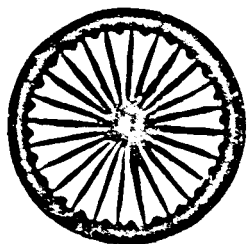


INDIAN STATES AND THE CABINET MISSION PLAN



S. M. Gokhale, M. A.

BARODA.

RS. 2/8

INDIAN STATES
AND THE
CABINET MISSION PLAN

Dhananjayrao Gadgil Library



GIPE-PUNE-013781

S. M. GOKHALE, M. A.

BARODA.

Rs. 2/8

PREFACE.

A year ago when the Cabinet Mission issued their famous statement, few people gave any serious thought to the Indian States. It was assumed that they must all join the Indian Union. Some people even thought that when the British Empire in India came to an end, the States will also be disbanded and their rulers pensioned off. In fact, people in British India entertain very fantastic and often ludicrous ideas about the Princes and their people. Even prominent British Indian leaders have shown ignorance of the Indian States problems and tried to draw all sorts of inferences which are hardly supported by facts.

An attempt is made in this book to explain the true legal and constitutional position of the States. I have tried to show that they have every right to become independent and their joining or not joining the Union is a matter of their choice. I must not be misunderstood; for, side by side, I have also pointed out that the right way for them to follow is to join the Union, give responsible government to their people and be content to remain as constitutional heads. The Princes must read the writing on the wall and adjust themselves to new conditions. This does not mean that they should withdraw completely and become mere ornamental heads, like the King of England. It is a mistake to apply British standards to Indian conditions.

The Princes have a more vital role to fulfil in the new India. They must come forward as true leaders of men and help in building a happy, contented, prosperous and mighty India. The country needs them and they must take their rightful place.

I know I am too inadequately equipped to do full justice to the many intricate problems that surround us from all sides. Yet, I am sure the book will not quite fail in its purpose.

I am grateful to all my friends who have helped me, directly or indirectly, in the preparation of this book. I sincerely thank Mr. L. N. Shah of the Vakil Brothers Printing Press. Without his co-operation, it would have been impossible to bring out this book in time.

Dandia Bazar,
BARODA.
4th August 1947.

S. M. Gokhale.

INDIAN STATES AND THE CABINET MISSION PLAN.

CONTENTS

CHAPTER ONE

INDIAN STATES AND THE BRITISH CROWN.

Sec. 1. Introductory :—A short history of Indian States - Advent of British rule in India - Treaties between the East India Company and the Indian States - How the States lost their independence - Establishment of British supremacy over India - Paramount Power's intervention in internal affairs of States— Administration of Indian States.....1

Sec. 2. Indian States and Their Treaty Relations:— Nature of relationship between the States and the British-Sardar Panikkar's view - Opinions of Princes' Lawyers - Theory of Direct Relationship - Butler Committee's Report-Committee's disagreement with the Lawyers' views - Theory of Usage and Political Practice-Lord Reading's letter to the Nizam (1926) - Are Treaties mere scraps of papers - Nehru Committee's view - Gandhiji's view.....4

Sec. 3. States' Claim to Sovereignty:—Not accepted by the Paramount Power-Montagu-Chemsford Report-Lord Reading's letter to the Nizam-Paramount Powers' intervention - Princes' complaint.....9

Sec. 4. Paramountcy: Meaning and Basis:—Sardar Panikkar's view—Sir Leslie Scott's view—Is Paramountcy based on treaties?—Princes' view—Butler Committee's view.....11

Sec. 5. Limits of Paramountcy—Are there any limits to Paramountcy—Paramountcy in actual practice—Butler Committee's view.....14

Sec. 6. Future of Paramountcy:—Can it be transferred to the future Government of India?—Ex-Maharaja of Indore's letter—Keith's view—Sir Leslie Scott's view—Nehru Committee's view.....16

Sec. 7. Cabinet Mission's Memorandum on States' Treaties and Paramountcy:—The background—Text of the Memorandum.....19

Sec. 8. A Review of the Present Controversy Regarding the Future of Paramountcy:—Criticism of the Cabinet Mission's Memorandum—Does Paramountcy devolve upon the future Indian Union?—Sir Alladi K. Iyer's view—Mr. C. Rajagopalachari's view—Dr. Ambedkar's view—Mr. K. M. Munshi's view—Congress view—Mr. Jinnah's view.....24

Sec. 9. Conclusion: Legal and Constitutional Position of the States:—Difficulties surrounding the problem—Princes tired of Paramountcy—Britain can abrogate Paramountcy—States have a right to become independent—The successor Government cannot inherit Paramountcy nor compel the States to join the Union—No legal or constitutional difficulties in the States' declaration of independence—But the proper course is to join the Union—Consequences of their declaring independence.....29

CHAPTER TWO

INDIAN STATES AND THE CABINET MISSION PLAN

Sec. 1. The Cabinet Mission Plan:—Analysis - Lord Mountbatten's Partition Plan-Its effect on the Indian States.35

Sec. 2. Cabinet Mission Plan and the Indian States:—Mission's cautious handling of the States - Paragraph 14 of the Statement - Relevant extracts from the Memorandum on States' Treaties and Paramountcy - Section 7 of the Indian Independence Act - Position of the Indian States under the Plan-Their relations with the British Crown to terminate-Paramountcy to lapse-States become independent - Their joining the Union is not compulsory-The whole scheme is voluntary.....37

Sec. 3. States' Reaction to the Cabinet Mission Plan:—Princes' willingness to help India achieve freedom-Nawab of Bhopal's efforts-Chamber of Princes accepts the Plan - Triumph of reactionary forces in the Chamber-Chamber's resolution of 29th January-Split in the Chamber - How the Chamber weakened the Congress-Sir C. P. R. Aiyer's boasting-Congress reaction to Chamber's resolution - Sir B. L. Mitter's knock-out blow to the Chamber - State's individual negotiations with the British Indian Negotiating Committee.....42

Sec. 4. Position of a State Which Joins the Union:—The State to surrender only three subjects, viz. Foreign Affairs, Defence and Communications and necessary finance-State to remain sovereign in all other matters-State as equal unit in the Federation - Sir B. L. Mitter's

exposition of the subject - State not to lose but to gain by joining the Union.....49

Sec. 5. Position of a State Not Joining the Union:—

Can a State lead an isolated, independent life?-Unity of India-Muslim League's stand as a bad example-Splitting of India when the whole world is tending to become one-States' independence move is suicidal-States' people as potential volcanoes - Independent States cannot survive.....51

Sec. 6. Alternatives Before the States:—1. Joining the Union-2. Declaring independence-3. Combining together and forming Rajasthan - 4. Forming confederations-5. Getting merged into bigger States-6. Continuing their present relations or entering into fresh treaties with the British.....54

CHAPTER THREE

INDIAN STATES AND THE CONSTITUENT ASSEMBLY.

Sec. 1. Introductory:—The Constituent Assembly of India-Preliminary sessions-Effect of Mountbatten plan. 58

Sec. 2. States' Participation in the Constituent Assembly:—Preliminary stage-States' Negotiating Committee : personnel : its unrepresentative character - review of work done by the two Negotiating Committees.60

Sec. 3. Distribution of States' Quota of Seats -Difficulties in the way - Grouping of smaller States - Final allocation of seats.....63

Sec. 4. Method of Selection of States' Representatives:—Congress insists on election of States represent-

atives - Difficulties - Sir B. L. Mitter's apprehensions - final settlement.....64

Sec. 5. At What Stage Should the States Participate in the Constituent Assembly ? :— Provision in the Plan— Sir B. L. Mitter's view—Reactionary group in the Chamber advocates "wait and see" policy—Chamber's threat of nonco-operation - Sir B. L. Mitter condemns Chamber's decision—Maharaja of Bikaner's protest - View of the Progressive Group.....65

Sec. 6. Baroda's Lead :—Baroda's traditions of leadership — Its constructive step at the present critical juncture - Progressive and nationalist views of the present Ruler - He, a true soldier of freedom and a patriotic son of India—Sir B. L. Mitter's courageous lead—His important role in Indian Politics—He defeats the Reactionary Group - Baroda's decision to join the Union—Baroda an example to other States.....68

CHAPTER FOUR

INDIAN STATES AND THEIR FUTURE

Sec. 1. Factors Affecting Their Future:—Indian States not an anachronism—Bikaner Maharaja's view—Their important role in India's future - They must move with the times - Factors on which their future depends - 1. They should join the Union - 2. Internal reforms and responsible government in States - The States People - lessons of 'Quit Kashmir' Movement - 3. Problems of smaller States - Merger or confederations.....74

Sec. 2. Federation the only Solution of the Indian Problem:—Short history of the Indian Federation—Ex-Maharaja of Baroda's ideal—Views of the Rulers of

Alwar and Bikaner—Mont-Ford Report—Fears about States' joining the Federation—Butler Committee and Nehru Committee sceptical about Princes' attitude—The Round Table Conference—Patiala Ruler's stand—The present—Factors necessary for formation of Federation.78

Sec. 3. Internal Reforms in States:— Autocracy is incompatible with modern conditions—Administrative and constitutional reforms introduced by many States—Chamber's declaration of Fundamental Rights—Need for caution in introducing "reforms" in States—Monarchy better suited to States.....82

Sec. 4. The Attachment Scheme:—Origin of the Scheme—Causes of introducing the Scheme—Justification of the Scheme—Rights and obligations of the Attaching and Attached States—Unpopularity of the Scheme—Its future.85

Sec. 5. Unions and Confederations of Smaller States:—The Deccan States Union Scheme: salient features—Confederation of Western India, Gujarat, Central India and Rajputana States—Causes of its failure—Jam Saheb's Confederation Scheme—Will it succeed?—Special problems of Western India States.....88

Sec. 6. Conclusion:—States an important part of India—Their co-operation necessary for solving India's problems—Understanding their point of view—Vision of a United and Mighty India.91

INDIAN STATES AND THE CABINET MISSION PLAN.

CHAPTER ONE.

INDIAN STATES AND THE BRITISH CROWN.

1. Introductory.
2. Indian States and Their Treaty Relations.
3. States' Claim to Sovereignty.
4. Paramountcy—Meaning and Basis.
5. Limits of Paramountcy.
6. Future of Paramountcy.
7. Cabinet Mission's Memorandum on States' Treaties and Paramountcy.
8. Review of the Present Controversy Regarding the Future of Paramountcy.
9. Conclusion.

1. INTRODUCTORY

Indian States, a term which applies to over 560 entities of different sizes, comprise about a third of the Indian territory and a quarter of its population. Most of them are survivals of former dynasties and powers which flourished in different parts of the country in pre-British days. Many of them had maintained independent existence for hundreds of years and some states such as Hyderabad, Travancore and many

Alwar and Bikaner-Mont-Ford Report-Fears about States' joining the Federation-Butler Committee and Nehru Committee sceptical about Princes' attitude-The Round Table Conference-Patiala Ruler's stand-The present-Factors necessary for formation of Federation.78

Sec. 3. Internal Reforms in States:— Autocracy is incompatible with modern conditions-Administrative and constitutional reforms introduced by many States-Chamber's declaration of Fundamental Rights- Need for caution in introducing "reforms" in States-Monarchy better suited to States.....82

Sec. 4. The Attachment Scheme:—Origin of the Scheme-Causes of introducing the Scheme-Justification of the Scheme-Rights and obligations of the Attaching and Attached States - Unpopularity of the Scheme-Its future.85

Sec. 5. Unions and Confederations of Smaller States:—The Deccan States Union Scheme: salient features-Confederation of Western India, Gujarat, Central India and Rajputana States-Causes of its failure-Jam Saheb's Confederation Scheme-Will it succeed?-Special problems of Western India States.....88

Sec. 6. Conclusion:—States an important part of India-Their co-operation necessary for solving India's problems-Understanding their point of view-Vision of a United and Mighty India.91

INDIAN STATES AND THE CABINET MISSION PLAN.

CHAPTER ONE.

INDIAN STATES AND THE BRITISH CROWN.

1. Introductory.
2. Indian States and Their Treaty Relations.
3. States' Claim to Sovereignty.
4. Paramountcy—Meaning and Basis.
5. Limits of Paramountcy.
6. Future of Paramountcy.
7. Cabinet Mission's Memorandum on States' Treaties and Paramountcy.
8. Review of the Present Controversy Regarding the Future of Paramountcy.
9. Conclusion.

1. INTRODUCTORY

Indian States, a term which applies to over 500 entities of different sizes, comprise about a third of the Indian territory and a quarter of its population. Most of them are survivals of former dynasties and powers which flourished in different parts of the country in pre-British days. Many of them had maintained independent existence for hundreds of years and some states such as Hyderabad, Travancore and many

of the Rajput States have never been conquered by the British. The British had come to India to stay and as their power and prestige increased, it was necessary for the States as well as the British Power to enter into treaties with each other. The earlier treaties, as with Hyderabad (1766), Baroda (1802), Gwalior (1803), Travancore (1805)* and so on were of "mutual amity", "friendly co-operation", "reciprocal obligations", "true friendship", "good understanding", "firm alliance" and so on. They were the treaties between equals and clearly recognised the independence of these States. But with the emergence of the British as the supreme power in India, things changed and later treaties reduced the States to a position of vassals, "in subordinate co-operation with the British Government and acknowledging its suzerainty". By 1858, the Crown of England stood forth "the unquestioned Ruler and the paramount power of all India" and Lord Canning could boastfully write, "There is a reality in the suzerainty of England which has never existed before and which is not only felt but eagerly acknowledged by the Chiefs". By stages, the States, big as well as small, were all reduced to a position of subordination and helplessness. They first lost their international life, if they had any. They could not make peace or war, or negotiate or communicate with foreign powers or with each other. They were deprived of their right of maintaining their own fighting

* See Aitchison's Treaties, Engagements and Sanads.

forces, except for ceremonial purposes. However, the British, now the paramount power in India, bound themselves to protect the Rulers from internal violence and external invasion and, but for this protection, not a single state could have survived long. In course of time, this duty of the British to protect the Princes was turned into a right of intervention in the internal affairs of the state, for "the Crown's obligations to protect (the Princes) carry with them equally binding responsibilities to ensure, if need be, that what is protected continues to be worthy of protection". The Paramount Power has always claimed the right of intervention and exercised it on numerous occasions. But leaving aside these cases, the Ruler of a state is sovereign inside his own territory. He carries on the internal administration of his State just as he pleases. He has absolute control over his subjects. There is no such thing as a 'constitution' in these states and the Ruler's personal will is the source of all law and authority. He is under no obligation to consult his people and he thinks that he is the state, that its revenues are his private property, that its people are his slaves and that his chief business is pleasure. The administration of these states is medieval in structure and feudal in spirit.

