

Memorandum of the Indian States People's Conference

To the President and Members of the Indian States Committee,

SIRS,—We have been appointed by the Executive Committee of the Indian States People's Conference to place their views before you on the matters referred to you for investigation.

OUR QUALIFICATIONS

2. Before we proceed to state our views on the questions referred to you for elucidation, we should like to clear the ground by making some reference to our claim to speak on behalf of the people of the Indian States. We have seen statements in the Press questioning the representative character of our deputation, and perhaps similar representations may have been made to your Committee. We should like to remark at the outset that the national movement in the States has been growing for some years, and problems of the Indian States and the reforms required in the internal administration of the States have been discussed for some years by the people of the various States in Conference held from time to time. The Kathiawar Political Conference, the Baroda Praja Makedal, the Idar Praja Mandal, the Hyderabad State People's Conference, the Jamnagar and Bhavnagar Praja Mandal, and various other similar organisations of the subjects of the States have met to discuss questions relating to the present administrative and political conditions of the people of the States. It had been felt that a central organisation to represent the views of the people of the Indian States generally and to speak on their behalf was urgently needed, and a permanent organisation known as the Indian States People's Conference was brought into existence in December last. The Conference at which this All-India organisation was formed was attended by 700 delegates from all the important States, and seventy of the Salute State were represented at the Conference. The names of the States so represented at the Conference will be found in Annexation appended hereto. It will be seen from the above that there is absolutely no justification for the suggestion that has

been made that our delegation, which has been appointed by the Executive Committee of the All India States People's Conference has no representative character, and that the All India States People's Conference, has no claim whatever to speak on behalf of the people of the Indian States. We submit that our Conference occupies the same position to the people of the Indian States as the Indian National Congress and other political organisations in relation to the people of British India.

The people of the Indian States (Indian India) have organised themselves for the common purpose of influencing the governments of the States as a whole to initiate the necessary reforms in their administration by the force of the collective public opinion of the people of the States.

COMMITTEE'S REFUSAL TO HEAR EVIDENCE

3. We should also refer at the outset to two matters of procedure which have caused considerable embarrassment to us in formulating a statement of our case to the Committee.

Early in February last the General Secretary of the Conference addressed a communication to the Secretary of your Committee requesting a copy of the questionnaire issued by your Committee to the States, and also made inquiries whether any public bodies or private individuals would be permitted to give evidence before the Committee. In reply, he was informed that the questionnaire could not be supplied, that the Committee was not empowered by its terms of reference to deal with the relations of the Indian States and their subjects, and that they were therefore, not in a position to accept the evidence of public bodies and private individuals, either written or oral, in regard to this subject. Thereafter, the Secretary of the Conference addressed a long communication to the Committee explaining the whole position of the people of the Indian States in relation to the their rulers, and urged that your Committee should afford facilities for the people to place their views before it on the matters under inquiry by the Committee. In modification of its previous decision referred to above, the Committee came to the conclusion that it would consider the views which the Conference, of which we are the representatives, wished to put forward. It was stated, however, that, owing to numerous applications, the committee would not be able to hear oral evidence, but that they would be willing to receive from the Conference a memorandum on all matters within the terms of reference. (*Vide* letter No. D 320 I.S.C., dated March 9, 1928.) We have made a request for a reconsideration of the decision above referred to. This request has not been complied with.

INQUIRY IN CAMERA.

4. In this connection we should also like to refer to another important feature of the inquiry. We were officially informed that the inquiry that is now being held would not be public in the sense that the public would be admitted to its deliberations. Neither the memoranda of the Princes represented by Sir Leslie Scott and other counsel, nor the memoranda submitted directly to the Committee by other States, have been made public, and the Press have not been admitted to hear the evidence tendered on behalf of the Princes and the arguments adduced by their counsel. Two members of this deputation applied for permission to be present at the time of arguments of the counsel, and even this request was not complied with. We are not aware of the exact grounds on which it was decided by the Committee to hold its sittings *in Camera*. We believe, although we have no authentic information on the subject, that the Princes did not desire that the proceedings of the Committee should be held *in camera*, and the request for a private inquiry therefore, could not have proceeded from that quarter. The Government of India, with whose concurrence this Committee was appointed, is not likely to have made the suggestion that the deliberations of the Committee should be held behind closed doors, but we are not in a position to know at whose instance or at whose request the deviation from ordinary practice has been made. We need hardly point out that the report of any Committee whose deliberations are not held in the open is always looked upon with suspicion in any country, and much more so in India. The necessity or desirability of the appointment of this Committee was not discussed in the Central Legislature, and the Secretary of State for India and the Government of India have taken the full responsibility for the appointment of the Committee. The fact that the inquiry is not open to the public has still further accentuated the general suspicion prevailing as regards the purposes for which it is being made.

REFUSAL OF THE QUESTIONNAIRE

5. The Government of the States as at present functioning is, we venture to think, a valuable prerogative of the rulers of these States, whose business it is to see that their own powers and privileges are secure against the challenging agitation of their people for an effective voice in their administration. The manner in which this inquiry is being held has given rise to the belief that neither the Paramount Power nor the Princes desire to take the public into their confidence or at least, to let the people of the States, who are vitally affected by the results of this inquiry, know fully its nature or purpose. The procedure

adopted in the congregate inquiry relating to British India under the presidency of Sir John Simon and the open invitation which the Royal Commission have extended to all interests and classes to come and help them with an expression of their views; as contrasted with the procedure adopted by your Committee have produced a very unfavourable impression regarding the latter throughout the Indian States, and also in British India.

