

# THE STATES & THEIR PEOPLE IN THE INDIAN CONSTITUTION

BY

D. V. GUNDAPPA



KARNATAKA PUBLISHING HOUSE  
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MYSORE STATE, INDIA

THE STATES AND THEIR PEOPLE  
IN THE INDIAN CONSTITUTION

You have had enough of military reputation in your own fields; you have gathered large harvests of that commodity, valuable or be it worthless. I invite you to something better, a higher, and holier than that; I invite you to a glory not "fanned by conquest's crimson wing," but based upon the solid and lasting benefits which I believe the Parliament of England can, if it will, confer upon the countless populations of India.—JOHN BRIGHT ON INDIA IN THE HOUSE OF COMMONS, June 24, 1858.

I do not think one realizes or can ever possibly live in a Native State whilst one stays with the Prince. It seems to be a great deal more servility here than in any State I have been in. Everybody spends all his time in our presence bent to the ground. . . . Progress with these Chiefs is a very thin venter. . . . India is a cheap country for a rich man, although a dear country for a poor one. . . . The right thing to do would be to scrap all their treaties, provided they were willing to do so, and to form a model treaty for all of them.—E. S. MONTAGU ON THE INDIAN STATES.

The Princes are a different proposition. Their acceptance of the idea of Federation was certainly for me a surprise; but, if they will become equal partners in a Federal India, I venture to suggest that, of their own free will, they should advance. An undiluted autocracy, however benevolent it may be, and an almost undiluted democracy, are an incompatible mixture bound to result in an explosion. It is, therefore, I think, necessary for them not to take up an uncompromising attitude and impatiently refuse to listen to an appeal from or on behalf of the would-be partner. If they refused any such appeal, they would make the position of the Congress untenable and even most awkward. The Congress represents or endeavours to represent the whole of the people of India. It recognizes no distinction between those who reside in British India or in Indian States. The Congress has, with great wisdom and equally great restraint, refrained from interfering with the doings and affairs of the States; and it has done so in order not to unnecessarily wound the susceptibilities of the States, but also in order, by reason of the self-imposed restraint, to make its voice heard by the States on a suitable occasion. I think that the occasion has now arisen. May I, then, hope that the great Princes will not shut their ears to the Congress appeal on behalf of the people of the States?—MAHATMA GANDHI in a statement to the Press (Young India, March 12, 1931).

English statesmen would have to dare to let India wander away into the woods through errors. Freedom is not worth having if it does not connote freedom to err and even to sin. If God Almighty has given the humblest of His creatures the freedom to err, it passes my comprehension how human beings, be they ever so experienced and able, can delight in depriving other human beings of that precious right.—Ibid.

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- (2) *The Native States in the Empire*, 1918.  
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- (3) *The Indian Native States and the Montagu-Chelmsford Report*, 1918.
- (4) *The Government of India and the Indian States*, 1926.  
(A Draft Scheme of Federation.)
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## PREFACE

“HE can be bold who hath his quarrel just.” This line of Sophocles, the writer trusts, will suffice as an apology for this tract. He believes that the cause of the Indian States and their People is likely to be strengthened at the present juncture by such a review of its historical and jurisprudential setting as is herein attempted.

The study of the transactions and documents of the past is often easily tempted out of the region of the relevant,—into that of the didactic or the merely interesting. The writer hopes it will be found that he has guarded himself against this tendency, as well as against the opposite one of speaking without book.

He may be permitted to explain that the considerations and proposals he has ventured to submit have for their basis his continuous study of the problem in its several aspects for over twenty years,—by means of contributions to newspapers and journals, discussions with publicists of various schools, and association with popular movements. That his views have not had to undergo any very radical changes in the course of these frequent re-examinations is to him some ground for seeking for them the attention of the public.

This pamphlet is not by any means planned as a treatise on questions of the general administration and development of the States. The organization of their public services, their financial policies, their programmes of economic advancement, their arrangements for the education and upbringing of the Princes, their provision for the unemployed members of the royal households, their schemes for promoting social welfare—these and similar questions have not been touched upon. Their importance, great as it is, is secondary; and one may be sure they will receive due attention when—but only when—the fundamental condition of a popular and responsible constitution is realized in all possible fullness.

To complain that there is nothing new or distinguishing in these proposals would be to blame the writer for lacking a merit to which he never meant to lay claim. The ideas he has tried to express have all been drawn from the world's common stock of civilized political experience and thought. His object is the simple one of showing how it is both needful

and possible to apply those ideas to the Indian States —for the emancipation of seventy millions of the Empire's subjects.

The writer is not unaware of the defects in his manner of presentation. Had he had the advantage of leisure, he could at least have deleted some repetitions and trimmed up the sentences. He trusts the importance of the subject is such that it will not let the defects of his manner obscure the material points of his argument.

No great optimism has nursed this essay. India's recent experiences prove that reason and righteousness are by themselves not enough to bring success to the People's cause. Not until public opinion manifests itself in forms which can bring home to Governments a sense of its practical power in things that matter to them can it be certain of a serious response to its demands for reform. This means mass action; and that is a subject which the writer dare not discuss here. It is for him rather to pray that enough of patriotic pre-vision and statesmanship may be vouchsafed to the Princes,—and together with it, enough of constructive temper and tact to the public workers who may have opportunities of negotiating with them; for, the Princes too deserve to be handled with a measure of sympathy, held in leash as they are by tradition and custom, like the rest of us,—so that they may, sparing mass energy to be organized for the many other tasks of nation-building that are sorely in need of it, build up by their own cheerful and steadfast efforts a polity which will—

“Keep their thrones unshaken still

Broad-based upon the People's will,”

—one in which “Freedom gently broadens down from precedent to precedent.” If they will not bring the change in thus gracefully, it is certain to break in stormily. The times leave us in no doubt about it:

“Our little systems have their day;

They have their day and cease to be.”

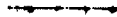
So may the People's cause find an early and benign victory and let advocacy like this pass into oblivion.

April 1931.

D. V. G.

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# CHAPTER I.

## FACTS AND ISSUES.

### *What are the States ?*

WITHIN the confines of Britain's empire in India, there are 562<sup>1</sup> tracts of territory technically considered to be "foreign" and classed as "States".

They are usually called the Native States, or the Feudatory States, or the Protected States, or the Indian States. Of late they are collectively spoken of as "Indian India", the rest of the country being British India.

"They cover an area of 598,138 square miles with a population of 68,652,974 people, or about two-fifths of the area and one-fifth of the population respectively of India including the States, but excluding Burma."<sup>2</sup>

"They vary extremely in origin, in history, in area, and in political power; but all alike possess certain attributes of sovereignty, and all alike are under the Suzerainty of the (British) Crown."<sup>3</sup>

In spheres of State-life where Suzerainty does not reach, they are "under the personal rule of their Princes".<sup>4</sup>

### *State-Powers.*

"Suzerainty" is the name given to the sum total of powers exercised by the British Government over the Indian States. It is also styled "Paramourncy".

Suzerainty has its origin partly in contract as embodied in treaties and "sannads" (*anglice*, warrants or certificates) and partly in prerogative as arising from accepted precedent or obvious superiority of position and power.

In action, Suzerainty is seen to take two forms:—(i) external sovereignty and (ii) internal super-sovereignty. The former involves the obligation of protecting the States against aggression from outside and carrying on foreign relations

<sup>1</sup> Butler Committee's Report, page 10, par. 11.

The number is 560 according to the list in the Publication called "*The Indian States*" (corrected up to the 1st January 1929) published under the authority of the Government of India.

<sup>2</sup> Butler Committee's Report, page 10, par. 10.

<sup>3</sup> Halsbury's *Laws of England* (1909), Vol. X, p. 585, par. 1017.

<sup>4</sup> Butler Committee's Report, p. 10, par. 10.

in their behalf; the latter that of exercising general supervision and control over their domestic administration and intervening to quell disorders or correct abuses. By virtue of its preponderating share in sovereignty, Suzerainty has put the States out of the jurisdiction of International Law.<sup>1</sup>

The functions of Suzerainty are generally of an executive kind; but in some special cases they are legislative; and sometimes they are also judicial.<sup>2</sup>

The instrument of action for Suzerainty generally is the executive organ of the Government of India that is, the Governor-General in Council acting under "such orders as he may receive from the Secretary of State" for India.<sup>3</sup>

Internal sovereignty *minus* super-sovereignty is the share of State-powers left to the Prince or Chief of the State; and this fraction may be termed sub-sovereignty. It is exercised autocratically in all States, with some outward forms of constitutionalism in a few.<sup>4</sup>

#### *Case for Reform.*

This division and disposition of sovereign powers involves anomalies and hardships of the most serious kind to the States. An insistent demand for reform has, therefore, grown up among the People of the States as well as among their Princes.

The complaints of the Princes, broadly stated, are

(i) that in fiscal, economic and other important matters of all-Indian concern, the Government of India has been subjecting the States to measures and policies in the determination of which the States have no voice whatever; and

(ii) that by way of superintendence and guidance, the Government of India is able to meddle at will in the internal affairs of the States and curtail their freedom of autonomy arbitrarily.

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<sup>1</sup> See M. C. Report, p. 190, par. 297.

<sup>2</sup> See Chapter II of this, pp. 21-22.

<sup>3</sup> Sec. 33, Government of India Act, 1919 (9 & 10, Geo. 5, C. 191).

<sup>4</sup> The States are in all stages of development, patriarchal, feudal or more advanced, while in a few are found the beginnings of representative institutions. The characteristic features of all of them including the most advanced are the personal rule of the Prince and his control over legislation and the administration of justice.—*Montagu-Chalmers Report*, p. 191, par. 299.

Also *Simon Report*, Vol. II, p. 13, par. 30.

The Chamber of Princes has proved no remedy against these evils.<sup>1</sup>

The People of the States, while subscribing to these complaints, add a third which is more fundamental and vital : that they, the most concerned, are nowhere in the existing constitutional arrangements, whether outside the States or even inside. They hold that their present position is a complete violation of the very first principle of a constitutional polity, namely— that the government should be open to scrutiny and direction by the public opinion of the State. They are victims to the iniquities of power unchecked by responsibility and of taxation unconditioned by representation, both inside the States and outside. And they fear that it will not be to their interest if, in any re-adjustment hereafter, power is handed back to the Princes without their being made to shed their autocracy.

The States' People demand that the fact of their being subjects of the Princes should not be turned into a badge of inferiority and a bar to progress for them ; and that, along with their fellow-countrymen of British India, they should be enabled to attain the level to which subjects of other parts of the British Empire have been raised in every aspect of constitutional power and civic privilege, both at home and abroad.

#### *Urgency of the Problem.*

There is yet another party which, though not formally in relations with the States, is none the less interested in their question, namely—the people of British India. They have formulated their own demand for constitutional reform ; and they insist that, if the States' question should at all be considered as part of the general problem of Indian reform, care should be taken to see that the States will not be made an excuse either for delaying or for modifying the grant of their own demand.

Thus comes about the complexity of the States' problem. While the parties to the British Indian problem are two, the parties here are four :

- (1) The British Government.
- (2) The Ruling Princes,
- (3) The People of British India, and
- (4) The People of the States.

<sup>1</sup> "The Chamber of Princes..... deprived of initiative and..... merely the shadow of a name..... Little likely to secure for them greater autonomy."—*The British Crown and the Indian States*, pp. xiii & xxiii.

But this complexity cannot be made to justify evasion or postponement. The two problems are, in truth, the inter-connected parts of one and the same great problem of India, just as the People of the States and their brethren of British India are but two integrant sections of one and the same nation. There can be no full freedom or progress for either part of India while the other is kept waiting.

That the Indian States "constitute an outstanding feature which is without precedent or analogy elsewhere"<sup>1</sup> need not overpower us. It only means that India cannot have much use for pre-conceived theories of constitution-making and that she should have the courage to strike out a new path whenever she finds that the path recommended by current notions or foreign precedents do not suit her conditions.

#### *The Cardinal Points.*

A solution of the problem fair to all parties would appear to lie along the following lines:—

(1) *The States and British India should be united under a Federal constitution having a centripetal bias wherever possible.*

(2) *The constitution should secure full Dominion status to India.*

(3) *It should bring the People of the States, on the same terms as the People of British India, under the laws and authorities of the Federal Government.*

(4) *It should enable them equally to participate in all the rights and privileges of federal citizenship (including representation in the organs of federal government, franchise, eligibility to public office etc.).*

(5) *It should vest authority in the Central Government for all purposes essential to peace, order and good government (including the constitutional rights and liberties of citizens) throughout India,—i e., in the States as in British India.*

(6) *It should guarantee to the States their territorial integrity and political individuality.*

(7) *It should likewise guarantee to the Ruling Princes the unimpaired continuance of their dynastic and personal privileges.*

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<sup>1</sup> *Simons Report*, I, p. 83, par. 191. *Butler Report*, p. 25, par. 43.

(8) *It should also guarantee to the States a full measure of autonomy in all matters not specifically reserved for the Federal Government.*

(9) *It should require that every State should be under a system of responsible government, the Prince holding a strictly constitutional position therein.*

(10) *It should provide for the settlement by a Supreme Court of all justiciable cases of dispute between the Federal Government and any State or Province, or between the subject of any State or Province and its Government, and for settlement by a committee or board of arbitration, whenever possible, of all disputes concerning economic and financial adjustments and all non-justiciable issues.*

To all these reforms, necessary to ensure a better destiny for the States' People, England holds the key as the Suzerain. The introduction of responsible government in the States and their entry into the federation may be secured by means of a recommendatory rescript or proclamation issued in the name of His Majesty the King-Emperor; and the other provisions may be embodied in the constitution to be laid down by an Act of Parliament.

#### *The Predominant Point of View.*

These proposals, it need hardly be pointed out, indicate only the bare outlines of an all-Indian constitution required as the veriest minimum if the country should return to peace. Their details and implications will be found dealt with in the following pages.

A question that may immediately be asked is whether the reforms above suggested can be put in operation all at once and whether provision need not be made for a period of transition. If transition is not meant to be probation, it can present no difficulty. All are agreed that our constitutional development should be an organic growth, as from childhood to manhood. This implies that the process should not be subject to extraneous influences or made dependent upon other people's pleasure. It should proceed naturally, -- as continuous self-expression and self-fulfilment. For this, it is imperative that the constitution now to be framed should, like the body of an infant, contain within itself the beginnings of all the organs needed for life's efficiency. The above proposals indicate such indispensable rudiments of the constitution that should be. If they are definitely accepted, it will

not be difficult to devise, and to agree about, arrangements for such period of transition as is unavoidable. Such arrangements will be found sketched in some paragraphs later on.

It is easy enough to exaggerate the difficulties of the problem. The lawyer would rummage the past and set up insatiable claims for one party or for another. The bureaucrat would dwell on the risks of change and would rather keep things as they are. They must both be ruled out. The problem is one for statesmanship and long-visioned patriotism.<sup>1</sup> All controversies must be decided once for all by the one and only question—What do we wish India to become, and how soon to become that? The point of view to prevail should always be neither that of the past nor that of the present, but that of the future.

As to the one supreme condition of a satisfactory solution, there can never be any doubt. Each party should willingly make some sacrifice for the common gain. It will be of no use to be harping on the sanctity of ancient monuments. Nor will it help us much to insist upon aspects of theory evolved under conditions not comparable to ours. We cannot rid ourselves of a fact by merely wishing it away. We must recognize the limits of human tractability, remembering that a problem in politics cannot be worked out like a problem in mathematics—with ideal accuracy, and without reference to the human element. In practical affairs, we must agree to surrender something in order to gain something else. When an old town, congested and unhealthy, is to be reconstructed for a better life, every crumbling structure cannot go on reminding us of its historical associations and every stinking drain urging its prescriptive rights. Some venerable walls will have to be pierced through to let in fresh air, and some romantic nooks cleared up for daylight. So, has it to be with the re-making of India. Paramountcy, treaty, theoretical correctitude, constitutional symmetry,—all have to give in a little so as to make a future possible for this long-suffering country.

The greatest measure of responsibility rests upon the shoulders of England among all. The following pages (it is hoped) will show it to be beyond doubt that she has the legal right to perform what is dictated by her moral duty towards the People of the States and towards India—to secure for them a constitution that will take away their inferiority in

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<sup>1</sup> We think it is more a case for the constructive statesman than for the analytical lawyer.—*Nehru Report*, p. 76.

comparison with the citizens of other parts of the Commonwealth. The question only is whether she has the sincerity of purpose to do it?

If her *bona fides* had not been in doubt, the mouthpiece *par excellence* of the mildest and most tolerant people in the world could not have made up its mind to declare in favour of complete Independence. One thing is beyond all possibility of doubt: Democratic nationalism has struck root in Indian psychology. Its growth may be trained, but cannot be cut short. The alternative to democratic federation with the substance of independence is for India not anything less than that, but something which Englishmen may not cheerfully contemplate. It was a British poet who declaimed—and he declaimed not to indulge an idle poetic fancy, but to emphasize a potent political truth—that

The power of armies is a visible thing  
 Formal and circumscribed in time and space;  
 But who the limits of that power shall trace  
 Which a brave people into light can bring,—  
 Or hide at will,—for Freedom combating  
 By just revenge inflamed?.....  
 No craft this subtle element can bind,  
 Rising like water from the soil, to find  
 In every nook a lip that it may cheer.

—WORDSWORTH

## CHAPTER II.

### BRITAIN'S RESPONSIBILITY.

#### 1. *Parliament's Pledge.*

HAS Britain directly any responsibility for "the welfare and advancement" of the People of the Indian States? That is,--does the expression "Indian Peoples", occurring in the third paragraph of the preamble to the Government of India Act of 1919<sup>1</sup>--

"Parliament, upon whom responsibility lies for the welfare and advancement of the Indian Peoples"--include within its meaning those Indians also who happen to be subjects of the Indian Princes?

And if Britain has responsibility towards the States' People also, where is its source, and what is its range?

#### 2. *Are the States' People among Her Subjects?*

The responsibility of a government arises from the loyalty which it receives from the governed. In the words of Sir W. Anson, "the subject owes allegiance to the Sovereign, as the Sovereign owes good government to the subject."<sup>2</sup> "Allegiance is the tie, or *ligamen*, which binds the subject to the King, in return for that protection which the King affords the subject."<sup>3</sup>

Sovereignty and subjectship (or citizenship) are the obverse and the reverse of the same medal: neither can exist without the other. And so are naturally their respective responsibilities. Where there is an assertion of sovereignty and a demand for allegiance, we are there entitled to look for an admission of the rights of citizenship and a guarantee for good government. Is the British Government a sovereign to any extent in relation to the People of the Indian States? Are they its subjects in any sense?

#### 3. *A Misleading Half-definition.*

Writers of authority on constitutional law have, on this particular point, contented themselves with furnishing only a half-statement. Thus, the writer in Halsbury's *Laws* has it--

<sup>1</sup> 9 & 10, Geo. 5, C. 101.

<sup>2</sup> *Law & Custom of the Constitution*, Part II, The Crown.

<sup>3</sup> Blackstone.



that the inhabitants (of an Indian State) are not British subjects properly so called, that they are not amenable to ordinary British jurisdiction, and that they do not pay revenue (to the British Government).<sup>1</sup>

Sir Courtenay Ilbert is of the same opinion :—

The territory of these States is not British territory. Their subjects are not British subjects.

For the purposes of municipal law, their (States') territory is not British territory, and their subjects are not British subjects.<sup>2</sup>

The Indian States (Butler) Committee which ought to have,—if anybody in the world ought to have,—addressed itself specially to a thorough examination of this question, has chosen to acquiesce in the current half-definition without any attempt at criticism. Sir Harcourt Butler affirms :

The Indian States are in India, but apart from British India. Their subjects are not British subjects.<sup>3</sup>

And the Indian Statutory (Simon) Commission has found it convenient to repeat this as an axiom :

The Indian States are not British territory and their subjects are not British subjects.<sup>4</sup>

These statements are one-sided and therefore misleading. The relation of the British Government to the Indian States has a positive as well as a negative side. As referring only to the latter, the definitions quoted above may perhaps be allowed ; but they cannot be adequate and fair unless they are accompanied by a reference to the other and more important side. As they now stand, the definitions do not convey even a hint as to the existence of another side ; and this omission makes them fallacious and mischievous. The common mind has been so far influenced by this reiterated categorical negative of jurists that it has forgotten to pause and enquire whether there is at all a positive side to the matter. The importance of such an enquiry was, in point of fact, lost sight of even by judges so learned and eminent as those of the High Court of Bombay when once they had occasion to face the issue. They had to deal with a case<sup>5</sup> under the Foreigners Act of 1915 concerning a subject of the State of Benares ; and they

<sup>1</sup> *Laws of England* (1909), Vol. X, p. 586, par. 1017.

The statement that "they do not pay revenue to the British Government" is open to question. The subjects of the States do contribute towards all-Indian revenues in many forms such as customs duties, salt-tax, etc. They (i.e., their States) also pay tributes.

<sup>2</sup> *Government of India* (1916), pp. 165, 422.

<sup>3</sup> *The Times* (London), *Indian Number*, February 18, 1930.

<sup>4</sup> *Simon Report*, Vol. I, p. 85, par. 103.

<sup>5</sup> *Emperur vs J. R. Tewari*, Cr. Appn. Revn. No. 128 of 1925.

readily took it for granted that one who is the subject of an Indian State cannot, at the same time, be the subject of the British Government and that he is therefore necessarily to be treated as an absolute "foreigner", liable to be expelled from British India at will by the Governor-General in Council or any Provincial Government. Such is the damage caused by the facile half-definition of Ilbert and his school to the life and liberty of the people of the States.

#### 4. *Who is a British Subject?*

The matter may be considered from several points of view; and first among them must naturally be that of law. The British Nationality and Status of Aliens Act of 1914 (4 & 5, Geo. 5, C. 17) defines the expression "British subject" to mean, besides others, (Sec. 27) "a person who is a natural-born British subject"; and "a natural-born British subject" is, among others, (Sec. 1. 1-a) "any person born within His Majesty's dominions and allegiance."<sup>1</sup>

Now, the phrase "His Majesty's dominions" is without definition in law. It is, however, evident that the word "dominion" in this phrase is to be taken in its general sense,<sup>2</sup> and not in the special sense which it bears when used (with perhaps a capital D) to designate the self-governing British Colonies of Canada, Australia and the like. Dicey defines British dominions as "all countries subject to the Crown."<sup>3</sup> If we accept this definition, the Indian States would clearly have the right to be recognized as a species of His Majesty's dominions. But as noticed above, some jurists would seem to give the word a meaning narrower than that given by Dicey, and so exclude the Indian States from it. According to them, "His Majesty's dominions" are territories actually in the possession and under the ordinary rule of the British Government, without any intermediaries like Ruling Princes.

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<sup>1</sup> Blackstone's definition seems much more reasonable and quite just:—"Natural-born subjects are such as are born within. . . . the allegiance of the Queen; and aliens such as are born out of it."

Professor W. S. Holdsworth would appear to agree:—"It is the duty of allegiance, owed by the subject to the Crown, which differentiates the subject from the alien. . . . The tie of allegiance is indissoluble, and therefore the status of the subject is permanent."—*History of English Law*, Vol. IX (1926), p. 72.

<sup>2</sup> The other meaning of the word "dominion," namely "authority" or "right", cannot apply here. From the history of the law as well as from the context in other clauses, it is clear that territory is meant. Moreover, the word is here in the plural number.

<sup>3</sup> *Conflict of Laws* (1908), p. 68.

It will be plain from what follows, we hope, that this interpretation has omitted to take note of certain relevant facts, and that Dicey's alone is in accord with these facts.

5. *States "subject to the British Crown"*.

There are two Acts of the British Parliament which exhibit the nature of His Majesty's relation to the Indian States. Firstly, by virtue of the Royal Titles Act of 1876 (39 & 40, Vict., C. 10), His Britannic Majesty is the Emperor of India (not merely of British India). Secondly, according to the Interpretation Act of 1889 (52 & 53, Vict., C. 63) His Majesty exercises "suzerainty" over the Indian States. It is important to note the significance of the two statutory expressions "Empire" and "Suzerainty".

Though not defined by law, the word "empire" has been taken by well-known writers to denote "a precedence over other kings possessed by a ruler standing at the head of a composite State which may embrace kings among its members."<sup>1</sup> The British Empire is a composite State counting the Indian principalities among its component members and having His Majesty at its head.<sup>2</sup> Thus have the Indian States become subject to the British Crown and therefore are they entitled to be reckoned among His Majesty's dominions for all purposes pertaining to his imperial sovereignty.

"Suzerainty" is only another name given to this imperial sovereignty. "*States under the suzerainty of others are portions of the latter..... A State under the suzerainty of another, being confessedly part of another State, has those rights only which have been expressly granted to it; and the assumption of larger powers of external action than those which have been distinctly conceded to it is an act of rebellion (not of belligerency) against the Sovereign.*"<sup>3</sup> Thus also the Indian States would appear to be part of His Majesty's dominions

<sup>1</sup> Ernest Baker, *Ency. Brit.* (11th Ed.), Vol. IX, p. 347.

<sup>2</sup> Professor Westlake writes:—

"To speak accurately of such a case (as India), we want two words to express the two meanings of empire in English, one meaning, translatable in German by *reich*, being the total of the dominions of a given Sovereign or State, the other translatable in German by *gebiet*, including the whole extent of territory in which he or it exercises power. In the former sense, what is called British India is alone a part of the empire; in the latter, the Native States are included in it..... Hence the *Empire of India* as a term of State-law must be understood in the widest sense. It comprises the whole peninsula and is indissolubly connected with the United Kingdom, the British Parliament of King, Lords, and Commons having the ultimate authority over it."—*International Law*, Part I (1904), pp. 41, 42, 43.

<sup>3</sup> W. E. Hall, *International Law* (1909), p. 29.

and "subject to the Crown".<sup>1</sup> At any rate, in all respects outside the restricted spheres of the normal—and only normal—internal legislation and administration of the States, they are as good as a part of His Majesty's dominions. Where the responsibilities and obligations of Suzerainty are concerned, their subjects are not to be distinguished from the rest of His Majesty's subjects.

#### 6. *Suzerain Omnipotent.*

Let us look at the practical working of Suzerainty. Broadly speaking, it assumes two forms: (i) External Sovereignty, or the right of managing all matters affecting the life of a State outside its borders, and (ii) Internal Super-Sovereignty, or the right of superintending, regulating and, if need be, revising the acts and policies of the Government within the State itself. The British Government has thus a lion's share in the sovereignty of an Indian State.<sup>2</sup> Sir Courtenay is indeed not unaware of this position. He says:—

The Sovereignty (over the Indian States) is divided between the British Government and the Ruler of the Native State.

It (Suzerainty) is a term which is perhaps incapable of precise definition, but which is usefully employed to indicate the *political authority* exercised by one State over another, and *approximating more or less to complete Sovereignty*.<sup>3</sup>

<sup>1</sup> Sir Edward Creasy, a historian and jurist of high repute in his day, wrote:—"We all see clearly in the Native Princes of India and in their subjects not independent political communities which are sovereign States in the eye of International law, but mere subordinate members of the larger and Paramount political society, the true sovereign State, the British Empire."—Quoted by Lee-Warner in *Protected Princes of India*, p. 373.

<sup>2</sup> Oppenheim holds that "suzerainty is by no means sovereignty" and that "it is a kind of international guardianship." (*International Law*, 1920 Ed., p. 162.) This statement, however, is no juridical analysis of the ingredients of Suzerainty, but only a suggestion of its ethical justifiability. Guardianship presupposes a law to recognize and regulate the conduct of the guardian and an authority to enforce that law; and it also implies a recognition by all concerned of the temporariness of the relationship. But these conditions do not exist in our case. From a purely moral point of view and with reference only to her duties, Britain may be described as a guardian. But viewed legally and with reference to her generally acknowledged rights, she is a great deal more than a simple and disinterested guardian. The synonyms of her Suzerainty are Supremacy, Paramountcy, Imperial Prerogative. In action, it is three-quarters of sovereignty. What it has left out is only territorial sovereignty and the minimal powers of domestic management attaching thereto. And this unabsorbed bit of sovereignty subsists on the condition that it shall remain obedient to the Suzerain. A fragment, and that a subservient one, is hardly to be styled sovereignty if Suzerainty itself is not. And Suzerainty has come into being by methods associated not with guardianship, but with military power and diplomatic pressure issuing therefrom. If it may not be called sovereignty, it must at all events be recognized as the quintessence of sovereignty. As for guardianship, Britain has been professing that rôle not for the States only, but for all India. But ideals are one thing; claims are another.

<sup>3</sup> Ilbert, *Government of India*, pp. 165, 292.

It is only what remains of sovereignty after the major share of the Suzerain is deducted from it that is vested in the local Prince. The Sovereignty of an Indian State, thus, is bi-partite.<sup>1</sup> We may describe the two parts as (i) Subordinate and (ii) Suzerain (the latter in its turn being divided into two categories as shown above). In accordance with this, the subjectship of the State also must be regarded under two heads: as (i) normal-domestic and (ii) suzerain-imperial. In matters of a purely domestic character under normal conditions, the authority that rules the State is the local Prince's; and the people are therefore his subjects in such matters. In all other matters,—including that of preventing misrule, suppressing insurrection and generally ensuring order and good government in the State,—the authority that rules is the British Government's; and the people are therefore its subjects in these other matters. In relation to either authority, they can, with strict accuracy, be described only as part-subjects. Neither the Prince nor the Suzerain can claim them as fully and exclusively his own.

There is, in point of fact, no part of a State's life which is not touched by the hand of the Suzerain. Acting through the Political Department of the Government of India, it influences the daily administration of the States as much by means of the silent watch kept by Residents and Political Agents as by means of the diplomatic advice tendered by them. The acts of the Suzerain Government are for the most part executive; but in some special matters it legislates; and on certain occasions it assumes the rôle of a judge. Expressing itself through the executive authorities of the Government of India, it causes the laws made for British India to be applied to the States in most all-Indian matters such as coinage & currency, exchange, customs duties, salt-tax, posts & telegraphs etc. Apart from this, "the Governor-General in Council also exercises certain legislative powers with respect to Native States, but in his executive capacity and not through his Legislative Council."<sup>2</sup> One important field of such legislation is that which concerns extra-territorial jurisdiction with respect to persons and things in the States coming into contact with foreign Powers.<sup>3</sup> Instances of the judicial

<sup>1</sup> "In India, the accepted Suzerainty of the British Crown involves a partition of the aggregate of such powers between the Suzerain and the Prince."—*Impl. Gaz.*, Vol. IV, p. 61.

<sup>2</sup> Ilbert, *Government of India* (1916), p. 145.

<sup>3</sup> *Ibid.*, Ch. V, p. 416 *et seqq.*

capacity of the Governor-General in Council may be seen in his decision of disputes between one State and another (*e.g.*, Patiala *v.* Nabha), or between the British Government and a State (*e.g.*, Hyderabad *v.* the British Government *re* Berar), in his deposition of Princes for misconduct (*e.g.*, in Indore and Baroda), and in his settling questions about the right of succession to the Throne (*e.g.*, Baroda and Bhopal).<sup>1</sup> In addition to such cases, there are "various kinds and degrees of criminal revenue and civil jurisdiction"<sup>2</sup> exercised in many States by the representatives of the Governor-General. In the face of all these indisputable facts, it is impossible to maintain that the People of the Indian States are "foreigners" either to the British Government or to its executive agents in India. They are under the Suzerain sway of the British Crown and must therefore be reckoned among its subjects.

### 7. *Don't they owe allegiance?*

Do the People of the States owe allegiance to the British Crown? There can be no room for doubt on this point if we remember that the Rulers of the States "owe political allegiance to the King-Emperor".<sup>3</sup> Treaties, Royal proclamations and other formal documents bear testimony to this fact. For example, the Patiala Sannad of 1860 contains the following:

The Maharaja Sahib Bahadur will always pursue the course of *obedience and loyalty* to the powerful British Government. (¶ 1. X).

The Mysore Treaty of 1913 has the following:

The Maharaja.....shall at all times remain *faithful in allegiance and subordination* to His Imperial Majesty (Art. 3).

The famous Adoption Sannad, issued by Lord Canning in 1862, which was most thankfully accepted as a charter of safety and security by all Indian Princes, speaks thus:

Be assured that nothing shall disturb the engagement made to you so long as your House is *loyal to the Crown*.....

<sup>1</sup> In the course of the report to the Secretary of State for India on the "armed rebellion" in Manipur in 1891, the Viceroy and Governor-General urged:—

"*Fid.*—It is the right and duty of the British Government to settle successions in subordinate Native States. Every succession must be recognized by the British Government, and no succession is valid until recognition has been given. This principle is fully understood and invariably observed."

In the course of his reply, the Secretary of State agreed:—

"It is admittedly the right and duty of the Government to settle successions in the protected States of India."—*Gazette of India*, August 22, 1891, p. 492 *et seq.*

<sup>2</sup> *Butler Report*, p. 13, par. 17.

<sup>3</sup> *Ilbert, Government of India* (1916), p. 422.

His Majesty King Edward, in his Proclamation of 1908, was pleased to declare :

The rights and privileges of the Feudatory Princes and Ruling Chiefs have been respected, preserved and guarded ; and *the loyalty of their allegiance* has been unswerving.

It is quite easy, but as superfluous, to multiply evidences. A reference to the resolution passed at the inaugural session of the Chamber of Princes should be conclusive on the point. That resolution, expressly supported by the Rulers of Gwalior, Alwar, Bikaner and Patiala, and accepted by all other princes there assembled, --

conveys to His Imperial Majesty the Emperor of India their respectful greetings, and assurances of *abiding loyalty to his Throne* so deeply rooted in their affections and of their steadfast devotion to his august person.....

Now, it is important to make a note of two things above all in this connexion :

(1) Allegiance is not an expression of mere courtesy or friendly sentiment. "The duty of the subject towards the Sovereign is known legally as allegiance."<sup>1</sup> It is a solemn undertaking to "serve and obey," given by a subject or citizen to his Sovereign or State.

(2) It is not merely a personal tie between the Indian Prince and the British Sovereign. At both ends, its character is regal or political. It is not simply as a private individual, but as the ruler of a State that the Prince renders allegiance. This allegiance is, as a matter of fact, one of the fundamental and inviolable conditions of his tenure on the throne<sup>2</sup>; and in avowing it, he cannot but be taken to have committed all under his rule to a state of subjectship towards his Suzerain. His loyalty would indeed be meaningless if it did not also signify theirs.

The criminal law of British India recognizes the offence of 'waging war upon the Queen'; and although the Princes of India are not subject to the regular jurisdiction of the British courts, they have been taught by many examples that resistance to the Queen's authority constitutes an act of rebellion..... Breach of allegiance is still recognized as a ground for annexation; and Lord Canning expressly guarded against the impression to which his (Adoption) Sannads might possibly give rise, by recording this

<sup>1</sup> Halsbury, *Laws of England* (1909), Vol. VI, p. 339, par. 483.

<sup>2</sup> All Chiefs owe *obedience to the Paramount Power*, and must accept the advice of the Resident or other authority representing it. Its decision has to be accepted as final. Disobedience pushed to extremes becomes rebellion and may lead to the Chief being deposed.—Sir T. W. Holderness, *Peoples and Problems of India* (1928), p. 195.

reservation: "Neither will the assurance diminish our right to visit a State with the heaviest penalties, even to confiscation, in the event of disloyalty or flagrant breach of engagement."

Sir W. Lee-Warner, who does not forget that the subjects of an Indian State "are foreigners in the eye of the law of British India."<sup>2</sup> is however in no doubt as to the duty of their loyalty to the British Crown. "The obligation of loyalty rests not merely on the rulers of States, but on their subjects as well, since they, equally with their rulers, enjoy the protection of Her Majesty. Thus, in August 1891, the Jubraj of Manipur was tried and convicted of waging war against the Queen-Empress of India." The occasion was taken to proclaim that the "subjects of the Manipur State are enjoined to take warning by the punishments inflicted on the above-named persons guilty of rebellion and murder."<sup>3</sup>

If the people of an Indian State were not the subjects of the British Sovereign, an armed rising on their part would have to be viewed by the British Government not as treason or rebellion, but as belligerency entitling them to the privileges of International Law. But such a view has been authoritatively declared to be untenable; and the right of the British Government "to remove by administrative order *any person* whose presence in the State may seem objectionable"<sup>4</sup> has been asserted to be unquestioned. Sedition against the British Government is quite as much a crime according to law when committed by the subject of an Indian State<sup>5</sup> as when by a British Indian. By what logic, then, can the subject of an Indian State be put down for a non-subject or foreigner by the British Government?

<sup>1</sup> Lee-Warner, *Protected Princes of India*, pp. 323-24.

<sup>2</sup> *Imperial Gazetteer* (1909), Vol. IV, p. 83.

<sup>3</sup> Lee-Warner, *Protected Princes of India*, p. 324.

<sup>4</sup> *The Manipur Notification*, 21st August, 1891.

In the course of his telegraphic communication to the Secretary of State on Manipur Punishments, the Viceroy and Governor-General urged (28th May, 1891):—

"It is essential to the security of our position in India that the subjects of Native States should understand that the murder of British Officers renders the murderers and their abettors liable to punishment of death, whatever orders they may have received from the authorities of the State concerned."—*Gazette of India*, August 22, 1891, p. 492.

<sup>5</sup> Sections 124 A and 153 of the Indian Penal Code of 1860, as amended for Mysore by Sections 12 and 13 of Regulation I of 1904, read as follows:—

"124A. Whoever.....brings.....into hatred or contempt or excites.....disaffection towards His Majesty the King-Emperor of India, or His Highness the Maharaja, or towards the Governments established by law in British India and in the territories of His Highness the Maharaja, shall be punished....."

"Exp. 2. Comments expressing disapprobation of the measures of the



The loyalty claimed from the people of the States unquestionably implies that the British Government stands in the relation of a Sovereign to them. The allegiance rendered by them through their Princes is received on behalf of His Majesty and used for the purposes of His Majesty's Government by the head of the Government of India. As Viceroy he receives it, and as Governor-General he turns it to use; for it is only in the latter capacity that he can perform any functions of administration, the former capacity being at present chiefly a ceremonial incident. Thus, behind all the acts and forbearances of the Governor-General in Council with respect to the Indian States is seen to lie the allegiance rendered by the Princes as the formal representatives of the People of the States. This allegiance forms indeed the pivot of Britain's Suzerainty. The office exercised by the Government of India towards the States is no more than the reverse side, so to say, of their subjectship towards its principal.

#### 8. *Foreign to British India, but not to Britain.*

The fact that the People of the States stand outside the legislature and the judiciary of British India is altogether irrelevant to our purpose. The issue for us now is—whether the People of the States should be regarded as the subjects of *British India*, but whether they should not be regarded as subjects of the British Crown and as having claims upon the Imperial Government. It cannot be maintained that they stand beyond the jurisdiction of the British Parliament. That the Parliament is quite competent to pass legislation having reference to them is proved, among other things, by the Government of India Act of 1858 and the Act of the same name of 1919.<sup>1</sup> That the Parliament has not chosen to make laws particularly meant for the States is a different matter. This abstention is to be explained by the political and constitutional considerations which form part of

Government of India or the Government of Mysore with a view to obtain their alteration by lawful means.....do not constitute an offence.

"153. Whoever.....promotes.....feelings of enmity or hatred between different classes of His Majesty the King-Emperor's or of His Highness the Maharaja's subjects shall be punished....."

The High Court of Mysore (in *Seetharamasastry vs. Government of Mysore*, Cr. AL 8 of 1929-30) have held that the word "and" in S. 124 A ("by law in British India and in the territories") may also be construed as "or," thus supporting the view that disloyalty, and therefore loyalty, may proceed separately towards the two Governments from a subject of Mysore. He is to regard both the Suzerain Power and its agent the Government of India as his sovereign, equally with the Government of H. H. the Maharaja.

<sup>1</sup> 21 & 22, Vict., C. 106—Secs. 2 and 67, and 39, and 9 & 10, Geo. 5, C. 101—Secs. 44, 67, 96A, 126, 132.

the Parliament's traditional policy. An Act of Parliament is "primarily territorial,"—meant for "persons and things within the United Kingdom". "It does not legislate (for other territories within the Empire) except on matters which are *clearly Imperial* in their nature."<sup>1</sup> Discussion of the States' affairs in the Parliament is discouraged for reasons of expediency and policy of State, and not on account of any legal incompetency of the Parliament. Thus, though the States are beyond the reach of the legislature of British India, they are not beyond the reach of the British legislature itself, which is the supreme law-making body of the Empire. In this view, too, the People of the States are entitled to be classed among the subjects of the British Government.

### 9. *Imperial Citizenship.*

In all spheres of Britain's suzerain and imperial concern, legislation and administrative practice have both tended to ignore the distinction made by theorists between the Indian States and His Majesty's dominions. That defence, foreign relations and general public tranquillity are among such concerns is well known. With regard to these, treaty and convention have placed the British Government under the same obligations towards the People of the States as towards those of British India.<sup>2</sup>

Sir Courtenay says:—

The territories of the Native States are not part of the dominions of the King; *but their subjects are, for international purposes, in the same position as British subjects.* For instance, under the Foreign Jurisdiction Act,<sup>3</sup> 1890 (53 & 54, Vict., C. 37, S. 15), where an order made in pursuance of the Act extends to persons enjoying His Majesty's protection, that expression is to be construed as including all subjects of the several Princes and States in India. And it is possible that a subject of a Native State would not be held to be an 'alien' within the meaning of the Naturalization Act, 1870 (33 & 34, Vict., C. 14), so as to be capable of obtaining a certificate of naturalization under that Act.<sup>4</sup>

Thus again:—

Indian States have none of the attributes of external sovereignty, and for international purposes their territory is in the

<sup>1</sup> Ilbert, *Government of India*, p. 372.

