slavery and the like could not be stopped in British India while they may continue ia.

the States. Even the Prevention of Child Marriage Act/ recently passed by the British Indian Legislature, could not accomplish its purpose while the States do not cooperate in the achievement of the object. Epidemics could not be checked in British India unless they are also checked in the States. Famine Relief Works in the Provinces would have to bear too heavy a burden, if, while famine is raging in the adjacent States, no steps are taken there on similar lines. A popular agitation against a State could not fail to produce its sympathetic echoes in the British territory. Citizens of States are often subjects of British India carrying on business at both places and holding properties in both areas. They are related to British Indians by social ties of the most intimate character. No agitation, therefore, which rouses the popular mind in either of the two territories, can fail to affect the other or to touch sympathetic chords in the hearts of people residing in them. The boycott of British goods movement, for instance, can never flourish in British India and remain outside the limits of the States. Physically, socially, politically and economically, it is impossible to separate the one from the other. The duty, then, to see that the States and British India remain in peace and prosperity and are both well-governed is common to both the territories. The right to internal interference must, therefore, be considered as a matter of common interest, in so far as that right is necessary to safeguard common interests and to promote common objects.

In this sense, all the rights which the Paramount Power can exercise, including the right to demand loyalty to the British Crown relate to matters of common

interest. The States cannot retain their loyalty to the Crown when and if British India achieves independence and succeeds in going out of the British Empire. Assuming as a matter of academic speculation that British India severs the British connection, can the petty States—and relatively to British India all States are petty—remain within the British Empire? Would they be allowed to do so? Would the British Crown be in a position to defend the States under such a contingency? Even if it had the power to do so, would it care to continue to discharge this obligation of defending the States? This is only to show that even political agitations of a certain type may become a menace to the States or to British India and are, therefore, matters of common concern.

The Statutory Commission enumerates certain Subjects as subjects of common interest to the whole of India, (1) The customs Tariff of British India, (2) the Salt Tax, (3) Any other form of Central Taxation affecting the States, (4) Railway Policy, (5) Air Communications, (6) Trunk Roads, (7) Posts and Telegraphs, (8) Wireless, (9) Currency and coinage, (10) Commerce, Banking and Insurance, (11) Opium Policy, (12) Indians Overseas and (13) Matters arising in connection with India's membership of the League of Nations, are included in the list. Obviously the list is incomplete. It is because the Commission realised this that it recommended a provision that the Viceroy may certify any other subject as of common concern. Defence is excluded from the list because the Commission proposes to make the Army an Imperial concern, outside the purview of any part of India. This is not

however the only defect in the list. We have seen that almost every subject which the Paramount Power interferes within the States, is more or less a common concern of all and correspondingly, the same subjects as affecting British India are also the concern of the Indian States.

Interests common to the States and the Empire are not separate from subjects which are common to India and the Empire. They may, therefore, be included among subjects of common concern to the States and British India. The Army in India has been proposed by the Simon Commission to be considered such a subject. The maintenance of loyalty' to the Crown in the stricter and not constitutional sense of the word, may be another. It should also be noted, that an outbreak of a war, in which the British Empire may be involved, may give rise to certain duties.

We have now briefly referred to the rights the British Government has claimed against the States and have indicated the wide scope of those rights as affecting the external as well as internal life of the States. To obtain a correct view of the position of the States, one must bear in mind how their powers have been affected and restricted in every branch of their lives. No State can cast away its external powers without necessarily cutting down some of its internal strength, on which all political powers are based. This is especially so in the case of States which are comparatively small entities, surrounded by a much bigger State commanding far greater strength and responsible for the very existence of the former. The term 'Sovereignty' or even 'Quasi—sovereignty' must be understood,

when applied to the Indian States, with all these facts implied in that term. At the best, the use of these terms with reference to our States means that the intention and policy of the Paramount Power is to leave to the States as much internal independence as possible, consistently with the various interests which must be reconciled with the enjoyment of that independence by the States. Attempts have, however, been made to prove that the internal sovereignty of the States is complete, except for a few defined obligations which the States owe to the British Crown and the rest of the vast body of rights claimed and duties imposed are infringements of the rights of the States, which the Paramount Power is bound by solemn Treaties to vouchsafe to the States. The advocates of this view urge that encroachments on rights do not justly deserve to be perpetuated and though these violations of Treaty rights may have been suffered to smother the soul of the States by pressure from all sides, the British Government is bound to give up the so-called rights which are really unjustified encroachments. The needs of common interests, which the States and British India have to serve for their common benefit, are recognised by the protagonists of this view. But they hold that the States must be free to arrive at mutually acceptable arrangements in respect of these interests, by free negotiation and settlement with British India.

I have merely stated the main argument of those who dispute the Paramount Power's view of Paramountcy, without any attempt to discuss the merits or otherwise of the contention. An examination of the history of the growth of the idea of Paramountcy is not the

purpose of this chapter and without such an exhaustive treatment of the voluminous record of the working of the Paramountcy idea, it would be impossible to do justice to the subject. It is admitted by all that Paramountcy goes very much beyond the written agreements between the States and the British Government. It may also be admitted that that Government has imposed its will upon States, even during minorities, in matters in which they had never surrendered their rights. It would further be quite easy to prove that in some instances the interference was unnecessary and arbitrary. Whatever the justification or otherwise of the many interferences in the past, it is unquestionably true that Paramountcy has slowly grown to dimensions of which the States had hardly any adequate idea, when they accepted the supremacy of the British Power in India. Many of the developments of this doctrine of Paramountcy are certainly opposed to the provisions of Treaties. The excuse is alleged to be the benevolent motive, inspiring these encroachments and violations of Treaty rights. The point of vital importance is that the doctrine has taken firm root in the soil and there seems hardly any hope that the main theory of Paramountcy will ever be altered or modified, though concessions and relaxations on points of detail may be expected. It is this [situation, which the States have to meet and they must prepare themselves to meet it without ignoring hard facts.

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## CHAPTER



### THE GOAL OF THE STATES.

**The traditions of the bigger Princes—The States' People's attitude—Complaints of the States against restrictions of British Paramountcy—Chamber of Princes, the remedy—the objects of the Chamber—the hopes of the Princes—and their disappointment—Why the Chamber has not been very successful—Responsibility of Princes for the non-fulfilment of their hopes—Federation the only hope of the States.**

The Princes and the people of the States are at one with one another in their common desire to attain as large a measure of freedom as possible for their States. Some of the Princes rule over States which can trace back their history to a dim past and across many centuries. Some of them remember that they are the scions of Royal Dynasties, which sometimes ruled over Empires and always cherished ambitions of becoming, if not being, independent sovereignties. The Rajput Princes claim to be born rulers with a firm conviction that they are sprung from the mythic heroes of Ramayan and Mahabharat—heroes who are even today worshipped by millions of their countrymen as Gods incarnate—and their claims have been acknowledged from times out of mind. The Mahratta Princes, some of them sprung from the oldest Rajput stock, attained their political status during a comparatively more recent past. But they are proud to think that they were once practically the supreme Power throughout the length and breadth of India prior to the rise of the East India, Company to a pre-emin-

ence which gave it the place which the Mahrattas occupied and hoped to retain. They extended their power to Tanjore in the South, to Attuck in the North-West and to Calcutta in the East. The Mahomedan Rulers of, for instance, Hyderabad and Bhopal are the custodians of the traditions of the Moslem conquerers of India, who held undisputed sway over the whole country for many centuries and who enriched the annals of India as much by their material glory as by their triumphs as wise and just Rulers of India and as the patrons of Indian Arts and Indian Learning\* Princes with such proud lineage and traditions cannot easily forget their past. Nor can they easily adjust themselves to a position of crippled powers and faded glory, a position of soulless splendour, deprived of all hope of possessing real strength and smothered on every side and at every step by duties and obligations, which, coming as they do from a Power outside themselves, cannot but be imposed upon them.

The people in the States are as proud of their Rulers and their States as the Princes themselves. English education and Western ideas have indeed penetrated their minds and democracy has not failed to spread its charm upon their souls. But whatever reforms they may desire in their own little kingdoms, it is hardly possible to find any considerable portion of the people in the States wishing to blot their rulers out of existence. They are often jealous of the progress on popular lines made in the adjacent British territories and they wish, though the wish is not yet very vocal, that their States must proceed on like lines. But this has nothing to do with their living

affection and regard for their own Raja to whom they are willing to excuse many a fault. Not only among the States but even in British India, there exists a keen desire that the States must live and no attempt to jeopardise their existence is likely to meet with public support. It is in fact an essential element of Indian patriotism, common to all parts of India, that nothing should be done to damage the States, though attacks on individual rulers may justifiably be made.

What then is the goal of these States ? It is true that neither the Princes nor their people have still cultivated the art of agitation or the courage to fully voice forth their inner thoughts. During the last few years, however, the instinct of self-preservation is getting the better of their nervousness in speaking out their grievances and in openly seeking their redress. The forces which have, since the Great War, stirred British India to its deepest foundations have not been cut short on the borders of the States. When the late Mr. Montagu and Lord Chelmsford began their enquiries in India, after the historic Annoucement of British policy in India on August 20, 1917, the Indian Princes, no less than the Indian people, tried to make a clean breast of their pent-up thoughts. The notes which some of the bolder Princes placed in the hands of the two statesmen were not made available to the public at large. If they could gain the necessary publicity—and this could be affirmed of much of the work which the Princes have since then done—, many people would be amazed at the way in which some of the Princes expressed their dissatisfaction with the treatment they were accustomed to get at the hands of\*

those in whose hands their destinies were cast. Before Mr. Montagu and Lord Chelmsford jointly as well as in the Annual Conferences of Princes called by the Viceroys thereafter, the Princes complained of the numerous violations of their Treaties, the encroachments made on their rights, the slights to which they were subjected and the advantage taken of their weakness or their disabilities. Lord Chelmsford had once to admit that in certain matters Treaties had indeed been departed from though, as he said, all that was done from benevolent motives. The Princes have also complained of the arbitrary methods followed by the Political Department in dealing with the members of their order, the secret reports on which they were condemned, the refusal to show them the evidence on which they may be held guilty, and so on. All this was evidence of the fact that the Princes had awakened to a consciousness of their own rights and to a sense of the need of their uniting and organising themselves to defend those rights. The Chamber of Princes which was subsequently inaugurated by His Royal Highness the Duke of Connaught in February 1921 was one of the most important results of this agitation.

As the Royal Proclamation put it, the Chamber of Princes was brought into being "in the confident hope that the united counsel of the Princes and Rulers, assembled in formal conclave, will be fruitful of lasting good both to themselves and their subjects, and by advancing the interests that are common to their territories and to British India, will benefit My Empire as a whole." His Majesty further hoped that the

Chamber " will open still wider fields of Imperial Service" to the Princes who were " long versed in the arts of government and statemanship." The Proclamation laid particular stress on His Majesty's " confident anticipation that by this means the bonds of mutual understanding will be strengthened and the growing identity of interest between the Indian States and the rest of My Empire will be fostered and developed." Proceeding a little further, the Proclamation assured the Princes that the Viceroy will take the counsels of the Chamber " freely in matters relating to the territories of the Indian States generally, and in matters that affect those territories jointly with British India or with the rest of My Empire. " The Viceroy, Lord Chelmsford, gave a brief *resume* of the history of the Chamber in the course of the speech in which he requested His Royal Highness to inaugurate the Chamber and it appears from this account that the objects with which the Chamber was brought into existence, were settled in full consultations with and with the concurrence of the Princes, " The main function of the Chamber, " said His Excellency, " is to discuss matters affecting the States generally or of common concern to the States and to British India or the Empire at large, "

This was not, however, the only object of bringing the Princes together on a common platform and of giving them an organisation of their own. It was feared by some critics of the Chamber that the "machinery of this Chamber might be used solely for the protection of the rights and privileges of the Princes, without due regard to the obligations which

they owe both to the Empire, of which they are a part, and to their subjects, whose happiness and welfare are dependent upon the wisdom and justice of their Rulers." " I do not share these apprehensions"; replied His Excellency to these critics, and further said " for, here again I confidently look to Your Highnesses to uphold the credit of this institution by adopting both towards the Government and its officers a spirit of co-operation without which our deliberations will be of small avail ... We share between us the responsibility for the good government of India and for protecting the interest and promoting the happiness of the millions committed to our charge. In the exercise of that responsibility we shall, I am sure, continue to work, together in harmony and with mutual respect, inspired by the great ideal of an India, governing itself through its Princes and elected representatives and owing allegiance to a common Head."

His Royal Highness the Duke of Connaught in inaugurating the Chamber on behalf of His Majesty, reiterated the oft-repeated assurances that the Government will stand by its promises regarding the Treaties and the privileges, rights and dignities of the Princes. "A generous spirit on your part," continued His Royal Highness, "will find its response in equal generosity on the part of the Government of India," in deciding questions of difficulty in the relations of the Princes with that Government. " You may rest assured " said he further on, " that the Government and its officers recognise freely the internal sovereignty to which your various treaties and engagements entitle you. We hope the Princes of India, on their

part, will continue to administer their States with justice and enlightenment." The Duke then referred to the wider opportunities and " a larger sphere for your public-spirited activities" which the Chamber gave and warned the Princes that " increased opportunities bring in their train increased responsibility." " I know well" concluded His Royal Highness, " that Your Highnesses will appreciate the trust reposed in you by His Imperial Majesty and His Government ;and will worthily respond, both as pillars of the Empire, and as rulers striving ever for the greater happiness and prosperity of your own subjects."

A reference must also be made here to the hopes and anticipations which one of the prominent Princes, who had laboured for some time before to bring the Chamber into being, expressed on the occasion. " The Princes of India realise fully " said His Highness the Maharaja of Patiala, who today leads the Princes as the Chancellor of their Chamber, " that, as rulers of men, they cannot remain unaffected by what may well be called world-movements; and they must be prepared to tackle new situations with the principal object of making their present interests identical with those of their present people. From this point of view, the educative value of this Chamber will be great, and let us hope that its future history will show many a bright page of solid, selfless work, done in the interest of our Order and of the people whom Providence has entrusted to our care. "

I have quoted somewhat profusely from the proceedings at the inauguration of the Chamber as the occasion was looked upon by every one who

took part in them as a moment of signal triumph for the cause for which the Princes, then newly-awakened to a full reality of the political forces which had then begun moving India on all sides, had been strenuously fighting. The Proclamation of His Majesty, the speeches of the Viceroy and the Duke of Connaught and the Maharaja of Patiala, all read together, indicate the line on which the problems of the Indian States was then sought to be solved. The first and foremost among the demands of the Princes was that their internal sovereignty, guaranteed to them by their Treaties, should not in any way be infringed. The answer, in effect, was that the British Government—or to use the equivalent term, the Crown, was quite willing to do so, provided the difficult questions involved in the problem of preventing apparent violations of treaty rights was approached in a spirit of generosity on both sides. "The Government was inspired by that generosity/" added His Royal Highness; but the response which was desired and expected was that the Crown and its Officers looked to the Princes of India to administer their States with justice and enlightenment. Secondly, the Chamber was itself founded with the hope that it would be fruitful of lasting good "to the Princes as well as their subjects." Thirdly, the complaint of the Princes was that their fiscal and other interests were over-looked by the Indian Government just as if British India was 'All-India' and the States had no right to be consulted or considered in deciding matters of Common or Imperial interests. As we have seen, it was in the name of these interests that many

of the violations of the rights of the States had taken place and Paramountcy was invested with an almost limitless scope. The Chamber was created to enable the Viceroy to take counsel with the Princes on all these matters of Common Concern to the States, and the rest of India and the Empire. The goal of the Princes was the preservation of their internal sovereignty. The means by which they were asked to achieve their end was the consultative and deliberative body, the Chamber of Princes. The conditions of success for them in their aim were, firstly, that they must secure the welfare of their subjects as well as their States by just and enlightened rule and, secondly, that they must freely advise the Viceroy and his Government on questions of common concern to their States and the rest of the Empire. To put it in another way, the apparent violations of the internal sovereignty could be ascribed ( 1 ) to absence of just and enlightened Government in the States and ( 2 ) to the lack of opportunities to the Princes to place their views before the British Government in respect of questions of common interest. The Proclamation and the speeches which heralded the birth of the Chamber of Princes anticipated that the new organisation would pave the way for the measures which would effectively redress both classes of the grievances of the States and restore to the Princes the rights which they claimed.

Has the Chamber advanced the Princes appreciably towards the goal ? Since it was founded in 1921, some concessions have been undoubtedly won by the Princes

on minor points.\* The Standing Committee of the Chamber has done some useful work. But constituted as the Chamber is, it could not make any substantial progress. In the first place, all the States are not represented in the Chamber and not all of those who can participate in the Chamber's work chose to do so. The natural result was that the Chamber could not command all the influence and strength it could, and should, have commanded. Some of the Princes preferred to remain in their older isolation; perhaps they thought too highly of their individual dignity and rights. Whatever the reasons of their aloofness from the Chamber, their indifference weakened the organisation to a considerable extent. Recent events like Lord Reading's letter to His Exalted Highness the Nizam and the exposition of Paramountcy given by the Butler Committee, one may hope, will have the necessary effect of convincing the Princes, who have hitherto kept away from the Chamber that all Princes are practically in the same boat and that they cannot rest on their oars because they are in a somewhat better position than the rest of the crew. It is true that the composition and functions of the Chamber are not such as to give full scope to the needs of the Princes and to make attendance indispensable. Consultations with individual States follow the deliberations, though undoubtedly with very reduced chances of those views being of much effectiveness. In

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\* The Chamber's work during the last ten years has been summarised recently in the form of a table showing the Resolutions passed by it and the action taken by Government on each one of them. It only confirms the view put forward above.

the inchoate, formative periods of such infant organisations, the indifference, or even the opposition, of some members is to some extent inevitable. When the American States were trying to evolve their own union and a congress of the delegates of all the States was called, "the States were indifferent," as Bryce observes, "to Congress and their common concerns, so indifferent that it was found difficult to procure a quorum of States for weeks or even months after the day fixed for meeting. Congress was impotent, and commanded respect as little as obedience." Happily the Chamber never found itself in this unenviable predicament. But it is nevertheless true that it has not commanded the necessary allegiance from all and more especially, from some of the important States, with the result that its purposes, depicted in such glowing terms at its inauguration, have not been fulfilled as they should have been. Questions of vital importance were either kept outside the constitutional competence of the Chamber or depended for their admission upon the assent of the presiding authority, the Viceroy. The decisions had no binding force. The Princes themselves retained individual freedom to differ from or reject the Chamber's views. Their right to be consulted remained unimpaired after the Chamber's decisions. The Government itself was never bound by what the Chamber said or did. A body like this can not create much enthusiasm for itself. As a first step in the right direction, perhaps the Chamber could not have been better than it was. It is also true that the Chamber has today a more solid backing behind it

than at its earlier stages. The progress is satisfactory. But in assessing its value in relation to the anticipations formed of its work and in considering the needs of the future, we must clearly visualise to ourselves the defects, constitutional as well as functional, which hindered the achievement of better progress.

