INDIAN POLITICAL PRACTICE

C. L. TUPPER

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INDIAN POLITICAL PRACTICE.

A

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DECISIONS OF THE GOVERNMENT OF INDIA

IN

POLITICAL CASES.

COMPILED BY

C. L. TUPPER,

INDIAN CIVIL SERVICE,

ON SPECIAL DUTY IN THE FOREIGN DEPARTMENT.

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CONTENTS.

CHAPTER VIII.

CESSIONS AND BOUNDARIES.

CHAPTER IX.

THE PRESERVATION OF NATIVE RULE.

APPENDIX A.

No. 43-A., dated Simla, the 30th April 1860.

From—His Excellency the Right Hon'ble the Governor-General of India,

To—Her Majesty's Secretary of State for India.

In accordance with the intention expressed in my despatch No. 16 of the 6th December last, I desire to bring to the notice of Her Majesty's Government the general subject of adoption, as affecting the succession to the Native States and Principalities of India.

2. I have, in the course of my recent march through Upper India, been forcibly struck by the want of some clear and well-understood rule of practice in our dealings with the Princes and Chiefs upon this subject.

3. It is not that the measures taken, under the orders of the late Court of Directors, in dealing with doubtful or lapsed successions, have not in many instances been liberal, and even generous; and certainly there is not, at the present moment, any disposition on the part of Native States to doubt the general good-will towards them of the paramount power. But there appears to be a haze of doubt and mistrust in the mind of each Chief as to the policy which the Government will apply to his own State in the event of his leaving no natural heir to his throne, and each seems to feel, not without reason, that in such case the ultimate fate of his country is uncertain.

4. It is to this alone that I can attribute the extraordinary satisfaction with which my assurance to Sindhia that the Government would see with pleasure his adoption of a successor if lineal heirs should fail him, and that it was the desire of the paramount power that his house should be perpetuated and flourish, was accepted by those attached to his Court,—to the extent that at Gwalior the news was received with rejoicing very like that which would have marked the birth of an heir. For there is not a State in India which has had stronger or more practical proofs of the wish of the British Government that its integrity should be maintained than Gwalior; from the time when, in 1826 and 1827, the then Maharaja was in his last illness perseveringly pressed by Lord Amherst to adopt an heir, and was assured that nothing could be further from the wish and intention of the Government than to exercise then or thereafter any intervention in the internal administration of his country, or to pretend to control the succession to his State, down to 1843, when the present Maharaja, then a child, was placed upon his throne, and confirmed in the possession of it by Lord Ellenborough in person.

To the same cause I ascribe the manifest pleasure of the Maharaja of Rewa when a like assurance was given to him. He said to me that his family had been in Rewa for eleven hundred years, and that my words had dispelled an ill wind that had long been blowing upon him. A son had lately been born to him; but if any Prince might reasonably expect his adoption of a successor to be respected without a special promise to that effect, it would be one who is bound to us by treaty, and who can show an unusually long and uninterrupted descent from an ancient Rajput stock, which for centuries has steadily held its own against all intrusion, whether by Muhammadans, Mahrattas, or Pindaris, as is the case with the Maharaja of Rewa.

5. I could adduce other instances, such as those of the Maharaja of Kashmir, the Maharaja of Patiala, and the Chiefs of the Cis-Sutlej country, in which the value attached to the announcement, and the eagerness to have it solemnly recorded, were strongly marked.

6. I believe that the chief cause of this feeling is the vagueness that has prevailed in our policy respecting adoptions. That policy has not only been incoherent, but even when an adoption has been admitted, there has often been long discussion in India and references to the Home Government before a final decision has been taken, thereby giving rise to doubts of our real desire to admit it.

7. But it is not only through what has passed between the Government of India and Native Courts that our hesitation and uncertainty have been made manifest to the latter. Within the last ten or twelve years the discussions between the Government of India and the Home Government, and the keen conflict of opinions between individuals of experience, and of the highest authority in India and in England upon this question of adoption, have been laid bare to all who have chosen to examine them. Since 1849 the official correspondence on not less than sixteen or seventeen cases of doubtful succession and of adoption have been printed by orders of Parliament. In these papers there is every variety of opinion as to the claims of Native States on the one hand, and as to the duty, rights, and policy of the British Government on the other.

And it must not be supposed that because these documents are published in Blue Books and in English, they are beyond the knowledge of Native Courts. They are, on the contrary, sought for and studied by those whose dearest prospect they so closely affect. It is not many months since I was informed by the Governor-General's Agent in Central India that a Native Court had received from England the Parliamentary papers on Dhar before they had reached my own hands.

8. A brief examination of the papers named in the margin will show how irreconcilably at variance with each other are the views which the highest authorities have taken of a subject which lies at the very root of the future existence of Native States.

Papers relative to the Raja of Satara, printed by order of the House of Commons, 1st March 1849.
Papers respecting the succession, by adoption, of Sovereign Princes in India, printed by order of the House of Commons, 15th February 1850.
Papers on the annexation of Jhansi, printed by order of the House of Commons, 27th July 1855.
Papers on the annexation of Karauli, printed by order of the House of Commons, 3rd August 1855.

9. There is disagreement even on the first fundamental point of all,—our own duty.

In one place it is urged that we are bound not to neglect rightful opportunities of acquiring territory or revenue by refusing to permit adoption in Independent States where there has been a total failure of all heirs; and that we should take these opportunities of consolidating our territories, and of getting rid of petty intervening principalities.

See Minutes of Lord Dalhousie on Satara, 30th August 1848, paragraphs 25-30, and on Karauli, 30th August 1852, paragraph 7.
See Minutes of Mr. Lowis on Karauli, 26th September 1852.
See Minutes of Mr. Willoughby on Satara, 14th May 1848.

In another place, and by other authority, it is contended that the absorption of small independent principalities which happen to be surrounded by our own territories will not always augment our power, but will be a source of weakness to ourselves without being a benefit to the people.

See Minute of Sir J. Littler on Satara, 5th September 1848.
See Dissent of Mr. Shepherd on Satara, 6th January 1849.
See Dissent of Mr. Tucker on Satara, 3rd January 1849.

10. Neither is there agreement on the subject of our own rights. On this head there arise, as might be expected, many complications from differences of origin of race, and of tradition amongst the various Native

States. Some are designated "Independent," as having maintained their existence under successive paramount dynasties and having suffered comparatively little interference in their internal affairs from any. Such are the Rajputana States, some of the Bundelkhand States, and others. Some are called "Dependent," as having been created or re-established by the Moghals, or the Peshwa, or ourselves, and as having been invested in some instances with authority short of sovereign authority. Such were Satara, Jhansi, Jalaun. Then there are disputed points arising out of race and usages—Whether in a Rajput State the widow of a Raja may adopt a son without having received her husband's permission? To what extent in a Rajput State the voice of the principal officers of the State is necessary to the recognition of the succession? Whether in a Bundela State the Chief may adopt a stranger to the exclusion of collaterals? Whether in Hindu States generally the senior widow of a Chief is allowed to adopt unreservedly, or is limited to a choice within certain degrees of affinity? These are points of nicety which probably it would be impossible to rule absolutely, and with satisfaction to all. But, putting aside for the present all small complications, there remain broad and important questions of right on our part upon which the very highest of our officers are at issue.

11. In one paper it is maintained to be beyond doubt that a Prince's adoption of any individual does not constitute the latter heir to the principality, or to Sovereign rights, until the adoption has received the sanction of the Sovereign power; and that this sanction may be withheld even from Independent States.

See Minute of Lord Dalhousie on Satara, paragraphs 8, 9, and 30.
See Minute of Mr. Willoughby on Satara, paragraph 10.

Elsewhere it is confidently laid down that Hindu Sovereign Princes on failure of heirs male of the body have a right to adopt to the exclusion of collateral heirs, and that the British Government is bound to acknowledge the adoption, provided that it be regular, and not in violation of Hindu law; and further, that even in the case of a fief or dependency, a legal adoption cannot be barred by the Government or Lord paramount.

See Minute of Lord Metcalfe, 28th October 1837.
See Minute of Lord Auckland on Orchha, 2nd January 1842, paragraph 4.
See Minute of Sir George Clerk on Satara, 12th April 1848, paragraphs 11 and 12.