The above remarks apply to nearly 550 states. Things are different in the remaining ten or fifteen

* Lord Linlithgow's speech at the 1943 session of the Chamber of Princes.

major States like Baroda, Mysore, Travancore, Cochin and others, where administration is progressive, enlightened and modern. They have their own elected legislatures which influence considerably the course of legislation and the exercise of executive power. They have written constitutions, independent judiciary and the citizens enjoy all the fundamental rights. Yet, even in these States, the Ruler can, if he wills it, ignore the popular bodies altogether and conduct government according to his own will without infringing any rule of law. The only check upon the arbitrary exercise of autocratic power by the Ruler is the Paramount Power to the study of which we must now proceed.

2. INDIAN STATES AND THEIR TREATY RELATIONS.

We may now ask: What is the nature of the relationship existing between the Paramount Power and the Indian States? Is this relation with the British Crown or the British Government or the Government of India? Are the States sovereign? What is the meaning of Paramountcy and what are the sources from which it derives its powers? Are there any limits on the exercise of the Paramount Power? Or, is it limitless and inexhaustible? Can Paramountcy lapse when the British quit? Or, can it be transferred to or does it devolve upon the future government or governments of India? These

are very pertinent questions and on their solution depends, to a very great extent, the future of these glittering, multi-coloured remnants of our 'romantic past'.

Let us take up the first two questions in this section. It is not easy to answer them: so much vagueness and confusion surrounds the whole question of relationship between the States and the British Power. We come across claims and counter-claims and there are almost irreconcilable elements in the picture. In the words of Sardar Panikkar, * the relationship between the States and the crown, which extends now for over a century and half, has remained "nebulous and inchoate".

The States claim (i) that their relationship is with the British Crown and not with the East India Company or the Government of India; (ii) that each State has a separate relation with the Crown based on treaties and agreements, which must, therefore, be read separately and not construed as a whole; (iii) that this relationship is wholly legal: a nexus of mutual rights and obligations: it is of the nature of a contract, giving rights to and imposing obligations upon both the parties, the Princes as well as the Crown; and (iv) that this contract is between sovereigns, i. e. equals. x

* Sardar K. M. Panikkar's "Indian States and the Government of India."

x See the opinions of the Princes' Lawyers.

The growing complaint of the Princes that "their rights and interests were not receiving the consideration to which they were entitled by their treaties and engagements", coupled with their insistent demand "for having the nature of relationship between them and the British Crown properly examined and defined" led to the appointment of a Committee (1927) under the chairmanship of Sir Harcourt Butler to examine the whole question of Paramountcy and treaty rights.*

The Committee accepted the first two claims advanced by the Princes.† They agreed that the relationship of the States with the Paramount Power is a relationship with the Crown§, that the treaties made with them are treaties made with the Crown and that the treaties were binding on the Crown as on each State. They also agreed that the treaties § must not be read as a whole, for they were made with individual States and, therefore, cases affecting individual States should be considered with reference to those states individually, their treaty rights, their history

*The Committee is known as the Indian States Committee or simply Butler Committee. It reported in 1929.

† The Princes had engaged five eminent English lawyers to present their case to the Butler Committee.

§ Neither the Nehru Committee nor British Indian leaders have accepted this view.

§ The term 'treaties' includes engagements as well as sanads; for only forty states have treaty relations.

and local circumstances, their traditions and the general necessities of the case as bearing upon them. As regards the third claim, the Committee observed, "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. Paramountcy rights are not confined to those rights only given by the treaties. Usage and sufferance have shaped and developed this relationship from the earliest times. Usage and sufferance have operated where there are no treaties, engagements and sanads; they have operated to determine questions on which treaties, engagements and sanads are silent, and lastly, they have been a constant factor in the interpretation of these treaties, engagements and sanads" The Committee kept quiet over the fourth claim, not because it was difficult to answer but because Lord Reading had already removed the misunderstanding regarding the constitutional position of the Indian States. In his historic letter to the Nizam (1926), he asserted. "The Sovereignty of the British Crown is supreme in India and, therefore, no Ruler of an Indian State can justifiably claim to negotiate with the British Government on an equal footing." "I will merely add," he went on, "that the title "Faithful Ally" which Your Exalted Highness enjoys has not the effect of putting Your

Government in a category separate from that of other States under the paramountcy of the British Crown".

The findings of the Indian States Committee could hardly satisfy the Princes who felt that their position had become worse than before and at the 1930 session of the Chamber of Princes, they declared, "The doctrine of usage and political practice as expounded by the Indian States Committee is neither sound in its connotation nor fair in its application to the relationship subsisting between the Crown and the Indian States." The treaties which the Princes regarded as sacrosanct were no more than mere scraps of paper, and if the views of the Committee are accepted, it means that the so-called treaties with the States are not treaties in the strict sense of international law. They are merely domestic political arrangements under the British Crown. They must, therefore, be subject to change, like other political arrangements to accord with changing circumstances. This fact has been bluntly stated by the Nehru Committee. In their opinion, the question of States' treaties "is more a case for the constructive statesman than for the analytic lawyer. The treaties concluded more than a century ago under circumstances completely different from the present political conditions of India and differently interpreted by the Paramount Power on different occasions can no longer be invoked in defence of a system which public opinion is not prepared to tolerate."† To quote Mr. Gandhi, "...The very word 'Paramountcy' involves

† See Nehru Committee Report.

the final authority of the Paramount Power. The so-called treaties are not treaties between equals, but conditions and restrictions imposed upon those to whom they are given. They are so many grants made principally or wholly for the consolidation of Paramountcy."*

3. STATES' CLAIM TO SOVEREIGNTY.

Let us now take up the third question: Are the States sovereign? The Princes maintain that, barring the rights which they have surrendered to the Paramount Power by their treaties, they are full sovereigns in so far as internal administration of their states is concerned and the Paramount Power is bound by solemn treaties "not to interfere in the internal affairs of the Maharaja's government." They have been bitterly complaining that their treaty rights have been encroached upon and that in some cases an arbitrary body of usage and political practice has come into being.‡

The British have not found it possible to accept this claim. As early as 1919, Lord Montagu and Mr. Chemsford§ observed, "...In some quarters, uncertainty and uneasiness undoubtedly exist. Some Rulers are

* Harijan of 16th December 1939.

‡ Read the Maharaja of Bikaner's speech at the Round Table Conference.

§ See Montagu-Chemsford Report.

perturbed by a feeling that the measure of sovereignty and independence guaranteed to them by the British Government has not been accorded in full, and they are apprehensive lest in process time their individual rights and privileges may be whittled away...'

'The general clause,' the Report goes on, 'which occurs in many of the treaties to the effect that the Chief shall remain absolute ruler of his country does not preclude interference with the administration of his government, and the Government of India, as a trustee, has got to fulfil its responsibilities and obligations to ensure good administration and prevent or correct flagrant misgovernment. Moreover, we find that the position hitherto taken up by Government has been that the conditions under which some of the treaties were executed have undergone material changes and the literal fulfilment of particular obligations which they impose has become impracticable The result is that there has grown up around the treaties a body of case law.....The Princes viewing the application of this case law to their individual relations with the Government are uneasy as to its ultimate effect. They fear that usage and precedent may be exercising a levelling and corroding influence upon the treaty rights of individual states.'

Again in 1926, Lord Reading* boldly asserted, "The sovereignty of the British Crown is supreme in India.....Its supremacy is not based only upon

* Lord Reading's Letter to the Nizam.

treaties and engagements, but exists independently of them, and quite apart from its prerogative in matters relating to foreign powers and policies, it is the right and duty of the British Government, while scrupulously respecting all treaties and engagements, to preserve peace and good order throughout India. The right of the British Government to interfere in the internal affairs of the 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 reasons. But the 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 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 lie. The varying degrees of internal sovereignty which the Rulers enjoy are all subject to the exercise of the Paramount Power of this responsibility.....”.

The Indian States' Committee simply expressed their acceptance of the position taken so far. In fact, the theory of States' sovereignty is incompatible with the supremacy of the British Crown in India. The Princes have been complaining against the “unrestricted,

arbitrary extension of the Paramount Power to cover cases beyond the terms of treaties made with them." They have been asking for the codification of political practice and for the publication of case law relating to the States, so that the powers of the Political Department may become well-defined and delimited.

4. PARAMOUNTCY—MEANING AND BASIS.

We now proceed to the fourth and the fifth questions—meaning of Paramountcy and the sources from which it derives its powers. Paramountcy is a term commonly used to describe the powers of the Crown in its relation to the States. Its origin and growth are among the most interesting problems of Political Science. From dim beginnings it has grown into an all-powerful and all-pervading one which the Rulers fear and obey without exception. Its true character and extent defy analysis and exact definition and different views have been held from time to time.

According to Sardar Panikkar† who represents the States' point of view, "The word 'Paramountcy' is merely the expression denoting the position in which an Indian State stands to the Crown. That position is ascertained by treaties and legal practice. It is only applicable to the ascertained position and is not a theory to cover vague and undefined claims. The extent of Paramountcy differs with each state

† See Inter-Statal Law by Sardar K. M. Panikkar.

according to the clauses of its treaty and the practices which have developed by agreement and acquiescence". "Paramountcy gives to the Crown," Sir Leslie Scott argued, "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. It does not confer upon the Crown any authority or discretion to do acts which are not necessary for the exercise of such rights and the performance of such duties." Thus, according to the states' point of view, Paramountcy means no more than a definite number of powers surrendered to the Crown by treaty and valid usage.

This position has never been accepted, for to limit the power of the Crown is to limit its sovereignty over India, a position quite untenable from the scientific point of view. As early as 1877, the Government of India made it clear that "the paramount supremacy of the British Government is a thing of gradual growth; it has been established partly by conquest, partly by treaty and partly by usage; and for the proper understanding of the relations of the British Government to the Native States, regard must be had to the incidents of this *de facto* supremacy, as well as to treaties and charters in which reciprocal rights and obligations have been recorded, and the circumstances under which those documents were originally framed. In the life of states, 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, whether that party be the British Government or the Native States, must be held to exhibit the relations which in fact subsist between them." This amounts to saying that treaties are mere guides of political practice. They are not the basis of Paramountcy. The Princes could hardly accept this view and the Indian States Committee had to reassert that "The validity of the treaties and engagements made with the Princes and the maintenance of their rights, privileges and dignities have been both asserted and observed by the Paramount Power. But the Paramount Power has had of necessity to make decisions and exercise the functions of Paramountcy beyond the terms of treaties in accordance with changing political, social and economic conditions..... Thus from the earliest times, there was intervention by the Paramount Power in its own interests as responsible for the whole of India, in the interests of the States and in the interests of the peoples of the States.'

5. LIMITS OF PARAMOUNTCY.

Are there any limits on the powers of the Crown to intervene in the internal affairs of the States? The answer is: "No". Paramountcy knows no limits. It is inexhaustible and history shows us that the Paramount Power has exercised almost every conceivable right. "The Paramount Power, in actual practice,

takes upon itself to perform functions in relation to Indian States which involve varying degrees of control over their internal government, from mere advice upon the spontaneous request of a State, through the stage of unsolicited advice which the State is expected to follow, right upto the stage of complete control of the whole administration of the State." The Paramount Power has claimed and exercised the right to recognise succession of Rulers, to invest them with ruling powers and to settle disputed successions. It has also assumed control of minority administrations. Rulers have been deposed as a punishment for misrule, misconduct, unfitness or other cause. The Paramount Power has created states as well as abolished them. It has increased or decreased the territories of States. How can we say, then, that Paramountcy has to act within limits. The Indian States Committee have rightly observed, "It is not in accordance with historical fact that Paramountcy gives to the Crown definite rights and imposes upon it definite duties in respect of certain matters only; viz. those relating to foreign affairs and external and internal security." The Princes had resented the extension of Paramountcy to cover cases beyond the terms of treaties. They had demanded the codification of political practice and the publication of case law relating to the States. But the Committee frankly accepted their failure to set limits to the powers of Paramountcy and concluded, "We have endeavoured to find some formula which will

cover the exercise of Paramountcy and we have failed, as others before us have failed, to do so. The reason for such failure is not far to seek. Conditions alter rapidly in a changing world. Imperial necessity and new conditions may at any time raise unexpected situations. Paramountcy must remain Paramount; it must fulfil its obligations, defining or adapting itself according to shifting necessities of the time and the progressive development of the States'. Nor need the States take alarm at this conclusion.....On Paramountcy and Paramountcy alone, can the States rely for their preservation through generations that are to come. Through Paramountcy is pushed aside the danger of destruction or annexation†

6. FUTURE OF PARAMOUNTCY.

Let us now come to the last question : Will the powers now exercised by the Crown over the Indian States lapse when the British transfer power to Indians ? Or, can they be transferred to or do they devolve upon the future Government (or Governments) of India ? These are subjects of great complications and complexities and it is really very difficult to answer them.

