

SOVEREIGN RIGHTS
:: OF ::
INDIAN PRINCES

BY
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THIS BOOK :

The Sovereign Rights of Indian Princes

Is a stimulating study of the problem of the Native States of India. It is an attempt to define and to find a solution for the question—what will be the place which the Native States of India should occupy in the larger dispensation of Indian polity in the near future. This is a question which is already attracting serious attention. Whether the ideal be a United States of India on the Federal plan including the Native States, or whether the ideal be only responsible self-government and provincial autonomy, the problem of the Indian States is bound to loom large before the politicians and Statesmen of India. For one thing the progress of India has made it impossible to rest the Native States on the pedestals of segregation, worshipped of Lee Warner and Strachey. The march of events in Asia since the dawn of the twentieth century is against it and the spirit of the times forbids it. Recent events in India, some of which the author considers here, are of far-reaching import and sound a grave warning against letting things go in the traditional style.

In this booklet the author makes a probing enquiry into the position of the Native States at present and examines the significance of recent events in Asia and shows how they affect the question of the Native States of India. Studied as the question is here from the view point of a Student of International Law, it forms a valuable contribution to the study of the problem of the Native States.

SOVEREIGN RIGHTS OF
THE INDIAN PRINCES

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PREFACE

A few weeks ago, in the class of International Law of the School of Foreign Service, Georgetown University, Washington, D.C., taught by Dr. James Brown Scott, one of the most eminent authorities on the subject, the question of "Status of Indian Princes" came up for discussion. This led me to look into the subject to verify my position—that the Indian Princes have really no sovereign rights from the standpoint of International Law. They have lost them through usurpation by the Suzerain Power—Great Britain.

The following pages are the result of this study which is by no means exhaustive. Indian political scientists, political leaders and Princes should take timely interest in their efforts to find a solution of the delicate question of "what should be the status of the Indian princes"—in

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the future body politic of India—The United States of India—and in the society of nations, from the standpoint of International Law. I hope that these pages will stimulate Indian scholars for further research in this field.

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TARAKNATH DAS

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INTRODUCTION

ALTHOUGH the Government of India ignored Indian public opinion in passing the Princes' Protection Bill, yet within a few months, the same government virtually dethroned the Maharaja of Nabha, by forcing his abdication. The Maharaja of Nabha has been regarded by the Indian public as a progressive Indian Prince, nationally inclined and thus hated by British officialdom. This abdication of the Maharaja of Nabha has stirred up a great deal of agitation among the people and Princes of India regarding the apparent high-handed action of the Viceroy of India. I am not in a position to discuss the Nabha case because I have not all the facts on the case except the press reports, which

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are quite inadequate to pass a judgment upon so serious a question, although it is a fact that the Viceroy has full legal right to remove any Indian Prince from his throne if he deems it necessary.

There is too much sentimentalism regarding the status of the Indian Princes. This sentimentalism and imagination at times runs amok to such an extent that some learned jurist in India has recently compared the sovereignty of the Government of India with that of the Native States of India, and held that the status of both being equal (!) the Native States should have representation in the League of Nations.

In this study I have tried to show that the exact status of Indian Princes is no better than that of the landed barons of India or any other country. Indian Princes will continue to be so unless certain fundamental changes can be brought about in the political condition of India as a whole.

I have refrained from going into the discussion of how the Native States of India could be made to subserve the re-

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generation of the people of India. When one reads about the discriminating and reactionary attitude of certain Princes towards their subjects one may well feel doubtful about the progress of democratic ideals in those States.¹ Even the attitude of the Government of progressive Indian States like the State of Baroda shows the truth of the above statement. The following comment regarding the Press Act in the State of Baroda will throw some light on the so-called progressiveness of the Indian Princes :

“It is sad indeed that the progressive State of Baroda should show lack of political far-sightedness by taking a retrograde step in introducing a more stringent Press Act than that of British India. According to this new press bill, the Magistrate shall have the discretion of refusing permission for starting a newspaper in the State ; again the punishment of a fine of Rs. 2,000 or 6 months' imprisonment is too severe for a violation of its

1. The Swarajya of Madras (1923), published a series of articles on the subject.

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rules. We strongly hope that this bill will be boldly opposed in and rejected by the Baroda Dhara Sabha."¹

Unless, therefore, the Native States of India give up the retrograde tendency to autocratic government and liberalise their administration by progressive democratic ideals they may in course become Ulsters of India or they may engender the same kind of mischief as was created by the Princes in Italy and Germany before the Italian Unity and the formation of the German Empire. About the present weakness of the Native States of India, it has been said by an Indian writer :

“Those who want to perpetuate the rule of the Native Princes must know and realize that power without responsibility cannot last. It is, perhaps, the worst form of Government, and the present position of the Native Princes is nothing but a curse to their people; because power cannot be divorced from responsibility without disastrous consequences. In the Native States might is right, and the arbitrary

1. *The Rajasthan* (Delhi, India), November 22, 1923.

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will of the rulers prevails. The patient people, who have endured the ravages and exactions of plundering masters, crave for impartial and unvarying justice. The guardianship, reign of law, which is the foundation of healthy political life must take the place of the arbitrary will of the seven hundred despots. The inefficiency of native government, their disorganised finances and system of justice are undermining their authority completely. The rise of a sense of unity and nationality in British India must make the matter worse in the Native States.....The root of evil is the present system of Government in the Native States. It is the result of power divorced from responsibility. The only chance of improvement is that those who enjoy power should be made to assume responsibility for its exercise. The friends of the Native Princes realizing the dangers and possibilities of the present situation, will do well to explain to the Princes, the signs of the times and risks attendant on them, and that the only way to prolong their existence is to assume the role of

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limited monarchy by granting constitutions to their peoples."¹

The Princes of India must adjust themselves with the aspirations of the people; otherwise they will meet the same fate as many more powerful crowned heads in Germany, Russia, Austria, Turkey, China, Greece and other countries met during the last few years. I am not advocating such drastic measures, nor am I interested in playing the part of a political prophet, but I have formed the conviction as a student of history and world affairs. The rapid changes in the arena of Indian politics must affect the Indian Princes equally as it would affect the British ruling oligarchy in India.

Indian Princes (under British Suzerainty) having sovereign rights as rulers, is really a myth and a fiction. They should realize this hard fact and act with the people of India so that at least they may become the real and recognized leaders of the Indian nation, if they can take the leadership by giving up their special

1. *The Rajasthan* (Delhi, India), November 22, 1923.

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pretensions. They should think and formulate a plan so that they may fit into the scheme of things of Future India which, in evolution, in the course of time must be an independent India, free from foreign rule and that will be the Federated Republic of the United States of India. They should also take into serious consideration their status within the Indian Empire (not British Empire), enjoying at least the same rights and privileges as the Dominion of Canada. In any event, with the coming changes in India, the Chief Executive of India must be an Indian and his cabinet will be composed of the popular leaders; and Indian Princes ultimately will have to deal with them in some form or other, and not with the Government of England or the British Government in India.

It is interesting to note that His Highness the Maharaja of Alwar in the course of his speech at the State Banquet held at the City Palace, Alwar, in honour of their Excellencies the Viceroy and Countess of Reading, and His Highness the Jam Sahab of Nawanagar, on March 29,

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1922 gave an expression to the idea of the future of the Indian States as cherished by many Indian Princes. He said:

".....the question of the Chamber of Princes, and particularly that of the future of the Indian States, is one of such magnitude that I don't feel competent to encompass it in the course of an after-dinner oration. But after all, truths are really simple.....My goal is the United States of India, where every Province, and every State, working its own destiny in accordance with its own environment, its own tradition, history and religion, will combine together for higher and imperial purposes, each subscribing its little quota of knowledge and experience in a labor of love freely given for a higher and nobler cause."¹

The future status of Indian Princes is involved with the future of India—the United States of India. A committee of the All-India National Congress and a committee of the Princes of India should discuss problems involved with frankness

1. *Indian Review* (Madras, India), April 1922, p. 275.