“ STATE ” INCLUDES THE PEOPLE

6. In submitting this memorandum we have, therefore, been considerably embarrassed by these two circumstances. Apart from these considerations, we might also mention that the questionnaire issued by the Committee to the States would have given us an opportunity of acquainting ourselves with the full scope of this inquiry. This has been, however, denied us, with the result that we are not in a position to make an effective representation to the Committee on all points raised by the Princes. The interests of the people of the States are of the minor feudatories are not, and cannot be, in some of the matters now under discussion, identical with those of the rulers. The fact that opportunity to supplement our case by oral representations in support of our memorandum has been denied us has, therefore, placed us at a very serious disadvantage. If such an opportunity had been afforded us, we should have been in a position to elucidate the points mentioned in this memorandum by such explanations as might have been desired by the members of the Committee. The Committee would thus have been in a better position to appreciate and understand our points of view. We regret that the procedure adopted has given room for the complaint that an unnecessary and invidious distinction has been drawn between the people of the States and the Princes in the matter of presenting their case to the Committee.

PEOPLE AFFECTED BY MODIFICATION OF THE PRESENT RELATIONS

7. Having made these preliminary observations, we shall now proceed to state our case arising on the terms of reference to your Committee. At the outset we venture to express the opinion that, without straining the meaning of any word or phrase and without deviating from the natural course of interpretation, it is possible for the Committee under the terms of reference to deal with all material issues concerning the progress and welfare of the people of the Indian States. Though we are not satisfied with the terms of reference, which might have been much wider in their scope, we submit that the Committee should not either expand them or restrict them by an unwarranted interpretation of the language. It has been suggested in the

Press and elsewhere that the people of the States have no *locus standi* in this inquiry. It is possible that, during the course of the inquiry similar representations may have been made to this Committee. In fact, at a very early stage of its proceedings, the Committee took the view that it was not empowered "to deal with the relations between the Indian States and their subjects." This view has since been modified, and the Committee has permitted us to express our views on all matters arising within their terms of reference. By the first terms of reference the Committee is required to report on the relations between the Paramount Power and the Indian States arising from treaties, engagements, Sanads usage, sufferance and other causes. It has been contended that the word "States" refers only to the rulers and not to the people of the States, and that this Committee can only hear the rulers in their own right or as representing the Government of their respective States. There is no justification for this restricted interpretation of the terms, and we desire to deal with this matter at once. The conception of a State as consisting only of the ruler for the time being is so opposed to all political theories that it is unnecessary to dilate at any length on the subject. The misunderstanding created in the States by the formulation of this view became so serious that His Highness the Maharajah of Bikaner found it necessary to repudiate this suggestion in to recent public pronouncements. Speaking in June and September last, he said "that the term 'State' includes not the ruler alone, but the ruler, his Government and his subjects, which are all component parts of and all go to comprise the State." According to him, "if the independence of a State goes the subjects of that State forthwith lose their integrity and individuality. If the State gains fiscally, it is not only the Prince, but the Government and the subjects of the State gain most. If the State loses in such matters, such loss is shared by the subjects with the Prince and the Government."

The people of the States are affected equally with, if not more vitally than, the Princes by the policies of the Government of India and the Paramount Power initiated without consultation and discussion with the States. The imposition of excise duties, the prohibition of the manufacture of opium, the restrictions on the exploitation of industrial resources and on the importation of arms, and the manufacture of salt by private individuals, the restrictive conditions in regard to the manufacture and sale of liquor; these and other matters vitally affect the interests of the people of the States. The views urged by the rulers of the States are not necessarily those of the people in all these matters, and sometimes are in conflict with them. If, therefore, the word 'State' in the first term of reference includes also the peoples of the States "as one of three component parts"

they are entitled as of right to a full hearing from this Committee on the matters within their terms of reference. The people are equally interested in the maintenance of such relations between the Paramount Power and the States as are justified or established by treaties and usage, and the integrity and independence of the States is as much their concern as that of the Princes. They are, therefore, vitally concerned in any change in these relations affecting the dignity and position of the States in the present polity of India. On this ground alone, apart from any others, we are entitled to place our views before the Committee and to be fully heard on all points raised by the Princes. We understand that the Princes now appearing before the Committee, through their counsel, contend that the relations between the Paramount Power and the States has adversely affected their position. We are not in a position, on account of the procedure adopted by the Committee, to express our views fully on the points raised by the Princes under this head. We contend that the present relations of the Paramount Power with the rulers of the States cannot be modified without the consent of the people.

RULERS AND THE PEOPLE.

8. As an instance of the serious consequences which would result by a modification of the existing position we should like to invite your attention to one or two points placed by the Princes before the Committee. It has been reported (the *London Times* of October 2, 1928) that Sir Leslie Scott, the counsel for the Princes, referred to cases where the Paramount Power has intervened between the Princes and his subjects, and apparently contended that this intervention should cease, hereafter, and that the action of the Paramount Power in this respect constitutes a grave violation of treaty rights. As the inquiry is being held *in camera* we are unable to deal satisfactorily with the instances to which he referred, or with the arguments advanced by him. Under the present conditions, if a subject of a State is put into prison without charge, trial, or judicial process of any kind, under the orders of the ruler, the Committee is aware that there is no legal way of getting him out. There is nothing like a writ of *Habeas corpus* for the production of the person detained before a duly constituted judicial tribunal or to compel the authorities detaining him to bring him to trial. Several instances of persons so detained in various States have been brought to light now and then. Their relatives have brought the relevant facts to the notice of the Government of India. Sometimes they have been released on account of diplomatic action taken by political agents under the orders of the Government of India.

Again, there are a number of cases where the property of private individuals has been confiscated under the orders of the

ruler, or held under attachmant for years. There is no remedy against the State, and sometimes the Jagirs and other properties of feudatories and others have been so attached and confiscated. The only remedy now available is an appeal to the Government of India, which has sometimes proved effective, and which in many cases has formed a subject of correspondence between the State and the Paramount Power. We can multiply instances where individual citizens have undergone great suffering and hardship through the unjustifiable and arbitrary acts of the rulers of the States. If as is now contended by the Princes, the Paramount Power should desist from taking any remedial action in these cases, the subjects of the States will be entirely at the mercy of the rulers. The principle that there is no wrong without a remedy has no application in most of the States. In these circumstances we venture to think that the modification of the existing relations between the Paramount Power and the Princes is not solely their concern, but also that of the people of the States who are very seriously affected thereby. On all these grounds we beg to urge that the people of the States should have the fullest possible opportunity not only of placing their views before this Committee or any other authority that may have to deal with this question, but also that they should have notice of any suggested modifications of the present relations between the Paramount Power and the States as established by treaties and the political practice of all these years, before the contemplated changes are effected.

