



AS-003013

CSL

20

C.H. Ghosh

Nov. '04.



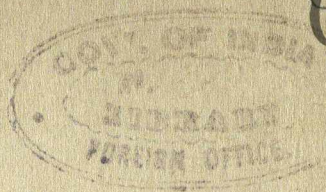
OUR INDIAN PROTECTORATE



CSL

PRINTED BY
SPOTTISWOODE AND CO., NEW-STREET SQUARE
LONDON





CSL

PRIVATE AND CONFIDENTIAL

OUR INDIAN PROTECTORATE

AN INTRODUCTION TO THE STUDY OF
THE RELATIONS BETWEEN THE BRITISH GOVERNMENT
AND ITS INDIAN FEUDATORIES

BY

CHARLES LEWIS TUPPER

INDIAN CIVIL SERVICE



LONDON
LONGMANS, GREEN, AND CO.
AND NEW YORK : 15 EAST 16th STREET
1892



CSL

341.7
T86 C

954.08
Tup M92 Q

~~54~~
954.08
TUP-0

6503



CSE

PREFACE

It is important for me to say that the following treatise possesses no official authority. The whole of it has been written during various periods of leave. No government, no officer of government, either asked me to write this book or suggested to me that I should write it. It is as a private individual, temporarily relieved from official duties, that I offer the opinions expressed in the text. In so doing I neither wish to commit, nor have I the slightest authority to commit, the government I serve.

The Indian Government allows its servants much freedom of discussion; but necessarily this privilege is enjoyed on the understanding that official confidence must be scrupulously respected, and that information obtained in the course of official duties or by means of an official position must not be used in such a way as to cause public inconvenience or embarrassment. Parts of this book deal with subjects of great delicacy; and throughout I have constantly had to face the anxious and difficult task of determining what portions of the information before me I might, without impropriety, include in a published work. My object has been, so far as in me lies, to further the cause of good government and to strengthen the hands of authorities whose good intentions none but the ignorant can doubt. I trust that the sincerity of this desire will have guided me aright in the choice of material.

The consideration of questions concerning an Indian feudatory state usually involves much historical detail.



The treaty or other engagement, if any, with the state must be read; and often the whole internal and external history of the particular state during a long course of years must be passed under review. In this work I have avoided all historical detail of this description. I do not attempt to recount in detail the actual relations between any one state or any one group of states and the British Government. But I have thought that an introduction to the detailed study of the actual relations in particular cases might be of use to those who, in India or England, may have to form opinions upon matters in which the Indian feudatory states are concerned.

The information necessary to the formation of just and accurate opinions upon these matters is scattered about in a number of books of history, in some special works relating to India, and in a vast quantity of official documents, of which few are accessible to the public. It has been my endeavour to bring together in a compendious way the essential portions of this information.

The first six chapters of this work were written and privately printed in 1887. I have now revised them and added a few pages to the first and second chapters.

The first chapter, which distinguishes between international law and Indian political law—defined as ‘the rules and principles governing the relations which now exist between the British Government and the Indian feudatory states’—is of an introductory character. I am largely indebted here to an unpublished note on ‘The Native States of India,’ written by Sir Charles Aitchison in 1873. Without his advice, encouragement, and help this work could not have been attempted. I must also acknowledge my obligations to two volumes of ‘Lists of British Enactments in Force in Native States,’ compiled by Mr. J. M. Macpherson, Deputy Secretary to the Government of India in the Legislative Department.

Chapters II. and III. give a brief sketch of the political history of the growth of the protectorate.



In chapters IV., V., and VI. I turn from the history of events to the history of ideas, and show from our own proceedings the origin and character of the present policy towards native states. I see that in the chapter on the annexation of Oudh I use many of the quotations inserted by Sir William Hunter in his lately published little book on Lord Dalhousie in the 'Rulers of India' series. The coincidence is accidental as my quotations were all selected and privately printed in 1887. After reading Sir William Hunter's book I have slightly modified one or two passages to make it more clear than I had made it before that Lord Dalhousie did not leave the doctrine of lapse quite as he found it.

I believe the existing system of relations with native states to be thoroughly sound, thoroughly beneficial, and capable of much useful development. But I do not expect that belief to be generally shared unless it can be shown that the system has other foundations besides the political history of the growth of British power and the proceedings of the British Government. The other foundations are discussed in chapters VII. to XV. inclusive.

In five chapters on Indian ideas of sovereignty and Indian institutions and feudalism I trace the intimate connection between the existing system and the past of India before British rule. If this portion of the work runs into too much detail for general readers, my excuse is that I hope a good deal of the information collected may be of use to those who are engaged in studying the history of institutions. I could not have attempted these chapters without the help derived from Mr. Freeman's 'Comparative Politics,' some essays in Sir Alfred Lyall's 'Asiatic Studies,' and the books and minutes of Sir Henry Maine. In this part of the work I owe a great deal to the official writings of Sir James Lyall, who is the brother of Sir Alfred Lyall, and was lately Lieutenant-Governor of the Punjab, and my own immediate official superior. I also owe much to the Gonda Settlement Report of Mr. Benett. Some of the remarks and illustrations have



been anticipated in papers read by me before the Society of Arts and the Institutions section of the International Folklore Congress.

I ought also to mention that the information given in chapter VII. on the subject of the *Khán Khel*—a leading section in certain Pathán tribes from which the chief of the tribe is always chosen—has not before been collected, and is now published for the first time. I am indebted for it to the officers of the Pesháwar division—Mr. Udny, Mr. A. F. D. Cunningham, C.I.E., Mr. W. R. H. Merk, C.S.I., Major H. P. P. Leigh, C.I.E., and Capt. E. Inglis. The statements made in the text in regard to the *Khán Khel* are taken mainly from the papers by Mr. Cunningham and Mr. Merk.

History is no sufficient justification of a policy which is not justifiable on moral grounds. There is the strongest moral justification of the existing system in the character of the governments of our predecessors in India and the persistence, at the present day, of some tendencies making for misrule. This is explained and illustrated in four chapters on native rule. In chapter XV. and in other parts of the work I have received great help from an unpublished volume of 'Leading Cases,' compiled some years ago by Sir Mortimer Durand, now Foreign Secretary of the Indian Government.

A short chapter on the limits of British interposition is then introduced to show on what principles tendencies making for misrule may be met and corrected; and a description is given of some advantages of native rule, which, notwithstanding certain imperfections, it is an object of the whole system to uphold and perpetuate.

I then return to the rules and principles of Indian political law, mentioned in the first chapter, and explain some of them in fuller detail in chapters XVIII. and XIX. on the 'Constitutional Position of Native States' and 'Some Obligations of Native Rulers.'

In framing chapter XVIII. I have largely used an unpublished edition of the 'Indian Constitutional Statutes.'



compiled by Mr. C. P. Ilbert, C.S.I., when Law Member of the Council of the Governor-General. I beg here to thank Mr. Ilbert for much help and advice.

Chapter XIX. covers part of the ground of an unpublished 'Elementary Treatise on some Principles applied to the Conduct of Political Relations with Native States,' written by Mr. W. Lee-Warner, C.S.I., of the Bombay Civil Service, in 1886. I have borrowed a few facts from Mr. Lee-Warner which I could not obtain elsewhere. But generally the coincidences between his treatise and this part of mine are due to both of us having sought the same sources of information.

In chapter XX. on 'India and Imperial Federation' I indulge in some speculations as to the future, for which my apology is that they may perhaps possess a rather wider interest than the rest of the book. I have delivered a part of this chapter as an address at a meeting of the London Chamber of Commerce and the City Branch of the Imperial Federation League.

Having now completed my book, I must confess that the work has been more arduous and more difficult than I anticipated. Much has been left unsaid. I merely offer a general sketch of a large subject which I do not profess to exhaust. Many passages which on reconsideration appeared disputable or injudicious have been erased. It has been my sincere desire to avoid controversies and to leave unwritten any words that might wound feelings or give offence. At the same time I have done my best to produce on all points a really true impression and to offer on some important questions the best advice that has occurred to me after a good deal of labour and thought.

C. L. TUPPER.

HARROW-ON-THE-HILL,
March 4th, 1892.



CONTENTS

CHAPTER I

INTERNATIONAL LAW AND THE INDIAN PROTECTORATE

	PAGE
The work limited to the Indian protectorate—Characteristics of international law—The relation of the feudatory states with the British Government are regulated by Indian political law, not by international law—Relation of the law of nations to Indian political law—Sources of Indian political law—Its accepted principles—Position of a feudatory chief—The division of sovereignty and immunity from foreign law—Sir Henry Maine on the divisibility of sovereignty and the distinction between sovereignty and independence	1

CHAPTER II

THE EARLY GROWTH OF THE PROTECTORATE

Conversion of frontier into internal protectorates—Growth of the Indian protectorate little affected by certain wars—Early administrators had no distinct theory of public law in India, but subscribed to the fiction of the supremacy of Delhi—Decline of the Moghal empire and oriental methods of the servants of the company—The support of pageant princes—Lord Cornwallis attempts to establish a balance of power—Condition of India in 1798—The theory of British supremacy supplants the theory of a balance of power—Reasons why the law of nations cannot be applied in India explained by General Wellesley, afterwards Duke of Wellington—The British Government refuses to assume the political position of the Delhi emperors—Use of subsidiary alliances as an instrument of Lord Wellesley's policy—Connection between Lord Wellesley's annexations and his political system—Political influence has advanced side by side with extension of dominion—Present general extent and character of the Indian protectorate	19
---	----

CHAPTER III

THE LATER GROWTH OF THE PROTECTORATE

Extension of the protectorate to certain minor states—Political condition of India in 1813—Political results of Lord Hastings' administration—Views of Sir Charles Metcalfe—The policy of non-intervention and its results—Gwálor affairs and the war of 1843—Summary—Comparatively recent origin of Indian political law	47
---	----



CHAPTER IV

THE ANNEXATION OF OUDH

PAGE

Reasons for discussing the subject—Oudh was annexed for misrule—The state of the country before annexation—Reflections suggested by the former condition of Oudh—Discussions upon that condition show Indian political law in the making—Opinions of Mr. Dorin, Sir J. P. Grant, General Low, Sir Barnes Peacock, and Lord Dalhousie—Unsettled state of Indian political law at the time—Dangers to which it is exposed when its history and principles are inaccessible—Lord Wellesley contemplated active interposition in the affairs of Oudh—Views of Mr. H. C. Irwin . 62