12. It is impossible that the minds of Native Rulers and of their people should not be disquieted so long as such a question as this, bearing as it does upon every class of State, independent and dependent, is allowed to remain in doubt. For the doubt has been only partially resolved by the decision of the Court of Directors on the case at issue. The Court were "fully satisfied that by the general law and custom of India a dependent principality like that of Satara cannot pass to an adopted heir without the consent of the paramount power." But this decision extends only to dependent principalities and not even to these unreservedly; for all dependent principalities are not like that of Satara, which was created or resuscitated by the British Government upon conditions framed by that Government, and of which that Government might perhaps be assumed to be the rightful interpreter.

See despatch from the Court of Directors to the Government of India, 24th January 1849.

In another place the Court of Directors draw a marked distinction between the case of Satara, a State of recent origin and of our own creation, and that of Karauli, an old Rajput State which has existed from a time long anterior to our rule in India. But there is no admission that even in such a case as that of Karauli we are bound to recognise an adoption. It is rather implied that the question is one of expediency, and that even in that case there might have been grounds for taking the opportunity to substitute our own Government for that of a Native Ruler.

See despatch from the Court of Directors to the Government of India on Karauli, 26th January 1853.

13. Another point, upon which strong difference of opinion will be found in the papers referred to, and which has a most important bearing upon the claims of many Native States, is the meaning of the words "heirs and successors" in the several treaties and grants in which we find them used.

The instances in which the Government of India has bound itself by engagements or concessions to a Chief and "his heirs and successors," or "to his heirs for ever," without explanation of what is to constitute the right of succession or inheritance, are very numerous. The question arises whether the expression is to be interpreted according to our own sense, which would limit it to heirs and successors by blood, or to be extended to heirs and successors by adoption, when the adoption has taken place in accordance with Hindu Law, and with the custom of the other party to the engagement.

14. This question has never, so far as I know, received an authoritative answer. Perhaps the decision of the Court of Directors on the case of Satara may be regarded as having determined it against the admission of an adopted heir and successor where a dependent Chiefship is concerned; but this is not clear, for other considerations were mixed up in that case.

It is a question which is sure to recur. There are several of the Hill States, the possession of which was confirmed to their respective Chiefs by special grants after the Gurkha War of 1814, and in dealing with which a decision upon it may any day be called for, owing to the terms in which the grants are couched.

15. Whilst there has been so much doubt as to the duty and rights of our Government in India, there has not been less as to its policy.

16. Probably that view of our policy which would prescribe the retention in our hands of the power to disallow adoption, and thereby to secure to ourselves an accession of territory, could not be expressed in terms more moderate or less calculated to alarm Native States than those used by Lord Auckland, when, in reference to the Kolaba succession, he declared that we ought to "persevere in the one clear and direct course of abandoning no just and honourable accession of territory or revenue, while all existing claims of right are at the same time scrupulously respected."

But this declaration contains nothing re-assuring or clear to those who will be most affected by it. It has been shown that the opinions of the very highest authorities in India and in England—of those, in fact, with whom alone the decision of such matters rested—have differed widely as to what accessions of territory would be just, and as to what claims of right do exist, and do deserve our respect.

17. Nor does it appear possible to lay down these points with certainty by any declaration, however detailed and elaborate.

We profess indeed to be guided by the Hindu law, and by the practice of those who have preceded us as rulers in India. But as to what that practice has been we are not agreed amongst ourselves. If indeed we never referred to it, but for the purpose of avoiding carefully all new encroachments upon the liberties of Native States, and with the determination that our authority in questions of succession should be exercised with at least as much forbearance as was shown by the Muhammadans and the Mahrattas, a little uncertainty would be immaterial. We could easily make sure of erring only on the right side. But it has been appealed to in support of a pretension to withhold our assent to adoption even in the case of Independent States, thereby making the State a lapse to the British Government; and yet we have not shown, so far as I can find, a single instance in which adoption by a Sovereign Prince has been invalidated by a refusal of assent from the paramount power.

18. I venture to think that no such instance can be adduced, and that the practice which has prevailed is truly described by Sir Henry Lawrence, where he says:—"The confirmation of the Suzerain is necessary in all

See letter from Sir H. Lawrence on Karauli, 17th November 1853.

cases; he is the arbitrator of all contested adoptions; he can set aside one or other for informality, irregularity, or for misconduct; but it does not appear by the rules or practices of any of the Sovereignties, or by our own practice with the Istamrardars of Ajmere, that the paramount State can refuse confirmation to one or other claimant, and confiscate the State, however small."

I am aware that Sir Henry Lawrence, who, when this was written, was the Agent of the Governor-General in Rajputana, speaks only of that part of India. But although the strong brotherhood of the Rajput States, their geographical position, and other circumstances, caused their relations with the Emperors of Delhi to remain more clearly defined and less subject to capricious change than those with other feudatory States, I believe that there is no example of any Hindu State, whether in Rajputana or elsewhere, lapsing to the paramount power by reason of that power withholding its assent to an adoption.

19. It has been argued that the right to grant sanction implies the right to withhold it. This, however sound logically, is neither sound nor safe practically.

See Minutes of Mr. Reid and Lord Falkland on Satara, 25th April and 28th July 1848.

The histories of feudal Governments furnish abundant examples of long-established privileges habitually renewed as acts of grace from the paramount powers, but which those powers have never thought of refusing for purposes of their own, or upon their own judgment alone.

20. Then as regards our other rule of guidance, the Hindu law. It has been said by one who is well competent to speak on the subject that "it is hunting after a shadow to search for laws of inheritance to Chiefships in India, so fixed as the Government desires to obtain.

See letter of Sir George Clerk on the Chiefship of Baghat, 10th November 1842.

* * * * * * * *

"The Hindu law, which is so comprehensive regarding rights to private property, does not provide distinctly for Chiefships. It is not fair therefore to desire a claimant to support his pretensions by adducing fixed laws." And in the same letter it is observed, in reference to certain views of the right of succession amongst the Hill Chiefs, that "it is the inconsistency, caprice, and mutability of our opinions regarding all great principles that is the bane of our supremacy in India." I fear that as regards the matter now under consideration this is too true.

21. And now I would beg Her Majesty's Government to consider whether the time has not come when we may, with advantage to all, adopt and announce some rule in regard to succession in Native States more distinct than that which we have been seeking to derive from the sources above mentioned; not by setting aside the Hindu law, wherever that avails, and not by diminishing in the least degree the consideration which the feudatory States have experienced at the hands of former ruling dynasties, but, on the contrary, by increasing this consideration, and at the same time making our future practice plain and certain.

22. A time so opportune for the step can never occur again. The last vestiges of the Royal House of Delhi, from which for our own convenience we had long been content to accept a vicarious authority, have been swept away. The last pretender to the representation of the Peshwa has disappeared. The Crown of England stands forth the unquestioned ruler and paramount power in all India, and is for the first time brought face to face with its feudatories. There is a reality in the suzerainty of the Sovereign of England which has never existed before, and which is not only felt but eagerly acknowledged by the Chiefs. A great convulsion has been followed by such a manifestation of our strength as India had never seen, and if this in its turn be followed by an act of general and substantial grace to the Native Chiefs, over and above the special rewards which have already been given to those whose services deserve them, the measure will be seasonable and appreciated.

23. Such an act of grace, and, in my humble opinion, of sound policy, would be an assurance to every Chief above the rank of Jagirdar who now governs his own territory, no matter how small it may be, or where it may be situated, or whence his authority over it may, in the first instance, have been derived, that the paramount power desires to see his government perpetuated, and that on failure of natural heirs, his adoption of a successor, according to Hindu law (if he be a Hindu), and to the customs of his race will be recognized, and that nothing shall disturb the engagement thus made to him so long as his house is loyal to the Crown, and faithful to the conditions of the treaties, or grants, which record its obligations to the British Government.

24. The effect to be expected from this measure may be shortly described.

25. To the old Principalities of Rajputana it would be of no direct importance. These adoptions have been hitherto generally respected by all ruling powers, and if any class of Chiefs feels secure that we shall not question their claims to adopt successors, it is probably the Princes of Rajputana.