GOOD GOVERNMENT AND TREATY RIGHTS

9. We now come to a most important aspect of this inquiry. The fundamental contention of the Princes is that the political practice superimposed upon their treaty rights has led to considerable encroachments on and frequent infringements of those rights. They look to the Paramount Power to implement the pledges, and the various rights secured to their States by treaties should be ensured to them and consistently respected. Judging from reports in the Press, they have led voluminous evidence, giving instances where the Paramount Power has encroached upon their position so as prejudicially to affect their interests. They have also referred to the initiation of large policies by the Government of India affecting the economic and financial position of their States. Your Committee has been asked to make recommendations that you may consider desirable or necessary for their more satisfactory adjustment. Apparently they wish to have the whole position reviewed with a view to a more satisfactory definition of their rights and privileges in relation to the Paramount Power. On behalf of the people of the States we are equally anxious to bring to the notice of your Committee that the Princes, under the very treaties on which they

rely, and by the constant development of political doctrine and usage, have undertaken definite obligations, the fulfilment of which is a condition precedent to the stability of their Government and the perpetuation of their dynasties. These definite obligations include the continued good government of the States by their rulers and the promotion of the happiness and welfare of their people. Some of the treaties contain express provisions to this effect. As an illustration we may mention that the treaty with Patiala State contains an undertaking by the then ruler that he will "omit no exertions to do justice and to promote the welfare and happiness of the ryots." Similar provisions are to be found in the treaties with Kolhapur, Patiala, Pratapgadh, Rampur, Kuch Behar, Jindh, Kapurthala, Nabha, Agaigarh, Bejavar, Bilaspur, Chamba, Charkari, Chatarpur, Farid Kote, Mandi.

We may also invite your attention to Article Nine of the Treaty with Travancore, that "the ruler would pay attention to any advice that he may receive from the Paramount Power in regard to the extension of commerce, the encouragement of trade, agriculture, and industry, or any other objects connected with the advancement of the happiness of the people and the welfare of the State." Several times in the history of the States the protection of the Paramount Power was extended to them for the maintenance of peace and the suppression of rebellion. The history of the Bikanir State, where, there was more than one revolt by the Thakurs against the misgovernment of the rulers, shows that they were suppressed with the help of the British Government. Apart from, and independent of, express treaty rights, the Paramount Power has also an inherent power to intervene in the affairs of the Indian States to prevent misrule. In this connection we beg to refer to Lord Reading's letter, dated March 27, 1926, to H. E. H. the Nizam. He states: "The right of the British Government to intervene in the internal affairs of the Indian States is another instance of the consequences necessarily involved in the supremacy of the British Crown. The varying degrees of internal sovereignty which the rulers enjoy are all subject to the exercise by the Paramount Power of this responsibility."

After this authoritative statement of the present position, it is needless to dilate further on the subject. Lord Curzon once observed that the rulers of the Indian States have no right to misgovern their subjects. Similar pronouncements to the same effect were made by other Viceroy's. In the Baroda case, Lord Northbrook expressed the opinion: "Misrule on the part of the Government, which is upheld by the British Power, is misrule, in the responsibility 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 gross abuses are removed." Lord Salisbury, in his despatch on the Geakwar case, observed, "Incorrigible misrule is of itself a sufficient disqualification for sovereign power. Her Majesty's Government have willingly accepted the opportunity of recognising in a conspicuous case the paramount obligation which lies upon them of protecting the people of India from oppression."

CHANGE OF RELATIONS AND CONSENT OF THE PEOPLE.

10. We have ventured to invite your attention to this fundamental position relating to the responsibility of the Princes for good government in their States, under the treaties as well as under the inherent rights possessed by the Paramount Power to ensure good government to the people of the States. This Committee has been asked to report upon the relationship between the Paramount Power and the "States" (which term, as has already been shown, includes the people of the States), arising from treaties, engagements, sanads, usage, and other causes. The Princes are now attempting to show to your Committee what the true relationship should be and how that relationship has been affected by the action of the Paramount Power. The people of the States are also entitled to show how the responsibilities, thrown on the Paramount Power by virtue of their position as such, as well as by the express terms of the treaties to secure good government to them, have been discharged in the past, and what steps should be taken in the future for the maintenance of good government, and the promotion of the moral and material welfare of the people. We submit that the Princes who complain of encroachments on the part of the Paramount Power upon the treaty position, have themselves failed adequately to discharge their own responsibilities to their people, definitely laid upon them by those very treaties on which they now rely, by usage and precedent that have grown around them, and also in virtue of their position as protected Princes under the suzerainty of the Paramount Power.

THE OLD-TIME REMEDIES FOR MISRULE AND MISGOVERNMENT

11. We must invite your attention to another aspect of the problem. In olden days, the usual remedy available to the people of any State to overthrow misrule and oppression on the part of the ruler was open rebellion. This is a recognised right in every country, both Asiatic and European. The observations of Viscount Bryce on this subject are very pertinent. He says: "A sovereign *de jure* has a *prima facie* claim to obedience which can be rebutted or discharged under certain events, and one of them is, if in a State where his powers are not limited by the constitution he has so abused his legal power as to

become in fact a tyrant, a foe to the objects of peace, security, and justice for which government exists. In such a case it would be now generally held that the citizen is absolved from allegiance, and that the sacred right of insurrection which the French revolutionists and their friend Jefferson so highly prized must come into play. In case where no constitutional remedy exists the formerly *de iure* ruler, since he has made himself a tyrant or ruler against law, has created a state of war between himself and the citizen, and opposition to him becomes a duty which is of stronger or weaker obligation according to the greater or lesser enormity of his offence, and the greater or lesser prospect of success in such opposition. (Bryce's *Studies in History and Jurisprudence*, Vol. II., p. 544).