These defects, it must be admitted, are due in a large measure to causes for which responsibility lies on the States themselves. No constitution could put the Princes a long way towards their goal, unless they accepted and acted upon certain principles. The strong hold of Paramountcy—or of Non - Treaty and Contra - Treaty internal interventions—on our States is tighter today than it was ten years ago. The forced abdications of certain rulers, the sledge-hammer letter of Lord Reading to H. E. H. the Nizam, the comprehensive connotation given by the Butler Committee to the term ' Paramountcy ', all these belong to this period. The opinions of renowned constitutional lawyers, the elaborate arguments submitted to the States' Committee, the full weight of the united opinion of many Princes, nothing could dislodge the Government of India from its position. The deeper reasons of this are not far to seek. Consultations cannot secure financial rights, and Treaties and Engagement cannot prevent the Paramount Authority from intervening in States' affairs. A constitutional right to effective voice in the decision of questions of common concern and a guarantee of minimum standards of just and enlightened government form the royal road to the goal, the States have in view. The full implications of these, the only

means for achieving internal autonomy, must be accepted before the States can expect to complete their journey to the cherished goal.

In a country like India, with unity in diversity or diversity in unity, marked in every phase of its life, with one central foreign power holding universal sway, with a major part of the country longing to rise to the full height of its nationhood, and with the remaining portion consisting of a large number of States of various sizes and various status, the goal which each part sets up before itself must be consistent with that of the other parts and of the whole. The goal can, therefore, be looked at from many, apparently opposite, points of view. British India aspires to achieve full responsible government at no distant date. The British Power has blessed this aspiration with its own assent. The States' objective is co-operation, voluntary co-operation if we like to say, in matters of common concern and as complete internal autonomy or sovereignty as possible. The common goal of India, as a whole, is the status of a Dominion under the aegis of the Crown. Can all these aims be reconciled with each other? We are here primarily concerned with the States in themselves and in their relationship with the future self-governing India. British India as such comes in only as a component part of the India the States think of and is not that India by itself. The position of the British Government, as the Government of India and as the Government of British India, has never been distinguished. This caused no inconvenience as long as the two were one in personnel and in their constitution.

The British Government of India was and still is an autocracy responsible to an outside, third party; and as such, it was as much external to the States as to British India. These two had no occasion to contest each other's position. None of them could claim ascendancy over the other. But now the need of separating the two, the Government of India and the Government of British India has arisen, owing to the latter being intended to undergo, or practically on its way to, a radical transformation. One view is that the transformed Government, responsible to British Indian electorates, should be the Government of India. Apart from the question of the Treaties being made with the Government of India-responsible to the Crown or the British Parliament, on which ground alone the change may be legally objected to,-it would be clearly unjust that while the status of the British Indian territory is being raised to that of a self-governing Dominion, the position of the States should be still further lowered by their being subjected to the domination of the territory to be now emancipated. The point is not, whether Indian Princes are or are not willing to substitute their own countrymen for the British in the constitution of the Paramount Power. It is unfair to put the question in that light. The crucial point is that the States wish equally with British India to rise to their full height, to shake off as much of the crust on their bodies as they can, to attain as much freedom from external control as may be possible consistently with the valid obligations which they have incurred. The movement in British India and in the States is inspired by exactly the same ideal,

though the forms it takes in the States is necessarily different from that it takes in the British Indian territories. The forms are different only because the circumstances in which the goal is to be realised are different, not because the goal of the one is different from the other. The Provinces of British India are admittedly entitled to as much autonomy as possible. The States do not desire anything else. Imperial, All-India and Inter-Provincial questions, so far as they concern British India, are willingly left into the hands of the Central Government, which is the Government of all the Provinces together. The States have hitherto left all those problems to be dealt with by the British Government. With British India a selfgoverning unit, with its Imperial and All-India concerns also in the hands of a responsible Government, it is impossible that those concerns, in so far as they relate to the States, can be in the hands of any other Government. The only alternatives to a delegation of all these concerns to a responsible government of British India, to which the States object, are to deny that responsible government to British India-and this is really no alternative-or to delegate the powers and functions of that All India Government, dealing with these wider All-India concerns, to a Government responsible both to British India and to the States. Now that the British Parliament has irrevocably committed itself to a definite policy with reference to British India, it is impossible for the British Government to go back on its pledge to the Indian people and to refuse to create, tomorrow if not today, a polity responsible to those people, on the

ground that such a polity cannot be accepted by **the** Princes for the discharge of All-India duties ; nor do the States take up that attitude. The goal of British policy in India is accepted unequivocally by many of the most thoughtful Princes, who represent the views of their Order. The alternative which remains for us of the States, is to think of a Government of India responsible to all parts of India, British as well as Indian, and to devise means for the speedy attainment of this goal. That Government must secure to the States their integrity, geographic as well as dynastic, and their internal sovereignty. How can this be done ? And by what steps can it be done the quickest ?

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## CHAPTER V.

### FEDERATION AND ITS BEGINNINGS.

**Is not Federation possible now?—Difficulties pointed out by the Simon Commission—The main difficulty—Facts which a Federation must fit in with—Must States become responsible at once—The common aim of both—Will the States lose their 'sovereignty'—Does the question of consent arise? Defence must be a federal concern—The Princes in favour of federation—Simon proposals examined—Questions to be answered before federation becomes complete—Proposals summarised—Their advantages.**

That the goal of the States as well as of India as a whole can be fully reached only by a federation of the States with British India is admitted generally by all who have thought over the matter. But in the opinion of one class, federation, though a desirable end, can only be reached after a long process through which India has yet to pass. The Statutory Commission presided over by Sir John Simon represents the view of this class. Another school of thought holds that any federation, of which the States become component parts, must tend to wipe out the distinctive features of the States and to amalgamate them with the British Indian Provinces by giving the go-by to the rights and privileges of the Princes. Though this school of thought is not yet very vocal, it does exist in some of the States and its fears are strengthened by the vague forebodings indulged in by so responsible a body as the Simon Commission, who in para 230 of their Report express their view that "it is obviously much more difficult for units of the first class

(L e. the Indian States) to surrender to a common-centre authority over matters of common concern than for units of the second class (i . e. the British Indian Provinces ) to do so," and therefore, in whose opinion a federation would deprive the States of some of their rights. Those who are thus apprehensive of the results of federal organisation have proposed a League of Indian States and Provinces as a substitute for federation,; the difference between the two being that, in a League, the States will be free to act as they please, on any particular question, if its view thereon is not acceptable to the League.

The Statutory Commission have pointed out certain difficulties which deserve a passing notice. The self-governing Provinces will form a heterogenous combination with the States; but as they themselves point out, "the difficulties of reaching a federal union between units with widely varying methods of internal government are sometimes overstated." "The Constitution of the German Empire of 1871 recognised the right of the member States to choose whatever constitutions they desired. The Empire never concerned itself with the form of Government chosen by any of its States nor with the different provisions they inserted in their Constitutions/\* The second difficulty pointed out is that "the Indian States vary enormously in size" and each State cannot by itself be a member of the Federation. We have dealt with this difficulty in the first chapter and have tried to show that not all the 560 States are entitled to the status of Federal Membership and the

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\* Rene Brunet's ' The German Constitution ' p. 59.

smaller of those who may be entitled to it may without any inconvenience be grouped together to produce proper units.

The main question which may stand in the way of the Princes accepting the Federal Constitution is whether thereby they will necessarily stand to lose any of their distinguishing marks or their specific identity, and whether a federation will mean any curtailment of their existing rights. The answer to the question thus arising depends on exactly what functions must be and will be delegated by the constituents to the Federal Government. The world knows of certain federations, but as they differ among themselves in some particulars, the proposed Indian Federation may, if necessary, differ from any existing Federal body. The genius of mankind is not restricted to a particular formula only. Statesmanship lies not in imitation or blind adherence to known patterns. No two individuals are exactly alike and each one grows according to his own needs and environments. Society follows the same methods as individuals and its life must be an adjustment and an adaptation to its own peculiar requirements. If, therefore, India desires to evolve a federal system, it will be a type of her own that she will develop. The American Congress of 1789 A.D. which created the United States of America presupposed the existence of the State Governments as they were. The Indian thinkers must similarly take for granted things as they are. The basis of the new constitution must be the generally felt need of an organisation for defined purposes. Whether that basis exists in India, is the primary question. If it does and if there is a corresponding determination to direct the

necessary effort to meet the felt need, there is nothing impracticable in our attempting to create a Federation of our own, suited to our conditions, meeting all requirements of the situation as we find it. And if we realise this clearly, there is no reason why we could not produce a Federation which will be consistent with" the internal independence of the States in India.

What is then the position in all its important aspects, to which the Federation must fit in ? We have, in the first place, British India consisting of a unitary central Government and Provincial Governments which are becoming, but have not yet completely become, autonomous. Secondly, we have some big States, big enough to be units by themselves, in a federal constitution and enjoying full autonomy, subject to the rights of the Paramount Power under Treaties, Engagements, Usages &c. Thirdly, there are some more States enjoying the same position of authority as the bigger States, but too small to be entitled to a position in the Federation by their own individual rights. Fourthly, we have quite a numerous class of States, who are small in size and enjoy relatively less power of internal autonomy than the first two classes. In attempting a union of these States and Provinces, we have to bear in mind these differences requiring special treatment. We must next consider the needs of all these units for meeting which a Federation is required by all of them. In this connection, the view-points of British India and the three classes of States we have noted are not exactly the same. The main demand of British India is not a change in the unitary form of the Central Government. That part of **the** country wishes to be emancipated from her present

dependent position by converting the present Executive, which is responsible to the British Parliament into one which shall be responsible to the British Indian people. If she achieves this end, in so far as her Government is concerned with British India alone, nothing else need be desired immediately. But her Government, as at present existing, is the Government of the whole of India, dealing with all questions affecting India as a whole and exercising direct authority in one part—British India—and indirect influence which may be included in the term 'Paramountcy' in the other. The Federation need not concern itself with any of the exclusive affairs of British India, whether the constitution in so far as it affects these internal affairs of British India is or is not altered. The States have nothing to do with it. For argument,; we may assume that British Indian Provinces and the Central Government remain what they are. It is still possible to federate the British Indian Government at Delhi with the States' Governments for the performance of those functions, which the former has reserved to itself upto now and which both sides may agree to be delegated to a joint body representing both sides.

Under these presuppositions, the States' Governments may remain constituted as they are. They will not part with any of the powers which they enjoy. For they do not enjoy any of the powers which are likely to be entrusted to the Federal Government, powers affecting joint concerns of the two Indias. Nor will the Provinces of British India lose anything of their own. The change will be from a Government responsible to the British Parliament to a Government responsible to a

Federal Assembly, constituted by representatives of the Provinces as well as the States. To talk of one class of these units of the Federation surrendering any portion of its powers more willingly than the other is, therefore, misleading. When units enjoying certain powers are called upon to part with a part of those powers, such a question is likely to arise. Neither the British Indian people nor the Princes of the States are at present in possession of authority over those matters, though it should be noted that the former have begun to exercise some authority over some of those matters since the reforms of 1921. It is the representatives of British Indians, who may consider the Federation a loss to them, in so far as they will be required under Federation to share their power with the representatives of the States. The power they are clothed with by the Montague Reforms are neither substantial nor unrestricted. Certification of refused demands for grants and of rejected money bills takes away what power those Reforms have conferred upon the present Legislature. It is thus clear that the federation in India aims, not at the transfer of powers enjoyed by any existing units to a Federal Body to be newly created, but at the delegation of powers at present exercised by a Government responsible to Great Britain to one which will be responsible to India, consisting of the Provinces and the States.

This is the common aim of both sides. But we must remember that there are other aspects of the question which suggest differences of purpose too. The States claim to be quasi-sovereignties at present and the Provinces are mere delegates of certain powers vested in **the** Central Government, under whose superintendence

and direction those powers are exercised by the delegate-Provinces. Does this Quasi-sovereignty of the States run counter to the idea of federation? The question must be answered from two different standpoints. In its origin, the Quasi-sovereignty of the States belongs to them in their own right and does not exist in virtue of federal delegation. This position claimed by federated States and Cantons in Germany and Switzerland has been attacked by certain political writers, whose views must be considered by well-wishers of the States. "The powers of the States," says Oppenheimer \* are undoubtedly original, and not derived from any superior authority, in the sense that they belonged to the States, before the latter were members of the federation and represent, in point of fact, the residue of their one-time sovereignty. For it is true, alike of the American, the Swiss and the German federations that in each instance the States are older than the Union. But what is left to them by the federal constitution and is recognised therein as theirs, is surely, in legal sense, derived from it and constructively delegated by the Union." In the view of this school of thinkers, "it is an affliction common to all federation that their units are neither sovereign nor States in the real sense of the word;" "for the law knows no *tertium Quid* besides sovereignty and dependence." From this strictly legal or theoretical standpoint, the proposition that the Indian States are not sovereignties but only dependencies is capable of being maintained, in spite of Sir Henry Maine and others, who admit the existence of a *tertium Quid* called

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\* The Constitution of the German Republic, p. 35.

Quasi -sovereignty. In theory, this *tertium Quid* is a contradiction in terms. Sovereignty in its essence is independence of outside authority and the moment a State accepts dependence on another power, even in specified matters like Defence or interstatal relationship, it forfeits all rights to be called a sovereign State. The Swiss Cantons are pronounced by the Federal Constitution to be "Sovereign." The Treaties of Indian States are no less explicit. In spite of the limitations placed on the powers of the States, by the Treaties themselves, the States who entered into those Treaties are generally assured that they continue to be absolute masters in their own territories and some of the Treaties refer to a State as 'independent' or 'independent sovereignty.' Writers like Lee Warner describe them as semi-sovereignties. Sir Henry Maine concedes the use of the term 'sovereignty' to the States by following a peculiar method of reasoning . " It may perhaps be worth observing " says he, "that according to the more precise language of modern publicists, 'sovereignty' is divisible, but independence is not. Although the expression 'partial independence' may be popularly used, it is technically incorrect. Accordingly there may be found in India every shade and variety of sovereignty, but there is only one independent sovereign, the British Government." This is cited with approval by the Butler Committee in Para 44 of its Report. The argument is in fact a play on the word 'sovereignty \* and does not alter the fact, apart from its being right or wrong, that the States have long ago lost the power to control matters of common concern to themselves and to British India. It is an equally clear fact that the people of

British India have also been deprived of the power. The differences between their positions apart, it is now necessary for both of them to organise themselves suitably for the purpose of regaining ground lost by both. Unless they do so, there is no chance for either to obtain real power in their hands. The question is: Have they, the States and British India, enough wisdom to cast away the glory of empty names and words, and realising their own present incapacity, join hands to strengthen each other and to win authority for their own combined organisation ?

The contention of the Princes that their relationship is with the British Crown and that they cannot, therefore, be asked to join a Federation except with their own consent, is theoretically a valid contention. But it does not practically affect the question of a Federation in any way. The Federation itself will owe full allegiance to the British Crown. The ultimate power of maintaining the Princes, in all their legitimate rights, must, therefore, continue to reside in the hands of the Crown. If the Federation violates those rights in any way, the Princes should be able to appeal to the Crown. Ordinarily, the mere existence of this right of appeal will suffice to check any desire, which the non-State members of the Federation may feel to treat the States unjustly. The Crown and its agent—the Viceroy—may continue to exercise the remaining rights of Paramountcy over the States. The Federation will not, therefore, mean any breach in the link which binds the States and British India jointly with the British Crown. If in spite [of this, the States refuse to join the British Indian Government on the technical ground that they do not desire to be

associated with British India even for defined objects, what would be the result? In the first place, the powers to be delegated to the Federation are at present exercised by the Government of India, not in virtue of Treaties alone, but as a result of its Paramountcy in the country. At least in so far as this is so and the common concern of the two parts of India are within the jurisdiction of the Government, irrespective of Treaties, the British Government can choose its own agents for exercising that jurisdiction, even if the performance of duties arising out of the Treaties may not be so transferable. The only possible modification of this proposition would be, that even in case of such a change of agency, the ultimate responsibility must lie on the shoulders of the British Government. The British Indian responsible Government, if chosen as the Crown's agent, may then be liable to be called to account by the Crown, in case it violates any vested rights. This brings us to the second result of this attitude, if taken by the Princes. Have the Princes at present any rights, legal and Treaty rights, to the control of these common concerns? As long as Paramountcy stands where and as it is, the States will not be allowed to claim this right. Have they a Treaty right to a share in the customs revenue? Have they such a right to the profits of the Railways, the Posts and the Telegraph lines? In the absence of any such right existing in the States, what grievance of violation of rights can they make against any exercise of the legitimate powers of government by British India? It is on grounds of equity that the claim of the States to a share in these revenues is really and principally based. If so, is it not equally equitable that the States should be

prepared to do equity to British India by not creating insurmountable difficulties in the way of that India attaining her proper political status ? If the States insist that the function of controlling the common concerns of the two parts of India must be performed by the British Government alone, would it not mean that the Central Government of British India should never become responsible to Indians ? Any unwillingness on the part of the States to join a Federal Organisation, is bound to be ascribed to a sinister desire on their part to impede political progress in India.

The Defence of India has been excluded from the list of common concerns proposed by the Statutory Commission. Apart from the other reasons which are supposed to justify this exclusion, urged by the Commission, the attitude of those who wish to insist on direct relationship of the States with the Crown, in all Treaty matters, would certainly make it always impossible for the Army to be entrusted to an Indian Government. By the Treaties, the British Crown is bound to defend the States from internal as well as external dangers. This means that the Military strength of India must forever remain in the hands of the British Crown. The revenues from which the Army is fed and maintained are partly the revenue-profits of territories ceded by the States to the British Crown and the tributes paid by some of the States. They are, however, not enough for the maintenance of the whole Army of India, The revenues of British India have also to bear the burden of the military expenditure. Without the whole of the Army, India cannot be safe and therefore the States also cannot be safe without it. The result, therefore, is that

the whole Army expenditure and control of the Military Forces of India must be in the hands of the British Crown. This is the only logical conclusion from the contention that the Treaties of Indian States are all with the Crown which must carry out all its duties in this respect towards the States, The goal of Dominion StatU9 would, on this basis, be an utter impossibility for all time to come. If the States are sincere in their desire to help British India in her progress to the appointed goal along with the States, the Federation must be able to undertake Defence of the whole country, as soon as possible. It must take sometime before this can be done, but the total exclusion of Defence from the list of common concerns would prevent the attainment of the goal from materialising at any future time.

The Princes of India should particularly insist that the control of the Defence Forces of India should be transferred to a Government of which they will be important constituents. In this field of work for the good of their mother-land, they must be more prominent than others. They have the age-old tradition of military powers to inspire them. They have, more than others, the means of distinguishing themselves, as great warriors in the Army of their own land. They, more than any one else, should aspire to lead the Indian Armies in defence of India, as well as the Empire of their King-Emperor. Instead of being Honorary Captains and Colonels, they should become the real Generals and Commanders of the national army of India. Their loyalty to the Crown is unquestioned and unquestionable. Their association with the rest of the country in the control of the Army will give added weight and acceptibility to

the Indian aspirations to full Dominion Status, whereby their own status as well as that of British India will be radically altered and enormously enhanced. No State can deny that the surrender by it of its defence to the British Power was the result of its own weakness. It is the badge of inferiority for every State in India. It was this surrender which cost the States their real sovereignty. To use the words of a well-known Political Officer, Sir W. Barton, "Paramountcy is the outcome of military supremacy over the great sub-continent of India, an inevitable corollary of a military protectorate." The Princes must assist in the development of an Indian Polity, which will enable them to be partners in that military supremacy in India rather than its victims.