To the great houses of Sindhia, Holkar, Rewa, Patiala, and to other smaller ones, to whom the promise has already been made, it would be no new concession.

But to all other Chiefs, to the Gaekwar, and others in Western India, to those in Central India, in Bundelkhand, and in the Hill States, it would be a most welcome assurance.

26. It would re-assure them upon a matter on which they are specially sensitive—the continuance of the representation and dignity of their families.

It would remove a distinction already adverted to which has been drawn between independent and dependent States, founded (though I venture to think not quite correctly founded) upon Lord Metcalfe's Minute of 28th October 1837, and would do away with the difference of treatment between the independent Chiefs and the Chief of a State like Jalaun or Jhansi, who, although he and his forefathers may have exercised for more than a century the full functions of Government, is not considered entitled to adopt a successor because the Peshwa had recognised his ancestor only as a Subadar.

It would show at once, and for ever, that we are not lying in wait for opportunities of absorbing territory, and that we do deliberately desire to keep alive a feudal aristocracy where one still exists. It would establish this more conclusively, and bring it home to many more minds than the promises and declarations recently made in Darbar to the powerful Chiefs to whom we were under special obligations.

27. I have proposed that the assurance should be given to every Chief who now governs his own territory, and who holds a position higher than that of a Jagirdar.

This will mark a line which will be generally clear and intelligible, and it will accord with the one main distinction drawn by Lord Metcalfe between Chiefs who are, and Chiefs who are not, entitled to adopt.

Nevertheless, I think that some exceptions in favour of Jagirdars should be made. A jagir is usually an assignment of land or revenue in consideration of services, and not hereditary; or hereditary only for a generation or two. But, as Lord Metcalfe observes, there are in Bundelkhand Chiefs whom it is difficult to place in either of the classes which he describes, and it is clear that he alludes to some who are there called Jagirdars. In their

See DeCruz's Political Relations, page 89, *et seq.*

case the word means much more than in other parts of India. Their territories, and the administration thereof, have been granted to them and to their successors in perpetuity so long as certain obligations are observed, and the concession of the privilege of adoption to the most influential amongst them would have a beneficial effect not only in that disjointed Province, which whatever may be our desire, and however stringently we might enforce lapses, we could not hope to consolidate under our own administration for many generations to come, but throughout India.*

* These Jagirdars resemble those of whom Sir John Malcolm wrote as follows:—
"Adoptions which are universally recognized as legal among Hindus are not a strict right (any more than direct heirs) where grants of land are for service... "But we have received the submission of the Jagirdars, confirmed their estates, honoured them, and have continued to do so by treating them as princes; but while a few have been permitted to adopt, others are denied the privilege; and while we declare their direct heirs are entitled to succeed, we lie in wait (I can call it nothing else) to seize their fine estates, or on failure of heirs throwing them and their adherents and the country into a state of doubt and distraction. These families should either never have been placed in possession of these countries, or never have been removed from them."—*Life and Correspondence of Sir John Malcolm*, November 14, 1829.

In these last mentioned cases it would be expedient to require a nazarana whenever adoption took effect. From a fourth to a third of a year's revenue would, I think, be a fitting amount.

28. The case of the Muhammadan Chiefs remains to be considered. Adoption, in the full sense in which it is exercised by Hindu Chiefs, they cannot claim. But adoption of one collateral in preference to another of closer affinity has been allowed to them where lineal heirs have failed; and it seems that it is also in accordance with Muhammadan law and usage that the Sovereign should select from among his sons the one whom he may desire to succeed to him. The King of Delhi exercised this right shortly before his rebellion.

See papers on Bhopal succession, 18, 19, and 20.

To the Muhammadan Chiefs, then, the assurance to be given would be that the paramount power desires to see their governments perpetuated, and that any succession to them which may be legitimate according to Muhammadan law will be upheld.

29. I recommend that in every case, Muhammadan or Hindu, the assurance should be conveyed to each Chief individually, and not by a general notification addressed to all. This would be necessary in order to avoid future claims from petty Jagirdars or others whom it is not intended to include in the measure.

See Minute of Lord Metcalfe, 28th October 1837, paragraph 6.

30. The proposed measure will not debar the Government of India from stepping in to set right such serious abuses in a Native Government as may threaten any part of the country with anarchy or disturbance, nor from assuming temporary charge of a Native State when there shall be sufficient reason to do so. This has long been our practice. We have repeatedly exercised the power with the assent, and sometimes at the desire, of the chief authority in the State, and it is one which, used with good judgment and moderation, it is very desirable that we should retain. It will indeed, when once the proposed assurance shall have been given, be more easy than heretofore to exercise it without provoking jealousy of any designs upon the independence of the State.

31. Neither will the assurance, if worded as proposed, diminish our right to visit a State with the heaviest penalties, even to confiscation, in the event of disloyalty or flagrant breach of engagement.

Upon this point I beg to refer to the following passages in papers by Sir George Clerk:—

"We should look for escheats, not from such a source as the doubtful meaning of the stipulation of an agreement, but from the incorrigible misconduct of allies when thrown back, as they should be, on the responsibilities of the Sovereign rights relinquished to them, rendering punishment in such cases signal and salutary, by abstaining from half measures, such as largely, pensioning or managing for the delinquent, or substituting his child, wife, or minister."

See Minute on Satara, 12th April 1848, paragraph 26.

And again—

The proper punishment for the paramount State to inflict for gross "mismanagement and oppression, such as prevails to a considerable extent in these Hills, would be sequestration of the Chieftaincies; but this would not be fair until we had revived their interest in their ancestral territories, by manifesting the same respect for their rights, founded on a possession of many centuries, as is entertained by the people in general. Could we inspire them with confidence in our general disinterestedness, our severity, when called for, would be rightly and beneficially understood; and, for the most part, that confidence would correct the motives to neglectful or tyrannical conduct requiring punishment."

See letter on the Chiefship of Baghat, 10th November 1842.

I consider these views to be sound, not only in the cases to which they refer, but in those of Native States generally; and I would apply them generally with this single limitation,—that the penalty of sequestration or confiscation should be used only when the misconduct or oppression is such as to be not only heinous in itself, but of a nature to constitute indisputably a breach of loyalty or of recorded engagement to the paramount power.

32. It is certain that objection to the proposed measure will be taken, on the ground that it will cut off future opportunities of accession of territory, and that it is our duty not to forego these. I regard this, not as an objection, but as a recommendation; and I cannot take that view of our duty.

33. Notwithstanding the greater purity and enlightenment of our administration, its higher tone, and its surer promise of future benefit to the people as compared with any Native Government, I still think that we have before us a higher and more pressing duty than that of extending our direct rule; and that our first care should be to strengthen that rule within its present limits, and to secure for our general supremacy the contented acquiescence and respect of all who are subjected to it.

Our supremacy will never be heartily accepted and respected so long as we leave ourselves open to the doubts which are now felt, and which our uncertain policy has justified, as to our ultimate intentions towards Native States.

We shall not become stronger so long as we continue adding to our territory without adding to our European force; and the additions to that force, which we already require, are probably as large as England can conveniently furnish, and they will certainly cost as much as India can conveniently pay.

As to Civil Government, our English officers are too few for the work which they have on their hands, and our financial means are not yet equal to the demands upon us. Accession of territory will not make it easier to discharge our already existing duties in the administration of justice, the prosecution of public works, and in many other ways.

34. The safety of our rule is increased, not diminished, by the maintenance of Native Chiefs well affected to us. Setting aside the well-known services rendered by Sindhia, and, subsequently, by the Maharajas of Rewa, Charkhari, and others, over the wide tract of Central India, where our authority is most broken in upon by Native States, I venture to say that there is no man who remembers the condition of Upper India in 1857 and 1858, and who is not thankful that in the centre of the large and compact British province of Rohilkhand there remained the solitary little State of Rampur still administered by its own Muhammadan Prince; and that on the borders of the Punjab, and of the districts above Delhi the Chief of Patiala and his kinsmen still retained their hereditary authority unimpaired.