This right of the people to rebel against the misrule of the ruler for the time being, and to bring about a change of Government by dethroning him and by taking other steps, has been definitely recognised as legitimate in the political history of India. Sir Thomas Munro observed on one occasion that the "usual remedy for bad government in India is a quiet revolution or foreign conquest. The presence of British troops cuts off every chance of remedy by supporting the Prince on the throne against every foreign and domestic enemy. It renders him indolent by teaching him to trust to strangers for his security and by showing him that he has nothing to fear from the hatred of his subjects." We may also refer to the dictum of Lord Salisbury in the Gaekwar case that "the British Government, which has deprived the sardars and ryots of the power of fighting themselves, would not be justified in using its supremacy to compel them to submit to a ruler whose incurable vices have been established by full experience."

A writer in the *Asiatic Quarterly Review* (Vol. X., 1895, page 209) made similar observations in regard to the remedies available in the olden days before advent of the British in India. In discussing the question as to how far the Paramount Power was justified in interfering with the internal administration of Indian States, he called pointed attention to this aspect of the case. He said, "It must always be borne in mind that since the introduction of the 'Pax Britannica', we have taken away from the people the only and time-honoured remedy of Oriental nations against a despotic and oppressive Government, *i. e.* revolt and assassination. We act as the police of India to keep the peace throughout the land, and this protection is of considerably greater benefit to the independent Princes than it is to the people under their sway. The result is that injustice is often committed and oppression is practised against which the people have no remedy; because while we prevent them from indulging in any outburst of indignation

we refuse to interfere in matters which concern the internal administration of an independent State."

The Paramount Power has taken away this right. The Princes feel that in a conflict between the rulers and the ruled the Paramount Power is certain to side with them on the alleged ground of the preservation of peace and order. This has resulted, in many cases, in the neglect by the Princes of their duty to their own people.

ABSENCE OF THE RULE OF LAW

12. Another most important matter is the absence of the Rule of Law in the States, barring a few exceptions. We need not dilate at any great length on the bundle of rights, privileges and obligations summed up under these compendious words. There is no liberty of person in the States, and if a person is put into prison there is no remedy by way of a writ of *Habeas Corpus* against the officers detaining the person concerned in prison. There is no security of property. The State in its corporate capacity cannot be sued in the municipal Courts in most of the States. A few months ago His Highness the Maharajah of Bikanir publicly stated that he had been considering the question of extending the principle of *Habeas Corpus* in the judicial administration of his State. As regards the rights of association and public meeting we should like to bring to the notice of the Committee that these rights have not been conceded to the people, and if any meetings are allowed they are held under very great restrictions. As an illustration we beg to invite the attention of the Committee to an order in the *State Gazette* of Nawanagar State in the following terms:—"All are hereby informed that no person, association or gathering should address a public meeting, in political matters, without the permission of the Political Secretary, which should be secured in advance. Further, no political meeting of any kind should be held. Those who would act otherwise would be legally proceeded against." (*State Gazette*, Volume 54, page 291, dated 16-2-21, H.O.O. No. 34.) The result is that public opinion, such as it is, is suppressed in most of the States and discontent is driven underground. It is a notorious fact that many of the conferences of the people are held outside the States on account of the restrictions placed on the holding of public meetings. There are very few newspapers in the States. The Press in all countries is one of the great instruments of good government. It does not now exist in most of the States, and where a few newspapers exist, the most stringent Press regulations have been enacted, with the result that criticism of the measures of Government in the Indian States is almost impos-

sible. British Indian newspapers criticising the administration of the States have often been proscribed and their distribution has been prohibited. The facts are so notorious that we do not wish to dilate further on the subject. We submit that there can be no good government in any State which perpetuates the denial of these fundamental rights to the people, and we beg to urge upon both the Paramount Power and the Princes that these rights should be publicly acknowledged in a Proclamation duly promulgated and secured by suitable guarantees. Even if these rights are conceded we submit that it is of the utmost importance that there should be legal machinery to enforce these rights whenever they are infringed by the ruler or by his officers. There is no such machinery now in existence capable of performing these duties without fear or favour. The constitution of an independent judiciary in the States is a fundamental reform without which the concession of the elementary rights of citizenship for which we are pressing will become a farce.

HAS THE PARAMOUNT POWER DISCHARGED ITS DUTIES TO THE PEOPLE OF THE STATES?

13. We submit that the question for the consideration of the Committee is whether the paramount Power has discharged its duty to the people of the States as arising from treaties, engagements and sanads, and usage, sufferance and other causes, and also apart from them. If it has failed in the past, how can this duty of securing good government, happiness and well-being of the people be better discharged in future? The responsibility of the Paramount Power in this respect has never been denied and has often times been publicly acknowledged both by the Paramount Power and the Princes. We also submit that the Committee is bound under the first term of reference to find out whether the obligations laid on the princes for providing good government to their people has been discharged by them. The people of the States submit that no inquiry into these two questions has ever been made, and that the Committee is bound to record a finding on these two important questions and also to suggest ways and means by which these responsibilities and obligations can be adequately fulfilled in future.

We may in this connection perhaps draw the attention of the Committee to a recent pronouncement made by the Maharajah of Patiala about the obligations of kingship. He said "that kingship is an office which has rights and obligations. There is thus a really Indian conception of responsible government which needs to be appreciated; the conception of a government in which every subject knows what his rights are.

since those rights are secured to him by custom and by religion; in which public opinion is the final sanction for every act of Government, and is able at any time to bring irresistible, because direct, pressure upon the administration.

We should have liked His Highness to have developed a little further his theme about this Indian conception of "Kingship and responsible Government," but whatever may be his own conception of this matter we are glad that His Highness fully recognises the responsibility of the administration of the States to their own people. The Indian Princes have been some of the strongest advocates of Home Rule for British India and have often pleaded for a new constitutional charter for India and for the establishment of Dominion self-government. We should like to refer to the brilliant speech of the Maharajah of Alwar at the Imperial Conference, in 1923. He said: "Are we going to progress steadily and progressively, yet too slowly, towards our goal which our sister nations have been more fortunate in already achieving, the goal of having the power to govern our country as a loyal and integral part of the Empire? Are we going to be helped affectionately and with kindly feeling to the goal which has been pronounced publicly by the British Government, and more than that we do not aspire to, of being a loyal and self-governing dominion within the Empire? Is everything going to be done to accelerate our progress or is our progress under various pretexts to be restricted and delayed? Have we a long number of years before us of the great furnace to pass through from which Ireland has only just emerged? The world was not built for academic or pious assurances spread over a number of years the fulfilment of which may well pass over a life-time."