The federation of India, we are here discussing, it should be remembered, obviously means that some of the treaty-rights and rights of Paramountcy must be transferred from the British to the Federal Government. Are the States willing to this ultimate alteration and to effective steps which will lead thereto? A strict insistence on the letter of the Treaty involves, as Sir Leslie Scott puts it, "the permanent maintenance in India of military forces under the constitutional control of Parliament" and "the continued presence of the Paramount Power in India" for the "working of the system of cooperation between the States and British India in matters of common concern such as communications, tariffs, health, irrigation, currency, and many other subjects." Without the willing consent of the States, as a body, therefore, no federal constitution and no responsible government can grow in India. Much-

less could India attain Dominion Status. The Princes have on many occasions expressed their acceptance of the idea of federalism. Addressing Lord Irwin in February 1929, His Highness the Maharaja of Alwar said:—

"Let your name go down to posterity as the Viceroy, who championed the cause of a dependency and made it a Dominion. We wish British India all cordiality to attain under your guidance her rightful place within the Empire, because her strength means the strength of this Union; her prosperity adds to the prosperity of the whole."

His Highness the Maharaja of Bikaner, another leading Prince, said:—

"I look forward to the day when a United India will be enjoying Dominion Status, under the aegis of the King-Emperor and the Princes and States will be in the fullest enjoyment of what is their due—as a solid federal body, in a position of absolute equality with the Federal Provinces of British India."

His Highness the Chhatrapati Maharaja of Kolhapur, who represents the House of the Founder of the Mahratta Empire in his own person, observed as follows in November 1929 :—

« Dominion Status, now formally and authoritatively held out as our goal, implies that India will be an equal partner in the British Empire. . . . . I feel sure that the attainment of the goal will strengthen the British Empire into a common partnership, which will certainly make a large contribution to the strength of the British Empire and to the peace and progress of the world."

These pronouncements of prominent Princes justify the hope that as a class the Princes will support the creation of a Federation and they will create no insuperable impediments in the path of those, whose duty it will be to formulate proposals for the accomplishment of the object. The Simon Commission leave the creation of the Federation to an unknown future and, when examined, their proposals for the present will be found to leave the States where they are. On the contrary, it is not impossible that opponents of Indian aspirations will try to make the Princes an excuse for indefinitely postponing the grant of responsible government to India. They try to scare the Princes away from the idea of federation by threatening them with loss of power, which in reality has been always denied to them by the Paramount Power. They show great anxiety for the consent of the Princes to any change in the present constitution, just as if the Princes are very pleased with the exercise of the authority over matters of common concern by the present Government of India. In fact, the present system has been bitterly attacked by the Princes, as ignoring their own rights and the interests of their States. And yet when a change is being discussed to devise some means whereby, as His Highness the Gaikwar of Baroda put it, "the States will be able to speak with weight in all matters that are common between them and the rest of India," a cry of 'States in danger' is raised. It is in connection with these very matters that the States have been agitating for the redress of their grievances for the last dozen years, grievances, be it remembered, which have sprung from the system now

prevailing. It is true that Customs duties have risen so largely since the Legislative Assembly was given some powers. This may lend colour to the view that the enlargement and democratisation of the Assembly led to this increase of the taxation on the people of the States. Who was really responsible for the proposals to levy heavy import duties? These proposals emanated invariably from the Government itself and the responsibility of this increase of burdens on States' subjects lies more on Government than on the Assembly. It is ridiculous, under these circumstances, to argue that the States' interests would be safer in the hands of the Government as now constituted than in those of a Federal Body with a rightful place in it for the States' Governments and functioning under the aegis of the British Crown.

Is the creation of a Federation of All-India at once bound possible? Or is it necessary that steps should be taken which will eventually lead to the desired federation? The Simon Commission thinks it is necessary and they have, therefore, proposed the introduction of an enabling clause in the Preamble of the new Government of India Act, the listing of subjects of common concern and the instituting of a Council of Greater India. The first proposal merely expresses a pious wish. The second would be necessary in any case, whether we have a full-fledged federation now or not. The third proposal would serve very little purpose. It provides for mere consultation. As I have shown before, the Chamber of Princes was intended for this very purpose and as His Highness the Maharaja of Patiala put it "the result of all our thought and all our

work was profoundly disappointing to us".\* What is the point in adding one more consultative body, with a pompous name, when the views of the Princes could be consulted even now and before now, and when such consultations have been found to be so disappointing ? What the Princes have been claiming is " a voice in the *settlement*." The note which leading Princes and their ministers prepared in 1917 for submission to Mr. Montagu demanded "a closer co-operation with the Government of India in future, in order to enable them *effectively to participate* in the administration of matters of joint interests." To refuse this request, even after the lapse of years and to expect the Princes to be content with consultations only, would be tantamount to a denial to the Princes of what they have been pressing for.

The fact, on the other hand, that many difficult questions will have to be answered before a full-fledged Federation could be brought into operation must be clearly recognised. I do not refer to the constitutional problems which would arise in case British India itself is decided to be turned into a federation. For even if that India retains the present framework of its Central Government, other questions regarding the principles on which a full federation would work will have to be tackled after mutual discussions, which may take time. Some of them may be noticed here, without any attempt to suggest answers to them. Presumably the Federal Government will consist of a bi-cameral legislature or Congress. The States and Provincial Governments

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\* *Aiistio Review of October 1928.*

would be appropriately represented on the second Chamber. The Simon Commission proposed to constitute the Assembly on this basis which would not be acceptable to British India. If then the Lower Chamber is to be representative of the people of British India, how will the States be represented on the same body? Will all the Revenues of the Federal Government be derived from both parts of India or from only one? Customs would not present many difficulties as the revenue from this source would be mostly collected at the British Indian ports. What of the Customs collected by certain, though few, States? Will only British India pay its Income Tax to the Federal Government? If the States are to be equal partners in the rights and responsibilities of the Federal Government, how to adjust their financial relations, complicated as they are, with questions of Treaty obligations regarding the Defence of the States? On what accounts, like ceded areas &c. must credit be given to the States in this federal concern? On what subjects would a common policy of legislation have to be followed by the States and British India, to make the working of the Federation smooth? Certain fundamental subjects may be found to be necessary for uniform treatment by all the States and Provinces. Laws relating to commercial intercourse, extradition, patents for discoveries and copyright of authors, essential rights of religious communities and citizenship may have to be based on universally accepted principles. If a national militia, in addition to the regular standing Army, is decided upon, will the States have to adopt a similar system? Questions of this type will have to be dealt with, before a complete

constitution for a Federal All-India Government is framed. Pending decision on all these questions, I think it would be possible to have a constitution, in which the States may conveniently participate for the settlement of common questions on the following broad principles.

(1) The States' Governments and Provincial Governments should be represented on the second Chamber of the Federal Government.

(2) The States' representatives should be eligible for admission to the Federal Executive, along with any other members of the Federal Assembly in both of its Chambers.

(3) Questions of common concern should be decided upon by this Assembly; but if two-thirds of the representatives of the States in the Second Chamber vote against a proposal and yet it is carried by the Assembly, the Viceroy should be entitled to adopt such measures as he may deem necessary to bring about a compromise between the two views, failing which he may decide the point at issue, as he may think just.

(4) The Viceroy's decision in a case of this kind may be subject to appeal to the Secretary of State for India, if it is not taken without the previous approval of that authority.

(5) The Federal Assembly should have power to develop the federation on the necessary lines by legislating on questions of common concern, subject to the conditions referred to in sections (3) & (4).

(6) Subject to modifications to be adopted under the specified conditions, all rights and obligations arising

out of Treaties, Engagements and valid decisions of the Government of India hitherto passed, shall be binding on the States as well as the Federal Government and the Provinces of British India.

(7) A federal court may be established to decide all disputes between the States, the Provinces and the Federal Executive Government, if any of the States or Provinces feel that any of the decisions of the Federal Executive Government infringes or violates any of its or their legal rights. The decisions of this Court must be binding on the Federal Executive as well as the constituent Governments. To begin with, the Judges of the Federal Court should be appointed by the Secretary of State for India.

(8) If the Federal Assembly has to deal with any questions, affecting British India only, the States representatives in the Second Chamber shall not vote on such questions nor take part in the discussions on them.

(9) If a dispute arises as to whether a question is or is not one of common concern, the decision of the Viceroy regarding the same shall prevail, until the Federal Court decides otherwise. The Court's decision shall be final.

(10) The Government of India Act shall include a list of such subjects of common interest but it should be capable of being added to, by the Viceroy with the consent of the Federal Assembly under conditions referred to in sections (3) and (4). To the list proposed by the Commission may be added "Defence of India", which subject should be dealt with by the Federal Government under the superintendence and directiona

of the Secretary of State for a period of, say 25 years,, a period sufficient for the nationalisation of the Army in India.

(11) The Government of India Act should further provide that the integrity of the States, the dynastic privileges of the Princes and other matters of concern only to the States, should not be injuriously affected by the decisions of the Federal Government and if they are likely to do so, the Viceroy and failing him, the Federal Court should decide, if any of the decisions do so affect the States.

A constitution based on these lines and providing these safeguards for the States, should work to the satisfaction of all. It would mean an active and effective association of the States with the Federal Government, in its functions connected with all matters of common concern, an association which would establish closer relations between the two Indias on terms which will be fair and just to the States. It will reserve to the States the protection of the Crown, in case the Federation ever attempts to override any of their just rights. It will give the States a right of appeal to an impartial judicial tribunal, capable of preventing improper encroachments on the rights of the Princes and their States. And above all, it will enable the States and British India to establish even closer relationship with each other for the common good of both by means of mutual discussions and understandings. They will be able to do this without the intervention, though, under the guidance, of the British Government, whose ultimate power of being in a position to safeguard the just rights of the States, is so much valued by the Princes. The

constitution will be a Federation at work, with requisite safeguards for the Princes and with a capacity within itself for growth and development on lines approved by both sections of India. The Federal Government will be, within its own sphere, sufficiently strong for its purposes. A large and powerful conservative element of proved and unshakeable loyalty to the British connection will have been introduced into the Government of India, to which the British Nation could transfer its responsibilities in respect of India with perfect confidence. The Princes will have opened to them far wider fields of national service and surer avenues to greater influence for themselves than have been open to them under the present system. The integrity of their States and the prerogatives of their dynasties being guaranteed to them, they may take their proper place in the governing body of their country without hesitation and doubts. Consistently with the safety of their States and of their own position, they will have, by being partners in this national work, established their lasting claim to the gratitude of their countrymen, outside their States. They will have, thereby, proved that they are good patriots and true, and not obstacles in the path of their country's progress. The insurgent forces of nationalism in India may be checked for a time, but no human agency can prevent their self-realisation in the years to come. They will be the friends of this nationalism, they who courageously join hands with it. They will be its enemies, they who will try to damn it with faint praise and will try to retard its onward march by overcautious hesitancy or by shortsighted nervousness for self-interest.

It is no use, however, shutting one's eyes to the reluctance of units, living in isolation to union in a federal constitution. " There was a struggle everywhere " says Bryce describing the unwillingness of many American citizens to accept the constitution of the convention presided over by Washington, "over the adoption of the constitution, a struggle presaging the birth of the two great parties that for many years divided the American people. . . . The question was referred to conventions in the several States. The conventions were composed of able men, who listened to thoughtful arguments, and were themselves influenced by the authority of their leaders. The counsels of the wise prevailed over the prepossessions of the multitude. Yet these counsels would hardly have prevailed but for a cause which is apt to be now overlooked. This was the dread of foreign powers." Replace the word 'multitude' by the word 'Princes' and 'foreign powers' by the phrase "the humiliation of themselves and their country being a conquered and subject nation," and the description of Bryce will apply to the existing position and, let us hope, to the position as it will be in the coming months. For the position in the near future will fully justify the adoption of Bryce's description only if our Princes bear in mind what His Excellency Lord Irwin told the Nizam last year. "I recognise the force of what Your Exalted Highness said", observed the Viceroy, "about the historical relations of the Indian States with the British Crown and there is no need for me to emphasise the vitally important part which the States must play in India's future. They are partners in an enterprise *which admits of no internal jealousies or conflict and in which all*

*parties must be directed by a common desire to see India strong, with the strength which only unity can give."*

But the difficulty will not be all on one side. Some of the British Indian publicists are likely to object to the federation of democratic British India with what are at present practically autocratic Princes. They may urge that such a combination is impossible and, therefore, the States must create responsible Governments, before those Governments—at present they in reality mean nothing more than individual Princes in most of the States,—are considered capable of becoming equal members of a federation. Federation, says Lord Meston, "cannot cause oil and water to mix." Prof. Singh's recent book on "Indian States and British India" (pp. 79-86) describes this difficulty with much emphasis. By taking this attitude, the leaders of British India would be taking a very fatal step. That attitude would at once raise the question, to use Sir Tej Bahadur Sapru's words, "if it is not possible to have a federation for a considerable time on the ground that the States are not yet responsible governments, "what is to happen in the meanwhile?" It would be wiser for British India, if not also for the people of the States, to try to be less logical and more practical, to build on materials as they exist and not desire to reduce India to one level by filling up the valleys with the hills and mountains, before laying the foundations of a self-governing Indian Polity. The wiser among the Princes are beyond doubt realising the need of their popularising States' administrations and they should be relied upon to improve their States so as to bring their governments into line with the new ideas gather-

ing strength among the Princes as well as their people. Many forces are surely at work to lead the Princes on in the right direction. Direct interference in such internal matters, by Indian leaders outside the States, will hinder, rather than help, the cause of Indian Self-Government.

## CHAPTER VI

### IMPLICATIONS OF FEDERATION.

**The fears of the Princes—Reactions of federation on internal administration—The strength of the States in the federation will depend on the progressive character of their administrations—Internal affairs are partially common concern of all—The evils of isolated life—Illustrations from history—The results of military dependence—The responsibilities of partnership—The need of willing cooperation particularly in early stages of federation.**

The apprehension which lurks in the minds of some Princes regarding their future and regarding the effects of the developments in British India upon their own rights and privileges, is perhaps the most serious matter with which they are at present concerned. It is the same fear which may form the most insurmountable impediment in the way of the growth of a Federal All-India constitution we have discussed in the last Chapter. That fear is perhaps the deepest in respect of the integrity of their States and the dynastic rights of their families. As we have seen, they have been subjected to many restrictions on their own rights and what remains of their old-time sovereignty may, they fear, be washed away by the waves of democracy rising all around day by day. The time when this may happen may be far away or near by. In any case, it is their duty to think betime of measures to guard their interests and prevent danger from becoming unconquerable. The desire for self-preservation is the natural instinct of mankind. Wisdom or folly consists in the

choice of right or wrong means to achieve the common aim of all humanity. What is the right road which will lead the Princes to their goal? What are the dangers which threaten them? How are they to be warded off? We have considered the problem that confronts the Princes in their relationship with British India and the country as a whole. We have next to consider the question as to how best they will be able to preserve their States and to secure their own rights in them in the days to come.

The Federal solution of one set of the difficulties of the States has certain bearings on this question which it is necessary to consider before these other questions are approached. I have pointed out in the last Chapter that a federal beginning must now be made without reference to the constitutions of the Governments in the States to be federated. But it must be obvious to all, that participation in a federation must create many duties in respect of the internal affairs of the States in the years to come. Not, however, that these duties can be avoided by avoiding the federal solution. Supposing for a moment that the Princes refuse to be partners in a federal constitution and succeed in keeping things as they are in India, those duties regarding internal government do not cease to be essential for their safety in future. We have seen how the British Government in India, as it is, insists on its right to internal intervention on the ground that it is the Paramount Power responsible for peace and order throughout the country. Under the Federal system we are discussing, this Paramountcy over the internal good government in the States should continue in the hands

of the Viceroy, as the representative of the British Crown. But even if so, and even if the Federal Government is not entrusted with the power of intervention in the administration of the States, the necessity remains to devise means by which this perpetual dread of interference from outside would be done away with. The point I would make here is that even under these conditions, the smooth working of the Federal organisation will largely depend upon the progressive character of the Governments which the Princes will give to their States. Matters of common concern alone, and not the internal affairs of the States, may be within the cognisance of the Federation. But the growth of the Federation will depend upon the progress of the States. The States' representatives or the Princes themselves, if they choose to go to the Federal Assembly, will not be able to make their full weight felt by the Federation unless they are backed, in one form or another, by their own people. We are accustomed to speak of Princes, their Governments and their States. Their Governments are, in truth and in most cases, nothing but themselves. Their States are and must likewise continue to be the Princes alone, until the people have a voice in the conduct of the affairs of the States. Under these circumstances, the States' representatives, nominees of individual Princes or their groups, cannot in practice, though not in theory, exercise the influence which by right their States ought to exercise on the deliberations and decisions of the Federal Assembly. Nor would it be easy for them to win the confidence of their colleagues and secure seats on the Federal Executive without their becoming representa-

tives of their whole States. Let me make it quite clear that these changes in the States are not necessary for a beginning to be made. But as things are set going, these questions must arise and the Princes must, in the interests of themselves and their States, try to develop their own States, in view of the needs as they will surely arise if they are to take their proper place in the coming Federation.

Questions of common concern, with which the Federation will have direct concern, cannot but have some reactions on the internal administration of the States. The British Government claims jurisdiction on through railway lines running across the States. The Federal Government, as the controlling authority on the Indian railways, will naturally claim the same jurisdiction unless the States satisfy that government that the restoration of the jurisdiction to the States will secure efficient police work and prompt and impartial administration of justice in matters arising within Railway limits under the States' jurisdiction. The Police and the Judiciary cannot be efficient and impartial for one part of the jurisdiction and otherwise in another part. One cannot reasonably say that a Magistracy may be corrupt or weak in internal matters which are no concern of the Federal Government and yet the same will perform its functions over railway limits in a proper manner. To take one more instance, the rights of Indians overseas and international relations of India are matters of common concern to the States and to British India\* Supposing South Africa denies to Indians, from both sides of India, the rights of citizenship and the Federal **Government** is called upon to fight for those rights of their

own nationals. Assuming that some of the States also deny those rights to their own subjects and South Africa hurls that fact on the face of the Federal Government, as an argument in favour of its own action, will the Indian Federal Executive be in a position to defend its position and discharge its duties to its nationals overseas? Instances of this kind may be multiplied to any extent. In loyalty to the national claims of their own Federation, the Princes will have to keep their States on nearly as high a level of administrative efficiency as the Provinces of India. This need not necessarily be the result of outside pressure, from the side of the Federation. The close association of the Princes with the Federal system and a growing realisation by them of their duties as much to themselves and to their States as to their country will necessarily impel them towards this administrative approximation to the standards of the most advanced members of the Indian Federation. This advantage of participation in a wider and higher field is not at the disposal of the States at present and the introduction of the Federal System would be, apart from its direct results in the elevation of the status of the Princes in the national life of India, of immense good to them and to their States by broadening their conception of rulership. Isolation and living under external control, however disguised it may be, weaken the sense of responsibility and destroy all initiative. Cooperation and life in the midst of living forces engender strength, induce vigour and assist growth. If for nothing else, for this very reason, the Princes should welcome the change.