In the time of which I speak these patches of Native Governments served as breakwaters to the storm which would otherwise have swept over us in one great wave. And in quiet times they have their uses: restless men who will accept no profession but arms; crafty intriguers, bred up in Native Courts, and others who would chafe at our stricter and more formal rule, live there contentedly, and should the day come when India shall be threatened by an external enemy, or when the interests of England elsewhere may require that her Eastern Empire shall incur more than ordinary risk, one of our best mainstays will be found in these Native States. But to make them so, we must treat their Chiefs and influential families with consideration and generosity, teaching them that, in spite of all suspicions to the contrary, their independence is safe, that we are not waiting for plausible opportunities to convert their country into British territory, and convincing them that they have nothing to gain by helping to displace us in favour of any new rulers from within or from without.

35. It was long ago said by Sir John Malcolm that if we made all India into zilas, it was not in the nature of things that our Empire should last fifty years; but that if we could keep up a number of Native States without political power, but as royal instruments, we should exist in India as long as our naval superiority in Europe was maintained.

Of the substantial truth of this opinion I have no doubt, and recent events have made it more deserving of our attention than ever.

No. 46, dated Kurnaul, the 10th May 1860.

From—His Excellency the Right Hon'ble the Governor-General of India,
To—Her Majesty's Secretary of State for India.

In my despatch No. 42 of the 26th ultimo respecting the Chiefship of Baghat, I referred to another despatch on the subject of the Hill States generally as having been addressed to you. I regret that I was not able to send the last-mentioned despatch by the same mail with that which referred to it. I now repair the omission.

2. I beg to call your attention to the enclosed memorandum upon the Hill States which Mr. Barnes, the Commissioner of the Cis-Sutlej Division, has drawn up. It describes, he said, concisely, but very clearly, the position in which the Hill Chiefs stand towards the British Government, and it presents (as I venture to think) very strong reasons for adopting the course which I have pressed upon you in a despatch of the 30th ultimo of declaring to the Hill Chiefs, as to others, that failing lineal heirs, or heirs of their own blood, their adoption of successors to their Chiefships will be recognised.

3. The Commissioner has suggested this and another alternative course by either of which confidence might be given to the Chiefs and consistency and greater liberality secured in our treatment of cases of succession and lapse.

The alternative is that investigation should be made of the pedigree of each Chief's family for 150 years back, and that all descendants of the ancestor of that date should be admitted as eligible to the succession. Also that the former grants from the British Government, mostly of the date of 1815, should be recalled, and that they should be renewed in this more liberal spirit.

4. I am of opinion that the concession of adoption is by far the preferable measure. It avoids tedious investigations, some of which might prove of uncertain result, and the purpose of which might not be understood; and it is more thoroughly in accordance with the traditions and feelings of the Rajput families. Whichever course be chosen I would not recall the grants of 1815. This process is not necessary, and is better omitted, even though the object be to make the terms of the grants more favourable to the holders of them.

5. A perusal of the papers relating to Umed Singh's case may perhaps suggest two objections to giving to the Hill Chiefs a more lasting tenure of their States—the mismanagement and oppression which, according to Sir George Clerk's testimony in 1842, then prevailed in the hills; and the value to the British Government of retaining to itself the lapse of lands suited to tea plantations and other purposes of improvement.

6. Upon the first head I would observe that in Sir George Clerk's view the greater respect which it is proposed to show to the old rights of the Chiefs will leave us quite as well able as we are now to punish and correct mismanagement and oppression by temporary sequestration, and that the instances of oppression are not so frequent or serious as they used to be. This may be due, in part, to a closer watch kept upon the Chiefs of late years; but I believe that it is mainly to be attributed to the fact that the people are able to migrate, without restraint, from the territory of one Hill Chief to another, each of whom is glad enough to receive upon his lands refugees from his neighbour's State, and none daring to resent the reception, as would have been done before our rule became paramount in these hills. Each Chief, therefore, for his own interest, refrains from oppression.

7. In some of the States the value of the ground for tea culture is indisputable; but until other roads than the one great Tibet road are carried through the hills the lands suitable for European settlers will continue to be very limited; and although it might be a convenience to us that some of these lands should fall into our hands, it is certain that the direct government of at least one-half of the Hill States would be a dead weight and a loss to us. The British Government cannot wisely desire to have cast upon it the responsibility of administering by its own officers States so far remote in the mountains and so little productive or politically important as Bashahr, Kumharsain, Mangal, Baghal, and others; and if we pursue the course of annexing those which lie conveniently, as we have done in the case of Bughat, and of allowing collateral succession in those which it does not suit us to take, as we have done in the case of Kumhar ain, we must not be surprised if our policy fails to be understood, or respected.

No. 59-P., dated India Office, London, the 20th July 1860.

From—Her Majesty's Secretary of State for India,
To—His Excellency the Right Hon'ble the Governor-General of India in Council.

In several recent communications Your Excellency has informed me that, during your Viceregal progress through Central and Upper India, you availed yourself of every opportunity that presented itself to you for a formal declaration in darbar that the British Government desired to perpetuate, in undiminished power and prosperity, the houses of those Native Princes and Chiefs who throughout the recent period of trouble and disaster had been true to their allegiance to the paramount State. To the Maharajas Sindhia and Holkar, to the Maharaja of Rewa, to the Maharaja of Kashmir, to the great Chiefs of the Cis-Sutlej States, and to others of less note, you publicly conveyed the gratifying assurance that, in the event of failure of direct heirs, the British Government would recognise, as Chiefs of their several houses, the heirs adopted by them in accordance with the law and with the usages of their respective families.

2. These measures have already received the approbation of Her Majesty's Government. But gratifying as they were to the Princes and Chiefs who were thus assured of the continuance of their houses, it was not improbable that they would be regarded by the native community at large as special acts of grace, in consideration of good service rendered to the paramount State, and that some feelings of doubt and disquietude might be excited in the minds of those to whom the same assurances had not been conveyed. Your Excellency therefore lost no time in placing upon record and laying before Her Majesty's Government the sentiments which you entertain with respect to the propriety of a more general measure of recognition, calculated to give renewed confidence to all the Princes and Chiefs of India, whose minds had been unsettled by some recent decisions of the British Government.

3. The sentiments I have now before me in Your Excellency's letters No. 43-A. of the 30th of April, and No. 46 of the 10th of May, and I have the gratification to inform you that I am commanded to communicate to you Her Majesty's approval of the principles which they enforce, and the recommendations which they contain.

4. Observing that such an opportunity as the present can never occur again for the final settlement of a question which has long excited continual conflicts of opinion and some inconsistencies of practice disturbing to the native mind, Your Excellency now proposes to give to "every Chief above the rank of jagirdar, who now governs his own territory, no matter how small it may be, or where it may be situated, or whence his authority over it may, in the first instance, have been derived, assurance that the paramount power desires to see his government perpetuated, and that on failure of natural heirs, his adoption of a successor, according to Hindu law (if he be a Hindu), and to the customs of his race, will be recognized, and that nothing shall disturb the engagement thus made to him, so long as his house is loyal to the Crown, and faithful to the conditions of the treaties which record its obligations to the British Government."

5. To the Muhammadan Chiefs, the assurance to be given would, according to your recommendation, be that the paramount power desires their governments to be perpetuated, and that any succession to them, which may be legitimate according to Muhammadan law, will be upheld.

6. Presuming that in this latter case the recommendations of Your Excellency relate only to instances in which there is a failure of direct heirs, and do not contemplate any departure from the policy of recognising the claims of primogeniture, Her Majesty's Government approve the views thus expressed. They concur also in opinion with Your Excellency that no general notification of the intentions of your Government should be issued, but that in each case the assurance should be conveyed to the individual Chiefs in whose favour you purpose to guarantee the privilege in question. You will carefully register the names of these Chiefs, and forward me a roll of them as soon as it can be prepared.

7. With respect to the case of the jagirdars and others of a similar character, of whose position Your Excellency writes in the 27th paragraph of your letter, I am disposed to think that, except in very special cases, no assurance should be given. The distinction between territorial rights of ancient date and independent tenure, and lands held by favour of the Government of the day as rewards for good service, and generally granted only for a limited number of generations, is broad and intelligible. You will reserve to the paramount State the right of dealing with such cases as they arise, and that your recommendations will be framed in a liberal spirit is the wish, as it is the conviction, of Her Majesty's Government.