<sup>2</sup> *Butler Report*, p. 26, par. 44.

<sup>3</sup> Section 15 of the Foreign Jurisdiction Act, 1890 (53 & 54, Vict., C. 37), runs thus:—

"Where any Order in Council made in pursuance of this Act extends to persons enjoying Her Majesty's protection, that expression shall include all subjects of the several Princes and States in India."

<sup>4</sup> Ilbert, *Government of India* (1910), p. 292.

same position as British territory and *their subjects in the same position as British subjects*. On the other hand, the Secretary of State has been advised that the subject of an Indian Native State would be an alien within the meaning of S. 7 of the Naturalization Act, 1870 (33 & 34, Vict., C. 14), so as to be capable of obtaining a certificate of naturalization under that section.<sup>1</sup>

Another instance of the approximation of the status of a subject of an Indian State to that of a subject of His Majesty belonging to another part of the Empire is to be seen in the Slave Trade Act of 1876 (39 & 40, Vict., C. 46) :—

Whereas the several Princes and States in India in alliance with Her Majesty have no connexions, engagements, or communications with foreign powers, and the subjects of such Princes and States are, when residing or being in the place hereinafter referred to, entitled to the protection of the British Government, and receive such protection equally with the subjects of Her Majesty :

1. If any person, being a subject of Her Majesty or of any Prince or State in India in alliance with Her Majesty, shall, upon the high seas or in any part of Asia or Africa which Her Majesty may from time to time think fit to specify by any Order in Council in this behalf, commit any of the offences defined in . . . . . Act XLV of 1860 . . . . . called 'The Indian Penal Code,' or abet . . . . . such person shall be dealt with . . . . . as if the same (offence) had been committed in any place within British India . . . . .

These and similar provisions of law prove that there is a sense—and that an important one—in which the subjects of an Indian State must *ipso facto* be taken to be subjects of His Majesty. Sir William Lee-Warner has appreciated this position. He writes :—

The subjects of an Indian Prince, "when outside his dominions, become, to all intents and purposes, British subjects, as shown by the treaty with Maskat in 1873, which declares that the words 'British subjects' in all treaties between the British Government and the Maskat State shall include subjects of Indian Native States."<sup>2</sup>

#### 10. *Growing Approximation.*

Sir Courtenay is apparently undecided as to the status of the subject of an Indian State in the eyes of the British Naturalization Act of 1870. It must however be noted that, even if the Indian State subject were held to be an alien for the purpose of this Act, the incapacities which in consequence would devolve upon him in England have been in India taken away from him by other legislation. This Act, while conferring on an alien the same rights of property in the United Kingdom as are made available to a natural-born British subject, withholds from him three other civil rights —

<sup>1</sup> Ilbert, *Government of India* (1916), p. 422.

<sup>2</sup> *Imperial Gazetteer* (1909), Vol. IV, p. 84.

This section shall not confer any right on an alien (i) to hold real property situate out of the United Kingdom, and shall not qualify an alien (ii) for any Office, (iii) or for any municipal, Parliamentary, or other franchise. (Sec. 2, Prov. 1.)

The first of these denials is really a reservation of power made for the local Governments of the several British Possessions outside the United Kingdom<sup>1</sup> and is in principle not a discrimination made against the alien as such. The other two—viz., those of eligibility to public office and franchise—pertain to what forms the substance of citizenship everywhere, and are therefore more important. In regard to them, the British Parliament itself has almost completely removed or helped to remove the distinction,—in India at any rate,—between the natural-born British subject and the subject of an Indian State. With reference to the right of office, Section 3 of the Government of India (Amendment) Act of 1916 (6 & 7, Geo. 5, C. 37), repeated as Section 96A in the Government of India Act of 1919, lays down:—

Notwithstanding anything in any other enactment, the Governor-General in Council, with the approval of the Secretary of State in Council, may, by notification, declare that, subject to any conditions prescribed in the notification, any named Ruler or subject of any State in India shall be eligible for appointment to any civil or military office under the Crown to which a native of British India may be appointed.

As to franchise, the Electoral Rules of Provincial Legislative Councils, made under Section 72A. 4 (c) of the Government of India Act of 1919, contain the following proviso:—

That the local Government may direct that, subject to such conditions as it may prescribe, a Ruler of any State in India, or the Rulers of any such States, or a subject of any such State, or any class of such subjects, shall not be disqualified for registration (as elector or electors) by reasons only of not being a British subject or British subjects.—[Bombay Rule 7(1) & Madras Rule 7(1).]

There is a similar provision made as regards the candidature of a ruler or subject of an Indian State for election to a legislative body of British India. [Bombay Rule 5 (1) & Madras Rule 5 (1).]

Rule 7 A (1) of the Electoral Rules of the Legislative Assembly, framed under Section 64 (1-c) of the Government of India Act of 1919, has a proviso that—

if the Ruler of a State in India or any subject of such a State is not disqualified for registration on the electoral roll of a constituency of the Legislative Council of a Province, such a ruler or

<sup>1</sup> See the remarks of Sir C. P. Ilbert on Parliamentary legislation. *Government of India*, p. 372.

subject shall not, by reason of not being a British subject, be disqualified for registration on the electoral roll of any constituency of the Legislative Assembly in that Province.

Rule 5 (1) makes a similar provision with regard to the candidature of a State subject for election to the Legislative Assembly.

As for eligibility to nomination, the Government of India Act itself contains the following, Section 64 (2) :—

Subject to any such rules (as the aforesaid), any person who is a ruler or a subject of any State in India may be nominated as a member of the Council of State or the Legislative Assembly.

Section 72A, Clause (5), makes a similar provision in regard to nominations to a provincial Legislative Council.

A ruler or a subject of an Indian State who happens to become a member of a legislative house of British India, whether by election or by nomination, is required, like the rest, to take the oath of allegiance to the King-Emperor before entering upon his duties there. (Bombay Rule 24, Madras Rule 24 and L. A. Rule 24.)

It is thus seen that the civic status of the subject of an Indian State has gradually become equalized to that of a British subject in many vital concerns of his external life both within India and outside. And let it also be noted that this has been brought about under the authority of Parliamentary legislation.

### 11. *Fiduciary Responsibility.*

There is no need for any lengthy argument to prove the moral responsibility of the British Government towards the people of the States. Several Viceroys have spoken of it in the most unambiguous and insistent terms, as will be seen later on;<sup>1</sup> and the Butler Committee have emphatically endorsed their view. The Committee quote the following from Lord Minto's Udaipur speech of 1909 :—

In guaranteeing their (States') internal independence and in undertaking their protection against external aggression, it naturally follows that the Imperial Government has assumed a certain degree of *responsibility for the general soundness of their administration* and would not consent to incur the reproach of being an indirect instrument of misrule.<sup>2</sup>

<sup>1</sup> See Chapter IV and Appendix B.

<sup>2</sup> *Butler Report*, p. 19, par. 29.

The Committee very rightly conclude :

The guarantee to protect a Prince against insurrection carries with it an *obligation* to enquire into the causes of the insurrection and to demand that the Prince shall remedy legitimate grievances, and an obligation to prescribe the measures necessary to this result.<sup>1</sup>

This should suffice as to the moral aspect.

### 12. *A New Definition Needed.*

From every conceivable point of view, it is seen that the life of an Indian State is divided into two parts, one falling within the jurisdiction of the Prince and the other within that of the British Government. This bifurcation of State-jurisdiction must necessarily result in a corresponding bifurcation of State-subjectship. There are certain spheres where the People of the State render loyalty to, and create responsibility for, the British Government, just as there are other spheres where loyalty and responsibility subsist directly between themselves and their Princes.

It is therefore not a complete or trustworthy description of the political character and status of the native of an Indian State to suggest either that he is an exclusive subject of his Prince or that he is not at all a subject of the British Government. His political obligations and claims are not to be exhausted by either. Exactitude would seem to require that he should be designated as a part-subject of the Feudatory and a part-subject of the Suzerain. The extent of the latter part-subjectship is obviously the measure of Britain's responsibility for the "welfare and advancement" of the People of Indian States.

The expression "part-subject" is an unfamiliar one and is probably new. But its counterpart,—part-sovereignty or semi-sovereignty,—is one used by recognized writers on law and constitution. The non-recognition by them of the condition of semi-subjectship, and their uncritical reiteration of the half-statement of Ilbert and others as an absolute proposition, have had the effect of minimizing and even obscuring the responsibilities of Britain towards the People of the States.

The considerations set forth above are conclusive, we trust, as to the justice of designating the People of the Indian States by a legal phrase which could bring home to Britain's mind her responsibility for their welfare and advancement. If pandits must have their way, let a new category of care and concern for Britain be opened under the name of

<sup>1</sup> *Buller Report*, p. 28, par. 40.

“semi-subjects” or “suzerainite subjects” of His Majesty. Then, when they are given a definite and recognizable place in the legal scheme of Empire’s claims and obligations, their many problems, both local and external, may fairly be expected to be given more effectual attention than they have so far received.

### 13. *India is One in Royal Pronouncements.*

It is only fair to add that the idea of disowning responsibility in respect of the States’ People has found no lodgement in any of the proclamations and pronouncements of policy made in the name of the British Government. Their phrasing and context make it plain that they regard all the People of India as one community, and disclose no intention of isolating the inhabitants of the States from the rest. The famous 1917 declaration of Montagu, for example, contemplated “the progressive realization of responsible government *in India*” (not merely in British India), whereas it is the Government of India Act of 1919 that restricts that purpose to British India. It is also significant that one and the same Royal Proclamation—that of 23rd December, 1919—authorized the establishment of a Chamber for the representation of the States “simultaneously with the new constitution in British India” introduced by the Act of 1919. His Majesty begins that Proclamation by referring to the Act as one of the “great historic measures. . . . for the better government of *India* and the greater contentment of her people ;” and proceeding to authorize the “establishment of a Chamber of Princes,” His Majesty declared :—

“I trust that its counsels may be fruitful of lasting good to the Princes and States themselves, may advance the interests which are common to their territories and to British India, and may be to the advantage of the Empire as a whole.”

And His Majesty concluded with the prayer that “*India* may be led to greater prosperity and contentment, and *may grow to the fullness of political freedom.*”

There is here no sign of any distinction meant to be drawn between the People of British India and the People of the Indian States.

### 14. *Parliament Fully Responsible.*

The foregoing examination of the legal and other generally recognized connexions between the Indian States and the British Government establishes the following propositions :—

(1) The Indian States are among the constituent parts of the composite State called the British Empire. They are foreign to British India; but integral to the Empire, like Canada or Australia. Loyalty and allegiance are due from their People and Princes to the British Crown no less than from the subjects of other parts of the Empire.

(2) The sovereignty of the British Crown in its imperial and suzerain capacities extends into and over the Indian States. It has every department of their State-life under its control.

(3) The People of the Indian States are thus persons born and living "within His Majesty's dominions and allegiance". They are not aliens.<sup>1</sup> In any case, they are subjects of the British super-State or imperial State,—that is, subjects of the British Crown in every sphere of its imperial right or duty.

(4) There can be no antithesis between being the subject of an Indian State and being the subject of the British Crown. The two conditions may well be, and in fact are, co-existent and combined, being merely the two sides of the status of one and the same class of individuals.

(5) The distinction made as regards the privileges of citizenship between a subject of an Indian State and a subject of British India has been practically abolished in many cases by Parliamentary legislation and rules issued thereunder. Royal Proclamations have regarded All-India as a single organic unity, merging its technical divisions in its national oneness.

(6) It is thus an anomaly to treat the People of the States as non-subjects or foreigners for any of the possible offices of the British Crown except such as the Crown itself has agreed to leave in the keeping of the Princes,—this exception being itself subject to certain well-understood conditions. For all purposes connected with the political or civil status of a subject (as under the laws of Nationality and Alienage) throughout the Empire and with the Suzerain responsibilities of the British Government, the People of the States are not to be differentiated from classes of persons legally described at present as "British subjects".

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<sup>1</sup> An alien is a subject of a foreign State who has not been born within the allegiance of the Crown.—*Halbury's Laws of England* (1907), Vol. I, p. 302, par. 662.



The People of the States, then, are entitled to take as a pledge given to them, no less than to their fellow-countrymen of British India, the solemn-sounding words of the preamble to the Government of India Act of 1919, placed at the head of this chapter—

“Parliament upon whom responsibility lies for the welfare and advancement of the Indian Peoples.”

Whichever the point of view adopted, the British Government cannot honestly escape this responsibility. The duties which flow from this responsibility are in aim and essence one with those accepted in relation to the rest of India. Their instruments and methods may have to be somewhat different in the States from those in British India, because of the presence of the Princes. But this fact cannot deflect or intercept the course of Suzerain obligations, nor alter their purpose. It rather increases than decreases the gravity of those obligations. Political theory, moral principle and the actual tendency of legislation are all agreed in fixing the responsibility for the progress of the People of the States upon their Suzerain, the British Government.

## CHAPTER III.

### SUZERAINTY : ITS EVOLUTION AND SCOPE.

BRITAIN'S Suzerainty over the Indian States rests not upon a mere executive assumption of the British Government, but upon Parliament's deliberate sanction.

The history of this sanction is, in its essential part, contained in the history of the two legal expressions "India" and "British India". This history is interesting, and may be of some help to us in understanding the precise nature of the relationship between the States and the British Government.

#### *Upto 1858*

Before the epochal year of 1858, there was no one name for the territories which then came to form the present Provincial State or Sub-State of British India. The East India Company Act of 1784 (24 Geo. 3, S. 2, C. 25) described those territories as "British Possessions in India", and "the Territorial Possessions of this Kingdom in the East Indies". The first phrase was repeated in the East India Company Act of 1786 (26 Geo. 3, C. 57). The East India Company Act of 1793 (33 Geo. 3, C. 52) used another phrase—"British Territories in India". The Government of India Act of 1800 (39 & 40, Geo. 3, C. 79) spoke of them as "the territorial possessions of the United Company of Merchants of England trading to the East Indies, in the peninsula of India". The East India Company Act of 1813 (53 Geo. 3, C. 155) reverted to the phrase "British Territories in India" and also spoke of "such territorial acquisitions on the continent of Asia..... as are now in the possession and under the government of the said United Company". The Government of India Act of 1833 (3 & 4, Will. 4, C. 85) had the phrase—"His Majesty's Indian Territories". Such is the phraseology employed by the Parliament previous to the year 1858 with respect to territories which the East India Company finally handed over to the British Crown in that year.

#### *The Native States.*

Occasions to refer to the Indian States were naturally fewer. They were being spoken of as "the native Princes or States of India", "the country powers or States", and

“the country Princes or States”, e.g., in Sections 22, 40 and 42 of the East India Company Act of 1793 (33 Geo. 3, C. 52). In the instrument of the historic transaction of 1858, it became necessary to provide for the proper disposition of—

all rights vested in—or which, if this Act had not been passed, might have been exercised by—the said (East India) Company in relation to any territories.—*The Government of India Act, 1858* (21 & 22, Vict., C. 106, Sec. 1).

The rights thus alluded to were obviously those which arose out of the treaties, engagements and conventions into which the East India Company had entered with the Princes and Chiefs of the Native States. These Princes and Chiefs had all been already reduced to subordination by the Company. But the Parliament did not choose to record that fact, or to indicate its implications, in its enactment of 1858. In view of the then disturbed condition of the country consequent upon the Mutiny, it was perhaps considered prudent not to make any formal ostentation of Britain’s imperial position and power. The Act of 1858 provided, in Section 2, that—

all rights in relation to any territories which might have been exercised by the said Company if this Act had not been passed, shall and may be exercised by and in the name of Her Majesty as rights incidental to the government of India.

There are two points for us to note here :—

(1) The Act of 1858, while it formed the very first occasion on which the British Parliament had to speak of the Crown’s relations with the Indian States as a class, chose to give them no single word or phrase as a name, and made the reference to them as general as possible.

(2) It recognized that the rights of the British Government in its relations with the States were only “incidental” to the responsibilities it had undertaken in respect of the territories transferred to it by the Company. In other words, contracting relations with the States was not to be the primary or essential object of the British Government in India ; it was merely a secondary or subsidiary activity, and therefore not to be engaged in more than to the extent absolutely necessary in the interests of its primary concern, namely, the management of its own territorial possessions in India.

#### *Definition of “India”.*

While the Act of 1858 was thus content to refer to the Native States in terms devoid of characterization and to hint

at the motive of its relations with them in an innocent-looking word, it recognized the need for consolidating the British territories in India by bringing them together, among other measures, under one name. The Act defined the term "India" as follows:—

For the purposes of this Act, India shall mean the territories vested in Her Majesty as aforesaid, and all territories which may become vested in Her Majesty by virtue of any such rights as aforesaid. (Sec. 1.)

The territories thus "vested in Her Majesty as aforesaid" were "all territories in the possession or under the government of the said (East India) Company"; and the "rights as aforesaid" were those acquired by the Company from the Native Princes.

In other words, the Act of 1858 took cognizance of territories of two descriptions:

(1) those whose government was thereby to become vested in Her Majesty; and

(2) those otherwise to be in relation with Her Majesty.

The former were by the Act designated "India" and the latter were given no single generic name.

This nomenclatural policy was a clear anomaly; for, the authority of the British Crown had in fact extended already over the territories of Native Princes also. Almost on the morrow of the epoch-making Act and Proclamation,—in 1860,—Lord Canning could declare:—

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 has never seen.<sup>1</sup>

Therefore the legal definition of the term "India", to be in accordance with actual fact, should have made that term include the entire country,—that is, both that part which came directly under British Government and that which was subject to British Paramountcy with the Princes used as intermediaries. As it was, the narrowness of the definition made the Governor-General of *India* (or the Government of *India*) primarily a functionary of only that part of geographical

<sup>1</sup> Lee-Warner's *Protected Princes of India*, p. 306. *Buller Report*, p. 15, par. 22.

India which was handed over by the Company to the Crown. The States stood beyond his immediate jurisdiction, because beyond legal India. The powers which he exercised in relation to them were only "incidental",—a surcharge bequeathed by the old Company. Though, in point of fact, these powers were so very substantial as to constitute Paramountcy, the legislature preferred to make them appear to be no more than an unsubstantive adjunct to Britain's rule over the territories transferred by the Company. Relationship with the States was, if anything, only an external accretion, not an integral part of Britain's authority and status; and that relationship, though unmistakably that of Paramount and Feudatory in practice, was yet not to be declared as such by law.

#### *Alliance.*

That such was the position for some years after 1858 is made clear by the terms in which the Native States are referred to in subsequent enactments. The Indian Councils Act of 1861 (24 & 25, Vict., C. 67) described the States in Section 22 as—

the dominions of Princes and States *in alliance* with Her Majesty.

The Indian High Courts Act, 1865 (28 & 29, Vict., C. 15) used the same phrase—"in alliance". (Sec. 3.)

The Government of India Act of 1865 (28 & 29, Vict., C. 17) also, made use of the same phrase in Section 1 :—

1. The Governor-General of India shall have power, at meetings for the purpose, of making laws and regulations for all British subjects of Her Majesty within the dominions of Princes and States in India *in alliance* with Her Majesty, whether in the service of the Government of India or otherwise.

The Slave Trade Act of 1876 also keeps up the elegant mask. (See page 27.) There is in these references no suggestion of the domination of one party and the subordination of the other.

The appropriateness and expediency of making the word "India" available for describing the whole country under Britain's sway, irrespective of the immediacy or mediacy of that sway in any part, by coining a separate phrase to denote that part which was under its direct authority, was recognized by the law-makers in India in 1868—ten years after the virtual declaration of Paramountcy.

*Definition of "British India".*

The Act No. I of 1868, of the Governor-General of India, called the General Clauses Act, 1868, introduced the expression "British India" into use :—

2. (8) "British India" shall mean the territories for the time being vested in Her Majesty by the Statute 21 & 22, Vict., Cap. 106 (*An Act for the Better Government of India, 1858*), other than the Settlement of Prince of Wales's Island, Singapore and Malacca.

This enactment did not widen the old, or furnish a new, definition of the term "India". But it helped to remove the plain inconsistency that there was in law's applying that term to only a part of the field of Britain's supremacy, whereas it should have been applied to the entire field of the executive jurisdiction of the Government of India. India was a composite entity; and one element of it now received a suitably restrictive name; so that henceforward, the word "India" could be construed as inclusive of all the area covered by Britain's authority, whether ordinary or paramount.

The subordinate position of the States was, however, not suggested in the above enactment either. They were still supposed to be in "alliance". Without disclosing the actual nature of this alliance, the new Act automatically brought the States within the nomenclatural purview of the authority acting in the name of the British Crown practically throughout India. The Government of India could no longer be understood to be functioning for only one part of Britain's charge and concern. It could, after 1868, legally claim to function with reference to all India including the feudatory States.

*From Adjunctive to Integral.*

An indirect step towards clarifying the position was taken in 1876 when the Queen, under the Royal Titles Act of that year (39 Vict., C. 10), assumed the title of "the Empress of India". The then Secretary of State for India, Lord Salisbury, in communicating the event to the Governor-General of India, wrote in Despatch No. 70, dated the 13th of July 1876 :—

This act on the part of Her Majesty is a formal and emphatic expression . . . . . of the favourable sentiments which she has always entertained towards the Princes and People of India. I request that Your Excellency will proclaim throughout Her Majesty's Indian dominions, in a manner suitable to Her gracious intentions, the addition which has been made to the Royal Style and Titles.

In pursuance of this communication, Lord Lytton convened a grand Durbar at Delhi on the New Year Day of 1877

and apprised the assembled Princes as well as the people of the new designation of the British Sovereign,—

which shall be henceforth to all the Princes and Peoples of India the permanent symbol of its union with their interests. "Princes and Chiefs of the Empire," (went on His Excellency) Her Majesty regards her interests as identified with yours; and it is with the wish to confirm the confidence and perpetuate the intimacy of the relationship now so happily uniting the British Crown and its feudatories and allies, that Her Majesty has been graciously pleased to assume the Imperial title we proclaim to-day.

The Proclamation which, together with this explanation, was received by the Princes without dissent and with positive acclamation, was the outcome of a statute of Parliament.

And in the same year (1877) the Government of India declared in the course of a statement:—

The paramount supremacy of the British Government is a thing of gradual growth; it has been established partly by conquest, partly by treaty, partly by usage; and for a 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 State, must be held to exhibit the relations which in fact subsist between them.<sup>1</sup>

These declarations paved the way for a clear legal definition of the relative positions twelve years later.

#### *Suzerainty.*

In 1889, the Parliament found a suitable opportunity to indicate without ambiguity the nature of the relationship between the Native States and the British Crown. The Interpretation Act of that year (52 & 53, Vict., C. 63) thus defined the two expressions under our consideration:—

18. (4) The expression "British India" shall mean all territories and places within Her Majesty's dominions which are for the time being governed by Her Majesty through the Governor-General of India, or through any Governor or other officers subordinate to the Governor-General of India.

(5) The expression "India" shall mean British India, together with any territories of any Native Prince or Chief *under the suzerainty* of Her Majesty exercised through the Governor-General of India, or through any Governor or other officers subordinate to the Governor-General of India.

<sup>1</sup> *Butler Report*, p. 24, par. 41.

These definitions hold the field to-day.<sup>1</sup> The actual character of Britain's relationship with the States and their Princes—"Suzerainty"—was at last made thus unmistakably plain in law,—nearly 30 years after it was declared as a matter of fact by Lord Canning.<sup>2</sup> It was this definition that sustained the following pronouncement of the Governor-General in Council, in the course of his Resolution in the Manipur case, on the 21st of August 1891 :—

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

Such a declaration would hardly have been possible if the relation with the States had, in law, been one of simple "alliance" as of old.

*What does it mean?*

Though law has made use of the word "Suzerainty", it has left that word undefined. Before its use in the case of the States in India by the Interpretation Act of 1889, it had been used in the Pretoria Convention of August 1881 between the British Government and the South African Republic of that time. The word had not been defined even then, and controversies arose as to its interpretation. The fact of the matter seems to be that the content of the word is a variable quantity; and it therefore suits a form of political connection between two States, which, being still loose and flexible, takes for its basis the general superiority of one of them to the other. Sir John Macdonell has observed :—

In modern times, the term ("Suzerainty") has come to be used as descriptive of relations, ill-defined and vague, which exist between powerful and dependent States, its very indefiniteness being its recommendation.<sup>3</sup>

The Suzerainty of Britain over the Indian States is, in fact, an assemblage of powers partly derived from treaties and other formal documents and partly asserted and exercised from time to time by virtue of her superior strength and resources (*force majeure*).<sup>4</sup> It is a blend of contract and prerogative. Without pretending to be the originator or primary source of power, Britain has, by long prescription, gathered such authority over the States as

<sup>1</sup> The (Indian) General Clauses Act of 1897 (X), repeats them in Sec. 3 (7) and (27).

<sup>2</sup> See page 38 before.

<sup>3</sup> *Enc. Brit.*, Vol. XXVI, p. 173.

<sup>4</sup> See page 21, par. 35, of the *Buller Report*.



is analogous in expansibility to the residuary powers of a State Government over a local or municipal body. In other words, Britain's Suzerainty is a summation of the powers surrendered by the States both explicitly and implicitly—by their acquiescence in her assertions of superior jurisdiction as well as by means of written instruments. Its constituents are naturally fixed in that part of it which has stood on the basis of treaties and sannads, and elastic in that which has sprung from growing practice and precedent. Hence the difficulty of legal definition.

The practical result of the absence of legal definition is, as already stated, the amplitude of the elbow-room available to the Suzerain. Britain now has power in her hands to meet all contingencies not specifically provided for in formal law or treaty. The need for such indeterminate power cannot be questioned when once we admit the legitimacy of Britain's aims in India. In the words of the Queen's Proclamation, those aims are that the Princes and the People of India—

should enjoy that prosperity and that social advancement which can only be secured by internal peace and good government.

To this high aim, the Princes had to be made conformable. But they were then yet an incompletely assessed factor. At the time when the Parliament sanctioned the term "Suzerainty", everything was in a fluid and shapeless condition about the States. There was no way of forecasting their potentialities. How the Princes would develop under the new impact, and how their subjects would react to its influence, remained to be known from experience. Nor was Britain clear and precise in her own mind, at that stage of history, about the constitutional policy which she should follow in regard to British India. No one, therefore, could at that early stage have predicted what would be the exigencies of Britain's work in India. She had therefore to arm herself with all the discretionary powers derivable from such a comprehensive expression as "Suzerainty".

#### *Its Use and Abuse.*

It is the possession of these extra-treaty and extra-sannad powers by the British Government, authorized by the omnibus expression of a parliamentary statute, that ensures the acceptance by the Princes of such advice and guidance as the Viceroy may choose to offer them. Where the strict and formal processes of law or of treaty are not available to the Viceroy, or where such processes seem to him inexpedient for any

political or diplomatic reason, he is now free to employ methods of persuasion and negotiation; and these methods depend for success upon the salutary influence that naturally emanates from the reserve of unlimited power left in his hands for use according to exigencies.

It is not to be denied that such discretionary power-- that is, power not defined by law, nor amenable to scrutiny and control by the courts or by the legislature-- is liable to abuse. It was easily abused often; and among others, H. H. the Maharaja of Bikaner has quoted some instances in one of his recent speeches at the Chamber of Princes.<sup>1</sup> But such instances cannot affect the considerations which underlie the assumption of discretionary power by the British Government. As against instances of abuse should be remembered instances of proper use both those that have occurred and those that should have. If the whole truth about the conduct of Suzerainty should be considered, we should not omit to take into account those occasions also when, there being need for the use of its power, it failed to be serviceable. If Princes have to complain of abuse, the People of the States have to complain of non-use; for, such non-use has been to the detriment of their interests which, in large part, are the justification of Suzerainty. Thus, the real complaint should be not so much about the want of legal definition of the term "Suzerainty" as about the capriciousness of its operation.

The Indian States Committee have expressed their inability "to find some formula which will cover the exercise of paramountcy."<sup>2</sup> Though we have no formal definition, practice has left no room for doubt as to the nature and the scope of Suzerainty. It is acknowledged on all sides that Suzerainty not only comprehends the entire field of the States' external sovereignty, but also partakes of the character of a super-sovereign in their internal life. The Suzerain is responsible (as has already been noted) not only for the foreign relations and defence of the States, but also for the suppression of rebellion and the arresting of misrule within their borders.<sup>3</sup>

<sup>1</sup> 10th Annual Session, from 25th February to 1st March, 1930. See also the following:—

(1) *Butler Report*, pp. 21-22, pars. 34 and 36.

(2) *British Crown and Indian States*, Publ. by authority of the Chamber of Princes.

(3) *Scraps of Paper*, by A. P. Nicholson (Pub. Benn).

<sup>2</sup> *Butler Report*, p. 31, par. 57.

<sup>3</sup> *Butler Report*, p. 26, par. 15 *et seq.*

The latter part of the Suzerain's functions necessarily involves the right of intervention in the domestic affairs of the States; and the exercise or non-exercise of this right has been considered a matter fit for executive discretion and not for legal determination. It has been a matter of "policy".<sup>1</sup> Into the history of the vicissitudes of that policy, we shall go at some length in the next chapter.

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<sup>1</sup> The guarantee to a native ruler against the risk of being dethroned by insurrection necessarily involves a corresponding guarantee to his subjects against intolerable misgovernment. The degree of misgovernment which should be tolerated, and the consequences which should follow from transgression of that degree, are political questions to be determined with reference to the circumstances of each case.—Ilbert, *Government of India*, pp. 167-68.

## CHAPTER IV.

### NON-INTERVENTION AND INTERVENTION.

THE Indian States Committee hold<sup>1</sup> that "intervention (by the Government of India, acting on behalf of His Majesty's Government) may take place for the benefit (i) of the Prince, (ii) of the State, (iii) of India as a whole." And there is a fourth occasion: "Imperial interests".<sup>2</sup>

In the prospect of a general re-construction of the Indian polity, the Princes naturally see an opportunity to press for greater freedom for themselves from the intervention or control of any external authority like the present Government of India. In this agitation, they take their stand upon the assurances of internal independence and non-intervention conveyed to them by the British Government in treaties and other formal communications.

On the other hand, the People of the States are concerned no less in this question of intervention and non-intervention, because it is one fraught with the greatest practical consequence to their every-day well-being. Far from supporting the claims of the Princes, they ask that control and intervention should be exercised in a more systematic and more efficient manner, of course till political power is constitutionally transferred to their own hands.

### VICISSITUDES OF POLICY.

It is true that some among the treaties contain clauses embodying an explicit pledge of non-intervention. As against these, there are others which as clearly provide for intervention, though under certain conditions. Indeed, both the promise and the reservation are found in juxtaposition in several treaties.<sup>3</sup> And there is the convention of a century and a quarter, corresponding to case-law, which has come to elucidate, supplement and modify the treaties:<sup>4</sup> and this convention has made the right of intervention an inevitable counterpart of the fiduciary responsibilities which, as the Paramount Power, Britain has taken upon herself. And yet, in the face of all this, the pledge of non-intervention has not

<sup>1</sup> *Buller Report*, p. 29, par. 51.

<sup>2</sup> Par. 5 of Lord Reading's Letter to H. E. H. the Nizam, *Buller Report*, p. 57.

<sup>3</sup> Some specimens may be seen in Appendix A.

<sup>4</sup> *Buller Report*, p. 13, par. 19 and p. 23, par. 39.

ceased to be unctuously reiterated by Viceroys and other rulers of the Empire. Where then is the true principle for guidance? Is intervention by itself, or non-intervention by itself, the true rule; or is there an independent principle to which both rules are alike referable for justification and which, according to expediency, recommends either the one or the other course?

Both policies have arisen naturally from the facts of history. Contradictory on the surface, they harmonize in the motive that has inspired them both; and that motive has till now been none else than Britain's quite natural concern for her own interests. To understand the motive and its manifestations, it is necessary to take a clear-eyed view of the polychronic page of history, though as rapidly as may be possible.

The gyrations of Britain's policy towards the Indian Princes have been traced in some detail by Sir C. L. Tupper and Sir W. Lee-Warner, among others; and recently by Mr. K. M. Panikkar and Mr. M. S. Mehta from a somewhat different point of view. The Lee-Warner school has made us familiar with the three successive phases of that policy, known as those of "Ring Fence," "Subordinate Isolation" and "Subordinate Union". They may, from the States' point of view, be more fittingly characterized as those of Britain's Security, Ascendancy and Empire.

### I. SECURITY.

#### *Clive to Shore (1765-1798).*

In the first stage, Britain's thoughts were naturally centred on questions of the safety and permanence of her own position in India. When the East India Company began to feel certain of its opportunity to settle down as a political power (roughly 1765), it eagerly looked out for friends and helpers among the local potentates; and its policy towards them had then to be one of fraternizing, ingratiation, and reciprocity.

The first of the pioneers, Lord Clive (1758-1767), "sought the substance, although not the name, of territorial power, under the fiction of a *grant* from the Mughal Emperor."<sup>1</sup> In forming contacts with the local Powers, he schemed for such trade privileges and fiscal monopolies as would enable the Company to settle down. Warren Hastings (1772-85)

<sup>1</sup> *Imperial Gazetteer*, Vol. II, p. 479.

“like other British administrators of his time, started with a conviction of the expediency of ruling with the aid of the Native Powers.”<sup>1</sup> Lord Cornwallis (1786-93), the third great figure of this period, was “an advocate and director of the policy of non-intervention.”<sup>2</sup> The wars in which these early empire-builders engaged themselves were ostensibly wars necessitated by the alliances into which they had entered and upon which depended the very existence of the Company in this country. Sir John Shore, who brought this period to a close, had an “excessive dread of entanglements”.<sup>3</sup> Naturally,

The earliest treaties speak of “reciprocal friendship” and “mutual alliances”. The Company was struggling for bare existence, and saw in the Nizam of the Deccan and the Maharatta Chiefs independent States with resources equal to or greater than its own. The policy impressed upon the Company by Parliament and by the Company on its Indian servants was to avoid increasing the Company’s dominions.<sup>4</sup>

In 1784, an Act of Parliament declared that “to pursue schemes of conquest and extension of dominion in India are measures repugnant to the wish, the honour and policy of this nation.”<sup>5</sup> The Charter Act of 1793 (33 Geo. 3, C. 52) repeated this prohibitory injunction (S. 42).

During the first period of their connexion with the Native States, the British endeavoured, as far as possible, to live within a ring-fence. The treaties which they concluded with the Native Rulers were at that time made as if they were dealing with independent Princes, Sovereigns according to international law.<sup>6</sup>

But the “ring-fence”, made up of States thus won over, could not stand impenetrable. There were other States beyond; and there were the French as well as the Peshwa, the Nizam and other local rivals, to tamper with all and embroil all. The East India Company’s hope of creating a snug shelter for itself within an insulating belt was doomed to pass away like a dream in those bellicose times. If the Company would not draw the neutral Princes into its own fold and reduce them to subservience by diplomatic negotiation, its adversaries were quite ready to do so in order to smother it or put it to flight. In other words, domination was the very condition of the Company’s existence. Without ascendancy, there was to be no security.

<sup>1</sup> *Imperial Gazetteer*, Vol. II, p. 482.

<sup>2</sup> *Lee-Warner, Protected Princes*, p. 90.

<sup>3</sup> *Imperial Gazetteer*, Vol. II, p. 488.

<sup>4</sup> *Hoblerness, Peoples and Problems of India*, p. 197.

<sup>5</sup> *Imperial Gazetteer*, Vol. IV, p. 10.

<sup>6</sup> *Lee-Warner, Imperial Gazetteer*, Vol. IV, p. 77. See also *Lee-Warner’s Protected Princes*, p. 42.

## II. ASCENDANCY.

### *Wellesley to Dalhousie (1798-1858).*

Lord Wellesley saw this (1798-1805).

He determined to establish the ascendancy of the British Power over all other States in India by a system of subsidiary treaties, so framed as 'to deprive them of the means of prosecuting any measure or of forming any confederacy hazardous to the security of the British Empire, and to enable us to preserve the tranquillity of India by exercising a general control over the restless spirit of ambition and violence which is characteristic of every Asiatic Government.'<sup>1</sup>

Thus emerged the second phase of Britain's policy in respect of the Indian States; and in the course of its development, it secured her the right to interfere in States here and there—ostensibly by way of help in the collection of revenues and advice in the general conduct of affairs.<sup>2</sup>

In 1805, Lord Cornwallis returned to India for a second term of office (brief as it was fated to be) and noted as follows the effects of the reversal of his policy of non-intervention :—

From reports I have received from Residents, I am sorry to find that the States which are most intimately connected with us are reduced to the most forlorn condition; that these powers possess no funds or troops on which they can depend; that anarchy and disaffection prevail universally throughout the dominions, and that unless the British Government exercised a power and an ascendancy that they ought not to exert, those (native) Governments would be immediately dissolved.

Such already was the practical irony of *Pax Britannica*.

Sir George Barlow (1805-07) "meekly carried out the orders of his employers and curtailed the area of British responsibility."<sup>3</sup> Lord Minto who came next (1807-13) had been ordered "to follow a policy of non-intervention, and he managed to obey these orders without injuring the prestige of the British name."<sup>4</sup> His ambassadors (Metcalf, Elphinstone and Malcolm) "introduced the British to a new set of diplomatic relations and widened the sphere of their influence."<sup>5</sup> The new spheres were the Punjab under Ranjit Singh in India, and Afghanistan and Persia outside.

Then came another master-builder, Lord Hastings (Moir). He (1814-23) intensified and systematized the policy

<sup>1</sup> *Imperial Gazetteer*, Vol. IV, p. 10.

<sup>2</sup> Mysore Treaty of 1799, Articles 4 and 5.

Travancore Treaty of 1805, Article 9.

M. S. Mehta, *Lord Hastings and Indian States*, pp. 4-5.

<sup>3</sup> *Imperial Gazetteer*, Vol. II, p. 192.

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*, p. 493.

adumbrated by Lord Wellesley and "negotiated more treaties than any other ruler of India attempted either before or after 1813."<sup>1</sup>

Opposed as he evidently was to annexation, he felt that the true position of the States in the interior of India was one of isolation and subordinate co-operation.<sup>2</sup>

The Udaipur Treaty of 1818 illustrates the new policy.

After declaring perpetual friendship, alliance and unity of interests, Article 2 unreservedly and shortly announces: "The British Government engages to protect the principality and territory of Oudeypore." In return, Article 3 with similar precision lays down the obligations of the Chief: "The Maharana of Oudeypore will always act in subordinate co-operation with the British Government and acknowledge its supremacy and will not have any connexion with other Chiefs or States."..... Article 4 again prohibits any negotiation with other States without the sanction of the British Government. Isolation was the keynote of Lord Hastings' policy.<sup>3</sup>

The motive was twofold: - (i) combinations should be made impossible among the Princes; and (ii) they should be rendered incapable of even independent self-defence. Peace and protection were offered free to all who would bind themselves to live secluded and innocent; and this seemed to the Princes of that day not too high a price to pay for such complete relief from all responsibility and anxiety. The alternative to this was indeed unthinkable. Weakened, distracted, and awe-struck by the exploits of British arms and strategy, the Princes were grateful for that opportunity of ensuring their survival. Lord Hastings deprecated intervention as a "breach of faith" and ridiculed solicitude on the part of the British for the subjects of a Native State as "quixotic".<sup>4</sup> The Princes were to be absolute masters of all within their territories, unquestioned and undisturbed, - but only *within*.

Neither the Princes nor the promoters of the policy of "subordinate isolation" paused to consider the possible reactions of that policy on the life of the States, - reactions noticed and warned against by Lord Cornwallis in 1805. Enough for both parties alike must have seemed the cares of their day; and they perhaps could not afford to defer a present programme in contemplation of a future difficulty. Time, however, would not remain quiescent. By undertaking to remain

<sup>1</sup> Lee-Warner, *Protected Princes*, p. 93.

<sup>2</sup> *Ibid.*, p. 96.

<sup>3</sup> *Ibid.*, p. 118.

<sup>4</sup> M. S. Mehta, *Lord Hastings and Indian States*, pp. 167, 225-26.



segregated and innocuous, the Princes deprived themselves of three springs of vital power :

- (i) military self-reliance,
- (ii) incentive to administrative improvement, and
- (iii) public prestige.

The effects of these losses<sup>1</sup> were to be seen in the activities of predatory gangs and popular disorders in the States. In one word, the neighbourhood of British territories became both unsafe and disreputable. The very consideration which Hastings had set aside as "quixotic"—namely, that of rendering to the States' people what was plainly due to them, as a corollary to the shield provided to their Princes,—came to force itself upon the more conscientious among his successors, like Lord William Bentinck (1828–1834).<sup>2</sup> In taking over the administration of Mysore from the Raja, he drew attention to—

the obligation of the protective character which the British Government holds towards the State of Mysore, to interfere for its preservation, and to save the various interests at stake from further ruin.<sup>3</sup>

In addition to bringing thus into prominence the fiduciary capacity of the British Government, Lord Bentinck also asserted its right to step into the States for the purpose of suppressing inhuman practices like *suttee*.<sup>4</sup>

The next Governor-General to influence British policy towards the States in a notable manner was Lord Hardinge (1844–1848).