CHAPTER V

THE DOCTRINE OF LAPSE AND THE ADOPTION 'SANADS'

The doctrine of lapse threatened the extinction of the states of the protectorate—It was applied in good faith—Lapses in the Bombay Presidency and the Punjab—No lapses in Rájputána—Cases of Sattára—Karauli—Tehri—Jhánsi—Nágpur—The arguments from expediency in the case of the annexation of Nagpur would not now be applicable in similar cases—Causes of the mutiny and rebellion in 1857—Loyalty of the feudatory chiefs—Their misgivings—Means taken to reassure them—The Amnesty Proclamation of 1858—The story of the adoption *sanads*—Consequences of Lord Canning's policy 83

CHAPTER VI

PRESENT POLICY TOWARDS NATIVE STATES

Illustrations of the adherence of the Government to the policy inaugurated in 1858—The deposition of the Gaekwar of Baroda and the re-establishment of a native government in the state—The rendition of Mysore—The Delhi assemblage of 1877 and the assumption by her Majesty of the title of Queen-Empress—Her Majesty now stands in the place of the Delhi emperors 114

CHAPTER VII

EARLY INDIAN IDEAS OF SOVEREIGNTY

In conceptions of sovereignty we are the heirs of the Moghals, and they were the heirs of the Hindu rajas—Summary of ideas of sovereignty—Tribal chiefship amongst Baluchis and Patháns—The Nawábs of Teri and Amb—The typical Hindu raja is the rightful recipient of a share of the produce of the soil—The typical Hindu raja of the Punjab Hills—The status of the rajas in the Gonda district of Oudh—The form of sovereignty in Rájputána described by Sir Alfred Lyall stands midway between tribal chiefship and territorial chiefship—No symptoms in India of the change from the absolute monarch to the constitutional king . 128



CHAPTER VIII

SOVEREIGNTY IN THE INDIAN PENINSULA

	PAGE
Summary of indications from the history of the Deccan and Southern India—The empire of Vijayanagar—The <i>poligars</i> —The Bahmani kingdom of the Deccan—Its disruption—Causes of the persistence of despotism in India—Ancient tenures on the west coast—Rise and character of the principality of Coorg—Ancient tenures on the east coast—The legend of Tondeimandalam—The states of the Central Provinces—Difficulty of discriminating between British and foreign territory—Marhatta institutions—Rise and policy of Sivaji—The Marhatta ministers—The Marhatta system—Origin of Marhatta territorial despotisms	153

CHAPTER IX

THE SOVEREIGNTY OF THE MOGHALS

The Delhi emperors and Muhammadan law—Official rank not hereditary—The provinces in the time of Akbar—Character of the administration—Meanings of the term <i>zamindār</i> —The <i>zamindars</i> of the empire—The Bengal <i>zamindars</i> —One theory of the origin of the office of <i>zamindār</i> —Hindu elements in the Delhi empire— <i>Zamindars</i> were employed to exercise certain rights of the king—The actual position of the emperors—Similarity of type in the institutions of the Moghals—Brief general view of the Moghal empire compared with our own	185
--	-----

CHAPTER X

INDIAN INSTITUTIONS AND FEUDALISM

The principle that underlies feudalism may be universal—Phases of thought regarding feudalism in India—The growth of history—Description of feudalism by Bishop Stubbs—Roman, ecclesiastical, and legal influences absent in the nascent feudalism of India—Value of the Indian evidence—Points upon which India supplies analogies—Indian analogies to elements of feudalism in the interior structure of the manor or fief— <i>Vand</i> or <i>jeola</i> tenure of Kángra and Kulu—Other elements of feudalism in the Kángra and Kulu Hills	200
--	-----

CHAPTER XI

FEUDAL TENDENCIES IN INDIA

Benefices about to be compared with <i>jágirs</i> and <i>zamindáris</i> —Marhatta <i>jágirs</i> — <i>Jágirs</i> in the Deccan—Bengal <i>jágirs</i> —No <i>comitatus</i> in India—Break up of the Moghal and Karolingian empires—Lord Clive's <i>jágir</i> . <i>Jágirs</i> and <i>zamindáris</i> compared—Their resemblance to benefices—Commendation and Roman law—Early history of commendation—No	
---	--



commendation in India, but many arrangements based on a similar principle—Settlers amongst Patháns on the North-West Frontier—*Desha caval* fees in the Carnatic—*Rekwalí* in Rájputána—Sikh *jágrs* resembling fiefs or benefices—Manorial character of Hill principalities—Extra cesses in the Hills—*Droits seigneuriaux*—The great Bengal *zamindáris*—The Gonda *rāj* connects the Hill principality, the Bengal *zamindári*, and the French fief—*Zamindárs* and *talukdárs* in Oudh—Subinfeudations—Summary of feudal tendencies in India—The distinction between progressive and stationary societies—Isolation of the French fiefs—Feudal elements in our Indian protectorate and in the process of its formation 213

CHAPTER XII

NATIVE RULE UNDER THE MARHATTAS

Reasons for describing the condition of India under native rule—Circumstances which facilitate the task—Mountstuart Elphinstone's report on the territories conquered from the Peshwa—Revenue management—Police—Means of dispensing justice—In criminal cases—In civil cases—*Pancháyats*—*Takáza*—Patronage—Presents—Ordeals—Deterioration under the last of the Peshwas—Testimony of the late Mr. W. G. Pedder 241

CHAPTER XIII

NATIVE RULE IN THE PUNJAB

British conquest followed the line of least resistance—Rise of the Sikhs—The government of Ranjít Singh—Condition of the Karnál district—Of the Cis-Sutlej states—Of the North-West Frontier and the Salt Range—Of the central districts of the Punjab—Of the country governed by Dewán Sáwan Mal—Anecdotes of Avitabile—Rájput rule in the Punjab Hills—Comparison of the governments of Ranjít Singh and the Marhattas 255

CHAPTER XIV

NATIVE RULE UNDER MUHAMMADAN AND OTHER GOVERNMENTS

Condition of Oudh districts annexed in 1801—Sir John Shore's description of Muhammadan rule—Reasons why the character of a native government depends on the personal qualifications of the chief—The *wulsa* of Southern India—The Khetráns of Mat—In primitive times no history, but many typical events—Supposed advice of an Indian Machiavelli—Cruelty and superstition in Europe—Superstition of Ranjít Singh—Cruelties of Haidar Ali—Cruelties of Tippoo—*Sati*—Evidence of barbarous practices contained in the old regulations—Summary of causes of misrule in the India of our predecessors 272



CONTENTS

XV

CHAPTER XV

NATIVE RULE UNDER THE PROTECTORATE

	PAGE
Difficulty of stating the case—Instances of barbarous practices or punishments—Instances of a <i>kurh</i> —Of <i>samdāh</i> —Of penalties for kine-killing—Of superstition—Of mutilation—Condition of parts of Central India in 1867—A corrupt and disorganised state—Another misgoverned state—A colony of thugs—Depredations by gangs of robbers—Many states are well administered	211

CHAPTER XVI

THE LIMITS OF BRITISH INTERPOSITION

Tendencies to misrule due to inherited character—Reasons for reluctance to interfere—Duty of suppressing disorders which threaten the general peace of the country—Duty of interference when rebellion would be morally justifiable—The government cannot become the instrument of oppression—Mere absence of improvement not a case for remonstrance—Interference in particular cases—Good government the best safeguard against interference	301
--	-----

CHAPTER XVII

SOME ADVANTAGES OF NATIVE RULE

Popularity of native governments—Value of show and ceremony—Intelligibility of measures of government—High birth—Religious neutrality—British theories—Persons and systems—Advantage of permanence of the official staff in native states—Departmentalism—Loan of services of British officials to native states—Partiality—Our political theory—Principles of the land revenue administration—Relation of some of our legal principles to native ideas—Advantage of the exemption of native states from our legislation—Danger of taking results of our national experience to be principles universally applicable—Local option in native states—Posts and telegraphs—Public works—Investments of capital by native states and in native states	308
---	-----

CHAPTER XVIII

THE CONSTITUTIONAL POSITION OF NATIVE STATES

Meaning of constitutional government—Of constitutional law—The British Empire a constitutional empire—The states subordinate to the Government of India, and the Government of India to Parliament—Eastern and Western elements in Indian government—Connection between certain forms of government and certain stages of political growth—Movement of modern societies from feudalism to federalism—Important consequences of the divisibility of sovereignty—Branches of Indian constitutional law—Constitutional ties extending to India—Legislative	
---	--



supremacy of the viceroy and his council—Political combinations due to self-preservation—Stages in Indian constitutional history resembling feudalism, absolutism, and federalism—Internal structure of Indian governments—Official organisation of the protectorate—Geographical classification of native states—States under local governments—Duties of political officers—Points for the orders of the Government of India—British India and Canada—The supremacy of parliament—Double allegiance—Summary of conclusions 332

CHAPTER XIX

SOME OBLIGATIONS OF NATIVE RULERS

Grant or recognition of titles—Ceremonies—Precedence—Salutes—Coinage—Means of facilitating the administration of civil justice—Criminal justice—Trial of European British subjects—Extradition—Court of *wakils* in Rájputána—Interjurisdictional cases in Western Málwa—Rules relating to the imperial post—Obligations relating to military affairs—To fiscal affairs—Cession of lands and jurisdiction for railways—Summary 357

CHAPTER XX

INDIA AND IMPERIAL FEDERATION

Questions as to the ultimate aims of Indian Government and true direction of present tendencies—Double system of the Indian Empire—Meaning of imperial federation—Lord Salisbury's reply to the Imperial Federation League—India is already represented in the supreme councils of the empire, and bears the cost of Indian wars and services—Representative assemblies controlling the action of the supreme government not required in India—Independence of India impossible—Interest of India in imperial federation—Maintenance of the Indian Empire necessary in our own interest and in the interest of Indian populations—The Indian *Kriegsverein*—Can the principle of it be extended to the colonies?—The distinctive characteristic of Indian society is not nationality but caste—Meaning of nationality—No nationalities in India at present—India cannot be made into one nation—The case of the Roman Empire suggests that many nations may arise in India in course of time—The same inference drawn from the composition of Indian society and the distribution of provinces—Meaning of India for the Indians—Danger of over-centralisation and advantages of decentralisation—No formal proposals made 377



OUR INDIAN PROTECTORATE

CHAPTER I

INTERNATIONAL LAW AND THE INDIAN PROTECTORATE

IN the 'Nineteenth Century' for August 1891 there is an admirable article by Sir Alfred Lyall on 'Frontiers and Protectorates' which enables me to define with sufficient precision the scope of the present treatise. As Sir Alfred Lyall observes, the English Crown has established many protectorates of different kinds; but any British protectorate, to whatever class it may belong, affirms the right of excluding a rival influence and the duty of defence. For present purposes I would fully accept this description. A protectorate must include both the right and the duty. If there is a mere exclusion of rival influence, a protectorate may be impending but is not yet completely formed; and there is no protection without the acceptance of the duty of defence. But this right and this duty are, I think, the least that a protectorate includes. It may, and often does, include very much more; so much more that nearly the whole of the sovereignty of the protected state, tribe, or territory may become vested in the protecting power. If the whole of the sovereignty has been absorbed, there is no longer a protectorate; the state, tribe, or territory is in this case annexed, and the country has been incorporated in the dominions of the paramount power. In the Indian empire an illustration is afforded of this process by the annexation of Oudh.