8. In the sentiments expressed in the concluding paragraphs of Your Excellency's letter of the 30th of April I entirely concur. It is not by the extension of our Empire that its permanence is to be secured, but by the character of British rule in the territories already committed to our care, and by practically demonstrating that we are as willing to respect the rights of others as we are capable of maintaining our own.

Paragraphs 32 to 35.

APPENDIX B.

INSTRUMENT OF TRANSFER—1881.

Whereas the British Government has now been for a long period in possession of the territories of Mysore and has introduced into the said territories an improved system of administration : And whereas, on the death of the late Maharaja, the said Government, being desirous that the said territories should be administered by an Indian dynasty under such restrictions and conditions as might be necessary for ensuring the maintenance of the system of administration so introduced, declared that if Maharaja Chamrajendra Wadiar Bahadur, the adopted son of the late Maharaja, should, on attaining the age of eighteen years, be found qualified for the position of ruler of the said territories, the government thereof should be intrusted to him, subject to such conditions and restrictions as might be thereafter determined: And whereas the said Maharaja Chamrajendra Wadiar Bahadur has now attained the said age of eighteen years and appears to the British Government qualified for the position aforesaid, and is about to be intrusted with the government of the said territories: And whereas it is expedient to grant to the said Maharaja Chamrajendra Wadiar Bahadur a written Instrument defining the conditions subject to which he will be so intrusted: It is hereby declared as follows:—

1. The Maharaja Chamrajendra Wadiar Bahadur shall, on the twenty-fifth day of March 1881, be placed in possession of the territories of Mysore, and installed in the administration thereof.

2. The said Maharaja Chamrajendra Wadiar Bahadur and those who succeed him in manner hereinafter provided shall be entitled to hold possession of, and administer, the said territories as long as he and they fulfil the conditions hereinafter prescribed.

3. The succession to the administration of the said territories shall devolve upon the lineal descendants of the said Maharaja Chamrajendra Wadiar Bahadur, whether by blood or adoption, according to the rules and usages of his family, except in case of disqualification through manifest unfitness to rule:

Provided that no succession shall be valid until it has been recognized by the Governor-General in Council.

In the event of a failure of lineal descendants, by blood and adoption, of the said Maharaja Chamrajendra Wadiar Bahadur, it shall be within the discretion of the Governor-General in Council to select as a successor any member of any collateral branch of the family whom he thinks fit.

4. The Maharaja Chamrajendra Wadiar Bahadur and his successors (hereinafter called the Maharaja of Mysore) shall at all times remain faithful in allegiance and subordination to Her Majesty the Queen of Great Britain and Ireland and Empress of India, Her Heirs and Successors, and perform all the duties which in virtue of such allegiance and subordination may be demanded of them.

5. The British Government having undertaken to defend and protect the said territories against all external enemies, and to relieve the Maharaja of Mysore of the obligation to keep troops ready to serve with the British army when required, there shall, in consideration of such undertaking, be paid from the revenues of the said territories to the British Government an annual sum of Government rupees thirty-five lakhs in two half-yearly instalments, commencing from the said twenty-fifth day of March 1881.

6. From the date of the Maharaja's taking possession of the territories of Mysore, the British sovereignty in the island of Seringapatam shall cease and determine, and the said island shall become part of the said territories, and be held by the Maharaja upon the same conditions as those subject to which he holds the rest of the said territories.

7. The Maharaja of Mysore shall not, without the previous sanction of the Governor-General in Council, build any new fortresses or strongholds, or repair the defences of any existing fortresses or strongholds in the said territories.

8. The Maharaja of Mysore shall not, without the permission of the Governor-General in Council, import, or permit to be imported, into the said territories, arms, ammunition or military stores, and shall prohibit the manufacture of arms, ammunition and military stores throughout the said territories, or at any specified place therein, whenever required by the Governor-General in Council to do so.

9. The Maharaja of Mysore shall not object to the maintenance or establishment of British cantonments in the said territories whenever and wherever the Governor-General in Council may consider such cantonments necessary. He shall grant free of all charge such land as may be required for such cantonments, and shall renounce all jurisdiction within the lands so granted. He shall carry out in the lands adjoining British cantonments in the said territories such sanitary measures as the Governor-General in Council may declare to be necessary. He shall give every facility for the provision of supplies and articles required for the troops in such cantonments, and on goods imported or purchased for that purpose no duties or taxes of any kind shall be levied without the assent of the British Government.

10. The military force employed in the Mysore State for the maintenance of internal order and the Maharaja's personal dignity, and for any other purposes approved by the Governor-General in Council, shall not exceed the strength which the Governor-General in Council may, from time to time, fix. The directions of the Governor-General in Council in respect to the enlistment, organisation, equipment and drill of troops shall at all times be complied with.

11. The Maharaja of Mysore shall abstain from interference in the affairs of any other State or Power, and shall have no communication or correspondence with any other State or Power, or the Agents or Officers of any other State or Power, except with the previous sanction and through the medium of the Governor-General in Council.

12. The Maharaja of Mysore shall not employ in his service any person not a native of India without the previous sanction of the Governor-General in Council, and shall, on being so required by the Governor-General in Council, dismiss from his service any person so employed.

13. The coins of the Government of India shall be a legal tender in the said territories in the cases in which payment made in such coins would, under the law for the time being in force, be a legal tender in British India; and all laws and rules for the time being applicable to coins current in British India shall apply to coins current in the said territories. The separate coinage of the Mysore State, which has long been discontinued, shall not be revived.

14. The Maharaja of Mysore shall grant free of all charge such land as may be required for the construction and working of lines of telegraph in the said territories wherever the Governor-General in Council may require such land, and shall do his utmost to facilitate the construction and working of such lines. All lines of telegraph in the said territories, whether constructed and maintained at the expense of the British Government or out of the revenues of the said territories, shall form part of the British telegraph system and shall,

save in cases to be specially excepted, by agreement between the British Government and the Maharaja of Mysore, be worked by the British Telegraph Department; and all laws and rules for the time being in force in British India in respect to telegraphs shall apply to such lines of telegraph when so worked.

15. If the British Government at any time desires to construct or work, by itself or otherwise, a railway in the said territories, the Maharaja of Mysore shall grant free of all charge such lands as may be required for that purpose, and shall transfer to the Governor-General in Council plenary jurisdiction within such land; and no duty or tax whatever shall be levied on through traffic carried by such railway which may not break bulk in the said territories.

16. The Maharaja of Mysore shall cause to be arrested and surrendered to the proper officers of the British Government any person within the said territories accused of having committed an offence in British India, for whose arrest and surrender a demand may be made by the British Resident in Mysore, or some other officer authorised by him in this behalf; and he shall afford every assistance for the trial of such persons by causing the attendance of witnesses required, and by such other means as may be necessary.

17. Plenary criminal jurisdiction over European British subjects in the said territories shall continue to be vested in the Governor-General in Council, and the Maharaja of Mysore shall exercise only such jurisdiction in respect to European British subjects as may from time to time be delegated to him by the Governor-General in Council.

18. The Maharaja of Mysore shall comply with the wishes of the Governor-General in Council in the matter of prohibiting or limiting the manufacture of salt and opium, and the cultivation of poppy, in Mysore; also in the matter of giving effect to all such regulations as may be considered proper in respect to the export and import of salt, opium and poppy-heads.

19. All laws in force and rules having the force of law in the said territories when the Maharaja Chamrajendra Wadiar Bahadur is placed in possession thereof, as shown in the Schedule hereto annexed, shall be maintained and efficiently administered, and, except with the previous consent of the Governor-General in Council, the Maharaja of Mysore shall not repeal or modify such laws, or pass any laws or rules inconsistent therewith.

20. No material change in the system of administration, as established when the Maharaja Chamrajendra Wadiar Bahadur is placed in possession of the territories, shall be made without the consent of the Governor-General in Council.

21. All title-deeds granted and all settlements of land-revenue made during the administration of the said territories by the British Government, and in force on the said twenty-fifth day of March 1881, shall be maintained in accordance with the respective terms thereof, except in so far as they may be rescinded or modified either by a competent Court of Law, or with the consent of the Governor-General in Council.