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and candor to further the ideal. The minimum requisite for such a discussion is that the Indian Princes should take part in all vital problems and political life of all India, and they should lead in the field of the establishment of democratic governments in their States, in conformity with the aspiration of the people; on the other hand the All-India National Congress should inaugurate its activities to deal with the Indian Princes and also the independent nations of the world through its own Department of Foreign Affairs. They should not forget that political independence is the first requisite for a really sovereign State.

II

EVOLUTION OF BRITISH
SUZERAINTY OVER THE PRINCES
OF INDIA

EVOLUTION OF BRITISH SUZERAINTY

THE Government of India is very anxious to maintain the institution of the "Native States" as a bulwark of British supremacy in India. The Government of India has reasons to be grateful to the friendly services rendered by the Indian Princes during the War of Independence of 1857 (miscalled the Sepoy Mutiny). In that crisis, without their aid and if they were hostile, the history of India might have been different. The Native Princes of the Punjab as well as the Maharaja of Nepal and the Nizam of Hyderabad and others incurred great loss in men and money and came to the rescue of the British Government in time of its sore distress. By doing so they have helped to consolidate the suzerainty of the British Crown in India.

About the services of the Sikh Princes

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and the gentry of the Punjab for the British cause, it has been recorded :

“By this time Sir John Lawrence knew that he could depend upon the active loyalty of the great Sikh chiefs who rule on the either side of the Sutlej..... The noble Raja of Patiala, the acknowledged head of the Sikh brotherhood, at once marched with all his forces towards Ambala, sent his spare carriage to Kalka for the conveyance of the British troops from the Simla Hills, and detached a body of his own men with a few guns to guard the district of Thaneswar, lying between Ambala and Karnal. Other troops of his were presently posted along the high road from Karnal to Firozpur, or played their part in the fighting before Delhi.” “His support at such a crisis”, wrote Mr. Barnes, the active Commissioner for the Cis-Sutlej States, “was worth a brigade of English troops to us and served more to tranquilise the people than a hundred official disclaimers would have done.” South of Patiala lay the little State of Jindh, whose stout-hearted Raja, Sarup Singh, not only led his

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little force to Karnal, but took a distinguished part in the subsequent fighting and hard work around Delhi. The young Raja of Nabha, with eight hundred men and two guns, kept guard over Ludhiana for the next six months, furnished escorts for our guns, soldiers and supplies for the field, and, like the Raja of Patiala, spared neither money nor personal efforts in the common cause. Great also were the services rendered in that hour of need by the noble Raja of Kapurthalla in the Jalandhar Doab. Marching into the station of Jalandhar at the head of his troops, he helped for some months to guard that place and to keep order throughout the district.....Not less conspicuous was the loyalty displayed by Sikh and Muhammadan nobles and gentry in nearly all parts of the Punjab. There was no mistaking the zeal with which the old sturdy warriors like Tej Singh, Shamshar Singh, Jawahar Singh, and many more raised regiments or armed their retainers in aid of their old antagonists of Sobraon and Gujrat.....Out of the pick of the firstcomers he formed a

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regiment of Sikh Horse, which was ere long doing right good service in the camp before Delhi. And when the Sikhs who had lately enlisted into the old Sepoy regiments were everywhere coming forward to reveal their comrades' plottings, and to ask for service in the levies, Lawrence felt himself free to act vigorously against the dangers that still beset him and his countrymen in the Punjab....."¹

Of course, this happened about three quarters of a century ago. Lately some things have happened which have brought about a decided change in the attitude of the people of the Punjab, particularly the Sikh people and some of the potentates of that part of India. It seems that the British officials, as it was in the case of Lawrence mentioned above, know beforehand those Indian leaders upon whom they can depend to uphold the sovereignty of the British Government in India. It is also the settled policy of the British Government that those who are against the

¹ I. Trotter, Captain Lionel J.: "*History of India under Queen Victoria from 1836 to 1880.*" Vol. I, pp. 384—386.

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British interest must not be tolerated, but be severely dealt with to set an example. The severe attitude of the British Government towards the Akalis is due to the conviction of the authorities about their attitude of disloyalty to the British rule in India. That the Akalis want to see their country free and independent and that they are using the religious movement as a cloak to spread their work of agitation is the explanation in the mind of the government of Earl Reading in declaring the Akali Dail an illegal body.

The Maharaja of Nabha has been forced to abdicate because he has been held to be in the wrong in certain dealings with the subjects of the Maharaja of Patiala. Of course, the British Government remembers the great services done by the ancestors of the present Maharaja of Patiala; also it is not unmindful of the present loyal attitude of the reigning Prince who is anxious to uphold British supremacy in India at any cost. The British Government is not ungrateful to the services of the Maharaja of Nabha. But it must be the case that the

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Maharaja of Nabha must have committed a grave crime against the interests of the British Government and the Maharaja of Patiala to merit such a drastic measure as "forced abdication, or, rather, dethronement." It would have been to the interest of the people of India and the British Government if the Government of India were in a position to present the fact before the people at large to discredit the conduct of the "deposed Maharaja of Nabha". But *for reasons of State*, the British Government did not think it either wise or just to disclose the facts of the case or try the Prince of Nabha in an ordinary way. It may be the Maharaja of Nabha refused to be further humiliated by a trial caused by the foreign rulers to suit their purpose. It is certain that until the whole truth is known and the Maharaja of Nabha freely discloses his side of the case, the excitement among the Sikhs and even among some of the Native Princes will grow because some of the latter would regard the action of Earl Reading as the mere repetition of the policy of Wellesley or Dalhousie.

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Lala Lajpat Rai in his recent article in reply to Earl Reading's speech in the Chelmsford Club has pertinently mentioned about the Nabha affair and the necessity of the Indian States to insist upon the preservation of the treaty obligations by the British Government.

Indeed some of the large States of India, like Hyderabad, Mysore and others enjoy treaty relations with the British Government of India or the Government of the King of England. There are treaties which have some high-sounding expressions; but the real meaning of the treaties are generally disclosed in the protocols giving the real intention of the signatories. In the history of modern alliances, there is not one treaty which is not described as an instrument to insure peace, but the real motive of all these alliances was to bring about an isolation of a contending power or to bring about a combination which would be strong enough to defeat a rival power or group in alliance. The histories of the Anglo-Japanese Alliance, the Triple Entente and the Triple Alliance afford the

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best and most recent examples to prove the point. So while thinking about the existing treaties between the Indian Princes and the British Government, we have to take into consideration the real motive of the latter behind such arrangements.

Tupper, in "Our Indian Protectorate" (page 33) gives the policy of the British Indian Government or the East India Company, as described by Sir John Barlow as early as 1803:

"It is absolutely necessary for the defeat of those designs (the subversion of the British Empire in India) that no Native State should be left to exist in India which is not upheld by the British Power or the political conduct of which is not under its absolute control."¹

The following extract from the Dispatch of the Indian Government to the Resident at Hyderabad, dated 4th February 1804, explains Lord Wellesley's policy toward the Indian Princes:

"The fundamental principle of His

1. *Collected Papers of John Westlake on Public International Law*, edited by Dr. L. Oppenheim (Cambridge, 1914), p. 205.

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Excellency the Governor-General's (Lord Wellesley's) policy in establishing "*subsidiary alliances*" with the principal States of India is to *place those States in such a degree of dependence on the British Power as may deprive them of the means of prosecuting any measures or of forming any confederacy hazardous to the security of the British Empire, and may enable us to preserve the tranquillity of India by exercising a general control over these States* This object can alone be accomplished by the operation of a general control over the principal States of India established in the hands of the superior power, and exercised with equality and moderation through the medium of alliances contracted with those States on the basis of security and protection of their respective rights."¹

At first, the government of the East India Company was not anxious to form alliances with the Native Princes, but the French led

1. For a concise study of Lord Wellesley's Foreign Policy vide Chapter XX (Expansion, Lord Wellesley. *Subsidiary Alliances and Annexations, of History of British India* by Roberts, Oxford, 1923.)