The Princes contend that as their relationship with the Crown is purely personal, it cannot be transferred. They owe loyalty to the British Crown

† Mark the last two sentences which clearly show that an Indian State cannot survive without the protection of some Paramount Power.

and not to the Government of India. In fact, H. H. the ex-Maharaja of Indore actually wrote,* "His Highness' treaty relations are with the British Crown maintained in India by His Excellency the Viceroy as the Representative of His Majesty the King Emperor. An autonomous Government of India controlled by elected or nominated representatives of British India is not the power with which His Highness' ancestors entered into treaty or political relations. To such a Government, His Highness has never owed and can never owe any obligation." Similarly, Prof. A. B. Keith has remarked,† "It is important to note that the relations of the Native States, however conducted, are essentially relations with the British Crown, and not with the Indian Government and that this fact presents an essential complication as regards the establishment of responsible government in India. It is clear that it is not possible for the Crown to transfer its rights under a treaty without the assent of the Native States to the Government of India under responsible government." In the view of the Princes, Lawyer, ".....So the British Crown cannot require the Indian States to transfer the loyalty which they have undertaken to show to the British Crown, to any third party, nor can it without their consent, hand over to persons who are in law or fact independent of the

*With reference to the recommendations of the Montagu-Chemsford Report (1919).

† "The Constitution, Administration and Laws of the Empire" by Prof. A. B. Keith.

control of the British Crown, the conduct of the State's foreign relations nor the maintenance of their external security."

The supposed non-transferrability of Paramountcy is based on the doctrine of direct, personal relationship between the King of England and the Indian Princes. The Nehru Committee challenged that doctrine and argued that when responsible government is established in British India, Paramountcy will devolve upon that Government. Their argument may be summarized thus:—"It is claimed that according to true constitutional theory the Indian States are and have been in relation with the Crown, whether their treaties were with the East India Company or the British Crown, or whether they have been entered into since 1858 with the Government of India. Now, it is obvious that the Crown under the constitution does not mean the King alone. It is a convenient constitutional phrase to indicate the King-in-Parliament. Before 1858, the East India Company exercised sovereign rights, under powers delegated by the Crown, and since 1858 those powers have been exercised under delegated authority by the Government of India and the Secretary of State who is an integral part of the machinery established by the Parliament for the governance of India. In point of fact, the enforcement of those treaties, and fulfilment of the obligations created by those treaties, have hitherto been among the normal functions and duties of the Government of India, subject to appellate

or supervisory jurisdiction of the Secretary of State. It is, therefore, the Government of India and the Secretary of State who regulate treaty relations with States and no Indian Prince can ignore these and take up any matter relating to such obligations to the King or to His Majesty's Government. Again, the Government of India have acquired many powers by mere practice, usage or convention which are outside the scope of the written treaties.'

'The powers of the Crown are exercised at the discretion, upon the initiative and by the machinery of the Government of India. The Government of India have claimed and exercised the right of (a) installing Princes on the *gaddis*, (b) administering the States during the minority of the Ruler, (c) settling disputes between the Rulers and their jagirdars and (d) interfering in cases of gross misrule. The Dominion Government of India, as it may be in future, can claim all rights on States now exercised by the Government of India; for the Dominion Government of India will be as much the King's Government as the present Government of India is, and that there is no constitutional objection to the Dominion Government of India stepping into the shoes of the present Government of India.'

7. CABINET MISSION'S MEMORANDUM ON STATES' TREATIES AND PARAMOUNTCY.

The view taken by the Nehru Committee that Paramountcy will automatically pass on to the future

responsible Government of India did not find support of the British Government who had already accepted the recommendation of the Indian States Committee that the States, relationship was with the British Crown and, therefore, could not be transferred to any third party. The doctrine is sufficiently mischievous, for it means that the Indian States will have nothing to do with British India when it gets responsible government. Some Rulers have been crying from their 'palace tops' that they are anxious to see the liberation of their mother country; but, side by side, underground activities are going on to postpone the day of liberation. We shall speak of this later on; in the mean time, let us see the effect of this doctrine of direct relationship. The Government of India Act, 1935, broke up the Viceroy into two parts. one part called "the Governor General of India" was to deal with British India, while the other part called "the Crown Representative" was to deal with the Indian States. This clearly foreshadowed the division (which was so far only superficial) of India into two parts—Independent India or India under responsible government and Autocratic India of the Princes. Paramourcy over the Indian States cannot be transferred to the other India; and consistent with this position, His Majesty's Government had no other alternative except to allow Paramourcy to lapse when they leave India. It is impossible for them to retain Paramourcy after their departure from this country and, therefore, with the consent of the Princes,

Paramourcy will be extinguished or allowed to lapse. This is explained in a Memorandum on States, Treaties and Paramourcy presented by the Cabinet Mission to the Chancellor of the Chamber of Princes. The Memorandum states:—

1. "Prior to the recent statement of the British Prime Minister in the House of Commons, an assurance was given to the Princes that there was no intention on the part of the Crown to initiate any change in their relationship with the Crown or the rights guaranteed by their treaties and engagements without their consent. It was at the same time stated that the Princes' consent to any changes which might emerge as a result of negotiations would not unreasonably be withheld.

2. The Chamber of Princes has since confirmed that the Indian States fully share the general desire in the country for an immediate settlement by India of her full stature.

3. His Majesty's Government have now declared that, if the succession Government or Governments in British India desire Independence, no obstacle would be placed in their way.

4. The effect of these announcements is that all those concerned with the future of India wish her to attain a position of independence within or without the British Commonwealth. The Mission have come here to assist in resolving the difficulties which stand in the way of India fulfilling this wish.

5. During the interim period, which must elapse before the coming into operation of a new constitutional structure under which British India will be independent or fully self-governing, Paramountcy will remain in operation. But the British Government could not, and will not, in any circumstances, transfer Paramountcy to an Indian Government.

6. In the meanwhile, the Indian States are in a position to play an important part in the formulation of the new constitutional structure for India, and His Majesty's Government have been informed by the Indian States that they desire, in their own interests and in the interests of India as a whole, both to make their contribution to the framing of the structure and to take their due place in it when it is completed.

7. In order to facilitate this they will doubtless strengthen their position by doing everything possible to ensure that their administrations conform to the highest standard. Where adequate standards cannot be achieved within the existing resources of a State, they will no doubt arrange in suitable cases to form or join administrative units large enough to enable them to be fitted into the constitutional structure.

8. It will also strengthen the position of the States during the formulative period of the various Governments which have not already done so, to take active steps to place themselves in close and constant touch with public opinion in their States by means of representative institutions.

9. During the interim period, it will be necessary for the States to conduct negotiations with British India in regard to the future regulation of matters of common concern, especially in the economic and financial field. Such negotiations, which will be necessary whether the States desire to participate in the new Indian constitutional structure or not, will occupy a considerable period of time, and since some of these negotiations may well be incomplete when the new structure comes into being, it will, in order to avoid administrative difficulties, be necessary to arrive at an understanding between the States and those likely to control the succession Government or Governments that for a period of time the then existing arrangements as to these matters of common concern should continue until the new agreements are completed. In this matter, the British Government and the Crown Representative will lend such assistance as they can, should it be so desired.

10. When a new fully self-governing or independent Government or Governments come into being in British India, His Majesty's Government's influence with these Governments will not be such as to enable them to carry out the obligations of Paramountcy. Moreover, they cannot contemplate that British troops would be retained in India for this purpose. Thus, as a logical sequence and in view of the desires expressed to them on behalf of the Indian States, His Majesty's Government will

cease to exercise the powers of Paramountcy. This means that the rights of the States which flow from their relationship to the Crown will no longer exist and that all the rights surrendered by the States to the Paramount Power will return to the States. Political arrangements between the States on the one side and the British Crown and British India on the other will thus be brought to an end. The void will have to be filled either by the States entering into a federal relationship with the successor Government or Governments in British India, or failing this, entering into particular political arrangements with it or them.

8. A REVIEW OF THE PRESENT CONTROVERSY REGARDING THE FUTURE OF PARAMOUNTCY.

The Memorandum mentioned above is considered by British Indian leaders as a hasty and ill-considered document, based upon utter misunderstanding of the issues involved and containing a doctrine which is at once mischievous, wrong and indefensible, legally, historically, politically and morally. For, it is feared that the acceptance of this doctrine will encourage the fissiparous tendencies already in evidence and lead to atleast a dozen States to declare their independence and thus bring about the much feared Balkanisation of India. This might result in mutual feuds and internecine wars among units spread over the great continent of India and might easily threaten the peace of India as well as of Asia.

Whether His Majesty's Government can abrogate Paramountcy or whether it automatically passes on to the successor Government or Governments is a question which has been vigorously debated in the past few days. The announcement by Hyderabad and Travancore * of their decision to become independent has given so much prominence to the controversy that even the partition problem seems to have receded to the background. A review of this controversy may throw some light on British Indian opinion regarding the Indian States.

Sir Aladi Krishnaswami Iyer, a member of the Constituent Assembly, has pointed out the absurdity of the position taken in certain quarters that the mere withdrawal of Paramountcy and its assumed non-transferrability at once clothes the States with plenary sovereign authority which they never enjoyed. Paramountcy, he argues, is not an invention of the British. "The History of India shows that Paramountcy, or what is equivalent to Paramountcy, over neighbouring States enjoying a certain degree of sovereignty is a natural or a logical consequence of the existence or emergence of undoubted and supreme sovereign authority in their midst. The sole and unquestionable authority of the British as a Paramount Power in India is traceable to this source..... This historic relationship amounts to a Public Law

* It is expected that Bhopal, Kashmir and perhaps Indore will also announce their decision to become independent.

of India and will be applied to the relationship of the Union with the States". Sir Alladi points out that there are only two alternatives before the States—either to join the Union * or to enter into some kind of relationship with it, similar to one existing at present between the British Crown and the Indian States. In other words, the States must either join the Union or accept its Paramountcy. They have no right to set up as independent, sovereign States †

Mr. C. Rajagopalachari challenges the theory of direct relationship between the Crown and the Indian States. The treaties entered into by the States with the Crown were, he argues, really treaties with the Government of India. They do not create any personal rights and obligations. The Crown exercised his Paramountcy not in his personal capacity but as the Emperor of India. The relations between the Crown and the Indian States comprise a large number of important matters which are really relations between the States and the Government of India; for

*Which Union ? Can Bhopal join the Pakistan Dominion ? The Ruler of Bhopal is a Muslim, the subjects are Hindu and the territories of the State are quite away from Pakistan. The same of Hyderabad. Can Indore also join Pakistan. The Ruler as well as the subjects are Hindu and geographically it is in no better position than Bhopal.

†It is complained that the Plan gives too much latitude to the Princes. If they are allowed to do whatever they like, some of them are sure to play mischief. A State with only 20 thousand population may declare independence, and another in the midst of Hindustan may join Pakistan. In fact, some States (or rather Princes) are playing mischief and an attempt is made to convert them into Indian Ulsters.

example, railway agreements, jurisdiction over railway lines, unification of posts and telegraphs, system of currency and coinage etc. Can it be contended, he argues, that these matters are of no concern to the successor Government and that they can be terminated at the will of His Majesty's Government when they withdraw. The Crown has no interest in them except as long as it was the Paramount authority in British India. It follows, therefore, that that interest must devolve on the successor Government. "Paramountcy came into being as a fact and not by agreement, and on British withdrawal, the successor authority must inherit the fact along with the rest of the context".

Dr. B. R. Ambedkar, too well-known to need any introduction, boldly declares that His Majesty's Government cannot abrogate Paramountcy. The doctrine that Paramountcy cannot be transferred to an Indian Government is, says he, a most mischievous doctrine, based upon an utter misunderstanding of the issues involved. Dr. Ambedkar's argument can be summarised thus:—

- (i.) Paramountcy is merely another name for what is called the prerogative of the Crown;
- (ii) Paramountcy being the prerogative of the Crown, the exercise of Paramountcy is not subject to the rules of international law, but is subject to that part of the Municipal Law of the British Empire, which is called the Law of the Constitution;

- (iii) According to the principles of the Constitutional Law of the Empire, while the prerogative vests in the King, the King has no discretion in the exercise of his prerogative. He has to exercise it only in accordance with the advice given to him by his Ministers;
- (iv) The Ministers on whose advice the King is to exercise his prerogative rights (with reference to a particular Dominion) are none else but the Ministers of the Cabinet of that Dominion;
- (v) Therefore, when India acquires the status of a Dominion or Dominions, the King will be bound to exercise Paramourty only on the advice of the Indian Cabinet. The moment India becomes a Dominion, the Governments of India automatically acquire the power to advise the King on Paramourty over the Indian States.

Mr. K. M. Munshi has characterised the independence talk of some of the States as 'meaningless.' He argues, "In International Law, the Indian States are vassals of Great Britain. The International status of that sovereign power is going to be inherited by the Indian Union."

The draft resolution of the Congress Working Committee, adopted on 15th June 1947, simply reiterates the point of view of the British Indian

leaders. "The Committee does not agree with the theory of Paramountcy as enunciated and interpreted by the British Government; but even if that is accepted, the consequences that flow from the lapse of that Paramountcy are limited in extent. The privileges and obligations as well as the subsisting rights as between the States and the Government of India cannot be adversely affected by the lapse of Paramountcy. These rights and obligations have to be considered separately and renewed or changed by mutual agreement. The relationship between the Government of India and the States would not be exhausted by the lapse of Paramountcy. The lapse does not lead to the independence of the States."

In sharp contrast to the above views, Mr. Jinnah has argued that the Indian States are sovereign and they become fully so when Paramountcy departs. Neither the British Parliament nor the Indian Legislatures have the power to affect their sovereignty. Mr. Jinnah voices the Muslim League's point of view and policy of non-interference with the States' internal affairs.