The advocacy of self-governing institutions for British India and the continuance of unmitigated autocratic rule in their own States are not reconcilable courses of conduct.

The Princes must now give practical proof of the high sentiments and the most admirable aspirations to which they have often given expression at the various world gatherings. Indeed it would look as if they are prepared to do so. His Highness the Maharajah of Patiala informed an English audience on a recent occasion that "in those States where the subjects have desired to substitute for the present system the machinery of the West, the Princes have done so, but that in most States where this substitution has not yet taken place it is because the people of the States have shown no desire to change the system under which they live." This desire for a change of the system of Government prevailing in the States has been the subject of active discussion for a number of years in the various Confer-

ences of the people of the State, and His Highness could not have been unaware of the wishes of the people in this respect.

CONSTRUCTIVE PROPOSALS.

14. We submit that the Indian States People's Conference held in Bombay expressed this desire in unmistakable terms. The Conference urged upon the rulers of the States :—

(a) That representative institutions be established in the States on an elective basis in the sphere of local self-government and also for the purpose of legislation, taxation and control of general administration ;

(b) That the budgets of the States should be submitted to the votes of popular assemblies ;

(c) That the revenues of the States should be separated from the personal expenditure of the Princes and that the civil list should also be submitted to the vote of the popular assemblies ; and

(d) That there should be an independent judiciary, that the judicial functions be separated entirely from the executive in every State, and that the personal intervention of the Princes in the administration of justice should cease absolutely.

In putting forward these proposals we should not be understood as suggesting the exact reproduction of the British Indian models without reference to the differences in local conditions. But we contend that the principle of responsibility in the administration of the Indian States to a popular legislature should be definitely recognised. Popular control over the administration should be established in the clearest manner possible, consistently with the continuance of the monarchical order.

We also submit that the responsibility of the Paramount Power for the good government and well-being of the people of the States is not discharged by waiting for an accumulation of misrule of government to such a degree as to justify its interference. This method of securing good government for the people of the States inflicts most serious hardships upon the people for a number of years before action is taken. On these broad grounds we respectfully submit that there is a need for a new policy, and that the best way of discharging their responsibilities to the people of the State is to persuade the Indian Princes to recognise the principle of the responsibility of the administration to a legislature containing the elected representatives of the people.

A proclamation coming in the august name of His Imperial Majesty to the ruling Princes, commending the ideal of respon-

sible constitutional government, is the best means for securing the permanence of their thrones, the loyalty of their peoples, and the unhampered progress of their States, and is sure to prove a fruitful step in the fulfilment of the responsibility of the Paramount Power to the people of the States. The Committee would be quite within its bounds to suggest the issue of such a Royal Proclamation,

POWERS OF INTERVENTION

{ 15. This naturally brings us to the general question of the present powers of intervention possessed by the Paramount Power in the internal affairs of the States. The public announcement of the Marquis of Reading, contained in his letter to His Exalted Highness the Nizam of Hyderabad, summarises broadly the general principles upon which this power of intervention is now exercised. Except to this extent the principles upon which these powers of intervention are now exercised are not known either to the Princes or to the people of the States. In the opinion of the Indian States People's Conference, the present policy of intervention in the internal affairs of the India States is not based on any definite principles. Its indefiniteness its illimitability, its arbitrariness, have been the means of inflicting most serious hardships on both the people of the States and their rulers. This intervention has always been exercised upon sole authority of the Government of India and upon their own initiative. Such intervention has, in our opinion, never been exercised for the promotion and safeguarding of the rights of the people, and we submit that the principles on which such intervention is made should be clearly defined, codified, and published.

The Montagu-Chelmsford Report provides in paragraph 309 for the appointment of special commissions to advise the Viceroy in cases calling for drastic intervention. But such cases are comparatively rare.

The reconstruction of the relations between the Paramount Power and the States (the rulers and the people) will be successful only if the Committee should make plain this imperative necessity for some machinery to regulate interference in the internal affairs of the States, whether on behalf of popular interests or on behalf of Imperial interests. The Committee's first finding would, we submit, have to be that, *on both grounds*, interference may have to be necessary, and that the treaties and engagements contemplate and countenance such interference, but only in such cases and in no others. We submit further that in the exercise of this limited extent of interference a constitutional procedure should be fixed; otherwise there would be no guarantee against abuse of that right. Even though the fields

and the occasions of interference are defined, such definition will be of little avail unless there is a regular and commonly accepted agency to apply the definitions and see they are not transgressed. What is objected to is not the abstract right of interference, but the actual and arbitrary methods of the operation of that right. Just as the right of interference is constitutional, so should the instruments of that right and their procedure, too, be constitutional. How this constitutional agency for regulating the intervention of the Paramount Power should be established, and how its functioning should be ordered, are questions which require careful consideration. But the need for such an agency should be made plain beyond question, by the Committee. What is needed is neither a wholesale repudiation of the Paramount Power's right of interference, nor an unlimited character to its agents for interference at will, but a clear demarcation of a limited, defined, and strictly constitutional intervention. In proportion to the constitutionality and soundness of such intervention, the States will become less heavy a burden upon the Paramount Power.