There is a letter from Lord Hardinge, addressed in 1848, to a Chief who shall be nameless, which expressly declares that the British Government cannot submit to the stigma of tolerating oppression. That Government—so the letter runs—"never can consent to incur the reproach of becoming indirectly the instrument of the oppression of the people committed to the Prince's charge. If the aversion of a people to a Prince's rule should, by his injustice, become so universal as to cause the People to seek his downfall, the British Government are bound by no obligation to force the People

<sup>1</sup> "Protection (by the British) was from the first no unmixed blessing to them (Princes) as autocratic rulers. . . . . It detracted from the merits of autocracy as a system of government. An autocrat justifies his despotic rule if he retains his power by his own personality and ability, but not otherwise. . . . . The "blessing" of external protection removes what is, perhaps, the greatest incentive to able administration,—the ruler's fear of his own subjects if he does not give them satisfaction. It is a Greek gift which indirectly has done more than anything else to keep the Indian Princes and their States from progressing at the pace of British India."—*The British Crown and the Indian States*, pp. 119–120. Rather a strange protest and confession to find in a statement of the Chamber of Princes!

<sup>2</sup> Lee-Warner, *Protected Princes*, p. 137.

<sup>3</sup> *Mysore Gazetteer* (1897), Vol. I, p. 428.

<sup>4</sup> Lee-Warner's *Protected Princes*, p. 94.

to submit to a ruler who has deprived himself of their allegiance by his misconduct.<sup>1</sup>

Lord Hardinge went on to say that "if, in spite of friendly warnings, the evils of which the British Government might have just cause to complain were not corrected, it would be necessary to have resort to direct interference."<sup>2</sup>

But, strange as it must seem, Lord Dalhousie, who came after Hardinge, counted the Indian States among "independent sovereignties" and the treaties made with them among "international contracts". He would therefore not interfere in the States except in one contingency.

The acknowledged supremacy of the British Power in India gives to it the right, and imposes upon it the duty, of maintaining by its influence and, if need be, of compelling by its strength, the continuance of general peace. It entitles it to interfere in the administration of Native Princes, if their administration tends unquestionably to the *injury of the subjects or of the allies of the British Government.*<sup>3</sup>

He was not concerned so much about the subjects of the Princes. His annexations were either punishments for the States' offences of "inflicting injuries upon the Company's Government" or "violating good faith" towards it; or they were assignments made to the Company by Providence itself in its denial of natural heirs to vacant thrones. Annexation was incidentally, - noted Lord Dalhousie, - also a way of "ensuring to the population of the State a *perpetuity* of just and mild Government."<sup>4</sup> Either perpetuity or none at all! Rather than interfere and improve only for the time being, absorb and transform for all time - such was the view of that imperialist radical. The downrightness of Lord Dalhousie's reasoning met with no appreciation at the time. On the contrary, his policy is believed to have added to the forces of discontent in the country which expressed themselves in the abortive national uprising of 1857 called the Mutiny. That event closes the second chapter of our story.

"Most of the treaties or engagements concluded with the protected States were made during this period."<sup>5</sup> They hold out no such guarantees of non-intervention as may be gleaned from the earlier documents and, on the other hand, they contain suggestions of the opposite import.

<sup>1</sup> Tupper, *Our Indian Protectorate*, p. 305.

<sup>2</sup> *Ibid.*

<sup>3</sup> Lee-Warner, *Lord Dalhousie*, Vol. II, p. 114.

<sup>4</sup> *Imperial Gazetteer*, Vol. IV, p. 82.

<sup>5</sup> Lee-Warner, *Imperial Gazetteer*, Vol. IV, p. 79.

## III. EMPIRE.

*Canning to Reading (1858-1926).*

It was perhaps well that Dalhousie tried his drastic experiment. To many others as well during that period, it must have seemed worth a serious trial. Its unhappy after-crisis led to the instant abandonment of all ideas of territorial expansion by Britain and—what is more—to her acceptance of the rôle of a trustee for the preservation of the States and the welfare of their people. It now came to be distinctly recognized that there was no other proper way to deal with the States than that of a judicious mixture of conciliation and control. The Queen's Proclamation shows this :

We desire no extension of our present territorial possessions ; and, while we will permit no aggression upon our dominions or our rights to be attempted with impunity, we shall sanction no encroachment on those of others.

We shall respect the rights, dignity and honour of Native Princes as our own ; and we desire that they, as well as our own subjects, should enjoy that prosperity and that social advancement which can only be secured by internal peace and good government.

This is the policy of "subordinate union and co-operation". It involves a distinct element of active British interest in the internal well-being of the States. Lord Canning exemplified it by the grant of his famous Adoption Sannads to all Princes, and explained it further while recommending that grant:—

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.<sup>1</sup>

The new policy also set aside the pedantic distinction that Dalhousie had tried to make among the States as dependent and independent. For the purposes of general imperial or all-Indian policy, all States were to be treated as of one category hereafter. All were subordinate alike, and Britain was to count all alike as part of her charge.

Treaties were no longer made as if between equals. . . . The territories under the suzerainty of the Crown became at once *as important and integral a part of India as the territories under its direct dominion. Together, they form one care.*<sup>2</sup>

<sup>1</sup> Lee-Warner, *Protected Princes*, p. 279.  
*Buller Report*, p. 15, par. 22.

<sup>2</sup> *Imperial Gazetteer*, Vol. IV, p. 82.

Canning's enunciation of policy stands to this day. But its application has by no means been steady and systematic. The failure is partly to be explained by the difficulty of suiting it to the general atmosphere of the times. For some years following the assumption of power by the Queen, the apprehensions and misgivings which the preceding years had bred continued to linger in the minds of the Princes.

The exclamation—'It will soon be all red!'—attributed to Maharaja Ranjit Singh, the Sikh ruler of the Punjab, on being shown a map of India on which the Company's possessions were shown in that colour, represented for a long time after the Queen's Proclamation the innermost sentiment of native courts.<sup>1</sup>

There was great need, therefore, for gentleness and caution. It was as likely as not that an attempt to advise or correct a Prince, although made in the friendliest of ways, would be mistaken—so was it then feared—as another manœuvre for the extension of British dominion. In the face of such a risk of misunderstanding, hesitancy, though in the performance of what was without doubt a duty, was itself a duty none the less.

Lord Elgin, who succeeded Lord Canning, has set forth the difficulty of the position in vivid and lively detail (1862):—

If you attempt to crush all superiorities, you unite the native populations in a homogeneous mass against you. If you foster pride of rank and position, you encourage pretensions which you cannot gratify, partly because you dare not abdicate your own functions as a Paramount Power and partly because you cannot control the arrogance of your subjects of the dominant race. Scindia and Holkar are faithful to us just in proportion as they are weak and conscious that they require our aid to support them against their own subjects or neighbours. . . . . My own opinion is that Canning never intended to let the Chiefs get the bit into their mouths, or to lose his hold over them. It is true that he rode them with a loose rein, but the pace was so killing during the whole of his time that it took the kick out of them; and a light hand and silken thread were all that was required. His *policy of deference to the authority of Native Chiefs was a means to an end, the end being the establishment of the British Raj in India*; and when the means and the end came into conflict, or seemed likely to do so, the former went to the wall.

But observe, if we lay down the rule that we will scrupulously respect the right of the Chiefs to do wrong, and resolutely suppress all attempts of their subjects to redress their wrongs by violence, which, in the absence of help from us, is the only redress open to them, we may find perhaps that it may carry us somewhat far—possibly to annexation—the very bugbear from which we are seeking to escape. Holkar, for instance, unless common fame traduces him,

<sup>1</sup> Holderness, *Peoples and Problems of India*, p. 201.

has rather an itching for what Mr. Laing calls 'hard rupees'. His subjects and dependants have decided, and not altogether unintelligible, objections to certain methods which he adopts for indulging this propensity. When they, those of them more especially who have Treaty claims to our protection, come to us to complain and to ask our help, are we to say to them :—'We have too much respect for Holkar's independence to interfere. Right or wrong, you had better book up; for we are bound to keep the peace, and we shall certainly be down upon you if you kick up a row' ? In the anomalous position which we occupy in India, it is surely necessary to propound with caution, doctrines which, logically applied, land us in such dilemmas.<sup>1</sup>

Lord Lawrence and Lord Mayo who came next (1864-72) do not seem to have differed from these views. The latter indeed said, addressing Rajput Princes and Chiefs :—

If we support you in your power, we expect in return good government. We demand that everywhere through the length and breadth of Rajputana, justice and order shall prevail; that every man's property shall be secure.....

But it was not easy to see that the demands were satisfied. The grave case of Maharaja Mulhar Rao Gaekwar of Baroda illustrates at once the attitudes prevalent on both sides at so late a date as 1875. He was suspected of an attempt to poison the British Resident. And though, in addition to this, he had been known to be guilty of continued misrule, the British Government was in no hurry to deal with him. The allegation against him was evidence of the fact that distrust and dislike of the British Power remained lurking in some quarters even yet. It seems the Government of Lord Northbrook needed the persuasion of a fellow-Prince of the Gaekwar to make up its mind to act as it had to. The Maharaja Holkar is reported to have said :—

"Presuming (he said to General Daly, the Governor-General's Agent for Central India) that things are worse at Baroda than in other Native States, and that the Gaekwar by his acts shows himself unfit to rule, I would depose him and appoint in his place the most worthy of the three members of the family who were in Khande Rao's eye for adoption. I take for granted there is no thought of annexation; that there will be no interference with treaty rights; that the Queen's Proclamation will be upheld. This being so, it is the duty of the Paramount Power to save the State. The person for the time being is little; the State with its rights is the point for consideration. Half-measures in such a case will work no good: I mean *an attempt to work the State by British officers will be construed into another covering for annexation*. I would rather have a clean removal and a clean succession." He added that the

<sup>1</sup> *Letters and Journals of James, Fifth Earl of Elgin* (1872), pp. 421, 422 and 423.

successor should not be suddenly left to his own devices, but be for some time guided and strengthened by patient and judicious counsel.<sup>1</sup>

Thus encouraged, Lord Northbrook deposed the suspected Maharaja and appointed a Commission to enquire into the charges, taking care to include in its personnel two Ruling Princes and an Indian Minister possessing an extensive experience of the States. In this connexion, Lord Northbrook had written to the Maharaja : --

My friend, I cannot consent to employ British troops to protect anyone in a course of wrong-doing. Misrule on the part of a government which is upheld by the British Power is misrule for which the British Government becomes, in a measure, involved. It becomes, therefore, not only the right, but the positive duty of the British Government to see that the administration of a State in such a condition is reformed and that gross abuses are removed.<sup>2</sup>

But the atmosphere for Britain's work gradually changed for the better. 1877 marked the beginning of the improvement with a Durbar at Delhi where Lord Lytton, in explaining the significance of the new title of Empress which the Queen had just taken, found occasion to re-emphasize the friendliness and goodwill of the British.<sup>3</sup> 1881 saw the restoration of two important States—Mysore and Baroda—not only unimpaired, but made better in many respects. Risks of misunderstanding were bound to grow less after this.

The peaceful and benign policies of Lord Ripon (1880-84) helped the process of inspiring confidence in the friendliness and disinterestedness of British intentions; and his unique popularity enabled him to tender proper advice to the Princes with the greater frankness. He declared in an open Durbar (Lahore, 15th November, 1880) : --

Her Majesty the Queen-Empress has commanded me to convey to the Chiefs of India her warm interest in their welfare,—that not in their personal welfare alone, but in the success of their administration and in the well-being of the people of their States; for it is well known and should be everywhere understood that the British Government always entertains not only a desire for the honour and advantage of the Chiefs, but also a deep solicitude for their subjects, and that we measure the greatness of a State and the degree of its prosperity, not so much by the brilliancy of its court, or even by the power and perfection of its army, as by the happiness and contentment of the people of every class. It is my earnest hope that the Chiefs now assembled around me will remember this,

<sup>1</sup> Tupper, *Our Indian Protectorate*, pp. 117-18.

<sup>2</sup> *Ibid.*, p. 115.

<sup>3</sup> Page 39 of this book.

and that they will continue to administer their hereditary dominions—the possession of which is secured to them under Her Majesty's Empire—with justice and moderation, being careful to retain the affection of their people, and even to introduce necessary reforms; for when disorders arise, the British Government will judge that evils have crept in which require remedy.

His successor, Lord Dufferin (1884–1888), too, was not unmindful of what was due to the People of the States. In 1888, he “personally warned a Chief that the British Government could not countenance oppression and misrule. The Chief of a great Native State, His Lordship said, was not maintained in his position that he might neglect the welfare of his subjects and give himself up to indolence and the gratification of selfish desires.”<sup>1</sup>

The Manipur outrage of 1891 opened another opportunity for the demonstration of British supremacy; and the Government of Lord Lansdowne (1888–94) made use of it to make it clear once for all that the Indian States have no place within the purview of International Law and that the authority of the Suzerain was not to be questioned in any event.<sup>2</sup>

The wheels of the Political Department of the Government of India went on revolving more energetically henceforward, till they attained a notable and even lively degree of efficiency during the magistral days of Lord Curzon (1899–1905). It is unnecessary to recount here how not a few of the Princes chafed under the rule of that martinet among India's Viceroy's. His primary concern in insisting upon efficiency in the administrations of the States, as in the rest, was about the Empire's prestige; for, inefficiency tolerated even in a subordinate Prince would make for the derogation of Britain's eminence in the eyes of the world. He protested that there was no desire to anglicize the States; but he would not hesitate to recommend to them British standards of business method and administrative discipline.<sup>3</sup>

But a reversal of the policy was destined to set in immediately on his leaving India. Lord Minto (1905–1910), came to face the murmured remonstrances of the Princes and the more clamant agitation of the public of British India both at once. It is true there was no longer any harm to be feared from the Princes. But was it not sound policy to mollify and keep them in a good humour, so that they might,

<sup>1</sup> Tupper, *Our Indian Protectorate*, p. 305.

<sup>2</sup> See p. 40 and Appendix A.

<sup>3</sup> See speech given in the Appendix B.

when the time came, serve as breakwaters against the surging tides of the Congress movement? In the course of a speech at Udaipur, in 1909, he declared :

The foundation-stone of the whole system is the recognition of identity of interests between the Imperial Government and the Durbars, and the minimum of interference with the latter in their own affairs. I have always been opposed to anything like pressure on the Durbars with a view to introducing British methods of administration.<sup>1</sup>..... We are at the commencement of a new era of thought in India. We shall have many new problems to face as years go on, problems surrounded with difficulties and anxieties, in the solution of which I trust that the Ruling Chiefs of India will ever bear in mind that the interests of themselves and their people are identical with those of the Supreme Government.

This plainly is the voice of Imperialism cautioning its dependants to stand arrayed against the advancing hosts of Nationalism.

Not that Minto forgot or ignored the fiduciary relation in which his Government was placed towards the people of the States. Indeed he admitted that—

In guaranteeing the internal independence of the States and in undertaking their protection against external aggression, it naturally follows that the Imperial Government has assumed a certain degree of responsibility for the general soundness of their administration and would not consent to incur the reproach of being an indirect instrument of misrule.

But this was only by way of a gentle reminder of the existence of a potential right, rather than of a resolve to exercise it,—of a possibility, not of a probability. It was lip-service, as required by propriety, to a time-honoured principle. In practice, however, it had to make room for a policy of leniency towards the Princes. For, had not the Congress come into the field as successor to the French and the Pindaris of old in a plot against Britain's power in India? The Princes had now to be propitiated, for the Empire stood in especial need of their loyalty. Lord Minto<sup>2</sup> and his successors have followed this counsel of diplomacy, with results which have

<sup>1</sup> This refers apparently to Lord Curzon's advice noted above.

<sup>2</sup> Three instances of Lord Minto's propitiatory policy in respect of the Princes may be mentioned here :

(1) The penalizing of criticism of Princes and Chiefs by newspapers, etc., in British India—Cl. 4 (c) of the Act to Provide for the Better Control of the Press, No. 1 of 1910 (Repealed in 1922).

(2) The constitution of the family estates of the Maharaja of Benares into a "State", he being invested with the powers of a Ruling Chief (April 1911).

(3) The attempt to set up an Imperial Council of Ruling Chiefs "to assist the Governor-General in the guardianship of common and Imperial interests."—an attempt discountenanced by Lord Morley.



been described for us by a publicist of international eminence, — one known not for any love of exaggeration or injudiciousness. Mr. V. S. Srinivasa Sastri, speaking at Ernaculam (Cochin State) in 1926, said :—

Let me point to this one fact—that during the last 10 or 12 years, when the policy of the Government of India has been so far as possible to leave the Durbars of our Native States free and untrammelled, political officers have, as a rule, not interfered unless gross misrule prevailed. That policy of relaxing the control almost suddenly over a set of people who have long grown accustomed to rigid and indeterminate discipline has had a very unfortunate effect. A great many of the Princes are not to be seen in their places. They are to be seen anywhere where enjoyment can be bought by their people's money. You go to London, you go to Paris, you go to all the fashionable cities ; and you meet some Indian Raja or other dazzling the people of Europe and corrupting those who go near him. Need I remind you of the cases of Nabha, Kashmir, Indore,—very recently and more important than any other, Hyderabad ? These are the bitter fruits of the policy of relaxation of control.<sup>1</sup>

May we not lengthen the list with Alwar, Bharatpur, Patiala and certain others added ? The general belief is that with the slackening of vigilance and check during Lord Minto's regime, the Princes began to relapse into the old ways of self-indulgent and unenlightened despotism.

It was for Lord Reading to see that the pendulum now swung back. He had to re-assert the fiduciary responsibility and the attendant interventional right of the Paramount Power, not merely in words as in his correspondence with H. E. H. the Nizam of Hyderabad,<sup>2</sup> but in stern administrative action as in the case of Indore.<sup>3</sup> Thus is the right of intervention a live match yet ; and it is against that that the Princes are protesting and agitating.

<sup>1</sup> *The Future of Indian States*, p. 20.

<sup>2</sup> "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 the general welfare of the people of a State is seriously and grievously affected by the action of its Government, it is with the Paramount Power that the ultimate responsibility of taking remedial action, if necessary, must lie. The varying degrees of internal sovereignty which the Rulers enjoy are all subject to the due exercise by the Paramount Power of this responsibility."—Lord Reading's Letter to H. E. H. the Nizam of Hyderabad, 27th March, 1926. *Butler Report*, p. 57.

<sup>3</sup> Lord Reading was by no means unmindful of the uses of playing the good Samaritan to the Princes. By certifying the Princes' Protection Bill (Indian States' Protection Against Dissaffection Act, 1922) as a measure "essential for the interests of British India" (under S. 67 B. of the Government of India Act of 1919) after its rejection by the Indian Legislative Assembly, and securing for it the assent of His Majesty, he achieved the double purpose of humouring the Princes and shackling the publicists.

In our study of the third period, we have upto this point followed the vicissitudes of extra-treaty policy; because this period has few treaties belonging to it. The Mysore Instrument of Transfer of 1881 is among them all believed to contain "the most complete statement of the relations subsisting between the Government of British India and its feudatories."<sup>1</sup> It was replaced by a Treaty in 1913; and this, being the very latest, may be taken as the most mature and finished exposition of the British Government's view of its relations with the States. Here is the essential passage of it:—

21. While disclaiming any desire to interfere with the freedom of the Maharaja of Mysore in the internal administration of his State in matters not expressly provided for herein, the Governor-General in Council reserves to himself the power of exercising intervention, in case of necessity, by virtue of the general supremacy and paramount authority vested in him, and also the power of taking such precautionary or remedial action as circumstances may, at any time, appear to render necessary to provide adequately for the good government of the People of Mysore or for the security of British rights and interests within that State.<sup>2</sup>

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<sup>1</sup> Holderness, *Peoples and Problems of India*, p. 201.

The statement, by the way, that the relations in question subsist "between the Government of British India and its feudatories" is open to debate. It is, at any rate, not the view of the Princes and of some eminent lawyers. According to them, the relations are in fact with the Government of India, and in law through that Government with the British Crown in Parliament. This point is discussed in another chapter in this book.

<sup>2</sup> If it be allowed that the reference to "British rights and interests" is to be superseded by, or to be interpreted in the terms of, the more recent pronouncements of the British Government about responsible self-government and Dominion status for India, there is nothing in this clause to which exception can be taken.

## CHAPTER V.

### TREATY AND CONVENTION : THEIR RELATIVE VALUE AND SIGNIFICANCE.

THE foregoing historical survey supports the following general propositions :—

(1) The one note that runs through the whole gamut of Britain's policy towards the States is - naturally enough-- that of consideration for herself. Settlement, consolidation, expansion, hegemony, predomination, suzerainty, empire,— such has been her crescendo ; and corresponding to this on the other side has gone on the diminuendo - independence, fraternality, buffership, segregation, enfeeblement, dependence, vassalage. Intervention and non-intervention are the twin keys that have produced this singular duet. It is in the light of this outstanding fact of history that the treaties and muniments of that class are to be read.

(2) Out of the 562 States existing to-day, it is only forty<sup>1</sup> that can point to treaties as the basis of their relations with the British ; so that it cannot be argued that the treaties can suffice as the source of a general policy for the entire body of States.

(3) Even these forty treaties do not all come to us from the same epoch of history. They belong to different political ages—from 1730 to 1913—and differ from one another in content and tenor according to the motives and circumstances of the date of origin. Even thus, the treaties are incapable of furnishing a uniform standard of rights and obligations for all the States.

(4) It is a question whether the treaties can, to any extent, partake of the character of “ international contracts”. In the case of most of them, the parties were not of equal status at the time of signing ; and in signing, one party explicitly surrendered not only the whole of its external sovereignty, but also a moiety of its internal sovereignty as well. In other words, the treaties have had the effect of putting the States out of court for that very tribunal of International Law which is the final hope of all treaties properly so called. The dominant party to the Indian treaties, viz., the British

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<sup>1</sup> *Buller Report*, p. 12, par. 16 and p. 23, par. 38.

Government has, in fact, had a public declaration made by its agents (1891) excluding the other party, *viz.*, the States, from the realm of International Law; and in this, the latter party has ever since acquiesced without a murmur. The value and the validity of these treaties have thus become strictly limited. They are, in truth, no more than provisional memoranda of the conditions with which the parties started—only started—their relations with each other, on the tacit understanding that further developments were to be left to the exigencies of time and circumstance.

(5) The successive treaties represent the evolution of British policy from stage to stage, irrespective of the individual States with which they were made; so that the more recent treaty must be taken to be a revised and amended version of the earlier on matters common to both, meant for the entire body of Indian States. "The obligations of each State cannot be fully grasped without a study of the whole corpus or mass of treaties, engagements, and Sannads."<sup>1</sup> On the same principle, the later precedent or convention must be taken to have superseded the older, not for the one particular State concerned, but for all. The latest decision embodies the most fully developed principle of mutual conduct.

(6) The authoritative words of Hall may well be applied to the Indian treaties: that

no ground appears for their claim to exceptional reverence. . . . . They are of the greatest use as marking points in the movement of thought. If treaties modifying an existing practice, or creating a new one, are found to grow in number, and to be made between States placed in circumstances of sufficient diversity; if they are found to become nearly universal for a while and then to dwindle away, leaving a practice more or less confirmed, then it is known that a battle has taken place between the new and the old ideas, that the former called in the aid of special contracts till their victory was established, and that when they no longer needed external assistance, they no longer cared to express themselves in the form of so-called conventional law. While, therefore, treaties are usually allied with a change of law, they have no power to turn controverted into authoritative doctrines. . . . . Treaties are only permanently obeyed when they represent the continued wishes of the contracting parties.<sup>2</sup>

If, therefore, it is not proper to disregard the tomes of Aitchison as "scraps of paper", they are not to be regarded

<sup>1</sup> Lee-Warm r. *Protected Princes*, pp. 37-39.

<sup>2</sup> W. F. Hall, *International Law* (1900), pp. 11-12.

as companion volumes to the scriptures either. The Government of India Act of 1919 is careful to note the limits to the applicability of the Treaties. It says:—

All treaties . . . . *so far as they are in force at the commencement of this Act, are binding on His Majesty.* . . . .—Sec. 132.

From their very nature, it is impossible that they could be self-sufficient; and they are properly read only in conjunction with the body of convention which common understanding and precedent have inevitably built up, side by side with and as supplementary to them. And as in the past they did, so may they in our own day yield to the pressure of living necessity. The necessity then was Britain's; now it is India's.

(7) Thus construed, the utmost value which the treaties can legitimately obtain for themselves is as guarantors, firstly of the territorial integrity of the States, and secondly of the maximum practicable extent of internal autonomy to the States. More than these two points, the treaties cannot reasonably be made to yield. The British Government cannot meddle with the boundaries of the States as it may with those of its own Provinces; and it cannot lay claim to any powers in respect of the States more than such as may be required by its twofold Suzerain responsibilities of ensuring good government within and protection and other facilities of civilization without. Subsidiary to these two basic pledges are the terms of the treaties relating to other matters, whether they be questions of fiscal adjustment or those of the dynastic and personal privileges of the Ruling Prince.

(8) There is no warrant whatever for the view that the treaties furnish guarantees of absolute non-intervention. On the contrary, the right to intervene is undeniably implicit in the stipulations in many of the treaties and is expressed unmistakably in many others. And it has been confirmed by the undisputed usage of not less than 125 years (1805–1930) which supervenes over all treaties. Further, it is bound to last so long as the circumstances which may call for its exercise are not made impossible.

(9) Its contradiction with the promise of non-interference, such as was held out by Lord Minto, is only apparent. Both are seen reconciled below the surface. The same imperialist inspiration has expressed itself in two different modes, owing to the difference in environment. The pledge of non-intervention, in its negative aspect, is to be taken as no more than a form of forswearing by Britain of the intention to extend

her dominion even indirectly or covertly. At one stage in history, there was clear need for such forswearing; because intervention had in many instances before then turned out to be merely an innocent-looking preliminary to the permanent or indefinitely prolonged occupation of the State by the British. In its affirmative aspect, the pledge is to be construed as no more than the admission of the State's title to exercise as large a measure of power over its own affairs as is compatible with the share of responsibility taken up by Britain for peace, order and good government.

(10) Neither intervention nor non-intervention can possibly be an absolute rule. Upto now, the *raison d'être* of both was to be discovered in the needs of Britain—of course as judged by herself. In the relations between a Suzerain State and a Subordinate State - as between the Central and a Provincial Government under a federal constitution—the fair principle to govern both intervention and non-intervention should be sought in the incidence of advantage. Neither intervention nor non-intervention is in itself either a virtue or a vice; and its character is to be judged only from the reactions which it is likely to produce on the well-being of the people concerned. If that be so, the relations between the two Powers cannot follow any stereotyped formula, but should be adjusted and re-adjusted to the changing demands of progressive national life. *Salus populi suprema lex*: “Regard for public welfare is the highest of laws.”

(11) The phrase “subordinate union and co-operation” is satisfying enough as an aphorism. Lord Curzon has converted it into a rotund epigram as “a blend of authority and free-will”, - “of protection and restraint”. This policy has, no doubt, the capital merit of taking into account that element of a State which, more than its Prince, forms the very material of its person, namely its People. But it is a policy which, in the absence, as at present, of a special agency to implement it, cannot help proving arbitrary and fitful in its operations. We have seen how it has been oscillating between the extremes of unconcern and officiousness, according to the personal whim or fancy of the Governor-General of the day. Swayed by extraneous considerations and not stabilized by the sovereign principle of regard for the public, the policy has in practice been the name for a variety of the unblest tactics of temporizing. Though the duty of the Suzerain towards the People is taken as a text for some virtuous

discourse on occasions by Viceroys, it is mostly imperialistic interest that has determined their conduct; and that determinant is itself largely a product of individual discretion. No policy which is so utterly at the mercy of individual option, and is so unprovided with openly working organs of regulation, can be trusted to remain steadfast and true to the purpose set forth as its moral justification.

(12) Let us also remember that even when there are no deflecting factors, and there is the most conscientious regard for the welfare of the people, it is not easy to carry out a policy so ill-defined and flexible. The doctrine of local autonomy is, after all, not a meaningless figment of fancy. It stands on the basis of a wide political experience; and its practical usefulness is universally admitted. Provincial or local self-government, devolution and decentralization are among the accepted devices of a democratic scheme of administration. Care should therefore be taken to see that no harm is caused to this vital principle of local sovereignty by wantonness or rashness. The interfering hand is not infallible by any means. Its movements, instead of making for the betterment of things, may only worsen them. Interference may take away the habit of self-rectification, may cripple initiative and may weaken the fibre of individuality. The most patient enquiry and the most scrupulous deliberation must therefore precede actual resort to interference, both as to the degree of the urgency for it and as to the true limits of its operation. And interference is always bound to be a vexatious process. It tries tempers on both sides. The utmost circumspection and tact are therefore necessary in the method of its exercise.

(13) Now, as many as 562 are the States. They lie scattered from end to end over a country of continental dimensions. The Governor-General to look after them all is but one; and for advice and assistance he has no more trustworthy agency to turn to than the bureaucracy of the Political Department, whose work is carried on without daylight and whose reports are accessible to no check or verification. So protected and so manipulated, the subtly conceived policy of intervention-*cum*-non-intervention has presented the features of a paradox rather than of a principle; and it is no wonder that it has succeeded in disappointing profoundly the People as well as the Princes, though seldom both by one and the same proceeding. The Suzerain Power has stood Janus-like between the two parties in the State, now smiling

on the one and frowning on the other, and now reversing the gestures. As the divergence of interests between the two parties is proved by the presence of this arbiter, it is perpetuated by the inconstancy and uncertainty of her attitude.

(14) Until the People are placed in the seat of power, the dualism of the Suzerain's policy may be inevitable,--but not so its dubiety. We have seen that the dualism is only superficial. Hitherto, it was a compromise between, and therefore a compound of, Britain's tactics to win confidence and friendship on the one hand and her plans of aggression and ascendancy on the other--both having the same impulse behind them. Hereafter,--for some distance of time at all events,--it should be a compromise between, and therefore a compound of, the State's right of autonomy on the one side and the Suzerain's fiduciary obligations on the other--behind these too being a common motive, namely regard for the well-being of the People of the State. While dualism is thus natural and unavoidable in the existing circumstances, dubiety is a feature that can be and ought to be at once removed. It will be removed when the Suzerain Power agrees to subject the elaboration and working of its policy to the scrutiny as well as the guidance of a constitutional body representative of popular interests. The exact manner of the creation of such a body is a question of detail. What is essential is that there should be an agency charged with the care of the fiduciary duties of the Suzerain.

(15) This body should have the power to keep a watch over the general progress of the States, to take note of specific popular complaints, to conduct or cause enquiries, to recommend the mode and the extent of correctional interference, and to bring the operations of the Political Department under review. This would save the Suzerain's policy from the veering gusts of individual caprice and give it the shelter of constitutional regulation. When thus made accessible to regulation and criticism, intervention by the Suzerain could, when called for, proceed without hesitancy or apology. And when attempted without justification, the State threatened would have reasonable means of calling attention to the wrong and resisting it.

(16) Intervention, even when thus constitutionalized, can be only a transitional expedient, not either a permanent or a complete remedy. The trouble can be truly eradicated only by the development of responsible government in the



States. The need for extraneous superintendence and policing must naturally disappear in proportion to the capacity developed by the people to look after themselves. Not until democracy is established in supreme power in the States can Britain hope for release from the inevitable embarrassments of her fiduciary obligations. This really is the heart of the matter.

(17) It is sometimes said that the Suzerain Government's right of intervention is limited to cases of "gross mis-government"<sup>1</sup> or "flagrant maladministration," and that it is bound to hold its hands aloof whenever the case is less than gross or flagrant. This position is totally denied by Article 15 of the Mysore Treaty (1913), as by every process of logic and ethics. The British Government has not only the negative duty of arresting misrule, even when it is subtle or refined, but also the positive duty of promoting good government in every form. Nay more; its duty is to create in this country permanent guarantees of good government. To say that Britain has not this duty and the power necessary thereto is to plead that she has to stay in India for all time as the indispensable mentor of our Princes and that there can, therefore, be no hope of India's ever becoming a free and fully self-governed Dominion.

(18) The mission which history has entrusted to Britain in relation to the People of the States is in substance akin to that she has already owned towards the People of British India; and the considerations which actuated her promise of responsible government to the latter ought to be fully as valid and operative in the case of the former. The people's eagerness, their inherent fitness, and their practical necessity are all similar in the two divisions of India; and the treaties can show no means of escape for Britain from the logic of these circumstances. The Mysore Treaty (1913) gives her the power of "taking such precautionary or remedial action as circumstances may at any time appear to render necessary to provide adequately for the good government of the people." The best "precaution" to ensure good government for all time is admittedly the instituting of that form of government in which the citizens have the power of shaping their destiny. It is thus idle to argue that the Suzerain is destitute of authority to secure the introduction of responsible government in the

<sup>1</sup> *E. g.*, *Buller Report*, p. 30, par. 53. See also the letter from Private Secretary to the Viceroy, Appendix F.

States. There may be room for discussion as to the most satisfactory method of bringing that authority into service; but as to the existence of the authority itself, even the Butler Committee is in no doubt. Nay, that Committee lays down that the exercise of its suzerain authority to secure constitutional reforms in the States is the duty of the British Government. Its words in the following passages are unambiguous, and they may well be prized by the States' People as a charter of emancipation for themselves:

The guarantee to protect a Prince against insurrection carries with it an obligation to enquire into the causes of the insurrection and to demand that the Prince shall remedy legitimate grievances, and an obligation to prescribe the measures necessary to this result.

The promise of the King-Emperor to maintain unimpaired the privileges, rights and dignities of the Princes carries with it a duty to protect the Prince against attempts to eliminate him, and to substitute another form of government. If these attempts were due to misgovernment on the part of the Prince, protection would only be given on the conditions set out in the preceding paragraph. If they were due, not to misgovernment, but to a *widespread popular demand for change*, the Paramount Power would be bound to maintain the rights, privileges and dignity of the Prince; but *it would also be bound to suggest such measures as would satisfy this demand without eliminating the Prince.*<sup>1</sup>

The entire foundations of Britain's policy in India are now being re-laid. The horizons are broadening for the dwellers of British India. They are to be not only masters in their own home, but also part-trustees of the Empire. When the sovereignty of the People is thus coming to find realization there, how can it in reason and righteousness be denied in the neighbourhood? Approach towards this goal by the States is the true and proper solvent of the vexed controversy about intervention and non-intervention.

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<sup>1</sup> *Butler Report*, p. 28, pars. 49 and 50.

## CHAPTER VI.

### THE SEAT AND THE MOTIVE OF SUZERAINTY.

THERE are two questions about Suzerainty which may conveniently be disposed of before we proceed to consider the measures by which it can fulfil its supreme tasks :—

- (1) For whose sake primarily was Suzerainty built up ?
- (2) Where exactly is placed its legal bond (*vinculum juris*) ?

Both are questions raised by some publicists of British India.

#### *I. Is it an easement for British India ?*

They hold that Paramountcy over the States is a right created for the people of British India by Britain and that British India is therefore entitled to privilege and preference over the States. On the analogy of predial law, they would relate British India and the States to each other as a dominant and a servient heritage.<sup>1</sup> The argument, in the words of Sir P. S. Sivaswamy Aiyar, runs as follows :—

The theory of a *vinculum juris* between the Indian States or Princes and the British Sovereign *otherwise than in his capacity of sovereign of British India* has no basis in constitutional law. . . . . The treaties were entered into either with the East India Company in their sovereign capacity acting on behalf of the Crown, or the Governor-General in Council acting on behalf of the Crown. In either case, the Crown acted not in a personal capacity or in the capacity of sovereign of England, but *in the capacity of ruler of British India*. The result is exactly what would have been the case if the treaties had been entered into with the Moghul Emperor of Delhi. It could not be urged that it was not competent to the Emperor to introduce a constitutional form of government in the territories directly under his rule. It is with reference to their many points of contact with the Government of India and their relations with the Government of India that the treaties with the States were concluded ; and they were entered into not with the Crown as representing the administration of some other part of the Empire like Jamaica or Canada or even England. . . . . The treaties. . . . . impose obligations on the rulers, for the time being, of the Indian States in favour of the authorities, for the time being, in charge of the Government of India.<sup>2</sup>

The Rt. Hon. V. S. Srinivasa Sastri appears to share this view.

<sup>1</sup> Sir P. S. Sivaswamy Aiyar's Lecture X on Modern Indian Constitution, reported in the *Hindu of Madras*, Nov. 30, 1927 (page 9, Col. 5).

<sup>2</sup> Sir P. S. Sivaswamy Aiyar, *Indian Constitutional Problems* (1928), pp. 211-12.

The British Government have acquired the right of paramountcy (he says) "by reason of their being custodians of the welfare and prosperity of British India."<sup>1</sup>

The bottom is seen to be knocked out of this whole theory when it is remembered that there was nothing like "the sovereignty of British India" either in existence or even under contemplation during the period of history when, - a hundred years ago,—the treaties were entered into. Nor has anything like it, as a matter of sober fact, come into being even as yet.

The States in India were reduced to subordination, and the treaties with them made, long before the historic year of 1858. Till that year, the territories now styled "British India" were merely Britain's "possessions"—a sort of estate acquired and managed by the East India Company for the profit of the British nation. The Charter of 1600, granted by Queen Elizabeth to "the Governor and Company of Merchants of London, trading into the East Indies,"—which forms the foundation-stone of Britain's history in India, --declared its motive to be—

the honour of this *our realm of England*, the increase of *our* navigation and advancement of trade of merchandise within *our said realms*. . . . .the honour of *our* nation, the wealth of *our* people, and the encouragement of them and others of *our* loving subjects in their good enterprises for the increase of *our* navigation and the advancement of lawful traffic to the benefit of *our* commonwealth.

This basic purpose of Britain's career in India stands uncanceled to this day. Nobody indeed has ever pretended that the East India Company was a mission of mercy sent to India. Its mercantile character lay unconcealed in Royal Charters and Acts of Parliament right down to 1833. It was the Government of India Act of that year (3 & 4, Will. 4, C. 85) that marked India as a distinct administrative unit.

All the lands and hereditaments, revenues, rents and profits of the said Company, and all the stores, merchandise, chattels, moneys, debts, . . . . .and the benefit of all contracts, covenants, and engagements. . . . .shall remain and be vested in, and be held, received and exercised. . . . .by, the said Company in trust for His Majesty, his heirs and successors, for the service of the Government of India. (Sec. 1.)

But this was by no means to annul the primary purpose set out by Queen Elizabeth. This only meant that the Company was hereafter to close its commercial operations and

<sup>1</sup> Paper on "The Report of the Simon Commission" read before the East Indian Association, London, on July 22, 1930. Reprinted in the *Servant of India* of August 7, 1930, page 376, Col. 2.

become an administrative agency,<sup>1</sup> the care of Britain's profit and glory becoming part of the general policy or "the service of the Government of India". The Government of India Act of 1858 (21 & 22, Vict., C. 106) confirmed the territorial possessions of Britain in India as a distinct administrative unit by requiring that "all the territorial and other revenues of or arising in India.....shall be applied and disposed of for the purposes of the Government of India alone." But this too did not bring to British India the character of a distinct sovereignty. On the other hand, the Act expressly says (Sec. 64) that "all.....provisions now in force *under charter* or otherwise concerning India shall..... continue in force." In other words, the spirit of the patriotic English Queen who sent us the first Trading Company was to continue the dominant "purpose", actuating and deciding the modes and measures of the Indian Government. There is no suggestion made anywhere, whether in the Acts of Parliament or in the Treaties of this period, of the creation of such a separate factor as the State or the Sovereignty of British India. The treaties had all been practically concluded and the Suzerainty of Britain over the States had become an accomplished fact, though not yet declared in law, during the predominantly commercial era which closed before 1833; and concern for the population of what is now called British India would have been the last sentiment to weigh with the contracting parties in those times.

After 1833, the political character of Britain's connexion with India was made more pronounced by the Act of that year. But it conferred no rank or attribute of a separate State on Britain's Indian possessions. The change meant no more than the formal recognition of those possessions as one of the outlying districts of the United Kingdom, governed through agency. The Act of 1858 simply removed this agency and substituted other arrangements. It made no change in the province-like status of the British-governed part of India in relation to the United Kingdom. It contains no passage which speaks of the interests of the populations directly under the Queen as distinguished (if not contra-distinguished) from those of the States on the one side and from those of the Empire or of the United Kingdom on the other. The famous proclamation of the Queen which came with that Act held out assurances of protection and goodwill equally to both

<sup>1</sup> Ilbert's *Government of India* (1915). Historical Introduction, p. 82.

parts of India under her imperial sway, making no attempt at differentiation between the two.