In order to understand what enormous advantage of an indirect nature will accrue to the States, in this way,

we would do well to look back to their history for a moment. The East India Company came into contact with the States as its equal, friend and ally. As long as this relationship of equality continued to exist in reality, the States of India were living kingdoms. During the second period of this relationship associated with the names of Wellesley and Hastings, the nominal equality implied by such terms as "alliance" and "mutual friendship" continued. But the foundations of the military supremacy of the Company and of the consequent dependence of the States on the Company's arms were laid. When the Nizam or the Peshwa accepted the subsidiary force, commanded by Company's officers, for their own protection, both of them must have felt that they bought a substantial advantage by that act. What were the results of this? James Grant, a contemporary English Officer in the Deccan, refers to Bajirao, the last Peshwa, in these terms.

**"The course of events affords one useful lesson, and I cannot help thinking that had Bajirao been either more controlled or less supported by the British Government, he would have been a better Prince, or at all events he would never have dared to commit many base acts which impunity in smaller crimes led him to perpetrate."**

The support which the Peshwa secured by the Treaty of Bassein led to his complete demoralisation and the same result followed in almost every case, in which a Prince ceased to be a Prince by his own right but became one by the external support of an outside power. A State which began to live on such support was described by Sir John Malcolm as one "which our overshadowing friendship has shut out from the sunshine of that

splendour which once gave lustre almost to its vices." And so shut out, the State could not but live an inane life, languishing all the time it lived and liable to death at any moment. "The blessing of external protection removes what is, perhaps, the greatest incentive to able administration, the ruler's fear of his own subjects, if he does not give them satisfaction."\* Left alone, a Prince so protected easily becomes a victim to all the vices of the system, unless attempts are made to save him from them by interference and still more interference. This protection, therefore, leads, as it led in so many cases in the past, to complete debasement of the Prince, who begins to think that he has purchased safety to himself at the cost of a cession or tribute and may use his revenues and his powers for self-indulgence. The Nabob of Oudh, it is said, thought that by giving away half his territory for military protection, he had purchased autonomy over the rest of his kingdom and Hastings tried to treat him practically as an 'independent Prince'. What was the result? The State had to be either constantly interfered with, for supporting a weak Nabob or when a policy of non-intervention was followed, the Nabob had to be allowed to sink into decrepitude and decay until annexation brought the State to its end. This foreign protection must produce, in all ordinary cases one of the two results, constant interference in all matters to keep the Prince in a state of freedom from malignant illness or, in its absence, a condition of utterly irresponsible misgovernment from which the only escape is destruction. The East India Company, to use

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• ('The British Crown and the Indian States' p. 120).

the words of Lee Warner, "at first imagined that by treating them (the Princes) as independent nations and retiring behind the ringfence of its own territories, it could effect its object. Experience proved that its "equal allies" were not equal . . . . Clinging to its desire to maintain the Native States, but hampered by traditions of an international position, the Company next introduced the policy of subordinate isolation. . . . The rapidity of annexation, consequent on this doctrine of non-intervention, and on the retention of the empty shell of international status, once more warned the British that a change of policy was needed. The States must be saved, even against themselves, from the penalty of annexation, and the protecting power must escape from the reproach of supporting oppression by the exercise of timely intervention."

During many years, right up to the Mutiny of 1857, the British Indian statesmen held fast to the theory of non-intervention, in what were considered to be independent sovereignties in India. Lord Hastings lays down his theory in the following words in his letter to the Resident at Hyderabad in December 1822 :—

"The presumption of our possessing a universal supremacy in India involving such rights as you have described (for intervention to prevent misrule) is a mistake. . . . It never has been claimed, and certainly never has been acknowledged in the case of Native Powers standing within the denomination of allies. . . . The fact of maladministration is unquestionable **and** must be deplored. Does that however decide the **mode** **in** which alteration is to be effected? Where is **our**

right to determine that the amount of evil is such as to demand our taking the remedy into our hands?"

In another place, Hastings said :—

"You say that his territories (i. e. of a Prince) or those of any other Prince will be ill-governed when enfranchised from our control. What is that to us? One must lament to see any portion of the human race under oppressive sway. But we are not charged with the quixotic obligation of vindicating the rights of all mankind."

Metcalf writing to the Governor-General in 1855 said:—

"It is customary with the advocates of interference, to twist our obligation of protection against enemies into a right to interfere in the internal affairs of protected States, a right, however, which our treaties generally do not give us, otherwise than as the supporters of the legitimate Sovereign against usurpation or dethronement, to the event of his not having merited the disaffection of his subjects."

In reply to the Resident at Hyderabad Dalhousie wrote:—

"Still less can I recognise any such propriety in the acknowledged supremacy of the British Government in India, as can justify its rulers in disregarding the positive obligations of international contracts, in order to obtrude on Native Princes and their people a system of subversive interference which is unwelcome alike to people and prince."

Non-interference was the avowed policy of the Company's highest officers in the days right up to the

assumption of the Indian Government by Queen Victoria. But, it must be remembered, that inspite of these views held by the Company's Officers in India and in London, a great deal of interference did take place in this period. "In the very nature of the circumstances," as Dr. Metha puts it in his "Lord Hastings and Indian States," owing to the unequal State of the alliances, the application of that policy was indeed a difficult matter...A close connection between two such unequal and dissimilar Powers as the English Company and the Indian rulers, particularly after the wars of Wellesley's time, could not but bring about the subjection of the weaker to the stronger, AS Elphinstone put it, 'differences must unavoidably arise; and however moderate the superior Power may be, the result of each must advance the inferior a step towards entire subjugation/ Metcalf s witty remark contains the same opinion. He wrote to a friend, "How contact with us seems to paralyse every State !"

This was but the inevitable result of the utterly dependent position which the Indian States accepted even though from only a military point of view. Referring to the subsidiary force on which the most important of our States depended in the early days of the nineteenth century for self-defence, Munro wrote to Hastings in 1817 that "it has a natural tendency to render the Government of every country in which it exists, weak and oppressive; to extinguish all honourable spirit among the higher classes of society and to degrade and impoverish the whole people. The usual remedy of a bad government in India is a quiet revolution in the Palace, or a violent one by rebellion or foreign con-

quests. But the presence of a British force cuts off every chance of a remedy, by supporting the Prince on the throne against every foreign or domestic enemy. It renders him indolent by teaching him to trust to strangers for his security; and cruel and avaricious by showing him that he has nothing to fear from the hatred of his subjects." "The habit of going upon crutches" said Russell in his evidence before Parliament, "deprives him (the Prince) of the use of his limbs. By taking away the occasion, we take away in the end all power of exertion." Dependence on external help for self-preservation from outside attacks or internal disturbances must therefore lead to the general decay of the strength of a Prince. The assurance of security from dangers from within and without deprives the Prince of the natural strength of a Government, the contentment of his subjects and the efficiency of his administration. It drives him to the unnatural expedient of directing all his energy to the propitiation of an outside authority and neglecting the interests and good will of his own people. Free from dangers, he has no need to cultivate the friendship and love of his subjects, by the exercise of such virtues of kingship as are necessary for rulers, who depend on the strength of their States for their own stability and prosperity. The disuse of a power destroys the power itself. The delegation of military defence of their States by the Princes, could not therefore mean only the loss of external sovereignty. It necessarily meant the loss of the vital force of a State's life, the deterioration of the very life-blood of the body politic, which could not but lead to the decay of the whole body. It is impossible, unless the whole country is to

be once again condemned to anarchy, that each of our States should be a military power by itself. But it is possible that all the States, together, with the rest of the country, might become, unlike now, a living body in the strength and vitality of which all will share. And if all of them regain membership of such an organic, internally powerful unit, the vital power of life will again begin to flow in the veins of all the States. This can only be, if the States become united with the whole as limbs of a living body. Each limb will still have its separate existence and its peculiar function; its identity will remain; and its own right to be nourished by the whole and to nourish the whole by its own exertions, will also be maintained. But partnership in an organic nationhood implies duties as well as rights. The stomach may leave the hands freedom to be soiled in dirt and to get the contagion of disease. But if the hands use that freedom wrongly and to their own detriment, the loss will be not only theirs but of the whole. The federal reorganisation of the States and British India, though it will be concerned only with common interests, cannot but be prejudicially affected by the inefficiency of its members, be they States or Provinces. The powers of Paramountcy in internal affairs may remain with the Crown. But the interaction of internal administration between the States and British India can never be dispensed with. Whether the relationship between them is only, with the British Crown as now or not, whether the coming constitution is to be an association or federation or partnership, whether a positive relationship is recognised or not, the States cannot live apart from British India. It is physically impossible that they could live

independent lives. Both may remain under foreign domination. Both may enjoy the rights of self-government. But neither the one nor the other can be sovereign in its own borders without the other being also sovereign. Nor can two or more independent sovereignties coexist within the borders of India. This is what Lord Curzon meant when he said that "the sovereignty of the Crown is *everywhere*" in India. "The sovereignty of the British Crown," repeated Lord Reading, "is supreme in India." The Butler Committee paraphrased this dictum by saying that the British Government's Paramountcy in India must be paramount. The Federal idea converts this relationship of Indian States with the Government of India—of course, as representing the British Crown and responsible to the British Parliament—into a partnership between equals for the good of all. Not that Paramountcy will cease to exist. Without it, the Federal Indian Government will only be a name. It has to be, however, a reality. But under it, Paramountcy will be the common will of all the members of the Federation, an expression of the common determination of the States and British India to unite for giving strength to each other. This common purpose of the two Indias or the two sections of one India can only be achieved by each partner recognising that, as he must share the profits of the partnership, he must also take the responsibilities, individual as well as joint, and discharge them fairly. No partnership can be based on complete individual freedom. Like every other relationship, it restricts the rights of each party to the relationship in some directions while it adds to the sum total of those rights by

**the** very fact of the parties uniting for common objects. The partners must do nothing which will bring discredit upon themselves jointly or severally. They must **not** pull in different directions. The standards of duty must be nearly the same for all. Equal partnership implies equality of each one's contribution to the good of the whole, equal loyalty to the common goal of all, equal sacrifices in the common cause. The States and even the Provinces are bound to claim internal autonomy. The States have a better claim to that internal sovereignty than the Provinces. But even internal actions react on the external and in so far as they do so, there will be the obligation, implicit in the federal relationship, that this internal sovereignty of the States should be willingly adjusted to and made consistent with the efficient functioning of the Federal Union of India. Liberty or freedom from external Paramountcy can only be realised by voluntary acceptance of limitations by the States. Nature knows no freedom without restrictions. Unrestricted freedom means slavery and paradoxical as it may appear, self-imposed restrictions are real liberty. Federation will succeed and bring good to the States, and to India as a whole, exactly in proportion to their realisation of this Law of Freedom.

The need of this voluntary co-operation by the States with the Federal Government will be all the more necessary in the earlier stages. Paramountcy and treaty obligations will be dealt with by that Government only, in so far as they relate to common concerns of the States and British India. The partition between these two branches of obligations is not and cannot be complete in any case. The duties required to be performed

by the States in respect of these concerns in the past have been satisfactorily got performed, mainly because the Government of India could invite the States to perform them, armed with the strength of its undivided Paramountcy. Until the Federation becomes a fully-developed institution, the Paramountcy in respect of the internal affairs of the States—whatever its extent—must be what it is now, a prerogative of the Crown acting through the Viceroy. And in so far as and so long as this will be so, the smooth running of the Federal machine will depend on the willing co-operation of the States. It will be, it is true, a sort of modified diarchy in the realm of Paramountcy—The federal harmony will be in the last resort capable of achievement by an appeal to the Viceroy, in case of a difference, and in such cases the diarchy will be an unitary exercise of authority by the Viceroy. This would be necessary for securing united action by the two sides during the stage of growth and transition from partial to complete federation. But willing co-operation from both sides will lead to all the advantages of a full-fledged federation in practice. In the absence of that cooperation, the federal machine will be clogged to a degree and its movements will lie in the hands of the Viceroy. But do what we will, the partnership between the two sides of India is an indissoluble connection. The choice for the partners is to use this unquestionable and unavoidable fact for the benefit of all or for dragging each other down, clogging the wheels of their organisation and impeding the progress of themselves by impeding that of the others. If this fact is clearly realised, and only if it is realised, they will be willing

to discharge their obligations to themselves and to the whole, implied in the federalisation of their relationship. More than one sovereign body—a really, exclusively sovereign body—is beyond the bounds of all possibilities. All may share equally in the one united sovereignty of India under the aegis of the Crown. But such union, without which neither the States nor British India can attain sovereign position in India, can never fit in, with ideas of absolute independence in any quarter and in any department of life. Real, natural, inborn political freedom is, and can spring only from the solidarity of all who form, and can never remain outside, the whole.

## CHAPTER VII

### INTERNAL INTERVENTION.

The various views regarding internal intervention—the legal theory—to whom does it apply?—an admission that the theory does not by itself apply to any State—the true character of treaties—absolute non-intervention impossible under Treaties—moral justification of non-intervention—the benefits of intervention in the past—its relation with the personality of the Princes—substantial grievance of violations of fiscal rights—the guaranteed classes in the States—the influence of the political Departments—its results—religion and public opinion as checks—true justification of internal autonomy—the test of fitness—Baker's views on the point—Lord Irwin on the subject—basis of reforms must be constitutional—Chamberlain's influence to induce reforms—other forces.

Matters of common concern having been left to the charge of the Federal Government, subject to the protecting control of the Crown in the earlier stages, the problem which remains to be solved by the States relates to the Paramount Power's rights of intervention in the internal affairs of the States. We have already examined the claims of the Crown or its representative in this respect and the principles on which they are sought to be justified. We have also noticed, though we have not fully examined, the position taken up by the leading Princes on this point. That the Paramountcy-claim in this respect is of the vaguest kind goes without saying. It has been urged that the vagueness or indefiniteness is unavoidable from the very nature of things. It is also

clear that the claim has been put forward in such a way that it could extend to anything that a State might do. On the other hand, there is a certain school of critics; who complain that the intervention in internal administration has been too spasmodic and too weak to be effective. In spite of it, the Princes have continued to be perfect autocrats with no restrictions on their power within their States, and that the change desired by the people of the States is rather in the direction of a tightening of the grip than in that of relaxing it. The Princes, on the one side, are straining every nerve to restrict the scope of this intervention by confining it to the four corners of the Treaties, those who agitate in the name of the people in the States demand an extension of that scope for securing internal reforms in the States, by bringing the Paramountcy influence to bear on the Indian Princes. The view of the Paramount Power, as authoritatively declared so far, has been described in Chapter III and supports, at least in theory, the popular demand referred to here.

Much labour has been spent in recent years on showing that the right of the British Government to intervene in States is a legal right, based upon legal agreement between that Government and the States, and that, therefore the right can by no means transgress the strict limits of that agreement as embodied in Treaties or other engagements, formal or informal, but in every case essentially dependent for their validity upon the consent of the States. Under this view, Paramountcy "gives to the Crown definite rights, and imposes upon it definite duties in respect of certain matters and certain matters only, viz., those relating to foreign affairs and

external and internal security". Whatever the legal merits of this view may be, how many States would it help in securing freedom from intervention? It does not and cannot apply to more than forty States, out of several hundreds who have never entered into any treaty with the British Government. Out of these forty treaty States, in several cases, provisions justifying intervention by 'advice'<sup>1</sup>, and in other forms, have been made. These include States like Mysore, Travancore, Kolhapur &c, and no one can say that they are among the less important of the Indian States. In fact, they are among the most ancient, populous, wealthy and progressive States in the country. In other cases also, it would not be difficult to show that *legal* grounds do exist to justify intervention by the Paramount Power. I have already shown that in the case of Udaipur, whose independence was admitted by Treaty, intervention in the quarrels between the Ruler and his nobles was agreed to. As intervention became, in the opinion of Government, necessary, stipulations were made legalising the same even in the case of some of the States, whom Treaties had guaranteed absolute internal sovereignty. In some cases, like those of the Punjab States including Patiala, it may be pointed out that their first relationship with those States began with unilateral declarations by the British authorities, which merely stated that the "Chiefs shall remain in the exercise of the same rights and authority within their own possession, which they enjoyed before they were taken under the British pro-

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The Legal Opinion of British Counsel submitted to the Butler Committee.

tection." \* The question arises as to whether these States were real sovereignties prior to this declaration and if they were, why they required such an assurance from a newly rising Power? The Proclamation of 1811 refers to complaints made by the subjects of the States to British Officers and though they were rejected, the Chiefs were told to "explain this to their respective subjects and *court their confidence*" Referring to the forcible dispossession of other people's possessions by certain Sirdars, the Proclamation declared, "by order of the British Government", "that if any of the Sirdars or others have forcibly taken possession of the estates of others, or otherwise injured the lawful owners, it is necessary that, before the occurrence of any complaint, the proprietor should be satisfied, and by no means to defer the restoration of the property; in which however, should delays be made, and the interference of the (British Authority become requisite, the revenues of the estate. . . . shall, without scruple, be demanded from the offending party.'<sup>1</sup> The same Proclamation assures the States that "it is not the intention of the British Government to interfere in the possessions of the Sirdars of this country." The Sanad of 1815 given to Patiala enjoins the Ruler to "omit no exertions to do justice, and to promote the welfare and happiness of the ryots." A similar clause was inserted in most of these Sanads of the time. In 1847, after the Sikhs had been finally conquered, a new Sanad was issued to Patiala, in the course of which the British Government declared that His Highness "will exert himself to do

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\* Art. 3 of the *Ittilah-nameh* of 1809.

justice, and to promote the welfare and happiness of his subjects," that "the Maharaja had relinquished for himself and his successors for ever" certain rights, and that he "also binds himself and his successors to the suppression of suttee, infanticide, and slave-dealing within his territories." In 1860, again, the Viceroy issued a further Sanad to the same State in which the Maharaja was declared to have a right to "full sovereignty" over his State, although, as we have just seen, injunctions regarding internal affairs had been also issued to the Maharaja on several previous occasions. The same Sanad proceeds to observe that in 1847, "the British Government empowered the Maharaja to inflict capital punishments *after reference to the Commissioner*" and though in 1860, this restriction was removed, His Highness was directed that in cases of "British subjects committing crime and apprehended in his territory, the Maharajah will be guided by the rules contained in the Despatch of the Court of Directors to the Madras Government."

What does all this mean? On the one hand, we have an assurance, as in the case of Kolhapur, that there is no intention on the part of the British Government "to diminish the independence of the said Rajah as a sovereign Prince," \* On the other hand, both Treaties and Sanads proceed in the very same breath to lay down conditions for the exercise of powers by the Prince, in certain matters, in which such conditions were then considered necessary and to impose restrictions on the unfettered use of the powers of internal sovereignty.