22. The Maharaja of Mysore shall at all times conform to such advice as the Governor-General in Council may offer him with a view to the management of his finances, the settlement and collection of his revenues, the imposition of taxes, the administration of justice, the extension of commerce, the encouragement of trade, agriculture and industry, and any other objects connected with the advancement of His Highness's interests, the happiness of his subjects, and his relations to the British Government.

23. In the event of the breach or non-observance by the Maharaja of Mysore of any of the foregoing conditions, the Governor-General in Council may resume possession of the said territories and assume the direct administration thereof, or make such other arrangements as he may think necessary to provide adequately for the good government of the people of Mysore, or for the security of British rights and interests within the province.

24. This document shall supersede all other documents by which the position of the British Government with reference to the said territories has been formally recorded. And if any question arise as to whether any of the above conditions has been faithfully performed, or as to whether any person is entitled to succeed, or is fit to succeed to the administration of the said territories, the decision thereon of the Governor-General in Council shall be final.

FORT WILLIAM;
The 1st March 1881.

(*Signed*) RIPON.

APPENDIX C.

MEDIATISED CHIEFS OF CENTRAL INDIA.

(No. 362-A., dated Fort William, the 31st March 1864.)

From—Colonel H. M. Durand, C.B., Secretary to Government of India, Foreign Department,
To—The Agent, Governor-General, Central India.

In the two letters noted on the margin you have submitted for orders two very important questions, one general, the other special. The general question is the degree and conditions of the interference to be exercised respectively by the British Government and the Native States of Central India and Malwa in questions of succession to lands or *tankhás* held by the subordinate feudatory Thákurs of these States, the claims to which were settled by the mediation of the British Government in 1818, and the possession of which was guaranteed by the British Government on specified conditions. The special question, the answer to which will depend on the decision given on the general question, is whether or not the guarantee given in 1818 to the Thákur of Kachi-Baroda, a feudatory of Dhar, ceased on the death of the Thákur in 1856 without heirs.

From Agent, Governor-General, Central India, No. 7-11-E., dated 31st December 1863.
From Agent, Governor-General, Central India, No. 11-20-E., dated 14th January 1864.

2. The policy pursued by the British Government on the occupation of Malwa in 1818 was to declare the permanency of the rights existing at the time of the British occupancy on condition of the maintenance of order; to adjust and guarantee the relations of such States as owed mere fealty or tribute, so as to deprive the stronger powers of all pretext for interference in their affairs; and to induce the plundering leaders to betake themselves to peaceful pursuits either by requiring their feudal superiors to grant them lands under the British guarantee, or by guaranteeing to them payments equivalent to the *tankhás* which they levied. There were two main reasons for this policy.—1*st*, the absolute necessity for the interference of a stronger than any of the native powers for the pacification of the country; and, 2*nd*, the expediency of weakening the Mahratta powers against whom we had been engaged in a contest for empire, and who were still formidable, by having a belt of Rajput Chiefs and Girasias owing the security of their estates and the comparative independence of their *status* to the intervention of the British Government.

3. The measures adopted in 1818 not only restored peace and order in Eastern and Western Malwa at the time, and favoured its maintenance for the future, but from the jealousy and antipathy which had place, and still exists, between the Muhammadan and Rajput Chiefs on the one hand and the Mahrattas on the other, the chain of mediatised Chiefs thus drawn across Malwa broke the continuity of Mahratta influence, extending from the Jumna to the border of the Nizam's country and to the south of the Bombay Presidency. Parallel to the Nerbudda, and chiefly on the plateau of Malwa, it spread a line along which British and not Mahratta influence predominated. The wisdom of this measure was so palpable, and the State of Malwa was under its operation on the whole so satisfactory, that for long there was but rare departure from the far-sighted policy of 1818. But in later times this policy has been occasionally lost sight of, and it is with the view of ensuring a uniform and consistent policy and practice on the part of the officers of the Central India Agency in dealing with questions which arise regarding the position and rights of the mediatised Chiefs that you have made the present reference.

4. In the opinion of His Excellency in Council there cannot be a better time for the authoritative settlement of the subject than the present. The rewards and honours lately conferred on the greater Chiefs have increased their dignity and importance and somewhat obscured the political value of the minor Chiefs. Yet it would be a very unjust and short-sighted policy to neglect their rights—rights enjoyed for six-and-forty years, and only the more deeply cherished for the encouragement temporarily given to the "unquestionable tendency on the part of the feudal Chiefs to get rid of altogether, or to break through the spirit of these settlements." As an instance, the protracted conflict between the late Gagroni* Chief and Holkar is an example how tenaciously such petty mediatised Chiefs cling to the guarantee of the British Government, and what they will endure rather than forego their rights on this point, even where their title is in some degree dubious.

* From Agent, Central India, dated 16th April 1862, No. 17.
From Agent, Central India, dated 25th April 1862, No. 22.
From Agent, Central India, dated 28th April 1862, No. 23.
From Agent, Central India, dated 1st April 1862, No. 10.
To Agent, Central India, dated 28th May 1862, No. 518.

5. His Excellency in Council observes that, although there is very great diversity in the tenures of the guaranteed Chiefs, they may all be divided into two great classes—those Chiefs in the administration of whose affairs the interference of the feudal superior is excluded by the express terms of the guarantee, and those Chiefs whose *sanads* contain no such stipulation.

The general question you have raised with reference to the first class, of which class you take the Raja of Ratlam as an examplar, is—

> I.—Whether any interference in successions, direct or by adoption, is, under any circumstances, to be permitted on the part of the Suzerain or feudal Chief, or if the decisions regarding successions in such cases wholly and solely rest with the British Government.

6. His Excellency in Council has no hesitation in affirming that in questions of successions to such Chiefships the decision rests solely and entirely with the British Government. Many instances might be adduced in illustration of the action of the British Government in such cases, but His Excellency in Council will confine himself to the example you have yourself quoted, that of Ratlam, as it embraces instances both of direct succession and of succession by adoption.

The Raja of Ratlam is the principal of the petty Rajput Chiefs in Western Malwa, and is descended from a younger branch of the Jodhpur family; he is tributary to Sindhia† under an engagement mediated by Sir John Malcolm in 1819 with Parbat Singh, the then Raja. Since 1819 there have been only three successions. Parbat Singh, with whom the original settlement was made, died in 1824: he had no children, and, as disturbances had been foreseen in the event of death without proper arrangements for the succession, efforts had been made some years before to settle the question; accordingly, in 1821, Sir John Malcolm recommended‡ that Balwant Singh, a cousin of the Chief of Salumbar, whom Parbat Singh had selected to succeed him, should be recognised; this was sanctioned on 1st September 1821 without any reference whatever to Sindhia.

† The tribute is now paid to the British Government under the Treaty with Sindhia of 12th December 1860; but this fact does not affect the argument in the present case.

‡ Letter, dated 31st July 1821.

Balwant Singh died on 29th August 1857: during his last illness he adopted Bhairon Singh as his successor. The succession of Bhairon Singh was sanctioned by the Government of India on 30th November 1857*: a *khilat* was conferred on him and a Council of Regency was appointed during his minority. All this was carried out without reference to Sindhia further than an intimation to him of what had been done.

* To Officiating Agent, Governor-General, Central India, dated 30th November 1857, No. 4909.

And now Bhairon Singh is dead; he died on 27th January last, and Government has again, without reference to Sindhia, recognised the succession of his son, Ranjit Singh, a child three years old, and has deputed an officer to superintend the administration for the present.

7. The fact is that where the interference of the feudal superior is barred by the provisions of the guarantee there has never been a question of the right of the British Government to decide regarding successions. To have ruled otherwise would have been practically to render nugatory the stipulations of such guarantees and to place such Chiefships at the mercy of their feudal superiors. There can be no hesitation in adhering to the practice of close on half a century, and in maintaining the rights and interests of the first class of guaranteed Chiefs by subjecting them to no other interference in questions of succession than that which it is the sole prerogative of the British Government to exercise.

8. With regard to the other class of cases in which the tenures, whether of land or money payments, are guaranteed by the British Government, but in which the *sanads* do not by express terms exclude the interference of the immediate Suzerain, you ask instructions on the following points:—

II.—Whether *direct* successions are in any degree dependent on the pleasure of the Chief, or if, being approved and sanctioned by the British Government, they have effect, as a matter of course, without reference to the Chief, the original guarantee or mediation continuing in full force.