We must also remember that before 1858, the people of even those parts of India that form the British India of today were not counted among the subjects, properly so termed, of the British Government. "Before the government had passed from the Company to the Crown, it was a matter of doubt whether natives of India (except in the island of Bombay, which had once been a Crown possession) were 'British subjects', as that term was occasionally used in Acts of Parliament relating to India."<sup>1</sup> Even at so late a date as the year 1865, it was "argued that 'British subjects' did not include natives of British India."<sup>2</sup> It would therefore be utterly fanciful to postulate anything like concern for the interests of the people of British India as the factor that influenced Britain's treaties and transactions with the Indian States before 1858.

From 1858 to 1930, too, nothing has happened which can be construed as giving British India a claim for superiority over the States. On the contrary, the tendency has been to regard both parts of India as one integral unit of the Empire.<sup>3</sup> Thus the theory of an independent sovereignty or rulership of British India as separated from the sovereignty or rulership of Great Britain is seen to have no foundation so far either in history or in law. Such a separation may take place hereafter; the way to it in a sense is indeed being prepared since Montagu gave utterance to his lofty and splendid vision; but this is altogether a different story. At present, both British India and the States are alike parts of Britain's "great Dependency"<sup>4</sup>; and a distinct British Indian sovereignty is something *non est*.<sup>5</sup>

We have to notice here another fact which supporters of the theory above disproved may be willing to cite. The Act of 1858 (21 & 22. Vict., C. 106) declares that the rights vested in the British Crown in relation to the Indian States are to be exercised "as rights *incidental* to the Government of India". (Sec. 2.) Can this phrase be taken to give British India the position of a son, and the States that of a step-son,

<sup>1</sup> Halsbury, *Laws of England* (1909), Vol. X, p. 588.

<sup>2</sup> Ilbert, *Government of India*, p. 411.

<sup>3</sup> See pp. 27, 30.

<sup>4</sup> Halsbury, *Laws of England* (1909), Vol. X, p. 503.

<sup>5</sup> In constitutional theory, the Government of India is a subordinate official government under His Majesty's Government.—*Simon Report*, Vol. I, p. 174, par. 185.

in relation to the British Government? Reasonably interpreted, it only suggests that those rights—since summed up as Suzerainty—were then regarded by the British Government as only its secondary attribute and not as its principal concern; and this was an assurance, to the Princes, called for by their wide-spread apprehensions at the time of the Act as to their own future. The British Government had to make it clear, in order to establish itself in their confidence, that it intended no further inroads into their possessions and that the rights it meant to exercise were merely the decrees of inexorable necessity and not a thing of its own free seeking. Suzerainty or Paramountcy grew as an unlooked-for by-product; and Britain had no wish to augment it at the cost of the States. This is all the significance that can legitimately be attached to the word “incidental”.

If, on the contrary, that word be construed as conferring a right of superiority on British India, that same logic would not leave British India itself unaffected. For, just as Britain's Suzerainty over the Indian States is an “incident” of her government of British India, the government of British India in its turn is an incident of her government of her own little island. Historians have told us of the stupendous “expansion of England” which took place during the 17th and 18th centuries.<sup>1</sup> Of this nearly world-wide “incident” of Britain's self-expression in adventure and enterprise, and of her energy and talent for capturing and keeping remote countries, the conquest of India was but a sub-incident; and of this, her acquisition of Suzerainty over the States was an extra-sub-incident. To argue that the East India Company was solicitous about the welfare and prosperity of the inhabitants of British India even before it could fully establish its own position,—and so very solicitous in fact as to take upon itself all the trouble and odium<sup>2</sup> of building up a paramountcy, only to leave it as a legacy for the British Indian people,—is manifestly to take away from it the unexalted character of a trading corporation and invest it with the halo of a disinterested and quixotic philanthropy,—surely a most singular thesis to maintain after the spirited remonstrance kept up by the Congress for more than forty-five years. The Company in truth thought only of itself and its homeland, and not of the

<sup>1</sup> See J. R. Seeley's *Expansion of England* and Morley's review of that book.

<sup>2</sup> “That long train of intrigue and crime which had ended in the consolidation of a new empire.”—Morley's *Burke*, Ch. VII, p. 127 (1909 E.M.L.).

populations of what has since become British India, in the course of its dealings with the Indian Princes. On the other side, the Princes knew of no sovereign or ruler of British India as such, and recognized only the all-conquering arm which, — as left in diplomacy as resourceful in war, — was stretched towards them from beyond a wide-yawning sea. If there was a third factor involved, we have no evidence anywhere of the recognition of it by either of the two contracting parties.

A brief word should suffice in answer to the historical hypothesis suggested by Sir P. S. Sivaswamy Aiyar. In the first place, the Mughal Emperor was no Suzerain as Britain is. The finding of history is that the Mughals "aimed at dominion and not at suzerainty,"<sup>1</sup> — a distinction essential to remember when determining the rights of a subordinate State.<sup>2</sup> In the second place, if a fit of constitutionalism had ever seized the old Emperor of Delhi, the same providential fit should have impelled him to order the taking of a plebiscite in the States subordinate to him. Or, as the States had not been de-militarized by him, he might have had to face an armed rising on their part in disapproval of his innovation. Speculation thus can afford to be as fearless as hypothesis.

Let us make another supposition, not less remote from the world of fact than the above, but somewhat more relevant : — that Britain, for some reason, decides to renounce her sovereignty over the territories of British India, but not to give up her suzerainty over the States, and further that the States, for their part, agree to let the old relations continue ; — would they not both be free to do so ? It is hard to see how they could be prevented from doing so, unless it be by a war waged on both by what had been British India before then.

We should not have taken up so much space over this question but for the high standing of the controversialists on the other side ; the position is really so self-evident. At the time of the treaties with the Princes and for a long time afterwards (practically till 1917), what status permanently Britain would have to assign to British India, — whether that of a distinct sovereignty or only that of a magnificent dependency, — lay far beyond the ken of Britain herself. To contend in one breath that Britain has planned and fought in the interests of British

<sup>1</sup> *Imperial Gazetteer*, Vol. II, p. 70—188—A.

<sup>2</sup> Dominion means merely the right to tribute and military service from the vassal State, without any thought for its welfare or interests ; whereas Suzerainty implies part-sovereignty and the obligation of protection for the remainder. The first is the exaction of a conqueror ; the second the considerateness of a trustee.



India, and to complain in the next that Britain has been withholding from British India its undisputed rights, does sound very much like the voice of confusion. If the motive of this evident self-contradiction of our British Indian friends be to find a justification for the exploiting of the States by or for the people of British India, we should plead for the cultivation of a larger and kindlier patriotism by them. If their desire be only to go in advance of the States if possible and not to be kept waiting on the States' account, we should have no hesitation to bid them god-speed. But if we really cannot both pull together, let us draw the line at making invidious claims against each other.

## II. *Where is the link?*

Some keen controversy has taken place over the other question too: whether the relations of the States are with the British Crown or with the Government of India. The controversialists are the Princes on the one side and some publicists of British India on the other; and they would not perhaps have engaged themselves in it except for the feeling that the fact under dispute is bound to affect materially their respective positions under the future constitution.

But this feeling must be clearly out of place, unless it be that we are going to consider all our future as irredeemably mortgaged to our past. When we have definitely accepted a goal for the hereafter, it follows that we must be prepared to bend or break the hitherto in its service whenever necessary. Maintaining this attitude, let us enquire if the fact in question – viz., the exact locus of Suzerainty – is really such as must necessarily interfere with our progress towards our goal, and if it be such, whether the setting aside of it will materially affect the interests of either of the parties.

The contention of the Princes, as stated on behalf of their Chamber by Sir Leslie Scott and other eminent counsel, is that--

the relationship is between the States on the one hand and the British Crown on the other. The rights and obligations of the British Crown are of such a nature that they cannot be assigned to or performed by persons who are not under its control.....The contract is with the Crown as the head of the executive government of the United Kingdom, under the constitutional control of the British Parliament.<sup>1</sup>

<sup>1</sup> *Butler Report*, pp. 60 and 74.

The same opinion is (at any rate was, some time ago) expressed by Professor A. B. Keith : -

The relations of the Native States, however conducted, are essentially relations with the British Crown, and not with the Indian Government, and this fact presents an essential complication as regards the establishment of responsible government in India. It is not possible for the Crown to transfer its rights under treaty without the assent of the Native States to the Government of India under responsible government.<sup>1</sup>

The Indian States Committee agree with Sir Leslie Scott and his collaborators -

That the relationship of the States to the Paramount Power is a relationship to the Crown, that the treaties made with them are treaties made with the Crown, and that those treaties are of continuing and binding force as between the States which made them and the Crown.<sup>2</sup>

The Committee also record--

Our strong opinion that, in view of the historical nature of the relationship between the Paramount Power and the Princes, the latter should not be transferred without their own agreement to a relationship with a new government in British India responsible to an Indian legislature.<sup>3</sup>

It is clear that by "an Indian legislature" in this passage, the Committee mean a British Indian legislature - i.e., one composed exclusively of representatives of British India.

In order to obviate a likely misunderstanding, we may note here that the expression "Crown" in these discussions is used as the equivalent of "King in Parliament,"—"Crown as the head of the executive government of the United Kingdom, under the constitutional control of the British Parliament",<sup>4</sup> or "Crown acting through the Secretary of State for India and the Governor-General in Council who are responsible to the Parliament of Great Britain."<sup>5</sup> No one means by "the Crown" merely the British Monarch in his personal capacity or in the incompatible rôle of an autocrat.

It is the clause about the transfer of the Crown's charge (in both the passages quoted above) that has provoked the opposition. Among its leaders is Sir P. S. Sivaswamy Aiyar. Part of his argument on this question has already been examined and set aside. His conclusion is : -

<sup>1</sup> Keith, *The Constitution, Administration and Law of the British Empire* (1924), Ch. V, p. 260.

<sup>2</sup> *Butler Report*, p. 24, par. 38.

<sup>3</sup> *Ibid.*, p. 32, par. 58.

Also *Ibid.*, p. 52, par. 106.

<sup>4</sup> Opinion of Sir Leslie Scott and other counsel, *Butler Report*, p. 74.

<sup>5</sup> The I. S. Committee's Opinion, *Butler Report*, p. 13, par. 18.

There is surely no clearer proof of subordination to, or of the nexus with, the Government of India than the payment of tribute to the credit of the revenues of India.....The matters governed by the treaty relate to persons and things in India and arise out of the relations of the Princes with the sovereign of British India; and it would be an unthinkable constitutional absurdity that the right to enforce the treaties should vest not in the authorities for the time being, charged with the administration of India, but in some other authority.<sup>1</sup>

Each of the two schools has emphasized one side of a truly two-sided fact. The position accurately stated is that the relations of the States are, *in law*, with the British Crown acting through the Secretary of State who must be a member of the ministry responsible to the British Parliament and must, in his turn, act only through the Governor-General in Council; so that, *in fact*, the relations can be with none else than the Government of India. The British constitution and its Indian auxiliary are so built that *the theory* of Crown-relations has no other way of expressing itself than in *the practice* of Government-of-India-relations. London and Delhi are the two limbs of but a single living organism—like the head and the hand; and it is not a little surprising that they should have occasioned a wrangle as though they were two entities not merely distinct, but also independent and even antagonistic.

Suzerainty is the attribute of England; and British India incidentally happens to be one of its beneficiary parties. The *executive* of the Government of India, *i.e.*, the Governor-General in Council, is invested with two capacities, one that of governing British India and the other that of exercising paramountcy over the States. The former is its intrinsic and substantive capacity; the latter is delegated and *ex-officio*. It is in the latter capacity that it receives tributes and subsidies. Sir Sivaswamy Aiyar thinks that the provision on this point in the Government of India Act “clinches the matter beyond doubt”. It can do nothing of the kind. The Section cited by him (20 of the Act of 1915) provides as follows:—

The revenues of India shall be received for and in the name of His Majesty, and shall, subject to the provisions of this Act, be applied for the purposes of the Government of India alone.

The expression “the revenues of India” shall include.....all tributes and other payments in respect of any territories which would have been receivable by or in the name of the East India Company if the Government of India Act, 1858, had not been passed.

<sup>1</sup> Sir Sivaswamy Aiyar, *Indian Constitutional Problems*, pp. 213 and 214.

This means nothing more than that the Government of India shall be the agent to collect what is due to the Crown as Suzerain, and to expend what is necessary for services due from the Crown as Suzerain. Let us remember that the word India, as used in law after 1868, includes the States also. Even at a time when such was not the legal signification of that word, *e.g.*, in the Act of 1858 -- there was a provision similar to the above. Section 2 of that Act laid down :--

All the territorial and other revenues.....and all tributes and other payments .....shall be received for and in the name of Her Majesty and shall be applied and disposed of for the purposes of the Government of India alone.

But even this cannot support the contention that a sovereignty made up of, or at least devoted absolutely to, the people of British India was then in existence. Among "the purposes of the Government of India" even at that time, was the carrying out of obligations such as the protection of the States, which the Crown had taken upon itself under treaties and engagements. The "purposes" indeed include many things besides the benefit of the people of British India - from the policing of the States on the one side to the sustaining of the burden of Empire on the other.

We have seen already that "the sovereign of British India" is a fictitious being,--the offspring of nothing more material than forensic exigency.

As for the right to enforce the treaties, the Government of India Act of 1858 (21 & 22, Vict., C. 106) is clear :--

All treaties made by the said (East India) Company shall be binding on Her Majesty; and all contracts, covenants, liabilities and engagements of the said Company.....may be enforced by and against the Secretary of State in Council..... (Sec. 67.)

Section 132 of the Act of 1919 (9 & 10, Geo. 5, C. 101), being in substance a reproduction of this, repeats that the Secretary of State in Council is the authority to enforce treaties.

Section 44 of the Act of 1919 lays it down that -

the Governor-General in Council may not, without the express order of the Secretary of State in Council.....either declare war or commence hostilities or enter into any treaty for making war against any Prince or State in India, or enter into any treaty for guaranteeing the possessions of any such Prince or State.

These reservations prove that the ultimate authority in regard to treaties is the Secretary of State and not the Governor-General in Council. In other words, the Executive authorities of the Government of India have been constituted agents

of the Secretary of State for the purposes of the routine duties of Suzerainty, his special orders to them being made necessary for all extraordinary purposes of Suzerainty. It is thus that the right to enforce treaties is "vested in the authorities for the time being charged with the administration of India", namely—the Secretary of State and the Governor-General in Council, the first as principal and the second as his agent; and what the "constitutional absurdity" in this arrangement could be, it is impossible to imagine.

This position is endorsed by Sir Courtenay Ilbert. He draws attention to "the *special* relation in which the Government of India, as *representative* of the Paramount Power, stands to the Native States"<sup>1</sup> and points out that "the Indian Legislature is not in any sense an agent or delegate of the Imperial Parliament," and that "its powers are limited by the terms of the Acts of Parliament by which those Powers are conferred."<sup>2</sup>

Sir Sivaswamy Aiyar is himself quite clear that the States are "foreign" to British India.<sup>3</sup>

That Suzerainty is part of Britain's imperial estate, that British India (or the people of British India) as such was never meant to have anything to do with the rights of Suzerainty over the States, and that the agentship of the Suzerain is a super-addition made to the duties of the Executive of the Government of India are facts made plain by the explicit denial of power by statutes to the legislature of British India for discussing the affairs of the States. This denial is contained in a series of enactments.<sup>4</sup>

<sup>1</sup> Ilbert, *Government of India*, p. 407.

<sup>2</sup> *Ibid.*, p. 417.

<sup>3</sup> Sir Sivaswamy Aiyar, *Indian Constitutional Reforms*, p. 213.

<sup>4</sup> (1) Section 19 of the Indian Councils Act of 1861 provides that "it shall not be lawful for any member (of the Council of the Governor-General) to introduce, without the previous sanction of the Governor-General, any measure affecting.....fourthly, the relations of the Government with foreign Princes or States."

(2) Section 43 contains a similar prohibition for the Governor in Council of a Presidency.

(3) Section 22 declares that "the Governor-General in Council shall have power.....to make laws and regulations.....for all servants of the Government of India (not for others) within the dominions of Princes and States in alliance with Her Majesty."

(4) Section 1 of the Government of India Act of 1865 (28 & 29, Vict., C. 17) empowers the Governor-General "to make laws and regulations for all British subjects of Her Majesty within the dominions of Princes and States in alliance with Her Majesty whether in the service of the Government of India or otherwise."

(5) Section 67 of the Government of India Act of 1915 (5 & 6, Geo. 5, C. 61) contains a literal repetition of Section 19 of the Act of 1861 above

These provisions of law make it indisputably clear that the British Parliament has always meant to keep the States as a separate charge for the chosen agents of the Imperial Government, and out of bounds for the people of British India and their legislature.

Though the Government of India Act of 1858 and its successors right down to 1919 have characterized the rights and powers exercised by Britain in respect of the Indian States as "incidental", they actually were, even before 1858, much larger than that epithet could denote. If Britain's legitimate province was meant to be confined to what was only "incidental", the old word "Alliance" should have sufficed to describe her relations with the States. When the word "Suzerainty" was substituted for it by statute, Britain formally proclaimed that what had arisen as an "incident" had now grown to be an organic part of her substantive concern. Suzerainty, if it must be described as an incident, was incidental to the making of the Empire and not merely to the governing of British India.

The fact of the matter is that the relations of the British Government with the States are not simply those which may be taken to be implicit in the terms of the successive Government of India Acts. They are more. The functions of the Secretary of State and his *locum tenens*, the Governor-General in Council, in respect of the States are not exhausted by those Acts. They are competent to do, and are required to do, many things not contemplated by those Acts. When the British Government deposes a Ruling Prince, or takes charge of the internal administration of a State, it goes beyond these Acts; and its action is justified not as an incident of the interests of British India, but as a duty owed by the Imperial Government to a component part of the Empire. When it created the Chamber of Princes, or invited Ruling Princes to

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quoted (1); and it is found repeated as Section 67 in the Government of India Act of 1919 (9 & 10, Geo. 5, c. 101).

(6) Moreover, Section 65 of the Government of India Act of 1919 (like the predecessors of that Section, e.g., Sec. 65 of the 1915 Act) restricts the legislative powers of the British Indian legislature expressly to persons and things "within British India" and subjects of His Majesty in other parts.

(7) Section 44 of the Government of India Act of 1919 above quoted (like the predecessors of that Section, e.g., Section 44 of the 1915 Act) marks off the making of war or treaty by the Governor-General in Council as an extraordinary matter requiring the previous express order of the Secretary of State.

(8) Finally, there are the differential legal definitions of the terms "India" and "British India" furnished by the Interpretation Act of 1889.

the Imperial Conference, or deputed them to the League of Nations, it acted not under the provisions of the Government of India Act, but in exercise of its own Suzerain discretion. These transactions cannot be considered illegal or irregular ; for, they belong in truth to the region of the imperial jurisdiction and the constitutional law of England, and not the statute-law of British India. The Secretary of State and the Governor-General, in their dealings with the States, are governed only in part by the Government of India Act and for the rest by imperial policy as determined from time to time, apart from that Act. The office of Viceroy, unknown to statute-law, is a creation of that imperial policy. Having been mentioned in Royal Proclamations and Royal Warrants which are formal expressions of the Royal will as authoritative as any other document valid under the law of the constitution, that office, like the Cabinet and the Prime Ministership which are equally strangers to the statute, is a reality recognizable under the constitutional law of England. That there is no law or convention defining the powers and duties of the Viceroy as such, or providing machinery for Viceregal administration apart from that of the Governor-General, is not a relevant point. The conditions of that office are always liable to alteration by the Crown in the exercise of its discretion and prerogative. The facts of the case are thus not all such as can be covered by the Indian statute-law.<sup>1</sup>

The foregoing examination leads us irresistibly to the following conclusions :—

(1) There has always been a distinction made by the British Government between British India and the States.

(2) While the care of both is entrusted to the Executive organ of the Government of India, presumably for the sake of administrative convenience, the States are strictly kept out of the purview of its legislative organ which has only British India for its province.

<sup>1</sup> "The reproduction of *statutory enactments* embodied in this Digest is not an exhaustive statement of the powers of the Governor-General in Council. For instance, the powers of the Government of India, as the paramount authority in India, extend beyond the limits of British India. The Governor-General in Council, as representing the Crown in India, enjoys, in addition to any statutory powers, such of the powers, prerogatives, privileges, and immunities appertaining to the Crown as are appropriate to the case and consistent with the system of law in force in India. Thus it has been decided that the rule that the Crown is not bound by a statute unless expressly named therein, applies also in India. . . . Moreover, the Government of India has powers, rights and privileges derived not from the English Crown, but from the Native Princes of India, whose rule it has superseded."—Illert, *Government of India* (1916), pp. 202-3.

(3) Even the Executive in India is, on some particular occasions, unable to act without the special orders of the Secretary of State.

In other words, the functions of Suzerainty have always been kept apart from the functions of British India, and as an imperial concern, though the two hands performing the two sets of functions belong to one and the same functionary.

#### *Methods and Conditions of Change.*

This is the position as we find it to-day. But to say so is not to suggest that it is either an immutable or the most desirable position. It is, however, hard to see in it anything which need disconcert the patriots of British India, unless it be that this position puts out of court their claim to have the upper hand over the States. If, on the contrary, they would let the States get the kind of treatment which they would seek for their own territories under the new constitution,—if they would be satisfied with a condition of equality,—the above view of the existing disposition of Suzerain powers need not seriously trouble them.

Sir Leslie Scott and Prof. Keith have themselves not closed their eyes to the prospect of change; nor the States' Committee. Sir Leslie and his colleagues say:—

The States cannot dictate to the Crown the particular methods by which, or servants through whom, the Crown should carry out its obligations..... This liberty (of the Crown) is necessarily subject to the condition that the agency and machinery used by the Crown for carrying out its obligations must not be of such a character as to make it politically impracticable for the Crown to carry out its obligations in a satisfactory manner.<sup>1</sup>

Prof. Keith goes a step further and is more definite:—

The only relationship between the great States and British India must be federal, so as to secure just regard for their interests and individuality, without creating any breach in the unity of India.<sup>2</sup>

The Indian States Committee are anxious to make it clear that they do not stand in the way "of some form of federal union"<sup>3</sup> and that they have "left the door open for constitutional developments in the future,"<sup>4</sup>—though they have chosen timidly to turn the eye away from that future.

<sup>1</sup> *Butler Report*, p. 74.

<sup>2</sup> A. B. Keith, *Constitution, Administration and Laws of the British Empire*, Ch. V, p. 260.

<sup>3</sup> *Butler Report*, p. 40, par. 78.

<sup>4</sup> *Ibid.*, p. 52, par. 106.



The Indian Statutory Commission, too, see that change is inevitable.<sup>1</sup> They have taken pains to visualize an Indian federation,<sup>2</sup> though their method of approach to it can evoke neither zeal nor faith in Indians.

Thus, the admission of the theory of Crown's relations need not mean the perpetuation of the existing state of things. On the contrary, all alike see the imperativeness of a re-adaptation of the instruments and methods of those relations.

Should the Princes be consulted? The answer lies within the unlimited and elastic domain of Suzerainty. The British Government has claimed as one of its Suzerain attributes the unfettered right to interpret Suzerainty and determine the range of its activities. In this view, it may regard itself as being under no obligation to consult the States about any arrangements affecting their future. For example, when in 1858 it replaced the agency of the Company by a bureaucracy directly subordinate to the Crown, it made no pretence of seeking the consent of the Princes. When, again, in 1917 it decided to sow the seed of what was to germinate as a separate sovereignty in their neighbourhood and complicate their future so profoundly, it took no advice from the Princes. But after the War of 1914-19, Britain seems to have developed a new sense of courtesy towards the Princes. She may now consider it seemly and expedient that they should be asked to express themselves upon her plans. If she would do so, it is no more than bare justice that she should extend the same consideration to the People of the States as well. The basic fact of the case for a new constitution is the necessity for a radical change in the structure and character of the Government of India. In other words, it is to be a change of the character and position of the authority who happens to be the agent of the Suzerain. If on one side this change is to follow the public opinion of the country, it is only proper that, on the other side also, the consequential changes should take place with the approval of the public concerned. A change so made alone can be a legitimate continuum of the treaties and understandings now existing. There is no other proper way of observing the treaties. If the States' People are allowed a voice, there can be no shadow of a doubt as to the verdict that will have to prevail: It will be for an

<sup>1</sup> *Simon Report*, Vol. II, p. 195, par. 228.

<sup>2</sup> *Ibid.*, pp. 197-98, pars. 230-231 *et seqq.*

all-India federation governed responsibly all over and treated as an equal in all imperial relations.

A federal constitution carrying with it the status of a Dominion<sup>1</sup> will effect the following changes in the relations of the States with the Crown :

(1) It will take the place of the present treaties, sanads and documents of that kind (except perhaps in regard to some very special matters which may form the subject of new settlements or contracts).

(2) It will merge that part of Suzerainty which is made up of the external sovereignty of the States (i.e., charge of external and internal security, foreign relations, etc.) in the normal powers of the all-Indian central government.

(3) It will merge the remaining part of Suzerainty, which is internal super-sovereignty (i.e., general supervision and control of internal administration etc.), in the residuary powers of the all-Indian central government.

(4) Since the all-Indian central government, in its executive as well as in its legislative branches, will then include the constitutional representatives of both the States and British India (their proportions not being a question for discussion here), the above changes will in effect be only a reversion to the Indian Nation of all Suzerainty with the exception of that fraction of it which lies within imperial jurisdiction and which, like the similar jurisdiction in respect of the other Dominions of the Empire,<sup>2</sup> will continue to vest in the Imperial government which has its headquarters in England. Subject to these two qualifications of (i) partnership with British India and (ii) acceptance of imperial authority in some very extraordinary matters, federation will be restoring to the States their long-lost rights of sovereignty.

(5) Such a federation is an arrangement which will not (in the words of Sir Leslie Scott and his colleagues) "make it politically impracticable for the Crown to carry out its obligations in a satisfactory manner" towards the States. The

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<sup>1</sup> Dominions "are autonomous Communities within the British Empire, equal in status, in no way subordinate one to another in any respect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations."—*Report of the Inter-Imperial Relations Committee of the Imperial Conference, 1926* (Cmd. 2768, p. 14).

<sup>2</sup> Keith, *Dominion Autonomy in Practice*, pp. 33, 34, 38, 39 and 41.

Crown will be represented in the federation by the Governor-General appointed under the constitution.<sup>1</sup> He will, as in the other Dominions, "exercise by grant from the Crown the whole ambit of the royal prerogative in so far as it is necessary for the administration of the Government"<sup>2</sup> of India, and will act always through ministers answerable to and dismissible by the legislature duly representing the citizens; and there will be an independent judiciary headed by a Supreme Court to decide cases arising under the laws of the constitution. So far as the States are concerned, these provisions contain sufficient means of remedial action in the event of dissatisfaction. If at present they have any constitutional remedies as against cases of failure on the part of the Crown, it is not easy to see where they are. But they will no doubt continue to be available to the States. In any case, their own representatives will, under the proposed arrangements, be among the authorized instruments of the Crown for the Government of India, and as such they can have no reasonable ground for complaint. In the event of the constitution's proving inadequate for any contingency, there will, of course, be a constitutionally provided way of amending it. On this point, the observation of Sir Leslie Scott and his associates is apposite: "the obligations and duties which the parties to the treaties have undertaken require *mutual faith and trust*."<sup>3</sup> There is no reason why the Princes or the People of the States should be less willing to repose "faith and trust" in a constitution worked by their countrymen including their own chosen representatives than to repose it in one directed and controlled from beyond five thousand miles.

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<sup>1</sup> The Inter-Imperial Relations Committee of the Imperial Conference of 1926 have recorded the following opinions in their Report (Cmd. 2768, pp. 16 and 17):—

"The Governor-General of a Dominion is the representative of the Crown, holding in all essential respects the same position in relation to the administration of public affairs in the Dominion as is held by His Majesty the King in Great Britain; and he is not the representative or agent of His Majesty's Government in Great Britain or of any Department of that Government."

"It is the right of the Government of each Dominion to advise the Crown in all matters relating to its own affairs. Consequently, it would not be in accordance with constitutional practice for advice to be tendered to His Majesty by His Majesty's Government in Great Britain in any matter appertaining to the affairs of a Dominion against the views of the Government of that Dominion."

<sup>2</sup> Keith, *Dominion Autonomy in Practice*, p. 4.

<sup>3</sup> *Buller Report*, p. 74.

The Indian States Committee observe:—

Paramountcy must remain paramount; it must fulfil its obligations defining or adapting itself according to the shifting necessities of the time and the progressive development of the States.<sup>1</sup>

Whether the Committee meant it or not, its words can give a sense quite in accord with our thesis: Paramountcy must hasten to assert itself in order - and only in order— to fulfil its supreme obligations of seeing that the States reform their internal polity and join in a federation with the rest of India,—a federation in which Paramountcy would have dissolved its present form and re-incarnated as the all-India Central Government endowed with full Dominion status. This is the supreme office and destiny of Suzerainty.

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<sup>1</sup> *Buller Report*, p. 31, par. 57.

## CHAPTER VII.

### THE STATES IN THE DOMINION OF INDIA.

THE idealism of British politics has presented to us the vision of an India federalized and made the mistress of her home. The *locus classicus* on this noble theme is the passage in the Montagu-Chelmsford Report :—

“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 this congeries of States would preside a Central Government, increasingly representative of, and responsible to, the People of all of them; dealing with matters, both internal and external, of common interest to the whole of India; acting as arbiter in inter-State relations; and representing 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.”<sup>1</sup>

Many hands have essayed the task of embodying this ideal in a workable scheme of constitutional apparatus; and among the schemes produced, that which has obtained the largest measure of popular support is, for British India, the one put forward in the Report of the All-Parties Conference,<sup>2</sup> 1928 (called the Nehru Report), and, for the States, the one in the Memorandum of the South Indian States Peoples' Conference, 1929,<sup>3</sup> (called the Visvesvaraya Memorandum).

The Nehru Report, however, has since been set aside by the National Congress (44th Sessions, December 1929, Lahore), chiefly for two reasons :—

- (i) The displacement of “Dominion Status” by “Complete Independence” as the goal for India in the creed of the Congress; and
- (ii) The dissatisfaction caused to a large section of Sikhs, Muslims and other minorities by the proposals of that Report on communal questions.

<sup>1</sup> M. C. Report on *Indian Constitutional Reforms*, 1918, p. 220, par. 349.

<sup>2</sup> Presided over by Pandit Motilal Nehru.

<sup>3</sup> Held under the presidentship of Sir M. Visvesvaraya, K.C.I.E., D.Sc., at Trivandrum on the 14th and the 15th of January, 1929.

With the second of these matters, the Visvesvaraya Memorandum does not concern itself at all. We may take it that the States will be willing to accept the solution adopted by the rest of India in regard to communal questions.

Regarding the first matter, the position taken up by the Visvesvaraya Memorandum is identical with that of the Nehru Report; and on all other essential points also, it has sought to bring itself into harmony with that Report; for, on every question of nation-wide significance, the People of the States wish to be in the fullest possible measure of agreement with their fellow-countrymen of British India.

Two words more may be permitted by way of introduction to the Memorandum. First about its object. It is to state the basic ideas and principles in a connected and comprehensive form, and not to furnish the draft for a statute. The Memorandum does not pretend to have produced something which no one else could, or which is unique in any sense. It is, in bare truth, a mere summing up of the popular demands put forward by various conferences and public meetings.<sup>1</sup> It seeks simply to present a general plan of the projected structure, so as to convey some coherent idea of what the features considered essential are and how they would look in relation to one another in their proper setting. It has left many gaps to be filled; and its details are open to amendment or alteration or even deletion. It goes out not to challenge constitutional Pundits, but to appeal to those to whom a constitution is merely the means to certain large social ends.

Second about its spirit. It is that of making it easy for all to give in, of course without harm to fundamental principle. Not more is asked for from any party, whether in the name

<sup>1</sup> Among such political organizations of the People of the States are the following:—

Indian States People's Conference, Bombay (Latest Session, May 25, 1929).

All-India States Subjects' Conference, Madras (1928).

Mysore State Congress (1929).

Travancore People's Committee.

Pudukottah People's Conference (7th Session, Jan. 10, 1930).

Hyderabad People's Conference, Bombay (1th Session, Dec. 14, 1929).

Bhore State Subjects' Conference.

Baroda People's Conference, Navsari (8th Session, March 18, 1930).

Sancili State Subjects' Conference.

South Indian States People's Conference, Trivandrum (Jan. 1929).

Dakshini Samsthan Hitavardhak Sabha.

Kaithawar States People's Conference.

Punjab States People's Conference, Lahore (27th Dec. 1929).

Rajputana States People's Conference.

Wadhwan State People's Conference (14th Dec. 1929).

States People's Conference, Bangalore (31st August 1930).

of constitutional theory or of legal justice, than is absolutely necessary to ensure progress towards the accepted ideal. The desire of the Memorandum is to minimise controversy and to persuade and to conciliate.

The material portions of the Memorandum are given below, verbatim in some parts and re-written or revised in others, somewhat re-arranged, and with explanatory or supplemental notes added (in smaller type).

## A FEDERAL DOMINION CONSTITUTION FOR INDIA.

### I. THE DOMINION OF INDIA.

1. THE DOMINION OF INDIA will consist of the Provinces of British India and the Indian States united under a federal\* government in accordance with the constitution hereinafter formulated, and will have status, rights and powers equal to those exercised by the other members of the British Commonwealth of Nations.†

\* The implications of Federalism as generally understood, are broadly two :

- (i) All the component units, whether Provinces or States, must be under some form of Responsible Government internally; and
- (ii) All alike must submit themselves to a common central authority in regard to external affairs and all other matters of common concern to both Provinces and States.

The second condition is seen to exist already in actual practice; and all that is now desired is that it should continue under the new constitution, the change to be brought about by it being only the transference of the seat of authority from Whitehall to Delhi.

The People of the States are eager for both reforms. They wish that the framework of federation should be so designed that, while it could accommodate immediately such of the States as are already prepared to satisfy the two preliminary conditions just mentioned, it would be elastic enough to admit in course of time others that may choose to come in later.

† See note 1 on page 82 *ante* for definition of Dominion status.

### II. THE FEDERAL GOVERNMENT.

2. The authorities of the Dominion Government will be—
  - (i) A Governor-General appointed by the King-Emperor, who will be His Majesty's representative;
  - (ii) An Executive Council or Cabinet consisting of a Prime Minister and other Ministers chosen from among, and jointly responsible to, the Central Legislature;

- (iii) A Central Legislature consisting of two Houses, and composed of the representatives of both Provinces and States; and
- (iv) A Supreme Court, with courts subordinate to it.

*The Federal Executive.*

3. The executive power of the Dominion will be exercised by the Governor-General\* who will always act on the advice of the Executive Council (or Cabinet) subject to the provisions of the constitution and laws of the Dominion.

\* For the definition of the position and powers of the Governor-General of a Dominion, see note 1 on page 83 *ante*.

4. The executive power will extend to all matters connected with the superintendence, direction and control of the civil and military government of the Dominion or any part thereof, subject to the constitution and laws of the Dominion.

5. The Prime Minister will be selected and appointed by the Governor-General; and the other ministers (from 12 to 20) will be appointed by him on the recommendation of the Prime Minister.

6. The Executive Council will be collectively\* responsible primarily to the House of Representatives\* in all matters entrusted to its care by law or constitution and for all advice tendered to the Governor-General. Not less than four of the Ministers will be chosen from among representatives of the States in the Central Legislature and entrusted with portfolios pertaining to the States.†

\*\* It need scarcely be pointed out that in regard to (i) the choice of Ministers and (ii) their being responsible (a) jointly and (b) to the popular house, the model followed is that of England.

The Executive Council should be enlarged, because the Dominion Government cannot be content with merely carrying on routine functions like the present bureaucracy, but will have to open new activities and exert itself for the development of the nation's resources. The legislature may be given the power to increase or decrease their number after the first few years.

† The reservation of (i) seats and (ii) portfolios for representatives of States is meant as an assurance of equitable treatment to the States. This is tentative.

*The Central Legislature.*

7. The Central Legislature will be the supreme authority to make laws, sanction policies and direct the administration



in all matters pertaining to peace and order and the well-being and prosperity of the People throughout the Dominion.

Its two houses will be called the Senate and the House of Representatives.

8. The Senate will be composed of members representing States and Provinces as such. The number of members for each unit will be fixed by law ; and they will be elected by its legislature (or deputed by its Government) in accordance with its own constitution and rules.

To secure the representation of special faculties or interests in the Senate, the Governor-General in Council may for a few years be entrusted with the power of nomination subject to defined conditions.

9. The House of Representatives will be composed of members representing the nation directly. They will be elected by popular constituencies formed throughout the Dominion according to law.

10. The number of members to be returned to the House by each State or Province will be in proportion to the strength of its population.<sup>1</sup>

11. States which individually are too small to be constituted into separate electoral units will be grouped together according to their geographical position.\* This arrangement will hold good for representation in the Senate also.

\* As they now are for representation in the Chamber of Princes. Rules may be made for the rotation of the privilege among the members of a group.

Treating the States thus as a class of Dominion areas distinct from the rest, in the formation of electorates, is a concession to their sense of individuality.

It is possible that some States may not agree to join the federation in the beginning. But as the Dominion goes on growing stronger and as they come to see the benefits of membership realized by others, they are sure to change their mind and seek admission. In order to accommodate such, a definite number of seats should be earmarked for the whole body of States, and so many of them as are not filled immediately may be kept vacant, awaiting those States that may come in later on.

In this connexion, see Section 3, Art. IV of the Constitution of the U.S.A. (1787); Arts. 146 and 147 of the Constitution of

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<sup>1</sup> We recommend the adoption of a population basis for fixing the number of seats. . . . . We consider that the allocation of one seat per million inhabitants will provide a convenient general principle.—*Simon Report*, Vol. II, p. 120, par. 111.

Canada ; and Arts. 149, 150 and 151 of the Constitution of South Africa.

12. Every citizen of the Dominion, of either sex and of any race, religion or caste whatever, who is not below 21 years of age and is not disqualified by law, will be entitled to vote at all elections, whether to the Central Legislature or to the legislature of a State or Province.

13. All persons born or naturalized within the Dominion and subject to the jurisdiction thereof will be citizens of the Dominion and of the State or the Province wherein they reside.

When the Central Legislature is of the opinion that the level of political education among the inhabitants of any particular area is noticeably below the general all-India average, it will have power to make special rules based upon literacy and property as to the qualifications of voters in that area, such rules to be in force during the first ten years after the admission of that area into the Dominion.

14. There will be no special constituencies in any part of the Dominion based upon race, religion, caste or class, except in accordance with transitional provisions, if any, specially made by the Central Legislature for the first ten years.

15. Provincial and State Legislatures will determine the qualifications for candidature and the conditions of election to the Central Legislature from their respective territories.

16. Provinces and States will have equal status in the Central Legislature ; and all questions will be discussed and decided on that footing.

17. The present Chamber of Princes will continue to safeguard the special personal and dynastic rights and privileges of the Princes. Committees of the Chamber and the Executive Council of the Dominion may, by means of conferences, come to understandings agreeable to both parties on all questions of that character ; and the decision of the Governor-General as representing the British Crown shall be final thereon.

### III. FEDERAL JURISDICTION.

18. The Dominion Government will exercise all legislative and administrative powers, including initiative, direction, supervision and control, throughout India (including the States) in regard to the following matters (which must be specified in a Schedule appended to the Constitution) :—

- (1) All-India financial and economic questions like customs, salt-tax, exchange, currency & coinage ;

- (2) Transports and communications, like ports & harbours, shipping, railways, posts & telegraphs ;
- (3) All-India trade & commerce ;
- (4) All-India social legislation, like Trade Union matters and Age of Consent laws ;
- (5) All-India investigations and enquiries, like geological and botanical surveys, census, vital statistics ;
- (6) All-India emigration and immigration ; protection of Indians in foreign lands ;
- (7) Standardization of administrative rules and procedure ;
- (8) Inter-State and Inter-Provincial relations ;
- (9) The civil and constitutional liberties of citizens ;
- (10) Defence ; Foreign affairs ; Inland peace and order.

This list is by no means exhaustive, its object being merely to indicate the nature of the more important classes of subjects. A fuller list will be found in Schedule I (p. 52) of the Supplement to the Nehru Report and Schedule I under Devolution Rule 3 attached to the Government of India Act, 1919 (p. 200).

On the question of the fundamental rights and liberties of citizens, see Sec. 1 of Art. XIV (1868) of the Constitution of U.S.A.

Doubts have been expressed as to the usefulness of embodying a Declaration of Rights in the Constitution. (See Sir P. S. Sivaswamy Aiyar's *Indian Constitutional Problems*, pp. 134-135.) But, as the Rt. Hon. V. S. Srinivasa Sastri points out, "nearly every modern constitution has such a declaration." England, whose constitution is an "unwritten" one, secures these rights by her system of law ; and countries which have fully established that system of law may not need a declaration. But for other countries, a declaration, Mr. Sastri observes, "has its uses and great uses too. It is a great instrument of political education." (*Rights and Duties of the Indian Citizen*, pp. 22-23.) It would also serve as a salutary caution to the organs of government when they attempt to make laws or rules, or to interpret them, so as to affect the fundamental rights of citizens.

19. The Dominion Government will have direct political relations with the States as with the Provinces, subject to the condition that it shall have power to delegate that capacity, in the case of a smaller State, to the Government of a State or Province in the neighbourhood of that State when its interests are likely to be better promoted by such delegation.