From this treatise I exclude the consideration of all the protectorates except one. There are many African protectorates, British and others. There are Asiatic protectorates of the English Crown outside the limits of India and its frontiers, such as the protectorate about Aden, over



Socotra, and over a great part of the south and east coast of Arabia. There are the Indian frontier protectorates far beyond the range of our administrative jurisdiction, extending, as Sir Alfred Lyall says, from the Oxus on the north-west to the Cambodia on the south-east, touching the Russian sphere of influence on the one side and nearly touching the French sphere of influence on the other. These protectorates include Afghanistan and Baluchistan and a fringe of states on the confines of Upper Burma. On none of these protectorates do I offer any remark. The time has not come to attempt any general view of the frontier protectorates; nor would it be possible to discuss them even slightly without alluding to questions of external foreign policy on which it would be altogether inappropriate for me to say a word.

I confine myself to our Indian protectorate as distinguished from the Indian frontier protectorates. By our Indian protectorate I mean the protectorate, now long established and fairly well defined, over the very numerous internal states of India. These states may be generally described as autonomous states, enjoying various degrees of sovereignty, levying their own taxes, administering their own laws, and possessing territory which is, for purposes of internal administration, foreign territory, and has not been annexed to the dominions of the British Crown. It is because the principles of this protectorate appear to be fairly well defined that I have thought I might usefully attempt to state, and explain them.

The first point which requires discussion is the relation of international law to the body of rules and principles which form the substitute for it in the Indian protectorate.

International law consists of the rules which govern the mutual intercourse of independent political communities. Whether these communities be called states or nations, they cannot be the subjects of international law unless they possess certain attributes. They must be assumed to be equal amongst themselves; they must have equal rights of legation and of making peace and war; and they must, each and all of them, be exempt from the effective and habitual control of any political superior.

The Roman emperors pretended to universal dominion over the civilised world; and the pretension, outlasting the empire in which it originated, was implied, perhaps, in the 'headship of the world' assumed by Charlemagne when he



was crowned emperor at Rome in the first year of the ninth century, and more certainly survived throughout Catholic Europe in the political and ecclesiastical claims of the papacy. The Roman empire, as a political institution, finally faded from the political scene only in the early years of the present century. Before the Emperor Francis II. had resigned the imperial crown in 1806, the liberties of the whole of Europe had been threatened, in the falsely adjured name of freedom, by the attempted supremacy of the first Napoleon. European international law, so far as it is adequately supported by the strength of the great powers, is the bulwark of the West against political dictation by one power over others or the rest. It is the guarantee of the political rights of bodies politic; it offers to nations those opportunities of self-development and commercial intercourse which, in municipal affairs, are afforded to individuals by wise civil laws and institutions; and, as regulating the mutual relations of communities, it forms the modern substitute for the old-world theory of universal dominion, to which, indeed, it is the direct antithesis. The theoretical equality of nations, taking the place of theoretical subjection to some common superior, is an essential part of international law; and the development of that law belongs to the same period of general history as the growth of constitutional government. The system is later by nearly half a century than the first charter granted to the East India Company; and it does not precede by much more than a century the actual beginnings of British dominion in the East Indies. It may be said to date from the Peace of Westphalia, which closed the Thirty Years' War in 1648, the year before King Charles I. was executed.

Edmund Burke, in his speech on the impeachment of Warren Hastings, claimed that the law of nations should be regarded as the law of India as well as of Europe, 'because it is the law of reason and the law of nature, drawn from the pure sources of morality, of public good, and of natural equity, and recognised and digested into order by the labours of learned men.'

There was, no doubt, a time in the history of British India, a time considerably later than the beginning of that history, when the principles of international law were applied in dealings with other Indian powers, then, in point of fact, the rivals of the East India Company in the general scramble for dominion, which ensued upon the destruction of the Moghal empire. Lord Cornwallis endeavoured without

success to establish a balance of power in the Deccan. Lord Wellesley elaborately justified his intention of making war on Tippoo Sultan of Mysore by arguments which might have been used by a European chancellor resenting warlike preparations, deliberate threats, and overt hostile alliances by a neighbouring European power. International law, probably with some modifications to adapt it to the peculiar conditions of Asia, is still the rule of conduct in the relations of the British Government with independent Asiatic countries beyond the continent of India, such as Siam, Kashgar, and Persia. But within the frontiers of India the law of nations does not determine the respective rights and duties either of the British Government and the continental native states, or of those states amongst themselves. These native states of the continent of India are the feudatory states, of which the British Government is the suzerain. How far the language of feudalism is appropriate to the case will appear in a later chapter; the terms 'feudatory' and 'suzerain' are sanctioned, at all events, by Indian usage, and have the great merit of convenience, especially if their use be carefully disengaged from any suggestion of unreal analogies. In more modern phraseology, Dr. Travers Twiss has sketched the position with approximate accuracy ('The Law of Nations,' p. 27). 'The native states of India,' he says, 'are instances of protected dependent states, maintaining the most varied relations with the British Government under compacts with the East India Company. All these states acknowledge the supremacy of the British Government, and some of them admit its right to interfere so far in their internal affairs that the East India Company has become virtually sovereign over them. None of these states, however, hold any political intercourse with one another, or with foreign powers.' The relations are, no doubt, extremely varied; but they are governed even more by usage than by compact, and the power of intervention in internal affairs, very variously exercised by the British Government, does not rest upon any virtual sovereignty in particular cases, but upon the fact that the sovereignty is, it must be granted in very different proportions, shared in every case without any exception whatsoever.

International jurisprudence clearly distinguishes the internal relations of states subsisting between governments and their subjects from the external relations of states with each other in the great community of the world. Municipal law deals with the former, which can be modified in any



particular state without the consent of any other; the latter are dealt with by international law, which in great measure derives its validity from the consent of nations embodied in diplomatic documents or implied in practice and custom. Where there are no external relations there can be no international law, and the feudatory states have no relations of this description, except with the British Government. They have no rights of legation to any other government; they are unable to make peace or war; their political subordination to the British Government is unquestioned. They cannot therefore be subjects of international law; and, so far as that law regards independent states as able and justified in the last resort to appeal to war for the assertion of rights which are other than those of mere comity, it is inapplicable to a political system which regards the levy of war as a criminal offence, punishable even by judicial tribunals. Independent political communities cannot be subjected to punishment in the strict sense of the term; they cannot be legally liable for an offence to a penalty imposed by a political superior. But feudatory states, or their rulers, can be, and are, punished when occasion requires by fine, by the deprivation of salutes and other honours, by sequestration for a time, by the diminution of judicial authority, and, in extreme cases, by the deposition, or even execution, of the ruler and the annexation and incorporation of the state in the territories directly administered by British officers. When Muhammad Bahádur Shah, the titular King of Delhi, surrendered on a promise that his life would be spared, he was tried, in January 1858, as a rebel and a traitor. The third count in the indictment against him was, 'that he, being a subject of the British Government in India and not regarding the duty of his allegiance, did, at Delhi, on May 11, 1857, or thereabouts, as a false traitor against the state, proclaim and declare himself the reigning king and sovereign of India, and did then and there traitorously seize and take unlawful possession of the city of Delhi; and did, moreover, at various times between May 10 and October 1, 1857, as such false traitor aforesaid, treasonably conspire, consult, and agree with Mirza Moghal, his own son, and with Muhammad Bakht Khan, *subadár* of the Regiment of Artillery, and divers other false traitors unknown, to raise, levy, and make insurrection, rebellion, and war against the state; and further, to fulfil and perfect his treasonable design of overthrowing and destroying the British Government in India,

OUR INDIAN PROTECTORATE

did assemble armed forces at Delhi, and send them forth to fight and wage war against the said British Government.' That the offence with which the King of Delhi was charged was described as waging war was due, of course, to the scale upon which it was committed; but it was none the less a breach of allegiance. The Nawábs of Jhajjar, Ballabgarh, and Farakhnagar were condemned and executed for complicity in the rebellion, and their states were confiscated. The Nawáb of Farakhabad was tried on a like charge, and sentenced to death and forfeiture of property, and only escaped execution because of a doubt whether he had not surrendered on a promise that his life would be spared. The Indian Penal Code provides for the punishment of the offence of waging war against the Queen as for any other violation of law which can come under the cognizance of the ordinary tribunals; and, moreover, testifies to the duty of protection on the part of the suzerain by assigning penalties for waging war against any Asiatic power in alliance or at peace with the Queen, committing depredations on the territories of any power so at peace, and receiving property taken in wars or depredations of this character.