III.—Whether, in the absence of direct heirs, *i.e.*, male issue of the actual holder, an adoption being made by the petty Chief or Thákur during his life-time, it is optional to the feudal Chief, with the object of forcing an escheat, to refuse his consent to such adoption or to any other arrangements proposed by the holder of the estate for the succession on his demise; and whether any such adoption, if sanctioned by the feudal superior, is to be considered as further subject to the concurrence or confirmation of the British Government, the terms of the original mediation in all such cases continuing in full force.

IV.—Whether, in the event of the demise without heirs, direct or adopted, it is optional to the feudal Chief to refuse to admit the claims to the succession of any of the natural heirs (*i.e.*, by blood) of the deceased, whom the widow, with the concurrence of the family or clan, might desire to adopt with that object, or, in the absence of all such natural heirs, of any other person who might be similarly selected for the purpose; or if, in such case, the feudal Chief is at liberty to resume the estate, the interference of the British Government in its affairs, under the guarantee, thenceforth ceasing.

9. These questions involve a higher one, namely, whether the guarantee given by the British Government ends with the life of the party with whom the engagement was made, or continues to his heirs, direct or by adoption. Rarely in any of the engagements is there an express stipulation on this point, but the decisions which Government has given from time to time are in favour of the continuance of the guarantee. The expediency of these guarantees was originally based on broader principles than the mere regard to personal and individual influences. The guarantees formed part of a general policy for the permanent pacification of the country, and not only for the restoration, but also for the maintenance, of order throughout Eastern and Western Malwa. If, at the same time that these objects have been secured, the means by which they were obtained could be dispensed with, it might be a question whether there would not be some advantage in gradually freeing the British Government from such petty guarantees: but no one pretends that this is the case; on the contrary, every Political Officer avers that, viewed as an instrument for the continuance of good order, the system is not obsolete, and that to attempt to do away with it would result in the Girasias and *tankhá*-receivers reverting to their old habits. Among others Major Keatinge, when procuring the sanction of Government to the continuance of the pension or *tankhá* to Umed Singh and Bahadur Singh of Silani Bakhtgarh,† said:—"These persons are fairly entitled to it by the custom of the country, and besides, it is very bad policy at this period (1858) to disturb existing arrangements with a family of such notedly troublesome character as that of Silani. You are aware that before Sir J. Malcolm's arrangements they harassed the country from Ujjain to the Tapti, and at this time their jungle retreats are quite as strong as they were in 1820, when the agreement was drawn up." The circumstances of this family as to the facilities which strong and difficult jungle retreats afford for a return to predatory habits are by no means singular, as any one acquainted with Central India and its mediatised Chiefs must admit. Viewed as a means to a desirable end, the expediency of the guarantees still, therefore, holds good. Independently, however, of this normal consideration, it is impossible that a prescription of six-and-forty years should be summarily put aside; the prescriptive rights established by such a protracted period cannot be either safely or equitably ignored.

† From Agent, Governor-General, Central India, dated 8th June 1858, No. 245.
To Agent, Governor General, Central India, dated 24th July 1858, No. 2323.

These two main considerations, namely, the existing expediency of the guarantee system and the rights established by close on half a century of prescription, sufficiently dispose of the question whether, failing express stipulation on the point, the British guarantees terminate with the life of the party in whose favour it was made or continue to his heirs; and these arguments, drawn from the reason of the case, are confirmed by what has been the practice of the British Government since 1818, in illustration of which I am to quote the cases of the Dhabla Dhir and Kamalpur Chiefships.

Dhabla Dhir.—Sobhag Singh received in 1818 a grant of three villages on a quit-rent of Rs. 1,401 in the district of Shujawalpur, which then belonged to the British Government. He was also one of the Girasia Chiefs with whom Major Henley mediated settlements‡ which secured to him the following *tankhás*, for each of which he held a separate *sanad*:—

‡ See Malcolm's Report on Malwa, No. 12 of Schedule No. II and No. 29 of Schedule No. III.

	Rs.
From Sindhia	2,950
„ Holkar	600
„ Dewas	100
„ Bhopal	600
TOTAL	4,250

If 1831 Shujawalpur was made over to Sindhia in exchange for the Parganas of Deori, Gaurjhawar, Chawarpatha, Jhindukhera, and Nahirmao; and Sobhag Singh thus became Sindhia's subject. He died on 17th

November 1855, having previously expressed a desire to adopt his nephew, Rughunath Singh, but without taking any steps to carry out his intention; the widow, however, proposed to adopt Mahtab Singh, a younger brother of Rughunath Singh, and the Political Agent at Bhopal recommended that this should be sanctioned "with a view to the continuance of our guarantee."

But Sir R. Hamilton, the Agent to the Governor-General, took a different view;* he was of opinion that the connection of the British Government with Shujawalpur ceased on the transfer of the district to Sindhia; that it would neither be just nor expedient for us to continue our guarantee beyond the life of the individual to whom it was granted, "unless some express stipulation to that effect was entered into at the time, or some distinct necessity may be proved to exist;" and that "in no case can a son by adoption be considered as having any claim on the British Government." The Governor-General in Council, concurring in the views of Sir R. Hamilton, declined to sanction a continuance of the guarantee; but this decision was reversed by the Court of Directors, who observed:—"For reasons stated in paragraph† 62 of our despatch, No. 13 of 1838, in the Political Department, we are of opinion that the guarantee should have been continued. We do not consider that the fact of adoption affects the merits of the case so far as our Government is concerned. We desire, therefore, that you will reconsider your decision, and we trust that, in communication with Sindhia, some means may be found of settling the case in a manner not unsatisfactory to His Highness.

* From Agent, Governor-General, Central India, dated 15th December 1855, No. 213.
To Agent, Governor-General, Central India, dated 11th January 1856, No. 192.

† *Paragraph* 62.—Though the pension of Anup Singh was granted only on a life tenure, Mr. Wilkinson has adduced very strong arguments in favour of continuing it to his posterity. The original grant seems to have been made on the same principles and for the same purposes as the provisions secured to other Girasia Chiefs at the time of the pacification of Central India, all of which have been considered hereditary; and although the *tankhá* claims of Anup Singh, being upon territories which we annexed to our own possessions, were not recognised, but a pension granted in lieu of them, this seems no reason for our not setting an example to our native allies of adhering in our treatment of the Girasias to the principles which we enforce upon those allies. We do not direct that the pension of Bakht Singh be formally declared hereditary, but you will not resume it on the demise of the present incumbent without our express authority.

Indeed it was discovered on inquiry that the Gwalior Darbar regretted "equally with the Girasia Chief the decision of the Government that its guarantee did not extend to the heirs of the Chief with whom the settlement was made:" accordingly, not only the Shujawalpur villages, but the *tankhás* amounting to Rs. 4,250, are enjoyed by the heirs of Sobhag Singh to this day.

Kamalpur.—Besides villages in Shujawalpur held on a quit-rent of Rs. 700, Udaji, Thákur of Kamalpur, received *tankhás* of Rs. 4,600 from Sindhia under British guarantee. He was succeeded by his son, Jujhar Singh, on whose death, in 1828, the Political Agent in Bhopal, without reference either to the British Government or to Sindhia, recognised as his successor Moti Singh, who was adopted by the widow, and assigned Rs 3,100, or two-thirds of the *tankhá*, to the boy, and Rs. 1,500 to the widow. The young Thákur fell into debt, and Sir R. Hamilton of his own authority reduced the widow's allowance to Rs. 600 and allotted the other Rs. 900 for payment of the debts; but Government ruled that, although the original assignment in 1828 had not received the sanction of Government, still, as it had been enjoyed for more than twenty years, it should not have been altered without sanction of Government. As the widow objected to the reduction of her stipend, the redistribution was disallowed; but as regards the future, two general rules were laid down‡:—

‡ Despatch to Court of Directors, No. 25, dated 2nd April 1853, paragraph 102.
Despatch from Court of Directors, No. 32, dated 17th August 1853, paragraphs 41 and 42.

1*st.*—That *tankhádárs* have no power over the *tankhás* beyond their own lives, and no right to burden them with sums payable after their death.