There must be an accepted list of b. or States and one of Small or Minor States. See Appendix E.

20. If there are any matters of interest only to Provinces (and not to States) which should be assigned to the Central Legislature, the representatives of the States will have to abstain from participating in the discussion and decision of such matters (which will be placed in a separate Schedule).

#### IV. RESPONSIBLE GOVERNMENT WITHIN THE STATES.

21. The authorities of a State Government will be

- (i) The Ruling Prince ;
- (ii) A Legislature of one or two Houses according to the size and circumstances of the State ;
- (iii) A Ministry of from 4 to 8 members chosen out of and jointly responsible to the Legislature ; and
- (iv) A system of Courts of law independent of the executive.

22. The Dewan or Chief Minister will be selected by the Ruling Prince, and the other Ministers will be appointed by him on the Chief Minister's recommendation.

The method of appointment of the State executive will be the same as that in the case of the Federal executive. See Sec. II—(1. 5 & 6 above.

23. A proclamation will be issued by the Ruling Prince of every State guaranteeing the following fundamental rights of citizenship to his subjects of all classes and communities alike :

- (1) Freedom of speech and discussion (including the freedom of the press) ;
- (2) Freedom of public meeting and association ;
- (3) Freedom of worship subject to public order and morality ;
- (4) Right to petition the Sovereign and other authorities recognized by law and constitution ; and
- (5) Freedom from arrest, detention and externment except under processes of law as recognized by the Constitution, and freedom from punishment except by open trial in a competent court of law.

24. The Legislature will have full control over budget and taxation, and all powers of legislation and general control over the administration.

25. The Civil List of the Ruler will be fixed ; and any alteration in it may be made with the consent of the State Legislature.

The Indian *Constitution* should guarantee the system of Responsible Government to the People of the States. See Sec. 4, Article IV of the Constitution of the U.S.A. (1787).

Also see the extracts from the constitutions of the monarchical States of Europe given in Appendix C.

Independently of the question of Federation, it is imperative that Responsible Government should at once be accepted as the goal in every Indian State, to be attained as speedily as possible, but within 15 years in any case. Whatever the form of the Government of India in the immediate future, internal reform in the direction of Responsible Government should not be delayed any longer.

If mass education is considered insufficient in any State, it should not be made an excuse for delaying or withholding Responsible Government. The new form of government will itself give an impetus to education.

The local affairs of cities, towns and villages should be managed by the people of the locality under a State-wide system of local self-government; and the local institutions should, as far as possible, be made independent of the central authority on the one hand and of the local officials of the administration on the other, so that they may serve as a training ground for Responsible Government.

To give them sympathetic guidance in the early stages and ensure proper co-operation between them and the executive authorities of the State Government, a special *liaison* officer may be appointed under the minister for local self-government.

## V. JURISDICTION OF PROVINCES AND STATES.

### A.—*Provincial Subjects.*

26. The Governments of Provinces (the constitution of which need not be considered here) will have full powers of autonomy in regard to departments of administration and public service like the following:—

- (1) Departments pertaining to provincial and local revenues such as land, forests, excise, tolls & cesses;
- (2) Public Works including irrigation, provincial and municipal roads and civil buildings;
- (3) Public Health and Medical Relief;
- (4) Manufactures, Trade and Agriculture;
- (5) Public Instruction of all kinds and grades;
- (6) Administration of Justice;
- (7) Police and Prisons;
- (8) Local Self-Government;
- (9) Minor ports, ferries, waterways, etc.;

- (10) Measures of social amelioration, such as co-operative societies, child welfare agencies, housing schemes, famine relief organizations, etc.

[For a more elaborate list, reference is invited to Schedule II attached to the Government of India Act, 1919, and Schedule II to the Nehru Report.]

*B.—State Subjects.*

27. In all matters not expressly assigned to the Central Government (as in accordance with Sec. III-Cl. 18 above, page 90), the States will continue to exercise their inherent powers of autonomy.

28. In addition to matters of the classes entrusted to Provinces (*A* above), subjects of local importance which are peculiar to the States, like the following, will lie entirely within their own independent jurisdiction:—

- (1) Relations between the Prince (and his family) and the subjects;
- (2) Relations between the Prince on the one side and the Central Government of India, or the British Crown and its representatives on the other;
- (3) Naturalization within the State;
- (4) Recruitment to the public services of the State;
- (5) Investments, properties and interests of the State (or of subjects of the State) outside the State;
- (6) Settlement, investments and properties of outsiders within the State.

**VI. SUPREME COURT.**

29. The Supreme Court will consist of a Lord President and as many other Judges as the Central Legislature may determine.

30. They will be appointed by the Governor-General in Council and will not be removable from office except on impeachment by the Central Legislature for incapacity or misbehaviour.

31. The remuneration and other conditions of service of any individual judge will not be liable to be altered in any manner during his tenure of office.

32. The Supreme Court and Courts subordinate thereto will hear and decide all cases in law and equity arising under the constitution, the laws of the Dominion of India, and the treaties and contracts made under its authority.

33. All citizens of the Dominion, whether of States or of Provinces, will be subject to the jurisdiction of the Supreme Court and of courts subordinate to it in all matters arising under the constitution and laws of the Dominion and lying within the purview of such courts.

34. The Supreme Court will also hear and decide appeals from the High Courts or Chief Courts of Provinces or of States in all other justiciable cases.

#### VII. FEDERAL FINANCE.

35. Fiscal and financial adjustments between the Federal Government on the one side and States and Provinces on the other will have to take place under two heads:—

(i) *General*.—Certain general sources of revenue such as customs may be definitely assigned to the Central Government, States and Provinces agreeing to serve as its agents and receiving charges payable for that service. They can claim no share or refund under these heads, common service by the Central Government being sufficient consideration.

(ii) *Special*.—Where the Central Government renders any special service to a State, or is engaged in any enterprise jointly with a State, or where the two have a common source of revenue in consequence of any peculiar local circumstances, both would have a claim for an equitable distribution of the surpluses or profits.

36. In cases of both kinds, many details have to be ascertained and assessed; and this can be done only by a body of experts. Such an expert committee will be an indispensable auxiliary to the Federal Government. It will have to lay down methods of financial settlement from time to time.

There will be work for such a Commission for from 5 to 10 years to begin with; and that body will have to be revived periodically afterwards.

37. An inventory should be taken of all contributions made by the States and the amounts collected on their behalf, as well as of the value of services rendered by the Central Government to them. The credits and debits should be correctly estimated and a balance struck.

At present, the subjects of States pay taxes directly to the State Government and indirectly to the Government of India. Such indirect taxes or contributions are under customs, tariffs, salt, excise, railways, posts, telegraphs, currency,

exchange and so forth. These indirect contributions are similar to those paid by the people in the British Provinces; and the entire revenues are now credited to the Central Government without distinction. Hereafter, a statement of credits and debits should be prepared as between the Central Government and the States. Every State will bear its due share of the expenditure incurred by the Central Government and will likewise be entitled to the credit of a share of the indirect revenues collected by the latter in the shape of the taxes and duties just mentioned.

The Central Government may render some special services to the Provinces which it may not render to the States unless expressly desired by the latter. The Central Government should prepare accounts to show what proportion of its receipts and expenditure is directly its own, and what pertains respectively to Provinces and States, and adjust the balances equitably at the end of each official year.

The currency policy of the Government of India has adversely affected the economic interests of the States and imposed considerable financial burdens on them in the past without their leave or sanction. Provision has been made in the above proposals to secure to the Governments and the People of the States an effective voice in the formulation and control of policies in all such matters in future.

38. There will, of course, be no payment of subsidy by the States under the Federal Constitution.

39. The Dominion Government will have power to appoint commissions or boards of arbitration to enquire into and settle all disputes between any two States, or Provinces, or a State and a Province, regarding boundaries or economic or fiscal adjustments, or any other issues of a non-justiciable nature.

#### VIII. EXTERNAL RELATIONS.

40. Laws and Regulations to govern foreign trade, navigation and merchant shipping, residence and acquisition of property in foreign countries, personal and civil relations with the subjects of foreign countries and all other questions of external status will be uniform for all citizens of the Dominion, whether of Provinces or of States.

41. The embassies and consulates established by the Dominion Government in foreign countries will afford protection and facilities to States subjects as to subjects of Provinces.

#### IX. DEFENCE.

42. The Dominion Government will, out of its revenues, provide adequate Land, Naval and Air Forces for the defence



of the whole of India ; and in addition to these, every Province and every State will have a local army, manned and officered from among its own subjects, but equipped and trained under the supervision of the Central Government. Two-thirds of these local armies will be available whenever required for direct service under the Central Government.

43. Besides this regular army, every Province or State will build up a Citizens' Volunteer Corps, to be ready for internal service during emergencies and as a means to train the people for self-defence.

Hitherto, the Indian States have been allowed to maintain small armies according to the conditions of each State ; and some of these troops have had opportunities of participation in the defence of the Empire. In future, similar arrangements may continue ; but the size of the Force in a State should depend upon its size and financial capacity, determined on a uniform basis.

States which have territory bordering on the sea might maintain a Naval Force ; and all the States may have their quota of Air Force.

44. The cost of defence should be apportioned on a uniform basis, due regard being paid to the responsibilities of the Central Government and the capacities of the individual States and Provinces respectively.

#### X. PREPARATION FOR DOMINION EFFICIENCY.

45. The establishment and consolidation of full Responsible Government requires strenuous and many-sided preparation ; and it is essential for this purpose that a Dominion Preparations Commission should be set up immediately after the inauguration of the new constitution, with a corresponding Preparations Committee for every State or group of States and also for every Province or group of Provinces.

46. Among the members of this Commission may be public men, administrators and experts selected and invited by the Dominion Government from other advanced Dominions like Canada and Australia.

47. The Commission will tour in the country, studying the needs and deficiencies of the several parts, and also visit some of the British Dominions and other progressive countries if necessary, and suggest suitable reforms and remedies in order to facilitate and hasten the attainment of the highest Dominion standard of political and national efficiency.

48. The above proposals represent the outlines of a workable federal polity of which the States are an integral part. There is abundant world-experience from which we may draw to supply what these proposals omit. The constitutions of the United States of America, Canada, Australia, South Africa and other federal countries can surely suggest alternative devices in the details of our machinery to quicken or to control the movement of governmental authority. Given the good-will and support of the British Government and of the Ruling Princes, the scheme can be put in successful working condition within twelve months from the date of sanction. If the reforms are conceived in a grudging or prevaricating spirit, or introduced piecemeal instead of on a comprehensive plan, their operation is bound to be attended with difficulties and friction; and as the history of the Montagu-Chelmsford Reforms has shown, the new scheme may, far from proving a blessing, become merely a new source of irritation and bitterness for all.

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## CHAPTER VIII.

### RESPONSIBLE GOVERNMENT.

#### *How it is inevitable.*

WITH the progress of political awakening among the people in British India, it was only to be expected that a similar change would come about among their brethren in the States also. The Montagu-Chelmsford Report (1918) spoke with true insight when it said :

Hopes and aspirations may overleap frontier lines like sparks across a street. There are in the Native States men of like minds to those who have been active in spreading new ideas in (British) India..... No one would be surprised if constitutional changes in British India quickened the pace in the Native States as well..... We know that the States cannot be unaffected by constitutional developments in adjoining provinces..... We need not conceal our conviction that the processes at work in British India cannot leave the States untouched.<sup>1</sup>

So, the constitutional reforms towards Responsible Government introduced in British India by the Act of 1919 and the continued popular demand there ever since for a fuller and more effective realization of the new principle have had the result of intensifying the desire for similar reforms in the States. This influence of the public opinion of British India on the mind of the people of the States is as irresistible as natural, and is bound to continue and grow under all circumstances.

#### *Evil of Autocracy.*

It would, however, be an egregious mistake to suppose that the demand of the States' People for Responsible Government is merely imitative, and is no more deep-rooted than a craze for a new shibboleth. The truth, on the other hand, is that they are more familiar than others with the evils of irresponsible government ; and in that experience are the roots of their present demand for change. Within the past few years, the world has come to know a good deal about the piteous lot of the people of the Indian States. Ugly facts have come to light suggestive of the ways of even Princes who are among the best distinguished of their order. Indore, Alwar, Nabha, Patiala, Bhopal, Cooch-Bihar, Bharatpur, Cutch, Khairpur, Kashmir, Jumnaigar, Baroda, Hyderabad—all of these States

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<sup>1</sup> M. C. Report, p. 100, par. 157, p. 102, par. 300, p. 198, par. 312.

ruled by Princes who have had the benefit of modern education, most of them men widely travelled in Europe and America, and many the recipients of marks of appreciation from the Paramount Power. These have all come to bear witness to the untenability of the old regime. Were truth free to make itself known, we may be sure the list of States groaning under the inequities of personal absolutism would have to be made much more lengthy. The old type of personal rule in India was one amenable in the first instance to established tradition and social opinion, and in the last to the fear of insurrection among the subjects. That salutary fear has been removed by *Pax Britannica*.<sup>1</sup> The autocracy of to-day is not modified by any consideration for popular feeling or any sense of danger from rebellion. The Paramount Power too has pledged itself to a course of spacious leniency. It threatens to step in only when it is constrained to think that there is "gross misrule," and not a minute earlier. So long as the Paramount Power can, by any means whatever, be prevented or dissuaded from thinking that misrule has reached the "gross" or "flagrant" stage,— that is, so long as misrule is kept refined or moderate, there is no fear of intervention. If there is an insufficiency of good rule,— if there is continued inattention to popular needs and grievances,— if there is persistent denial of measures to promote the welfare and prosperity of the people,— if, in brief, the failure of the Durbar is just short of being so gravely scandalous as to make a popular outbreak seem probable, the Paramount Power would consider itself not only as under no obligation to act, but as under a positive obligation not to act. Until the very brink of the abyss is reached, it will not come to stay the race towards ruin. The proverb that prevention is better than cure has been deliberately set aside by the Paramount Power. If the Princes are careful enough to avoid only the superlative degree of maladministration, they have nothing to fear from within or without. And where power is under no control, there can be no guarantee of good. Sir Sidney Low wrote :

An enlightened Prince on the *gadi* of an Indian State can find great possibilities of usefulness if he cares to grasp them.<sup>2</sup>

But *why* should he care ? Why should he bother ?

A philosopher on a throne can hardly desire a more favorable situation for the exercise of his abilities and his benevolence. He has most of the advantages of despotism without its customary

<sup>1</sup> See footnote 1 on p. 49.

<sup>2</sup> *A Vision of India* (1911 Ed.), p. 131.

discomforts and dangers. The cares of diplomacy, the burdens of military defence, are taken off his hands by his imperial guarantors.<sup>1</sup>

So is also taken off the incentive to do well. The Indian Princes have no more of the philosopher in them than European Princes and therefore succumb to the temptations of despotism as readily as others similarly placed. The remedies, therefore, are those adopted elsewhere.

#### *Benevolent Autocracy.*

Of course we have read of benevolent autocrats. But that does not make autocracy any the less undesirable. Firstly, the autocrat, for all his benevolence, is powerless to ensure a succession of good and able men to keep up his grand patriarchal tradition. Secondly, an autocrat's benevolence, while it may make for some temporary improvements in the external conditions of his subjects, can do nothing to build up within them those qualities of unslumbering and manly citizenship which are the one permanent and ever-dependable guarantee of their welfare as well as of the prestige of their State. On the contrary, autocratic benevolence discourages the habit of self-organization and self-development among the people and makes them more and more dependent upon the mercy of an agency outside themselves for their safety and well-being. It is hardly necessary at the present time to elaborate arguments against a system which all the world has discarded. Nature has lodged no special defect in the mental or physical constitution of the People of the Indian States so that, on that ground, they should have to put up with a system which all humanity has found to be galling to its sense of justice and self-respect alike.

#### *Evils of Bureaucracy.*

It would likewise be superfluous to cite arguments against the system of bureaucratic government. The whole of British India has been crying out against that system as one designed to cramp the energies of the people and arrest their self-development. Not being liable to be called to account by the People for its performances and failures, a bureaucracy is apt to live in a world of its own, neither caring to know nor capable of knowing the mainsprings of the country's life and

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<sup>1</sup> *Ibid.* Sir Sidney Low has recently produced a tract on *Indian Princes* which, for the author of *The Governance of England*, shows a surprising degree of prejudice, want of appreciation of the People's Rights and want of correct knowledge.

its currents and cross-currents, and never gaining the vision that comes of such knowledge.<sup>1</sup> Bureaucratic absolutism can be no more satisfying than personal absolutism. If the latter is heartless in its caprices, the former proves itself soulless like a mere machine.

### *Merits of Democracy.*

It is thus that the preference of the civilized world has come to be given to a system of government in which the general body of citizens are entrusted with powers and opportunities to enforce a sense of responsibility upon those who undertake to wield the authority of the State. This system

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<sup>1</sup> Mysore is generally believed to possess the most advanced form of government among the Indian States. At its administrative capital, the City of Bangalore, certain serious disturbances occurred on the 30th and 31st of July 1928, involving considerable damage to life and property; and there was "a widespread desire for an authoritative public enquiry" as to the root causes and circumstances of the disturbances, the conduct of responsible public authorities in that connexion, and the measures necessary for the restoration of peace and good feeling among the public. "In response to the popular demand," the Government of Mysore appointed a Committee composed of seven members as follows: (1) a retired Dewan, (2) a Judge of the Chief (now High) Court, (3) a member of the Legislative Council, (4) a businessman (Mussalman), (5) a businessman (Hindu), (6) the Secretary to the Government in the Law Department, and (7) a businessman (European), Member of the Legislative Council. The first of these, Sir M. Visvesvaraya, was the Chairman. In the report which the Committee submitted (15th December 1928) after careful and prolonged enquiry, they observe as follows:—

"On the whole, the incidents connected with the disturbances were in themselves comparatively unimportant. It was the breakdown of the Government machinery on the occasion that has created real apprehension and provoked just criticism (par. 123). . . . Much of the present unrest is due to lack of sufficient employment for the intelligentsia and to the absence of any responsibility for public welfare on the part of the leaders of the people. Mysore has always been in the forefront of Indian States; and it would be in consonance with its past traditions if, instead of drifting with the times, it anticipated what was coming and conferred some measure of responsibility on the people in good time. The attachment to the Ruler will only grow with the introduction of timely beneficent reforms (par. 139). . . . "No nation can be perfectly well governed till it is competent to govern itself"—so said Lord Macaulay nearly a hundred years ago in the British House of Commons while discussing proposals for the future Government of India at that time. The people should be made competent by practice, by being given the necessary opportunity to govern themselves. It must be remembered that the proposals just enumerated pass for commonplaces in Western countries (par. 142). . . . Nobody benefits by, nobody is better for, the present system. Unless Government shifts some of its responsibility for constructive work on to the shoulders of the people, the weaknesses and evils arising from too much dependence on Government will not diminish; and the people will not be able to utilize to the full the power and material resources of the State to carve out their own destiny. A State-wide awakening will come only with the realization of responsibility. Government, too, will find it increasingly difficult to put down strikes, disorders or acts of rowdysm in future. Without the moral backing of the people, they will find it more and more difficult to carry on even the ordinary work of administration (par. 143)."

has been variously named,—constitutional government, representative government, responsible government, self-government, democracy. Howsoever called and howsoever differentiated in outward form and method, the underlying principle is one: that the State's power should be exercised by those who have received the confidence and support of their fellow-citizens, and exercised in ways approved of by them and under conditions which secure constant scrutiny and direction by their accredited representatives. The superiority of this system may be briefly pointed out thus:—

(1) It can induce every citizen to devote some attention to the problems of the country and think in terms of the life of his fellow-citizens as a whole.

(2) It can discover and bring the best faculties available among the People to the service of the State in the shaping of its larger policies and affairs.

(3) It can encourage among the People the habits of self-organization and self-discipline for promoting what they consider objects of common good.

(4) It can promote habits of enquiry and study and raise the general standard of knowledge and ability among the citizens.

(5) It can bring the shortcomings of the administration promptly to light and ensure their rectification and prevention.

(6) More than all, it can ensure that the desires and aspirations of the People are reproduced as faithfully and fully as possible in all the policies and programmes of the government.

In one word, Responsible Government alone can enable the people to realize in practice the identity between their own fortunes and those of their State. No other system offers such an incentive to active public spirit.

Not that the writer is unaware of what can be alleged against democracy. He remembers that it is not infallible. It has not anywhere converted the earth into a heaven. Its path is strewn with thorns; and its enemies are not only many, but also masked. Nevertheless, it does not suffer by comparison with its rivals. In spite of all its failures and dangers, it is the one system that can give a value to individual life and infuse manliness and sense of power into the hearts of even the humblest members of the community. And the preference for it in India will last at least so long as England herself does not think of discarding it from her own life.

*Pre-condition to Federation.*

To this enumeration of the chief moral and political merits of the system must be appended an argument of expediency which, nevertheless, is of the highest importance. If India should be counted as one undivided entity in the world and rise to the fullest height of power and honour accessible to her among the nations, it is imperative that her many Provinces and States should unite in one federal polity; and such a union would be impossible if the States remain victims of irresponsible sway while the Provinces go on developing their democratic power.

Here is the word for it from the Mantagu-Chelmsford Report: -

It seems to us axiomatic that there cannot be a completely representative and responsible Government of India on an equal footing with the other self-governing units of the British Commonwealth until the component States whose people it represents and to whom it is responsible, or at least the great majority of them have themselves reached the stage of full responsible government.

It is indispensable that the States should also adopt the principle of governance which has come to prevail in British India if they should find a place in the Indian federation. The State that persists in autocracy at home cannot consistently claim democratic treatment abroad. And yet such, as a matter of fact, is the position desired by most Indian Princes for their States.

*No Harm to Princes.*

How will Responsible Government harm the Princes? In no way. On the contrary, it provides the only way in which they can secure for themselves a position permanent and beyond peril - a position, at the same time, of power above contention and of dignity above strife. The unfading splendour of the British Throne, in contrast to the tragic downfall of all absolutist thrones in Europe during the Great War and after, holds out a lesson to His Majesty's Indian allies. Their truest safety and honour lie clearly in letting their subjects have their full share in the life of the State.

*No Harm to the British.*

Will Responsible Government in the States harm the British Government? Not at all. On the contrary, its

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<sup>1</sup> M. C. Report, p. 220, par. 350.



establishment is the only hope of relief for the British Government from its present thankless and vexatious duty of interfering in the States. Not until their people are placed in full possession of power to look after their affairs can the British Government be taken to have discharged its responsibility towards the States. Hitherto, this responsibility has too often suffered neglect. Its performance has been too often tardy, half-hearted, perfunctory. Hereafter, when the British Government will have parted with most of its power in British India, the performance of its obligations towards the People of the States is likely to be not less, but even more inefficient. It is all the more necessary therefore that the British Government should do all it can to hasten the advent of Responsible Government in the States.

*Is there no Demand?*

Though the Indian States Committee agree that the British Government "would be bound to suggest such measures as would satisfy the popular demand for a change in the form of Government without eliminating the Prince", they say, by way of a caveat, that "no such case has yet arisen"<sup>1</sup> in the States. This warning, it must be pointed out, is both gratuitous and misleading. In the first place, the demand for reforms has often been put forward in unambiguous language by the public of those States where the freedom of public association and speech has not been altogether suppressed. Numerous public bodies and conferences of the States' People have for years been insistently asking for the introduction of responsible government in the States;<sup>2</sup> and their demand has been reinforced by repeated resolutions of the Indian National Congress, the All-India Liberal Federation and other political bodies of British India. The legislative houses of several States (like Cochin, Travancore and Mysore) have echoed, or sought opportunities to echo, this demand. If the demand has not yet become vocal in other States, the reason is that public life there is not free even to that extent. In several States, general education is indeed so poor, and oppression so heavy, that the people are not able to know the extent of their degradation and to dare to ask for relief. Newspapers are gagged; meetings are prohibited; public workers are subjected to remorseless persecution. How is the public mind to express itself in such States? The Butler

<sup>1</sup> *Butler Report*, p. 28, par. 50.

<sup>2</sup> See page 86.

Committee, in offering the above caution, have spoken without knowledge. For, they denied interviews to representatives of the public and carried on *sub rosa*. If they had only taken the trouble of making enquiries, offering assurances of protection against persecution, the subjects of the States would not have left them in any doubt as to how grave and urgent is their need of reform.

*Are States' People "Peculiar" ?*

Are the States' People fit ? This is the question sometimes raised by Princes who wish to be taken as being full of sympathy towards reform. They lay a tell-tale emphasis on what they describe as the peculiar circumstances and conditions of their States and their subjects, and urge such peculiarity as an obstacle to reforms of the kind desired. To such, there is an answer in the statement above submitted : that no peculiar disabilities, mental or physical, have been inflicted by Nature on persons born within the dominions of the Princes. There is no conceivable reason why these should be regarded as inherently wanting in capacity to work institutions which their brethren across the border are so irrevocably trusted to work well. In serious truth, there is no substance in the argument,—so assiduously urged by India's opponents and echoed by some of her Princes and their friends,—that the essence of democracy or responsible government is something peculiarly Western and that it cannot suit the Eastern peoples. There have been despotisms and royalisms in Europe ; and there have been constitutions and popular politics in Asia. The inordinate love of personal rule and regal pomp attributed to the Oriental is a fable concocted by friendly-seeming Europeans in order to keep him where he is. He has a mind that can think and a heart that can feel as well as any Occidental's. The principle that forms the heart of the democratic system is a principle that arises from universal human experience and is sustained by universal human psychology. The State being an organization based upon the conjoint will of the People, its powers arise out of their consent and support. Those powers must therefore be exercised in a manner agreeable to them, that is directed to ends determined by them and by agents amenable to their control. This is the one universally applicable principle, however different be its local manifestations and symbols and nomenclatures. From the world's stock of machinery designed to embody this

principle, India and her States are free to make their own selection and adapt them to their own special requirements.

The essential clauses of half a dozen living monarchical constitutions of Europe are given in Appendix C. They furnish an object-lesson to our Princes.

Not that Responsible Government should be set up all at once, complete in every detail of power and attribute, is the demand now made. Those who ask for it realize that it cannot be introduced in its fullness all of a sudden like a scene on the stage, and that it requires measures of preparation in order to be introduced well. But they are anxious that the ideal itself should not be left in doubt any longer. Let the Princes declare, openly and once for all, that Responsible Government is the goal to be attained by their subjects and that it is to be attained in full form within a period not exceeding 15 years in any case. And let such a declaration be followed up by energetic preparatory measures.

Let us hope there is still enough left of both patriotism and statesmanship in our Princes to enable them to see that in their readiness to sympathize with the aspirations of their People and to help them to attain Responsible Government with all possible speed and in all possible fullness, lies the one hope of strength and permanence for themselves as well as for their States. A recommendation towards this end conveyed to them by His Majesty by means of a Royal Proclamation may well be expected to evoke a generous and enthusiastic response.

## CHAPTER IX.

### PREPARATORY PROVISIONS.

SUBJECT to the one all-important condition that they are not to be in the nature of probationary tests or procrastinatory devices, but should be measures of real preparation, the need for transitional arrangements was admitted at the very outset. They have to be under three heads:—

- (i) Steps towards Federation,
- (ii) Steps towards Responsible Government, and
- (iii) Interim Charge of Suzerainty.

#### *Steps towards Federation.*

The Indian Statutory Commission have tried to seem anxious,—certainly they seem more anxious than the States Committee,—“to make a beginning in the process which may one day lead to Indian Federation.” They have been at pains to discover the means of “throwing across the gap the first strands which may in time mark the line of a solid and enduring bridge”.<sup>1</sup> “Organized consultation” is their formula. Satisfying enough as this phrase sounds, we have only to look at the one specific proposal which is particularly the Commission’s own to realize how totally illusory it is.

The Commission’s recommendations are three; and the first two of them are in the nature of an innocuous preliminary:—

First, we should like to see a serious and business-like effort now made to draw up a list of those “matters of common concern” which are so often referred to, but have seldom been defined.<sup>2</sup>

No one will object to this. We would invite attention to pages 90-91 *ante*.

Secondly, we should like to see included in the Preamble to any new Government of India Act a recital which would put on record the desire to develop that closer association between the Indian States and British India which is the motive force behind all discussions of an eventual Federal Union.<sup>3</sup>

This is but a feeble under-statement of what is imperatively necessary. The Preamble should declare in unequivocal language that a Federation based upon the principle of the

<sup>1</sup> *Simon Report*, Vol. II, p. 263, par. 237.

<sup>2</sup> *Ibid.*, p. 263, par. 235.

<sup>3</sup> *Ibid.*

Sovereignty of the People and comprising Provinces and States alike in the manner outlined in the Montagu-Chelmsford Report,<sup>1</sup> is the goal kept in view ; and it should be so framed as to convey an invitation to the States to prepare themselves and join the federation. A "closer association" that takes no note of the People on one side, for one thing, and is provided with no means of manifesting itself in action, for another, is nothing but a mockery and a snare.

And thirdly . . . . steps should be taken now to devise the creation and setting up of a standing consultative body containing representatives both from British India and the Indian States, with powers of discussion and of reaching and recording deliberative results on topics falling within the list of matters of common concern. . . . This Council for Greater India would consist of, say, 30 members, of which 10 would be representatives of the States. The majority of the States' representatives would be nominated by the Chamber of Princes ; the Viceroy might complete the list by invitation, so as to provide for the representation of those Indian States which do not form part of the Chamber. On the side of British India, some of the members would be drawn from the Central Legislature by the use of the transferable vote ; others would be nominated by the Viceroy. The Political Secretary would be a member *ex officio*. The Council would be presided over by the Viceroy.

The views formed by the Council would be recorded in a Report, which would include the record of any dissenting minority, and this Report should be furnished to the Central Legislature.<sup>2</sup>

#### *The Simon Plan—Unacceptable.*

The objections to this proposal are many and serious. They are as follows :—

(1) We have observed already that federation in India should mean, among other things, the transformation of the present Paramountcy into the authority of a Central Government extending over States and Provinces alike. Any arrangement now made should mark the beginning of the dissolution and absorption of Suzerainty as such. But the Simon proposal, in contradiction of this, takes for its basis the bifurcation of the functions of the Government of All-India as those belonging to the Governor-General of British India on the one side and those of the Viceroy for the States on the other, and thus seeks to further crystallize Suzerainty as an insoluble and immutable element.<sup>3</sup> This, if anything, is the erecting of a permanent barrier against federation.

<sup>1</sup> See p. 85 *ante*.

<sup>2</sup> *Simon Report*, Vol. II, pp. 203, 204, 205 and 206, pars. 235, 236 and 237.

<sup>3</sup> *Ibid.*, p. 196, par. 229. Also *Butler Report*, p. 52, par. 105.

(2) A body in composing which, and in regulating the working of which, the Viceroy is to have so large a hand as in the case of this Council for Greater India<sup>1</sup> cannot hope ever to win the confidence either of the States or of British India. There is no way of escape for the Viceroy from the natural suspicion that his policy is to play off one party against the other. The atmosphere of distrust thus certain to be generated is not a condition that can either acquire for his office that character of constitutional non-partisanship which is proper to the headship of a responsibly governed State, or make for that sympathetic mutual attraction of the two entities which will serve as a preliminary to their predicted fusion.

(3) Holding no position of consequence in the constitution, and invited to record opinions of which nobody will be bound to take any notice, the Greater India Council will have to depend upon the support of the Executive of the Government of India for any influence it may wish to exercise on the course of deliberations in the legislature of British India. It will, for this reason, have to make its views conformable to those held by the executive of British India; and this cannot but lead to its being stigmatized as a dummy in the game. Result: hardening of British India's prejudice against the States and growth of misunderstanding on all sides.

(4) There is nothing in the plan to bring about a constitutional contact between the People of British India and the *People* of the States; and the People after all--and not either the Viceroy or the Governor-General, or the Ruling Princes--are the parties who will ultimately have to work the federation. Any reasonable measure conceived as a preliminary to federation must offer some opportunity to the *People on both sides* to cultivate good understanding and habits of fellowship.

(5) Nor will the Greater India Council have an opportunity of rendering any such appreciable service to either part of India as could bring home to it a sense of the advantages of a still closer union. It is to be without power and without responsibility; and it could therefore have nothing to offer by way of a tempting foretaste of the benefits of federation. On the other hand, the sense of its futility and

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<sup>1</sup> The name "Council for Greater India", inaccurate as it obviously is if taken literally, looks ironical if meant to be taken as a figure of speech. The Simon Commission perhaps thought that India cares more for the pomp of a phrase than for the usefulness of a reality.

impotence, as contrasted with the power and prestige of the legislature of British India, cannot but reduce it soon to such a moribund condition as will not fail to provoke ridicule in quarters where it fails to provoke resentment.

(6) The most fatal defect of all is that the plan fails to satisfy the condition which its own authors have laid down, namely— that it should “*make a beginning* in the process”. Far from initiating it as an actuality, on whatever small scale it may now be feasible, the Simon plan deliberately keeps over the question of actual federation for re-consideration and settlement “one day” in the unlimited future. Federation is now to be admitted as a remote possibility, but not assured as a near probability. British India and the States are to be set on roads parallel and not convergent; and they are not to move towards each other until Britain is pleased to permit them even though they themselves find such movement practicable. What India, in both parts, has been seeking is the freedom of initiative,—the freedom of self-determination, self-action and self-accomplishment. She prays for the withdrawal of the outside hand; and of this withdrawal, any proposal now made must hold out the first clear sign. There is none of it in the Simon scheme. It puts India in the posture of movement, but with footwear of lead.

### I. *Alternative Steps towards Federation.*

There is one idea, however, in that scheme which merits adoption; and it is that, as a preliminary to All-India federation, the States may themselves be federalized through an organization of their own, better constructed and better armed with power than is the Chamber of Princes. But this should be without prejudice to, and indeed side by side with, other possible measures adopted towards the fuller amalgamation.

The idea may be worked out in the following manner:—

(1) A definitive list of Indian States<sup>1</sup> properly so styled after an examination of the sovereign attributes they still possess, should be prepared; and they should be classified under two heads as (A) individual units and (B) group units of federation, according to their area, population, revenue and other relevant circumstances.

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<sup>1</sup> “It would improve and assist future relations between the Crown and the States if a definite line could be drawn separating the Rulers who enjoy full powers of internal administration from the others.”—*Montagu-Chelmsford Report*, p. 193, par. 302.

(2) (i) The previous qualifications for admission into the federal constitution, in respect of progress of education, form of government and any other requisite, and (ii) the subsequent conditions of membership therein should be determined and laid down by a body duly authorized.

(3) Under terms so laid down, the States may be invited to enter the federation. Such of them as are duly qualified (in the opinion of any agency duly appointed), and are willing to join, may be admitted immediately as members on a footing of equality with the Provinces of British India in all matters of a Schedule of "common concern" (p. 91 *ante*).

If, during the period of transition, it is considered necessary that any matters of purely British Indian interest should also be entrusted to the Central Legislature, it is reasonable that the States' representatives should take no part in the discussion and voting on such matters. (See p. 92 *ante*.)

(4) It is only for States that are unable to make up their minds to come in immediately that some machinery of consultation would be needed. It should serve to give them time to see how the new constitution works and to prepare themselves for membership in it. Its object should be to attract and persuade them.

(5) If it is found after the inauguration of the federal constitution that the total population of the States which have come into it is less than the total population of the States which remain outside, an institution (referred to as the Convention in this note) of such non-federalized States will be brought into existence as an auxiliary to the Central Legislature of the federal constitution.

[This assumes that for the purpose of federation, the People of all the States together are to be counted as a single community. Whether the proportion of that community outside the federation, to justify the existence of a separate institution to speak in its behalf, should be fixed at more than a half, or less, is a point that will admit of further discussion. In any case, the minimal line will have to be drawn somewhere so as to secure the automatic exit of the transitional creation. The drawing of that line will be a comparatively simple affair if the population basis is accepted. If, on the other hand, the mere numbers of States should be the criterion, they will have to be divided into three or four classes according to size, population, income, status, etc., and a different minimum will have to be fixed for each class. Whichever the guiding factor, some equitable way must be decided upon to ensure that what is started as a temporary convenience does not convert itself into a perpetual encumbrance.]



(6) The Convention will consist of as many members as should have been admitted into the Central Legislature if all the non-federalized States had duly joined the federation (*i.e.*, representation will be in the same ratio to the population of such States).

(7) The members of the Convention may be (i) Ruling Princes, (ii) ministers, (iii) non-official citizens nominated by the Governments, or (iv) non-officials elected by the legislatures (or a combination of these),—each State or group of States appointing them according to its own constitution and other circumstances.

(8) The Convention will choose its own President and frame its own rules of business; and all communications between this body and the Central Legislature will pass through the Governor-General.

(9) When the Central Legislature has taken into consideration any measure relating to a scheduled subject of common concern (already referred to, page 91 *ante*), and before it reaches final decisions, the Governor-General will forward a copy of the measure to the Convention for an expression of its opinion before a specified date.

(10) To assist the Convention in its deliberations on such a measure, the following members of the Central Legislature will be deputed to take part in the discussions, but without voting:

- (1) The member proposing the measure,
- (2) The member seconding the measure,
- (3) The Leader of the House,
- (4) The Leader of the Opposition, and
- (5) Two members selected from among the representatives of the States already in the federation.

The speaker of the Central Legislature may be empowered to nominate two additional members to represent any other groups or parties.

(11) The conclusions reached by the Convention will be recorded in the form of amendments or propositions and forwarded through the Governor-General to the Central Legislature which will be bound to consider them before finally disposing of the measure.

(12) When the Central Legislature takes such amendments or propositions into consideration, four members deputed by the Convention will be present, with the right to participate in the discussions, but not to vote.

(13) The decisions of the Central Legislature will be final.

(14) When a non-federalized State is duly admitted into the federal constitution (under Clause 2 above), it will cease to be a member of the Convention.

(15) When the total population of the non-federalized States is found to have become less than a half of the total population of the States in the Definitive List (Cl. 1 above), the Convention will be regarded as *functus officio*; and the Central Legislature will afterwards have power to devise measures for bringing the remaining States within the federal constitution or dealing with them otherwise.

(16) Until such time, the political relations of the non-federalized States and all their affairs not falling within the purview of the Convention will be managed by the Viceroy and Governor-General as under the existing constitution of the Government of India and subject to any further provisions that may be duly made (among these being the machinery for interim charge of Suzerainty as proposed below).

The writer ventures to submit that such an arrangement would be free from defects of the kind seen in the Simon scheme, and would, besides, offer some distinct advantages to each of the parties concerned, while making the advent of full federation automatic.

Sir P. S. Sivaswamy Aiyar who, to judge from his recent speeches and writings, seems to have appreciably modified his position with regard to the States as disclosed in his book, the *Indian Constitutional Problems*, offers an alternative scheme of transitional measures. It follows the lines indicated by Sir M. Visvesvaraya in October 1918, in the address he delivered to the Mysore Representative Assembly as its Dewan-President.<sup>1</sup> It is a less advantageous scheme than the one above outlined. But it is worth consideration as the admission of the possibility of a half-way house by a constitutional writer of authority. The scheme will be found in Appendix D.

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<sup>1</sup> Sir M. Visvesvaraya suggested that "the States may, to begin with, be permitted to send their representatives to the proposed Council of State. .... Eventually, when responsible government is fully established, .... the States may be allowed to send representatives to both the assemblies. .... permitted to participate in the discussion of subjects of common interest only."—17th October 1918, Address to the Mysore Representative Assembly.

## II. *Steps towards Responsible Government.*

What is needed immediately is a public declaration by the Ruling Princes of their unqualified acceptance of the system of responsible government as the political goal for their subjects and an assurance from them that they would forthwith introduce and speedily develop the necessary administrative, educational, economic and constitutional reforms so as to ensure the attainment of that goal within a definite period of time.

Such a compulsory time-table is one of the essential conditions of progress in India, demoralized as she has been by generations of drift and dependence. The States, in particular, have so long been left to move "at their own pace"<sup>1</sup> that, if they are not asked to submit to some rule of discipline, there can be no hope of their ever coming into line with the rest of India.

The experience of the Provinces of British India shows that a period of about 10 years should ordinarily suffice to prepare a State for the new system of governance. The States are smaller in size than the Provinces, and are more free to pursue their own policy unhampered by extraneous influences; so that 10 years should prove enough to them for preparation, and 15 years ample.

The reforms may proceed somewhat as follows:—

### *First Stage.*

The new regime will begin with:

- (1) A proclamation or rescript by the Ruling Prince; announcing the opening of the new *regime*;
- (2) The grant of freedom of speech and association (including the freedom of the press) and other liberties essential to the exercise of citizenship;
- (3) The declaration of the supremacy of law and the independence of law courts;
- (4) The appointment of an Executive Council of Ministers, one of them being the Dewan or Premier,—this Council having power to make laws after consulting the Representative Assembly;

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<sup>1</sup> M.C. Report, p. 198, par. 312.

- (5) The institution of a Representative Assembly with at least a half of its members elected, to meet not less than twice a year and make representations on all scheduled matters which will include all proposed legislative measures ;
- (6) The preparation of an annual budget of revenue and expenditure for the State, as separated from the Royal Civil List ;
- (7) The publication of a weekly Gazette or bulletin in the principal vernacular, giving information on important governmental activities ;
- (8) The introduction of a scheme of compulsory primary education ;
- (9) The institution of a system of Municipalities and Panchayets ; and
- (10) The adoption of a programme of work for economic development.