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the way in the matter. " At the outset, the policy of non-intervention was followed, and it was sought to avoid entangling alliances. Where the French went, the British had to follow."¹

The British tried to live within the bounds of International Law in the dealings with the Indian Princes until the latter showed their weakness. It seems there is no International Law to protect the weak :

".....during the first period of their connection with the Native States the British endeavoured, as far as possible, to live within the ring-fence. The treaties which they concluded with the Native Rulers were at that time made as if they were dealing with independent princes, sovereign according to International Law. They even continued for some years to regard themselves acting under the authority devolved upon them by the Emperor of Delhi; but when Shah Alam left their protection and became the prisoner (sic) of the Marathas, it was impossible to act any longer upon that fiction.....It is difficult

1. Imperial Gazetteer of India, Vol. IV, p. 77.

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to fix a precise year as the end of one period and the beginning of another. Changes of policy are of gradual growth. Nevertheless an examination of treaties, and the well-known views of the Governor-General, may justify the selection of the year 1813 as marking the period when the policy of the independence of the Native Princes, and the policy of non-intervention, gave way in the hand of Lord Hastings and his successors, to the doctrine of "*subordinate isolation*" and a general system of British suzerainty in India. It is true that Lord Wellesley foresaw the need for a change, and during his term of office (1798—1805) he advanced beyond the ring-fence, formed alliances with some of the Rajput States, and introduced the phrases of "*obedience*" as well as alliance into his treaties, as for instance with Datia. But his successor, Lord Cornwallis, dissolved some of these engagements, and so late as 1809 Lord Minto refused to enter into an alliance with Bhopal. It is, therefore, not unreasonable to select 1813, when Lord Hastings entered upon his office, as

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the date of the departure and the commencement of the new policy of "*subordinate isolation*".....The old order had passed away, and in 1813 the suzerainty of the Peshwa over the other Maratha Chief was no longer an asset.....It became necessary for Lord Hastings to abandon a policy of non-interference and to undertake the task of settling the affairs of the Native States so far as their relations with the British were concerned. *A policy of subordinate isolation, including all States up to Sind, the Punjab and Burma took the place of empty professions of non-interference which Parliament had preached and the logic of hard facts had contradicted.* The policy lasted until the Mutiny, and it included a period in which Lord Dalhousie gave effect to the doctrine of lapse by annexing "dependent" Native States on the failure of male heirs to their Hindu Rulers. Most of the treaties or engagements concluded with the protected States were made during this period.....
.....*There are engagements, dating between 1813 and 1857, which have not been*

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*amended and yet are profoundly modified by the tacit agreement, the logic of facts and public declarations of policy. In the transactions of States, as well as individuals, documents must be interpreted by overt acts and long-continued practice to which the parties have conformed. The main change introduced by Lord Hastings was the extension of British suzerainty over the whole of India east of the Punjab and west of Burma....."*¹

British success in suppressing the national uprising of 1857-58 and the transfer of the Government of India from the East India Company to the Crown led to further assertion of complete British suzerainty over the Indian States. The policy of "subordinate isolation" was replaced by the doctrine of "subordinate co-operation" on the part of the Indian States.

"The transfer of the government of India to the Crown, after the suppression of the Mutiny, left the British Government, in name as well as in reality, the suzerain power. As Lord Canning wrote in 1860,

1. *Ibid*, pp. 77-82.

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“The last vestige of the Royal House at Delhi, from which we had long been content to accept a vicarious authority, has been swept away. The Crown of England stands forth the unquestioned ruler and paramount in all India, and brought face to face with the feudatories. The immediate consequence was to abolish all reserve as to timely interference to prevent misrule. This distinction between the independent and dependent States lost its significance. *Sanads* of adoption and succession were conferred upon the Rulers of larger States. The doctrine of lapse gave place to a public assurance of the desire of the paramount power to perpetuate the houses of the principal ruling families. Treaties were no longer made as if between equals; engagements and *sanads* breathed a new spirit of *subordinate co-operation* on the part of the Native Princes. The process of consolidating British dominion was continued by arrangements with the States and not by annexations.....The territories under the suzerainty of the Crown became at once as important and

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integral a part of India as territories under its direct domination. Together they form one care, and the political system which the Mughals had not completed, and the Marathas never contemplated, is now an established fact of history.....”¹

The doctrine of “subordinate co-operation” presupposes the relation between a master and vassal and unquestioned loyalty to the master’s will to preserve his superior interest; Lord Canning made it very distinct and clear in his declarations to the Indian Princes.

Lord Canning’s Declaration regarding the rights of the Native Princes ran thus :

“Her Majesty being desirous that the Governments of the several Princes and Chiefs of India who now govern their territories should be perpetuated, and that the representation and dignity of their houses should be continued, I hereby in fulfilment of this desire convey to you the assurance that, on failure of natural heirs, the adoption, by yourself and the future rulers of your State,

1. Imperial Gazetteer of India, Vol. IV, p. 82.

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of a successor according to Hindu or of Muhammadan Law and the customs of your race, will be recognised and confirmed. Be assured that nothing shall disturb the engagement just made to you, *so long as your house is loyal to the Crown and faithful to the conditions of the treaties, grants and engagements which record its obligations to the British Government.*"

But the British Government has the right to intervene in the internal matters of the State if the suzerain Power sees fit to do so.

"Liability to intervention in case of grave misrule is an incident common to all the States. *There are also other occasions (too elastic) for interference which are likely to be taken whenever they occur.*"¹

This conclusively shows that the very existence of the Native States of India depends upon the judgment and will of the Suzerain Power; and there is no limit to British authority over the Princes of India. Earl Reading must have exercised this authority in bringing about the dethronement of the Maharaja of Nabha.

1. Imperial Gazetteer of India, Vol. IV, p. 88.

III

ISOLATION OF INDIAN PRINCES
AND
LIMITATION OF THEIR
SOVEREIGNTY

ISOLATION OF THE NATIVE STATES OF INDIA

IT has been shown conclusively, in the first chapter, that through the arrangements imposed upon the Indian States by the Suzerain Power, the former are in complete isolation:

“ At the outset, then, an obligation was imposed and accepted by even the largest States, which prevented their rulers from entering into relations with foreign nations or other States. *The doctrine of isolation was carried so far that the employment of the subjects of European nations, or of Americans, without the previous sanction of the Government, was strictly forbidden.*His subjects when outside his dominions become to all intents and purposes, British subjects, as shown by the treaty with Maskat in 1873, which declares that

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the words "British subjects" in all treaties between the British Government and the Maskat State shall include subjects of Indian Native States. If an American or a Frenchman should be accused of committing an offence in a Native State, his government would expect that he should receive justice, and the Suzerain Power take the responsibility of ensuring that result. In short, in all circumstances where foreign interests are concerned, the Paramount Power must act so that no just cause of offence may be given by its "*subordinate allies*," and they, in turn, must fulfil the obligations incurred on their behalf. So, too, the external boundary of a frontier or maritime State is regarded for international purposes as a British frontier, and the Native Chiefs can have no admiralty rights save such as are specially allowed to them by the paramount power."¹

Isolation of the Native States as described above must necessarily lead to limitation of their power destroying the last vestige of sovereignty.

1. Imperial Gazetteer of India, Vol. IV, pp. 84-85.

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“.....The Native States are under an obligation not to enter into relations with foreign nations or other States; the authority of their rulers has no existence outside their territories. Their subjects outside their dominions become for all intents and purposes British subjects. Where foreign interests are concerned, the Paramount Power (British Government) acts so that no just cause of offence is given by its subordinate allies. All Native States alike are under an obligation to refer to the British every question of dispute with other States. Inasmuch as the Native States have no use for a military establishment other than the police, for display or for co-operation with the Imperial Government, their military forces and armament are prescribed by the Paramount Power. Although old and unaltered treaties declare that the British Government will have no manner of concern with any of a Maharaja's dependents or servants, with respect to whom the Maharaja is absolute, logic and public opinion have endorsed the principle which Lord Can-

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ning set forth in the minute of 1860 that the '*Government of India is not precluded from stepping in to set right such serious abuses in a Native Government as may threaten any part of the country with anarchy or disturbance, nor from assuming temporary charge of a Native State when there shall be sufficient reason to do so. Of this necessity the Governor-General in Council is the sole judge, subject to the control of the Parliament*'".....Where cantonments exist in Native territories, jurisdiction both over the Cantonment and the civil station is exercised by the Suzerain Power.