THE NEED FOR CONSTITUTIONAL AGENCY

36, In concluding our observations on this part of the terms of reference we strongly condemn the present method of dealing with these questions by the agency of political officers under the control of the Political Department of the Government of India. We have no hesitation in recognising the good work of some of these officers, but we submit that the whole system is out of date and inappropriate. The present method of investigating a case requiring the intervention of the Paramount Power is altogether unsatisfactory. The inquiry is not open to the public and is undertaken behind closed doors. Neither the Princes nor the people have any opportunity of appearing and assisting in the conduct of the inquiry. In these circumstances the intervention is spasmodic and ill-regulated, and the justification for it not always apparent and seldom attempted. The result is that there has never been a case of intervention but has given rise to the suspicion that a ruler was deposed or made to abdicate or reprimanded, not really because he was oppressive to the people, but because he was not subservient enough to the British Government. The suspicion can never be dispelled, for the Government will never publicly assign any reasons for the action they have taken, and if they do will not make known all the attendant circumstances and publish evidence in support of their statements. And thus even in cases where, if all the facts were known, the justification of intervention would be complete, the

Government never receive the support of public opinion. It is therefore of the utmost importance that the policy of intervention should follow a settled course, and no action should be taken against any ruler until his misdeeds are brought home to him. For this purpose it is necessary that the present method of secretiveness should be definitely abandoned and that everything should be above board, the necessary records being made available to him. The ruler should of course have an opportunity of defending himself before a tribunal, whatever that be. We emphasise what perhaps the ruling Princes would like to relegate to the background, that the subjects of the States, in whose interest the action is avowedly taken, should have as full an opportunity of leading evidence against the Princes as the Princes have of defending themselves, and that therefore the records should be accessible to the people just as much as to the Princes.

We would suggest that the machinery for inquiry into alleged cases of misrule of the Princes and other cognate matter be modelled on the plan adopted by the League of Nations for ensuring that the terms of the mandates are not transgressed by the mandatory powers. Some modifications may be found necessary in this procedure, but broadly it appears to us to be suitable.

The essentials of the general superintendence which the League exercises over the administration of the mandated countries consist, as the Committee is no doubt aware, in the following: (1) The League calls for an annual report from every mandatory power, which is committed for critical examination to an expert body called the Mandates Commission, the majority of the members of which must belong to non-mandatory countries, and no member of which can be a servant of any Government, so that their impartiality may be ensured. (2) The Commission examines the report in the presence of a representative of the mandatory power, who is then subjected to a stiff cross-examination. (3) The Commission's report goes thereafter to the Council of the League for consideration along with such observations as the mandatory power may think fit to make. (4) The Council thereupon arrives at its own conclusions, which are debated in the Assembly in the presence of the representatives of all the Powers in the world. (5) The people in the mandated countries and even strangers have a right of petitioning the Commission, such petitions being forwarded by the mandatory powers with their own remarks to the Commission.

The British Government has, of course, behind its decisions, in regard to the States far stronger sanctions than the League has behind it, and yet, on account of the system of open discus-

sion which it has adopted, it is able to exercise a more restraining influence on the predatory instincts of the mandatory powers than the British Government has, or will ever be able to exercise on the autocracy of the Princes under the present system :—

The points to be noted in this connection are the following:—

(1) Certain essentials of good government ought to be laid down and no departure therefrom permitted. These essentials should be of the simplest character. These essentials would correspond to the stipulations of the mandates ensuring that the government of the backward peoples in the mandated countries shall not give rise to abuses and evils which have resulted in the past. (2) Every State should be required to submit a report on its administration to the Government of India, the report being drawn up with particular reference to the essentials of good government laid down. (3) The Government of India should neither pigeon-hole the report, nor proceed to take action, but refer it for detailed and partial examination to an expert body, connected neither with the Government of India nor with the States, but independent of both. (4) This body should discuss the report in the presence of the duly accredited representative of the State, who would offer any supplementary information that might be desired. (5) This body would also be in possession of the debates in the representative assembly of the State and all other relevant and useful material, and would question the representative on all this material and on any other question it may think fit. (6) The people of the State concerned and any others would have the right of laying their complaints against the State before the expert body through the State authorities, who would of course, be bound to forward them, with their own observations thereupon. (7) This tribunal, where necessary, may visit the State concerned and carry on an inquiry on the spot, and may have its own agents in the various States, as has been proposed for the Mandates Commission. (8) The relevant documents relating to the charges or alleged grievances should be made available to the authorities of the State and the people. (9) The Government should then take the report of the tribunal, into their consideration and decide on the action to be taken. (10) If the action is felt to violate, on the one hand, the rights of the Prince and, on the other, the obligations of the suzerain power, an appeal should lie to a specially constituted tribunal, and facilities for such appeal be assured to the people equally with the Prince concerned.

This procedure will be fair to all the three parties concerned, and will be to the advantages of all. But only two of them, viz. the British Government and Indian Princes, receive atten-

tion at present, and the third and most important of them, viz., the people belonging to the States, are entirely ignored. No solution, however, would be satisfactory or enduring unless the rights of the people to be heard in all these are matters definitely recognised.

THE THEORY OF DIRECT RELATIONS.

17. The last point to which we should like to refer has become the subject of acute controversy in India. We refer to the claim put forward on behalf of the Princes that the relations as established by treaties are with the Crown of England, and not with the Government of British India. This proposition has been put forward both by the Princes and their counsel Sir Leslie Scott. On the other hand, eminent lawyers in India like Sir Tej Bahadur Sapru, Pandit Moti Lal Nehru, Sir P. S. Siva Iyer, who are all considerable authorities on the constitutional law of India, have mentoined that this position is untenable, both historically and legally. We would respectfully invite the attention to the committee to Chapter 5 of the Report of All Parties Conference, where the whole subject has been discussed, and also to Sir P. S. Sivaswamy Iyer's book on Indian Constitutional Problems. If a decision on this question is to be taken by the Committee we are bound to express our own view on this subject. This is contained in a resolution of the Indian States People's Conference, held in Bombay, that "the plea put forward that the Indian Princes have treaty obligations to the British Crown wholly independent of the Government of India for the time being has no foundation whatever, and is detrimental to the attainment of Swarajya for India as a whole."