This list is one of obviously elementary items ; but the notorious fact is that most of them are absent in most of the States. There can be really nothing recondite or formidable about drawing up or working out a scheme of progressive government. The difficulty is all in getting the Princes to make up their minds.

#### *Second Stage.*

At the end of five years, if they have been years of energetic and thoughtful work, the State should be able to see to the following :—

- (1) The reduction of nominations to the Representative Assembly to a quarter ;
- (2) The grant to it of the power of (i) asking questions, (ii) passing resolutions, and (iii) considering the Budget ; and
- (3) The selection by Government of one from among its members for inclusion in the Executive Council.

The educational, economic and local self-government activities of the first stage would expand and develop during the second. There would now be high schools and technical schools, banks and co-operative societies, and competitive tests for entry into the public service.

*Third Stage.*

Three or five years more should open the third stage, of which the features would be:—

- (1) The discontinuance of nomination to the Representative Assembly, except perhaps for some very special reasons, such cases being limited to 5 per cent of the total membership.
- (2) The election of another member by the Assembly to the Executive Council (in addition to the one selected by the Government);
- (3) Voting on items of the Budget by the Assembly, powers of restoration being reserved to the Government; and
- (4) Voting on legislative measures.

*Final Stage.*

Three years or four more would lead to the final stage which would find—

- (1) the Representative Assembly having power to pass the budget;
- (2) the Executive Council composed entirely of members who lead the majority group of the Assembly; and
- (3) the Executive Council liable to be dismissed on defeat in the Assembly on any important issue.

This is full, or nearly full, responsible government. Alternatives may be provided as to methods of enforcing responsibility on the ministers and removing them from office. There is much controversy going on on these problems even with reference to American and European constitutions. They are matters in which there is reasonable ground for variety of practice and experiment. The course for the Indian States will have to be indicated by general Indian experience and the particular local circumstances of each State. But the question is really one of external form and method, not one of intrinsic principle. The principle is the same everywhere - that the accredited representatives of citizens should have the power to lay down laws and policies and to choose and change the instruments for their execution.

The Governor-General in Council, in exercise of the present prerogative of Suzerainty, may appoint a Commission to visit the States for making enquiries about the progress made

by them in the preparation for responsible government and to suggest proper measures to them for accelerating the progress.

A Proclamation emanating from His Majesty to recommend the new principle of governance to his Indian Allies would clothe the Viceroy and Governor-General with additional authority to take action as needed for ensuring progress.

### III. *Interim Charge of Suzerainty.*

It has been made plain that so far as the States admitted into the federation are concerned, all the powers and functions of the Suzerain will have passed into the hands of the Central All-Indian Government.

In regard to the States outside the federation, Suzerainty will be exercised by the Executive of the federal Central Government as the agent of the Government of His Majesty, in succession to the present Government of India. The Governor-General under the federal regime will, however, be advised and assisted in the performance of his Suzerain duties (unlike the present Viceroy and Governor-General) by a body representative of the States concerned (as submitted on page 64 *ante*). The Convention above suggested, or a special committee of it, may be such a body. All questions calling for intervention—whether of succession, or of minority, or of mal-administration, or of misconduct—will generally be referred to this body for opinion before action is decided upon. It will be competent to hold enquiries, to receive information, and to scrutinize the working of the Political Department. In one word, this will be the agency to regulate intervention and to constitutionalize Suzerainty. And it will last so long as there are non-federalized States to be looked after.

It is an open question whether the attainment of full responsible government by a State should be made an absolute pre-requisite for its admission into the federation. It is argued that membership in the federation will itself serve as a stimulus to the democratization of the States that are now bureaucratic or autocratic. This reasoning is not without force. The impact of the democracy of British India cannot go lost upon even princely or ministerial minds in the federal legislature; and that is bound to lead to the gradual transformation of the States; whereas this wholesome influence will not at all be able to reach the Princes and Ministers if they are kept

out. This plea may be admitted subject to two conditions: (i) Their membership in the federation would be subject to their establishing responsible government within a given period; and (ii) until then, the Executive of the Central Government would perform the Suzerain duties of superintendence, control and intervention in regard to them, like the present Government of India, under the constitutional advice, however, of an agency like the one above suggested.

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#### AN INTERIM NOTE.

THE foregoing pages were at first intended mainly for submission to the members of the Round Table Conference. But by the time they could be set in type, the date of the opening of the Conference had come too near to let the tract have a fair chance of obtaining the desired attention. It then occurred to the writer that the tract might with advantage be brought up to date by the inclusion in it of a review of the proceedings of the Conference. It has thus had to be held over for a while.

It would be useful, as a preliminary to the proposed review, to recall here the declared objects of the Round Table Conference in so far as they concern the Indian States. In the course of his statement in the *Gazette of India Extraordinary* dated the 31st of October, 1929, His Excellency Lord Irwin, Viceroy and Governor-General of India, declared as follows:—

With these views (of the Indian Statutory Commission, on the desirability of a Round Table Conference), I understand that His Majesty's Government are in complete accord; for, while they will greatly desire, when the time comes, to be able to deal with the question of British Indian political development under conditions the most favourable to its successful treatment, they are, with the Commission, deeply sensible of the importance of *bringing under comprehensive review the whole problem of the relations of British India and the Indian States. Indeed an adjustment of these interests, in their view, is essential for the complete fulfilment of what they consider to be the underlying purpose of British policy, whatever may be the method for its furtherance which Parliament may decide to adopt*  
 .....

I am authorised on behalf of His Majesty's Government to state clearly that, in their judgment, it is implicit in the declaration of 1917 that the natural issue of India's constitutional progress, as there contemplated, is the attainment of Dominion Status,

In the full realization of this policy, it is evidently important that the Indian States should be afforded an opportunity of finding their place; and even if we cannot at present exactly foresee on what lines this development may be shaped, it is from every point of view desirable that whatever can be done should be done to ensure that action now taken is not inconsistent with the attainment of the ultimate purpose which those, whether in British India or the States, who look forward to some unity of all India have in view.

His Majesty's Government consider that both these objects—namely, that of finding the best approach to the British Indian side of the problem and, secondly, of ensuring that, in this process, the wider question of closer relations in the future between the two parts of Greater India is not overlooked,—can best be achieved by the adoption of procedure such as the Commission has outlined.

.....His Majesty's Government.....propose to invite representatives of different parties and interests in British India and representatives of the Indian States to meet them..... for the purpose of a conference and discussion in regard both to the British Indian and the All-Indian problems.

It will be their earnest hope that, by this means, it may subsequently prove possible on these grave issues to submit proposals to Parliament which may command a wide measure of general assent. It is not necessary for me to say how greatly I trust that the action of His Majesty's Government may evoke response from and enlist the concurrence of *all sections of opinion in India*.

In the course of his address to the tenth annual session of the Chamber of Princes, on the 25th of February, 1930, His Excellency Lord Irwin observed as follows:—

As Your Highnesses are aware, it will be the duty of the Conference to consider the views and opinions of all who take part in it upon the future constitution of India.....I hope that *all important interests will there be heard*, and that from its discussions and mutual interchange of views, the way will be paved for an agreement between the States and British India in measures considered to be desirable for *the further advance of India as a whole* towards closer unity.....It is scarcely necessary to emphasize the fact that the importance of the Indian States in the body-politic of the country demands that any decisions with which they might be concerned should receive from them a full measure of support.

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## CHAPTER X.

### *Part I.*—THE ROUND TABLE CONFERENCE AND AFTER.

THE Viceroy's statement of October 31, 1929, which first announced the plan of the Round Table Conference, seemed to the People of the States to hold out a promise of attention at last to their long-pending case. It was a case of which British Indian politicians had generally fought shy, fearing that their espousal of it may antagonize the Princes and complicate their own case. The interest taken by the Liberal Federation and even the Congress in the question of the future of the States' People was never more than lukewarm. The recognition, therefore, of the States as factors not to be ignored in the Indian problem by the British Government kindled hope and enthusiasm in the hearts of the States' People. But they were not allowed to keep it long.

2. The language of the Viceregal statement gave no inkling of the Government's intention to keep the People of the States out of the solemnly-planned consultation and restrict its benefit to the Princes. This intention was made clear in November 1929. It was pointed out at the time by workers in the People's cause that the problems to be discussed at the R. T. Conference were bound to involve at least three points which are of the most vital concern to the States' People, namely—

- (i) Constitutional arrangements to ensure fair and equitable adjustments between the economic conditions and fiscal burdens of the people within the States and the laws and demands to be enforced on them from outside by the All-Indian Government,
- (ii) A constitutional agency to ensure the efficient performance of the duties of Suzerainty and to bring about its gradual withdrawal by rendering it superfluous, and
- (iii) The constitutional position of the Subjects of the States in relation to the new All-Indian Government,

— and that the Princes could not be trusted to represent the interests and aspirations of the People faithfully and effectively in regard to any of these three points. The proceedings

of the Round Table Conference serve only to prove how well founded their fear was. No one will consider it unjust in any degree to say that the achievements of the Conference have, so far, no consolation whatever to offer to the subjects of the States.

3. In explaining the objects of the Conference, the Viceroy laid stress on three points (pp. 119-120 *ante*):—

- (a) that *every interest involved* would be given its due share of consideration ;
- (b) that *a comprehensive review of the whole problem* would be made, with a view to the realization of the *underlying purpose* of British policy in *India as a whole* (including the States) ; and
- (c) that deliberations would be so conducted as to ensure for the conclusions the widest possible measure of agreement from every section of the Indian public, the States' Public not being excluded.

It cannot be honestly claimed for the Conference that it has in any measure fulfilled the assurances thus held out so far as the People of the States are concerned.

4. It was plainly not to the advantage of the Princes to allow questions relating to what is due to their subjects to be brought within the ambit of the Conference. The Indian Liberals, in their anxiety to return with some sort of a new Constitution, were too willing,—with the exception of Diwan Bahadur M. Ramachandra Rao and perhaps one or two others,—to acquiesce in the manouvres of the Princes ; and the British Imperialists at the Conference were not less eager, though from a different motive, to secure the co-operation of the Princes. This combination of three influential parties at the Round Table Conference has resulted in a complete ignoring of the Peoples' question. It is not to exaggerate the case to say that their position under the kind of constitution now sketched by the Conference will be more pitiable than it is at present.—unless of course it be that the present proposals are intended to be thoroughly revised and liberally supplemented hereafter so as to meet their particular claims and interests.

5. The outstanding achievement of the Conference is, according to all parties, the general agreement arrived at as to the appropriateness of a federal constitution for this country. What is noteworthy in this is not so much the consent of the

Princes as the conversion of strong unitarists<sup>1</sup> like the Right Hon'ble V. S. Srinivasa Sastri. Whether the consent of the Princes is really a matter for popular satisfaction must depend upon what attitude they will adopt towards reforms of the R. T. C. scheme to be proposed hereafter from the popular point of view. If, however, one may judge from what the Princes have so far said and done, one has every excuse for inferring that they were really anxious not to be left out in this general re-shuffling of powers and charges; and that they could well have been sure of gaining something for themselves at the R.T.C. if only they would let themselves be used

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<sup>1</sup> Those who fear that Federation must spell disruption and loss of integrity will note the following observations of LORD BRYCE :—

“The best way of strengthening, in the long run, the centripetal tendencies has been to give so much recognition and play to the centrifugal as may disarm them, and may allow the causes which make for unity to operate quietly without exciting antagonism..... The aim of a well-framed constitution will presumably be to give the maximum of scope to the centripetal and the minimum to the centrifugal forces..... The American (U. S.) constitution so judiciously estimated the centripetal and centrifugal forces as they actually stood at the time when it was framed, frankly recognizing the latter and leaving free play for them, and while throwing its own weight into the scale of the centripetal, doing this only so far as not to provoke a disjunctive reaction, that it succeeded in winning respect from the advocates both of States' Rights and of National Unity. .... Its provisions defining the functions of the Central Government were expressed in such wide and elastic terms as to be susceptible of interpretation either in a more restricted or in a more liberal way, i.e., so as to allow either a less wide or a more wide scope of action for the Central Government. .... Now-a-days (1900) one hears in the United States less about the Constitution than about the Flag. But that is partly because the Constitution has done its work, and made the Flag the popular badge of a Unity which it took nearly a century to endear to the nation.”—*Studies in History and Jurisprudence*, Vol. I, pp. 260, 294, 296 *et seqq.*

The following lesson from the experience of Germany may also be noted :—  
 “ The question naturally suggests itself why Germany, in the critical situation in which she found herself (after the World-War of 1914-19), and confronted, as she was, with the task of setting her house in order on entirely fresh lines, did not take the decisive step from federalism to unitarism, which seemed to offer the best guarantees of stability and, at the same time, the greatest chances for the recovery of national strength. The main obstacle to complete German union had disappeared, viz., what Bismark once described as a most ungodly and unrighteous swindle, the sovereignty of the German Princes..... All this had been changed, and the pretensions of Princes no longer stood in the way of higher national interests. In the course of centuries, allegiance to the local Ruling house had, to a certain extent, been converted into a local patriotism of a peculiarly narrow order..... The upper strata of society in Germany have an essentially national outlook, but it is intermixed with strong monarchical leanings. The middle classes, both in the town and in the country, are the backbone of the movement for the preservation of State-rights. The fourth estate alone combines a preference for the unitarian State with love of republican forms; but it did not prove strong enough to carry the day. So it came about that the Prussian draft (i.e., the draft drawn up by Professor Hugo Preuss), which fore-shadowed, though it did not actually introduce, the unitarian State, was brought to grief by the opposition of the States.”—DR. HEINRICH OPPENHEIMER in *The Constitution of the German Republic*, pages 16-17.

by the agents of Imperialism as an argument for beating down the national demand to any extent possible. And so, to all appearances, has the event turned out to be. Far from the Princes having sacrificed or surrendered anything, they have succeeded in securing for themselves a place of unexpected and unprecedented importance in the All-Indian Polity. They were like a catalytic substance in the crucible of the Conference.

6. Federation is without doubt a consummation to be welcomed by the States' People quite as much as by the Princes. But is the constitution contemplated by the Round Table Conference a faithful embodiment of that principle or is it a delusive travesty of it? Will it be a People's federation or a Princes' caucus? The term "federation" is still an elastic one, capable of being employed without objection to denote any one of many different degrees or kinds of union among different elements. To judge of the particular plan of union outlined for us by the Round Table Conference, it is essential that we should study its effective features and not rest contented that it is given the approved name. Is the blending of the life of the States with that of British India going to be so wide and deep, and so free and harmonious, as to produce satisfactory reactions on the future of both, separately as well as jointly? In order to be able to answer this question, let us look at the specific recommendations of the Round Table Conference.

7. These recommendations, in so far as they concern the States, may be summarized as follows (from Reports I and II of the Federal Structure Sub-Committee of the Round Table Conference, in its own words as far as possible)<sup>1</sup> :—

(i) Among the component elements of the Federation should be.... "such Indian States or groups of States as may enter the Federation. Provision should be made for the subsequent entry from time to time of such further States or groups of States as agree to enter the Federation." (R. I par. 3, p. 201.)

(ii) The powers of the Federal Government will be derived "in part from the powers which the States will agree to concede to the Crown, to be placed at the disposal of the new Federation." (R. I par. 4, p. 201.)

(iii) "The Federal Legislature should consist of two Chambers, each containing representatives of both British India and the States." (R. I par. 5, p. 201.)

<sup>1</sup>The references given are to the paragraphs and pages of the Parliamentary Blue Book containing the proceedings of the R. T. C., Cmd. 3778 of 1931.

(iv) "Some weightage must be given to the States in the Upper Chamber. The distribution of seats as between the States and British India on strict population ratio would neither be defensible in theory nor desirable in practice." (R. II par. 28, p. 218.)

(v) "In the Lower Chamber, the States do not claim, as they do in the Senate, equality of representation with British India; but here also they claim some greater representation than they would obtain on a strict population ratio. The British Indian members were not, however, disposed to contemplate any other basis than that of population." (R. II par. 31, p. 219.)

(vi) "Their Highnesses made it clear that, in their opinion, the method by which the States' Representatives should be chosen will be a matter for the States themselves." (R. I par. 6, p. 201.)

(vii) "The Rulers of the States in selecting their representatives for the Upper Chamber will ensure that they are persons of similar standing to those now qualified to be candidates for the Council of State." (R. II par. 26, p. 217.)

(viii) "Enactments of the Federal Legislature.....should have full force and effect throughout all units comprised in the Federation." (R. I par. 8, p. 202.)

(ix) The subjects to be assigned to the Federal Legislature are to be largely those all-Indian matters which now lie within the purview of the existing Legislative assembly—i.e., all-Indian public utilities like Posts and Telegraphs, sources of revenue like Customs and Salt, communications including Railways and waterways, fiscal and financial policies as in the cases of Currency and Exchange. (Appendix to Report II p. 224.)

(x) "The Indian States do not desire either to discuss or vote upon questions which concern British India alone, and are of opinion that these questions should be definitely excluded." (R. II par. 4, p. 210.)

(xi) "Nor do the Indian States contemplate that any question of paramountcy will come at any time within the purview of the Federal Government." (R. II par. 4, p. 210.)

(xii) "The Governor-General shall be responsible (to the British Parliament as hitherto) for Defence and External Relations including relations with the Indian States outside the Federal sphere." (R. II par. 11, p. 213.)

(xiii) "The Federal executive will, like the Legislature, be composed of representatives of both the States and British India." (R. II par. 36, p. 222.)

(xiv) "The States desire, with the general assent of the sub-committee, that their representatives in the Legislature should play their part equally with their British Indian colleagues in expressing the decision of the Legislature on any question which involves the existence of the Ministry, even if the matter which has given rise to the question of confidence is one which primarily affects British India only." (R. II par. 36, p. 222.)

8. All of which means—
- (a) That the Princes, in combination with British India in the organs of the Federal Government, are to get back from the hands of the existing Governor-General in Council those powers of external and internal Sovereignty pertaining to their States which, forming part of Suzerainty, are at present being exercised by him for the administration of matters which are common to all India, but not of either extra-Indian or intra-State concern; and
  - (b) That the remaining powers of Suzerainty or Paramountcy—*i.e.*, those connected with either Imperial interests on the one hand or the internal well-being of the States on the other—are to continue styled as such, to be exercised separately by the Viceroy or some other agent of the British Crown or King in Parliament, without any reference to India's Federal Government as such.

This arrangement leaves the People of the States just where they have all along been—*i.e.*, nowhere in the Constitution.

9. It has been made plain in the earlier parts of this tract (*e.g.*, p. 11) that any additions made to the powers of the Princes are not necessarily a gain to their subjects; that the interests of the Princes and those of their subjects are far from being identical with each other; and that the very presence of the Paramount Power between them as an arbiter desired by both is a proof of this fact, while its hitherto-pursued policies are serving only to perpetuate that fact (p. 64). This position has not been made better for the People in any respect or in any degree by the present proposals of the Round Table Conference.

Let us examine how they answer the three crucial questions set forth above (in par. 2)—

(i) *Fiscal and Economic Equity.*

10. The People of the States are at present subject to two different classes of taxes: one levied by their own Durbar and the other by the All-Indian Government. Since their tax-paying capacity is not unlimited or such as can be expanded at will, it is an elementary requirement of justice that the burdens to be imposed upon them by either of the two separate authorities should be determined with the closest possible reference to the nature of the burdens to be imposed

by the other. If, as under the proposed constitution, the Federal Legislature passes a measure enhancing levies or imposts under any head, there must be a way for the People of the States so to re-order their own internal public finances that they may thereby secure a corresponding measure of reduction in their local demands. If the federal constitution cannot open to them such a way of ensuring an equitable correlation between the two systems of taxation, it is bound to prove an engine of tyrannical oppression in their case. It may be argued that the Princes are not interested in seeing additions made to the external burdens of their subjects and that they would be unsparing in their efforts to keep the level of all-Indian taxation as low as possible. Even if we accept this, the question would stand as before all the same. All-Indian need may be clamant, or British Indian opinion insistent; and the Princes and their nominees in the Federal Legislature may ultimately have to submit or take a defeat. When this happens, the next way to help the subjects would be to reform the internal financial arrangements of the State and give them relief in local taxation. Does the new constitution hold out a guarantee that the Princes will adopt this course? If it does not, as indeed it does not, it must be rejected as a potential agent of inequity towards a considerable part of the population on which it seeks to impose itself. To be really equitable and just, the coming constitution should see to it that the People of the States are armed with effective means to redress their fiscal and economic conditions in those respects in which they are affected by the acts of the Federal Legislature created by it.

(ii) *Paramountcy and Federation Incompatible.*

11. A federation that seeks to bring about the fullest degree of interfusion that can possibly be attained among its members cannot tolerate the irritating presence of an extraneous element within its body. Nor is the full stature of a truly self-governing and therefore truly independent Dominion possible under the over-hanging shadow of an external Suzerain. If Britain must for ever remain to play the policeman over the States, how can India hope to become the absolute and unquestioned mistress of her household at any time? The Round Table Conference proposals contain no provision to secure the exit of Suzerainty,— a gradual exit let it be, but a sure one,— by the substitution of other agencies to perform the functions which it is supposed to be now performing. On

the other hand, the Round Table Conference has clearly accepted the reiterated contention of the Princes, that Paramountcy must be left untouched, as something separate and sacrosanct and irreplaceable. If the removal of this long-fixed wedge from the body politic of India is not secured in some way by the new constitution, that constitution will have utterly failed in what ought to be one of its most cherished objects, namely—building up the integrity of India. And it will, on the other hand, have left openings for the insinuation of other finer and deeper-splitting wedges under the guise of safeguarding action for which provision is made by the reservation of powers and funds to the Governor-General (R. II pars. 11 and 14, pp. 213-14). This reservation has, no doubt, been described as an arrangement meant for the period of transition. But if that is really so, it is only fit and fair that the constitution should give some indication of how and when the transition is to come to an end.

12. There is another defect not less grave. Is the exercise of the powers of Suzerainty going to be any the less unconstitutional under the proposed regime than at present? There is no suggestion of any such improvement. The Governor-General is left to be as arbitrary and capricious as before in the performance of his offices of supervision and correction in regard to the internal affairs of the States. The work of his Political Department will be constitutionally as inaccessible as ever to scrutiny and guidance by public opinion; and what is more, the fact that the Ruling Princes and their nominees will be factors of consequence in the Federal Legislature, and perhaps even in the Federal Executive as well, is bound to make the Political Department tender and lenient towards the Princes as against their subjects.

13. Under the terms of paragraphs 9 and 12 of the Second Report (pp. 212-13), it seems possible that one or more members of the Governor-General's Council of Ministers may also be taken by him as advisers in the Reserved Departments. In such a case,—i.e., if a Minister happens to be holding also the Political or Paramountcy portfolio,—his position and that of his colleagues in the Cabinet is not unlikely to become exposed to the intimidatory attentions of the Princes and their nominees in the Legislature (R. II par. 36, p. 222) who would have a hand in deciding the fate of the Federal Ministry. The performance of the functions of Suzerainty will thus become all the more complicated and inefficient under the new proposals.



*(iii) Federal Citizenship for the States' People.*

14. What will be the status of the subjects of the States in the eye of the Federal Government? Will they be aliens or will they be citizens entitled to equal treatment?

Among the R. T. Conference proposals, one (R. I par. 10, p. 202 and R. II par. 39, p. 223) is that in certain all-Indian subjects, the Federal Legislature may make itself responsible for policy and legislation while the State authorities may take charge of the administration thereof. In such a case, if the administration by the State agency is unsatisfactory, has the subject aggrieved any remedy in a Federal Court or elsewhere? And will the Federal Legislature be competent to call the State authorities to account in such a matter? These are questions left without answers in the Round Table Conference scheme.

15. In a note presented to the members of the Round Table Conference, Sir Mirza M. Ismail, Dewan of Mysore, had suggested that "there should be a declaration of fundamental rights," presumably for the benefit of the subjects of not British India alone. But when Diwan Bahadur M. Ramachandra Rao raised this question specifically on behalf of the States' People, the Rulers of Bhopal, Kashmir and Bikaner protested with a challenging degree of vehemence that all fundamental rights have already been conceded by them to their subjects and that there can be no more that they should want. It is curious that the Butler Committee should have no word to offer in corroboration of this virtuous claim of the Princes and that it should, on the contrary, have contemplated the possibility of a popular demand for change in the existing system of government in the States. The point at issue is obviously one of fact and not one of theory or opinion; and since it has been definitely brought into doubt, the Princes should be quite willing to let the matter be investigated and reported upon by a disinterested body. If the British Parliament is anxious to do justice in this matter, it cannot do less than depute a committee to visit the States and find out if the facts with regard to the rights of citizenship there are as the Princes have protested.

16. But two points are irresistible in the meanwhile: Firstly, if rights and liberties are already there, firmly established and fully enjoyed, why should they not as well be registered in the constitution? Secondly, what is the use of

a declaration of rights if there is not to be an independent and trustworthy court of law to uphold these rights whenever they are seen to be in danger? It is idle to pretend that the indigenous courts of the States are sufficient for this purpose. In the first place, the circumstances of office and the conditions of service in Indian States are at present not such as can be taken to guarantee fearlessness and impartiality on the part of their judges as against the Durbar and its favourites. For a proof of this, one has only to go into a State and enquire by whom and on what considerations judges are appointed and promoted and kept on in service. Secondly, if the High Courts of British India, presided over by judges of great ability and experience and working in an atmosphere of more alert and better informed public opinion, should be placed under the appellate authority of a Federal Court, why should the Subjects of the States be content to take the dispensations of their local tribunals as final?

17. The Round Table Conference has accepted the "Federal Court" as an "essential element" of the constitution (p. 417); but owing to "lack of time" (p. 9), it could not discuss the questions of the jurisdiction and the constitution of such a Court. When this subject was brought before the Conference, Mr. Jayakar suggested the desirability of considering "whether it is possible to link up the Supreme Court with the judicial systems of Their Highnesses". No comment is reported to have been made on this parenthetical suggestion by any States' Delegate there. But His Highness the Maharaja of Bikaner is reported to have since then expressed himself as in total opposition to it. If this view prevails and the People of the States are denied access to what must be the ultimate sheet-anchor to the liberties of citizenship, a declaration of rights, — be it ever so loud, — can be taken as no better than cant and camouflage.

18. Is the Federation to form one homogeneous community or is it to be made up of two different political races or castes, — one of citizens and another of outcasts? If it is to be the latter, such a federation can hardly expect to be blessed as an instrument for justice and beneficence.

19. It is thus seen that the three questions of (1) securing constitutional government within the States, (2) arranging for the dissolution of Paramountcy, and (3) equalising the status of the People of the States to that of the People of British India, are all integral to the federal problem.

and that they cannot be set aside without the infliction of intolerable deformities on any All-Indian constitution. It is also seen that under every head, the Princes have managed at the R.T.C. to win all for their own hands and none for their subjects.

20. In addition to these defects in the Round Table Conference proposals, as seen from the point of view of the States' People, is the fact, as seen from the view-point of British India, that the necessity to include the Princes, with all their special claims and reservations, has been made an excuse for narrowing the field of jurisdiction of the Federal Government and truncating its stature.

21. The R. T. C. stage was indeed dominated by the Princes,—by those of Bikaner and Bhopal in particular. It shook with the echoes of their compliments and congratulations and hymns and hallelujahs. If one were prosaic enough to look for the definite points of all that generous outflow of rhetoric and rhapsody, one has not more than this to note down:—that it was meant (1) to express loyalty to Britain and good-will to British India, (2) to emphasize the treaty rights and internal autonomy of the States, and (3) finally to warn everybody off the inconvenient subjects of Paramountcy and the fate of the States' People. When Diwan Bahadur M. Ramachandra Rao suggested that the Rulers of the States may permit some kind of popular representation to their subjects in the Federal Legislature, His Highness the Maharaja of Bikaner said:—

I would say that these are matters on which public opinion in our States will necessarily exercise a great deal of influence and these are matters which we shall naturally settle in accordance with the general views prevailing in our States and accordingly the matter will be adjusted between our Governments and ourselves. (P. 289.)

22. This is the farthest distance that any Prince at the Round Table Conference has gone in owning the importance of public opinion within the States. But how far is public opinion in the States free to express itself? What are the means of expression available to it? What are the forces at work to distract or misdirect it? And what is the extent to which the Durbar will accept public opinion (such as it may be) to be decisive and binding upon itself? The simple truth is that His Highness of Bikaner was speaking the language of polite prevarication. Here is some more of it, from a speech delivered at Bikaner on February 9, 1931:—

The relations of the Indian States and their subjects were naturally the concern of the Rulers' Governments and the people of the States. We shall know how and when to adjust our systems to any changing conditions. But we will do it in our own time and our own way, free from all external interference.

23. His Highness of Bhopal was more frank at the Conference :—

We have been, in some sort, the step-children of the Government of India; we have been isolated from the tide of progress; we have been barred in backwaters, away from the main stream of economic and political development.....*Our own people are not as yet fitted* in all directions to hold their own with the people of British India. We think that some allowance must be made for them if they are not to start in the friendly competition of service to our motherland under a crippling handicap..... Advantage should not be taken of the fact that *we are comparatively undeveloped* and under-populated. (P. 239.)

24. In saying this, it is surprising that His Highness of Bhopal could not see what a self-convicting confession of failure he was making. His is plainly the most unanswerable indictment of the existing system of government in the States and the most conclusive plea for radical reforms both within and without. Considering the effusive enthusiasm with which these and other Princes supported the cause of responsible self-government in British India, while carefully making reservations against their own subjects, one cannot help putting them alongside of Lowell's "Pious Editor":—

I du believe in Freedom's cause,  
 Ez fur away ez Payris is;  
 I love to see her stick her claws  
 In them infarnal Phayrisees;  
 It's wal enough agin a king  
 To dror resolves an' triggers,—  
 But libbaty's a kind o' thing  
 Thet don't agree with niggers.

25. The one word of wisdom as well as of sympathy heard at the Round Table Conference in support of the People's cause was uttered—may we not say, as should have surely been expected—by the Dewan of Mysore. Sir Mirza said :—

On the side of the States, there may be a feeling that by joining the Federation they are exposing themselves to the full force of the democratic surge in the rest of India. One is reminded of King Canute's elaborate rebuke to his courtiers. I do not believe that democratic sentiment would in any event stop short at the boundaries of the States. The wisest course is to recognize and understand the new forces and adjust ourselves to them. Like

all great forces, they can be wisely directed and controlled if properly understood. They cannot be successfully dealt with by imitating the ostrich. (P. 481.)

Such an adjustment remains to be made ; and it is for the future sessions of the London Conference to make it.

26. The participation of the Congress in the Conference ought to prove a distinct help there to the cause of the States' People. Mahatma Gandhi has in this connection addressed to the Princes an appeal which, while not lacking in candour, is characteristically charged with a moving concern for the larger and more permanent good. If the Princes will accept the counsel of this illustrious friend, and will be pleased to take some popular representatives of the States to sit beside — or even behind — themselves at the Round Table Conference, it should not be difficult so to modify the present proposals of the Round Table Conference, without injury to any of their essential points, and so to shape the further details of the constitution that is to be, that the Princes as well as the People of the States should be happy to accept and work it, to their own lasting benefit and the glory of India.

27. Nothing can be easier than to magnify the difficulties of the Indian problem. And so long as Britain shows herself to be willing to wait and waver in the presence of difficulties, there will be no dearth of parties to make them. But if she would be true to what, in Lord Irwin's phrase, must be termed her "underlying purpose", she should take care to let no particular group or class assume the importance that properly belongs to the Nation. That purpose, as progressively interpreted by Burke and Bright and Morley and Montagu, is nothing less than the liberation of the entire People of this sub-continent. For the fulfilling of this purpose, Suzerainty,— contrary to being the instrument of self-aggrandizement that it hitherto has not seldom appeared to be,— can prove an invaluable and indeed indispensable accessory.

28. Suzerainty has risen, like a spiral stair-case, in inevitable-looking coils growing one upon another. Steps that rose in resolves of non-intervention had to turn towards calls for intervention, only to bend towards non-intervention again and then to curve up into intervention once more. Alliances born of trade necessity, military engagements follow<sup>ing</sup> thereupon, the habit of dependence growing among States so befriended, and the ill consequences of inefficiency accompanying such dependence, the resulting duty of setting right the

tottering neighbours, and the need of keeping them steady in ways of loyalty and discipline—such have been the steps of the winding ascent, all unsought, unpleasing, but inescapable withal according to the historians of the Empire. But if we see England's self-interest at the foot of the newel, we also can see that, from the top of it, she is able to obtain a Pisgah prospect of what her best accomplishment should yet be. It is from there that she can view India as what, with the approval of the world's opinion, India is aspiring to become. Without Suzerainty, England should have been without the means of bringing the States into the new order of things. A Federation of India for Dominion independence, then, is the supreme moral purpose and culmination of Suzerainty.

29. Professor Westlake and Sir William Lee-Warner fought a purposeless duel twenty years ago in the pages of the *Law Quarterly Review*<sup>1</sup> over the question of the exact species of law which could properly take the Indian States for its subjects, — the first authority assigning them to the domain of Constitutional Law and the second claiming for them the protection of International Law. The controversy would be all the more gratuitous to-day when Federation and Dominion Status have come to be accepted as the basic ideas of Indian politics. Sir Frederick Pollock spoke with judicial accuracy and fairness, as became the editor of the journal, when he wound up the debate with the observation that “the residual fact seems to be that the relations of the Government of India and the Native States are governed by a body of convention and usage not quite like anything else in the world, but such that in cases of doubtful interpretation, the analogy of International Law may often be found useful and persuasive.” If the public declarations of statesmen may be believed, the spirit of internationalism has made a great headway in our world during recent years; and accordingly the law to govern the Indian States hereafter should be the constitution and the law set up or accepted by the United Peoples of all India.

30. England's policy towards the States has been a product of slow and painful evolution. Amidst the cares and anxieties of building up an Empire—between putting down possible rebels / getting the population to hug its subjection, between exhibiting of power on one side and displays of benevolence

<sup>1</sup> Vol. XXVI, No. civ, October 1910, p. 315 and Vol. XXVII, No. cv, January 1911, p. 85.

on the other—she could find little leisure to think and formulate a consistent and systematic policy for the States. Each occasion was tackled as it arose; and the result for us is a body of principles and precedents which are neither always coherent nor sufficient to answer the questions arising in our time. Legislation, such of it as there is, has followed in the wake of political policy and not led it. The treaties are outline sketches of provisional policies, rather than exhaustive registers of immutable settlements. So that, the way is now clear for a new formulation of policy; and it is also clear that the times call for one. The *summum bonum* of that policy should be the creation of a People's India,—an India neither disturbed by internal autocracies nor dwarfed by an external Suzerainty.

### Part II.—SUMMARY AND CONCLUSION.

THE measures in which this policy should find embodiment have been set out at length, so far as the States are concerned, in chapters VII<sup>1</sup> and IX of this tract. The more important among them may be summarized as follows:—

#### THE NEW ACT.

(1) The new Act of Parliament must make it clear that India is to become a Federation of States and Provinces, enjoying the status of a Dominion, the powers of the Federal Government being derived from the united Peoples of both parts of the country<sup>2</sup> and exercised on their behalf according to the Constitution.<sup>3</sup> (Pp. 87 and 109 *ante*.)

(2) If there are any States which prefer not to join the Federation at once, there must be provision to admit such ones later on when they choose to join. (Pp. 89 and 112 *ante*.)

(3) The new Act should make it clear that the Federal Government shall in all circumstances be bound to preserve and respect the territorial and political integrity of the States,

<sup>1</sup> In the Memorandum printed on page 87 *et seqq.*, the words Federal and Central are sometimes used as interchangeable, *e.g.*, in paragraphs 7, 12, 14, 27 and 35. The term Central is there to be taken to mean all-Indian, and not exclusively British-Indian.

<sup>2</sup> Art. 2 of the Irish Free State Constitution.

<sup>3</sup> Contentions as to sovereign powers being inherent to the States and there being still a residuum left in them are robbed of all practical significance by the established fact that the British Government holds, under the name of Suzerainty, powers corresponding, in nature and extent, to the residuary powers it possesses in respect of the Provinces of British India. The inherent may be there; but it has been sterilized and obscured by the imperial.

whether they be within the Federation or outside, the rights and privileges of their Ruling Princes, and their internal autonomy. (Pp. 61, 90, 94 *ante.*)

#### STATES WITHIN THE FEDERATION.

(4) The new Constitution may provide for the setting up of an agency to determine the conditions for the admission and continuance of a State as a member of the Federation, and to judge whether those conditions are satisfied by the State that seeks membership. (Pp. 111, 112 *ante.*)

#### *Suzerainty.*

(5) Suzerainty or Paramountcy will gradually become assimilated into Federal Dominion Sovereignty. The rights and powers as well as the obligations and responsibilities which arise from treaties, sannads, understandings and usages, and are comprised in Suzerainty, may be exhaustively classified under the following heads:—

- (1) *External Sovereignty* :
  - (a) Imperial matters;
  - (b) All-Indian matters.
- (2) *Internal Super-Sovereignty.*
  - (c) Personal and Dynastic;
  - (d) Supervisory and Remedial.
- (3) Special Relations.

These elements of Suzerainty may be suitably accommodated and implemented in the federal constitution as shown in paragraphs 7, 8, 10, 11, 17 and 18 below, so that there will remain thereafter no question pertaining to Suzerainty or Paramountcy to be solved separately.

(6) But until this takes place, Suzerainty must be made efficient in the discharge of its fiduciary responsibilities. It is no good to the States that the Suzerain should restore any of his powers to the very parties whom those powers are meant to check and keep in order.

(7) That part of Suzerainty which consists of *External Sovereignty* in regard to extra-Indian or Imperial affairs will remain with the Imperial Government, merged in the extraordinary jurisdiction which, as in the case of the other Dominions, it may be allowed to exercise over India as a whole, according to the decisions of organizations like the Imperial Conference. (P. 82 *ante.*)



(8) That part of Suzerainty which consists of *External Sovereignty* in all-Indian matters—such as Defence, External Relations, Fiscal and Economic Policies, Public Services etc.,—shall be vested in the Federal Government; and the subjects of the States will be governed by the Federal authorities in all such matters. (Pp. 87, 88, 90 *ante.*)

(9) As agreed to by the Round Table Conference, the Governments of States, as of Provinces, may act as the agents of the Federal Government in the administration of such matters; but powers of direction, inspection and control will vest in the latter Government.

(10) That part of Suzerainty which, as *Internal Super-Sovereignty*, deals with the personal and dynastic rights and privileges of Ruling Princes such as the right of succession, titles and salutes, regency, guardianship etc., will continue to be vested in the Viceroy as representing the British Crown. An authoritative body appointed by His Majesty's Government may codify existing practices and understandings in these matters and frame a set of rules on that basis, uniform as far as possible, for application to all States. Disputes under this head will be decided finally by the Viceroy and Governor-General, until the Prince agrees to have these subjects transferred to the Federal authorities or to the Constitutional authorities of the State itself. (Pp. 12-7 and 90-17 *ante.*)

*Constitutional Government.*

(11) The remaining part of *Internal Super-Sovereignty*, which is concerned with arresting misrule, correcting abuses, suppressing disorders and promoting good government in the States, will be rendered *functus officio* in the following manner:—

(12) His Majesty's Ministers will secure a gracious Proclamation from His Majesty to the Ruling Princes of India announcing that it is His Majesty's desire to see Constitutional Government grow up in the States, so that occasions for the exercise of the Suzerain power of intervention may no longer arise, and that His Majesty accordingly directs the Viceroy and Governor-General to render all necessary guidance and help to the Princes towards that end. (Pp. 12, 107, 118 *ante.*)

(13) The Federal Constitution will also contain a provision to the effect that, within a prescribed time-limit, all the constituent States are to have established an approved form of responsible government within their States. (P. 119 *ante.*)

(14) The Princes will make a public declaration of responsible government as the goal for their subjects, to be attained in its fulness within 10 years if not earlier, and will undertake immediately to introduce administrative, educational and economic improvements necessary towards it. They will likewise announce the grant of all rights and liberties necessary to active citizenship. (Pp. 92, 115 *ante*.)

(15) The essentials of responsible government for an Indian State have been set forth on page 92 *ante*.

(16) As a safeguard against any possible risk under the new constitution, the powers of vetoing and of initiating action in certain defined emergencies may be reserved to the Ruling Prince.

(17) When responsible government is fully developed in a State and it has joined the Federation, all the responsibilities of internal Suzerainty in regard to it *i.e.*, those connected with the maintenance of peace, order and good government, will have become vested in the Federal Government, as with regard to the Provinces.

(18) Any special matters, which relate to an individual State and not to the entire body of States and are of no all-Indian interest, and which arise out of any existing contracts or understandings with the present Government of India *e.g.*, in regard to sea-ports, customs, salt, opium etc., may be dealt with in new treaties or conventions made individually with the Federal Government, such treaties too being uniform in principle and phrasing as far as possible.