The fact is, that for the adjustment of the relations of the continental states of India a new system has grown up, very different from any which was possible in the days of Edmund Burke, but, it is believed, quite as much in accord with the principles of reason and morality as the Western system, which determines the relations of European independent states and other like states of the civilised world. To the rules and principles which constitute the new system I shall, throughout this treatise, give the name of Indian political law. That expression, though occasionally used in official documents, has not yet acquired any general currency. It is therefore open to all the objections of novelty. I am aware that the expression may not be regarded as a particularly happy one; for the word 'political' is used in the technical sense in which it is commonly used in India, but not elsewhere. In India we have long meant by political business, business connected with the native states; and by political officers, officers charged with that business. If there were diplomatic relations between independent states in India and the British Government, the political officers would be diplomatists, and their business would be diplomacy. There are no independent states within the protectorate; so the relations between the states and the paramount power are not



diplomatic but political. I adhere to the expression Indian political law, mainly because it appears to me less objectionable than any other with which I am acquainted for the description of the same thing. Such a phrase as Indian international law is misleading. Indian states are not nations; and any compendious name for the Indian substitute for international law should mark the fact that the relations between the British Government and its Indian feudatories are governed by another law, and not by international law as generally understood. The term 'interstatal law' is more cumbrous and, perhaps, even more objectionable on substantive grounds. It would, I suppose, literally mean the law applicable to the relations of the Indian states one with another; but it is of the essence of the whole system that they have no such relations. As already said, they have no foreign relations except with the paramount power; and if the law regulating the only set of foreign relations which they have is described as interstatal law, that seems to put the paramount power on a level with the states and to count it as one state amongst the number, which is quite contrary to the fact. Possibly the expression 'interstatal law,' if used at all, might be used to denote certain rules for extradition, and for the disposal of cases in which more than one state or the subjects of more than one state are concerned. But the states themselves cannot frame such rules by diplomatic discussion and agreement. They must proceed through the intervention of the paramount power; and any such rules must be founded on agreements separately made with the British Government by each state concerned, or must be authoritatively prescribed by the British Government itself. Accordingly, by interstatal law I should mean only a part, and a small part, of Indian political law. For all these reasons I use the expression Indian political law to denote the rules and principles governing the relations which now exist between the British Government and the Indian feudatory states.

It does not follow from anything I have said, that within the sphere of Indian political law international law has absolutely no application. In internal relations the feudatory states enjoy in different degrees a large measure of autonomy, of which the most characteristic mark is immunity, not in all cases an absolute immunity, but in the great majority of cases a substantially complete immunity, from foreign law. The states exercise distinct jurisdictions; they are internally governed by different

authorities, each possessing its own municipal law, and they are permanently united in the bonds of peace. Differences are therefore settled by peaceful means, and war and embargo and reprisals, the legal means of redress akin to war, are not, as in international law, the ultimate sanction of just observances. Thus we have, on the one hand, to sweep away as irrelevant the large mass of international law which is concerned with the rights and duties of belligerents and neutrals, and similar rights and duties arising out of actual or prospective war; while, on the other hand, there remains a body of usage and argument, largely concerned with matters of comity, derived from the peaceful intercourse of nations, and adjusted to the decision of those questions which naturally arise from the severance of laws, jurisdictions, and internal politics. Some part of this residuum falls away, not from any effect of principle, but as a mere consequence of political geography: with a few exceptions on the western and southern coasts, the feudatory states have no seaboard; and none of them are, properly speaking, maritime states. Hence maritime questions have but a small place in Indian political law. But, as between the suzerain and the feudatories, there are in India, as in Europe, legations, negotiations, treaties, and other agreements. The position of Residents and political agents, though it does not exactly resemble, is analogous to that of ambassadors and other public officers representing states; boundary disputes have occasionally to be determined; there is ex-territorial jurisdiction, and there are usual demands on both sides for the extradition of persons accused of offences. In these and similar matters the determining rule must be sought primarily in Indian law or usage or agreement; but if that law is silent or does not apply, and if precedents fail and compacts do not meet the case, or if it is desired to support upon broader grounds a decision which might be established from these materials, it is a perfectly legitimate process of Indian policy to turn to international law for the purpose of ascertaining how far rules elicited and formulated by Western experience may be usefully applied to solve an Indian difficulty. If in any question between itself and a native government the British Government appeals to international law, the other party has no ground of complaint, because the nature of the appeal at once places it for the purposes of the particular case in a higher and better position than it is politically entitled to claim. No native state can quote the



principles of international law against the British Government, because to do so would be to assert the position of equality, which all those principles presuppose. But the British Government may, if it pleases to do so in a particular case, argue out a difference of opinion with a native state on a footing of assumed equality; and whatever else the British Government may be entitled to claim from its feudatories, they can never pretend to owe it less than would, on the principles of international law, be conceded by one independent European state to another. Subject to these limitations, international law stands to Indian political law very much in the relation of the Roman law to the law of nations. It does not of its own force bind either party; an immense deal of it has necessarily no application to the case: it has originated under totally different circumstances, and been developed with a view to totally different ends; but in some questions it may often be found an important and useful guide, because the matter of it, over a somewhat narrow field, either actually coincides or without far-fetched analogy may be made to coincide with the matter of Indian political law, and because its rules, though belonging to a different civilisation, are often supported by reasonings applicable to all civilised societies and by the experience and assent of the Western civilised world.

I shall by-and-by endeavour to show that the Indian political system is intimately connected with the past, not merely of British India or of the British Government in India, but of the Indian continent in times preceding British rule. I am here considering Indian political law merely as so much positive law—as the law which, as a matter of fact, now obtains, and which has to support it the sanctions which can be exercised by a supreme political authority. It is not open to the objection sometimes raised against international law, that it is in fact no law, because nations have no common superior capable of enforcing the supposed precepts. The superior is there, and the precepts can be enforced without difficulty. But if in this respect Indian political law has a more definite shape than international law, it is much more indefinite in the matter of expression.

Some of the sources of political law are, indeed, open to any one who brings industry and perseverance to the prosecution of research. A great deal of matter is to be found in the published despatches of the Indian Government, in various Parliamentary blue-books, and in the well-known

histories of India. The great work of reference is the collection of treaties, engagements, and *sanads* by Sir Charles Aitchison. Amongst other works bearing on the subject may be mentioned Malcolm's 'Central India' and 'Political History'; Sutherland's 'Sketches of the Relations subsisting between the British Government of India and the different Native States' (Calcutta, 1833); and Prinsep's 'History of the Political and Military Transactions in India during the Administration of the Marquess of Hastings' (London, 1825). Political law has occasionally taken the form of statute law, as in the case of some of the old Regulations, of certain provisions in the Penal Code and the Codes of Civil and Criminal Procedure, and of the Indian Extradition Act, 1879; and I must not omit to mention that questions involving issues of political law have sometimes, though rarely, been decided by the Indian High Courts and the Judicial Committee of the Privy Council. But the source of this law, which has supreme importance, is without doubt usage—the actual practice of the Indian Government itself in its dealings with its feudatories. This usage is ascertainable partly from some matters of history and notoriety, but mainly from the records of the Government and a variety of minutes and notes and compilations of a confidential character prepared by competent authorities in the course of their official duties. The records and documents of this description are not, of course, open to the public; but it is well-known in Indian official circles, and may, without objection, be mentioned here, that the rapid and systematic development of Indian political law during the last thirty years is largely due to the labours in the Indian Foreign Office of Sir Charles Aitchison himself, Sir Mortimer Durand, the present Foreign Secretary, and Colonel Sir West Ridgeway, sometime at the head of the Afghan Boundary Commission; and in the Indian Legislative Department, to the exertions of Sir Dennis Fitzpatrick, now Lieutenant-Governor of the Punjab, and of successive Law Members of Council, Sir Henry Maine, Sir J. Fitzjames Stephen, Lord Hobhouse, Mr. Whitley Stokes, and Mr. C. P. Ilbert.

In speaking of the systematic character of Indian political law, I mean that there are certain broad principles, now acknowledged on all sides, from which deductions may be safely drawn in particular cases; and that in a great number of leading cases deductions have been drawn from these principles, or the principles themselves have been



directly applied, or decisions have been arrived at in harmony with the principles and adding to the available list of intelligible and useful precedents. The objects, for example, of the political system are distinctly perceived. Thus, while the great end of international law is the preservation in undiminished vigour and independence of the political communities subject to it and by reason of whose assent and course of action it exists, the great ends of Indian political law are the maintenance of the supremacy of the paramount power, whose guardianship is the security for the peace of the whole Indian continent, the preservation of the autonomy of the feudatory states, and the assurance to the diversified populations of those states that they shall enjoy freedom from gross misrule. And the acknowledged principles directed to the attainment of these ends are fairly numerous. Thus the feudatory states have no power of confederacy; their territories can only be increased through the British Government, which has the right to regulate their armaments; the invasion of one state by the forces of another would be a breach of allegiance; the states are bound to act in subordinate co-operation with the British Government and to acknowledge its supremacy. On the other hand, the British Government is bound to protect and defend them from all external enemies; and it follows (to borrow the language of Sir Charles Aitchison)—‘first, that the British Government not only may do, but is bound to do, everything really necessary for the common defence and the defence of native states; second, that the native states are bound to permit everything to be done that the British Government determines to be necessary for the efficient discharge of that duty; third, that they are bound to abstain from every course of action that may be declared dangerous to the common safety or the safety of other states; fourth, to co-operate with the British Government to their utmost means.’ In the correspondence relating to Manipur which has been laid before Parliament, the Government of India has declared that it is their right and duty to uphold native chiefs recognised by them, except in cases of gross misrule, and to punish unlawful revolt against their authority. Political officers also are instructed generally to use their influence to maintain the existing order of things in native states, and civil war in a native state would in no case be permitted to continue. The dismemberment of native states by will, partition, or inheritance is not al-

lowed; and it is the desire of the British Government to perpetuate native governments in accordance with their laws and customs relating to the succession to chiefships. The sovereignty of the chiefs being limited in various degrees, what are the actual limitations in any particular case is a question of fact; but no chief has a right to misgovern his territory. Minute and frequent interference is prohibited; for it would obviously destroy the responsibility of the chief and the autonomy of his government. As a rule, isolated cases of alleged injustice or contumacy are disregarded; but barbarous practices are not tolerated, and a course of oppression would shortly meet with some appropriate remedy.