".....The new policy was authoritatively laid down by Lord Minto, the then Viceroy of India, in a speech at Udaipur in 1909 when he said:

'Our policy is with rare exceptions, one of non-interference in the internal affairs of the Native States. But in guaranteeing their internal independence, and in undertaking their protection against external aggression, it naturally follows that the Imperial Government has assumed a certain degree of responsibility for the general

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soundness of their administration and could not consent to incur the reproach of being an indirect instrument of misrule. There are also certain matters in which it is necessary for the Government of India to safeguard the interests of the community as a whole as well as those of the Paramount Power, such as railways, telegraphs and other services of imperial character. But the relation of the Supreme Government to the State is one of suzerainty. The foundation stone of the whole system is the recognition of the identity of interests between the Imperial Government and Durbars, and the minimum interference with the latter in their own affairs.'"¹

Sir William Hunter in his *Indian Empire*, describes the limitation of the right of the Indian Princes in the following way :

".....the English Government has respected the possessions of the Native Chiefs and more than one-third of the country still remains in the hand of the hereditary Rulers.....That Government (British), as

1. *India Year Book of 1922*, pp. 115-116.

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Suzerain in India, does not allow its feudatories to make war upon each other, or to have any relations with foreign States. *It interferes when any Chief misgoverns his people; rebukes, and if needful removes the oppressor; protects the weak; and firmly imposes peace upon all.*"¹

Professor Westlake describes the limitation of power of the Native States of India in the following way:

"They (Native Princes of India) have no official intercourse either with one another or with any power outside the Empire. They cannot even send representatives to Calcutta, (then the capital of British India), but must communicate with the British Government through the British representatives at their courts. When it is necessary to establish a course of extradition or of any other dealings between two of them, each has to make an agreement with the British Government to that effect, or, according to the practice now preferred, *the British Government frames rules to which both the*

1. Hunter, Sir William: *Indian Empire*. London, 1892: p. 76.

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*Native Princes are invited to consent, and for the execution of these rules each of them pledges himself to comply with the demands of the other when intimated through the resident at his court. They cannot unite in any representation to the Government of India, even when having identical interests on any question, but each must approach it separately. Not only can they not receive for themselves even the commercial agents from foreign States, but they have no direct communication with Consuls or commercial agents accredited by foreign States to the Government of India. They are precluded from receiving foreign decorations or even academic distinctions except through the British Government, and from conferring any honors or privileges on any person but their own subjects. They cannot employ Europeans or Americans without the consent of the British Government."*¹

On the basis of limitation of sovereignty of the Native States of India, there can-

1. Collected Papers of John Westlake on Public International Law, pp. 217-218.

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not be equal treaty rights on the basis of equality granted to sovereign States, according to international law, so the Government of India has decapacitated the international existence of all Indian Native States by the Circular No. 1700-E, 21st August 1891 :

“The principles of International Law have no bearing upon the relations between the Government of India as representing the Queen-Empress of India on the one hand, and the Native States under the suzerainty of Her Majesty on the other. The paramount supremacy of the former presupposes and implies the subordination of the latter.”

As Lord Curzon once very frankly expressed that the Queen's Proclamation (1858) guaranteeing equality among the subjects of Great Britain in India irrespective of caste, creed and colour, as a mere diplomatic myth; so Professor Westlake unmasks another diplomatic myth in connection with the status of the Native Princes of India in the following way :

“.....The Native Princes who acknow-

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ledge the Imperial Majesty of the United Kingdom have no international existence. That their dominions are contrasted with the dominions of the Queen, and their subjects are contrasted with the subjects of the Queen, are niceties of speech handed down from other days and now devoid of international significance, though their preservation may be convenient for the purposes internal to the empire, in other words for constitutional purposes. So, too, the term "protectorate" as applied to the empire in its relation to those Princes, and the description of their subjects, when abroad, as persons entitled to British protection, are etymologically correct, but they do not bear the technical meaning which belongs to the protection of the Republic of San Marino and its citizens by the Kingdom of Italy, or that other technical meaning which belongs to a Protectorate in Central Africa..... The Indian Government itself has admitted and acted on the existence of a personal tie between the Queen-Empress on the one hand and the Native Princes and..their

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subjects on the other hand, which might not only be described with etymological accuracy as the subjection of the latter to the former, but which is the very tie that in political language is described as the relation of sovereign to subject, whenever the history of its origin does not furnish a motive for abstaining from the use of those terms. Loyalty and allegiance as expressing the duty to the Queen-Empress, treason and rebellion as expressing the breach of that duty, are terms familiar in Indian official language.”¹

Lawrence, in his *Principles of International Law*, holds that the Indian Princes are not even “part-sovereign” from the point of view of the definition he gives of part-sovereign States, and says:

“Part-sovereign States may be defined positively as political *communities in which the domestic rulers possess a portion of powers of sovereignty, the remainder being exercised by some external political authority or negatively as States which do not*

1. *Ibid.*, pp. 220-221. Also vide Moore, John Bassett: *Digest of International Law*, Vol. I, p. 17.

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possess absolute control of the whole of their policy. But no such State is a subject of International Law unless the division of powers cuts athwart external affairs, assigning some of them to the home government, and some to the outside authority. When a political community is obliged to submit itself habitually in some matters of external importance, to the control of another State, it is for international purposes in a condition of part-sovereignty. When a number of political communities join themselves together into a confederation, and also the central authority of the confederation, they are for international purposes in a condition of part-sovereignty. We thus obtain two divisions of part-sovereign States, and it will be convenient to consider each separately. But before we do so, we must exclude altogether from our classification such communities as the Native States of India and the Indian tribes of North America. *The former are sometimes spoken of as independent States; but in reality they are not even part-sovereign in the*

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sense given to that term by the International Law; for they may not make war or peace, or enter into negotiations with any Power except Great Britain. The latter have been adjudged by the United States Supreme Court in the case of the *Cherokee Nation v. the State of Georgia*, not to be foreign States, but "domestic dependent nations." They cannot deal in any way with any power other than the United States, and consequently International Law knows nothing of them."¹

Hall, in his Treatise on International Law, confirms the above views regarding the limitation of sovereignty of Indian States:

"For the purposes of International Law, a protected State is one which, in consequence of its weakness, has placed itself under the protection of another power on defined conditions, or has been so placed under the arrangement between powers the interests of which are involved in the disposition of its territory."

"Protected States such as those included

1. Lawrence, T. J.: *The Principles of International Law* (N.Y. 1918), pp. 62-63.

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in the Indian Empire of Great Britain are not subjects of International Law. *Indian Native Princes are theoretically in possession of the internal sovereignty, and their relations to the British Empire are in all cases more or less defined by treaty; but in matters not provided for by treaty a "residuary jurisdiction" on the part of the Imperial Government is considered to exist, and the treaties themselves are subject to the reservation that they may be disregarded when the supreme interests of the empire are involved, or even when the interests of the subjects of the Native Princes are greatly affected. The treaties really amount to little more than statements of limitations which the Imperial Government, except in very exceptional circumstances, places on its own action. No doubt this was not the original intention of many of the treaties, but the conditions of English sovereignty in India have greatly changed since these were concluded, and the modifications of their effect which the changed conditions have rendered necessary are thoroughly well understood and acknow-*

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ledged. By the notification in its official Gazette of August 21, 1891, the Indian Government declared that 'the principles of International Law have no bearing upon the relations' between itself and the Native States under the suzerainty of the Queen Empress. The rulers of these States are not, however, on the same level as ordinary British subjects as regards the jurisdiction of Courts of Law, *Statham v. Statham and the Gaekwar of Baroda*, L.R. (1912), p. 92."¹

However it can be held that the Indian Princes by signing the treaties with the British Government have not lost the right of complete freedom of action, and they may change the course of action. In support of this contention the famous case of *Mighell v. Sultan of Johore* can be cited. Although the Sultan of Johore signed a treaty with the English Government on December 11, 1885, by which "it was agreed that the Governor of the Straits Settlements should protect the Sultan's

1. Hall, William Edward: *A Treatise on International Law* (Seventh Edition, 1917). Oxford University Press, p. 27.

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territory from external hostile attack, and for that purpose Her Majesty's Officers were to have access at all times to the waters of the State of Johore; and by Article 6 of the treaty, the Sultan bound himself not to negotiate treaties or enter into any engagement with any foreign State,"¹ in the Court of Appeal (1894), Justice Kay held that "the Agreement by the Sultan not to enter into treaties with other powers does not seem to me to be an abnegation of his right to enter into such treaties, but only a condition upon which the protection stipulated for is to be given. If the Sultan disregards it, the consequence may be the loss of that protection or possibly other difficulties with this country; but I do not think that there is anything in the treaty which qualifies or disproves the statement in the letter that the Sultan of Johore is an independent sovereign."²

It may be also argued that by the Anglo-Russian Agreement, Great Britain and

1. Scott, James Brown : *Cases of International Law* (St. Paul, West Publishing House, 1922), p. 280.

2. *Ibid*, p. 284.