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\* Art 2 of the Kolhapur Treaty of 1326.

Are these two positions consistent with each other? If, as is apparent, they are not, how can they be reconciled and explained? This can only be done by realising the fact that treaties are not ordinary legal transactions and more particularly, when they are made between a dominant Power and weak States, which could not defend themselves from aggressions by neighbours, they cannot in reality be free and voluntary agreements. The experience, all the world over, teaches us that in such cases, forms are maintained while the substance disappears, soothing words continue to be used while undesired actions are forced upon the weaker party and attempts are made to keep up appearances, even when the reality has ceased to conform to them.\* The legal habits of the British mind are too well known to need mention here. The British Law and Constitution are alike the growth on these peculiar lines and the growth of the relationship of the British with the Indian States has naturally followed the same lines. From the earliest to the present days, the British have been careful in avoiding needs of facing any issues in their face, of dealing with questions directly and squarely, of anticipating future contingencies by considering the situation on broad principles. The great Anglo-Indian statesmen who had to bring these relations into existence and to meet

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# "Historical reminiscences and associations keep the **idea** of **State** vividly alive in the minds of the peoples, and especially of **its** own subjects, long after it has ceased to bear its judicial attributes, and retrogressive metamorphosis must have advanced **very far** indeed before it is entirely extinguished" Oppenheimer's "*German Republic*"

the requirements of the situation from day to day were not always guided by the same motives and even when the end of the policy was settled, they could not all act according to fixed principles or methods. In such circumstances, the Treaties could neither aim at self-consistency or consistency with facts. It is, therefore, impossible to base any useful arguments on them without at the same time taking account of all the facts. Their terms were conditioned upon and determined by the passing exigencies of the times and the surroundings in which they came into existence. They can be and should be adhered to, to the farthest extent of possibility, but it is no good to try to prove that they form the Bible of the States' relationship with Government. In no case, can they provide a basis for claiming immunity from all intervention in the States. General conclusions of any value can never be drawn from them. This has been admitted in a way, even by the ablest advocates of the legal theory of non-intervention. In prefacing their exposition of the theory, they admit that "there is in the case of every State a separate history, a separate set of rights, a separate set of obligations, and a separate economic position. . . . Everything said in this outline sketch must be read as subject to and conditioned by the particular rights and the particular obligations of each State." \* If so, to whom does the theory of 'Paramouncy Contract' apply? In whose case, is Paramouncy couped up within the narrow definition given to it by the Legalists? Principles and theories

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\* Preface to "The British Crown and the Indian States" by the Special Organisation of the Chamber of Princes.

which are subject to and conditioned by the particular history and engagements of each State do not by themselves apply to any State and are of not much practical utility in any case.

This view must at first sight appear fatal to the case for non-intervention advanced by several Princes. In reality, too, it is so, if the case is assumed to depend merely on this legal argument. The argument being based on a hypothesis, which does not hold good in any single case, it is capable of helping the claim of none of the States that we know of. This does not, however, mean that the claim must therefore be given up. There are several stronger reasons to justify the complaint, the Princes have been making, in respect of the evils of internal interference by the representatives of the Paramount Power and on those reasons, the States must rely for supporting their case. I have already shown in the previous pages how the shadows of Paramountcy have deprived the States of the light which alone could give life and vigour to them. Temporary relief, it must in justice be admitted, is given to excessively harassed subjects of the States through this agency. In the absence of anything better to secure good government, the dressing and treatment of the Political Department relieves acute pain, cleans the wounds when they are full of puss, and soothes the afflicted mind of the patient with hope. But the sufferer is never free from the disease and his strength is gradually undermined. Under this system of relief, temporary good is undoubtedly done and if the patient is never to recover, political intervention is useful as a palliative. I must also make it clear that, in the view

I hold, the Political Department has done a great deal to improve the States in their internal administration. Handicapped by theories, laid down by statesmen whose knowledge of the conditions of States is meagre, theories which are modified and sometimes reversed to suit ephemeral political considerations which are foreign to the States themselves, the Political Officer has consistently tried to use his influence to the best advantage of the Princes as well as of their people. They have taken advantage of minorities of the Princes to introduce salutary reforms. Their presence in the States has always had a wholesome effect on the undesirable tendencies of the autocracies prevailing in the States. Many of them have tried to secure justice to the oppressed inhabitants of the States in their charge, who have looked to them as their last hope. From their point of view, the right of internal interference claimed by the Paramount Power has been so essential, that its reduction or circumscription has been stoutly opposed by a large and growing school of thought among the subjects of the States. Nor have the Princes themselves been slow to recognise the assistance received by them from the Political Officers accredited to their Courts. These officers are generally inspired by good motives and their actions are on the whole guided by principles of justice. Their intervention has been an evil only because they have had to work under a wrong and therefore pernicious system and if it has been an evil in the long run, it has been a necessary evil which is none of their own fault.

The other personal factor in this problem is the Ruler of the State. In speaking of his class also, we

have to refer to the class as a whole and not to individuals, some of whom have been good as well as bad. I do not, therefore, take into account in this place either the exceptionally benevolent Princes who have enshrined their names in the annals of their States and in the hearts of their generous subjects or that other equally exceptional class of Indian Rulers whose misdeeds have harmed not only themselves or their people but the whole Order to which they belong. As a rule, an Indian Prince is just as good or as bad as the people among whom he is born and bred up and on whom he rules. He is a typical Indian in every sense of the word and those who hold them as a class exposed to temptations should blame human nature, as we know it, rather than the class. If an attempt is made to replace them by any other ordinary Indians and mentally picture the position as it would then be, I can conceive of hardly any change either in outlines or in details differentiating the portrait as we would have it from the one we are used to see today. Given the environments, as we have them, there is little possibility of change or improvement by attacking the tyrannical propensities of the Princes or the callous indifference of the Political Officer to all the lawlessness which the critics are accustomed to associate with the rule of the States. The fact of the evil in a certain degree is beyond question. That the Indian Prince is an autocrat, pure and simple, is as plain as daylight. To say that though he may not be responsible to his subjects in the Western sense of the word, he is traditionally and by deeprooted religious sentiment responsible to **his** people, is to ignore the inherent faults of human

nature and the universal divergence between professed theories and the actual results of men's passions. There exists, therefore, no earthly authority, except that of the Paramount Power, which would at present call the Prince to account for oppression which he may be guilty of. Admittedly, the Paramount Power comes into action only in extreme cases of mal-administration, which every Prince with his head on his shoulders tries to avoid ; and this he can easily do by moderating his inequitable demands on the patience of his people, by avoiding to strain their meek loyalty too much, by splitting the discontent of his subjects into factions, by taking care to foster the growth of a favourable party in the State whose services are bought by the use of judicious patronage, by playing one class against another, by mixing a long course of mischievous behaviour with a few good striking acts of generosity, and by exploiting the submissive and despairing nature of the common run of an Indian population. I do not mean that every Prince uses all or any of these methods. Some of them use some of them at a time; but the point is that by being moderate in the use of his untrammelled powers, he can generally keep the Resident's hands at arm's length, although that exercise of power may be worse than gross misgovernment by being slower in effect and, withal, more deleterious on the moral nerves of the people. The Political Officer may be a perfect gentleman as he often is. But he inherits the tradition of non-interference except under exceptional circumstances and the general tendency of British policy, in practice even though not in theory, has been to discourage interference. Why then is such a grievance made by

the Princes on the score of excessive interference ?" There are two reasons for it. It is not so much the action of the Political Department in the interest of the people in the States as the encroachments by the Paramount Power on their economic as well as other interests which is deeply resented by the Princes. The list of such violations of rights in furtherance of the interests of British India and the British Government is a long one. The States' interests have been frequently subordinated to the British Indian interests and any complaints a State might make are summarily brushed aside. The decisions of the Paramount Power are the immutable laws for the Princes. A State may not construct a railway because it may compete with another line in British India. This may inflict a severe loss on the industries or commerce in the State. It may draw away from the State all its legitimate business. It may contribute to the development of British India at the cost of the prosperity of the State. But without the consent of the Paramount Power, not an inch of railway line must be constructed. Agreements are imposed on the States during minorities without any compensation to them, though they might suffer financial loss by those agreements.

"Several instances could," says the Kolhapur Darbar in its Memorandum to the Butler Committee, "be given in support of this contention from the history of the Kolhappur State. The Kolhapur Opium Agreement of 1880 and the Free Trade Agreement of 1886 were entered into by the Political Agent with the State Karbhari of Kolhapur and the Council of Administration of Kolhapur, when the Maharaja was a minor. The Political Agent was himself the head of

the Kolhapur Administration and obviously he was acting; under orders from Government. Though these two Agreements appear to be between the State on the one hand and the British Government on the other, they could not be bilateral Agreements in any sense of the term. The Government represented itself as well as the State. The first of the two Agreements prohibited the cultivation of poppy and manufacture of opium for all purposes absolutely and for all time. The second required the State to abolish all duties on export from and import into the State. Both Agreements were in fact, if not in form, restrictions imposed upon the State by the British Government, which was then acting as guardian of the Maharaja. It is a misuse of words to describe these as Agreements. They impose obvious financial loss on the State. While many States are even now permitted to levy import and export duties and while the Government of India itself has been levying protective duties on imports and exports, it is inequitable that the State should be subjected to restrictions of its powers, resulting in a clear financial loss to itself, on the strength of what is nominally an Agreement but is in reality an order from the Paramount Power, passed during the minority of the Ruler of the State. Free Trade may have been a popular theory in 1886. It is not so now. Many States are not required to follow that policy. The Government of India does not follow it now. No Ruler of the Kolhapur State has ever given his free consent to it. Nevertheless it is being looked upon as a binding Agreement for all time<sup>3</sup>. The inequity of restricting the liberties of the State in such circumstances is obvious."

Instances of such encroachments on the rights of the States, though they may be benevolent in intention are rightly resented, when they are committed by the British Government, during periods of minorities or by taking advantage of its predominant position. Such agreements, it may be conceded, may be necessary in **the**

interests of the country as a whole. But if the States are to be asked to sacrifice their rights for serving these interests, British India and the Paramount Power must also reciprocate by showing the same spirit of self-sacrifice for the good of the States which is never done. The imposition of export and import duties or of transit duties by the States may be fairly prohibited, if at the same time the States are allowed to share proportionately the customs revenues of India as a whole or transit duties—and customs duties on goods consumed by the States are nothing more—on States-consumed goods are refunded to the States. This subject has been agitated considerably of late and one may hope that the States are on the way to getting justice in the matter. The inequitable policy of violating the rights of the States by taxing their people indirectly is however being pursued even to this day. The recent action of the Government of India in imposing an additional cess on petrol without as yet paying the States their share of it may be cited here as an illustration of the continuance of this policy without check. It is mainly these encroachments that the States complain of.

Another class of such improper interference relates to the unwarranted assumption by the British Government of the defence of certain limited but unduly pampered class of people in the States, the nobles of the various bigger States. Why a particular set of people, and that the most powerful in the States, should be selected by Government for its special attention and protection is really beyond one's comprehension. If it is a desire to prevent injustice by the Prince concerned, which prompts this action, certainly the poorer **and**

therefore weaker classes of his subjects deserve that benevolent solicitude of the Government far more than the Thakors and Jahagirdars. While these classes are left to the mercies of the Prince, a small and powerful class in the State is given the monopoly of the entire solicitude of the Paramount Power. The Kolhapur Agreement of 1862—itsself a so-called agreement imposed upon a Prince during whose minority the control of the State was taken by the British Government, imposed upon him on penalty of his not being ever restored to his rightful ancestral State—is an instance in point. The intervention in this case was based on the ground that the Government wanted "merely to secure good government, and to prevent those disputes which in old days were frequently the cause of disturbance and bloodshed." The administration of Kolhapur was vested in the British Government for eighteen years prior to 1862 and every cause for dispute had in fact been settled during the time. If disturbances and bloodshed had occurred before, they referred to disputes between only one of the ten Jahagirdars and the State, and hardly ever had any occasion arisen for breach of peace between the Durbar and any other Jahagir. Yet on a ground which held good only with reference to one out of ten, all the ten Jahagirdars were brought under the Government's supervision and guardianship. Many other smaller Jahagirdars of the State were left out without any such protection. It is impossible to say why they were thus excluded. Whenever any dispute had arisen during the preceding regime, the Government had referred complaints received by it to the Durbar itself for disposal,

on the ground that the Maharaja was the absolute Suzerain over the Jahagirdars. There had been some disputes between the Ruler and these noblemen during the troublous days of the 18th century; but that was more the result of the then common spirit of rebelliousness among the class of Jahagirdars throughout India, than of any oppressiveness on the part of the Suzerain. And yet, after years of settled British administration, the Government considered it necessary to have its own finger in the pie, when the Maharaja was to be restored to his powers. The result of such hybrid arrangements, with 'Suzerainty' in one place and power in another, has been a continuous struggle between the two sides for the past seventy years with no prospect of an end to it. The Maharaja's sovereignty, guaranteed by Treaty, is paralysed. The Resident's supervision is 'political' which means that it is weak and occasional. The dual control is a perpetual invitation to the Nobles to ignore the Suzerain when and where possible, to dispute every order, to delay obedience, to procrastinate at every step and carry on without loss of hope their attempt to overthrow suzerainty. Success swings to and fro between the two parties, so that both of them are encouraged to persist in their efforts. This is but the natural effect of the creation of an undefined diarchy in respect of a small but influential class in the State.

The evils of internal intervention may be similarly illustrated from the histories of many States in India. But it is really unnecessary to do so. The system is intrinsically faulty and must lead to all such evils. The Political Department, manned no doubt with well inten-

tioned officers, works under the handicap of its position. It cannot undertake the responsibility of direct control of the administrations of the States. But it has a large amount of influence and indirect authority in its hands which it must use as best as it can. It cannot, therefore, cease to interfere from behind the curtains. The Prince is the nominal sovereign. But whatever the appearances may be, all the prospects of his life are in the hands of the Political Department. The obvious course before him is, to see that he does not offend that powerful Department. Its ways are as secret as its influence. Its information and views are often confidentially obtained and formed, while its reports to Government are meant to be a sealed book to the Princes. Its working is invisible, imperceptible, but all the same, effective. All this means that the Princes must always remain in dread of its displeasure and must therefore do all that may be possible to propitiate it.

By heredity, by tradition, by the influence of the environments and on account of the apparently unlimited powers enjoyed, the Princes are absolute rulers subject to only one condition, viz, the pleasure of the Paramount Power acting through its Political Officers. Their Treaties and Sanads describe them as full-power Princes, sovereigns within their own territory, expected to rule well but with freedom to decide for themselves what is the best rule for their States. Their only real responsibility is to the Paramount Power, and to no other authority in the State or elsewhere. The constitution of the State is a pure personal rule and under British influence, the ancient checks on the absolutism of the Princes have ceased to function. The body of Nobles

in the State are alienated from their Chief or Suzerain by the dual system created by the British guarantees. They cannot, therefore, exercise the influence which they once had. . They are opposed to, but incapable of influencing, the Prince. Living under age-long autocracy, the masses are inert, resigned to fatalism, demoralised and disorganised. Their contentment is held up to the Prince as his goal; but their silence, born of their moral weakness, is always liable to be misconstrued as their contentment. Under such circumstances, a young Maharaja of ordinary capacities cannot fail to be the creature of his environments, mainly intent upon pleasing himself and those who may be for one reason or other near and dear to him, with the Political Officer's good will as the only sheet anchor of his authority. The Political Officer acknowledges no direct responsibility for good government in the State and is taught to believe that his hands are to be tied down till extreme misrule becomes rampant. I do not take into account the weak or the wicked ruler. I do not consider an overbearing or whimsical Resident. Both of them are exceptional and in a general review of the position, they need not be the basis of any generalisation. Nor do I consider here the cases of exceptionally strong rulers, of kindly disposition and generous instincts, who rise above their surroundings and rule over a well-administered State. I assume an ordinary Chief and an ordinary Political Officer. I assume both of them to be men of common goodness and give the reader an idea of the picture as it is bound to be, owing to the very canvas on which and the background with which it is drawn. The evils which spring from

this situation are not ascribable to any special fault in either of the two persons concerned. They are inevitable in the circumstances. In every State, the Prince or Chief can justly say: I am the sovereign, my will is the law, the revenues are my estate, the Ministers and other Officers are my creatures and may be made or unmade by me, provided the Political Department is not displeased with me. Loyalty to the British Crown, reverence for his agents in India, unstinted hospitality and submissiveness towards them, none of these are virtues except in so far as an accommodating nature in its dealings with an all-powerful authority over one's head is a virtue. Personal pleasure is the natural object of an average man's efforts and if one can secure it on condition that one's work is not so exceptionally bad, as to incur the wrath of the one authority which can bring him to book, what better and higher efforts can be expected of such a person? Similarly when a Political Officer is expected, firstly, to watch the interests of the Paramount Power, secondly, to see that gross abuse of power does not occur and, thirdly, to do nothing more, how can he be held responsible for the inherent faults of personal autocracy, for absence of the rule of Law, for unchecked expenditure on private purposes, for Public Service wanting in backbone and independence, and for the judiciary being subservient? The Ruler, as well as the Resident, do all the good which circumstances and policy require. But the necessities of both are so limited that abuses do remain in the very nature of things as they exist and unless the surroundings are altered, those abuses must continue.

"The sovereign's autocratic power" says Sir Sidney Low, "is exercised under conditions prescribed by religion, usage and tradition. . . . In personal monarchy, so regulated, the most effective check on the abuse of autocracy in the *East is public opinion.*"\* If this is true anywhere, it may be so in oriental States working under natural conditions. It may be so in Persia or Afganistan. But under the artificial conditions of the Indian States, where British Paramountry frees the Princes from all danger of adverse public opinion except in very rare cases, this 'most efficient check'\* hardly exists, as a factor of practical efficacy. Western education even in the States has slackened the hold of religion on all classes of people and much more so, on the minds of Princes. The terrors of post-death punishments, the sanction of religious injunctions, have now ceased to frighten any, except the old women and the ignorant villagers of India. It is futile to hope that such flimsy checks can suffice to serve their purpose, if intended to prove that the autocratic system is functioning well in the States, the argument is not merely untenable but specious. For centuries before the British came on the field of Indian politics, the influence of traditions, religion and public opinion had been killed out of existence by the supremacy of alien invaders, whose chief sanction was the strength of their armies. The struggles which characterised this long period of Indian history left only one gate of entry into the citadels of kingly power, open to all aspirants to kingly status and that was the possession of military strength. Those who shared that strength with the kings, the military leaders

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\* **Vide** "The Indian States and Ruling Princes" by Sir S. Low.

of the armies, were then the only check on despotism. With the appearance of the British on the scene as the dominant power in India, that class has disappeared and its nominal successors are now more a thorn in the sides of the Indian Princes than a source of strength to either them or to the people of the States. The worst result of British Paramountcy in the States has been that while gross maladministration is liable to be interfered with, at the pleasure of the Paramount Power, the causes of misrule or of an absence of good government are never likely to be removed or even mitigated under its influence. This is because Paramountcy is an unnatural prop which keeps up a normally unsound system and has weakened, if not destroyed, the forces which should check the vagaries of even a despotic Government.