9. CONCLUSION: LEGAL AND CONSTITUTIONAL POSITION OF THE STATES

What, then, is the conclusion? Do the controversies which we have followed with great patience lead us to any thing definite and certain? Can the States refuse to join the Indian Union?

Can they set up as independent, sovereign States ? Or, must they join the Union, or failing that, accept its paramountcy and continue an existence not quite different from their present one ?

The whole problem bristles with difficulties. The controversies that are going on in British India at the present time are, to my mind, merely academic and fruitless, and if we decide to settle the Indian States problem by argument and debating, the possibility is that we may never come to any settlement whatsoever. The States' case is not so bad, after all. There is enough material on their side. It is by appealing to their reason and patriotism that they can be persuaded to join the Indian Union. The Congress must revise its policy before it is too late. Nothing will be gained by sticking to false theories. Much can be gained by a sense of compromise and mutual accomodation.

The British have agreed to transfer political power to Indians by constitutional means. In British India, they will transfer this political power (called sovereignty) to the people, i. e. to the government which is by the people, for the people and of the people. In Indian India, they will transfer it to those from whom it was taken; viz. the Rulers.* To transfer

* To substitute the phrase "People of Indian States" in the place of Rulers will create many legal and constitutional difficulties, although, in the last resort, sovereignty belongs to the people.

this political power to the Rulers is the same thing as to end paramountcy and make the Rulers independent and sovereign. The Princes are tired of Paramountcy and if it is in their power, as it is now, they are bent on destroying it. This they can do in two ways: by joining the Indian Union or by declaring their independence. If they join the Union, and this, in my opinion, is the best course for them to adopt, they become part and parcel of the sovereign power. They become one with the Union, and the question of Paramountcy does not remain as there will then be no dominant power to dictate and no subordinate power to be dictated. The dominant and the subordinate powers become one great, sovereign power.

The second alternative is to declare independence and thus refuse to acknowledge the paramountcy of the Union Government. This is a course which, though undesirable, is quite legal and constitutional. To say that the British Power has no right to abrogate paramountcy is to say something quite opposed to the very definition of sovereignty. So long as the British Power is sovereign over India, it can do anything without infringing any principle of law or constitution. The British Power which reduced the States to a position of bondage can also remove the shackles and make them free again. The British Power which put restrictions upon the sovereignty of the Indian States can also remove those restrictions and allow the States to become independent and

sovereign, if they so choose. To say that legally and constitutionally the States have no right to independence is to misunderstand law as well as constitution. The particular position of a State at the time when it entered into treaty with the British, or its size, or population, or income cannot deprive a State of its right to be sovereign. History shows that even a small city could become a state.

To say that the successor Government or Governments of India inherit from the British Government all the powers of paramountcy over the Indian States is, to my mind, quite unsound. To understand this problem properly, let us break up Paramountcy into two halves. The first half of Paramountcy (i. e. the rights and powers of the British Crown over the Indian States) includes a definite number of rights and powers† which are based on treaties and agreements. These can and will have to be transferred to the successor Government or Governments of India, if the States agree to such a transfer. And the States will have to agree, sooner or later, or enter into fresh agreements. Their refusal to do so is sure to affect adversely their own interests. So closely knit are the States and British India that a common policy in regard to many important matters is inevitable. Therefore, either the old agreements must be allowed

§ They could have inherited Paramountcy if they had defeated the British and established their de facto supremacy over India.

† These include a great number of agreements regarding railways, posts and telegraphs, customs, ports, salt, opium etc.

to continue or new agreements must be made to replace them. The stand-still arrangements are based on this necessity.

The other half of Paramountcy is based upon political practice usage and sufferance, or to quote Prof. Westlake, on a mixture of history, theory and modern fact. The rights and powers embodied in this part of Paramountcy are indefinite and unlimited. The British claimed them by conquest and as a trustee of the whole of India. The future Government of India is not a government established by conquest, nor is it a government for the whole of India. It is not a government even for the whole of British India†. How can we say that these powers, indefinite as they are, automatically pass on to the future Indian or Pakistan Union. I do not deny that in course of time the new Government, as a dominant power in India, will acquire some of these powers. What I deny is that the new Government can inherit them by law. No. The future Government will have to win them for itself and the force of circumstances will compel the States remaining outside the Union to acquiesce in their exercise by the Union. A new code of political practice will have to be built up on the ruins of British Paramountcy. But this situation can be easily avoided if all the States join the Union.

Nothing in the foregoing remarks should be taken to mean that I am supporting the cause of those

† British India is partitioned into Hindustan and Pakistan.

States which have announced their decision to declare independence. I have simply pointed out that there is no legal or constitutional difficulty in the way of their becoming independent: a fact which has not been properly understood by the British Indian leaders. Most of the controversies going on in British India are based on a sheer misunderstanding. Even Dr. Ambedkar has fallen into a trap in declaring that His Majesty's Government can not abrogate paramountcy. The congress ought to approach the States with a new angle of vision. Their saying that the Indian States cannot, legally and constitutionally, set up as independent, sovereign States will not help them much.

The States, although they can become independent, should realise that the wiser course for them to follow is to join the Indian Union. They have not to choose between more and less, but between much and nothing. By joining the union they will gain much and lose nothing. By standing away, they become preys of internal violence and external invasion. Geography, history, economics, social and cultural relations compel the Indian States to be in the Indian Union. Their insistence on independence will pave the way for chaos and confusion. By joining the Union they make the Union stronger, and the strength of the Union is their own strength. A weak and divided India will be a direct invitation to invasion and destruction.

CHAPTER TWO

INDIAN STATES AND THE CABINET MISSION PLAN.

1. The Cabinet Mission's Plan. 2. Cabinet Mission Plan and the Indian States. 3. States' reaction to the Cabinet Mission Plan. 4. Position of a State which joins the Union. 5. Position of a State which does not join the Union. 6. Alternatives before the States.

1. THE CABINET MISSION'S PLAN.

On may 16, 1946, the Cabinet Mission issued their famous statement, outlining the proposals for the evolution of the future constitution of India. Paragraph 15 of the statement contains the basic form of the constitution which is as follows :—

1. There should be a Union of India, embracing both British India and the States, which should deal with the following subjects : Foreign Affairs, Defence and Communications; and should have the powers necessary to raise the finances required for the above subjects.

2. The Union should have an Executive and a Legislature constituted from British Indian and States representatives. Any question raising a major communal issue in the Legislature should require for its decision a majority of the representatives present and voting of each of the two major communities as well as a majority of all the members present and voting.

3. All subjects other than the Union subjects and all residuary powers should vest in the Provinces.

4. The States will retain all subjects and powers other than those ceded to the Union.

5. Provinces should be free to form Groups with executives and legislatures, and each Group could determine the Provincial subjects to be taken in common.

6. The constitutions of the Union and of the Groups should contain a provision whereby any Province could, by a majority vote of its Legislative Assembly, call for a reconsideration of the terms of the constitution after an initial period of 10 years and at 10 yearly intervals thereafter.

Paragraphs 17, 18 and 19 of the statement lay down the procedure for setting up a Constituent Assembly to work out the new constitution.

Paragraph 20 provides for the setting up of Advisory Committees on the Rights of Citizens, Minorities and Tribal and Excluded Areas.

Paragraph 22 provides for the negotiation of a treaty between the Union Constituent Assembly and the United Kingdom to provide for certain matters arising out of the transfer of power.

Paragraph 23 contains a short-term arrangement for the administration of India by "an Interim Government in which all the portfolios, including that of War Member, will be held by Indian leaders having the

full confidence of the people." So far as British India is concerned, the Cabinet Mission Plan has been replaced by Lord Mounbatten's Partition Plan of June 3. The recent Indian Independence Act provides for the creation of two independent Dominions—Hindustan and Pakistan out of the present British India. Many of the provisions of the Cabinet Mission Plan will thus have to be discarded. In regard to Indian States, the Cabinet Mission Plan still holds good, for the Mounbatten Plan does not affect their position. However, its effect on the States is very great. The division of the country has created many difficulties in the way of States' entering one or the other Dominion and Hyderabad and Travancore have decided to join none of them.

2. CABINET MISSION PLAN AND THE INDIAN STATES.

The Cabinet Mission handled the problem of the Indian States very cautiously and their statement of May 16 is deliberately vague about the participation of the Indian States in the Indian Union or in the Constituent Assembly. This is because of the peculiar constitutional position of States which have separate treaty relations with the British Crown. Paragraph 14 of the statement defines the relationship of the States to British India. It states :

"Before putting forward our recommendations we turn to deal with the relationship of the Indian

States to British India. It is quite clear that with the attainment of independence by British India, whether inside or outside the British Commonwealth, the relationship which has hitherto existed between the Rulers of the States and the British Crown will no longer be possible. Paramountcy can neither be retained by the British Crown nor transferred to the new Government. This fact has been fully recognised by those whom we interviewed from the States. They have at the same time assured us that the States are ready and willing to co-operate in the new development in India. The precise form which their co-operation will take must be a matter for negotiation during the building up of the new constitutional structure, and it by no means follows that it will be identical for all the States. We have not therefore dealt with the States in the same detail as the Provinces of British India in the paragraphs which follow".

This statement was further explained in "the Memorandum on States' Treaties and Paramountcy" which clearly laid down that

"The British Government could not, and will not, in any circumstances transfer Paramountcy to an Indian Government" and that

"When a new and fully self-governing or independent Governments come into being in British India, His Majesty's Government's influence

* For full text of the Memorandum, see page 21.

with these Governments will not be such as to enable them to carry out the obligations of Paramountcy. Moreover, they cannot contemplate that British troops would be retained in India for this purpose. Thus as a logical sequence and in view of the desires expressed to them on behalf of the Indian States, His Majesty's Government will cease to exercise the powers of Paramountcy. This means that the rights of the States which flow from their relationship to the Crown will no longer exist and that all the rights surrendered by the States to the Paramount Power will return to the States. Political arrangements between the States on the one side and the British Crown and British India on the other will thus be brought to an end. The void will have to be filled either by the States entering into a federal relationship with the successor Government or Governments in British India, or failing this, entering into particular political arrangements with it or them".

Consistent with this position, section 7 of the Indian Independence Bill introduced in Parliament on 4th July 1947 provides that from August 15, 1947

"The suzerainty of His Majesty over the Indian States lapses, and with it, all treaties and agreements in force at the date of the passing of this Act between His Majesty and the Rulers of Indian States, all functions exercisable by His Majesty at that date with respect to Indian States, all

obligations of His Majesty existing at that date towards Indian States or the Rulers thereof, and all powers, rights, authority or jurisdiction exercisable by His Majesty at that date in or in relation to Indian States by treaty, grant, usage, sufferance or otherwise”.

From the foregoing statements, we can draw the following conclusions :—

1. The present relationship of the States with the British Crown will terminate (i. e. Paramountcy will lapse) immediately upon the formation of the two Dominions of India and there is no provision in the Plan for their keeping treaty relations with Britain.*

2. Paramountcy can not, and therefore will not be transferred to the new Government.

3. With the lapse of Paramountcy, the States will become completely independent.

4. The void will have to be filled either by the States entering into federal relationship with the successor Government (of India or of Pakistan), or failing this, entering into particular political arrangements with them.

5. It is assumed that all the States will enter into the appropriate Union of India or Pakistan. They

* Some States take this to mean that although the present treaty relations with the British Crown come to an end, there is a possibility that the Crown may agree to enter into fresh treaties with them. Lord Mountbatten has removed this misunderstanding.

are "ready and willing to co-operate in the new development of India" and "have expressed their wish to negotiate their way into the Union."

6. Yet, their joining the Union or entering into particular political arrangements with it is not compulsory. The whole scheme is purely voluntary and "the possibility of some of the States remaining out as islands of independence within the Indian Union can not be completely ruled out." If a State is so minded, it may seek an independent existence.

7. His Majesty's Government will not interfere with the freedom of choice of the States. It will not compel any State to join or not to join a particular Dominion. The British will, however, advise them to join a Dominion which is contiguous to a particular State.

8. "During the interim period it will be necessary for the States to conduct negotiations with British India in regard to the future regulation of matters of common concern, especially in the economic and financial field. Such negotiations, which will be necessary whether the States desire to participate in the new Indian constitutional structure or not, will occupy a considerable period of time, and since some of these negotiations may well be incomplete when the new structure comes into being, it will, in order to avoid administrative difficulties, be necessary to arrive at an understanding between the States and those likely to control

the succession Government or Governments that for a period of time the then existing arrangements as to these matters of common concern should continue until the new agreements are completed†." That is, until new agreements are made, the present agreements are to be in force. This is known as stand-still arrangements.

3. STATES' REACTION TO THE CABINET MISSION PLAN.

One of the bright features of modern Indian politics is that Indian States and British India have come closer to each other and old suspicions and jealousies are slowly fading away. The Princes are not what they were fifteen or twenty years ago and lately they have given ample evidence of their readiness to play a constructive and helpful part and make a really material contribution to India's political progress. They have become patriotic sons of India and they claim her as their motherland. They have begun to take a broader interest in India as a whole and the Nawab of Bhopal's persevering efforts to bring about a compromise between the Congress and the Muslim League are well-known. Even Hyderabad declared that it did not seek to take a line of its own which would prove obstructive to the plans of the speedy creation of self-governing India. "Hyderabad will not stand in the way of the

† See the Memorandum on States' Treaties and Paramourncy.

fulfilment of legitimate aspirations of British India for political and other freedoms".†

Shortly after the announcement of the Cabinet Mission Plan on May 16, the Standing Committee of the Chamber of Princes met at Bombay to consider the plan and in a statement they made it known that the Princes "are of the opinion that the plan provides the necessary machinery for the attainment by India of independence, as well as a fair basis for further negotiations. They welcome the declaration of the Cabinet Mission in regard to Paramountcy, but certain adjustments for the interim period will be necessary". "There are, however, a few points in the Plan", the statement further added, "which still require elucidation. There are also several matters of fundamental importance which are left over for negotiation and settlement. The Standing Committee have therefore accepted the invitation of H. E. the Viceroy to set up a Negotiating Committee and have authorised the Chancellor to arrange discussions as contemplated in the Plan". This was the first statement of the Chamber of Princes after the announcement of the plan, and it clearly indicates that the Princes have not quite forgotten the rights and interests, dignities and powers, privileges and prerogatives for which they had to

† It is worth noting that Hyderabad has decided to declare its independence and the Nawab of Bhopal may soon follow Hyderabad's example.

fight at the Round Table Conference. Yet the promise of their co-operation was like a silver lining to the dark clouds.