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Russia decided that the Amir of Afghanistan should not have the full sovereignty to carry on diplomatic relations with any power, but such matters should be transacted through Great Britain. But the Amir of Afghanistan never consented to accept that limitation, and never signed any agreement to that effect and later on by diplomatic assertion has regained the full sovereignty of an independent State.

There is some similarity about the status of the Sultan of Johore and that of the Nizam of Hyderabad ; but it must be noted that the Indian Princes without any exception have accepted the Government of India as its Suzerain Power, and by doing so have given up their certain rights. Then, again, if they wish to revise the treaties with Great Britain in a way that would enable them to have the freedom to enter into diplomatic relations, then it would be necessary to have mutual consent for such a revision of the treaties, because the treaties are essentially contracts between two States on political, commercial, judicial and other matters. If Great Britain

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does not agree to such revision, and any of the Native States denounce the treaty, then as Judge Kay has pointed out, there may arise difficulties and serious complications. Would the Indian States, individually and collectively be able to resist the opposition of Great Britain regarding such revision of treaties as would really amount to denial of suzerainty of the British Government over them? This is not a very easy matter of assertion.

The Indian Princes, by their own actions of allying with the British Government and placing the British Government in Suzerain Power have limited their own sovereignty materially and this limitation cannot be removed without a formal agreement or such an assertion as will remove Great Britain from the Suzerainty of India.

IV

FORMATION OF THE CHAMBER.
OF INDIAN PRINCES

FORMATION OF THE CHAMBER OF INDIAN PRINCES

SINCE the re-awakening of Asia and the advent of the nationalist movement in India, some of the Indian Princes, if not all of them, have been very much disturbed. They are between the devil and the deep sea. By natural inclination they wish to assert their rights and see that the stigma of dependence under a foreign power is removed, but they dare not show even their sympathy to the cause of Indian nationalism, which ultimately may mean a free and independent India, because any overt act committed by a Prince which might be interpreted as harmful to the Suzerain Power, may lead to dethronement. They also do not like to see that the march of Indian nationalism should not jeopardise their monarchical position. They would rather maintain the *status quo* in the condition of India than allow any

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change, unless the change comes at a time that they would be able to utilize it to their advantage.

Some of the Indian Princes have realised the fact that the first step for strengthening their own position is not to side with the Indian Nationalist Movement, nor (for the present) to demand removal of any restrictions regarding their rights in dealing with foreign powers, but it is consolidation of their own position among themselves by a united effort. This idea is really at the back of the formation of the Chamber of Princes so far the Indian Princes are concerned. The petty Princes see in the "Chamber of Princes" a body which will protect their rights in respect to both the British Government and the nationalist movement. The Princes like Gaekwar, Nizam and Mysore do not like to associate so heartily with the Chamber of Princes, because the very membership in it makes them recognize their status as something like landed barons within the British jurisdiction and as mere British subjects enjoying certain privileges.

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Regarding the origin of the " Chamber of Princes ", Sir Valentine Chirol says :

" Some of the ruling Princes and Chiefs whose views appear to have prevailed with the Secretary of State and the Government of India, came to the conclusion that they should combine together and try to secure as a body a recognized position from which their collective influence might be brought more effectively to bear upon the Government of India, whatever its new orientation may ultimately be under the influence of popular assemblies in British India. Some, doubtless, believed that once in such a position they would be able to oppose in a more effective way, because of their more united front, interference from whatever quarter, in the internal affairs of their States. Circumstances favored their scheme for the loyalty displayed by all the Native States, and the distinguished services rendered in person by not a few Chiefs inclined the Government to meet their wishes without probing them too closely, and in the first place to relax the control hitherto exercised by its political

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officers on the spot.....often, it must be confessed, on rather petty and irritating lines. The leading Princes were encouraged to come to Delhi during the winter season, and those who favored a policy of closer combination amongst themselves were those who responded most freely to these official promptings. Conversations soon assumed the shape of informal conferences, and later on, of formal conferences convened and presided over by the Viceroy. The hidden value of these conferences must have been far greater than would appear from the somewhat trivial record of the subjects under discussion, for it is out of these conferences that the new Chamber of Princes has been evolved as a permanent consultative body for the consideration of questions affecting the Native States generally, or of common concern to them and to British India and to the Empire generally.....But the creation of a Chamber of Princes at this particular juncture raises very difficult issues. In the first place, though it has been engineered with great skill and energy by a group

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of very distinguished Princes, mostly Rajput, it is viewed with deep suspicion by other chiefs who, not being Rajputs, scent in it a scheme for promoting Rajput ascendancy, and it has received no support at all from the other and more powerful Princes such as the Nizam of Hyderabad, the Gaekwar of Baroda, and the Maharaja of Mysore. Some of them always held aloof from the Delhi Conference and have intimated plainly that they have no desire to see any alteration introduced into their treaty relationships with the Paramount Power....."¹

The Nabha Abdication case affords an opportunity to test the consultative power of the Chamber of Princes. It is safe to say that the Chamber of Princes will not try to do anything in this matter which will not be beforehand sanctioned by the British Government. It is also safe to assert that Earl Reading's Government will not consent to allow the Chamber of Princes to review a case which he has

1. Chitrol, Sir Valentine: *India Old and New* (Macmillan Co., 1921), pp. 239-241.

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already declared as a "closed matter." He would rather see that the decision be altered, if necessary, by an Act of Parliament or by an order of the Secretary of State or by his own consideration than through the influence of the Chamber of Princes.

The following extract from the Message of the King-Emperor to the Rulers of the Indian States on the inauguration of the Chamber of Princes in February 1921, will show that the Chamber of Princes has merely consultative power and that it cannot demand as a matter of right that such cases as the Nabha case or others be put before it for adjudication and their judgment be binding. In fact, it makes it clear that the old fundamental principle that there must not be any concerted action among the Princes to deal with the Suzerain Power has not been given up. It makes it clear that the Government of India retains its full power to deal independently with the Princes:—

" My Viceroy will take its (Chamber of Princes) Counsel freely in matters relating

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to the territories of Indian States generally, and in matters that affect these territories jointly with British India or with the rest of My Empire. *It will have no concern with the internal affairs of individual States or their rulers or with the relations of individual States to My Government*, while the existing rights of their States and their freedom of action will be in no way prejudiced or impaired. It is my earnest hope that the Princes of India will take regular part in the deliberations of the Chamber; but attendance will be a matter of choice, not of constraint....."¹

The status of the Chamber of Princes is that of a merely consultative body, and it has nowhere been stated that the Viceroy or the Government of India is bound to carry out its advice. In fact, it is clear from the recommendations of Mr. Montagu and Lord Chelmsford who were interested in creating the Chamber of Princes (Council of Princes), that the Princes should have

1. *Speeches and Documents on Indian Policy*, Vol. 2 (Oxford University Press, 1922), p. 334.

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the Agenda approved by the Viceroy and the Viceroy should be the President, and in the absence of the Viceroy there will be a Prince who will act as a Presiding Officer in his place.