It will perhaps make the position clearer if I show how these principles would affect an individual ruler. For obvious reasons, I will take no actual case, but rather attempt to sketch a type to which the majority of cases approximate; and I will suppose that the chief is an important one, not of the numerous class in whose territories a great part of the criminal jurisdiction is exercised by officers of the British Government. Such a chief would have the power of life and death over his subjects; and though there is no such thing in native states as legislation, as we understand it, he could promulgate laws or ordinances at his pleasure, and would in all probability be found to have adopted the most important Anglo-Indian codes with some slight modifications; the whole patronage and administration of the state would be regulated by his wishes; and, generally, on his internal sovereignty there would be few limitations other than those general limitations directed against misgovernment which apply to every state in India. In addition to the universal duties of allegiance and subordination, he might be bound to keep troops ready to serve with the British Army when required. He might or might not have to pay tribute. His state would have to pay a fine on any succession which was not in the direct line. The privilege of adopting a successor on failure of heirs would be recognised by imperial grant or *sanad*. The raja, as I may call the supposed chief, would not have the right of building new fortresses or strongholds, or repairing the defences of existing fortresses or strongholds, except with the previous permission of the British Government. He would give, free of all charge, lands required for main roads of communication, railways, telegraphs, and British cantonments; and in these cantonments and on rail-



ways constituting parts of a through line of communication he would leave all jurisdiction to be exercised by British authorities. In employing a military force for the maintenance of internal order and his personal dignity, or for any other purposes, he would not exceed the strength which might be fixed from time to time by the Governor-General in Council. He would abstain from entertaining in his service (except upon permission) any person other than a native of India. He would not interfere with the affairs of any other state or power, and would have no communication with any other state or power, except through the medium of the British Government. He would, on demand duly made, cause to be arrested and surrendered to the proper officers of the British Government any person within his territories accused of having committed an offence in British India. Plenary jurisdiction over European British subjects in his territories would be vested in the Governor-General in Council; and in respect of these persons the raja would exercise only such jurisdiction as might be delegated to him by that authority.

The connection of most of these rights and obligations with the general principles already mentioned is, in most instances, sufficiently obvious: in some cases I shall hereafter offer explanations of that connection. Questions of military service, tribute, and adoption would usually be settled by treaty or other written engagement; but every other item of duty in the list just given could, I think, be enforced as a rule of political law, or, to put the same thing another way, as a part of general political usage, whether the obligation had been accepted or declared in any written instrument or not.

Perhaps the most striking feature which the Indian protectorate presents to the student of politics is the remarkable illustration which it affords of the divisibility of sovereignty. It has been said that the indivisibility of sovereignty belongs to Austin's system; but Austin himself was constrained by facts which would not easily square with his definitions to admit that sovereignty might be divided. 'A political society,' he says (vol. i. p. 187), 'which is not independent is a member or constituent parcel of a political society which is. Or (changing the expression) the powers or rights of subordinate political superiors are merely emanations of sovereignty. They are merely particles of sovereignty committed by sovereigns to subjects.' And further on (*ibid.*



p. 211), when he came to discuss semi-sovereign states, he contended that every government 'deemed imperfectly supreme' is either entirely subject to another government, or entirely independent, or jointly sovereign with the other government, and therefore a 'constituent member of a government supreme and independent.' It needs no discussion to show that this strained language is quite inapplicable to the Indian states of the protectorate. 'Particles of sovereignty' are not committed by the paramount power to its feudatories; on the contrary, one of the chief marks of Indian sovereignty is the exercise of certain powers of government without the delegation of any authority to exercise them under any British enactment. And it would be almost ludicrous to argue that any ruling chief is a constituent member of the supreme government of the British empire. Nor, if we take the description of a sovereign government quoted, with some approval, by Sir Henry Maine from the late Mr. Mountague Bernard, do we find a definition which fits the Indian facts. 'By a sovereign government,' said Mr. Bernard, 'we mean a government, however constituted, which exercises the power of making and enforcing law within a community and is not itself subject to any superior government.' All the Indian states are subject to a superior government; and of their powers of internal sovereignty, that of taking revenue is certainly more conspicuous than that of making laws. The immunity which they enjoy from foreign or British laws is, as I have said, not quite absolute; and that is a point requiring some explanation.

In the first place, by a succession of Acts of Parliament, the Legislative Council of the Governor-General has been empowered to make laws for servants of the British Government and European British subjects in native states, and for native Indian subjects of her Majesty wherever they may be. Articles of War may also be made for her Majesty's Indian Army, wheresoever serving; and laws may be made for all persons employed or serving in or belonging to her Majesty's Indian Marine Service whose vessels are within the limits of Indian waters as defined by statute. Apart from the requirements of the army and navy which have been met, these powers have been exercised mainly under the heads of criminal law, Christian marriage and the divorce of Christians, succession to private property, railways, the post office, telegraphs, and income tax. By far the most



important provisions are those of the criminal law, which will be discussed in another chapter. The immunity from foreign law is not, of course, infringed by these enactments. Every independent state can make laws binding on its own subjects wherever they may be. But the jurisdiction exercised under these enactments has some resemblance to the British consular jurisdiction in the East generally; though in India, so far as the jurisdiction is exercised by British officials, the sovereignty is really shared between the British and the native governments.

In the second place, British laws made by the Governor-General in Council in his executive capacity—not by the Indian Legislative Council—may be in force in parts of native states. This may occur when the jurisdiction has been ceded by the native government, as in the case of lands occupied by railways on through lines of communication. Another class of cases in which this state of things exists might be described by saying that we have adopted in India the doctrine of extraterritoriality. We hold that, within the limits of British political residencies and of British cantonments situated in native states, the laws of British India may be applied by the act of the Governor-General in Council without any cession of jurisdiction by the native government. They are so applied habitually in the case of British cantonments; and we may, if we please, justify an arrangement of obvious necessity by borrowing from international law the doctrine that there is a continuation or prolongation of the territory to which the military body belongs. Such an argument might silence but would hardly satisfy a native durbar; and it seems safest and best to advance the actual ground as the ostensible one, and to claim the right of administering our own laws with respect to our own armies in our own way, as a part of the prerogative of the paramount power charged with the military organisation and defence of the empire.

Thirdly, British laws may be brought into force in native state territory by the chief himself, or by an officer of the British Government acting on behalf of the chief in consequence of his minority or other disability. Some of the Punjab states, for instance, have adopted the Indian Penal Code and the Codes of Criminal and Civil Procedure, doubtless with some modification. The states of Pudukottai, Sandur, Cochin, and Travancore, under the government of Madras, either follow certain British enactments as laws of the state or have

made regulations after the fashion of British laws and for the most part based upon them. In all this, of course, there is no exception to the usual rule of immunity from foreign law because the law, though it happens to coincide with foreign law, is in fact the home-made copy edited by the chief of the state or some officer acting in his behalf.

There are thus two conspicuous exceptions to the usual rule : first, when the legislature passes certain laws of personal application, and these laws are administered by British officials within the limits of the native state ; and, secondly, when the Governor-General in Council in his executive capacity makes laws of territorial application. In the second case, it has happened occasionally that the Governor-General in Council has had to supply a complete body of law for a great extent of native territory for very prolonged periods ; and where this is the case it seems a very unnecessary refinement to put forward a theory of delegated power or jurisdiction ; more especially as in at least one very conspicuous instance the British Government was so far from acting with the consent of the raja that it had set him aside for misgoverning his state. For half a century British laws were applied in Mysore by the authority of the Executive Government ; and the laws so introduced were maintained in force as one of the conditions of the restoration of the state to native rule. In the assigned districts of Berar, which are held by the British Government in trust for the payment of the troops of the Hyderabad Contingent and certain other charges, the surplus revenues being paid over to the Nizam, British laws have been and still continue to be brought into force as orders of the Governor-General in Council. In this case, and sometimes also in the case of laws introduced in British cantonments in native states, language is used implying that a law is extended to the foreign territory ; but this language, though sufficiently expressive for popular use, is technically wrong. The local extent of the British law remains unaltered ; it could be altered only by legislation. The Governor-General in Council in his executive capacity makes for foreign territory under British administration a law which may be an exact copy of a British law, but is more commonly a copy with certain unimportant modifications designed to suit it to the locality.

It will be understood that I do not attempt to exhaust, but merely to illustrate the circumstances under which British laws may come to be in force in native states. As



16 regards other limitations on internal sovereignty, the variations are extremely numerous, and range from almost complete autonomy to the merely nominal preservation of the last remnants of sovereignty. Not to discuss the position of such states as Hyderabad, Sindhia's and Holkar's dominions, Baroda, and Kashmír, the Phúlkián rulers in the Punjab—the chiefs, that is, of Patiala, Jhínd, and Nabha—have powers of life and death in their territories, and the British Government has undertaken by written agreement to entertain no complaints from their subjects. In such an empire as India, where the paramount power is practically responsible for misrule supported by its authority, autonomy could no further go; indeed, the concession to the Phúlkián states must be understood to be limited by the general rule, established by practice throughout the empire, that gross misgovernment will not be allowed. At the other end of the scale we have petty chiefs, if such they can be called, in Káthiawár, who are not permitted to exercise any civil jurisdiction, and whose powers in criminal cases are limited to passing sentences of fifteen days' rigorous imprisonment and twenty-five rupees fine. Between these extremes we have numerous gradations. The commonest case is that of a chief who may pass every sort of sentence, such as might be passed in British territory, except a capital one, but whose capital sentences require the confirmation of some British officer, usually a Lieutenant-Governor or Chief Commissioner, but sometimes a commissioner of division. In some very petty states the chief has powers no greater than those of our district officers or of magistrates subordinate to such officers.

Wherever the criminal jurisdiction of any state is not completely vested in the chief and his officers, so much of it as does not belong to him and them is termed the residuary jurisdiction, and is vested in the British Government. Such jurisdiction is exercised by servants of the British Government in general conformity with British laws; and to the extent of the application of these laws in this manner the immunity of the state from foreign criminal law is necessarily impaired. This partition of criminal jurisdiction stands by no means alone as an illustration of the division of sovereignty, but it is the most conspicuous and clearest illustration of that division; and it is with an eye to criminal jurisdiction that we can most readily perceive how true it is that in any given case the actual distribution of the attributes

of sovereignty between the paramount power and its feudatories is a question of fact.

The remarks made throughout this chapter have implied the doctrine of the divisibility of sovereignty and the distinction, which follows upon that doctrine, between sovereignty and independence. In later pages I shall have more to say on the divisibility of sovereignty; in this introductory chapter I may quote an undoubted authority alike for the doctrine and for the distinction which is its corollary. In a minute on the Káthiawár states, dated March 22, 1864, Sir Henry Maine writes: 'Sovereignty is a term which in international law indicates a well-ascertained assemblage of separate powers and privileges. The rights which form part of the aggregate are specifically named by the publicists, who distinguish them as the right to make war and peace, the right to administer civil and criminal justice, the right to legislate, and so forth. A sovereign who possesses the whole of this aggregate of rights is called an *independent* sovereign, but there is not, nor has there ever been, anything in international law to prevent some of those rights being lodged with one possessor and some with another. Sovereignty has always been regarded as divisible. . . . It may perhaps be worth observing that, according to the more precise language of modern publicists, "sovereignty" is divisible, but "independence" is not. Although the expression "partial independence" may be popularly used, it is technically incorrect. Accordingly, there may be found in India every shade and variety of sovereignty, but there is only one independent sovereign, the British Government. My reason for offering a remark which may perhaps appear pedantic is that the Indian Government seems to me to have occasionally exposed itself to misconstruction by admitting or denying the independence of particular states, when in fact it meant to speak of their sovereignty.'