2*nd.*—That the guarantee of the British Government should not be continued to an *adopted* heir, unless the consent of the British Government to the adoption be obtained.

10. In the opinion of His Excellency in Council the arguments and precedents above brought forward prove clearly—

1*st.*—That the British guarantee descends in all cases to direct heirs.

2*nd.*—That it descends to adopted heirs when the adoption has received the sanction of the British Government.

3*rd.*—That it does not descend to adopted heirs unless the adoption be sanctioned by the British Government.

4*th.*—That *tankhádárs* have no power over the *tankhás* beyond their own lives, and no right to burden them with sums payable after their death.

11. It remains now to decide what voice the British Government and the Suzerain Chief respectively have in determining the succession. This, in the opinion of His Excellency in Council, depends on the interest which the British Government has in maintaining its guarantee and the rights which the Suzerain Chiefs have in the subordinate estate or the *tankhá*. That the British Government has a strong interest in still enforcing a sacred respect for the pledges which it gave in 1818, and maintaining unimpaired the rights of the feudal subordinate as well as those of the feudal Chief, has already been shown; on the other hand, the Suzerain Chiefs have a reversionary claim on the domain or the *tankhá*, which has recently been acknowledged by the British Government in more than one instance: thus, when the Raja of Amjhera, who was a Chief much in the same position as the Raja of Ratlam, rebelled, and his estate was confiscated, it was ruled that Sindhia, and not the British Government, had the claim to the territory. A stronger case, perhaps, is that of Larawat. This petty State was granted, under the mediation of the British Government in 1818, to Vithal Rao Puar. The deed conferred on him the shares of Dhar and Dewas in the district of Sundarsi: he was succeeded by his son, Madho Rao, on whose death, in 1849, leaving illegitimate sons only, the estate was claimed as a lapse by Dhar. The Government of India, however, decided that it was an escheat to the British Government, but continued the estate for life to the eldest illegitimate son, Ram Chandar Rao, the present Chief, subject to an annual payment of Rs. 1,000. This decision was reversed by the Home Government,§ who ruled that, if the estate was an escheat, it lapsed to Dhar and Dewas, to which States the annual payment should, therefore, be made. So also, on the failure of heirs to the Gagroni Thakur, his estate lapsed to Holkar and was incorporated with the Indore possessions.

§ From the Honourable the Court of Directors, dated 31st July 1850, No. 22.

12. These rights on the part of the feudal superior limit to some extent the hereditary descent of the guarantee. Wherever there are direct heirs the guarantee continues unbroken, and there is no opening for the reversionary claims of the Suzerain Chief. In all such cases, therefore, where estates or *tankhás* are claimed by virtue of direct descent from the original grantee, the decision regarding the succession is the sole prerogative of the British Government, on whom, and not on the Native Chiefs, the obligations of the guarantee rest. The only circumstances under which the superior Chiefs are entitled to a voice are when the directness or legitimacy of the descent is disputed. The reversionary interest of the superior Chiefs entitles them to a patient hearing of any reasonable objections they may bring forward on these points.

13. On the other hand, when there are no direct heirs, and it is proposed to continue the estate or *tankhá* to an adopted heir, the superior Chief cannot claim the right to decide whether or not the adoption shall be recognised, because considerations of public policy and the necessity of maintaining the peace of the country must always be of prior importance to any merely reversionary rights; and if, by refusal to recognise the adoption, the peace of the country would likely be disturbed, the British Government is justified for the same reason that

justified its interference in 1818, in recognising the adoption of an heir, whether the Suzerain Chief consent to it or not. Again, it is obvious that the superior Chief cannot bind the British Government to continue its guarantee to any adopted heir of the subordinate Thákur or *tankhádár* whom he may choose. While, therefore, in cases of adoption sanctioned by the British Government, the Suzerain Chief is entitled to a patient hearing, he is entitled to nothing more; he cannot claim any concurrent authority with the British Government in deciding the question of succession, nor, where a British guarantee is involved, can he take any step in recognition of an adopted heir prior to the action of the British Government and independently of its preliminary action. Of course, where the British guarantee is in no way involved—that is to say, in grants made by the Suzerain Chiefs of their own will without the intervention of the British Government—there is no pretension to interfere; in all such cases the questions whether the grant shall be resumed or not and who shall not succeed rest exclusively with the Suzerain Chief.

14. These considerations and those already adduced in paragraphs 9 and 10 of this letter are, in the opinion of His Excellency in Council, sufficient to establish the following rules, which may be considered as answers to the questions you have raised:—

A.—When there are direct heirs, the decision regarding the succession and the continuance of the guarantee rests solely with the British Government; but the superior Chief has a right to be heard if he has any reasonable objections to bring either (*a*) to the legitimacy or (*b*) the directness of the descent.

B.—When there are no direct heirs, the previous recognition by the British Government of the adoption is, as a rule, essential to the continuance of the guarantee: with this previous sanction the guarantee descends to an adopted heir.

C.—When previous sanction has not been obtained, the guarantee does not descend to adopted heirs, unless the adoption subsequently obtains the formal sanction of the British Government.

D.—When there are no heirs, direct or adopted, the escheat is to the Suzerain Chief.

15. There is one other general question which you have raised in connection with these guaranteed Chiefs, *viz.*—

V.—Whether the feudal Chiefs have the right to levy *nazarana* from the guaranteed Chief either when they themselves succeed to their territories or when the subordinate Chief succeeds to his estate, or on any other occasion on which such *nazarana* is ordinarily exacted in Native States.

In paragraphs 10 to 18 of your letter of 31st December you show what is the practice among the Chiefs themselves and what is the state of feeling on the subject. Your proposal is that, if the terms of the settlement of 1818-20 are not considered such as absolutely to interdict the claim to *nazarana*, the exercise of the right, limited as in the case of the Bundelkhand States, to the actual succession to the guaranteed *tankhá* or estate, should be permitted except in the case of those guaranteed tributary or other estates with the succession to which the feudal Chief is wholly barred from interfering, and that the amount payable on the succession should be fixed by the British Government or with its concurrence.

16. His Excellency in Council, while admitting the levy of *nazarana* as being in accordance with native custom and feeling, is of opinion that both the amount which may be taken and the occasions on which the *nazarana* may be levied should be strictly defined; otherwise the levy of *nazarana* may be made the occasion of overwhelming the petty Chiefs in pecuniary difficulties, and thus forcing them to a breach of the conditions of their *sanads*. In Bundelkhand the British Government levies *nazarana* only on successions to the different States, and the amount is limited to a quarter of a year's net revenue on direct successions and half a year's net revenue on successions by adoption. His Excellency in Council is of opinion that the levy of *nazarana* from the mediatised Chiefs on account of their guaranteed *tankhás* or estates should be limited to successions by adoption, and should not exceed one-fourth of the net revenue or *tankhá*; and on such occasions the feudal Chief should give a dress of honour equal in value to one-fourth of the *nazarana*.

17. His Excellency in Council now proceeds to pass orders regarding the special case of the Kachi-Baroda Thákurate. On 14th December 1818 a settlement was made by Sir John Malcolm with Bhagwant Singh of Kachi-Baroda, by which the Thákur received sixteen villages, subject to an annual payment of Rs. 9,459 to Dhar, and engaged to be responsible for the peace of the villages; a copy of the engagement is furnished in your letter No. 11-20-E., dated 14th January 1864. This Thákur died in 1856 without direct heirs. The matter was not reported to the Government of India, but, under instructions from Sir R. Hamilton, then Agent to the Governor-General, the Dhar State was informed that, as the Thákurate had become vacant, the guarantee was at an end; the widow of Bhagwant Singh, however, adopted Dalel Singh, the present Thákur, and the adoption was confirmed by the Dhar State. The question is whether the withdrawal of the guarantee should not be cancelled.

You think that the guarantee should be restored, and that the withdrawal of the guarantee was probably made in conformity with the decision in Sobhag Singh's case, which was given in January of the same year, but which was afterwards reversed by the Court of Directors. In this opinion His Excellency in Council concurs. The reasons for the restoration of the guarantee to the Thákur of Kachi-Baroda should be fully and considerately explained to the Dhar Darbar.