But there was not to be smooth sailing. The reactionary and obstructionist tendencies of the Chamber reasserted themselves and the Chamber's resolution of 29th January came down as a bolt from the blue. The resolution laid down five "fundamental propositions" as the basis for States' acceptance of the Cabinet Mission's Plan :-

1. The entry of the States into the Union of India in accordance with the accepted plan shall be on no other basis than that of negotiation, and the final decision shall rest with each State. The proposed Union shall comprise, so far as the States are concerned, the territories of only such States or groups of States as may decide to join the Union, it being understood that their participation in the constitutional discussions in the meantime will imply no commitments in regard to their ultimate decision which can only be taken after consideration of the complete picture of the constitution.
2. The States will retain all subjects and powers other than those ceded by them to the Union. Paramountcy will terminate at the close of the interim period and will not be transferred to or inherited by the new Government of India. All rights surrendered by the States to the Paramount Power will return

to the States. The proposed Union of India will, therefore, exercise only such functions in relation to the States in regard to Union subjects as are assigned or delegated by them to the Union. Every State shall continue to retain its sovereignty and all rights and powers except those that have been expressly delegated by it. There can be no question of any powers being vested or inherent or implied in the Union in respect of the States unless specifically agreed to by them.

3. The constitution of each State, its territorial integrity, and the succession of its reigning dynasty in accordance with the custom, law and usage of the State, shall not be interfered with by the Union or any unit thereof, nor shall the existing boundaries of a State be altered except by its free consent and approval.
4. So far as the States are concerned, the Constituent Assembly is authorised only to settle the Union constitution in accordance with the Cabinet Mission's Plan, and is not authorised to deal with questions bearing on the internal administrations or constitutions of individual States or groups of States.
5. His Majesty's Government have made it clear in Parliament that it is for the States to decide freely to come in or not as they choose. Moreover, according to the Cabinet Mission's Memorandum of May 22, 1946, on States' Treaties and Paramountcy,

"political arrangements between the States on the one side and the British Crown and British India on the other will be brought to an end" after the interim period. "The void will have to be filled either by the States entering into a federal relationship with the successor Government or Governments in British India, or failing this, entering into particular political arrangements with it."

The attitude reflected in the above resolution was quite inconsistent with the Nawab of Bhopal's declaration that the Princes not only desired but were keenly anxious to help and co-operate in the framing of an agreed constitution which might forthwith bring complete independence to India. It meant a decisive victory for the reactionary forces in the Chamber. Bluntly stated, the resolution means this—'The Chamber of Princes is determined to follow the Muslim League and it will enter into the Union or the Constituent Assembly only if the latter decides to do so. The Chamber will oppose the creation of one Union by non co-operating with it and if at all a Union is established for the whole of India, it will try to make it so weak and powerless that its failure may be merely a matter of months. In other words, the Chamber of Princes stands for the division of the country.' Sir C. P. Ramaswami Aiyer who openly declared that Pakistan must be opposed by all means*

* In an interview to the Associated Press of India in April 1946.

and that the Princes must stand together to preserve the unity of India,* very ingeniously argued that the Indian States gave bargaining power to the Congress and that without the co-operation of the Princes the Congress would not have been as powerful as it is.† But the real fact is that some of the Princes have actually conspired to undermine the influence of the Congress and thus indirectly helped in the division of India. Had all the Princes come forward and given their unstinted co-operation, I am sure, the Muslim League would not have been as uncompromising as it has been. It was due to the Chamber of Princes that the Congress had to "surrender" to the threats of Mr. Jinnah. It is a pity that many Indian Princes have played into the hands of a few interested persons and allowed themselves to be drifted towards a policy which can bring only bloodshed and chaos to the country.

The Congress immediately reacted to the Chamber's resolution of January 29. It repudiated the claim of the States Negotiating Committee to settle in advance the ultimate position of the States in the proposed Union : a function which properly belonged to the 93 representatives of the States in the Constituent Assembly and not to a small ad hoc committee. It pointed out that the Princes were "clinging to outworn ideals" and exhorted them to "imbibe the spirit

* At a press conference at Trivandrum in February 1947.

† At a press conference at Trivandrum in June 1946.

of the times and not pathetically cling to paramountcy whose days are numbered."

The progressive group of some of the important Princes in the Chamber refused to subscribe to the suicidal policy which the Chamber was following. That this group should seek to dissociate itself with the Chamber's activities is natural enough. The schism between the progressive and the reactionary groups widened as time passed and the activities of the Chamber began to receive shocks and jerks which the Chamber managed to survive for some time. The drama which had begun so hopefully seemed to draw towards a tragedy in which the Chamber had played its part. It had gained the trophy for which the Nawab of Bhopal had pledged "the co-operation of the Princes"—the trophy of Pakistan. And when the trophy was won, the Nawab of Bhopal abandoned the Chamber.

Ever since Sir B. L. Mitter exposed the "conspiracy" of the Princes Chamber, its influence was on the wane and its disappearance from the arena of Indian politics was merely a question of a few months. Proposals have been submitted for winding up this 'mighty organisation.'

The dismissal of the Chamber meant that, in future, States must negotiate their way into the Union individually. The States which belonged to the progressive group have already joined the Constituent Assembly. The more progressive among them have

promised to join the Union as well. The two Negotiating Committees are making satisfactory progress and arriving at general understanding on various matters. Let us hope that the Indian States are determined to help in every way to make the transfer of power speedy and smooth.

4. POSITION OF A STATE WHICH JOINS THE INDIAN UNION

"As a unit of the Union, what will be our position?" asked Sir B. L. Mitter in the Baroda Legislature in March 1947, and he replied, "With the exception of three specified subjects, viz Foreign Affairs, Defence and Communications, and necessary finance, we shall be sovereign over all the other subjects." A State may, however, agree to surrender to the Union Centre, he pointed out, some more subjects such as currency and coinage, weights and measures and so on. That is, the State joining the Union will have to surrender to the Union three and only three subjects mentioned above, with necessary finance. The States will retain all the other jurisdiction, subjects and powers, unless it voluntarily surrenders some more. It will be as autonomous as the provinces in all matters. As Pandit Nehru has pointed out, "An Indian State joining the Federation will be an equal unit of the Federation, having the same responsibilities, privileges and obligations as any other unit."

The position thus stated seems to be easy enough. But this is not so. There are many intricate

problems connected with the three subjects which the States will have to surrender to the Union. Sir B. L. Mitter explained these difficulties at a press conference. 'Take Foreign Affairs—Does the phrase mean mere diplomatic service and relations with foreign governments? Commercial treaties with foreign countries may come under that category. But what about private contracts with foreign nationals? Will the Union Centre deal with them or the unit of the contracting party. Now, take Defence—Do munition factories situate in Provinces come under the Central or Provincial Governments? And about Communications—What railways and what classes of roads are meant? What of air services?'

With all the difficulties that are connected with the definition of Union subjects, one thing is quite plain—the States do not lose much by joining the Union. On the contrary, they may actually gain. By surrendering Foreign Affairs they are simply transferring the onerous responsibilities that this intricate task involves; besides, it is a subject which was looked after by the Paramount Power on their behalf. So also of Communications. Only strategic railways and trunk roads will be included under this heading and no State owns either of them. Some difficulties might be felt in regard to Defence and Necessary Finance, and some States might feel the burden too heavy. Yet, it can be safely said that the burden will be lighter than the one to which they are habituated under the British rule.

The advantages which a State will gain by joining the Union are too many to mention here. In addition to protection from internal violence and external invasion, the States are sure to derive immense benefits from the schemes undertaken by the Union on an all-Hindustan basis, such as railways, telephones and telegraphs, irrigation works, famine and unemployment relief works and so on.

5. POSITION OF A STATE NOT JOINING THE UNION.

What will be the position of a State which refuses to join the Indian (or Pakistan) Union and sets up as an independent State? What will happen of Hyderabad and Travancore which have decided to declare their independence as soon as the British quit? Commenting on this, a prominent Congress leader has remarked, "It will be a Quixotic adventure. They will collapse within a matter of months without a single shot being fired any where. Popular pressure within their own States coupled with economic pressure would end their isolation." This appears as an overstatement, although it contains ninety per cent truth. The stress and strain of modern conditions may tell upon their integrity and self-sufficiency. Indian States and British India are so closely knit together by a process of evolution which extends to over 200 years, that it is simply impossible for an Indian State, be it Hyderabad or Travancore, Kashmir or Bhopal, to lead a life completely cut off from the rest of India.

When the states of Europe are talking of a European Federation; nay, when the countries of the world are dreaming of a World Federation, the independence talk of some of the Indian States seems to be meaningless and futile. To declare independence is to break away from a country which was so far one and which the world regards as one and united. The stand taken by the Muslim League serves as a bad example for the countries of the world as well as for India, and if forced to its logical conclusion, it would give to every minority a right to demand a separate State. Russia which is one State today will have to be cut into atleast four or five States if the Slavs, Finns, Tartars, Lithuanians and others demand separate States and follow Muslim League's methods. So also of China. In India, the Deccanis, Gujeratis, Rajputs, Sikhs, Dravidians and so on may rise up and demand separate States. The stronger among them may take to violence and every nook and corner of India may be a scene of carnage and loss. This is a painful picture. With all the advantages of the principle of self-determination, there are obvious limits to its application. India is geographically, economically and strategically a single unit. Partition is not the right solution. More of this later on.

Let us come to the point. Nationalist Indians may not like the States breaking off from India, and Pandit Jawaharlal Nehru has made it clear that the Indian Union will regard such States as hostile.

The Indian Union, which is sure to remain a dominant power in India for all time to come, will refuse to give any protection to these States—political, economic or personal. How long can these independent, sovereign States survive with hostile neighbours round about and with no protection from the Indian Union? Let the reader judge. In my opinion, independence of States is not a practical proposition on account of the social, economic and political conditions in India and the world.

Perhaps the greatest danger may come from within, i. e. from the people of these States. They may not, and will not, like the idea of being cut off from the rest of India. There are strong affiliations and identity of interests between British India and the Indian States. The States people have begun to feel that they are Indians first and then the subjects of the State in which they reside. There are no such things as 'Travancoreans' or 'Mysoreans'. They are all Indians. The Rulers may for some time succeed in suppressing the nationalist movements within their borders, but a day will soon come when they will find it impossible to do so. Outside influences will continue to enter the State's territories and it is impossible to erect barriers against ideas which spread like wild fire. The tasks of government will become more and more difficult and the States will be compelled, by sheer force of circumstances to enter into the Union or seek some sort of political relationship with it. The days of isolation are over

and it is high time that the Princes understand the difference between dreams and reality,

6. ALTERNATIVES BEFORE THE STATES.

Assuming that the Indian States have full freedom to make their own choice, let us now examine the various alternatives that lie before them. British Indian leaders argue that the Cabinet Mission's Plan leaves only two alternatives before them : viz. to join the Indian (or Pakistan) Union or to enter into particular political relationship which will not be different from the relationship existing between them and the British Crown. However, the position is not so simple. Let us see what they may do.

1. They may join one of the two Unions, their choice being governed by geographical and other important factors. This is the wisest course for a State to follow and the British Government have advised the Princes to join a Union and thus make common cause with the progressive elements in British India. However, there are many difficulties in the way. Take the case of Hyderabad. Should it join the Indian (Hindustan) or the Pakistan Union? The Ruler is a staunch Muslim and his contribution to the establishment of Pakistan may not be quite insignificant. Personally, therefore, he would like to join the Pakistan Union. But he cannot do so. For, 88 per cent of the population of Hyderabad is non-Muslim and he dare not openly flout their wishes. Besides, Hyderabad and the new-born Pakistan are separated by hundreds of miles, and Mr. Jinnah

may not press for a corridor to connect the two before he succeeds in connecting the Eastern and the Western parts of Pakistan. The same is the case of Bhopal. In Kashmir, the Ruler is a Hindu but the majority of the people are Muslims. It is therefore natural that these States should think of declaring their independence.

2 They may declare independence and set up as sovereign States. Hyderabad and Travancore have already decided to do so and some more States may follow their example. We have already discussed their future in the preceding section.

3. All the Indian States may unite and form something like a Rajasthan, quite independent of either the Indian or the Pakistan Union. There will thus be three Indias—Hindustan, Pakistan and Rajasthan. But the very idea is ludicrous. The territories of States are so scattered and, besides, they differ so much in area, population, income, system of administration, economic conditions and so on that the task of bringing together such a heterogeneous mass of 600 and odd States is well nigh impossible. "It is not and it will not," Sir C. P. Ramaswami Aiyer has pointed out, "be in the interest of Indian Rulers to create a political combination among themselves which may inevitably arouse active hostility in the neighbouring provinces and which will lead to such political and economic rivalries as would hamper the peaceful development of the States."

4. They may form themselves into confederations consisting of contiguous States, and through these confederations, join the Union or enter into particular political relationship with it. Thus we hear of the Deccan States Union, Confederation of Gujerat and Kathiawar States, Federal Union of the Eastern States and so on.