#### *Representation in Federal Government.*

(19) The States will be equitably represented in all the organs of the Federal Government, both legislative and administrative, as recommended by the Round Table Conference. (Pp. 89, 90, 91 [par. 19] & 92 [par. 20] *ante*.)

(20) Representatives of the States in the Lower House of the Federal Legislature shall be citizens of the States returned by direct popular election on the same basis as in the Provinces.<sup>1</sup> (P. 89 *ante*.)

<sup>1</sup> In this connexion, the following remarks of the Right Hon. EARL WINTERTON, P.C., M.P., are of interest :—

“ One difficulty is undoubtedly presented here (with regard to the composition of the Federal Legislature). The British-Indian Members would speak on behalf of Provinces having almost complete autonomy, and elected in most cases,.....In the case of the Members from the States, on the

(21) Representatives of the States in the Upper House will, in the early stages, be persons either deputed by the constitutional bodies of the States or nominated by their Governments according to the special circumstances of each State. (P. 89 *ante*.)<sup>1</sup>

*Judicial and Economic Machinery.*

(22) The composition and powers of the Federal Supreme Court are shown on page 94 *ante*, paragraphs 29-32.

The jurisdiction of the federal courts will be confined to the administration of federal laws. The Supreme Court, however, may be empowered to act as an appellate authority in regard to the internal or local laws of a State in case the State desires it or agrees to it.

(23) The Governments and subjects of the States in the Federation will be amenable to the jurisdiction of the Federal Courts in the same manner as the Governments and subjects of the Provinces.

(24) The fundamental rights and liberties of citizenship and all matters essential to good government in the States, as those in the Provinces, will be placed by the constitution among federal responsibilities and not tabooed as affairs of domestic concern.

(25) Subjects of the States in the Federation will be citizens of the Dominion of India equally with the subjects of Provinces, throughout the federal territories. All Federal laws and authorities will apply equally in both cases. (P. 96.)

(26) The Federal Government will secure to the subjects of States all protection and facilities for trade, travel and intercourse with foreign countries in the same manner as to the subjects of Provinces. (P. 96.)

(27) Subjects of States will be entitled to an equitable share in all the privileges and benefits of Federal citizenship.

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contrary, at first, at any rate, they would have to be selected or nominated by the Ruler. . . . . That is at least true of the majority of States, though in the case of some of the most advanced, such as Mysore, it might be possible to arrange for indirect election. . . . . This difficulty is not insurmountable if the Princes, as a whole, frankly realize the need for a gradual approach towards internal self-government for their States—'States' subjects autonomy'—as it might be called. If they do not adopt this attitude, I must frankly say that I think Parliament may show some hesitation in sanctioning a permanent anomaly."—*Fortnightly Review*, January 1931.

<sup>1</sup> The Sankey Committee's recommendation (iv on page 125 *ante*) of some weightage to the States in the Upper Chamber may be accepted as a special concession limited, in the first instance, to a period of ten years in the beginning.

such as employment in public office, representation in international organizations, access to all-Indian educational and scientific institutions and to commissions of enquiry and research into social and economic matters.

(28) The Political Department of the present Government of India will cease to concern itself with States which have established responsible government and become members of the Federation.

(29) No tributes or subsidies will be payable by any constituent State to the Federal Government. (P. 96.)

(30) The Federal Government shall have power to appoint committees to visit such of the constituent States as have not yet fully developed responsible government, to review their progress towards that goal from time to time and to recommend measures necessary to expedite and consolidate the progress.

(31) There will be a committee of experts to enquire and arbitrate in all questions of financial and economic adjustments as between the various members of the Federation, whether States or Provinces.<sup>1</sup> (P. 95.)

#### STATES OUTSIDE THE FEDERATION.

(32) In the case of States which have not established responsible government nor joined the Federation, all questions of interference will rest, as now, within the executive jurisdiction of the Governor-General in Council. But he will

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<sup>1</sup> It is satisfactory that the Government of India, recognizing the legitimacy of the States' claims for financial adjustments between British India and the States, appointed a Committee (in August 1930) to collect facts and statistics relating to the contributions respectively made by them to, and returns received by them from, the revenues of the Government of India. That Committee submitted its report in February 1931, and it contains valuable information. The Committee was not asked to discuss policies. The report awaits examination.

Questions have been raised in certain quarters as to the rights of an inland State in regard to the customs policies of a neighbouring coastal State. It may be noted in reply to them that in our day, the sea-port rights of a maritime State are not considered to be absolute as against a land-locked neighbour. The new treaties, improved by the experience of nations, have taken care to make it impossible for a maritime State to starve or cripple its land-locked neighbour by means of blockade or prohibitive customs barriers. [Article 328 *et seq.* of the Treaty with Turkey (1920), Articles 6 and 7 of the Treaty with Afghanistan (1921), etc.] Article 23 of the Covenant requires the Members of the League of Nations to "make provision to secure and maintain freedom of communications and of transit, and equitable treatment for the commerce of all Members." If this be the law for States that are altogether separate and independent of one another, should it not apply with all the greater force as between the component parts of one and the same Federal State?

exercise this power on the advice of a body representing the important interests of the States.

*Regulating Intervention.*

(33) This body will have power to review the working of the Political Department and will be expected to constitutionalize<sup>1</sup> the operation of Paramountcy within the States. (Pp. 64 and 118 *ante*.) This body may be the same as that referred to in par. (35) below.

(34) This arrangement of (i) vesting Suzerainty separately in the Governor-General in his executive capacity, and (ii) setting up an agency to regulate his performance of its duties, will continue so long as there are States outside the Federation. When a State has come into the Federation, the said arrangements will have no application to such a State. (Pp. 112-5 and 118 *ante*.)

*Consultation.*

(35) To obtain the views of States outside the Federation on legislative and other measures engaging the attention of the Federal Legislature, there will be a transitional Chamber or Convention representative of non-Federal States, working according to its own rules and in direct communication with the Governor-General. The Federal Legislature will consider its recommendations. This body may be the same as that referred to in proposals (32) and (33) above.

(36) The Governor-General will have power to depute an Auditor-General to examine the financial policies and transactions of the non-federated States from time to time and make a public report thereon, as also to recommend measures

<sup>1</sup>A startling instance of the failure of the Suzerain Power and its disavowal of legitimate responsibility is the one seen in the recent threat of the Government of India to the debenture-holders of the Bharatpore State Loan of 1927. It seems that State has come to "virtual bankruptcy", and the Government therefore have decided to write down the debentures by half their value if their holders would agree, or else to write them off altogether. (See the Bharatpore Administrator's letter and the *Leader's* comment thereon, reproduced in the *Hindu* of November 28, 1930.) When the State was heading for bankruptcy, could not Suzerain's agents know, or did they not care? It is a universally recognized fact that the British Government holds itself responsible for all external relations of Indian States, which of course must include the raising of loans outside the State, as well as for the soundness of the internal administration. (See page 427 of Ibert's *Government of India*, 1915-16 Ed.) It is trusting to this fact that investors advanced loans to Bharatpore; and if with the best efforts the Government of India could not prevent bankruptcy, the next course left to it is not repudiation of the debts for which it stood security, but their discharge with its own funds, to be re-imbursed later on with the revenues of the State improved under its management. An act like the present one will certainly not be regarded as evidence of the Government of India's anxiety to keep its faith in respect of its Suzerain relations.

necessary to ensure that the revenues raised and budgetted for expenditure on public purposes are properly and economically administered.

(37) The Governor-General will have power to appoint a committee for the purpose of visiting the non-federated States and reporting on the progress made by them in constitutional government and advising them as regards measures necessary for such progress. This committee may be a body of the advisory organization referred to in proposals (33) and (35) above.

#### GENERAL.

(38) The Chamber of Princes may continue to deal with all matters of interest to the Princes and their order, in a consultative capacity as at present. Its recommendations will be considered by the Viceroy and Governor-General. (P. 90.)

(39) The legal definition of the expression "British subject" should be so amended as to include within its meaning the subjects of Indian States and ensure to them equality of treatment as citizens in every part of the Empire.<sup>1</sup> (Pp. 30-32 *ante*.)

(40) Provisions as shown in proposals 3, 7, 8, 10, 11 & 18 above cover practically the entire field of the existing Treaties and Conventions; and to that extent they will be replaced by the new Constitution. (P. 81 *ante*.)<sup>2</sup>

<sup>1</sup> The 1930 session of the Imperial Conference considered the question of Nationality etc. H. H. the Maharaja of Bikaner and Sir M. Shafi were there, besides the Right Hon. Wedgwood Benn, on behalf of India. But none drew attention to the anomalous position of the subjects of the Indian States.

In 1930-31 when the Civil Disobedience movement was at its height, several Congress workers in British India who happened to be subjects of States (e.g., Mr. Manilal Kothari) were marked as "Foreigners" and deported to State territory under the provisions of the Foreigners Act of 1904 as amended by Act III of 1915.

<sup>2</sup> Such a replacement of the old treaties etc., by a new pact is now inevitable; because the old treaties must, to speak strictly, be regarded as having lost their force in view of the radical changes coming into the composition and character of one of the parties to those treaties. HENRY WHEATON gives this opinion:—

— It must be admitted that certain changes in the internal constitution of one of the contracting States..... may have the effect of annulling pre-existing treaties between their respective governments. The obligation of treaties..... is founded, not merely upon the contract itself, but upon those mutual relations between the two States, which may have induced them to enter into certain engagements. Whether the treaty be termed real or personal, it will continue so long as these relations exist. The moment they cease to exist, by means of a change in the social organization of one of the contracting parties, of such a nature and of such importance as would have prevented the other party from entering into the contract had he foreseen this change, the treaty ceases to be obligatory upon him.—*International Law* (1904), pp. 45-46, Sec. 29.

(41) If any matter remains untouched by the new constitution and if any doubts arise on any point whatever, the present Treaties, Engagements, Understandings and Usages will be considered valid and enforceable in all such cases.

(42) The above proposals are tentative in matters of secondary importance such as weightage, nomination, agency and so forth. They are matters fit for discussion and negotiation at a conference. Of all the empirical things of our world, a political constitution is necessarily the most so. It can be corrected and improved only by experience. It would be doubtful wisdom, therefore, to break away from a possible settlement on a point not absolutely fundamental, and so to leave no room for the good offices of Father Time. In our present circumstances, the Indian constitution is bound to be a compromise at many points—between principle and fact, between the quick-moving and the conservative. Some concessions may now be provisionally allowed here and there so as to re-assure the apprehensive and win general confidence. But the new Act of the British Parliament should leave the Federal Legislature of India entirely free after the first ten years to review the working of all concessions and compromises and alter them as it might then deem best.

There is nothing in the above proposals which can be suspected of a tendency to injure the prestige or the interests of the States. The transformation sought is sought in stages and instalments, not all at once. And the proposals ask for all that the Princes at the Round Table Conference have asked for and perhaps a little more; and those who have it in their power to give should give the more readily since the gift is to be shared by the People. It is surely wisdom as well as patriotism for a Prince to let his People fight his battle instead of himself—his as though it were their own.

There is no decent reason why the subjects of the States should be asked to rest contented with a status or a standard of rights and powers inferior in any degree or any respect to that available to the subjects of British India. They surely do not count the pomp of a royal court as sufficient compensation for such inferiority; and they plead for equality of powers and opportunities not as though for grace or charity, but as for what is no more than sheer justice.

The closing days of Lord Irwin's Viceroyalty have held out two further signs of promise of good to the People of

the States: first, His Excellency's gentle and yet plain-spoken advice to the Princes on the urgency of reforms, and, second, the unanimous acceptance of the federal idea by the Chamber of Princes. Speaking<sup>1</sup> at the Durbar of Investiture at Jaipur on the 14th of March 1931 and again on the 16th of that month at the Chamber of Princes, Lord Irwin took occasion to call attention to (i) the impeendancy of a new epoch destined to modify old relations, (ii) the inevitability of the progress of democracy, (iii) the imperativeness of reforms in the States, and (iv) the desirability of the federal system. If the Princes will take this advice to heart and co-operate in making the coming constitution a highway for the free commerce of their subjects in the larger and richer realms of active national and international citizenship, their present decision to enter the Federation will be entitled to be recorded as the supreme achievement of truly princely patriotism in the annals of our motherland.

A constitution is essentially an instrument for human welfare. We seek it not either to gratify an airy sentiment, or to appease an academic doctrine, or to open out an arena for the restless and the vociferous amongst us. We seek through it to organize the forces of society to meet the primary demands of life,—to relieve the cry of hunger, of poverty, of social wretchedness. Adapting Aristotle, we may say that if the present Government has made life possible, a more popular and free constitution is needed to make life good. It is this motive of bringing to the people the power of doing good to themselves that inspires all the demands which organizations of the People of the States have been putting forward. The States' People look for guarantees. Assurances of good intentions and benevolent purposes are not enough to them. These they have had for decade upon decade; and experience now urges them to demand definite guarantees embodied in the constitution and implemented in law. It is their earnest prayer that their Princes and the representatives of the Suzerain Power may now co-operate, with understanding and sympathy, in building up a constitution which can bring Sovereignty to find its true reflection and fulfilment in Citizenship and will so lead India to happiness and honour.

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<sup>1</sup> See Appendix B, (9) & (10).



APPENDIX A.  
TREATIES AND SANNADS.

*Extracts (in addition to those cited in Ch. IV) from Treaties, Sannads etc., to illustrate the fluctuations of the policy of Intervention-cum-Non-Intervention.—Chronologically arranged.*

*H. M. The Queen's Proclamation of 1858.*

By way of introduction, we may recall the following words of the Queen's Proclamation of November 1, 1858 :—

“We hereby announce to the Native Princes of India that all Treaties and Engagements made with them by or under the authority of the East India Company are by us accepted and will be scrupulously maintained, and we look for the like observance on their part. We shall respect the rights, dignity and honour of Native Princes as our own; and we desire that they as well as our own subjects, should enjoy that prosperity and that social advancement which can only be secured by internal peace and good government.

“We hold ourselves bound to the Natives of our Indian territories by the same obligations of duty which bind us to all our other subjects, and those obligations, by the blessing of Almighty God, we shall faithfully and conscientiously fulfil.”

(1) **Gwalior Treaty of 27th February, 1804.**

*Article 8* :—.....It is further agreed that no Officer of the Honourable Company shall ever interfere in the internal affairs of the Maharaja's Government.

(2) **Travancore Treaty of 2nd May, 1805.**

*Clause 9* :—His Highness hereby promises to pay at all times the utmost attention to such advice as the English Government shall occasionally judge it necessary to offer to him with a view to the economy of his finances, the better collection of his revenues, the administration of justice, the extension of commerce, the encouragement of trade, agriculture and industry, or any other objects connected with the advancement of His Highness's interests, the happiness of his people, and the mutual welfare of both States.

(3) **Indore Treaty of 6th January, 1818.**

*Article 10* :—The British Government hereby declares that it has no manner of concern with any of the Maharaja's children, relations, dependants, subjects, or servants, with respect to whom the Maharaja is absolute.

(4) **Bhopal Treaty of 26th February, 1818.**

*Article 3* :—The Nawab of Bhopal and his heirs and successors will act in subordinate co-operation with the British Government

and acknowledge its supremacy and will not have any connection with other Chiefs and States.

*Article 5* :—The Nawab and his heirs and successors will not commit aggression on any one. If by accident disputes arise with any one, they shall be submitted to the arbitration and award of the British Government.

*Article 9* :—The Nawab and his heirs and successors shall remain absolute rulers of their country, and the jurisdiction of the British Government shall not in any manner be introduced into that principality.

(5) **Gwalior Engagement of 25th June, 1818.**

*Par. 2* :—The British Government having resolved to restore to Maharaja Ali Jah Dowlut Roo the fort and territory of Jawud etc., the Maharaja on his part engages \* \* \* \* to establish such an administration there as shall afford security for the peace of the country, and the prevention of the revival of the predatory system.

(6) **Kolhapur Treaty of 1829.**

*Article 8* :—The British Government, deeming it necessary to appoint a chief minister for the future management of the Rajah's Government, His Highness Chetterbutty Sahib hereby engages to be guided by his advice in all matters relating to the administration of his State, the British Government having the sole power of appointing or removing the said minister as they may see fit.

(7) **Gwalior Treaty of 13th January, 1844.**

*Article 4* :—And it is further agreed, for the better securing of the due payment of the revenues of such districts \* \* \* and for the better preserving of good order within the same, that the civil administration thereof shall be conducted by the British Government, in the same manner in which the civil administration of the other districts belonging to the Maharaja, of which the revenues are similarly assigned, is conducted by the British Government for His Highness.

*Article 8* :—And inasmuch as it is expedient for the due administration of the government during the minority of His Highness the Maharaja, \* \* \* , it is further agreed that during such minority the persons entrusted with the administration of the government shall act upon the advice of the British Resident in all matters whereon such advice shall be offered, and no change shall be made in the persons entrusted with the administration without the consent of the British Resident acting under the express authority of the Governor-General.

(8) **Indore Sannad of 9th November, 1844.**

*To His Highness Maharaja Tookajee—(After compliments).*

Your Highness's letter dated 5th July last (1844) has been duly received. In that letter allusion is made to the death of his late Highness Khumdee Rao \* \* \* . Your Highness further remarks that at the conclusion of the period of mourning,

you had been, by the great kindness of the British Government, installed as successor to the vacant guddee; and Your Highness proceeds to state that it will be your aim and object so to conduct the duties of the office to which you have been called as to promote the welfare and happiness of the people of the Holkar State.

The intelligence of the early death of the late Maharaja was a cause of much grief to me. By that event, the guddee of the Holkar State became vacant, there being no one of the Holkar family remaining entitled to succeed to the principality or to adopt an heir to the guddee. It became therefore necessary for the Governor-General to make an arrangement for the administration of the government of the Holkar principality.

Having an earnest desire to promote the interests of the Chiefs and people of the State, and to preserve the honour and prosperity of the Principality, the British Government determined on this occasion to make such an arrangement as would conduce to the accomplishment of these ends and would, at the same time, it was believed, be agreeable to the feelings of the remaining members of the family of the late Hurree Rao Holkar and of the Chiefs and nobles of the Principality.

Actuated by these motives, I was induced to direct the British Resident at Indore to nominate Your Highness to the occupation of the vacant guddee.

I have every confidence that Your Highness will, to the utmost of your endeavour, administer the duties of the government in which you have been thus installed in a manner befitting your high station, and with a becoming impression of the importance of the interests which will, on your coming of age, be entrusted to your care.

It is the intention of the British Government in thus bestowing on Your Highness the principality of the Holkar State that the chiefship should descend to the heirs male of Your Highness's body lawfully begotten, in due succession, from generation to generation.

Until the period of Your Highness's coming of age, the affairs of the Government will be administered in your behalf, as at present, by a competent Regency acting under the general superintendence, and in all matters of importance, the instructions of the British Resident, who will make arrangements for the education of Your Highness during your minority, in a manner suitable to Your Highness's future high destinies.

(9) **Patiala Sannad of 22nd September, 1847.**

*Par. 2:—* \* \* \* \* The Maharaja's chabarumains, feudatories, adherents and dependants will continue bound in their adherence and obligations to the Raja as heretofore. His Highness will exert himself to do justice, and to promote the welfare and happiness of his subjects; while they on their part, considering the Raja as their true and rightful lord, must obey him and his successors accordingly, and pay the revenue punctually, and be always zealous to promote the cultivation of their lands, and to testify their loyalty and obedience. The Maharaja has relinquished for himself and his successors for ever all right to levy excise and transit duties,

which have been abolished throughout the Putteala territory. His Highness also binds himself and his successors to the suppression of Suttee, infanticide, and slave-dealing within his territories.

(10) Patiala Sannad of 5th May, 1860.

*Clause IV* :— \* \* \* \* \* The Maharaja Sahib Bahadur will exert himself by every possible means in promoting the welfare of his people and the happiness of his subjects and redressing the grievances of the oppressed and injured in the proper way. He will prevent in his territory female infanticide, *sati* and slavery, which are opposed to the principles of justice and equity towards the people, in accordance with the provisions of the former Sannad.

*Clause V* :—The Maharaja Sahib and his successors will never fail in their faithful and devoted obedience to the Empress, Queen of England, and her successors.

*Clause VII* :—Complaints against the Maharaja Sahib from his subjects, Muafidars, Jagirdars, dependants, brothers and servants etc., will on no account be listened to by the powerful British Government.

*Clause X* :—The Maharaja Sahib Bahadur will always pursue the course of obedience and loyalty to the powerful Government who will likewise continue to uphold his honour, respect, rank and dignity in the manner it is done at present.

(11) Adoption Sannad of 1862.

Her Majesty being desirous that the Governments of the several Princes and Chiefs of India who now govern their own territories should be perpetuated, and that the representation and dignity of their Houses should be continued, I hereby, in fulfilment of this desire, convey to you the assurance that, on failure of natural heirs, the adoption by yourself and future Rulers of your State of a successor according to Hindu Law and to the custom of your race will be recognized and confirmed.

Be assured that nothing shall disturb the engagement made to you so long as your House is Loyal to the Crown and Faithful to the conditions of the Treaties, Grants or Engagements which record its obligations to the British Government.

11th March, 1862.

(Sd.) CANNING.

(12) Kolhapur Agreement of 20th October, 1862.

*Article 1* :—That in all matters of importance, the Rajah of Kolhapur agrees to follow the advice of the British Government as conveyed by the Political Officer representing that Government at Kolhapur.

*Article 3* :—That under the Rajah's administration there should be a *Khasree* Karbaree, as at present, whose accounts should be kept separately, and be annually included in the State accounts in a single item.

*Article 5* prohibits "new alienations of land without the concurrence of the British Government."

*Article 7* insists on the maintenance of proper courts of justice.

**(13) Baroda Proclamation of 19th April, 1875.**

Having regard, however, to all the circumstances relating to the affairs of Baroda from the accession of His Highness Mulhar Rao Gaekwar to the present time, his notorious misconduct, his gross *misgovernment of the State* and his *evident incapacity to carry into effect the necessary reforms*; having also considered the opinion of the Government of India that it would be detrimental to the interests of the people of Baroda and inconsistent with the maintenance of the relations which ought to subsist between the British Government and the Baroda State, that His Highness should be restored to Power, Her Majesty's Government have decided that His Highness Mulhar Rao Gaekwar shall be deposed from the sovereignty of Baroda and that he and his issue shall be hereafter precluded from all rights, honours and privileges thereto appertaining.

**(14) Mysore Instrument of Transfer, 1881.**

*Article 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 subjects connected with the advancement of His Highness's interests, the happiness of his subjects, and his relations to the British Government.

*Article 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 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.

**(15) Manipur Notification of August 21, 1891.**

7. It has been urged by the counsel for the accused that the State of Manipur was independent, and that its rulers were not liable to be tried for waging war against the Queen-Empress; and it is contended that they were justified in repelling an attack made upon the Senapati's house "without even a declaration of war by the British Government".

The Governor-General in Council cannot admit this argument. The degree of subordination in which the Manipur State stood towards the Indian Empire has been more than once explained in connection with these cases; and it must be taken to be proved conclusively that Manipur was a subordinate and protected State which owed submission to the Paramount Power, and that its forcible resistance to a lawful order, whether it be called waging war, treason, rebellion, or by any other name, is an offence, the commission of

which justifies the exaction of adequate penalties from individuals concerned in such resistance as well as from the State as a whole. The principles of international law have no bearing upon the relations between the Government of India as representing the Queen-Empress on the one hand, and the Native States under the suzerainty of Her Majesty on the other. The paramount supremacy of the former pre-supposes and implies the subordination of the latter. In the exercise of their high prerogative, the Government of India have, in Manipur as in other protected States, the unquestioned right to remove by administrative order any person whose presence in the State may seem objectionable. They also had the right to summon a Durbar through their Political representative for the purpose of declaring their decision upon matters connected with the expulsion of the ex-Maharaja; and if their order for the deportation of the Senapati were not obeyed, it was their officer's duty to take proper steps for his forcible apprehension. In the opinion of the Governor-General in Council, any armed and violent resistance to such arrest was an act of rebellion, and can no more be justified by a plea of self-defence than could resistance to a police officer armed with a Magistrate's warrant in British India.

8. The Governor-General in Council holds, therefore, that the accused persons were liable to be tried for waging war against the Queen; that they had full opportunity of being represented by counsel; and that their trial was not prejudiced by any irregularity of procedure.—*Gazette of India*, August 22, 1891, Part I, pp. 487-488.

**(16) Manipur Sannad of the 18th September, 1891.**

The Governor-General in Council has been pleased to select you, Chura Chand, son of Chowbi Yauma, to be Chief of the Manipur State; and you are hereby granted the title of Raja of Manipur, and a salute of eleven guns.

The Chiefship of the Manipur State and the title and salute will be hereditary in your family, and will descend in the direct line by primogeniture, provided that in each case the succession is approved by the Government of India.

An annual tribute, the amount of which will be determined hereafter, will be paid by you and your successors to the British Government.

Further, you are informed that the permanence of the grant conveyed by this *Sannad* will depend upon the ready fulfilment by you and your successors of all orders given by the British Government with regard to the administration of your territories, the control of the hill tribes dependent upon Manipur, the composition of the armed forces of the State, and any other matters in which the British Government may be pleased to intervene. Be assured that so long as your house is loyal to the Crown and faithful to the conditions of this *Sannad*, you and your successors will enjoy the favour and protection of the British Government.—*Gazette of India*, September 19, 1891, Part I, page 545.

## APPENDIX B.

### INTERVENTION *cum* NON-INTERVENTION.

*Extracts (in addition to those cited in Ch. IV) from the speeches of Viceroy etc., to illustrate British policy towards the States.*

#### (1) Lord Curzon at Gwalior, 29th November, 1899.

The British Government, alone of Governments, has succeeded in that wise policy of building up the security and safeguarding the rights of its feudatory principalities; and to this are due the stability of their organization and the loyalty of their Rulers. I rejoice wherever I go to scrutinize the practical outcome of this policy,—to observe the States consolidated, the Chiefs powerful, and their privileges unimpaired. But I also do not hesitate to say, wherever I go, that a return is owing for these advantages, and that security cannot be repaid by license, or the guarantee of rights by the unchartered exercise of wrong. The Native Chief has become, by our policy, an integral factor in the Imperial organization of India. He is concerned not less than the Viceroy or the Lieutenant-Governor in the administration of the country. I claim him as my colleague and partner. He cannot remain *vis-a-vis* of the Empire, a loyal subject of Her Majesty the Queen-Empress and *vis-a-vis* of his own people a frivolous or irresponsible despot. He 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 it is honest; and that his *gadi* is not intended to be a *divan* of indulgence, but the stern seat of duty.

#### (2) Lord Curzon at Jaipur, 28th November, 1902.

It sometimes seems to be thought, because the British Government exercises political control over these States—which is the reverse side of the security that we guarantee to them,—that we desire of deliberate purpose to anglicize the Feudatory States in India. That is no part of my idea, and it has most certainly been no feature of my practice. We want their administration to be conducted upon business principles and with economy. We want public works to be developed and the education and welfare of the poorer classes considered. We want to diminish the openings for money-grabbing, corruption or oppression. We want a Native State, when famine comes, to treat it both with method and with generosity. In so far as these standards have been developed by British rule in this country, may they be called English. But if anyone thinks that we want to overrun Native States with Englishmen or to stamp out the idiosyncrasies of native thought and custom, then he is strangely mistaken. . . . . Sometimes I cast my eyes into the future; and I picture a state of society in which the Indian Princes, trained to all the advantages of Western culture, but not yet divorced in instinct

or in mode of life from their own people, will fill an even ampler part than at present in the administration of this Empire. I would dearly like to see that day. But it will not come if an Indian Chief is at liberty to be a spendthrift, or an idler, or an absentee. It can only come if, as Your Highness has said, he remains true to his religion, his traditions and his people.

**(3) Lord Curzon at Bahawalpur, 12th November, 1903.**

The political system of India is neither Feudalism nor Federation; it is embodied in no constitution; it does not always rest upon a Treaty; and it bears no resemblance to a League. It represents a series of relationships that have grown up between the Crown and the Indian Princes under widely differing historical conditions, but which in process of time have gradually conformed to a single type. The sovereignty of the Crown is everywhere unchallenged. It has itself laid down the limitations of its own prerogative. Conversely, the duties and the service of the States are implicitly recognized and as a rule faithfully discharged. It is this happy blend of authority with free-will, of sentiment with self-interest, of duties with rights, that distinguishes the Indian Empire under the British Crown from any other dominion of which we read in history.

**(4) Lord Curzon at Alwar, 10th December, 1903.**

The Crown, through its representative, recognizes its double duty of protection and restraint—of protection, because it has assumed the task of defending the State and the Chiefs against all forces and of promoting their joint interests by every means in its power; of self-restraint, because the Paramount Power must be careful to abstain from any course calculated to promote its own interests at the expense of those of the State. For its part, the State thus protected and secured accepts the corresponding obligation to act in all things with loyalty to the Sovereign Power, to abstain from all acts injurious to the Government, and to conduct its own affairs with integrity and credit. These are the reciprocal rights and duties that are called to my mind by the presence of the Viceroy on such an occasion as this.

**(5) H. E. Lord Hardinge at Jodhpur, 26th February, 1916.**

Irksome restrictions on the exercise of sovereign powers are apt to chafe and irritate a proud and sensitive spirit, with results disastrous not only to the Ruler and his people, but also to the Empire at large. We have therefore made it our aim to cultivate close and friendly relations with the Ruling Princes, to show by every means that we trust them and look upon them as helpers and colleagues in the great task of Imperial rule and so to foster in them a spirit of responsibility and pride in their work, which no external supervision can produce.

**(6) Lord Chelmsford at Bharatpur, 28th November, 1918.**

The stirring times in which we live and particularly the events of the past few months have emphasized the danger that attends the



exercise of autocratic rule without proper regard to the interests of the People. In the vast majority of the countries of the world, the realization of this danger has led to the substitution of Government by the People for the uncontrolled authority of an individual sovereign. The Rulers of the Indian States, in virtue of their protection by the British Government, enjoy an unusual degree of personal control over the welfare of their subjects; and the responsibility that lies upon them is correspondingly great. I feel confident, Your Highness, that you will always bear in mind this high responsibility; and I need not assure you that I myself and the officers serving under me will always be ready to help you to discharge it in the best interests of yourself, your people, and of the British Empire.

**(7) Lord Irwin at Hyderabad, 17th December, 1929.**

It is a source of gratification to my Government that the (Executive) Council (of Hyderabad) is developing both in efficiency and prestige. It is hardly necessary for me to say that the British Government regard the Council system of administration as fully justified by results, and appreciate the wisdom of Your Exalted Highness's step in resorting to it. They feel assured that Your Exalted Highness shares the view of the British Government that the Council must now be regarded as an organic element in the constitution of the Hyderabad State; and I need hardly say that its functions and the method of its composition are matters in which the British Government will always be closely interested. Your Exalted Highness, in this, may count on the full moral support of the Government of India; and they look forward with confidence to a great future for the Hyderabad State as a consequence of the measures which Your Exalted Highness has adopted.

In all parts of the world, experience has shown that the task of ruling with enlightenment vast countries and large and varied populations is greater than can be undertaken by any single person, however assiduous or benevolent he may be in the discharge of his responsibilities. The multifarious aspects of modern administration demand more than an unaided ruler can devote to it, either in time or attention; and I have no doubt that Your Exalted Highness has experienced the benefit which the decision to share the task of Government with trusted advisers has brought to you. The Governor of a British Indian Province would be indeed a man entitled to sympathy if he were obliged to handle unaided, the reins of the Government with which he is entrusted by His Majesty; and I need scarcely say that I myself would view with alarm and dependency any suggestion that I should be relieved of the valuable advice and suggestion which the constitution of the Government of India places at my disposal.....

I am glad, too, to know that Your Exalted Highness's Government appreciates the services of the British officers lent to the State. They are picked men of character and ability; and Your Exalted Highness may continue to rely upon their loyal co-operation with you in the maintenance of good administration. If and when others are needed, I can assure Your Exalted Highness that

the Government of India will be ready to come to your assistance by lending you their services.

**(8) Lord Irwin at the Chamber of Princes, 25th February, 1930.**

There are few of Your Highnesses who would not agree with me in saying that the rare occasions upon which the British Government has been obliged to intervene in the affairs of individual States during the past decade create a record in which all of us must feel some degree of pride. One cracked bell in a peal of bells can prejudice and often destroy the harmony of the whole. In these days of publicity, the shortcomings of one unit in the body politic almost inevitably have the effect of prejudicing the reputation of all the other units composing that body. The good repute of Your Highnesses' order is a matter which I, no less than all my predecessors, have regarded as a peculiar trust. . . . . It is in pursuance of these sentiments that intervention has been resorted to in recent years in the few cases to which I have referred. To define the degree of discretion vested in the Viceroy in such delicate matters would be a matter of extreme difficulty. Intervention consists normally in an expression of views tending to relieve the effect of an abuse of power. These views are generally expressed at a personal interview between the Ruler and either the Viceroy or his local representative, which, in my experience, is always of a most friendly character. . . . . In its more important aspect, intervention will be resorted to only in cases where,—in the interests of Your Highnesses, of Your Highnesses' subjects, of India, and of the Empire as a whole,—no other course seems possible. I feel confident that, in the future, the occasions upon which the Viceroy will be called upon to exercise his discretion with regard to intervention will gradually grow more rare. It is the co-operation of the Rulers of States in the interests of good government, and of their common good repute, which has conduced in the past, and will conduce still more in the future, to this result.

**(9) Lord Irwin at Jaipur, 14th March, 1931.**

Year by year with the general advancement of education and with growth of new ideas stimulated by the Great War, the art of government becomes more difficult. A fierce and searching light now beats on all who wield authority. The old unquestioning acceptance of autocratic rule is gradually disappearing, even in those quarters where conservatives seemed to have the strongest hold. Rulers are being more and more called on to justify their authority to rule; and abuse of power attracts to itself criticism of growing strength. Nor can it be expected that developments in British India should fail to have their effect upon people of Your Highness's and other States. There is abundant evidence that ere long a similar standard of administration will be demanded which it will be impolitic and dangerous to deny. Precedent will not in all cases supply an adequate guide; and I trust, therefore, you will forgive me, if I conclude with a few words of advice to Your Highness on this memorable occasion when you start upon your career as Ruler of Jaipur.

**(10) Lord Irwin at the Chamber of Princes, 17th March, 1931.**

When the history of our time comes to be written, the last few years may indeed seem pregnant with great issues to the States; and the Round Table Conference in which members of this Chamber played so notable a part may prove to have been as vital to your interests as even the conclusion of your treaties or the Proclamation of Queen Victoria.....

The Chamber of Princes has brought about a unity and solidarity of feeling on matters of common interest that are of importance not only to yourselves but to all India.....

I have no doubt that the spirit which enabled the States' delegation to speak with so much authority on behalf of the Order was born and nurtured in this Chamber. What part the Chamber is to play in the India of the future, we can scarcely now foretell. It may be that it has already served its early purpose, and that it must now yield place to the new Chambers of a Federated India; but whatever be in store, we can say with confidence that in its ten years' history, it has played no inconsiderable part, and that it has given those who brought it into being good cause to reflect with pride upon their handiwork.....

You stand at the parting of the ways and the road to which your deliberations in London have guided you is, I believe, the road which will best promote your own interests as well as those of your subjects and of India. It means, as we all recognize, a departure from a tradition which has lasted for 100 years, which has, taken it all in all, served you well and under which your States have been preserved and brought to their present point of advancement and progress. It means the passing of the old conditions in which you have been able to develop on your own lines affected but little by the movements around you. Your internal affairs have for the most part been excluded from the questioning of outsiders, and you have had every opportunity of achieving the ancient Hindu ideal of kingship. Success in that achievement has varied with the individuality of different rulers.

There must be a reign of law and order, based either expressly or tacitly on the broad goodwill of the community. Individual liberty and rights must be protected; and the equality of all the members of the State before the law be recognized. To secure this, an efficiently organized police force must be maintained and a strong and competent judiciary secure from arbitrary interference by the Executive and irremovable so long as they do their duty. Taxation should be light as circumstances permit, easy of collection and certain and proportionate to the means of the tax-payer to pay. The personal expenditure of the ruler should be as moderate as will suffice to maintain his position and dignity, so that as large a proportion as possible of the State revenues may be available for the development of the community, such as communications, education, health and social services, agriculture, housing and other kindred matters. There should be some effective means of ascertaining the needs and desires of its subjects and of keeping close touch between

the Government and the governed. Religious toleration and conciliation in all disputes between the subjects are important, and last but not least is the need to choose and trust good counsellors. By this, perhaps more than aught else, is a wise ruler known; and the fulness of his trust in competent advisers will in great part be the measure of the confidence which his people repose in him.

There is no disguising from ourselves that the new order of things and the irresistible logic of events are lifting the veil from much that has hitherto been considered of private concern; and more and more factors are tending to bring your affairs into publicity. Where there is criticism on any of your administrations, be it based on reasonable grounds or scurrilous and misinformed, the best answer on the part of those who have nothing to hide is the issue of full and regular administration reports from which the public may learn how your Government is carried on. Such publication has always been desirable; but it will be essential when in these changing times you come to take your part in the Federal Constitution of all India. That constitution will not affect your internal autonomy in Non-Federal matters; but in common subjects, you will have to bring to the common pool information of which the Political Department and the Government of India have hitherto been the sole repositories. The time is ripe for the change; and believe me, I welcome it. I welcome the enlargement of vision which sees beyond territorial boundaries and embraces in one wide sweep the identity of interests and solidarity of British India and the Indian States.

But let us not forget that, as you acquire a share in the control of common subjects and as your internal affairs become of increasing interest to public opinion in India, there will come to you more and more responsibility for bringing your administrations to the level demanded of all modern Governments. I acknowledge gratefully that there are many States that have nothing to fear, where, within the compass of their resources, all that is possible is done for the welfare and progress of their subjects. But there are still others to which this description cannot apply, where personal extravagance has injured the financial stability on which sound administration must rest, and where too little is spent on the welfare and advancement of the people. Where such conditions exist, they cannot fail to be a danger to the whole body of your Order; and I appeal to Your Highnesses to use all your influence as the Viceroy must use his to secure improvement. There will then be little reason for apprehension.

Your personal and dynastic relations are likely to continue to lie through the Viceroy with the Crown and your guarantees will remain under the same conditions as heretofore. Let it therefore be your end-avowal so to rule your people that they will be as proud to be subjects of your States as they will be proud of your States' partnership in a Federation of All-India.

(11) **Sir C. L. Tupper.**

*(Sir Charles Lewis Tupper was an officer (1893) of the Political Department of the Government of India and the author of the secret*

*handbook of that Department entitled "Political Practice". His views are therefore of peculiar-value.)*

Injudicious interference produces a double mischief. It demoralizes the Chief; no man, be he ruler or subordinate, will do his work well if he feels that he is distrusted or degraded; and it stimulates disaffection and intrigue. Be the ruler strong or weak, there will probably exist in any considerable State parties prepared for turbulence if the opportunity offers, or for intrigue in the hope of bettering themselves by a change of rulers or ministers. If incomparably the strongest authority in India shows by the acts of its servants that it has lost confidence in a particular Chief, that is not unlikely to be accepted as a sort of signal for the recalcitrant to persist in their disobedience or for the intriguers to take heart. In this view, interference is a most serious matter; for if we weaken or discredit the existing government, we must be prepared, should occasion arise, to set up another in its room.

There are, however, cases in which interference is as plainly the duty of the Paramount Power as good government is the duty of its Fendatories. As the guardian of the general peace of the country, the Supreme Government cannot stand by and see disorders grow up by which that peace may be threatened..... But any interposition necessarily means that both sides must be heard. If we repress disorders due to injustice or misgovernment, we must see that the causes of the disorders are removed.....

One case, then, in which interference is necessary is when the general peace of the country is endangered. Another case is when misrule has reached such a pitch that rebellion would be morally justifiable; and there may be conditions of misgovernment, far short of that, when interposition becomes a duty.....

There may, of course, be cases where the inertness of the central authority (in an Indian State), and its callousness to the welfare of all except the army, the court, and the priestly classes, may be gradually bringing about serious misgovernment. There may be no outcry, no widespread discontent, no glaring iniquity; but, either from the idleness and incapacity of the Chief, or from his jealousy of other authority, there may be a complete block of business. It may be impossible to get any long and intricate case decided, because the Chief either will not or cannot deal with it himself and will not allow it to be dealt with by his subordinates. There may be a slipshod style of work in all departments; the administration of justice may be slow, careless, often corrupt. At the capital, we may see a veneer of civilization, and a number of officials with high-sounding titles of State. Five miles away, there may be complete neglect of the most elementary requisites of efficient administration; and no money may be spent on any object that is not religious or military or directly remunerative. If to neglect and suspicion be added avarice, if there be deliberate attempts to break the tenures of large classes of the peasantry, if taxes are laid upon the peasants heavier than they can bear, if without trial men are seized and imprisoned and their property confiscated, the time is at hand when forbearance towards the Chief becomes a wrong to his people, and when remonstrance, if unheeded, must give way to

direct measures of reform. When a whole administration is infected with greed and suspicion and heartlessness, it is not ordinarily very difficult to see what ought to be done.