The right of intervention in such a system is an unavoidable necessity, though it is an evil of the worst type. It leads to reasoning in an absolutely vicious circle. The system is inherently liable to abuse and therefore the right of intervention must be reserved to the Paramount Power. It can be transferred to none else, because it is that Power which derives the right from its duty to maintain the States in tact against internal commotions. But the States being internally sovereign bodies, the right is to be exercised in extreme cases only. That being the case, the autocratic system must be continued to run its normal life with all its faults. This again justifies the right of intervention as a necessity, which is binding on the Paramount Power. Thus goes on the vicious argument from which it has become impossible for the States to escape. Treaties or no Treaties, consent or no consent, the inexorable

law of nature, the indisputable logic of facts thus justifies the Paramountcy in this respect and no State can hope to riggle out of the circle by appeal to documents made under the stress of circumstances. That circumstances sometimes arise to save the States partially and temporarily from the baneful effects of this right of Paramountcy might at once be admitted. For instance, since the growth of anti-British movements in British India, the Paramount Power has been in practice following a policy of as little intervention in the States as possible. But that Power will never disown its right to the slightest extent as long as the facts remain unaltered in all their essentials. Legal theories look potent in the expositions of eminent counsel but they cannot stand the test of experience and cannot be justified by the hard logic of facts. The only way to escape from the tightening effects of an unending tutelage—and Paramountcy means nothing else for the States—is for the States to pursue a path of constitutional reform wherein a power will be brought into existence within the State itself to check the natural faults of autocracy, a power which will be an adequate substitute for external authority seeking to serve the same purpose. This internal power of self-improvement has none of the evil tendencies of external force trying to check the excessive growth of the evils of autocracy. On the contrary, it has the capacity to stimulate the wholesome activities of the State in its corporate life and if intervention is a palliative in acute stages of illness, an internal constitutional reform would mean the growth and stimulation of vital forces within the body which would destroy the

foreign bacilli in the veins and promote natural health and vigour.

Is there no justification for the States' claim to full internal sovereignty, if not on the grounds of Treaty rights ? The answer depends on what one means by the word 'States'. His Highness the Maharaja of Bikaner has wisely defined the word to mean 'the Princes, their Governments and their people. In this wider sense, the States need not labour much for discovering the true justification of their claim to as full an autonomy as possible. The right to self-government is the birthright of all States, as it is that of all human society. If circumstances have deprived the States of a part of that right, it is their right to endeavour with all their might to get the restrictions removed. The sins of centuries have reduced the Indian States to their present position of powerlessness. Their disunity, their mutual rivalries, their failure to realise the wider duties of their membership of the Indian Nation, their isolated efforts to plough each one his lonely furrow, the absence of a national organisation in the country which could consolidate all the forces therein for common purposes, this has been the cause of the fall of our States from their status of sovereignty. If they do not now commit the same old mistake, if they do not aim at individual independence, if they acknowledge the need of their being integral parts of their motherland, if they accept the burdens of duties which common life necessarily imposes on each component part of the Nation, theirs will be the rights of internal autonomy as theirs will be the partnership in national sovereignty. Under such an All-India Constitution, the States have every

**right** to the utmost degree of internal independence. Their claims to it will be far stronger than those of **the** Provinces in British India, which are now assured of a very large measure of internal autonomy. The Provinces have to claim from the Central Government such powers as it may choose to confer upon them. The process in the case of the States is the reverse of this. They are originally sovereign and have parted with only such powers as the All-India Government wanted them to surrender, in the common interests of the country. The federal organisation of India means necessarily that the States must be free in all except national matters of All-India concern. Whether, in the past, a particular State or group of States was required, under the then-existing circumstances to yield to the imposition of more restrictions or less, is not a very relevant consideration in deciding whether or not that State or group should or should not now be restored to as high a degree of sovereignty as is compatible with and limited by national interests. The true test is not the Treaty made under the conditions of a century ago. Mysore may then have been in circumstances, which justified the resumption of powers by the British Government and when the Ruling House of the Wodiyars were restored to their rightful place, several restrictive clauses in the Treaty may **have** been considered advisable. Today the question, **for** instance, as to whether Mysore deserves to be **treated** as a thoroughly autonomous State or not, **would have** to be answered, not by reference **to the** restrictions created by the Treaty, but by **finding out whether** its constitutional progress has been suffi-

ent or not, to justify that State from being excused from interference in its internal affairs. The words of the Treaty may be used, where possible, to strengthen the right not to be interfered with. But where the constitutional progress of the State has not been good enough to justify exemption from the Paramount Power's intervention and where no internal provision is made for checking and correcting the abuses of power, the words of the Treaty will not by themselves support a claim to absolute internal freedom. "In practice, the degree of autonomy (to be enjoyed by a State) will depend," as Sir Mirza Ismail, the Dewan of Mysore, says, "upon the system of administration in a State. The more constitutionally governed it is, the less justification or likelihood there is or will be, for any intervention on the part of the Paramount Power in its domestic concerns/" Looking at the States from another but kindred point of view, Lord Olivier, once the Secretary of State for India, pointed out, that, "if the Indian States are to be brought into any kind of federation with the rest of India, you may be sure that that matter (i. e. proposals for constitutional reform in the States) will arise." From every point of view, therefore, the acid test on which the fitness of the States for autonomy and sovereignty will be judged will be the constitutional advance that the States may have made. This will be far more true than that this sovereignty, with immunity :from intervention implied in it, will be in practice allowed to the States on the mere ground that their treaties speak of their domestic independence or sovereignty.

His Highness the Maharaja of Bikaner, than whom the States could never find an abler or more sincere friend, put forward the same view when he observed:—

"The internal sovereignty and independence of the Indian States is essential for the very existence of the States in the future. It is the birthright, not only of the Rulers of States, but also of their subjects. Just as British India is anxious to secure full autonomy, we, the Rulers and Governments of the Indian States, are anxious, and are consistently and strenuously endeavouring to secure, for our States the fullest measure of political and fiscal autonomy, which is as much in the interests of our subjects as of the Rulers and their Governments."

So far as it goes, this is quite a correct statement of the true case of the Indian States. It is a perfectly sound argument to justify the demand for autonomy, an argument based on the instinct of self-preservation and the natural and universal right for freedom, even where it does not exist, and much more so where it did exist at one time. The argument lies merely to be supplemented, to be completed, by suggesting, with Sir W. Barton, that the best way of achieving the object "is to improve their system of government by introducing a civil list, a published budget, council government, advisory assemblies, and to strengthen the **prestige** and authority of their Law Courts, so that paramountcy may as a natural consequence recede into **the** far background." The argument here used in **the** words of H. H. the Maharaja of Bikaner has **been answered** by saying that more autonomy for the **States only means more autocracy for the people living in them\***

Without the necessary reforms, this would no doubt be so. But no one has admitted this more clearly than His Highness himself- "Let us at once and freely concede" says he, "that a Prince who is a bad ruler is a grave menace not only to his State and his subjects, but also to his brother Princes and the Indian States in general". Realising this fully, His Highness moved a Resolution in the Chamber of Princes on February 23, 1928, recognising *inter alia*, "the real and permanent nature of internal reforms emanating from within the States on the initiative of their Governments" and considering it important for the future well-being of the States, that they should carefully review their administrations with a view to inaugurate, where not already existing, measures such as the following:—

(a) A definite, code of law guaranteeing liberty of person and safety of property administered by a judiciary independent of the Executive; and,

(b) The settlement, upon a reasonable basis, of the purely personal expenditure of the ruler as distinguished from the public charges of administration."

"I would venture in all seriousness to say to Your Highnesses" His Highness proceeded to observe, "that by accepting, and acting on, this Resolution, we should be definitely minimising the risks of, and checking intervention from the British Government or from any other quarters, inside or outside our States." This is exactly the friendly advice of Sir W. Barton cited above.

This need of internal reform, as the only alternative to the stunting influence of intervention from outside, is being fortunately realised by those who have the **beit**

interests of the States at heart. As Lord Peel, speaking as the Secretary of State for India, once observed, • "it is obvious that questions of internal administration must be present to the minds of all, who endeavour, from the point of view, either of the British Government or of the Indian Rulers themselves, to look ahead into the future of India as a whole or of the States individually...The Viceroy, in his speech announcing the appointment of the Indian States<sup>1</sup> Committee, took the opportunity of reminding the Princes that, in his view, the more their administration approximated to the standards of efficiency demanded by the enlightened public opinion elsewhere, the easier it would be to find a just and permanent solution of the problem of the future relations between the States and British India." Lord Irwin, the present Viceroy, has indeed done, more than anyone else, to emphasise the needs of reforms in the States as the condition on which the adjustment of their future relationship and in fact their whole future well-being depends. His "Note on Administration and Government," originally intended for private circulation among Princes, but since then published, summarises the minimum reforms which are needed in the States. "The establishment of the reign of Law," wrote His Excellency, "which should expressly or tacitly, be based upon and represent the general will of the community should be the first object towards which the efforts of Rulers should be directed." This implies, in His Excellency's opinion, (a) that individual liberty, and rights of property should be protected; (b) adequate machinery for the adjustment of disputes between individuals and for justice, i.e. proper codes of law, law courts & c, should be provided

for; and (c) that the equality of all before law should be recognised. These principles depend upon (1) an administration conducted in accordance with the Law, (2) an efficient and incorrupt police force and (3) an efficient judicial system, strong in personnel, who are secure from arbitrary interference by the executive and are secure in the tenure of their office so long as they do their duty. After enumerating the principles of revenue collections, the Viceroy proceeds to deal with the question of expenditure thus:—

" From this it follows that the proportion of revenue allotted to the personal expenditure of the Ruler should be as moderate as will suffice to maintain his position and dignity, in order that as large a proportion as possible may be available for the development of the life of the community and of its individual citizens. The Civil List of an enlightened modern Ruler is normally fixed at either a definite sum or a definite percentage of the total income of the State ".

<sup>ii</sup> Every Government should have some machinery by which it can inform itself of the needs and desires of its subjects, and by which these can make their voice heard."

It was probably on the basis of this unofficial note that H. H. the Maharaja of Bikaner moved the Resolution referred to above. The debate which took place on the proposal, shows that the Princes, who participated in it, fully realised the importance of internal reforms and their close connection with their desire to safeguard their internal sovereignty. " I believe it is necessary " said H. H. the Maharaja; of Patiala, "even for the mere preservation of those rights, which we cherish so much, that those of us who have not already done so, should turn our attention to domestic reform. "I trust we

are all agreed on one point" said His Highness of Kashmir, "namely, that the strength and stability of our own position, depends more on the support we receive from within the State and the subjects that we govern, than on any external institutions that may be devised to safeguard that position." His Highness the Nabob of Bhopal, another enlightened Prince, assured his brother Princes that "unless we protect our States by the construction of solid and durable embankments of internal contentment, peace, good-will, prosperity, we stand in danger of being wiped out of existence altogether." "Many instances are forthcoming" said His Highness the Maharaja of Bikaner, "of the disastrous results—disastrous not only to the sovereign personally, but in my humble opinion disastrous in many ways to the State as well as to Society,—to the mightiest sovereigns of some of the greatest Powers and Empires on the face of this earth, who failed to detect the sign of the times and rushed headlong to their doom or the doom of their descendents, through unwise autocracy/ Summarising the debate, His Excellency Lord Irwin warned the Princes that "in the last resort and in the fulness of time, I can entertain no doubt that an even more effective security for the States than assurances of goodwill on the part of either Viceroys or Secretaries of State will in the long run be found to consist in the quality and in the calibre of their administrations." The Resolution appears to have awakened some suspicions in some quarters and in reply, His Excellency explained that the fear that the Resolution might lead to more intervention was ill-founded. "It is surely clear," His Excellency added, "that the effect of the Resolution now

under discussion must be in a direction exactly contrary to intervention."

The point, which these statements clearly bring out, is the one I am trying to prove here, namely, {that the only alternative to an all-embracing right of internal intervention such a constitutional reform of the States' administrations, as will keep them abreast of the progress of India as a whole and keep them in such a state of efficiency as will render all such intervention unnecessary. It is on this condition, and on this condition alone, that Paramountcy can be avoided with all its humiliations and continuous demoralisation. It is only thus that the feeble pulse of State life may be quickened and strengthened. The lack of military power has already stripped the States of the main spring of the strength of sovereignty. As James Mill said long ago, "we take their military protection upon ourselves and the military power of the States in our hands. We begin by taking the military power and *when we have taken that, we have taken all.*" Though in part this lost power may be regained by the participation of the States in Federal Sovereignty, the States cannot be internally strong and vigorous without enlisting the active strength of their people, without associating them in all branches of their administrations and without ensuring to them a government whose interests will [be identical with those of their people. It is not only good government which will serve the whole purpose. It will indeed dispense with the need of intervention by **the** Paramount Power, but good government cannot practically be secured without self-government. **Personal** good government may be possible in theory or in

rare and ideal circumstances. A good Ruler may thus fix his privy purse and give independence to his judiciary to enforce laws without interference; but no State can command a succession of such Rulers and the strongest chances are that these reforms, introduced by one Prince, may be nullified by another, if not by himself after a time. These reforms can only be durable, if the Princes create constitutional, popular governments, under which individual will is limited by the common will of the constitution, and through it, of the people of the State concerned.

If this could be done voluntarily, and without any pressure from any quarters, by the Princes themselves, nothing would be more desirable. A few Princes have already evidenced their statesmanship by making a good beginning in the direction. But it must be frankly recognised that their number is not large enough and that their pace is not quick enough, though no one would expect all of them to reach the end immediately. Constitutions must grow and growth must take time. One may, however, doubt the possibility of hundreds of Princes and Chiefs, situated as they inevitably are, pursuing the right lines, even if slowly, steadily and at a reasonable pace. In recent years, as we have seen, the need of such constitutional changes in the States has been pressed upon their attention by the Viceroy, as well as by some well-known Princes. We have also noticed that the Chamber of Princes, as a body, has made some attempt to persuade the Princes to introduce reforms in that direction. There has further been some agitation from certain sections of the educated public to create a favourable atmosphere for the growth

of these reforms. But the Indian world will not stand still, and cannot be expected to do so, until the slowest of the States comes into line with the quickest. The pressure need not be either official or external. But even evolution implies forces at work and wise statesmanship requires that they should be stimulated and helped. The progress of democratic ideas in the civilized world, the growth of popular government in British India, the spread of Western education within the States themselves, the association of the Princes with a federal organisation, their mutual consultations in the Chamber of Princes, all these are forces which must react on the domestic reform of the States. They are forces which must be strengthened and harnessed to the right purpose.

In answering criticisms against the Princes, who are supposed to be "trying to perpetuate autocracy, absolutism and misrule," His Highness the Maharaja of Bikaner, reiterating the sentiments of the Viceroy himself, stated that "all that the Princes desire is, that intervention, when rendered unavoidable, shall not be arbitrary, or based on inaccurate or one-sided reports, and that it must be resorted to not only with the greatest reluctance, but after the most deliberate and sympathetic consideration by the Viceroy, as the Representative of the Crown, of the case of the Ruler of the State concerned, and furthermore that such intervention must be resorted to for the sole purpose of the furtherance of the interests, present and future, of the Indian State and of the general Order of the Princes themselves." Accepting this as the most accurate statement of the correct purpose of intervention, would it not be "for the

SOLE purpose of the furtherance of the interests, present And future," of our States, if the Paramount Power made a clear declaration of its determination to withdraw from internal intervention, on condition that the Prince<sup>9</sup> introduce the minimum of fundamental constitutional reforms in their States on the lines laid down by the note of Lord Irwin ?

The policy, which the Government of India has hitherto followed, is to harp upon the duties of Rulers in a general way, to preach truism about the sacred trust which Providence has imposed upon a born Prince, and so on. So far as it goes, this is quite unexceptionable; but this repetition of copy-book maxims on ceremonial occasions leaves the States where they are, open to the same old temptations and criticisms, and justifying the Government's claim to intervention at any time. The more fruitful policy would be to define the requirements of good government, such as will obviate the exercise of Paramourty in internal administration. The Kolhapur Memorandum presented to the Butler Committee puts this point clearly and thus:—

"On the one had, we find that the British Government recognises the progress which the States are making in all directions. If this is so, why should these restrictions continue? If it is not so, and if it is held that the administrative progress of the restricted States has not attained sufficiently high standards, it may be pointed out that the responsibility for their not having attained those standards is partly on the Government itself. It will be easily admitted that most of the States are always willing to abide by the advice of the Government and its Political Officers. *It so, has the Government clearly-laid down the minimum requirements of good government in the States? It is no doubt true, that the Government and its officers*

frequently emphasise the need of improving the administration of State affairs. But with equal frequency they commend the administrative progress of most of the States. If, therefore, certain restrictions are still adhered to, it only means that the States are not given to understand clearly what standards of good government they should aim at. The Policy which would meet the requirements of the Paramount Power and assist the States in obtaining freedom in internal matters is for the Paramount Power to lay down clearly, what the States should do to satisfy the requirements of the Paramount Power, and to assure the States that so long as they maintain those defined standards of administration, their internal sovereignty will be unrestricted. If this policy were followed, the States would have a definite guidance in their efforts to improve their administration and to claim that internal sovereignty, which as a rule the Paramount Power agrees and should agree to give them. Interference in internal affairs of the States is naturally resented by the States. The Government also has been found to be unwilling to intervene in those matters. But what at present happens, is that whenever the States desire to be emancipated from such restrictions on the powers of internal administration as may have been imposed by previous Engagements or even by usage, the Government is unwilling to relax the restrictions, presumably on the ground that owing to the inefficiency of State administration, the restrictions are considered necessary by the Government.

"The most helpful course for the States would be, to give the States to understand, as definitely as possible, what would satisfy the needs of good administration in the view of the Government. Hardly any Ruler of an Indian State would look upon such guidance as anything but welcome advice and would fail to follow it."