5. Smaller States may agree to their attachment to neighbouring bigger States or to British Provinces and thus join one of the Unions. This expedient does not seem to be very promising in view of the alleged unpopularity of the Attachment Scheme introduced in Western India.

6. They may, individually or in groups, continue their present relations with the British. This was considered a possibility some 12 years ago, when the theory of direct relationship between the Princes and the British Crown was invented and accepted. The idea was that even if British India slips off from the British Empire, the States may not be able to do so and thus British hold on India may still remain. Whatever may have been the circumstances in 1935, things have now completely changed and the British have made it clear that all treaty and other relations between them and the States come to an end on 15th August 1947. Besides, a committee of constitutional experts has already warned that "a continuance of the present system of independence of the States conditioned by Paramountcy is not a future which can be faced with

equanimity, especially if the rest of India is to enjoy complete political freedom. The States cannot depend on the authority or special responsibility or discretion of the Governor General or the Governors, far less on any external authority, for the enforcement of essential safeguards which the States might be able to secure."

7. Although the present treaty relations between the Princes and the Crown terminate on 15th August, some Rulers are still under the impression that Britain may be prepared to enter into fresh treaties with them. Some States are even dreaming of getting the Status of a Dominion. This seems to be impossible, if the British are really sincere and keep up their promises. An informed London official is reported to have said, "Dominion Status does not grow on trees. It would be unthinkable to grant the State of Hyderabad, say, the same status as Australia or Canada"

CHAPTER THREE

INDIAN STATES AND THE CONSTITUENT ASSEMBLY

1. Introductory. 2. States' Participation in the Constituent Assembly. 3. Distribution of States' Quota of Seats. 4. Method of Selection of States' Representatives. 5. At What Stage Should the States Participate in the Constituent Assembly? 6. Baroda's Lead.

1. INTRODUCTORY

Paragraphs 17, 18 and 19 of the Cabinet Mission Plan lay down the procedure for setting up a Constituent Assembly for working out the new constitution of India. In this Assembly, each province is allotted a total number of seats in proportion to its population, roughly in the ratio of one to a million. Thus Bengal gets 60 seats, United Provinces 55, Madras 49, Bombay 21 and so on. The seats allotted to a Province are divided between the main communities* in that Province in proportion to their population. Thus in Bengal, the General community gets 27 and Muslims 33. In United Provinces the Muslims are a minority and get only 8 seats, whereas the the General community gets 47. The representatives of each community are elected by the members of that community in the existing Legislative Assembly of that Province.

* General, Muslim and Sikh: the "General" community including all persons who are not Muslims or Sikhs.

The Plan provided for the grouping of Provinces† into three sections—A, B and C. Section A, of predominantly Hindu Provinces, was to include Bombay, Madras, United Provinces, Bihar, Central Provinces and Orissa. Section B, of predominantly Muslim Provinces, was to include the Punjab, North West Frontier Province and Sind. Section C included Bengal and Assam. The number of representatives of each community in each section and in the Constituent Assembly was to be as follows:—

Section	Number of Representatives			
	General	Muslim	Sikh	Total
A	167	20	x	187
B	9	22	4	35
C	34	36	4	70
Total for British India	210	78	x	292
Total for Indian States...				93
Grand total for the whole of India				385

According to the Plan, elections to the Constituent Assembly took place in July 1946. The Congress captured more than 95 per cent of the General seats and the Muslim League captured 72 out of the 78 seats allotted to Muslims.

Preliminary session of the Constituent Assembly was held on and from 9th December 1946 and much

† The grouping of Provinces on communal basis was vehemently opposed.

spade work has been done in this and subsequent sessions. The Muslim League which had accepted the short term plan and entered into the Interim Government refused to participate in the Constituent Assembly. The result was Lord Mountbatten's Partition Plan of June 3. There will thus have to be two Constituent Assemblies, one for the Dominion of India (Hindustan) and the other for the Pakistan Dominion. The Pakistan Constituent Assembly is to hold its first session at Karachi on 7th August. The Constituent Assembly which has been meeting again and again since December last, is to continue as the Constituent Assembly of the Indian Union, with slight changes necessitated by the partition of the country. On 15th August, the day appointed for the transfer of power, the two Constituent Assemblies will assume the status of Dominions and the British will transfer power to them.

2. STATES' PARTICIPATION IN THE CONSTITUENT ASSEMBLY

The Cabinet Mission Plan provided that the States representatives should participate in the Constituent Assembly only in the final stage when the question of Union Constitution comes up for discussion. In the preliminary stages they were to be represented by a Negotiating Committee, which in consultation with the Negotiating Committee set up by the Constituent Assembly, was to decide the

distribution of the States' quota of seats between the various States, the method of selection of States' representatives and other cognate matters. The Chamber of Princes at once appointed a Negotiating Committee consisting of the Nawab of Bhopal, the Maharaja of Patiala, the Jam Saheb of Nawanagar, Sir C. P. Ramaswami Aiyer, Sir Sultan Ahmed, Sir Mirza Ismail, Sardar D. K. Sen, Sir A. Ramaswami Mudaliar, Sardar K. M. Panikkar, the Raja of Bilaspur (in place of Sir Manubhai Mehta) and the Maharawal of Dungarpur (in place of Maharaja Virabhadrasinghji of Dungarpur). Later on, Sir V. T. Krishnamachari and Rai Bahadur Ram Chandra Kak were also added*. It is easy to see that the States Negotiating Committee was as unrepresentative as the Chamber itself. Besides, the States which knew the inner story of the Chamber, Sactivities did not like to associate with it any longer. They preferred individual negotiation. Baroda was the first State to enter into individual negotiations with the Negotiating Committee† of the Constituent Assembly.

The two Negotiating Committees met many times and the discussions were friendly and satisfactory. The distribution of seats between the States has been finally settled and the method of selection of States' representatives has also been agreed upon. On

* The third member added was Sir B. L. Mitter who did not join.

† The members are Pandit Nehru, Sardar Patel, Maulana Azad, Dr. Pattabhi Sitaramayya, Mr. Shanker Rao Deo and Sir N. Gopalaswami Ayyangar.

9th February, Pandit Jawaharlal Nehru and the Nawab of Bhopal issued a joint statement reviewing the progress of discussions between the two Negotiating Committees. It is learnt that agreement was reached that the entry of the States into the Union should be on the basis of negotiation and should be voluntary in character in respect of each State. There was no question of any changes or adjustment of territories except by pure voluntary and consensual agreement. It was further agreed that the States under the Cabinet Plan will retain all powers other than those ceded or delegated by them to the Union and that the Union will exercise only such functions as are so assigned by the States to the Union. The question of inherent or implied powers is a matter which will have to be carefully defined with special reference to the above proposition and provision will have to be specially made in the constitution for that purpose and for the resolution of difficulties in the application of the doctrine. It was further agreed that the Cabinet Mission Plan proceeded on the footing of the autonomy of each State in regard to its internal structure and constitution.

The lapse of paramountcy on the coming into existence of the new constitution was also taken for granted and there was no claim that paramountcy as such will be exercised by any body after British paramountcy disappears. The powers of the Union Centre in the future would not partake of the nature of paramountcy but would be conferred by the Union Constitution. Although informal and individual

consultations with particular States or other bodies or organisations could not be ruled out, the Negotiating Committee appointed under the Cabinet Mission Plan was assumed to be the only formal body acting on behalf of the States as now constituted, which could deliver the goods* ”

3. DISTRIBUTION OF STATES' QUOTA OF SEATS

According to the principle of one representative for every million people, the States are allotted 93 seats in the Constituent Assembly. The distribution of these seats between the various States was to be decided by consultation between the two Negotiating Committees. Bigger States whose population exceeded a million presented no difficulty. But there are only twenty States out of 560 which get one or more seats, and these twenty States take away 60 out of the 93 seats. The remaining 540 States have only 33 seats left for them. This means that these States must form groups and select a common representative. In some cases, grouping of 2 or 3 States may be sufficient. But in a majority of cases, twenty or even thirty States must combine together in order to get a single seat in the Constituent Assembly. Grouping activity is going on in full swing and we hear of the Deccan States Union, Confederation of Kathiawar and Gujarat States, the Federal Union of the Eastern States and so on. We are dealing with this in the last chapter.

* Associated Press of India, February 9, 1947.

The final allocation of seats as settled in March last is as follows:—

Hyderabad	... 16	Indore	... 1
Mysore	... 7	Bhopal	... 1
Trayancore	... 6	Kolhapur	... 1
Kashmir	... 4	Bahawalpur	... 1
Gwalior	... 4	Mayurbhanj	... 1
Baroda	... 3	Frontier (14) States	... 4
Jaipur	... 3	Rampur plus Benares	... 1
Udaipur	... 2	Rajputana States (13)	... 3
Jodhpur	... 2	Central India States (26)	3
Patiala	... 2	Kathiawad States (16)	... 4
Rewa	... 2	Western India States (14)	2
Cochin	... 1	Deccan States (14)	... 2
Bikaner	... 1	Punjab States (14)	... 3
Alwar	... 1	Eastern Agency States (25)	4
Koiah	... 1	Chhattisgarh States (14)	... 3
		Remaining States	... 4
		Total	... 93

4. METHOD OF SELECTION OF STATES' REPRESENTATIVES

The Plan laid down that the representatives of British India should be elected. The method of selection of States' representatives was left to consultation. The Congress, as the custodian of the States' people's interests could not disregard their claim to be represented in the Constituent Assembly. It, therefore, insisted that the States' representatives

should, like the representatives from British India, be elected by the people; for, it was argued that the composition of the Constituent Assembly under two divergent principles would lead to constitutional anomalies in actual practice, besides being indefensible from the national point of view. At the same time, we must recognise the impossibility of applying the principle of election in the case of States' representatives and any attempt to lay a condition on the States to send in only elected representatives would have spoilt all chances of success of the Constituent Assembly. Sir B. L. Mitter expressed the apprehension that if the principle of election were insisted upon, many States might not participate in the Constituent Assembly. Only 15 or 20 States have representative assemblies and it is not possible to set them up overnight by a stroke of pen. The Congress, however, insisted that at least a majority of the States' representatives should be elected by the people. After continued discussions, a compromise was reached between the two Negotiating Committees and it was agreed that at least 50 per cent of them should be elected.

5. AT WHAT STAGE SHOULD THE STATES PARTICIPATE IN THE CONSTITUENT ASSEMBLY ?

This is a subject which gave rise to much controversy. According to the Plan, the States were required to come in only in the final stage of the

Constituent Assembly. This does not mean that they were forbidden from sending in their representatives in the preliminary stages. The Chamber of Princes which was completely under the sway of reactionary and League-inspired forces advocated a policy of "wait and see." It assumed a non-compromising attitude and argued that the Constituent Assembly, as it was then constituted, was not the Constituent Assembly as contemplated under the Cabinet Mission Plan, for the Muslim League had not joined it.

The progressive group favoured immediate entry. Sir B. L. Mitter emphatically declared, "There is nothing to prevent the States from participating in the Constituent Assembly due to meet on December 9. I think that the States ought to participate even if some members from British India choose to be absent. Such absence may render the task of the constitution-making difficult, but difficulties should not be allowed to hold up the task indefinitely."

"The States have harder tasks to tackle" he further added, "Their treaties have to be revised. The Crown's obligations under Paramountcy will have to be replaced by adequate provisions in consultation with British India. Matters of common concern will have to be discussed with the Interim Government. In fact, diverse questions involved in the change-over will demand close attention of the States. It would be folly on their part to wait for the settlement of communal controversies of British India in which they have no concern. They should

get along with the work which bristles with difficulties, and hasten the dawn of Indian freedom."

The reactionary group which had consolidated its position in the past six months, could not be dismissed so easily. It went on 'playing the game' and on 29th January came the infamous resolution which would put any patriotic Indian to shame. It laid down certain fundamental propositions* as the basis of the States' acceptance of the Cabinet Mission Plan. It threatened to boycott the Constituent Assembly if those propositions were not accepted. The Maharaja of Bikaner opposed the resolution, saying that it might create misunderstanding and imply that the Princes were trying to hamper India's political progress. Later on, he had to walk out of the meeting of the Standing Committee, protesting against the Chamber's decision to keep away from the Constituent Assembly. Sir B. L. Mitter openly condemned the Chamber's attitude. "The decision of the Chamber of Princes to abstain from the Constituent Assembly till the final stage is inconsistent with the oft-repeated desire 'to render the fullest co-operation in framing an agreed constitution.' The States' Negotiating Committee was reported to have been satisfied with the general understanding reached when it met the British Indian Negotiating Committee last February. Now it is time to co-operate when fundamental Rights, Minorities, Tribal and Excluded Areas and such other essential matters are being

* Chamber's Resolution of January 29, 1947. See page 44.

discussed. Have the States nothing to contribute to these discussions ? It is well recognised that no State will be bound to accept any constitution till the full picture is ready. Where is the risk, therefore, in going into the Constituent Assembly now ? Attendance at the final stage means that matters which have been thrashed out will have to be reopened. This will entail delay, when time is of the essence of the liberation of India."

The Partition Plan has settled the question of British India and no State has now any excuse to wait and see. A majority of States have joined the Constituent Assembly, and in the present session which commenced from 14 July, nearly 60 States' representatives are taking part. Hyderabad and Travancore have decided not to join any Constituent Assembly. Kashmir, Bhopal and Indore are yet hanging in the air.

6. BARODA'S LEAD.

Baroda has always been in the vanguard of India's political, social, cultural and intellectual activities. It has all along been abreast of British India in so many important fields of human progress and spheres of life. Baroda introduced compulsory primary education half a century ago. Local self-government institutions were established in the State long before they were thought of in British India. Similarly in the matter of human suffering—hospitals, dispensaries, maternity homes,—means of communication—roads and railways,—

provision of drinking water supply to urban and rural areas, measures to prevent diseases etc. Baroda claims a record not surpassed by British India anywhere yet. There is freedom of speech, freedom of press and fundamental rights assured. We have a representative legislature; there is close association of the people with the governance of the State and "Responsible Government" is the declared goal. People are happy and contented and the interests of the Ruler and the ruled are identical"†.