It was a privilege of the great genius of Sir Henry Maine to light up vast spaces of remote and obscure subjects by the electric radiance of luminous ideas. Again and again, as though by a turn of the hand, he brought together facts or conceptions seemingly of opposite poles; and from the unexpected contact has often streamed a bright, far-reaching and lasting illumination, guiding the humbler researches of his contemporaries or followers. The words I have quoted from his Káthiawár minute connect some principles of European international law with the paramount



position of the Indian Government. The course of a modern nation amid archaic societies and states of a type no longer seen in Western Europe may often be dark or dubious. But the theory of the divisibility of sovereignty, not indeed invented but applied by Sir Henry Maine, stands out, as it were, on an eminence crowning the whole expanse before us, and, like a glowing core of light, immensely facilitates a straight and safe voyage over the wide and confused sea of Indian politics.

24



CHAPTER II

THE EARLY GROWTH OF THE PROTECTORATE

IN the article which I quoted at the beginning of the last chapter Sir Alfred Lyall points to one of the tendencies which have combined to form the Indian protectorate. In India we have habitually interposed a zone of protected country between our own virtual or actual possessions and the territories of possible enemies. Eventually we have often overleapt this zone, and the frontier protectorate has been converted into an internal protectorate, the protected states coming to be surrounded by British territory. Sir Alfred Lyall instances Oudh, which came to be surrounded by British districts in 1801 and continued to be a protected state till its annexation in 1856, the Rájput states in Central India, and the feudatory states on the Sutlej. These instances are sound and may be slightly amplified, and others may be given. In 1765 the dominions of the defeated and prostrate Wazir of Oudh were, with certain exceptions, restored to him because it was considered expedient that they should be preserved as a barrier against the Marhattas. When the French force of the Nizam of the Deccan, organised by the then lately deceased M. Raymond, was disbanded by the armed diplomacy of Lord Wellesley in 1798, the dominions of the Nizam became a protected state interposed between the possessions of the Marhatta powers and territories of which the East India Company was in one part the virtual and in another part the actual sovereign. By a long series of events—by cession of territory in payment for a subsidiary force, by conquest from the Marhattas, by the lapse of Nágpur—the dominions of the Nizam have been encircled by British districts. When the Peshwa ceded territory in Bundelkhand in 1803 the British Government retained a part in its own possession; and the chiefs who held the rest were maintained in their territorial rights so that their country might be a kind of barricade against the inroads



then meditated by Holkar. In the same year Lord Wellesley, when giving instructions to Lord Lake in anticipation of the outbreak of the Marhatta war, informed him that it was not his intention to extend the actual possessions of the Company beyond the line of the Jumna, including Agra and Delhi, with a continued chain of forts to the west and south of the Jumna from the mountains of Kumaun to Bundelkhand, sufficient to secure to the British power the free navigation of the Jumna and the possession of both banks of that river. Within this line it was his intention to establish the system of the Company's government in all its branches, whilst he meant to regulate connections formed beyond that line on the principle of defensive alliance or tributary dependence in such manner as to form between the actual possessions of the Marhattas and the Company a barrier of petty states exercising their internal government in alliance with the Company and under the protection of its power. A little later on, in 1805 and 1806, when Lord Cornwallis in his second brief tenure of office and his successor, Sir George Barlow, were reversing the policy of Lord Wellesley, Lord Lake at their bidding formed a belt of petty chieftaincies on the further side of the Jumna, not indeed as protected states, for the object was to abstain from interference west of the Jumna, but still as 'buffer-states' between ourselves and the possessions of Sindhia in Hindustan. In 1809 the formation of the Cis-Sutlej protectorate stemmed the aggressive incursions of the Sikh Maharaja, Ranjít Singh. The object of the treaties made in 1817 and 1818 with the Rájput chiefs of Rájputána was the establishment of a barrier against the predatory system of the Pindáris and against the extension of the power of Sindhia and Holkar beyond the limits which the Government designed to impose. The enormous sweep of British conquest which took in successively Sindh, the Jullundur Doáb, and the rest of the Punjab in 1843, 1846, and 1849, closed in on the west and north around Central India and Rájputána taken together and the Cis-Sutlej chiefships the big ring of British dominion which had already arisen or was then arising on all other sides. Actual conquest thus alternated with the extension of preponderating influence in making the protectorate what it is.

But the conversion of frontier protectorates into internal protectorates was only one of a long series of complicated historical causes which have jointly brought about the existing position. To explain these causes in full detail

would be to repeat a great part of the political history of India for the last hundred and thirty years, and some part of the history of India which preceded the rise of the British power. It would be necessary to show how and why it was that the East India Company became a political power in the course of the wars with the French in the Carnatic, and a great territorial power as a consequence of the virtual conquest of Bengal; and how and why it was that the British Government, already a great territorial power—for the supreme political authority of the Company had then passed to the Board of Control—became the paramount power by the wars and negotiations of Lord Wellesley, by the policy interrupted by his immediate successors, but carried to completion by Lord Hastings. I say a great part of the political history of more than a century, because there are some wars and conquests in which the Indian Government has been engaged which have no bearing on its position as a paramount power in respect to its feudatories. For the purpose of explaining the origin and development of the Indian protectorate, we might, in great measure, leave out of account the wars with Nepal and Burma and Afghanistan. Important as these wars were in extending the empire, the events which gave rise to them belong to a different order; they were connected with the external politics of British India, and with the right of every independent political authority to preserve its territories inviolate from foreign interference or aggression; they formed little part of the succession of occurrences which have given shape and consistency to the internal organisation of the empire in regard to the relations of the governing body with the Indian maharajas, rajas, and nawábs. Perhaps the only result of these wars which it would be necessary to notice would be the inclusion within the protectorate of a number of Hill states delivered by ourselves from the overlordship of Nepal.

But I entertain no such ambitious aim as the production of a new political history of India written with the object of explaining the growth of the protectorate. I shall merely venture to offer some observations which, I hope, may be found suggestive and not unsound, so far as they go; and I may be able to indicate without any undue trespass on time or attention that the first cardinal principle of the whole system—the maintenance of the supremacy of the paramount power—originates in the policy of Lord Wellesley and Lord Hastings; that the second cardinal principle, the preserva-



tion of the autonomy of the feudatory states, was clearly expressed in the proceedings which followed the mutiny during the viceroyalty of Lord Canning, and has since been very emphatically affirmed by acts and proclamations of the Government; and that the third cardinal principle, the denial of any 'right divine to govern wrong,' has been established by the course taken by the Government on many occasions, and notably in the annexation of Oudh and the trial and deposition of the Gaekwar of Baroda.

Just as it is the object of European international law to preserve the peace of Europe, so the peace of the Indian continent is now actually maintained by the effectual enforcement of the theory of the supremacy of the paramount power. But if we look back to the second half of the last century, when the dissolution of the Moghal empire left political authority to be the booty of predatory violence, there was, in fact, no law of territorial possession though there were many territorial powers. The theoretically acknowledged suzerainty of the Delhi emperors was habitually set at defiance by usurpation and rebellion, and the limits of states and of the internal authority of rulers was no more than could for the time being be defended or asserted at the sword's point. It would be a mistake to suppose that the soldiers and administrators, who laid in those days the foundations of the British Indian empire by exploits in the field and treaties with native potentates, entertained any distinctly conceived theory of public law as regulating the relations of the states with which they were brought in contact. So far as they in practice acted upon any theory at all, they subscribed, in common with the considerable country powers, of which, indeed, the East India Company soon formed one, to the fiction of the supremacy of the House of Delhi—a fiction which had survived the decline of the imperial power, when the always intermittent control of the kings of Delhi over their provincial viceroys had ceased to be a political principle capable of actual enforcement. Asaf Jah, the Nizam of the Deccan, was certainly independent of the Delhi court when he died in 1748; and the Nawab of the Carnatic was, according to the idea of native governments, the deputy of the Nizam. But, as is shown by the history alike of the Madras and of the Bengal presidencies, it was still thought necessary to conduct affairs of state in the shadow, so to speak, of the throne of Delhi. Thus when, by the overthrow of the French, Muhammad Ali was estab-

lished, in 1763, as the Nawáb of the Carnatic, he conferred on the English, in consideration of their services and the debts which he had contracted to them, districts yielding an annual revenue of some four-and-a-half lakhs of pagodas. The Delhi emperor was really quite impotent to sanction or regulate the gift; but the Company obtained from the court of Delhi a *firman* in confirmation of it. So also the grant of Masulipatam and other districts known as the Northern Sirkárs, made by the Nizam of the Deccan himself in 1759, was confirmed by the Emperor of Delhi in 1765, just at the time when the Company became dewán, or chief revenue officer, of Bengal, Behar, and Orissa. And, indeed, it is in the history of those parts of India that the longevity of the political fiction of the supremacy of the House of Delhi is most conspicuously seen. Suráj-ud-Daula, the nawáb responsible for the tragedy of the 'Black Hole,' though his inherited authority had originated in usurpation, was, so far as he could pretend to the legitimate title of a ruler, the *subadár*, or governor, of an imperial province. The English fought with him, made treaties with him, joined a confederacy formed among his chief officers to depose him; defeated him at the battle of Plassey, and set up Mir Jáfir Ali in his stead. They next deposed Mir Jáfir Ali in favour of his son-in-law, Mir Kásim Ali, and then deposed Mir Kásim Ali and set up Mir Jáfir Ali again. Another great official of the empire practically exercising independent power—Nawáb Shuja-ud-Daula, the Wazír of Oudh—under the pretence of espousing the cause of Mir Kásim Ali, invaded Behar. His army was completely routed at the battle of Buxar, and he subsequently threw himself on the generosity of the English. As I have said, the whole of his dominions were restored to him except Allahabad and Korah, which were given to the Delhi emperor. The Delhi court had for years exercised no substantial authority in Bengal, Behar, and Orissa, and the English were in fact in the position of successful usurpers. They had ousted by force of arms a governor who, if he originally had a slightly better title than their own, had forfeited all claim to their consideration by attacking their settlement and permitting disgraceful cruelties to be practised on their people. And they did precisely what other usurpers in the same part of the empire had done before them. They applied to the Delhi emperor for patents. Clive thought it worth while to obtain from the emperor, who was entirely in his power, a *firman* or royal grant appointing the Company



dewán or revenue minister of the provinces where it was already supreme.