With the States falling in with an Indian Federal Government, one part of the present functions of the

Chamber of Princes will go and the Chamber will be practically confined to questions affecting the States generally. If it is constitutionally permitted to use its united influence to see that the States adopt approved reforms for their constitutional development, the Chamber would do a great service to the Princely Order. "I am voicing nothing but my sincere conviction" says His Highness the Maharaja of Bikaner, "when I say that the Chamber of Princes is destined to play an important part in the future" in securing justice to and safeguarding the rights of the subjects of our States. How far this would be so, and how much the Chamber could influence the Princes to accept reforms in the States, will depend upon the willingness of the Princes to accept the moral binding of the Chamber's advice in domestic matters. Will those, who resent interference by the Paramount Power be amenable to this friendly persuasion? There can be no doubt that if the Chamber is given freer scope in such matters, its efforts might result in some improvement and the experiment is worth trying. But remembering as we must, how enlightened Princes who have won the confidence of their Order feel themselves placed in a delicate position in discussing the question of internal reforms in the Chamber of Princes, and how they have to preface their speeches recommending measures for the good of the Princes themselves with protestations against any inference that they were thereby interfering with other States, the capacity of the Chamber in this respect must indeed be considerably limited and those, who wish well by the States and by the Princes, ought to devise other effective means for preventing the lapse of some of the States

**into** misrule and for creating internal checks on **the** abuse of autocracy.

The question of avoiding intervention by substituting it by internal constitutional development of the States may have to be solved by the adoption of more than one means. The most important of these would be for the Paramount Power to indicate definitely what constitutional changes in the States would suffice for its withdrawal from such interference. The fixing of the privy purse, the independence of the judiciary, legislation by the consent of the people, and reforms of this kind cannot be reliable even when made, except by the establishment of representative bodies to control public, as distinguished from private, expenditure and to consider the introduction of new laws or changes in existing laws which should not be capable of being sanctioned without such consideration. The independence of the judiciary must be a mere sham, unless there is some authority to expose victimisation of the judges for not bowing down to the will of the Executive. The creation of a healthy and yet vigorous public opinion in the States, the growth of the real public spirit among the citizens therein, the free expression by the States' public of their opinions and grievances—these can be secured only by guaranteeing to the citizen of each State, the fundamental rights of citizenship, the right of a citizen to claim an appeal to Civil Courts against unjust executive action, the right of freedom of person and property except under judicial action by a Court of Law, and the right to approach a tribunal like the Federal Court, in case any of **the** fundamental rights of citizenship are **violated**. **This**

**guarantee** of the basic rights of citizenship, possessed by **all** civilized peoples, is perhaps the most urgent requirement of the States, if they are to be entitled to freedom from interference from outside. It implies the separation of the executive in the State from the judiciary, whose independence must be made a reality.

It is by the adoption of such measures that the blighting shadow of Paramountcy can be rendered ineffectual and the sooner this is realised, the better it will be, for those who wish to attain and preserve **sovereignty** for the States in their internal affairs.

## CHAPTER VIII

### CONCLUSION

Fitness of India for the political changes asked **for**—the communal position in the States—absence of communal distrust in historical times—the causes of this harmony—how the nature of present government leads to dis-harmony—martial and non martial races—responsibility thereof—willingness of soldiers to be under generals of another community—must Defence be under the British for the sake of the States?—

I have now attempted to present a fair and impartial view of the main problems, which confront the statesmen, in relation with the States. One or two aspects of these problems, though briefly dealt with in the preceding pages, require special notice before I conclude. Constitutional progress is not merely the creation of political devices. Its achievement lies in the growth of a spirit, in the imbibing of principles of life by the people, **who** are to work a constitution and for whom the constitution is to be worked. There is, however, **no** unfailing test by which to judge, whether a particular development of the constitution is really in conformity with the fitness and capacity of a people. Are the Indian people and the Indian Princes now at a stage **of** political development at which they can successfully work a federal form of government for the good of India **and** for the good of all its parts? The Simon Report, with all its attempt to be judicial, produces the **impression that the present time is not ripe for any federation in the true sense of the word and that the difficulties in the**

way are insurmountable, at least for very many **years**. **The States**, the Report says, are not yet ready. The Provinces still require to be reconstructed and their jurisdictions must be clearly distinguished from those of the Central Government. The communities and castes of India are still very distrustful of each other. Then again there are the martial races and the non-martial classes in India which differ widely from one another. The result, in the view of the Simon Commission, is that a federation is yet a distant goal and for a long time to come no federation in India can hope to undertake its own defence. The meaning is clear. The States, in particular, know well what a government with its military arm amputated means. As James Mill would have said, by deciding that the Army in India cannot be under the control of the Indian Government, it is *ipso facto* decided that there can be no real Indian Government in India. This is certainly a prospect, which no Indian Prince or commoner, can honestly contemplate with equanimity.

Admitting that this view of the disappointing character of the Commission's Report is correct, what of the difficulties pointed out by Sir John Simon? That they do exist at present is undeniable. But how and when **are** they to be overcome? The Indian States will largely help an impartial thinker in arriving at the right answer. Communal jealousies and bickerings, and sometimes riots mar the public life of British India today **and they** threaten to bring Indian progress to a deadlock. **But a comparison of the conditions prevailing in the States**, with this state of things in British India, **would enable us to hit upon the right remedy for the communal**

troubles in that portion of the country. Hindu States like Mysore and Gwalior have their highest officers from the Mussalman community. The Nizam rules over a predominantly Hindu population, while the Maharaja of Kashmir, a Hindu Prince, rules an equally predominant Moslem people. And yet how few are the communal troubles in Indian States? No one can say that the Princes are abler rulers than the statesmen, who hold the reigns of power in British India. It may further be frankly recognised that there is some partiality of a communal or caste nature in many of our States, Mussalman Princes prefer their own community in public service. Hindus are no less willing to favour their **own** people. The ideal of citizenship transcending communal feelings is yet to be fully developed in India. Despite these facts, there is far less of communal trouble in the States than in British India. Why is this so? Does the difference lie in a conscious effort on the part of the British authorities in India to foment these quarrels? The accusation has often been made. But **I have** too high an opinion of the character of the average Englishman and his sense of duty, to think that, except in rare cases, the British Officer in India deliberately or willingly uses his influence to divide and rule. What then is the explanation of the communal trouble in British India and its absence in the States?

A glance at pre-British Indian history would clearly show that except under a few bigots, like Aurangzeb, there never has been any considerable communal bias in the political life of India. For centuries, **the** Hindus distinguished themselves under Mahomedan **rulers**, both as warriors and statesmen. **The same could**

be said of Mahomedans under Hindu Rulers. "The infantry and matchlockmen of Sher Shah's army," says **Prof.** Ganungo writing about the early years of the sixteenth century, "seem to have been exclusively Hindus. They served as matchlockmen throughout the whole of the Mogul period. These people were more trusted by Sher Shah than men of northern provinces among whom he was a stranger, *though they belonged to his faith*". Sher Shah's best general was a Hindu, Brahmjit Gaur. Raja Ram Shah of Gwalior was another of his famous generals and he commanded a Rajput contingent in the service of Sher Shah. Reviewing the position, the same author observes that this was not peculiar to the Afgan Sher Shah "because, we know that as early as the day of Mahmood of Gazni, the Hindus were welcome to the ranks of the Moslem army." \* Raja Bhagwan Das, Raja Man Sing and Raja Todar Mal, the greatest generals of their day, were Hindus, who loyally served Akabar and Jahangir. Man Sing stood highest among Akabar's generals by being raised to the 'Command of 7000,' an honour usually reserved for Princes of the blood royal. He was the first Hindu warrior to be honoured with the great title of "Mirza" and to be raised at one time to the Commander-in-Chiefs position in the Mogal Army. Todar Mal, better known for his civil and revenue administration, was also a distinguished general under Akabar. The same relationship of trust and faith was more **or less** continued even during the period of that staunch, if **not** bigoted Mussalman, Emperor Aurangzebe **Raja**

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\* " Life of Sher Shah " by the Author pp. 369-370.

Jaswant Sing and Jai Sing, two soldiers of Rajput blood, were chosen by Aurangzebe against the newly rising power of Shiwaji. Jaswant Sing was placed in charge of the frontier fort of Jamrud and was trusted by the Mogul Emperor to defend his Empire from the attacks of the trans-frontier tribes. Mussalman kings thus placed their confidence in Hindu soldiers, without finding their trust betrayed. Similarly, the Hindu kings often found in their Mahomedan servants soldiers worthy of the fullest confidence. King Krishna Deva II of Vijayanagar had engaged Moslem soldiers in his army, some of whom rose to high ranks by their loyal service.\* The Commander of Shivaji's Naval forces was a Mussalman named Ibrahimkhan. Under the Bahamani kings of the Daccan, all of them professing Islam, several Hindu generals distinguished themselves, by their faithful service as leaders, of armies as well as administrators. The Ghorpades of Mudhol, the Ghatges of Kagal, the Nimbalkars of Phaltan, the Dalles of Jath, and even the Bhosales, who later produced the great Shiwaji, were holders of high military ranks, under the Islamic kings of the Adilshahi and other dynasties. Ibrahim Gardi was the head of the Maratha artillery under the Peshwas and fought against Mahomedans on various occasions. As a Mahomedan writer of note says, the Maratha army always contained an element of Muslim soldiers and they were often led by Muslim generals in the service of the Marathas.t

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\* Cambridge History of India Vol. I 11 p. 406.

† The Making of India by Mr. Y. Ali, p. 173.

It is needless to multiply instances of this kind. Everyone, who has studied Indian history with care and every keen observer of facts in Indian States, Hindu as well as Muslim, cannot but be impressed by the general absence of communal tension or rancour among the Indian States. If stray cases of such rancour may be traced here and there in the annals of India, they are merely exceptions proving the rule. In any case, these quarrels have aroused far less animosity and have been accompanied by far less bitterness or persecution than has been the case between the Catholics and the Protestants in any part of Europe. This general tenour of harmony among the various communities of Indian pre-British days and in Indian India even of this day is due to many causes. For one thing, the racial distinctions in India do not run along the lines of religious differences. The Mussalmans of the Deccan are as a rule racially one with the Mahratta population. A large proportion of the Indian Mahomedans come from the original Hindu population and differ but little from their neighbours, professing the Hindu faith. Centuries of common life and contact, the usually tolerant outlook of life which appeals strongly to all sections of the Indian people, and affinity of customs and manners, all these have taught Indians to live in amity and harmony. Even to-day, Brahmin or Maratha Chiefs celebrate Moslem festivals, as if they professed for the time being the faith of their Islamic brethren. They pay homage to Mussalman saints and their tombs. Hindu temples still feel proud, that the sanads which guarantee to them

large landed endowments are signed and sealed by the Badshahas of Bijapur.\*

The position in British India has, however, been somewhat different. Why is this so? The cause, I think, must be sought in the system of foreign rule, introduced by the British in this country. In spite of the best intentions of the British in India, perhaps because of their best intentions, the British system of rule in India has been alien in a sense in which Mahomedan rule never was alien in this country. The British have all along taken a detached position relatively to the people they rule over. There is always a power from without, holding sway over Indians. Their one aim has been to rule impartially. They found communities and castes, scattered all over the country and differing in faith and customs from one another. They assumed, therefore, that they were opposed to each other and that their interests clashed in many respects. Their duty, they thought, was to hold the balance strictly. Each community has separate rights, which they, as impartial rulers, must uphold. The logical result of this view was to accentuate differences, to retard the process of unification by the obliterating of differences, to create a sense of differentness where that sense did not exist

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\* "Many Muhammadan saints (pirs) were worshipped by the lower classes of the Hindus, and renowned Muslim saints were adored by stout champions of Hindu orthodoxy like Shivaji. The ignorant Muhammadan peasantry of Bengal and even of other provinces, where no vigilant reforming *raulla* was present, took part in Hindu religious festivals and the worship of popular village-gods, just as in Bihar, low caste Hindus take part in the Muharram procession as enthusiastically as the Muhammadans'—The Mughal Administration by Sarkars.

or existed only in an unconscious condition, and to perpetuate all forces of disruption existing in Indian, as in other, societies. In all self-governing countries, the power of the government, even if autocratic, is one of the forces working within the society. The British Government, a foreign power, has no manner of concern with the socio-religious life of the people, with the superstitions which prevail among them, with the movements which agitate them, with the grievances they suffer from. Everything must, in the theory of this Government, be maintained in tact. To take an extreme instance, the so-called untouchables complain that they are not allowed to take water from the public well of the village. A Hindu ruler would decide, rightly or wrongly, whether the complaint is worthy of being heard and what remedial action must be taken. The British ruler would adopt an entirely different attitude. His sympathies may be any where, but he must take the negative course of confirming the custom of the village, whatever it may be. As a ruler, it is no business of his to see what is equitable and fair. That is the business of the people and he, the centre of all political power, will simply fold his hands and tell both the parties to go to a court and prove the 'right' in the legal sense of the word. The Hindus quarrel with the Moslems regarding their right to beat the drums, when passing a mosque. A Hindu Prince might tell the moslems that their objection is unreasonable and they must allow the procession to pass with all its music. A Mahomedan Prince might, on the contrary, tell the Hindus that it is improper for them to disturb the sanctity of the mosque, by the beating of the drums and

therefore that must stop. A British Magistrate would adopt a third course. What has been the practice in the locality in the past? Whatever it may be—and the evidence is usually such as might support findings in both the directions—he will only record the practice and perpetuate it. The result of Hindu or Moslem action would be a decision on merits. That of a British official's attitude would be a stalemate, an action which is certainly impartial but which all the same creates endless friction.

I do not mean that the Hindu or the Moslem is more judicial than the British, whose honesty of purpose and desire to be legally just may leave nothing to be desired. The fault with him is the system he works under and his aloofness from the social concerns of the people. The British Government has been divorced from the social life of the Indian people. It has ceased to influence life in India one way or the other, except in the direction of perpetuating evils, by clothing them with the sanctity of customs. I do not forget the prohibition of suttee by Bentinck. A few such measures adopted by the Anglo-Indian statesmen do stand to their eternal credit. But as a rule, they have followed a policy of neutrality, which has been very prolific in injury to the cause of social progress in this country. And herein lies the root-cause of the communal troubles, which have marred the life of British India. In saying this, I do not wish to imply that, but for this cause, there would be no such troubles. But I believe it is justifiable to say that under a Government which faces social difficulties internally, as a part of the society itself, there is a far greater chance of the

difficulties being overcome than under a system such as is adopted by the British Rulers of India.

Referring to the defence problem in India the Simon Commission points out that "the rank and file of the Indian Army are not drawn from all over India, but from certain martial races, who themselves largely represent former masters of parts of India." This is preaching the caste system with a vengeance. Even though it is so today, is it not partly due to the communal regiments formed by the British Government? Does not the Indian Army refuse to recruit from what it considers non-martial communities? Has any attempt been made, except during the later months of the Great War, to enlist soldiers from all castes? Has not Government refused to maintain regiments of, for instance, the Mahars in the Deccan? Have not the Mahars been debarred from entering the Mahratta Regiments on the grounds of caste? There may be social difficulties in mixing the Mahars with others; but the point is that the British authorities have taken the social conditions as they are and have made no efforts to raise an army without distinctions of caste or creed. They cannot rightly turn round and say that the Indian Army now consists of only a few castes. The generals of the Mahratta Empire did admit even the Mahars and Berads, both depressed classes, to the ranks of their armies. They made no distinction in recruitment and the result was that castes which are now looked upon as non-martial, won military honours under the Mahratta Rule. Speaking of Shivaji's Army, Prof. Sen observes:—

**"Shivaji enlisted in his army not only Hindus but Muhammadans also. A body of seven hundred Pathans offered**

their services to the Maratha king and Shivaji enlisted them, it is said, in opposition to the majority of his officers. Shivaji pointed out that a king was a king first and a Hindu or Muhammadan afterwards; and was supported in this wise resolution by an old officer, Gomaji Naik Pansambal. " \*

And, again, he says :—

" Each squadron was placed under the supreme command of an Admiral, Dariya Barang, a Muhammadan officer, and Mai Naik, a Bhandari. Dariya Sarang was not the only Muhammadan officer in Shivaji's fleet. Another prominent Muhammadan Admiral, Daulat Khau by nams, entered Sivaji's service a few years later.†

Referring to the still later days of the Peshwas, Peshwas themselves belonging to a non-martial caste, which produced in the eighteenth century some astute generals and brave soldiers, Prof. Sen says :—

« The first official mention of the employment of soldiers from other parts of India we find in a brief paper, dated 1734-35, which announced the appointment of Tryambak Rao Somvanshi as Sarlaskar and the enlistment of a number of Rajputs who had come from Jai Sing. Whether these men were admitted to the infantry, and if so, on what terms, we do not know. It is also not stated whether Jai Sing had been asked to send them or whether they had voluntarily come in search of employment in the Maratha army. Seven years later, two Arabs were employed by Balaji Baji Rao, at a monthly salary of 11 Rupees each. In 1750 one Raje Muhammad, a Jamadar of infantry, was sent to Khandesh to get fifty recruits for the Peshwa's force, but the salary, it seems, was to be fixed after a personal inspection, and probably after haggling

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\* The Administrative System of the Marathas by Prof. Sen p 125

% 'The Administrative System of the Marathas by Prof. Ben p. 136.

with each man; the rate suggested varied from seven to eight and a half Rupees. In a document, dated 1753-54, we find the name of Muzaffarzung, the gardi officer, mentioned for the first time. About this time the Peshwa had probably organised the trained batcalions of his army and this necessitated the further employment of non-Marathas. The published records, however, throw no light on the condition of their service during the Peshwaship of Balaji Baji Rao.

"During the administration of the next Peshwa, however, we find a deliberate attempt to strengthen the new infantry force by recruiting a large number of Sikhs, Arabs, Abyasinians, Sidis and other non-Marathis. In 1770-71 Sumer Sing, a gardi officer, was commiasioned to enlist 400 men. Ali Mardan Khan, another gardi Jamalar, was asked to recruit another body of 400 men" \*

These lengthy extracts bring into view the system in vogue, under which soldiers of different races and faiths fought under the Marathas and there is not much in the argument of the Simon Commission that an Indian Army consisting of the several martial races will not be willing to serve under an Indian minister or an Indian general, of a caste or community different from their own. The existence of the communal animosities today must be admitted. But the question is if these can ever be allayed, except under an Indian Government. Till all responsibility vests in the hands of the British, the communities of India will not realise the responsibility of all of them to work in unison. Under present conditions, all that they can do is to obey a third party. There is in this case no call to organise a national sentiment. On the contrary, the existing

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\* •The Military System of the Marathas<sup>1</sup>; pp 77, 78.

situation leads, even without the British Government meaning it, to a fight for crumbs, to mutual jealousy and bitterness. The need of responsibility begets responsibility. These difficulties of martial and non-martial races and of communal distrust will never disappear, unless a real beginning is made to entrust Indians themselves, with the task of organising a national army in which all classes of Indians will equally participate. In the civil services of India, a few intellectual classes once held as close a monopoly as the martial classes hold in their own lines. Has not this predominance of a few castes in the public services been greatly reduced in recent years? Why was not this attempt done in respect of the Army? Why was the opposite method of making the Indian Regiments, the preserve of a few communities, followed so long? Does the Britisher believe that martial qualities are distributed by Providence according to castes or communities?