True to the noble traditions of leadership, Baroda was not slow to come forward with a constructive step at the present critical juncture "when big issues face the country and momentous and quick decisions have to be taken with a suddenness that baffles human intellectual capacity". Baroda did not falter or vacillate. It was the first premier State to join the Constituent Assembly and to pave the way for others. It resolutely shut its ears to disruptive counsels.

The present Ruler of Baroda has borne nobly the torch of progressive and nationalist traditions handed down by his illustrious grand-father. A true soldier of freedom as he is, he has not thought to resile from the position he took up from the outset to see the liberation of his motherland inspite of the daily changing mosaic of political thought elsewhere in regard to the position of the States vis-a-vis the

† H. H. the Maharaja Gaekwar's speech at a reception held by about 150 public institutions at Bombay on 13th July 1947.

two prospective Dominions. His burning passion to make India a great country is reflected in what he said the other day in Bombay: "...I am ready to offer my services to lead you in making India a strong united nation of the world. Let me add to it that attainment of the above goal and the cause of nationalism will ask for heavy sacrifices from you. You should be ready to bear them willingly in a spirit of shining patriotism. As far as I am concerned, artificial barriers or geographical boundaries have never narrowed my vision of things. I have always thought of the welfare of the people of my State as only part of the welfare of the masses of India. I, for myself, believe in the innate nationalism and in democratic ideals of Government and am ready to make any personal sacrifice for the freedom and prosperity of the people of India as a whole. For, in the ultimate resort, "Service of the People is the Service of God".

Baroda is fortunate indeed that its worthy Ruler has, at these crucial times, the collaboration of his Dewan, grown grey in the service of the country. Frank, courageous, shrewd and a nationalist to the core, Sir B. L. Mitter has led Baroda along the paths of peace and progress and won for the Ruler and his people a worthy place in India of the future. An eminent lawyer and a judge of international repute, he has demonstrated to the world that law, though a necessary condition of life, is not life itself and must give way when larger interests of the country

are concerned. As a lawyer, he could have clung to the outworn shibboleths like 'Treaties, Engagements and Sanads' and boggled at the terms 'Independence and Sovereignty'. As a lawyer, he could have advised his Ruler to declare his independence and take advantage of the confusion that is rampant in the country. He could have advised him to claim that the States tributary to Baroda automatically come under the Gaekwar's suzerainty when British Paramountcy lapses. Baroda has a trained army, quite capable of enforcing the Gaekwar's over-lordship over the whole of Gujarat and he could have advised the Ruler to tighten his belt and augment the strength of his armed forces as many States are reported to have done. But the patriotic outlook of the Ruler and his Dewan could not be clouded by such narrow, selfish interests. They believe more in the safeguards of Law than in the safeguards of treaties etc. To them mere geography means nothing more than an item of school curriculum; they see beyond, rise above the narrow view-points and raise the cry "Excelsior!" It was impossible for Baroda to lay down any "fundamental propositions" as the basis for the State's entry into the Constituent Assembly or into the Indian Union. This is because the Ruler as well as the Dewan know that these and many other problems can be amicably solved later on when India achieves her goal. They can not be allowed to impede the progress of the country. And the Ruler has frankly owned that he expects a better deal from his own countrymen than from foreigners.

Baroda has given its unstinted co-operation and the Gaekwar has played his part. It is now for the Congress and for the country to reciprocate. I believe Baroda's interests will not be allowed to suffer because it threw its lot with the country unreservedly.

We have already referred to the prominent part which Sir B. L. Mitter has played on the stage of Indian politics. When his guidance was needed, he gave it frankly and ungrudgingly. It was he who showed the impracticability of having all the ninety three representatives of the States elected by the people. It was he who advised the States to enter into the Constituent Assembly even before the final stage. It was he who threw open to election all the three seats allotted to Baroda, himself successfully risking the vagaries of popular elections. And it was also he who "revolted" against the reactionary Chamber and entered into individual negotiations with the British Indian Negotiating Committee. When he knew that some of the Rulers and Ministers in the Chamber of Princes have formed an unholy alliance and were conspiring to perpetuate the bonds of India's slavery, his moral indignation knew no bounds. He has no mental reservations and at a press conference he frankly explained the difficulties he felt in "breaking the spell which held the Rulers under moral subjection". He "heartened this group and appealed to their patriotism." He pointed out to them that the issue before them was "freedom or continued slavery and not the rights and privileges of the Rulers of the

States." They understood. They wanted a leader to bell the cat and a leader they had found. One State after another began to join the Constituent Assembly. The Chamber of Princes was baulked of its reactionary designs. In fact, Sir B. L. Mitter's knock-out blow has reduced it to a nonentity.

"Baroda has decided to join the Union of India. It is not going to set up an independent State," declared Sir B. L. Mitter with courage and confidence in the State Legislature in March last. "I may tell you," he went on, "that I shall pull for an undivided India with a strong centre. I believe that thus only can India play her full part in the comity of nations. A progressive and prosperous India will mean a progressive and prosperous Baroda."

Baroda's contribution to the unity and independence of India is phenomenal. It is destined to play a prominent part in making the new India a happy, prosperous and mighty land. The recent and the past utterances of the Ruler of Baroda are a tonic to the people of the State and India at the present juncture when the reactionaries are out to sap the blood-streams of the yet embryonic Free India. Once having taken the lead, Baroda will march on side by side with the rest of the Dominion of India, till the country has found its rightful place in the Family of Nations—a place in the forefront in virtue of her hoary and noble traditions and culture. The Land of the Lord of Uma shall at last be pedestalled to its former Glory.

CHAPTER FOUR

INDIAN STATES AND THEIR FUTURE.

1. Factors on which the future of Indian States depends. 2. Federation the only solution of the Indian problem. 3. Internal reforms in Indian States. 4. The Attachment Scheme, 5. Unions and Confederations of smaller States. 6. Conclusion.

1. FACTORS ON WHICH THE FUTURE OF INDIAN STATES DEPENDS

What is the future of the Indian States? Will they survive or perish? What is their place in the future organisation of free India? What will happen of the numerous small States whose area does not exceed a few square miles and whose population is less than ten thousand?

These are questions to which some people give a very plain answer. They say that the Indian States are an anachronism and that the only way to mend them is to end them. They say that the Princes are British officers in Indian dress, imperial creations sustained for imperial interests. They must, therefore, pack off along with the British.

All this is sheer nonsense. They are neither an anachronism nor British officers. They are not imperial creations either. Most of them are survivals of former dynasties and powers which flourished in India before the British came. They are indigenous to the Indian soil. "The Indian States and their Rulers," the Maharaja of Bikaner has pointed out, "are

not something strange, external or imposed on the life of India. They are not interpolated passages in the magnificent epic of Indian History, nor hiatuses marking a break in the steady progress of India's life and culture."* It is clearly a mistake to suppose that the States have outlived their usefulness. On the contrary, they have a vital role to fulfil in the difficult days that are coming. "Not only would it be an act of injustice to deprive them of their privileges of self-government to which they are entitled, but it would be a distinct misfortune to the country if these interesting and multi-coloured remnants of indigeneous rule were to be entirely effaced"†. All talk of destroying the States must now be abandoned. The problem of the Indian States must be approached in a realistic way. Old suspicions and jealousies must be replaced by a genuine desire to understand, co-operate and accommodate. Thus only can we solve the manifold difficulties that are facing us.

This does not mean that the Princes must not move with the times. Their feudal organisation has no place in the free India of tomorrow. Their autocracy will not be tolerated very long. They must read the signs of time and adjust themselves to the rapidly changing conditions in the country. Their future will be shaped by a variety of factors the most important of which are given here.

* Speech delivered on the occasion of a banquet in March 1946.

† Lord Lansdowne.

1. Firstly, no State in India or in any part of the world can lead an absolutely isolated, independent life. The Indian States are an integral part of India and the boundaries which separate them from other parts are artificial. The wave of nationalism sweeping over the country has not spared the States people who have begun to regard themselves as Indians first and then as states' subjects. The best way for the States is, therefore, to make a common cause with British India and join the Indian Union. The days of glorious isolation are over and a State cut off from the rest of India can not survive even for a day. We are discussing this problem in the second section.

2. Secondly, the States must immediately introduce internal reforms and responsible government. The States people are getting politically adult and capable of managing their own affairs. The great ambitions stirring them are struggling for self-expression and no ruler will be able to deny to his people their fundamental right for self-government. The Congress has also made this clear. "While the Congress has no intention to interfere with details of the States' internal administration, it will insist that the States acceding to the Federation would conform to a minimum standard of democratic government. The Congress is determined to adhere to the concept that in every part of the future sovereign independent India all power and authority should ultimately vest in the people." The Rulers must therefore transfer political power to them and be

content to remain as constitutional monarchs, like the King of England. The policy of suppression will not succeed any more. For, in the new world order, the Princes will have place only if they become true servants of the people, deriving their power not from the sword but from the love and consent of their people. An Indian Prince, as Lord Curzon has pointed out long ago, "must justify and not abuse the authority committed to him. He must be the servant as well as the master of his people. He must learn that his revenues are not secured to him for his own selfish gratification, but for the good of his subjects; that his internal administration is only exempt from correction in proportion as he is honest; and that his *gadi* is not intended to be a 'divan' of indulgence, but the stern seat of duty... ..His real work, his princely duty, lies among his own people. By this standard shall I judge him. By this test will he, in the long run, as a political institution, perish or survive". The tasks facing the Indian States are likely to become more difficult as time passes; for, British India is going to be a veritable arsenal of political and social ideas which will enter into States' territories and shake some of them to the very foundation. The "Quit Kashmir" movement was not an isolated event in Indian History. It was simply an off-shoot of the great volcano which burst in British India in 1942. It has not yet spent off all its force, and if the Princes do not set their houses in order, it may recur and its intensity will now be terrible. Let the Rulers know

that their loyal subjects are potential volcanoes, ready to erupt at the slightest provocation. The problem of internal reforms is more urgent than many people are inclined to think. We are discussing this problem in the third section.

3. For the small States whose resources are so limited as virtually to preclude them individually from providing for requirements of their people in accordance with modern standards, there are only two courses; either to get themselves "attached" to the neighbouring big states (or Provinces) or to form groups large enough to serve as a unit of the Indian Federation. We are discussing the Attachment Scheme and the Confederations of small States in the fourth and fifth sections.

2. FEDERATION THE ONLY SOLUTION OF THE INDIAN PROBLEM

India is a land of great diversity. The extensiveness of her territory, her diverse populations differing in language, religion and culture, the existence of over 560 semi-sovereign States and so on make a unitary form of constitution quite out of place. That Federation is the only solution of her manifold problems has long been recognised and it was with the distinguished leaders of the States that the federal ideal in its present form originated. As early as 1914, His Highness the late Maharaja of Baroda envisaged a federal form of government as

the only way to safeguard the interests of the States consistently with those of British India. In 1922, the Maharaja of Alwar said, "My goal is the United States of India, where every Prince and every State working out its own destiny in accordance with its own environment, its own traditions, history and religion, will combine together for common purposes, each subscribing its little quota of knowledge and experience in a labour of love, freely given in a higher and nobler cause". Again in 1928, the Maharaja of Bikaner emphatically declared that the ultimate solution and the only salvation of India lay in some kind of Federation.

Mr. Montagu and Lord Chemsford* gave a clear picture of India's future in the following words:—

"Our conception of the eventual future of India is a sisterhood of States, self-governing in all matters of purely local or provincial interest, in some cases corresponding to existing provinces, in others perhaps modified in area according to the character and economic interests of their people. Over these congeries of States would preside a Central Government, increasingly representative of and responsible to the people of all of them; dealing with matters, both external and internal, of common interest to the whole of India; acting as arbiter in inter-State relations and representing

* See Montagu-Chemsford Report (1919).

the interests of all India on equal terms with the self-governing units of the British Empire. In this picture, there is a place also for the Native States. It is possible that these too will wish to be associated for certain purposes with the organisation of British India, in such a way as to dedicate their peculiar qualities to the common service, without loss of individuality.

By 1928, the Federal principle had got firm root and various Committees and Commissions worked for the elaboration of that ideal. Yet the actual realisation of Federation was considered a remote possibility; for, it was feared, as it is feared even now, that the Princes may not agree to accede to the Federation. The Butler Committee (1929) observed, "... there is need for great caution in dealing with any question of Federation at the present time; so passionately are Princes as a whole attached to the maintenance in its entirety and unimpaired of their individual sovereignty within their States". The Nehru Committee was equally sceptical about the Princes' attitude and they recommended that "if such an all-India Federation does not come about, atleast a Federation of the Provinces should come about". The Simon Commission did not consider that the Princes will agree and, therefore, they recommended a "Council for Greater India", a deliberative and consultative body representative of British India and Indian States to deal with matters of common concern. Even on the eve of the Round

Table Conference, the Princes talked of the British connection, sanctity of their treaties, their rights and privileges, dignities and prerogatives.

At the Round Table Conference, the Princes declared their willingness to join the Federation. But this does not mean that they would have actually joined it had it really come about. There were many Princes who openly opposed the Federation. The Ruler of Patiala emphatically declared, "The issue (of joining the Federation) is not so simple as others imagine. We have a heavy and tremendous responsibility placed on us. We have to consider the sacred trust handed over to us by our ancestors. We have to think of the generations to come and see that it is not said of us that we lightly signed away our States, prerogatives and privileges, which the courage, foresight and wisdom of our forefathers had bequeathed to us." The Government of India Act, 1935, envisaged a Federation of India, but owing to the Second World War, it could not come about.