“.....Our first proposal is to replace them (Conferences of Princes) by the institution of a Council of Princes. *We wish to call into existence a permanent consultative body. There are questions which affect the States generally, and other questions which are of concern either to the Empire as a whole, or to British India and the States in common, upon which we conceive that the opinion of such a body would be of utmost value. The Viceroy would refer such questions to the Council, and we should have the advantage of their considered opinion. We think it all important that the meetings should be regular, and that ordinarily they should meet once a year to discuss agenda approved by the Viceroy. Any member of the Council or the Council as a whole might request the Viceroy to include in its agenda any subject on which discussion was desired. If questions of*

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*sufficient importance arose in the interval between the annual meetings, the Princes might suggest to the Viceroy that an extraordinary meeting should be held. We contemplate that the Viceroy should be President and should as a rule preside, but in his absence, one of the Princes should be Chairman. The rules of business would be framed by the Viceroy after consultation with the Princes, who might perhaps from time to time suggest modifications in the rules.....The direct transaction of business between the Government and any State would of course not be affected by the institution of the Council.....'*¹

In spite of the formation of the so-called Chamber of Princes of India, it is evident that the Government of India has not changed its policy at all regarding them; particularly they have viewed with disapproval any attempt of independent joint action to protect their interest. This is

1. Report on Indian Constitutional Reforms by Edwin S. Montagu and Lord Chelmsford, 1918. Vide *Speeches and Documents on Indian Policy*, Vol. 2. (Oxford University Press, 1922), pp. 191-192.

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evident from the recent episode regarding the Government opposition to the formation of Kathiawad Chamber of Princes suggested by His Highness Lakhjiraj Thakore Saheb of Rajkot. His Highness called a meeting of the Princes and Chiefs of Kathiawad for the purpose of forming a Chamber of Princes and Chiefs of that area. The meeting was scheduled to be held on the 12th of January, 1924. Coming to know of this, Colonel Wood, the Agent of the Government of Bombay, wrote to the Princes:—

“.....I am directed to inform you that the Government views the Thakore Sahib's proposal to establish a local Chamber of Princes and Chiefs with disapproval and could not agree to it.....”

This attitude of the British Agent and Government is quite consistent with the policy already discussed. However, this has created some indignation among the Princes of India and the letters of Thakur Saheb to Colonel Wood and his fellow Princes are of historic importance and should be taken into consideration.

The following is an extract from the

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letter addressed to the Princes and Chiefs by the Thakur Saheb :—

“ There is much to protest against the sense of the letter of the Agent to the Governor, because it has only one meaning, and that is that the Bombay Government looks upon our movement with distrust.

“ It is we who have to protect our rights and powers; and it is our sacred duty to see that our rights are not jeopardised by our negligence. We should not stop meeting by the mischievous order of the Bombay Government. Our plan is a good one and is of such common good to all, that if we do not meet to consider it, we would be said to be devoid of courage. We have given no reason to the Government to look to us with distrust. In my opinion, the letter of the Agent has created a serious situation, and if we ignore it, our future as rulers in this province will be seriously harmed. Our rights to jointly considering serious matters, when necessary, would be gone, and we shall be mere toys of the Government. I therefore insist to draw your attention to

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the present serious situation, which has immediate, as well as far-reaching consequences.

To Colonel Wood, the Agent, the Thakore Saheb, wrote another letter, from which also we quote:

“Your letter communicating the disapproval of the Government of the contemplated local Chamber of Princes and Chiefs and putting it under a ban makes one pause and think what can be the object of such an enlightened Government in nipping in the bud the very first effort to bring all the local rulers of the province together in the best interest of the province and its people as well as the Government. Is one to look upon the fanfared reform scheme and the very Chamber of Princes in Delhi whence are delivered every year to the princely audience from the Viceregal Chair very exhorting homilies as only window dressings and to believe that in its heart of hearts the Government is still a devout follower of the old principle of “Divide and govern”.....

“.....Why should Government look

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askance at my calling a meeting of my brother Princes and Chiefs to discuss the advisability of founding a Chamber of Princes and Chiefs for Kathiawad on the lines of the much lauded Chamber of Princes at Delhi.

“.....I cannot withdraw my invitations and am not withdrawing them. It is for my brother Princes to respond to my invitations and greater is the need for joint action, now that we know the Government are looking upon us with an eye of undeserved distrust. We will not feel satisfied till the Government wipes off the situation created. The only course for me is to respectfully ignore your letter and to keep my programme unchanged. I know I have written strongly, but without meaning any disrespect to you or the Bombay Government, and without any qualms of conscience.

Yours sincerely,

LAKHJIRAJ

THAKORE SAHEB OF RAJKOT.”¹

1. *The Modern Review* (Calcutta, India), November 1923, pp. 620-621.

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It can be safely predicted that even if the Thakore Saheb receives cordial support from his fellow Princes and Chiefs of Kathiawad, and organizes a local Chamber of Princes, this body will not have any more power than the Chamber of Princes which is purely an advisory body over which the Viceroy of India officially presides. It may be that Thakore Saheb and his ardent supporters would meet the same kind of fate as the Maharaja of Nabha.

The mere formation of the Chamber of Princes will not save the Indian Princes. After all their salvation and security lies with the confidence of the people of their own territories and also the people of India in general. The era of change in India is sweeping fast, and it is only a matter of time when there will be full assertion of the doctrine of "Government derives its just powers by the consent of the Governed". This will be the touch-stone of the Government of all parts of India including the Native States. The reactionary Princes of India are counting upon the support of the British Government and

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thus they carry favor with the reactionary British Government in opposing everything that may further the cause of popular Government in India. This is absolutely a mistaken policy for the Indian Princes themselves, from the point of view of their own self-interest, and also from the point of view of national progress of India. Non-progressive and reactionary Native States, whether Hindu, Muhammadan or Sikh, are curses to India and stumbling blocks on the way of progress. They allow the British Government to have an opportunity to assert that a government of India under the people of India may be as non-progressive as that of the reactionary Native States of India.

The Nabha affair and the Sikh situation in the Punjab will supply food for thought for the Indian Princes to adjust themselves in a way that they may be a source of strength to their own people and may not serve as traitors to the cause of freedom and emancipation of India. The "Sovereign Rights" of the Indian Princes, like the Maharaja of Nabha, is nothing more than

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myth and fiction. Their security lies in the strength of their own people, and the confidence they may earn from the people at large. They, in reality, have less rights, so far as freedom of action is concerned, than men like "the Tatas" who can employ foreign engineers in their services at their will, whereas the former cannot do so without the permission of the Government of India.

The Indian Princes have it in their hands to be an instrument to the cause of salvation of the people, if they march on progressive lines in every field of administrative activities particularly in the field of education, development of agriculture, industries and commerce, and introduction of responsible Government. They may find that the programme of progress is not an easy path to travel, but that it is the safest and wisest path to follow because it affords security through the love and power of the people at large. The Nabha affair is an extreme case of the possible difficulty, but will the Indian Princes forget the ideal of the past—*Harish Chandra*—?

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“As long as there is death for a mortal, the wise should sacrifice wealth and even life for the sake of service to Humanity.”

V

PROCESS OF RECOVERY
OF THE
SOVEREIGNTY OF ASIAN STATES

PROCESS OF RECOVERY OF THE SOVEREIGNTY OF ASIAN STATES

IN this connection it is desirable that one should consider the larger issues of the loss of sovereignty of the Asian States and the gradual process of recovering it. The nineteenth century is the century of the unabated progress of the predatory interest of the West in the East; and during this period all the Asian States without any exception lost their sovereignty completely or partially. It is well recognized that abridgment of sovereignty in any degree means loss of sovereignty because in sovereignty lies the true existence of a State as in the undisturbed opportunity for self-expression lies the individual freedom and full existence of an individual. For a State to be fully sovereign it must have the complete and unfettered control over all branches of its internal affairs, including territorial integrity, fiscal autonomy, control of the judiciary and

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application of its law on territorial basis, and not on personal basis and not on any basis of special preference for the foreigners. Then the State must have the control over its military affairs and there must not be any control or supervision by any outside or extra-territorial force or power in that matter. Lastly the State must have the fullest control over its foreign affairs.

Even Japan, for a certain length of the nineteenth century, and even a part of the twentieth century, did not enjoy absolute sovereignty. There was in existence an extra-territorial judicial jurisdiction and also the privilege of exemption from taxing the foreigners in Japan. It is interesting to note that this abridgment of sovereignty of Japan was brought about not by any one nation. Although America opened Japan for trade, later on a concert of the European nations and America forced Japan by using superior military force, to extend extra-territorial jurisdiction.