The tediousness of Indian history is proverbial; and there is perhaps no period which, at first sight, appears less instructive than that of the decline and fall of the Moghal empire. It seems a phantasmagoria of rapine and treachery, a confusing dream of intrigue and bloodshed, where reckless aspirants for ephemeral power are continually engaged in internecine contests, unredeemed by any ennobling principle, and usually to all appearance motiveless, except so far as motives are supplied by lust of plunder and mere aggrandisement. But, amidst all the confusion, a few principles of action stand out in clear relief, and give some semblance of human dignity to struggles otherwise hardly removed from those which, in a lower order of beings, bring about the survival of the fittest. We can see how, in the absence of any strong controlling authority, the states of India were not only torn by mutual dissensions, but exposed to the desolating ravages of invasion from without; how there were, to some extent, wars of creeds, the Muhammadans against the Hindus or the Sikhs, and wars of races, the North against the South; above all, how there was a contest between civilisation brought from the West and institutions of an early type which, for reasons to be given at length later on, I may call *præ-feudal*. In this period of anarchy Northern India fell a prey to the standing danger of barbaric irruption; and the incursions of Nádir Shah and Ahmad Shah Abdáli recall the means by which the more martial part of the population has been recruited in former ages, and the days when an Alaric or an Attila poured into the India of Europe their hosts of Goths or Huns. The Moghal empire was inherently weak. Even at its best, it had to struggle with the difficulties of foreign rule by men who were not merely of a different creed from the mass of those they governed, but were sometimes intolerant of the religion of their subjects; it had to contend with the consequences of a bad law of succession, leading to revolutions and civil wars on the death of almost every emperor; and it was impossible to hold distant governors in check, when office generally tended to become hereditary, when public morality practically did not exist, and when there were no metalled roads, no railways, and no telegraphs. In addition to all this, the emperor's had to reckon with two opposing creeds, each resembling the other in the fact that



something like national enthusiasm was combined with a similitude of military organisation. In Northern India the Sikhs and in Southern India the Marhattas represented the revival of indigenous faiths antagonistic to the spread of the state religion; and though neither the Sikhs nor the Marhattas ever attained to the position of nations in the European sense of the term, they more nearly approached to the status of nationality than any other political communities of which modern Indian history takes count. As one province after another fell away by overt rebellion or persistent disobedience, and as the already tottering empire was shattered to fragments by the repeated blows of Afgháns and Persians on the one side and the Marhattas on the other, on the coasts of India adventurous powers of the West, having gained their footing by the unaccustomed passage of the sea, had begun, as between themselves, the world-wide contest which in every quarter of the globe has ended with the expansion of England. The French and English, in espousing the causes of princes and pretenders, fought alike for self-preservation and supremacy. Civilisation was in the end to triumph over anarchy; and one of the means of its success was to be military discipline, before which the rougher methods of native warfare were destined to give way.

It has often been pointed out that Dupleix was the first to perceive the certain consequences of the break-up of the Moghal empire, and the conditions upon which territorial power was to be acquired. As soon as the strength of military discipline was felt in the incessant hostilities of the Deccan and Hindustan, it became certain that one or other of the contending European powers would win, in the general scuffle for political authority, at least some local preponderance, and possibly or probably some extensive dominion. The English, indeed, set the example of interference in the affairs of native states, but were drawn somewhat against their will into the hostilities which arose out of the intrigues of Dupleix for supremacy in the Deccan. But as a rule they were ready to fight the French in any part of the world; and in the absence of steamships and telegraphs, a true perception of the essential conditions of the struggle underlay Clive's unhesitating message from the card-table to Colonel Forde, whom he instructed to fight the Dutch immediately, though at the time in Europe Holland was at peace with the British Crown. In the life-and-death contest



which was then taking place no risk could be run of the effective competition of any other Western power upon which the country princes might rely in designs of coercing the British. It may be freely admitted that there were incidents in the early wars and negotiations of the Company which would not bear the test of international morality; but I do not propose to enter here upon discussions of which readers of Indian history are a little tired. No one at this date will defend the trick practised upon Omichund; yet if his treachery was punished by deceit, supported by the falsification of papers, still the expedient of silencing a treacherous associate by a forged deed was one which the native courts of the day would have regarded rather as adroit than culpable. If, for the sake of argument, we assume that Warren Hastings, though acquitted by the House of Lords, was guilty of the offences placed at the head and front of his alleged offending; that he was not justified in employing the troops of his Government against the Rohilla chiefs, though they may have been dangerous to the British and to their protected dependent-chieftain, the Nawáb of Oudh; that he made unwarrantable demands on Chet Singh, the Raja of Benares; and that when he agreed to the Oudh contributions being raised from the Begums he connived at or joined in an act of spoliation—we have not, under any of these counts, a single act which would have troubled the conscience or shocked the sense of right of any Marhatta chief or imperial governor. It would serve no useful purpose to dwell upon what may be blots in the early pages of that long record of Indian achievements of which, as a whole, the English nation is justly proud. I refer to these matters merely because I have to remark that just as, in the first instance, so far as we accepted any theory at all, we accepted the current Indian theory of the relations of states, so our first methods of policy were Oriental in aim and, to some extent, Oriental in execution. In Western and Central India the Peshwas usurped the authority of the House of Sivaji, and were themselves supplanted by Sindhia, a general and chieftain of the Marhatta Confederacy. In Northern India Sindhia himself, while affecting to be the prime minister of the empire, was in reality the master of the House of Tamerlane. In Southern India a successful Muhammadan general held in durance the Hindu Raja of Mysore. At the time there was nothing singular in the appearance on the scene of a new set of mayors of the

palace. The territorial founders of the British Indian empire posed as the supporters of some puppet prince, a Nawáb of Arcot or a Nawáb of Murshidabad—a pretender set up by themselves, and by themselves deprived of all but the pageantry of independence. They behaved like the other vassals of the empire, of whom they made themselves one. Professing, when it suited them to do so, to act under the nominal authority of the Great Moghal, they were not really guided by any theory of international law or by any theory of Indian political law. They were guided by the exigencies of the time and the stern necessities of self-preservation. Like other Indian potentates of the day, they alternately ignored the imperial authority or sought the excuse or condonation of imperial recognition. Like their rivals, they placed their military force at the disposal of those who were able to pay for it. The usual resource of a nawáb or raja who found himself in political difficulties was to call in the Marhattas; and when the French and English also became military powers, the country princes called in the English and French, just as they had called in the Marhattas before. The French and English responded to the call, and, like the Marhattas, added to the general confusion by continually fighting each other.

The readiness of the native states to accept military assistance from any competent quarter led to the second of the steps by which was gained the English supremacy. If the first general measure of policy which put power into British hands was the support of nominal nawábs, whose professed adherents gradually came to exercise all real authority, the second measure was the gift of subsidiary forces to native states; but here, I think, we may fairly draw a broad line of distinction between the acts of the East India Company through its offices and servants and the acts of the British Parliament and Crown. Pitt's Act of 1784, by creating the Board of Control, directly connected the Supreme Government of India with the British Government of the day. The trial of Warren Hastings began on February 13, 1788, and judgment was pronounced seven years afterwards, on April 23, 1795. It was a judgment of acquittal; but, broadly, the debates of that time showed that the British nation would not permit the politics of its Eastern empire to be regulated by Oriental ideas of political morality. The Acts of 1784 and 1793 recited that the pursuit of schemes of conquest and extension of dominion in



India is repugnant to the wish, honour, and policy of the nation, and practically bound the Government in India not to undertake wars except for purposes of defence, and not to make any but defensive alliances except with the sanction of the home authorities. Acts of Parliament were, indeed, impotent to stem the tide of dominion and supremacy, already expanding in directions determined by laws as sure in their operation as those of the physical universe. But the statute-book bears witness to the better information and awakened conscience of the English people; and from this time onwards it became impossible for the conduct of our affairs with native states to be regulated otherwise than upon some definite plan, which should be manifestly consistent with equity and humanity.

The first plan was the work of Lord Cornwallis, the first English peer who was Governor-General, and it was doomed to almost immediate collapse. Probably he never fully realised the extent of the difference between the East and the West—a remark which now imputes no disparagement, because it is since his day that the deep chasms lying between the old world and the new, between ancient and modern societies, have been illuminated by comparative politics and comparative jurisprudence. At all events, he imported into the discussions about the permanent settlement the Western ideas of the day on the subject of landed property; and as he succeeded in putting these ideas into practice in Bengal, so, in the Deccan, he adopted, with reference to the considerable native states, the Western theory of a balance of power. I am aware that Sir John Malcolm (*'Political History,'* vol. i. p. 85, *note*) asserts that Lord Cornwallis knew too well the elements of which the native governments were formed ever to ground his measures upon an imaginary balance of power, and that there is reason to believe that the suggestion of the possibility of a balance of power came from the Court of Directors. But it can be established by many proofs that even if Lord Cornwallis never described his policy as one of a balance of power, it was, in point of fact, of that description. It will suffice to quote a memorandum, written probably in November 1804 by Major-General Wellesley, afterwards the Duke of Wellington. Speaking of the Peace of Seringapatam concluded in 1792, he says that it resulted from the war in which the three great powers—the English, the Peshwa, and the Nizam—had joined, in consequence of each having

received injuries from Tippoo Sultan. 'The object,' he adds, 'of the British Government was, if possible, to preserve the power of each in the situation in which it was left by the pacification.' That is the same thing as the establishment of a balance of power. It is only just to Lord Cornwallis to mention that he foresaw the difficulties and dangers to which the alliance would be exposed from the claims of the Marhattas for *chauth* over the Nizam's territory; and endeavoured without success to induce them to submit these claims to the arbitration of the British. In a very few years the Marhattas attacked the Nizam for the purpose of enforcing their claims; the British Government of the day did not interfere, and under the treaty with the Marhattas, known as the Treaty of Kurdla, 1795, the Nizam was obliged to cede half his territories, pay a great sum of money, and give up his prime minister and appoint another recommended by his enemies. By dissensions amongst the Marhattas all the power of the Peshwa fell into the hands of Daulat Rao Sindhia, who was in possession of the person of the King of Delhi and, by virtue of his position as deputy of the first minister of the empire, of the king's authority as well. There was 'thus established in the hand of one Marhatta all the territory and all the power on the west side of India, extending from Hardwar to the Toombudra, along the frontiers of the Company, the Nabob Vizier, the Nizam, Tippoo Sultan, &c.' The principal instrument and support of the power of Sindhia was a force officered and commanded by Frenchmen. A similar corps, officered in a similar manner, was the only support of the state of the Nizam. Tippoo in the south had inherited a large army and a bitter hatred of the English name. He had already made overtures to the French with the avowed object of the extirpation of the English. Napoleon was believed to be entertaining designs on India; and on the northern frontier the probability of an early invasion by Zamán Shah was reckoned amongst the factors of the situation.