As pointed out by the Nehru Committee the plea put forward by the Princes suggests "that the past and present Governments of India, which have so far exercised the power, said to be delegated from the Crown, were, and are acceptable, to the Indian Princes and Indian States; but that the future Government of India, if it is to be of the dominion type, will not be so acceptable. This in plain English means that the past and present Governments of India were acceptable because they were essentially foreign in their composition and not responsible to the Indian electorate, and that the future responsible Government of India would not be acceptable to the Princes because it will consist of their own countrymen, and because it will be responsible to an electorate of their own countrymen."

Sir P. S. Sivaswamy Iyer also has dealt with this question at considerable length. We beg to invite attention particularly to his views on one aspect of this subject. He says: "The contention that the Sovereign of a country who enters into a treaty

does so in his personal capacity and not as the Sovereign of that country is too absurd to be maintained in the twentieth century. Supposing the people of England chose to set up a republic in place of the constitutional monarchy, it cannot be contended that the treaties with the monarch would cease to be enforceable. Or again, let us suppose that the Queen of England was a despotic Sovereign at the time of treaties and she subsequently granted a parliamentary constitution to her people. Could it be said that the treaties would become unenforceable because they were entered into with the Queen, or that she had no power to change the constitution of the country except at the risk of forfeiture of the benefits of the treaties? Could it be said again that the treaties of Indian Princes were entered into with the British Sovereign in his capacity as the Sovereign of the United Kingdom divorced from his sovereignty over his Indian territories? The matters governed by 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." Sir Tej Bahadur Sapru was at one time the Law Member of the Government of India, and occupies a high place in the public life of India. Sir P. S. Sivaswamy Iyer also holds many important position in the public life of India. He is a distinguished member of the Madras Bar, and was at one time the Advocate-General of Madras, and was subsequently appointed a Member of Council in the Government of Madras. The opinions expressed by these two eminent authorities on the constitutional aspect of the case is entitled to great weight. Apart from the legal aspect of the question, and viewing the matter also from a practical standpoint, we submit that the people of the States are as much entitled to access to the Paramount Power as the Princes in cases which such access is now permitted by usage and practice. If the theory of direct relations with the Crown as propounded by the Princes is accepted, it will be impossible for the people of the States to place their views before an authority six thousand miles away from India, and while this may be possible for the Princes the people of the States would be effectually prevented to seek the intervention of the Paramount Power whenever a case for such intervention arises.

FINANCIAL AND ECONOMIC RELATIONS.

18. We now wish to refer to the points that arise under the second and third terms of reference to the Committee. The Governments of States are naturally in a better position than ourselves to deal with this class of questions. The rulers of the

States are in charge of the administration of the States, and are, we believe, thoroughly conversant with all aspects of the problem. But for the procedure adopted by the Committee we should have been in full possession of all the facts on which the Princes are now relying in support of their case, and we should then have been in a position to place our views before your Committee on those points. That the people of the States have a vital interest in all the problems which arise under this head and have in some cases a view different from the Governments of the States does not admit of any argument.

Taking the most important of these questions, namely, the fiscal policy of the Government of India, we submit that the Indian Fiscal Commission dealt with the whole question of the tariff policy of India, and the discrimination to be exercised in the selection of industries for protection so as to make the inevitable burden on the community as light as is consistent with the due development of industries. This policy, as now accepted, has its inevitable reactions on the Indian States, and the incidence of taxation therein is equally affected thereby.

Without making any generalisations, we submit that the people of some of the States and their rulers may differ from each other in regard to the subject of Free Trade *versus* Protection, and we are not in a position just now to deal with any representations made to the Committee by the Indian Princes in this behalf.

Then again, the Government of India are now committed in order to fulfil their international obligations in the largest measure, to a policy of reducing progressively the export of opium from India so as to extinguish them altogether within a definite period, except as regards the export of opium for strictly medical purposes. Even in respect of this matter, there are points of view in which there is room for difference of opinion between the rulers and their subjects.

The currency policy of the Government of India, which has of late been the subject of acute controversy in British India, has equally affected the financial and economic interest of the States. It is also necessary to point out that certain all-India services, such as military defence, posts and telegrams, railway tariffs, the salt-tax—all these impose financial and economic burdens on the people of the States and also on their governments. In regard to these matters, which are of the most profound interest to the States as to British India, the States have no opportunity whatever of influencing action or policy at any stage. Where legislation is concerned, it is the Central Legislature of British India, which operates outside the States, that decides matters. And where administrative action is concerned, it is the Government of India (or its Departments), which is in no way amenable to the influence

of the States, that takes decisions. This is a constitutional anomaly which should not be allowed to continue. There are many other matters in the day to day administration of the States in their relation to British India in which the financial and economic interest of the States are in conflict with those of British India.

THE NEED FOR A THROUGH PUBLIC INQUIRY

19. We submit, therefore, that the Committee cannot have an adequate knowledge of all these matters unless a thorough public inquiry is made, with opportunities for all interest concerned to urge their views and to support these by evidence. We are at a loss to know how your Committee can make any recommendations for a more satisfactory adjustment of these financial and economical relations without undertaking a most exhaustive inquiry with the aid of financial and administrative experts. For the present we content ourselves by bringing to your notice the general features of this problem, and to emphasise the necessity of hearing not only the Princes but also their people in regard to the many points that arise for consideration in order to obtain a fair and equitable adjustment of the financial and economic relations between British India and the Indian States. It is our conviction, based upon a long review of the relations between British India and the States in these matters, that the States have been subjected to considerable financial and economic burdens in the past without any opportunity being afforded, either to the rulers or to the people of the States, of being heard. This position is not defensible. If, as a result of the labours of this Committee, the modification of the present financial and economic relations is brought about, we submit that provision should be made in the future relations for giving to the people of the States an effective voice in the formulation of all policies relating to these matters, either by the States acting individually or collectively in conjunction with the Government of India or acting by themselves. We submit that the States have a right to take part in all-India economic and financial legislation. It will not suffice that the States should receive a portion of the proceeds of such legislation. The right to a portion of these revenues is based upon the fact that the people of the States contribute materially to the proceeds, but we must make it perfectly clear that the people of the States, along with their rulers, are entitled to take part in the initiation of the economic and financial policy governing the whole of India, and to benefit fairly and equitably from its results.