Thus Japan lost a certain amount of sovereignty through the concert of the

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European nations and America. They put certain limitations on her internal affairs, by acquiring the so-called Favored Nations Treatment by which Japan was forced to consent to accord to one and all the same privileges. Japan did her best to remove the limitations of sovereignty in every possible peaceful means and she failed. Until Japan defeated China in the Sino-Japanese War, the Western nations did not pay any heed to Japan's imploring although America promised to remove the extra-territorial limitations regarding judiciary and the tariff (Japan could not modify her tariff without the sanction of the Treaty and Powers) when other nations would agree to it. It was Great Britain which stood against Japan's efforts of removing limitations of sovereignty, until she found that it would be best to be on good terms with Japan to preserve her dominant position in the Far East. When Japan defeated Russia in the Russo-Japanese War, the Western nations gladly took Japan among the Comity of Nations and so were slowly removed all the

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limitations of the extra-territorial jurisdiction.¹

Japan's victory over China was the first step toward removing the limitations of sovereignty. The second point to be noted is that because France, Germany and Russia lined up against Japan and worked against British supremacy in the Far East, it was necessary for Great Britain to find an ally in the Orient. Thus Great Britain took the lead in removing certain limitations of the sovereignty of Japan. It is the change of world politics that gave Japan a chance and this chance would never have come to Japan if the Japanese Statesmen had not been alive after the Sino-Japanese War and before the World War to remove the condition of her "isolation in World Politics."

Similarly China lost her sovereignty slowly and slowly, but most conspicuously since the First Opium War; and by the Treaty of Tientsin the British Government acquired the extra-territorial jurisdiction,

1. Gungudam, Seiji G. : *The International Position of Japan as A Great Power* (New York, Columbia University Press), 1905.

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and then through the favored nations clause America and other nations secured the same right. China began to lose her sovereignty more and more with every defeat of China in wars against the European Powers and the joint war by the French and English really destroyed the Chinese sovereignty in a marked way although the fiction of independence was kept up. But the real weakness of China was exhibited during the Taiping Rebellion when China had to depend upon foreign powers for aid, and during this period the international settlements like that of Shanghai came into existence, where in theory Chinese Sovereignty is intact, but in practice China has even no control over her own citizens. The Sino-Japanese War and the Boxer Trouble reduced China as a State at the mercy of the Western nations. Spheres of influence and concessions were the steps for actual dismemberment of China by these nations.¹ Whatever may be the motive of Japan in fighting the Russo-Japanese War, Japan really stopped

1. Bar. M. J.: *Foreign Relations of China, 1922*.

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Western aggression in China and gave a new spirit in China to work systematically to regain her territorial sovereignty step by step.¹

China has since then won back some of the lost elements of sovereignty and every victory of China has been achieved not merely through Chinese efforts, but through application of the same principle mentioned above—getting out of isolation in world politics and making herself an active factor in world politics. For instance, the Opium War was fought not merely because the British merchants wanted to make money by selling opium, but because the British held that they must defend their right to trade with China with any commodity at any cost. China had to concede after the Opium War, but China got back her right of limited sovereignty on that point when she enlisted the aid of American public opinion and world public opinion and then forced Great Britain through moral pressure to come to

1. Abbott, James Francis: *Japanese Expansion and American Foreign Policies*, (N.Y. Macmillan), 1916.

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an agreement on the opium question. Then the next victory of China, in this matter, is in succeeding to remove the extra-territorial jurisdiction of the Central Powers in China and by annexing their concessions in Hankow and other places. This could be achieved because the Chinese entered into the World War and that was one of the concessions the Allies promised to China for entering the war. The next victory of China in the field of removing the limitations of her sovereignty came when the Chinese Statesmen firmly refused to sign away their rights at Shantung and held out the famous principle of international law that the agreement signed by China before the Peace Conference was not binding because Japan secured it by duress, etc. The victory was not so complete in the Peace Conference at Paris for the Chinese. But Chinese Statesmen succeeded in very subtly enlisting the sympathy of the American Statesmen as a whole on the Shantung issue and the American Government did not sign the Peace Treaty of Paris which contained

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the Shantung clause prejudicial to the interest of China. This was a victory for China. But in the Washington Conference, China succeeded in securing Shantung back from Japan. Certain understandings were also made regarding the revision of the tariff and removal of foreign post offices; and it was also agreed that the question of removal of extra-territorial jurisdiction would be further considered, and there is every possibility that Japan will aid China in this matter and also in the matter of the abolition of the spheres of influence in China.

So far as Chinese Sovereignty is concerned, there is a serious limitation placed on it by an indirect way through the international financial control of China through the Consortium plan, control of sources of Chinese revenues and also through the effort of the British Government to bring about the international control of all activities in China through internationalizing the Chinese railroads, because the control of the transportation systems of any country by an international agreement of any character means a serious

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limitation of sovereignty. However, the Chinese Statesmen are alive to the dangers of the situation. They are taking the keenest interest in World politics and making China a very important factor in it, and also being ready to take part in the world combinations solely with the object of advancing Chinese interests and for the regaining and assertion of Chinese Sovereignty in full.

Siam also steadily lost her sovereignty through conquest and the enforcement of extra-territorial jurisdiction. It is curious that Siamese independence was at times endangered by French and British encroachment. But again the existing Anglo-French rivalry has allowed Siam a certain amount of independence.¹ Siam is attempting to remove the limitations of sovereignty, and her efforts have led her into international relations to the extent that she entered the World War and sent Siamese aviators to France on behalf of the Allies. To-day the Government of the

1. Stuart, Graham H.: *French Foreign Policy* (New York, The Century Co.,) 1921, p. 71.

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United States has taken the lead in helping Siam to remove all limitations of its sovereignty. However, it must be noted that British influence is predominant in Siam. It is mainly due to the British position in Burma and also in the Malaya Peninsula that the Chief of Police in Siam is a British Officer and the present Secretary of the Siamese Legation in Washington is a Britisher. Siam will not have real independence unless she succeeds in eliminating British and other influences.

Afghanistan was a buffer State with full independence, but she really lost her full sovereignty between the encroachments of Russia and Great Britain. As long as these two powers did not come to an agreement Afghanistan kept her independence, but with the settlement of the Anglo-Russian disputes through the Anglo-Russian Entente, Afghanistan really became a part of the British spheres of influence and she virtually lost her independence and Britain wanted to give her a character of British dependency by inviting the Amir of Afghanistan in the Coronation

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and Durbar ceremonies held in Delhi to participate with Indian Princes including the Maharaja of Nepal. Afghanistan did not recognize the Anglo-Russian Entente, however she felt the effects of it. The result of the World War and the Russian revolution has changed the character of Afghanistan. Afghanistan's bold assertion through treaty relations with the Russian Soviet Republic and the establishment of diplomatic relations with the Russian Soviet Republic and the establishment of diplomatic relations in European capitals and the last Afghan War and also the offensive and defensive alliance between Turkey and Afghanistan has forced Great Britain to give up her pretension over Afghanistan, and thus here again Afghanistan has come out of isolation and it is expected that her sovereignty will remain unmolested in the future unless Great Britain and Russia again come to an understanding; even then it is doubtful whether it would be possible to have old conditions re-established there.