Today the whole situation has changed. New forces have emerged and it has become imperative that the Princes should join the Federal Union (of Hindustan or Pakistan as the case may be). They can not lead an isolated life. They must become parts of a larger Union whose strength will be their strength and whose future will be their future.

Two things quite essential to and necessary for the formation of a Federation are that its different

parts must be capable of union and, secondly, there must exist a federal sentiment among the people. Both these conditions are present in India. No one can deny that India is one; geographically, strategically and even socially and culturally. The Muslim League has succeeded in having a separate State, yet there is reason to believe that many Muslims, although they refuse to be dominated by a Hindu majority may not like to cut away all connections with the Hindus. In fact, a Federation for the whole of India could have solved the communal problem and the Muslims could have escaped from the "perpetual domination of a Hindu Majority." The division of the country can not solve the communal problem. On the contrary, it may give rise to innumerable new problems which it may be impossible to solve.

The existence of the federal spirit can not be denied. There is already something like citizenship of India and the States people have begun to regard themselves as Indians first and then as States people. Even the Princes are anxious to have a union between themselves and the other parts of India. Federation is the only form of government which secures the unity of the country as well as the autonomy of its different parts.

3. INTERNAL REFORMS IN INDIAN STATES.

It has already been pointed out that administration of many of the Indian States is medieval in character and feudal in spirit. The Ruler is the

source of all law and power. His will is supreme and the people have no voice in the governance of the State. There is no check upon the autocratic power of the Ruler, except that of the Paramount Power, whose withdrawal will mean that the Ruler will become completely independent of all control from outside. He will be free to do whatever he likes.

Such a state of affairs can not last long. The States people have begun to clamour for self-government. A new spirit is abroad and the Princes have also realised that they must win the good will of their people or perish. It is no wonder, therefore, that we hear of administrative and constitutional reforms introduced in one State or another. Many States have announced interim reforms giving a substantial measure of self-government to their people. Some of these reforms are still inchoate or on paper, but they unmistakably signify a conscious process of clearing the decks in preparation of the coming new order.

The Chamber of Princes' resolution of January 1946 marks an important land-mark in the history of Indian States. It declared that sovereign powers of the Rulers should be exercised through regular constitutional channels and that there should be set up popular institutions with elected majorities to ensure close and effective association of the people with the governance of the States. There should be rule of Law and the citizens should be guaranteed security and protection of person and property.

Every citizen should be guaranteed the following fundamental rights:-

1. No person should be deprived of his liberty, nor should his dwelling or property be entered, sequestered or confiscated save in accordance with law.

2. Every person should have the right to a writ of habeas corpus.

3. Every person should enjoy the right of free expression of opinion, the right of free association and combination and the right to assemble peacefully.

4. Every person should enjoy freedom of conscience and the right freely to profess and practice his religion, subject to public order and morality.

5. All persons should be equal before the law irrespective of religion, caste or creed.

6. No disability should attach to any person merely by reason of his religion, caste or creed, in regard to public employment, office of power or honour or in the exercise of any trade or calling.

7. There should be no forced labour.

The Chamber also declared that administration of justice should vest in an impartial and competent judiciary, independent of the executive; that the Rulers should clearly demarcate administrative budgets from civil lists and fix the latter at a reasonable percentage of the ordinary revenues and that the incidence of taxation must be fair and equitable

and a definite and substantial portion of the revenue must be allocated for the benefit of the people, particularly in the nation-building departments.

It must be remembered that the pace of internal reforms in the States is bound to be slow. It must go hand in hand with the political development of the people. So long as 90 per cent of the States people are illiterate, some degree of autocratic rule is inevitable. We must not apply British Indian standards to the States whose circumstances and traditions require differential treatment. Benevolent despotism may, in many cases, give better results than a full-fledged democracy. The monarchical form of government prevalent in the States is one of the most potent forces making for the communal harmony found in Princely India. A common loyalty binds together the different sections of the community and makes for steady and sure progress of the people.

4. THE ATTACHMENT SCHEME

An event of the utmost importance in the history of Indian States came in 1943 when the Crown Representative gave effect to what is known as the "Merger (Attachment) Scheme" by which smaller States in Western India were merged into neighbouring larger States with whom they had geographical, economic and political affinities.

For the origin of the Attachment Scheme, we must go back to the pre-1935 period when His Highness the late Maharaja Sayajirao Gaekwar to whom

many of the small States in Gujarat and Kathiawar are tributary brought forward proposals to bring these tributories into closer relations with the Baroda State. The present scheme was based on these proposals and to Baroda were attached more than 250 States, talukas and estates comprising an area of nearly 6000 square miles.

The causes which necessitated the attachment of smaller States are contained in the Government of India's Communique of 1943. "H. E. the Crown Representative, has for a long period had under intensive review the perplexing political and administrative problems which arise from the existence in Western India and Gujarat of literally hundreds of small units which, though they are usually referred to as 'semi-jurisdictional' or 'non-jurisdictional' estates or talukas do actually fall within the category of the Indian States. Owing to the slenderness of their individual resources and general aversion from neighbourly co-operation there has arisen in this part of India geographical, administrative and economic fragmentation on a scale unknown anywhere else in the country. In the great majority of these units the revenues, which have often to be divided among numerous shreholders, barely suffice to meet the private needs of the Talukdars and shareholders, and the amenities provided for their subjects under the supervision of the local Political authorities are therefore sadly circumscribed. In short, the Crown Representative's survey has fully established that

without some drastic simplification of existing arrangements any kind of co-ordinated development of the countryside or any form of real progress is impossible."

As a justification of the scheme which "infringed the rights and lowered the status of the attached States," the Communique added, "...nothing which is not inherently capable of survival should be artificially perpetuated. The ultimate test of fitness for the survival of any State is, in his opinion, capacity to secure the welfare of its subjects, and he regards the forthcoming qualified merger of these small States as a justifiable solution of any conflict in his obligations towards Rulers and ruled."

The scheme contained due provision for the continued integrity of the attached units and of the existing powers and privileges of their Talukdars and shareholders. The States to which these small units were attached were required to admit the inhabitants of the attached areas to the benefits of administrative amenities such as secondary and technical education and medical treatment, on the same terms as their own subjects and to provide new hospitals, schools, roads and other amenities where these though clearly required are beyond the present capacity of local resources.

The scheme gave rise to protests from the attached units and the history of the working of the scheme is so complicated that it is better to leave it unsaid. In spite of the manifold advantages which the

attached units have derived from their association with Baroda or other attaching States, its unpopularity has increased and its future does not seem to be very bright. But one thing is certain that, in so far as Gujarat and Kathiawar States are concerned, something like the attachment scheme, based on mutual consent, is the best solution for their perplexing political and administrative problems.

5. UNIONS AND CONFEDERATIONS OF SMALLER STATES.

It has been pointed out in the preceding section that the Merger Scheme has not found favour with the attached States. The attaching States have also found it burdensome. As an alternative, another scheme is being tried, viz. that of forming Unions or Confederations. The Deccan States Union Scheme has received much popularity, and it will not be out of place if we mention the salient features of the scheme, which are as follows:—

1. All the twelve participating Deccan States are expected to accept the principle of the sovereignty of the people.

2. The sovereignty of the constitution-making body has been recognised.

3. The constitution-making body will be composed solely of the people's representatives.

4. Two representatives will be elected for one lakh of the population, a single State having atleast two representatives.

5. To safeguard the interests of the minorities two representatives of each will be admitted on the constitution-making body from the Muslims and the Harijans.

6. On the linguistic basis there will be two units of the Union, viz. the Maharashtra Unit and the Karnatak Unit.

7. When provinces on the linguistic basis will be formed, the Marathi unit and the Karnatak unit will eventually merge in their respective provinces, in which case the interests of the Rulers of the States will be suitably safeguarded.

8. The Chairman of the Board of Rulers will represent the Union as its recognised constitutional head.

9. The Chief Judge of the Union High Court will be appointed by the constitutional head on the advice of the Chief Minister and the puisne judges on the advice of the Chief Minister and the Chief Judge.

10. The question of the powers, prerogatives and privy purse of each individual Ruler will be entrusted to an arbitration board which is expected to consist of the Chairman of the Constituent Assembly, the President of the All-India States Peoples Conference, the General Secretary of the Congress and two nominees of the Rulers.

11. The Rulers of the participating States are expected to declare that all power and authority is

derived from the people and that all members of the Constitution-making body will be the people's representatives.

12. There will be a single union of the participating States and the administrative and political boundaries of the States will go.

An attempt was made to form a Confederation of over 50 States of Western India, Gujarat, Central India and Rajputana. The Jamsaheb of Nawanagar was the moving spirit in the working out of the whole scheme. The Confederation Bill which contained 90 clauses, envisaged the establishment of a 'presidium' composed of one ruler from each of the four States' groups and a President, who were to exercise full executive authority. Paramountcy was to vest in a Council of Rulers which was to be invested with the authority even of deposing a Ruler in the event of gross maladministration. A bicameral chamber with representatives from all States and State interests was to be established. The finances of the Confederation were to be derived from allotments made by the States.

The scheme proved abortive. It was perhaps too ambitious. To be successful, a union of States must be homogeneous, "culturally united, linguistically one and ethnologically identical and not a heterogeneous hotch-potch built to suit the whims and conveniences of Rulers".

The Jam Saheb's Confederation Scheme for the States of Gujarat and Kathiawar has lately received

much publicity, although its success must be considered a remote possibility. Without some strong central agency to guide and control the numerous small States, the Confederation will be lacking in the life-preserving elements which are so essential for the survival and working of any institution. The States of Western India are so scattered that it is impossible to bring them under a unified central control. Besides, many States may regard the present attachment scheme as more beneficial and refuse to join the Confederation. However, it is too early to pass a judgment on a scheme which is still in the making.

6. CONCLUSION

We are now coming to a close. The reader must have known that the numerous problems which are confronting us are not easy to solve. There are troubles ahead and the next ten years may be the most critical period in our history. There may be crises and catastrophes. New problems may arise, unexpected events, unknown factors and unthought of probabilities may intervene and change the course of our history into new channels. The whole situation is extremely fluid and the atmosphere is restive. We do not know what will happen tomorrow. The sands below our feet are shifting. But we must rise to the occasion. We must be prepared to meet every contingency. We must be ready to make decisions with a pistol over our head. We must have courage and confidence,

imagination and enterprise, strength and resourcefulness. If we fail, we become the laughing-stock of the world. We must succeed. We are determined to succeed. And we will succeed.

Unfortunately, the Muslims have broken away from us. Have they forgotten that India can exist as a first class power and as a bastion of civilization in this part of the world only if it were a United India? Have they forgotten that a divided India is insecure and in constant danger from outside? Do they not know that a divided India will mean a weak India—nationally, internationally, culturally, economically? I am not prepared to accept even for a moment that partition is the best solution of the Indian problem.

Unity of India can be achieved only if its different parts can be welded into a single harmonious whole. In this the States must of course be brought in. They cannot be left out of the picture. Their co-operation is absolutely necessary. They must be persuaded to come in. Their accession to the Indian Union is only possible by their voluntary act. Threats will have no effect on them. We must adopt a more realistic and conciliatory attitude towards them. Goodwill is the vital force of a federation, necessary to its success. To ensure such success, we must win the enthusiastic support of the Princes. And this support is possible if we approach them in a broad and sympathetic spirit. We must make due allowance for their background of custom and

tradition and the legacies that they have received from the past. The synthesis of the divergent forces in the country can be achieved only by an appeal to the better instincts, a broader and gentler sense of human tolerance and a truer conception of patriotism. The creation of mass hysteria is the worst possible preparation for the evolution of a new India. Nothing can be done in an atmosphere of threats and counter-threats which might directly lead to chaos and confusion. The surest way to win over the Princes is to show them large-hearted friendliness, noble in conception and great in purpose.

And the Princes, on their part, have heavy duties laid on them. They must find out their rightful position in the new India. They must give up their outworn ideas. The times are changing fast and they must also change. Their passionate attachment to sovereignty and independence will do no good to them. Their isolation will pave the way of their destruction. They must understand the mighty forces that are shaping the destiny of the world. They must be willing to co-operate: they must join the Union*. It is now time for them to play an important part in shaping India's future. By their co-operation they can make India strong, happy and contented: by keeping away, they degrade their motherland in the eyes of the world. The day of deliverance is

*Read Lord Mountbatten's most instructive address to the Conference of Rulers and States' Representatives on 25th July 1947.

drawing near. We become a free people within a weak's time. It is now in our hands to use that freedom for better and nobler purposes. It is in our hands to make our future even more glorious than our past.

Let us come together and sing

Yet, Freedom, yet, thy banner torn but flying
Streams like the thunder-storm against the wind;
Thy trumpet voice, though broken now and dying,
The loudest still the tempest leaves behind.

—JAI HIND—

Published by
Mrs. M. S. Gokhale, B. A. (Hon.) B. T.
Publisher to
GOKHALE'S CLASSES PUBLICATIONS

Printed by
VAKIL BROTHERS PRINTING PRESS
Proprietor
Lalchand Nandalal Shih,
Ghee Kantha BARODA
4th August 1947

OUR FORTHCOMING PUBLICATIONS

BY S. M. GOKHALE, M. A.

*Has Congress Surrendered To The
Muslim League?*

WHAT IS WRONG WITH THE INDIAN NATIONAL CONGRESS ?
(A PLEA FOR REFORM)

BEWARE OF THE HINDUS

(Muslim League's Propaganda against the Hindus.)

INDIA DIVIDED

PROBLEMS OF PARTITION

PART ONE

A SCHEME FOR THE EXCHANGE OF POPULATIONS

SOME RESULTS OF THE WORKING OF THE
ATTACHMENT SCHEME

To be sure of your copy, register your order today
With

S. M. GOKHALE, M. A. Dandia Bazar, BARODA.