On the whole, we may say that the obligation of occasional interference arises, because it is the duty of the British Government to maintain the general peace of the country and to give the inhabitants of Native States freedom from misrule. It follows that the best limit to British interposition is the effectual one of good government."—*Our Indian Protectorate*, pp. 303, 304, 306 & 307.

## APPENDIX C.

### ROYALTY IN RESPONSIBLE GOVERNMENT.

*Some specimen Constitutions of Responsible Government in Monarchical States.*

#### (1) The British Constitution.

The most illustrious example of Responsible Government under Monarchy is that of Great Britain and the British Dominions. But the British Constitution being an unwritten one, there is no document from which we can make extracts. There are, however, excellent treatises on its machinery and its working; and some of them may be mentioned here:—on the legal side, *Law and Custom of the Constitution* by Sir W. R. Anson and *Introduction to the Law of the Constitution* by A. V. Dicey; on the practical side, *The English Constitution* by W. Bagehot, *The Governance of England* by Sir S. Low, and *The Government of England* by A. L. Lowell. Among shorter works are *How Britain is Governed* by Kate Rosenberg (Labour Publishing Co., 1s.) and *The British Constitution* by Sir Sidney Low (Benns, 6d). From the last mentioned little book, we take the following:—

"The idea of the King-in-Council can be traced back to Anglo-Danish times. The king is not a despot; he must rule and legislate in accordance with custom, and by the advice of those who may be assumed to express the best opinion of the nation. We have here the germ of responsible government as we have the elements of representation in the local institutions. Probably these were common to all the primitive Aryan peoples." (P. 10.)

"In the last resort, behind the Cabinet and the Parliament, stand the Sovereign People, that is, the Electorate. It now includes almost the entire adult population, male and female. . . . The People are masters in their own house, and can insist upon the social and economic, as well as the political, re-adjustments suited to the new developments in science, industry, and international relations." (Pp. 76-77.)

#### (2) Kingdom of the Serbs etc., 28th June, 1921.

11. The State of the Serbs, Croats and Slovenes shall be a constitutional, parliamentary and hereditary monarchy.

<sup>1</sup> The numbers which mark the paragraphs in this Appendix are those of the Articles or Clauses of the several Constitutions named.

5. The liberty of the individual shall be guaranteed. No person may be subjected to any judicial interrogation, or placed under arrest, or be in any other way deprived of his liberty, save as provided by law.

No person may be placed under arrest for any crime or offence whatever, save by order of a competent authority given in writing and stating the charge. This order must be communicated to the person arrested at the time of arrest or, at latest, within twenty-four hours of the arrest. An appeal against the order for arrest may be lodged in the competent Court within three days. If no appeal has been lodged within this period, the police authorities must as a matter of course communicate the order to the competent Court within the twenty-four hours following. The Court shall be bound to confirm or annul the arrest within two days from the communication of the order, and its decision shall be given effect forthwith.

6. No person may be tried save by a competent Court.

46. Legislative power shall be exercised jointly by the King and the National Assembly.

47. Executive power is vested in the King who shall exercise it through his responsible Ministers in accordance with the provisions of the Constitution.

58. The King shall take the following Oath before the National Assembly :—

“I (Name) in ascending the throne of the Kingdom of Serbs, Croats, and Slovenes, and receiving the royal power, swear before Almighty God to maintain the unity of the nation, the independence of the State, and the integrity of its territory, to preserve the Constitution inviolate, to reign in accordance with the Constitution and the laws, and to have always in mind and be always inspired by the welfare of the people. So help me God! *Amen.*”

59. The King shall reside permanently in the country. If it should be necessary for him to be absent from the country for a short period, the Heir to the Throne shall fill his place as of right.

69. The National Assembly shall be composed of Deputies freely elected by the people by universal, equal, direct, and secret suffrage, minorities being represented.

91. Ministers shall be responsible to the King and to the National Assembly.

### (3) Kingdom of Denmark, 10th September, 1920.

1. The form of government is a limited monarchy.

2. The legislative power is exercised by the King and the Rigsdag concurrently. The executive power resides in the King. The judicial power is exercised by the courts.

7. Before assuming office, the King makes in writing before the Council of State a solemn declaration faithfully to observe the Constitution.

9. The emoluments paid by the State to the King shall be determined by law for the duration of his reign.

11. The supreme authority in all national affairs is vested in the King subject to the restrictions imposed by this Constitution, and he exercises it through his ministers.

12. The King's actions cannot be reviewed ; his person is sacred. The ministers are responsible for the conduct of the government ; special regulations dealing with their responsibility shall be determined by law.

42. The Rigsdag is inviolable. Any person who attacks its security and liberty, or issues or executes an order to this effect, is thereby guilty of high treason.

84. Every person has the right to publish his opinions in the Press, but remains liable to legal proceedings in connection therewith. Censorship and other preventive measures may never be re-introduced.

85. Citizens have the right, without preliminary authority, of forming associations having a legal object. No association may be dissolved by governmental action. Nevertheless, an association may be temporarily forbidden, but proceedings to affect its dissolution should at once be taken against it.

86. Citizens have the right of meeting unarmed. Police may be present at public meetings. Meetings in the open air may be forbidden when they become a danger to the public peace.

**(4) Kingdom of Belgium, 15th October, 1921.**

6. There shall be no distinction of classes in the State.

All Belgians are equal before law ; they alone are admissible to civil and military offices, with such exceptions as may be established by law for particular cases.

7. Individual liberty is guaranteed.

No one may be prosecuted, except in cases provided for by law and in the form therein prescribed.

Except when taken in the act of committing an offence, no one may be arrested without a warrant issued by a magistrate, which ought to be shown at the time of arrest, or at the latest within twenty-four hours thereafter.

9. No penalty shall be established or enforced except by virtue of a law.

13. Total deprivation of civil rights (*mort civile*) is abolished and shall not be re-established.

14. Religious liberty and the freedom of public worship, as well as free expression of opinion in all matters, are guaranteed, with the reservation of power to suppress offences committed in the exercise of these liberties.

18. The press is free ; no censorship shall ever be established ; no security shall be exacted of writers, publishers, or printers.

In case the writer is known and is a resident of Belgium, the publisher, printer, or distributor shall not be prosecuted.



19. Belgians have the right, without previous authorizations, to assemble peaceably and without arms, conforming themselves to the laws which regulate the exercise of this right.

This provision does not apply to assemblies in the open air, which remains entirely under the police laws.

20. Belgians have the right of forming associations; this right shall not be restricted by any preventive measures.

21. Anyone has the right to address petitions to the public authorities, signed by one or more persons.

Legally organized bodies alone have the right to petition under a collective name.

22. The privacy of correspondence is inviolable. The law shall determine who are the agents responsible for the violation of the secrecy of the letters entrusted to the post.

25. All powers emanate from the Nation.

They shall be exercised in the manner established by the Constitution.

26. The legislative power shall be exercised collectively by the King, the House of Representatives, and the Senate.

32. The members of the two Houses shall represent the Nation, and not the province alone, nor the sub-division of the province which elected them.

60. The constitutional powers of the King are hereditary in the direct descendants, natural and legitimate, of His Majesty Leopold-George-Christian-Frederick of Saxe-Coburg, in the male line in the order of primogeniture, and to the perpetual exclusion of females and of their descendants.

63. The person of the King is inviolable; his Ministers are responsible.

64. No decree of the King shall take effect unless it is countersigned by a Minister, who, by that act alone, renders himself responsible for it.

65. The King appoints and dismisses his Ministers.

78. The King shall have no other powers than those which the Constitution and the special laws, enacted under the Constitution, formally confer upon him.

86. No person shall be a Minister unless he is a Belgian by birth, or has received full naturalization.

87. No member of the Royal Family shall be a Minister.

89. In no case shall the verbal or written order of the King relieve a Minister of responsibility.

90. The House of Representatives shall have the right to accuse Ministers and to arraign them before the Court of Cassation, which, the divisions being assembled in joint session, alone shall have the right to judge them, except in such matters as shall be established by law respecting a civil suit by an aggrieved party and respecting crimes and misdemeanours committed by Ministers when not in the performance of their official duties.

91. The King shall not have power to grant pardon to a Minister sentenced by the Court of Cassation, except upon request of one of the two Houses.

**(5) Kingdom of Norway, 17th May, 1814 & 1921.**

1. The Kingdom of Norway shall be a free, independent, indivisible and inalienable kingdom. Its form of Government shall be a limited and hereditary monarchy.

11. The King shall reside within the Kingdom and may not, without the consent of the Storting, remain outside the Kingdom for longer than six months at a time, unless he personally shall have lost his right to the throne.

12. The King himself shall choose a Council of Norwegian citizens, who must not be under thirty years of age. This Council shall consist of a Minister of State and at least seven other members.

30. All the proceedings of the Council of State shall be recorded in the Minutes. Diplomatic business, which the Council of State decides shall be kept secret, shall be recorded in separate Minutes. The same shall apply also to matters relating to the military command which the Council of State decides shall be kept secret.

Everyone that has a seat in the Council of State is in duty bound fearlessly to express his opinions, to which the King is bound to listen. But it remains with the King to take a decision according to his own judgment.

If any member of the Council of State considers that the King's decision is at variance with the Constitution or the Laws of the Kingdom, or is clearly prejudicial to the Kingdom, it is his duty to make strong representations against it, and also to record his opinion on the Minutes. A member who has not thus protested shall be regarded as having concurred with the King, and shall be answerable therefor in the manner hereinafter provided, and may be impeached by the Odelsting before the Rigsret.

31. All orders issued by the King must, in order to be valid, be countersigned.

49. The people shall exercise the legislative power through the STORTHING, which shall consist of two divisions, a Lagthing and an Odelsting.

50. Every Norwegian citizen, man or woman, who has completed his or her twenty-third year and has resided in the country for five years and is still resident therein, is entitled to vote.

75. The Storting shall have power:—

(a) To enact and to repeal laws; to impose taxes, duties, customs, and other public burdens, which, however, shall not remain in force longer than till the first day of July of the year in which the next ordinary Storting meets unless they are expressly renewed by the Storting then sitting.

(b) To raise loans on the credit of the Kingdom.

(c) To control the finances of the Kingdom.

- (d) To grant the sums of money necessary to meet the expenditure of the State.
- (e) To determine the amount which shall be paid yearly to the King for his Royal household, and to determine the appanage of the Royal Family, which may not, however, consist of real property.
- (f) To have laid before it the Minutes of the Council of State and all public reports and documents; Minutes of diplomatic affairs and matters relating to military command which it has been decided shall be kept secret shall, however, be laid before a Committee of not more than nine members elected from the members of the Odelsting, and may likewise be brought before the Odelsting if any member of the Committee proposes that the Odelsting should express its opinion thereon or that proceedings should be instituted before the Rigsret.

96. No person may be tried except according to law, or be punished except according to judicial sentence. Examination by torture may not take place.

100. There shall be liberty of the press. No person can be punished for any writing, whatever its contents may be, which he has caused to be printed or published, unless he has wilfully and clearly, either himself shown, or incited others to, disobedience to the laws, contempt of religion or morality or the constitutional authorities, or resistance to their orders, or has advanced false and defamatory accusations against any person. Everyone shall be at liberty to speak his mind frankly on the administration of the State and on any other subject whatsoever.

**(6) Kingdom of Sweden, 6th June, 1809 & 1922.**

1. Sweden shall be governed by a King and shall be a hereditary monarchy with the order of succession established by the Law of Succession.

4. The King alone shall govern the Kingdom in accordance with the provisions of this Constitution; he shall, however, in the cases hereafter specified, ask for the information and advice of a Council of State; for which purpose the King shall summon and appoint capable, experienced, honourable and generally respected native Swedish citizens who belong to the pure evangelical faith. Relatives related in any degree of ascending or descending kinship, brothers and/or sisters, or their spouses may not be members of the Council of State at the same time.

8. The King shall not give a decision upon a measure upon which the Council of State should be consulted, unless at least three Councillors of State are present in addition to the one who properly presents the measure.

35. Members of the Council of State, presidents and heads of administrative boards or of institutions established in their place, . . . shall hold their offices during the pleasure of the King, who may remove them whenever he thinks it for the good

of the State. He shall, however, make known his action to the Council of State, whose members shall make humble remonstrances if they think that they have reason to do so.

49. (1) The Riksdag shall represent the Swedish People.

(2) If, having regard to the particular importance of some measure or the nature thereof, it should be deemed necessary that, prior to its enactment, the opinion of the People should be ascertained, the King and Riksdag may, by a law enacted jointly, determine that a popular vote should be held.

55. Neither the Riksdag, its Chambers, nor any of its Committees shall deliberate or decide upon any matter in the presence of the King.

56. The Riksdag Law shall determine the order of proceeding with reference to propositions of the King and with reference to questions raised by members of the Chambers.

57. The ancient right of the Swedish People to tax themselves shall be exercised by the Riksdag alone.

58. At each regular session, the King shall cause to be presented to the Riksdag a statement of the financial condition of the State Administration in all its branches, both income and expenses, assets and liabilities.

64. The regular public funds and revenues, as well as the supplies voted by the Riksdag as extraordinary advances or appropriations in the manner above mentioned, shall be at the disposal of the King for application to the purposes indicated by the Riksdag, in accordance with the budgetary law.

65. Such funds shall not be applied to other purposes than those specified; the members of the Council of State shall be responsible if they permit any violation of this rule without entering their protests in the Minutes of the Council and calling attention to what the Riksdag has enacted in the matter.

73. No new imposition of taxes, compulsory enrolment of troops, nor levy of money or of goods shall hereafter be ordered, demanded or executed without the free will and consent of the Riksdag, in the manner provided above.

81. This Constitution and the other Fundamental Laws shall not be altered or repealed except by decision of the King and of two regular sessions of the Riksdag.

86. By freedom of the press is understood the right of every Swede to publish his writings without any previous interference on the part of public officials; the individual may afterward be prosecuted before a regular court because of the contents of his publication, but shall not be punished unless such publication is plainly in conflict with a law enacted to preserve the public peace, without interfering with public instruction. All proceedings and official minutes of whatever character, except the Minutes of the Council of State and those relating to military command under the King, shall be published without restriction. The minutes and proceedings of the

State Bank and of the Office of the National Debt, concerning matters which should be kept secret, shall not be published.

114. The ancient privileges, advantages, rights, and liberties of the Estates of the Kingdom shall remain in force, except where they are indissolubly connected with the right of representation formerly belonging to the Estates and have consequently ceased to exist with the abolition of that right. The rights of the Estates shall not be altered or annulled except by agreement between the King and the Riksdag, and with the consent of the nobility if their privileges are in question or of a general church council if the privileges of the clergy are affected.

#### APPENDIX D.

#### ALTERNATIVE SCHEME FOR THE PERIOD OF TRANSITION.

BY SIR P. S. SIVASWAMY AIYER.

*(Extracts from the article in the "Triveni", reprinted in the "Servant of India" of 16th October, 1930.)*

The Montagu-Chelmsford Report evidently conceived the Government of British India as adhering to its present type and acquiring a responsible character, and the States entering into a closer association with the Central Government of British India, if they wish to do so. It is far from likely that the States would all decide to enter into partnership with British India at the same time. The forecast of a gradual accretion of the Indian States to the constitutional scheme of British India is more likely to be fulfilled by the course of events.

The only solution which will provide for this gradual accretion of States and which will not bar the way to the genuine federation of the future is to allow the States to join the British Indian constitution on some such lines as the following. So far as the major States of Indian India are concerned, they may be allowed to send their representatives to both the Indian Legislative Assembly and the Council of State, the quota of representatives being determined on the same ratio to the population as in British India. Assuming that the constitution of the Assembly provides for a quota of one member for every million of the population, Mysore with its population of 6 millions would be entitled to send 6 representatives; Hyderabad with its population of 12 millions would send 12 representatives; Travancore would be entitled to send 4 members, Baroda 2 and Kashmere 3. States which do not possess the requisite population for a seat may be conveniently grouped together according to their geographical contiguity and allowed representation on the same basis. Similar arrangements may be made for representation in the Council of State. It may be thought that representation of the States in the Upper Chamber alone might be sufficient; but this course would be open to several objections. In the first place, it would not be possible to provide for adequate representation in the Council of State without unduly enlarging its size. Secondly, the Legislative Assembly which represents the

people directly would and should be the more important body of the two Houses, especially in matters of finance; and it is right that the Indian States should have a voice in the deliberations of the Assembly.

As regards the method of selection of the representatives to the two Chambers of the Indian Legislature, it should be carried out in such a manner as not to infringe the principle of internal autonomy of which the Indian Princes are naturally very jealous. The ruler of each Indian State, or the rulers of each group of States, should have the sole right to determine the method of selection of the representatives. The State should be left free to nominate its representatives in any manner it deems best. The ruler of a State may nominate the representatives to both the Council of State and the Assembly according to his own sense of fitness. He may nominate his Dewan or any high official or any trusted non-official. If he considers it proper to consult the wishes of his people, he may make his nomination from a panel of candidates recommended by the Legislative Council or other body, if there is one. Or if he considers that the people of the State are sufficiently advanced, he may permit the representatives to be elected by them. British India would have no right to interfere with the internal arrangements for the selection of representatives by the rulers of the States. Gradually, and with the progress of education, it may be expected that the representatives of the States would be chosen by a system of election. It is not an extravagant hope that even the Indian Princes, who are most convinced of the present need for autocracy and who are most jealous of their internal autonomy, will admit the possibility of adequate enlightenment of their people and their fitness for the franchise as a future ideal.

With regard to the rights and powers of the State delegates for the Indian Legislature, they should for the present be strictly confined to participation in the discussion and decision of all matters which will be included in a schedule of all-India subjects. When matters affecting British India alone come under the consideration of the Legislature, they should not be allowed to attend or vote therein. This restriction on the ordinary rights of a delegate to the Indian Legislature is absolutely necessary in the interests of the principle of mutual non-interference between British India and the States in matters affecting either of them only. When a sufficient number of the major States shall have fallen in with this scheme, it may be possible to entrust the political and foreign portfolio to two Indian members, of whom one may be chosen by the Viceroy either from the State representatives in the Indian Legislature or from among the Dewans or other high officials of the Indian States represented in the Assembly. During such transition period as may be found necessary, the members in charge of the political portfolio may be responsible to the Viceroy only and not to the Indian Legislature. During the same period, any questions relating to the purely internal concerns of the States, or the personal concerns of their rulers, may be dealt with only by the Viceroy and the political members of his Council and not by the Governor-General in Council as a whole. Before any federation in its final form can

be thought of, it would be necessary for the Indian States to acquire sufficient confidence in the Government of India to renounce their contention of direct relations with the Crown and to give up the claim set up on their behalf by the Simon Commission to military support by the British Crown, as distinguished from the Government of India, against internal disturbances in their States.

Though the Government of India may have no right to compel any Indian State to enter into closer association with British India, there is no objection in policy or principle to hold out inducements to the rulers of the States to enter into such closer relations. In providing for the representation of States whose rulers may be willing to send delegates to the Indian Legislature, it may be laid down that only those States are entitled to representation which may have achieved some of the minimum requirements of political progress. The privilege of representation may be conferred only upon those States which have established a legislative council with a representative non-official element, fixed a civil list and effected a separation of the privy purse of the sovereign from the State revenues, and provided for an annual audit by an independent auditor and the publication of his report. Perhaps the best way of securing an independent audit would be by the appointment of an Auditor-General for the States by the Government of India. These conditions are very modest; and the Princes should welcome an independent audit; so that it may not be possible for their enemies or critics to accuse them of squandering the resources of their States for their personal and family purposes. The scheme outlined provides for the automatic growth of the future constitution of India on progressive lines.

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#### APPENDIX E.

#### AN ANALYSIS OF INDIAN STATES.<sup>1</sup>

BY MR. V. VENKATASUBRAIYA, B.A., *Servants of India Society,*  
*Madras.*

It will, no doubt, be a great surprise to many to know that in spite of the so-called sanctity of sannads and treaties, the number of the Indian States has been varying from year to year. Their exact number in any particular year has to be ascertained from the corrected list for that year. The *Imperial Gazetteer*, Vol. IV of 1907, gives the total number at 693; but the list for 1925 contains only 562 States. The grouping and classification also are different in the two years. The smaller figure of 1925 is due chiefly to the reduction of States in three Provinces—from 148 to 89 in Central India Agency, from 52 to *nil* in Burma and from 26 to 1 in Assam. Drastic changes apparently are not unknown to the Political Department of the Government of India.

The following three tables give an analysis of the 562 States according to area, population and revenue respectively. Of these,

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<sup>1</sup> From an article in the *Karnataka & Indian Review of Reviews* for April 1927

120 are placed in one class (Class A in the tables) and the rest in another (Class B in the tables), the Rulers belonging to the former class enjoying a salute of guns. Though the States belonging to this class are 120, the Rulers are only 119, two States, Jafrabad and Jinjira, having the same Ruler. In only 4 cases the salute is personal; in all the others it is hereditary. The title of Highness is not conferred on all of them: 28 Rulers go without it though in the enjoyment of guns.

## I. AREA.

Square Miles		Class A	Class B	Total
0— 10	.. ..	..	167	167
10— 100	.. ..	2	159	161
100— 1,000	.. ..	56	70	126
1,000—10,000	.. ..	50	13	63
10,000 and above	.. ..	12	1	13
Not given	.. ..	..	32	32
Total	.. ..	120	442	562

## II. POPULATION.

Number		Class A	Class B	Total
Under 1,000	.. ..	..	154	154
1,000— 10,000	.. ..	..	174	174
10,000— 1,00,000	.. ..	47	77	124
1,00,000—10,00,000	.. ..	61	15	76
Over 10,00,000	.. ..	12	..	12
Not given	.. ..	..	22	22
Total	.. ..	120	442	562

## III. REVENUE.

Rs.		Class A	Class B	Total
Under 1,000	.. ..	..	28	28
1,000— 10,000	.. ..	..	149	149
10,000— 1,00,000	.. ..	2	195	197
1,00,000— 10,00,000	.. ..	58	69	127
10,00,000—1,00,00,000	.. ..	52	..	52
Above 1,00,00,000	.. ..	8	..	8
Not given	.. ..	..	1	1
Total	.. ..	120	442	562

From the foregoing tables, it will be seen that as many as 454 States have an area of less than 1,000 sq. miles, that 452 States have less than 1,00,000 population and that 374 States have a revenue of less than Rs. 1 lakh. British India, with an area of 10,94,300 sq.



miles and a population of nearly 222 millions, is divided into 273 districts. The average area of a British Indian district is therefore 4,000 sq. miles and its average population about 8,00,000. If the suggestion were made that each district in British India should be constituted into a State, how ridiculous would it be considered? Yet it is only some thirty, among the 562 States, that possess the area, population and resources of an average British Indian District. Some of the States are so absurdly small that no one can help pitying them for the unfortunate dignity imposed upon them. As many as 15 States have territories which in no case reach a square mile, while 27 others possess just one square mile! Fourteen States exist in Surat District, not one of which, according to the list of 1925, realized a revenue of more than Rs. 3,000 in the previous financial year. Three of these States could not boast of a population of 100 souls, and five of them of a revenue of Rs. 100! The smallest revenue mentioned is Rs. 20—for the year, let it be remembered—and the smallest population 32 souls. What earthly purpose is served by magnifying these petty landlords into Chiefs and Thakores and by talking of them in the same breath as of the Nizam or the Maharaja of Mysore? From the analysis given above, only some fifteen States appear to possess the necessary area, population and resources to be able to function efficiently as States according to modern conceptions. What should happen to the rest is a big question.

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#### APPENDIX F.

##### THE STATES' PEOPLE AND THE R. T. CONFERENCE.

The official announcement about the holding of a Conference in London (generally called the Round Table Conference) to discuss the Indian problem was made in India on the 31st of October 1929. In the course of a statement in a *Gazette of India Extraordinary* issued that day, His Excellency the Governor-General announced that His Majesty's Government would "invite representatives of different parties and interests in British India and representatives of the Indian States to meet them separately or together, as circumstances may demand, for the purpose of a conference and discussion in regard both to the British Indian and the All-Indian problems." On that day was also published the correspondence that had taken place on this subject between Sir John Simon and the Prime Minister (Pages xxii-xxiv of Vol. I of the *Simon Report*).

On the 3rd of November, Mr. D. V. Gundappa, as Hon. Secretary of the South Indian States People's Conference, submitted an appeal by telegram to His Excellency the Viceroy and Governor-General; and on the following day he cabled the same appeal, with a few more prefatory words added, to both the Prime Minister and the Secretary of State for India. The appeal (in its fuller form) was as follows:—

"Indian States People are most grateful for your having included the States' problem in deliberations on All-India constitution. But they are greatly alarmed by the newspaper report that the Round Table Conference will be confined to Princes and not open

to representatives of the long-neglected People's cause. They trust that their own spokesmen, apart from the Princes, will also be invited. The New Constitution must include arrangements for securing Responsible Government to States' subjects under their Princes, raising their political rights and liberties to the level in British India, and granting them All-India federal citizenship. They have suffered too long, and are not free even to complain publicly. Britain has responsibility in their behalf also. Their emancipation can come only through your good offices during this general revision of the All-India polity. We appeal most earnestly that you may not postpone this responsibility, and (we) respectfully suggest that States People's men like Sir Mokshagundam Visvesvaraya, Retired Dewan of Mysore, be invited. Similar appeal has been addressed to (H. E. the) Viceroy. The States' problem will remain unsolved, and Britain's mission unfulfilled, if their subjects are ignored now."

These messages were followed up by letters setting forth at some length the grounds for the request for the representation of the People, apart from and in addition to the Princes, at the Round Table Conference.

The following was the reply :—

**The Reply.**

PRIVATE SECRETARY'S OFFICE  
D. O. No. 629-C.

VICEROY'S CAMP,  
INDIA,  
26th November 1929.

DEAR SIR,

With reference to your telegram of 3rd November, I am directed to say that so far as the Indian States are concerned, the questions which it is contemplated will be discussed at the Conference will be confined to broad questions of constitutional policy in regard to which the acknowledged Rulers of Indian States are the only persons who can speak with authority. Questions concerning the internal government of the States will not arise at the Conference and indeed their discussion is precluded because such matters are within purview of Ruler of each State subject to responsibility of paramount power for protecting people against gross misgovernment.

Yours faithfully,  
(Sd.) G. CUNNINGHAM,  
*Private Secretary to the  
Viceroy.*

**Rejoinder.**

SOUTH INDIAN STATES PEOPLE'S CONFERENCE,  
BANGALORE CITY, 27th November 1929.

TO

THE PRIVATE SECRETARY  
TO HIS EXCELLENCY THE VICEROY,  
VICEROY'S CAMP, INDIA.

SIR,

While thanking you sincerely for your condescension and promptness in having favoured me with a reply (D. O. No. 629-C.)

dated the 26th November, which is more than a mere acknowledgment of my telegram of the 3rd of this month, I beg leave to express my deep and bitter disappointment at the views contained in it. This feeling of mine, I am certain, will be shared by the public of the States all over India.

I believe there are unanswerable grounds on which I may plead for a thorough and generous re-consideration of the views embodied in your letter under reference; and I beg I may be permitted to submit some of them below as briefly as possible:—

*“Broad Questions.”*

(1) You are pleased to observe that the Conference will confine itself to “broad questions of constitutional policy in regard to which the acknowledged Rulers of Indian States are the only persons who can speak with authority.” Among such “broad questions” must naturally be those relating to (i) the financial and economic relations between the States and British India, (ii) their contributions towards All-India defence, and (iii) their rights and responsibilities in regard to All-India public services such as Posts and Telegraphs etc. It is obvious that all these are matters of vital concern to the people of the States quite as much as to those of British India. But while the Governments of British India have their legislatures elected by the People to guide them in such matters, the Durbars of Princes and Chiefs have provided for themselves no similar means of constitutional advice. It is not disputed that the Princes are the repositories of State authority. But that authority at present is entirely legal and can therefore be properly invoked at the stage of final ratification and action, and not necessarily at the stage of deliberation and discussion. Moreover, if the British Government will take notice of only such formal and technical authority, logic plainly requires that only the Governor-General and the Governors or their official deputies should be summoned to the proposed Conference from British India and that the leaders of the National Congress and of other popular organizations of British India should be kept out of it, inasmuch as these have no manner of authority whatsoever derived from either law or treaty or custom. If the Indian Princes had had constitutional assemblies of the duly chosen representatives of their subjects and could have spoken as authorized by them, their authority would then have been beyond doubt of any kind; and there would probably have been then no need for the separate representation of their subjects. But at present, identity of interests can no more be presumed as between the Princes and their People than as between the Government of India and the Congress and other political parties of British India.

*Grievous Anachronism.*

(2) You have next observed that “questions concerning the internal government of the States will not arise at the Conference.” I beg to assure you that, if your reference is to details of policy in the various Departments of the internal administration of a State such as Land Revenue, Forests, Excise etc., the popular organizations such as that I have the honour to represent have no intention whatever of raising such local questions at the Conference. Their

one interest is in securing a reform in the system of governance from personal into constitutional; and I most earnestly submit that this reform cannot properly be classified as a purely "internal" affair. It is really an integral part of the chief of those "broad questions of constitutional policy" to which you have alluded in the sentence quoted above; because, if any form of federal or quasi-federal constitution is to be devised for the whole of India, the problem of ensuring popular contentment and progress in the States as in British India will have to be grappled with; and there can be no efficient and satisfactory constitution common to all India if one part of it alone came under popular government and the other part were left to remain under personal rule. It would indeed be a most grievous anachronism to taboo the cardinal rights and liberties of citizenship as an "internal" question; and organizations representing the public of the States have therefore insisted that this matter of responsible government and equal citizenship should always be regarded as an All-India subject, assigned to the sphere of the Central Government. The subjects of the States are quite as jealous as are their Princes about the powers of autonomy of the States and their rights and interests and prestige as States. But until popular constitutions similar to those now assured to British India are fully granted to them, they must look to the Paramount Power for the securing of political reforms.

#### *Responsible Government.*

(3) Finally, you are pleased to admit that "such matters are within purview of Ruler of each State subject to responsibility of Paramount Power for protecting people against gross mis-government." Let me submit that the surest and most enduring protection against gross or even refined misgovernment is in the establishment of Responsible Government. I venture to think that the responsibility of the Paramount Power is much higher than that of intervening only when there is a grave catastrophe, and remaining indifferent so long as misrule is just short of it. In this view, I am thankful to have the support of the Butler Committee. In paragraph 50, the Report of that Committee has clearly declared that the Paramount Power "would be bound to suggest such measures as would satisfy" the popular demand in a State for a change in the form of government, "without eliminating the Prince". No Conference of the States' People has ever suggested, and none is ever likely to suggest, the elimination of the Princes. All they have asked for is a change in the system and machinery of the administration,—from Arbitrary into Responsible; and I submit that it is for the Paramount Power to give the authentic spokesman of the States' People a fair opportunity of proving the strength and the urgency of their case. It will not meet the situation at all to say that they must persuade and negotiate with their own Princes. In the first place, they are not free to organize themselves and agitate. In the second place, such representations as they have addressed to the Princes from time to time on this subject have met with no serious sympathy and have even provoked serious displeasure. If any earnest assurance had been vouchsafed

by the Princes in this matter, their subjects would not have been so greatly agitated as they now are. In the absence of any proof of sympathy on the part of the Princes for the political aspirations of their subjects, and in the face of the clear duty of the Paramount Power to secure to such subjects the same standard of progressive citizenship as is made available to the people of British India, the States' subjects cannot help pressing their case for a special hearing at the Conference meant to revise and re-orientate All-Indian constitutional policies and arrangements.

*Long-neglected Needs.*

In view of these and other considerations which I will not crowd into this letter for fear of wearying you, I pray that the policy indicated in your letter may be revised and an opportunity secured to the people of the States for the faithful and effective representation of their long-neglected needs and aspirations. I am writing this in the earnest hope that your letter is not meant to be regarded as final and that it will still be possible for the Government of India and the British Government to do some measure of justice at this juncture to the claims of the more than seventy million people who have so long been branded as the Political Untouchables of India.

I beg your forgiveness for the length of this letter and also for its argumentative (and perhaps warm) manner; and I pray you may be so good as to bring this to the gracious notice of His Excellency the Viceroy.

I have the honour to be,

Sir,

Your most obedient Servant,

D. V. GUNDAPPA,

*Hon. Secretary, South Indian  
States' People's Conference.*

A similar remonstrance and prayer for reconsideration was submitted to the Prime Minister and the Secretary of State. But the gods have all chosen to remain adamant and judge *ex parte*.

APPENDIX G.

MR. MONTAGU ON THE STATES.

Mr. E. S. Montagu (Secretary of State for India, 1917-1922) has made some shrewd and suggestive observations about a few of our Princes in his *Indian Diary* (Heinemann, 1930). This book is a day-to-day record of his experiences and reflections during his tour in India in 1917-18, after his historic pronouncement of August 20, 1917, in the British Parliament. It is the frank self-revelation of an absolutely sincere, penetrating and nobly inspired mind,—a jewel rare among the memoirs of statesmen and reflections from it :—

The Diwan of Mysore (Sir M. Visvesvaraya) came to speak to me about the Cauvery Arbitration, and also about his desire to

associate Princes with the Second Chamber. He is quite right. Chelmsford objected; but I am sure Chelmsford is wrong. (P. 124)

We arrived at Gwalior at four o'clock, and were met at the Station by certain notabilities, headed by Gwalior. We drove through his glorious gardens to his enormous palace, an Indian-Italian structure built by his father and furnished amazingly. The staircase has glass banisters.....The drawing-room is of enormous size, with a vaulted roof and two of the biggest glass chandeliers I ever saw, each with 380 lamps.....The bedroom has the softest carpet I have ever seen.....; and the large drawing-room has the largest carpet I have ever seen.....Everywhere are cigarette boxes in the form of motor cars or aeroplanes, or a stork to lift the cigarettes out. On the dining-table is an electric pump working a fountain. One has often been inclined to wonder what becomes of this sort of ingenuity when one sees them at jewellers or bazaars, or Maples, or Drews, and so forth; and the answer seems to be that they all go to the Indian Princes. (Pp. 166-7)

I do not think one realises or can ever possibly get at life in a Native State whilst one stays with the Prince. There seems to be a great deal more servility here than in any State I have been in. Everybody spends all his time in our presence bent to the ground. (P. 168)

The garden here is superb, the luxury great, the situation along the river bank adorable. If only one had this climate, this money, these situations and opportunities, with labour and materials plentiful, what beautiful things People could make; but here, as usual, toys are rampant. (P. 172)

She (the Old Maharani of Bharatpur) was full of loyalty to the King and hatred of political reform.....Her husband, poor man, is a political *detaun* at Ajmere. He was turned off the Ghadi by the British for his habit of murdering his subjects when he did not like them. (P. 190)

The Nizam is, of course, enormously important to us, because he has kept the Mohammedans of India straight, and we have used him, by means of his wily old Ministers and our Resident, for this purpose. But we have made all the Princes very sick by segregating him as "His Exalted Highness". (P. 212)

To hear him (old Jaipur) talking about chambers of Princes and arbitration boards and so forth, and to see him driving up in a two-horse carriage, because he objects to motor cars as modern inventions, was rather remarkable. Progress with these Chiefs is a very thin veneer, and usually comes from a trusted Diwan. (P. 235)

In the evening Bikaner came to see me. He told me that Alwar had reverted to the idea that he did not like to refer to their alliance with the King as a privilege; he even, according to Bikaner, objected to the use of the term "Government of India", and wanted to call it the "Crown's Government of India". He also, according to Bikaner, objected to the use of the word "Chamber", just as he objected to the use of the word "Council", and now wants "Assemblage". I told Bikaner that Alwar was wrong in thinking Councils

were always summoned by a superior body ; what about the Council of Public Schools, the London County Council, and so forth ? A "Chamber" was not an ambiguous term, although it might refer to lavatory accommodation ; so might a "Cabinet". "Assemblage" only meant, to my knowledge, a journalistic word to signify a meeting of crows. I told Bikaner that although we would always defend the States against interference by British Indians, yet British Indians would be bound to criticise more and more if Indian Native States did not come into line with modern developments. He said he quite agreed, and expected bombs in Native States. I asked how many Native States had separate civil lists, and he said : "Very few." He himself has. He takes five per cent. of the revenues, but they give him some motor cars, some electric light, some furniture for his Palaces, and so forth ; but taking it as an inclusive sum, he thinks it will work out at under 10 per cent. He says that when he came to the throne, he only got, under the arrangement, one lakh a year ; now he gets three lakhs, and he has only succeeded in saving 30 lakhs in 20 years, which is his whole personal property, although 21 lakhs of this was a debt recovered, through the Government of India, from the State, of money which had been wrongfully taken by the State from his mother. This confirms my impression that India is a cheap country for a rich man, although a dear country for a poor one. (Pp. 236-7)

I rather staggered them (the Indian Princes) by asking them what their allegations of broken treaties were due to. They had all been to me with their stories of the scandalous interference by Residents, and I wanted them to make a clean breast of it. They tried to hedge, and said they were afraid of the future ; so I asked them very pointedly whether they had anything to complain of in the past. Again they tried to hedge. They said : "Not since Lord Minto's time." (P. 243)

I had a very good talk in the evening with Watson about the Native States, and am more than ever convinced that the right thing to do would be to scrap all their treaties, provided they were willing to do so, and to form a model treaty for all of them, something on these lines : They are sovereign within their own States ; we have control of their foreign relations ; we have the right to tender them advice on any matters that seem fit to us ; to see that their railway arrangements do not interfere with Indian communications ; and to intervene in cases of gross abuse ; otherwise they would be absolutely all right. (P. 281)

I had a long talk with Alwar about the Native States, and he gave me a book of his which he had written on the problem. I agree with his arguments ; I do not agree with all his conclusions ; but it is a clever book, and it is extraordinarily well written. There is no Indian as intelligent as he is. (P. 293)

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## BIBLIOGRAPHY.

### HISTORICAL.

- Our Indian Protectorate.* By Sir C. I. Tupper (1893).  
*Protected Princes of India* (1894) Re-named *The Native States of India* (1910) By Sir W. Lee-Warner.  
*Imperial Gazetteer of India* Vols. II and IV—Esp. Ch. iii (1909).  
*Peoples and Problems of India* By Sir T. W. Holderness (1928).  
*Relations of Indian States with the Government of India* By K. M. Panikkar (1927).  
*Lord Hastings and the Indian States* By M. S. Mehta (1930).  
*Relations between the Indian States and the Government of India* By M. Ruthnaswamy (1930).

### OFFICIAL.

- Report on Indian Constitutional Re-forms*—Montagu-Chelmsford Report, especially Chapter X. (1918).  
*Report of the Indian States Committee*—Butler Report (1928-29).  
*Report of the Indian Statutory Commission*—Simon Report, Vols. I and II (1930).  
*Proceedings of the Indian Round Table Conference in London.* Cmd. 3778. (1930-31).  
*The Indian States*—List corrected up to 1st January 1929.  
*Treaties, Engagements and Sanads.* Compiled by Sir Charles Aitchison.  
*British Enactments in Force in Native States.* Compiled by J. M. Macpherson.

### GENERAL.

- Government of India* By Sir Courtenay Ilbert (1916).  
*Speeches and Documents on Indian Policy* Ed. by A. B. Keith, Vols. I & II (1922).  
*Indian Constitutional Documents* Ed. by P. Mukherji, Vols. I and II.  
*India, a Federation?* By Sir F. Whyte (1926).  
*Indian Constitutional Problems* By Sir P. S. Sivaswamy Aiyer (1928).  
*Report & Supplementary Report of the All-Parties Conference*—Nehru Report (1928).  
*The Future of Indian States* By V. S. Srinivasa Sastri (1926).  
*Problems of Indian States* By G. R. Abhyankar (1928).  
[There are many speeches and pamphlets of Prof. G. R. Abhyankar on the case of the States' People.]  
*Memorandum of the Indian States' People.* Pubd. by the Indian States' Peoples' Conference of Bombay (1928).  
*Indictment of Princes.* By a Special Committee of the above I. S. P. C. (1930).  
[This organization has issued a number of books and pamphlets on several questions pertaining to the States, from the People's standpoint.]  
*Report of the Jamnagar Ijara Tapas Committee.* Issued by Jamnagar Praja Mandal (1929).  
*What are Indian States?* By B. S. Pathik (1928).  
*Indian Princes under British Protection* By P. L. Chudgar (1929).  
*Presidential Address to the South Indian States Peoples' Conference* at Trivandrum (1929) By Sir M. Visvesvaraya.  
*The British Crown and the Indian States* By the Special Organization of the Chamber of Princes (1929).  
*Scraps of Paper.* By A. P. Nicholson (1930).  
*Indian States* By Sardar D. K. Sen (1930).  
*Problems of Indian States* By Diwan Bahadur A. B. Latthe (1930).  
Petitions submitted to H. E. the Governor of Bombay by the Subjects of the Idar State in July 1926 and June 1927. (Published by the Idar Prajakiya Mandal, Bombay).  
*Memorandum of the Indian States People's Conference* (Presented to the Indian States Committee in London by Messrs. M. Ramachandra Rao, G. R. Abhyankar and P. L. Chudgar, 1928).  
*R. T. C. and Indian States Subjects* By Mr. S. G. Vaze (Presidential address to the Deccan States People's Conference, Poona, March 1931, printed in the *Servant of India* of March 26, 1931).  
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