From the States' point of view, the worst argument for keeping the Army under a foreign Government is one which "arises from the treaty obligations...of supporting, in certain eventualities, the Rulers of Indian States." "It is clear," says the Commission, "that it is impossible for the Crown, upon whom the States rely, to lose control of the instrument by the use of which in case of need the obligations of the Crown could be discharged," and, therefore, the Indian Army must, in the opinion of the Commission, remain outside the control of the Indian Federal Government even when incomes into existence. The fallacies underlying this argument are many. Firstly, a Government of India, responsible to the Indian people, does not go out of the British

Empire and if the eventuality of the States being in danger of an attack takes place and if the Federal Government, with the States among its constituents, fails in its duty to ward off the danger, the Crown will certainly be entitled to intervene at the cost of India. Nor do the obligations of the Crown imply that the States should never be enabled to rely on their own united strength and the strength of British India put together, for their own defence. Is it the permanent policy of the British Crown to keep the States in their present helpless state forever? Are not the States and British India to be raised to the status of a self-governing Nation at any future time? Do the States desire to remain in their present military weakness for all time to come? If not, how can they hope to be self-reliant for their defence, without the Federation being put under the responsibility of defending India by its own Army? It would be most humiliating to the Princes to be told that they must be content with their present dependence and tutelage for all the ages to come. The Princes are staunch advocates of the benefits of the British connection with India. They are loyal to the British Crown. But does this necessitate that they must not aspire to be at least the participators in the glory of being able to defend themselves, their States and their country? 'I claim the Prince/ said Lord Curzon/as my colleague and partner/ In inaugurating the Chamber of Princes, they were told by Lord Chelmsford that they should be "inspired by the great ideal of an India, governing itself, through its Princes and elected representatives and owing allegiance to a common Head." Is this the ideal which excludes the power of defence which Lord Chelmsford held out to the Princes? Are

the colleagues and partners of the Viceroy, to remain forever shut out from the only means by which they could bear their own share of the burden of Self-Defence? Looked at from every point of view, the Commission's proposal to keep the Army out of the jurisdiction of the Indian Government, means a permanent crippling of the States and of British India, with no hope of their ever growing to nation-hood. The British connection has unquestionably proved of great benefit to Indian nationalism. It remains a necessity for years to come, and probably it will be of advantage to India for many a generation. All this may readily be admitted in all sincerity and truthfulness. But the other side of the shield ought not to be ignored. The usefulness of the British domination in India, for the growth of nationalism has wellnigh spent itself and the British connection, to be welcome to India, must now assume a radically different form. The Indian nationalism is still a nascent force and needs guidance to its goal. The communal distrust must be dispelled from the minds of all castes and creeds. The domination of the British in India has stimulated it, even without the British intending it. That domination must, therefore, make room for the influence of Indians themselves, who must now take the responsibility, and the power of self-government, necessary for the discharge of that responsibility. The States find themselves today in a peculiar condition of glorified weakness, with the forms of sovereignty lingering about, but with its substance denied to them. The greatest Indian historian of the Mahomedan period, after reviewing the work of the Governments of the Muslim period, deduces a lesson of great value to Indian States.

"The first and foremost cause of this decline (of Muslim power) is the contrast between the spirit of all oriental monarchies and that of a modern civilized empire like the British. Such a modern empire contains an element of self-criticism and reform within itself. Hence any new defect or source of decay in it, is promptly detected and remedied before it can become incurable. Not so of oriental monarchies, or even European monarchies of the ancient world, like the Roman and Macedonian." \* The choice for the States to-day is between the path which leads to internal stagnation and decrepitude, the path of ignoring the insistent demands of nationalism, and the path which will lie through a partnership with the rest of India. They might choose to live under the withering shadows of Paramountcy and confine themselves to the narrow grounds of isolated but indolently pleasant existence, or they might join with one another and with the rest of their country, in a common life of growing nationalism. The price is the one which all unity and partnership entails. They must forego the pleasures of self-sufficiency and self-indulgence and become strong with the strength of their own people and their own country. The reward will be their own satisfaction, and the gratitude of the Indian Nation, for having stood the test of patriotism when the question of Indian self-government was hanging in the balance and the glory of partnership in a fuller, wider and stronger national life in the future.

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\* Dr. Sarkar's "Mughal Administration" p 253.

## APPENDIX I

How the Paramount Power has encroached upon the rights of the States may be realised from the following extracts from the memorandum of the Kolhapur State submitted to the Butler committee:—

"Most of the Treaties between the States and the Government belong to a period in which economic and financial questions of the present time were not anticipated and therefore could not be considered. But modern conditions have given rise to economic and financial questions which very vitally affect the interests of the States and their people. Until but recently customs duties were not a very large source of revenue and they were not looked upon as protective. The separation of certain revenues in British India described as central from revenues allotted to the Provincial Governments has limited the sources of the revenues of each. Customs duties have therefore assumed a far greater importance now to the Central Government of British India. The financial pressure of the last Great War having necessitated an enhancement of these duties for revenue purposes, the customs revenue had already become more important than before the separation took place. In the meanwhile public opinion in British India, now more powerful than ever before, began to realise the need of protective tariffs as not only bringing more revenue to the coffers of the Government but as calculated to encourage Indian industries and to protect them from unfair foreign com-

petition. Except for a very short time closely following the Mutiny, India followed the policy of Free Trade upto 1914-15 and the Customs Revenue derived from import duties in the year 1913-14 was only 9 crores and 36 lacs while including the export duties the total customs revenue was 10 Crores and 71 Lacs in that year. In 1921—22 owing to the pressure of the late War this revenue was raised to Rs. 32 Crores and 20 Lacs. Under a further pressure of public opinion in favour of protection as well as to secure more revenue, the customs duties are now so raised as to bring in well nigh 45 crores a year. The States did not attach importance to the question as to how these duties affected themselves until they formed comparatively a small burden upon the people of India. But from the moment that these duties became a source of a very large revenue and the Princes began to hold joint deliberations, they have been pressing their claims to a share of this revenue, which the States are contributing with the rest of the country. Except a few States in Kathiawar and Madras, no Indian State has got facilities for importing articles for consumption within its own borders without passing through British Indian ports. The Customs duties are as a matter of fact mere transit duties on goods imported into States for the use of their own populations. The Government has in the case of most of the States prohibited transit duties. It seems to be most unfair that the Government of India should recover and appropriate to itself the revenue derived from duties paid on articles consumed by the States and therefore paid by them. On the basis of population the States are entitled at least to a little over a fourth part of this revenue. If the maritime States import and export goods for themselves, they would have no claim to the duty levied in British India Ports;

but in the case of a vast number of States this cannot be so, as they are entirely inland. In justice to them and to their people, their share of the revenue must be made available to them for badly needed reforms in their administrations. In the very nature of things, resources for taxation in the States are at present more limited than in British India. Many of them have small areas under their control and have by force of circumstances to maintain all the paraphernalia of a modern administration and all that is necessary to maintain their own dignity as Rulers. It becomes therefore impossible for them to pay as highly for their administration as in British India. If we take the Kolhapur State as an instance, it is just of the same size as a British Indian District and yet it has to maintain a High Court as well as a Secretariat and a Government with four ministers in addition to its having to maintain the Resident and the paraphernalia of a Ruling House which are unavoidable. The Government of India rightly expect efficient administration from the States. They ought therefore to consider the difficulties of the States and at least give justice to them in such financial matters.

" In this connection, it is necessary to note that a few of the States enjoy the facilities afforded by their seaboard. They can develop their harbours and import merchandise, at any rate, for their own benefit. Not that the other States feel any the least jealousy for this advantage enjoyed by some of them ; but in the case of a State like Kolhapur which has been deprived of opportunities for maritime connections in disregard of express Treaties and by Orders of Government passed during the minority of the Ruler, the fact that a large burden of customs and salt revenue should have to be paid by

the people of the State becomes a source of very considerable and well justified discontent. The Kolhapur State, for instance, was in possession of the harbour of Malwan and certain other places on the Western sea coast upto 1812. By the Treaty of that year, the harbour of Malwan, "that is to say the fort and island of Sundudoorg or Malwan and the forts of Paddumghar, Rajkote, Surjacote, with the lands dependent on the said forts" were ceded in perpetual sovereignty. The reason given for this cession was that British trade was hampered by the piratical depredations formerly practised by the Rajah of Kolhapur's subjects. The next Article of the Treaty provided that Kolhapur shall not employ any armed vessels or "permit any armed vessels to be fitted out at or to enter any of the Sea ports which may remain in His Highness' possession after the cession of the places before mentioned." The East India Company further reserved to itself the right to search all vessels sailing into or from the said ports to find out if they carried any arms. Kolhapur also agreed to permit agents of the Company to reside in Kolhapur's ports "for the purpose of ascertaining the state of all vessels lying in such ports." (Article 6 of the Treaty). Article 7 is also based on the fact that the Kolhapur State still was in possession of maritime plots. A reference to the history of Kolhapur shows that the only places which could thus be referred to by Articles 6 and 7 as then remaining with Kolhapur consisted of a large plot of ground on the sea coast which even today continues the property of the Kolhapur State. Apart from the justice or otherwise of Kolhapur being forced to give up the harbour mentioned above for the purpose of securing British trade against the piratical depredations of a former age, under threat of refusing to prevent the Peishwa who was then in power from committing;

ravages in the territories of Kolhapur, it is obvious that the Treaty of 1812 contemplated the continuance of Kolhapur as still possessing maritime facilities which she was free to utilise or develop without menacing British trade. As I have said above, the State still possesses a small sea board near Malwan, the sovereignty over which, as would appear from Articles 6 and 7 of the Treaty, was not then ceded and has never been since then ceded by the Rulers of the Kolhapur State. This tract of the sea board was used for manufacturing salt upto 1880. The lands were let out and are let out even today to tenants. The Government has apparently taken advantage of the absence of efficient conduct of administrative affairs in Kolhapur between 1822 and 1844 and the subsequent minorities which almost covered the whole period upto 1880, to assert that the Kolhapur State never possessed any sovereignty rights over this tract and when the Government itself was acting as trustees for the Rulers of Kolhapur during their minority it decided, against the protests of the State Karbhari who was its own nominee, and the protests of their own Political Agent, that the Government was entitled to prohibit the manufacture of salt carried on till then, on the ground that Kolhapur was no more than a private landlord in respect of that area. The injustice of a clear misinterpretation of the Treaty of 1812, of ignoring the fact that the same Treaty left the Sovereignty over this maritime tract to the State, and of deciding the issue against the State at a time when the Ruler of Kolhapur was a minor and the Political Officer himself objected to the action, requires no demonstration. Even if the sovereignty over this tract is not now restored, as the State claims it should be, it is but fair to claim that the State should be compensated for the loss of its right to manufacture salt and for the denial to it of freedom to

develop the place into a harbour for importing and exporting goods into and out of its territories by giving the State its share of the customs revenue and the salt revenue at present appropriated by the Government of India. The claim of the State to this share becomes stronger when based upon this special ground in addition to the general grounds of justice and fairplay urged by the State along with the other inland States of India.

"Another aspect of the customs duties must be urged at this place. It is not only a share of revenues which the States demand; for those duties are not merely revenue duties. They are of the greatest importance as protective of the industries in the country including the Indian States. The States all told form a one third of India in area. Broadly speaking therefore the States have a proportionate interest in the industries and commerce of the country. Whenever questions affecting this commerce and industry are considered by the Government, the States should also in justice be consulted. The proposals before the Government of India and its Legislature may affect the industries and commerce of the States either favourably or adversely. At present they have simply to leave the decision to the Government of India which in part consists of the two Houses of the Legislature with a large representative element in it. It was a slightly different matter as long as these questions were determined from London or by the Government of India acting under the direction of the Secretary of State for India. Now that the situation has considerably changed and the convention has been accepted that in all fiscal matters, the united will of the Legislature with its large elected element and the Governor General in Council with Indian members exercising considerable influence shall prevail. If

therefore the people of British India have a potent voice in the determination of fiscal questions-and the States do not object to it-it is but right that the States should also have an effective voice in their determination to the same extent as those decisions affect the people of the States.

" Until recently, the States were allowed to import some articles for the use of the State free of import duties. But in 1914 this was put a stop to without any reasonable excuse. After the Princes had protested, the Government has conceded this right of duty of free imports of articles meant for the personal use of the Ruler. If the right of the Princes to import articles of personal use free of customs duty is admitted, the States have still more reason in demanding the same right in respect of articles imported for their use. In fact, the distinction made between articles for the use of the Prince and those for the use of the State is itself not a very clear distinction. A Ruler may have 20 motor cars, all of which he or his family or his personal servants may use. But being purchased out of State funds, they may be used some times for State purpose. By what criterion a car is to be described as for the personal use of a Ruler as distinguished from the use of the State, it is not easy to see. Even if a distinction could be made, the State as such has at least equal claims on the concession, if a concession it be. The distinction should therefore be abolished and all articles imported by the State for use and not for commerce should be exempted from import duties.

" It has sometimes been suggested that the demand for a share of the customs and similar revenues collected partly from the people of the Indian States should be assumed to have been met by the fact that the **Govern-**

ment of India bears the whole burden of the defence of **the** country, including the States, from foreign aggression. This argument completely ignores the provisions of Treaties with the States and the fact that the States **have** expressly ceded territories to the Government of India in return for the defence of the States from all kinds of aggression. For example, Article 8 of the Treaty of 1813 with Kolhapur says that "in consideration of the cession of the harbour of Malwan and on condition of the effectual suppression of piracy, the Hon'ble Company engages to guarantee such territories as shall remain in the Raja of Kolhapur's possession against the aggression of all foreign powers and States." This absolves the State of all responsibility for the military expenditure of the Government of India and therefore every advantage, financial as well as economic, to which the remaining territories of the States are entitled must in fairness be conceded.

"How the financial interests of the States have been sacrificed to serve the purposes of the Government of India in other respects also may be illustrated by a few instances. When the manufacture of salt on State land at Malwan was prohibited as stated above, the Government also ordered that the earth salt manufactured in some of the villages of Kolhapur should also be stopped and no compensation was given to the State on the ground that the revenue derived therefrom was small. Whether small or large, it was an industry in the State which possibly could have been developed **and** which was capable of yielding some revenue. It **was** however crushed out of existence only to suit **the** Government's salt policy by Government Resolution No. 6158/96 confl. dated 19th November 1879. It **may** not have caused much loss of revenue to the State; **but**

all the same, it shows how, during the minority of the Ruler, the State was made to take action under orders of Government merely to suit the policy of British India in clear violation of Darbar's rights. Strange as this was, stranger was the order by which the manufacture of saltpetre which had nothing to do with human consumption as a substitute for salt was also prohibited under the same orders and in the same circumstances in Kolhapur. This industry had nothing to do with the policy of prohibiting private manufacture of salt in British India and yet because saltpetre has some resemblance of salt, though not in its use, its manufacture was prohibited during the Ruler's minority by an Administration responsible to Government.

" Another example of a similar unwarranted interference by Government with the economic and financial rights of this State is its order withdrawing from use the currency of the State in 1868 when again the State was under the management of Government. As in other cases, here too the State had never conceded its right of having its own coinage in the State. In a case of the adoption of a Feudatory Jahagirdar of the Kolhapur Darbar, the Government gave the sanction for adoption on condition that the Jahagirdar prohibited the use of the Darbar's coins in his Jahagir. The right of sanctioning adoptions in such cases admittedly belongs to His Highness. It is curious to see the Government, exercising that power as the guardian of the Maharaja, prohibiting the use of the Maharaja's own coins as a condition precedent to the sanction being given. It is needless to prove that this action of the Government in depriving the Kolhapur State of its right of minting its own coins and legalising their use in the State was an **attack** on the Darbar's right without the assent, express

or implied, of its Ruler, and was taken at a time when the Ruler was a minor and the Government was in duty bound as the guardian to watch and maintain his rights scrupulously. The financial loss resulting from the prohibition to the State of its own currency is also obvious. The action was further most detrimental to the prestige of His Highness as a Ruler in India, to whom the right of minting coins is an essential ingredient of rulership. And be it remembered that no attempt was made to give to this act violating the Ruler's privileges even a semblance of legality by means of either a Treaty or an Agreement. The only possible remedy would be for the Government to allow the State to share the profits derived by the Government of India from its currency policy in proportion to the population and importance of the State.

"The same may be said about the introduction of the postal system in the State. As in other cases this was also done by the Government during the Maharaja's minority without the slightest regard to the right of the State to have its own postal system. This privilege of a State to have its own Posts was never conceded to any one by the Darbar. In some States like Gwalior, the right of an independent Postal System has been recognised to exist while in some other cases like that of Baroda, compensation was allowed in the shape of a grant of service stamps free of cost for their use. In a similar way, the telegraph system was also introduced in Kolhapur by the Government of India. It is needless to say that this encroachment on the Darbar's sovereignty rights also took place during the Ruler's minority and at the hands of the guardian himself. The State has been affording every facility to these departments in so far as their working within the limits of the State is concerned. It

**has** even constructed buildings at its own cost and given them in some cases on a very moderate rent to the Post offices. For over 50 years the outlying treasuries of the Kolhapur State were used for facilitating money order transactions of the Indian Post without charging anything for those services and at much inconvenience to its own treasury accounting. In British India a Post office or Telegraph office would be opened in the discretion of Government even if that office was not self supporting, provided the Government thought it was necessary in the interests of trade or State business to have such an office at a particular place. If the State requested that a post or Telegraph office may be opened at a centre which the State expected to develop or considered important from an administrative point of view, none is opened without exacting from the State a guarantee for the full payment of even the slightest loss resulting from that office. The fact that the posts in the State as a whole may be yielding a net revenue is never considered in such cases.

If the post office belonged to the State, this would not be the case, and this is not the case in British India. Owing therefore to the State being deprived of its own Postal and Telegraph system, is not only put to the loss of a source of revenue but it is subjected sometimes to great inconvenience. In all cases where a State has not surrendered the right, by express Treaty or Agreement, the Department concerned must compensate the State by allowing the State's Postal and Telegraph transaction free of charge or by granting to the State requisite portion of the profit which the Department may yield. The British Posts being introduced during minority, the Darbar moved for free conveyance of **the** States Tapal through the British Posts in the State as

soon as the State came into the charge of its Ruler, but as appear from Government's letter No. 1906 dated 27th June 1864, that request was refused. Similarly the same facilities must be given by the Post and Telegraph Department to the Government of the State for the detection of crimes or criminal conspiracies as it gives to the officials of the British Government. A denial of this facility to the State Authorities must retard the efficient working of the Police and the Judicial Departments of the concerned. As an illustration of this may be quoted the power which the Government of India has taken to itself to open correspondence of a suspicious character concerning certain important offences, a right which the Governments of the States cannot, but ought to, enjoy."



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## ERRATA.

Page.	Line.	Read.	For.
ii	15	'insistence'	'insistance'
14	17	'Deorepit'	'decrepid'
15	30	'inadvertently'	'inadvertantly'
16	11	'inquired'	'injured'
22	29	'are' for 'is' and	'contain* <b>for</b>
			'contains*'
45	27	*necessitated'	'necessiated'
56	29	'Adjacent'	'Adjeoent'
59	3	'Statesmanship'	'Statemanship'
62	9	'were'''	'was'
67	30 & 31	'distinguished'	'dieting uished'
68	9	'Ascendancy'	'Ascendency'
96	10	'integrity'	'intergrity'
112	4	'problem'	'proplem'
125	16	'people'	'peole'
132	23	'intact'	'intact'
<b>145</b>	22	hand'	'had'
156	33	'Sarkar'	'Sarkars'
162	11	'predominance'	'predominenoe*'
168	8	'force'	'foroe*'
<b>168</b>	24	'it is'	'itis*'
<b>176</b>	28	'Compensate'	'Gonpensate'