Persia's position was also the same as

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other Asian States although she was in a little more adverse condition. Here again the application of favored nation clause was working against the Persian autonomy in the full sense. Persian autonomy was becoming really invisible with the diplomatic intrigue in Europe. Britain through her control over the Persian Gulf and through the pressure of circumstances to protect British interests in Persia and to check Turko-German advance started the work of destroying Persian Sovereignty by asserting British control over the sea and seaports and also through the very familiar process of establishing a protectorate over a petty chief who was subsidised to be under British protection. The Anglo-Russian Entente and the Persian Revolution brought Persian Sovereignty to a low ebb, and the extent of foreign control over Persia has been well described by Professor Browne of the Cambridge University in his work, the Persian Revolution, and also by Mr. Morgan Shuster in his work "Strangling of Persia". However, as fate will have it Persia was further reduced to a dependency

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of Great Britain and Russia, during the World War, through a secret agreement between Great Britain and Russia by which the neutral zone of Persia was agreed to be also a part of British sphere of influence for which Britain agreed to give Russia absolute control of Constantinople. This amazing secret affair, although little known to the world, has been lately published in the Memoirs of Sir George Buchanan, the late British Ambassador to Russia.¹ However, all calculations of the Allied Powers came to a severe test at the Treaty of Peace in Paris when through the influence of Lord Curzon the Anglo-Persian Agreement was signed over the protest of an influential section of Persian nationalists. It is needless to say that the signing of the Anglo-Persian Agreement reduced Persia to the status of Tibet or Mongolia or Korea after the Russo-Japanese War, so far as Persian Sovereignty was concerned.² It

1. Buchanan, Sir George: *My Mission to Russia and other Diplomatic Memoirs*, Vol. 2 (Boston, Little Brown & Co.) 1923.

2. Gibbons, Herbert Adams: *World Politics* (New York, Century Co.) 1922.

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is again through the fortunes of international diplomacy and the bold action of the Persian nationalists siding with the Soviet Russia which repudiated every action limiting Persian Sovereignty, that Persia has regained her lost sovereignty to a large extent although the extra-territorial jurisdiction of the Consulates of Foreign nations persists there. Persia is now in the closest touch with America politically and financially; and it may be that if things can be run in a way which would lead to stability of Government and internal development, then through an American co-operation and also because of the unusual French interest exhibited towards Persian rejuvenation, Persia can become stronger and assert herself more freely and fully in the field of attainment of uncontrolled sovereignty.

The history of existence of extra-territorial jurisdiction of the Christian nations over their own subjects in Turkey is as old as the institution of the Capitulations of some form or other even before the Crusades. But it did not mean for the Turks the

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loss of their sovereignty; it was rather a concession given by the Turks towards the non-Moslems. But with the weakening of the Ottoman Empire and its loss of territories, the position of the Foreign citizens began to assume a privileged character. It is interesting that even the right of asylum in foreign consulates and embassies was used to the extent that the political leaders living in the British embassy carried on intrigues to overthrow the Young Turks Government.¹ Concessions in the Ottoman Empire and the question of Constantinople became so important that pro-Russian, pro-French and pro-British and Turkish Statesmen used the legations for refuge at times.

However, the last vestige of Ottoman Sovereignty was about to be eliminated, at least from Europe and also in a large portion of Asiatic Turkey, and really Turkey was placed under international control according to the Treaty of Sevres. It is again because of the situation in

1. Djamel Pasha; *Memoirs of a Turkish Statesman* (N. Y. Century Co.) 1923.

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world politics and the bold action of the Young Turks, that the whole course of Turkish history has changed. Here again Russian support to Turkey has been invaluable at the first stage of the establishment of the Angora Government. Then again the support given by France through the Franklin-Bullion Treaty gave Turkey a greater recognition. After the complete defeat of Greece and the refusal of France and Italy to co-operate with Lloyd George's programme of chastizing Turkey, the latter has become more independent than she had been for the last three-quarters of a century. At the Lausanne Conference, the Capitulations have been completely removed. It is worth noting that the Young Turks entered the World War with an offensive and defensive alliance with Germany and the understanding of removal of all forms of Capitulations from Turkey.¹ Turkey again through the combinations in the world politics and through the fortunes of war has got back her full sovereignty, at least

1. *Ibid.*

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in theory; and it seems that the Turks are going to assert it in practice.

There was extra-territorial jurisdiction for the Western nations in Korea, but that has gone out of existence since the Japanese annexation of Korea. The same is the case in Egypt, and other African territories which have been formally annexed by the European States. Even in the mandated territories, the idea of establishment of extra-territorial jurisdiction is not allowed, but the power which has assumed the sacred responsibility of establishing a mandate has enforced its laws and regulations as if it is a part of the territory of the Sovereign Power. It is done so far as British mandates are concerned, by a Parliamentary Act that the mandates will be treated as British territories. In Malaya Peninsula, in Java and French Indo-China, there is no extra-territorial jurisdiction, but the Sovereign Power is supreme as it is in the case of British India or of all India including the Native States.

Here then is another angle of the real motive and practice of extra-territorial

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jurisdiction, spheres of influence or mandates are only stages of absorption of the territorial sovereignty of the so-called backward and weak States. In this field it is very interesting to note that missionary activities in the Orient have contributed a good deal to the spread of extra-territorial jurisdiction under the protection of the educational, religious and philanthropic work of Western nations. The missionaries approve the idea of abolition of extra-territorial jurisdiction wherever the European Powers annex the State as in Indo-China, Java, India, but they resent the loss of the privilege in Korea, and Turkey, and are very bitter about even the suggestion of it so far as China is concerned.

This is the situation in Asia, so far as regaining the sovereignty of the semi-independent nations of the nineteenth century are concerned. But the movements of Philippine independence, and of Indian independence, should be treated as movements for regaining national sovereignty from complete dependence or loss of all vestige of sovereignty. The task of these

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people is far harder than that of the people I have already discussed. That being the case, the recovery of sovereignty of the Indian Princes, even to a limited extent, is harder still.

To sum up the whole situation, it can be safely asserted that the people of Asia lost their sovereignty because of their own weakness due to internal troubles and also due to lack of their efforts to participate in world politics in an effective manner, whereas the Western nations while quarrelling amongst themselves for gaining advantages over their rivals, acted in concert so far as the destruction of the sovereignty of the Asiatic nations was concerned. The Asiatic nations which have recovered their sovereignty to the fullest or even a limited extent, have done so because of their ability to develop military power and also getting out of isolation and being parties in the world politics based upon the theory of balance of power among the dominant nations of the West. This fact cannot be overlooked by any Indian Statesman or any Indian Prince who wishes to

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see that the Indian people or his State will have sovereignty and a status of equality among the free and sovereign nations of the world.

In this connection it will not be out of place to emphasize the point that Japan is now the only really sovereign State in Asia, and that when the Emperor Meiji took the oath in April, 1868, he undertook to raise the status of Japan higher and higher.

“ In April 1868, the year after the accession to the throne of the Emperor Meiji, one of his first official acts of a public nature was to swear solemnly the following memorable oath known in Japanese history as ‘the Imperial Oath of Five Articles’; the five articles were as follows:

1. Deliberative assemblies shall be established, and all measures of Government shall be decided by public opinion.

2. All classes, high and low, shall unite in vigorously carrying out the plan of the Government.

3. Officials, civil and military, and all the common people shall, as far as possible, be allowed to fulfil their first desires, so

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that there may not be any discontent among them.

4. Uncivilised customs of former times shall be broken through, and everything shall be based upon the just and equitable principles of nature.

5. Knowledge shall be sought for throughout the whole world, so that the welfare of the Empire may be promoted (or in order that its status may be raised ever higher and higher)."¹

The Japanese Emperor and the leaders worked persistently to recover full sovereignty of the nation by abolishing the limitations imposed upon the people through the extra-territorial jurisdiction, but the Western Emperors did not recognize Japan as equal until she demonstrated her strength on the battle-fields.

"The Japanese soon discovered that all their efforts at national development would not win for them the respect which was their due unless they were able to back up their arguments with force, if necessary. As a matter of fact, it was only after they

1. Dyer, Henry : *Japan in World Politics*, pp. 48-49.

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had proved that they were able to win battles that the Western Powers showed any respect for their aspirations or for their achievements in the way of peaceful developments. No sooner however did they equip themselves with battle-ships and quick-firing guns, and slaughter thousands of their fellow-men, than they were acclaimed a highly civilized nation.”¹

Let us hope that the process of the recovery of the sovereignty of Asian States, including India, will not necessarily involve wars and conflicts; but will be brought about by the peaceful assertion of their rights by those who have been robbed of them and by the acceptance of the change as inevitable, by the present over-lords and by their taking it in a friendly spirit rather than attempting to fight it. Let us hope that the actual recovery of the lost rights of Asian States will lead to better friendship between East and West on the basis of equality. The people of Asia, however, must not expect that through some divine dispensation certain concessions will come, and

1. Dyer, Henry : *Japan in World Politics*, p. 69.

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they will be raised to the status of equals, but all will solely depend upon the conscious efforts of the people of Asia, particularly India, to be free and equal through their own achievements in their own country and in world politics. Small lands and those who love justice and fair play will side with this effort and thus the cause of Right must win ultimately over that of Might.

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