INDIAN STATES AND BRITISH INDIA

20. The third term of reference raises, in our opinion, the whole question of machinery for the future adjustment of

differences between the Indian States and British India in regard to financial and economic matters. We believe that the Committee is not restricted in its choice of the machinery that it may recommend under this head, the language used is so wide that the whole question of the future constitutional relations of the Indian States with British India should now be brought under consideration. We are not aware of the exact position that the Princes have taken in this matter before your Committee, but we have noticed that they have actually, or intended to, put forward a scheme which was published in the Indian Press. We have also learnt from the Press in this country that the Princes are not now putting forward before your Committee any definite schemes providing the machinery for the future adjustment of financial and economic matters between the States and British India, but that they are contenting themselves with pointing out the difficulties under which they now labour. At the same time, statements have been made in the Press by some of the Princes and those associated with them that they advocate the creation of an organic and constitutional structure for the whole of India, including the States, in which the latter should have a legitimate place. We are generally in agreement with those views so far as they are known to us at present. We submit that the States and the British Indian authorities are already co-operating with each other constantly in matters relating to revenue and financial administration, and their co-operation in the administration of police and justice is a matter of daily occurrence. The range of matters in which the States and the British Indian Provinces are realising their mutual dependence is daily increasing, and their dealings with each other have already established, by precedent and usage, a loose kind of tie and certain rights and obligations, though they are not defined by statute or crystallised in a written constitution. In her relations with the outside world India is regarded as a single unit, and there is in her international relations no distinction between British India and the States. The disabilities suffered by Indians in the British Colonies and foreign lands extend to the subjects of the States as well as to those of British India. In these circumstances the exact position of the Indian States in an all-India policy is no longer a matter of speculation for constitutional theorists, but has already become a matter of immediate practical importance.

The Indian States People's Conference passed a resolution to the effect "that for a speedy attainment of Swarajya for India as a whole, the States should be brought into constitutional relations with British India, and that the people of the States should be assigned a definite place and an effective voice, in all matters of common concern, in any new constitution that may

be devised for the whole of India, " While the question of the future relations of British India and the States can only properly be solved in the manner suggested in the resolution referred to above, it seems to us impossible, from the procedure that has been adopted by this Committee, that such an important matter relating to the future constitution of India could be considered *in camera*. We do not also believe that the Committee, if it were empowered by the terms of the reference to frame such a Constitution, would proceed to do so without hearing the people of British India and the States. We do not, therefore, wish to trouble this Committee with a full expression of our views at this stage on this important problem. While we feel that any other method of adjustment of the relations between the States and British India will not give satisfaction, it is possible that the Committee and the Princes may have some proposals for the interim stages for securing a proper adjustment of the financial and economic relations between the two parties. As those proposals of the Princes have not been published we are not in a position to express our views thereon. We feel, however, bound to say that any concrete proposals to this end must be discussed not only with the governments of the States but also with the people thereof in constituent assemblies wherever they exist, and any representative bodies which may come into existence hereafter.

CONCLUSION

21. In conclusion we submit that our object in making these observations on the questions referred to your Committee is to secure fundamental changes in the present system of administration in the States as a whole. It is not our intention or desire to cast any reflections on any individual Prince or on their order, but we fully believe that personal rule as a system of Government must now be modified in the States by the introduction of the democratic principle. In our opinion, the consequences of delay in this respect will be most serious. His Highness the Chancellor has himself stated publicly that no Indian ruler can resist, or would dream of resisting, the public opinion of his people. We therefore have some hope that the changes for which we are contending have been accepted in principle, and their practical application without delay would remove considerable discontent and dissatisfaction that now prevails in the States.

The labours of this Committee offer a unique opportunity to initiate the uplift of a vast mass of people of the States from the condition of political submersion to the status of imperial citizenship. It can surely be no matter of credit to the paramountcy of Britain that, amid all the growing aspirations of their fellowcitizens in the other parts of India, the people of the

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States should have to rest satisfied with a dwarfed stature and a parochial outlook, or that they should continue to be prevented from aspiring to the standards of free and many-sided citizenship made accessible to their brethren in their neighbourhood.

We have the honour to be, Sirs,

Your obedient Servants,

(Signed) M. RAMACHANDRA RAO.

G. R. ABHYANKAR.

P. L. CHUDGAR.

National Liberal Club, London.

November 19, 1928.

ANNEXURE A

The following 70 States were represented in the Conference.

(1) Bhavnagar. (2) Gondal. (3) Rajkot. (4) Jamnagar. (5) Jaipur. (6) Cutch. (7) Baroda. (8) Kishangarh. (9) Muli. (10) Ratlam. (11) Bikanir. (12) Bharatpur. (13) Morvi. (14) Jetpur. (15) Limdi. (16) Balasinor. (17) Hyderabad. (18) Chuda. (19) Jamkhandi. (20) Mangrol. (21) Palitana. (22) Porbunder. (23) Radhanpur. (24) Khambat. (25) Dhrol. (26) Jesalmere. (27) Devgadh Baria. (28) Sangli. (29) Idar. (30) Janjira. (31) Dhrangadhara. (32) Lunavada. (33) Vansda. (34) Junagadh. (35) Lakhtar. (36) Rajpipla. (37) Indore. (38) Wadhwan. (39) Jodhpur. (40) Kapurthala. (41) Mysore. (42) Sayla. (43) Kotha. (44) Mansa. (45) Bagasara. (46) Loharu. (47) Bundi. (48) Nabha. (49) Savantwadi. (50) Udaipur. (51) Bhor. (52) Rampur. (53) Chamba. (54) Vadali. (55) Palanpur. (56) Danta. (57) Sirohi. (58) Gwalior. (59) Dewas (Senior). (60) Sardargadh. (61) Alwar. (62) Dewas (Junior). (63) Bhopal. (64) Kolhapur. (65) Ghodasar. (66) Vankaner. (67) Manavadar. (68) Javar. (69) Karauli. (70) Travancore.

ANNEXURE B

The report of the Indian States People's Conference, held in Bombay, in December, 1927.