Such was the condition of affairs when Lord Wellesley assumed the governor-generalship in 1798. The proposed balance of power had no existence, and French influence was strong and menacing. The Peshwa and the Nizam were completely overshadowed by Sindhia; and the state of Mysore was at least as formidable as it was before the victories of Lord Cornwallis. Events seemed to portend the realisation, after a new fashion, of the dreams almost realised



by Dupleix; it was again a question whether the supremacy throughout the whole continent would fall to the English or the French.

Dupleix was at one time the governor of the country between the Kistna and Cape Comorin; but the danger now was of a different kind. Lord Castlereagh thought there might have been a formidable combination of the native powers against us, of Sindhia, Tippoo, and the Nizam, supported by France. Looking to the diverse origin and bitter antagonism of these Hindu and Muhammadan powers, there was perhaps a greater probability that Sindhia would acquire pre-eminence in India by aid of his French officers and drilled troops, and that the instrument of his success would eventually become the means of his political extinction, his own real power and the nominal authority of the Delhi emperor alike falling into French hands. Be that as it may, there can be no doubt that the menaces of French influence were very serious. Not only was Tippoo engaged in seeking an offensive alliance with France, but there was also the chance of the establishment of French states in the Deccan and Hindustan. The corps of M. Raymond under the Nizam amounted to 14,000 men; attached to it was a park of forty pieces of ordnance; and a foundation had been laid of a corps of cavalry to act with the infantry. There was also a beginning of territorial power in M. Raymond's revenue-free grant, or *jâgir*; though the grant was resumed on his death, which occurred in the first half of 1798. In 1803 General Perron held the possessions of Sindhia, situated between the Jumna, the Ganges, and the mountains of Kumaun with a force commanded by European officers and amounting to 8,000 infantry and an equal number of cavalry. It was recorded by Lord Wellesley that Perron had formed this territory into an independent state, of which Sindhia's regular infantry, the force above described, might be termed the national army; but these expressions are not very exact, for Perron was still in the service of Sindhia, and was included in our hostilities against his master.

Formidable as then appeared the chance of French supremacy in India, it soon vanished so completely as to be now almost forgotten. It should be some consolation to those who, in existing political conditions, are apt to confess panic at slight symptoms of interference by Western powers in Indian affairs, that the varied dangers by which the Indian Government was beset in 1798 had been practically over-



come when Lord Wellesley left India in 1805. They were not overcome, it is true, without the exercise of great political skill and much expenditure of blood and treasure ; but by sagacity in the council chamber and strategy and courage in the field they were, in a brief space of time, notwithstanding some misfortunes, successfully dissipated. By negotiation supported by a sufficient military force, Raymond's corps was disbanded, its place being taken by battalions of the English. In September 1803, Perron was permitted on his own application to retire within the Company's territories ; and a few days afterwards his army, under Louis Bourquin, was completely crushed by Lord Lake at the battle of Delhi. The attention of Zamán Shah was diverted from any attack upon the north of India by distractions in his unwieldy kingdom and dangers on his western frontier, largely due to British negotiations at the Court of Persia. Four years before the battle of Delhi, Tippoo had been conquered and killed and his dominions partitioned. With the battle of the Nile, the victories of Abercrombie and Hutchinson and the collapse of the French expedition to Egypt ended all risk of a French invasion of India.

I have been particular in referring to the possibilities of the establishment of a French dominion in India, because the despatches at the end of the last century and the beginning of the present century show that this alternative was continually present to the minds of the statesmen of that time. 'It has not been a matter of choice,' wrote Lord Castlereagh in March 1804, 'but of necessity, that our existence in India should pass from that of traders to sovereigns. If we had not, the French would long since have taken the lead in India to our exclusion.'

We may consider this to have been substantially true, even though we allow that the Indian statesmen of that time, perceiving how hard it was to realise in England the real requirements of the situation in India, may have somewhat exaggerated arguments drawn from the proceedings of the French, because arguments of that kind would probably persuade or influence the home authorities. And we may, I think, add to what Lord Castlereagh recorded, that it was not a matter of choice but of necessity that the British were compelled to stand forth as the paramount power. Manifestly one of the elements in that necessity was the imperative claim of self-preservation, pointing to the destruction of French influence in the three principal native states.



We cannot perhaps fix the date of the resolve of the British Government to be supreme in India with absolute precision. The Duke of Wellington, writing in 1806, said the British Government had become paramount in India by the conquest of Mysore. Sir Charles Aitchison ('Treaties,' &c., vol. v. p. 7) considers that the campaigns against the Marhatta chiefs in 1803 and Holkar in 1805, which completely broke up the Marhatta Confederacy, established once for all the supremacy of the British power. Sir George Barlow, afterwards for a short time Governor-General, when discussing the policy of the Treaty of Bassein, wrote on July 12, 1803: 'With respect to the French, supposing the present questions in Europe not to lead to an immediate rupture, we are now certain that the whole course of their policy has for its object the subversion of the British empire in India, and that at no distant period of time they will put their plans in execution. It is absolutely necessary for the defeat of these designs that no native state should be left to exist in India which is not upheld by the British power, or the political conduct of which is not under its absolute control.' It is curious, I may remark in passing, that this compendious description of Lord Wellesley's aim should have been recorded by an officer who abandoned it.

The fact probably is, that the theory was accepted and acted upon in India at the time of the Treaty of Bassein, and took practical effect in a manner that was generally unmistakeable as a consequence of the successful wars with the Marhatta chieftains which that treaty brought about. It will be worth while to explain this remark somewhat fully, because the circumstances show how supremacy was forced upon the British Government by the irresistible pressure of events.

In 1797 Tippoo sent envoys to the Mauritius to obtain assistance in his project of expelling English from India. This incident, with some others, was made the occasion of a declaration of war; and Lord Wellesley, before the war began, in a paper of August 12, 1798, which elaborately justifies his intentions by arguments drawn from international law, and contends that we were entitled by 'the law of nations' to reduce the power of Tippoo as an effectual security against his designs, goes on to use language which implies that it was still an object of the Indian Government to re-establish the balance of power in India as it existed at the Peace of Seringapatam. As we have seen, it was part of

the policy of that treaty to preserve to Tippoo, no less than to the Marhattas and the Nizam, some degree of power, so that the interposition of the force of the British Government might always turn the scale; and, generally, it was the intention of the alliance between the British Government, the Peshwa, and the Nizam to provide against the enmity of the Mysore Sultan. But the event of the war was the annihilation of the Mysore state. There could no longer be any question of restoring the balance of power; a principal motive for the whole system had ceased to exist; and one of the powers included in the arrangements had disappeared, for the new Mysore state, formed by Lord Wellesley, was altogether dependent on the British Government, and had not to be taken into account in the politics of the Deccan. In this new and perhaps unlooked-for conjuncture of affairs, what was to be done? what was to be the new principle of policy suited to the altered circumstances of the case? It seemed certain that the predatory turbulence of the Marhatta chiefs would shortly bring them into conflict with the Company. If we abandoned our ally the Nizam to their mercies, they would certainly conquer his country, make their frontier in the Deccan coterminous with ours, and sooner or later violate our territories. If we undertook to defend the Nizam against all comers, the Marhattas included, the Marhattas would unquestionably press their vexatious claims against him, and we should become embroiled with them all the same. The so-called Marhatta empire was at different times a government of which the Peshwa was the actual head and Sindhia and other chiefs the powerful officers, and the union of a number of chiefs possessing territory and political power and acknowledging the Peshwa as a merely nominal suzerain. It consisted of a predatory and warlike confederacy, of which the members, loosely held together by certain political ties, were frequently at war with each other. The Marhattas claimed the *chauth* of all India; nominally a fourth part of the land-revenue, practically as much as could be exacted by violence and terrorism. This was, in fact, the blackmail, on the payment of which they insisted, for the exemption of towns and fields from ravage and devastation. In political contact with such a power making such a claim, how was it possible to apply the law of nations? They, at all events, would not be bound by it; and in the absence of any common superior, how was it to be enforced against them without their assent? Their



demands virtually amounted to a claim to the political supremacy of the whole continent. The question between the Company and the Marhattas could not possibly be settled without a war; and the immediate object of the Treaty of Bassein was, to give us, on the outbreak of the inevitable hostilities, resources and a strategical position which would otherwise have been at the disposal of our certain enemies.

Thus to some degree French ambition, but to a greater degree Marhatta claims and Marhatta strength, and the general incapacity of Oriental governments to regulate their mutual relations by any well-ordered system, go to explain why the theory of British supremacy supplanted the theory of an Indian balance of power. The keen vision of Lord Wellesley surveyed the situation in every part, and the courage and comprehensive foresight of his policy command the respectful admiration of those who follow his explanations of it. Without hesitation upon the conclusion of the last Mysore war he offered to allow the Peshwa to participate in the acquisitions made by the destruction of the power of Tippoo, on condition of admitting the arbitration of the British Government in disputes with the Nizam and receiving a subsidiary force. The offer was declined; but in 1802 the united forces of the Peshwa and Sindhia were defeated at Poona by Holkar, who is generally described in the despatches as a freebooter, but was at the head of a large body of predatory troops and had already laid the foundations of territorial power. In October 1802 the Peshwa fled and took refuge at Bassein under the protection of the Company, and the treaty was signed on the last day of the year. It established between the British Government and the Peshwa one of those subsidiary alliances which were a main instrument in Lord Wellesley's hands for the establishment of the British protectorate, and it placed the nominal head of the Marhatta empire in undoubted political dependence on the British power. The natural result was a hostile league of the Marhatta chieftains, and a war precipitated, but not caused, by the particular stroke of policy which changed the nominal head of the Marhatta Confederacy into a real dependent of the Company. Opposition was crushed in the field of battle by Lord Lake at Delhi and Laswari, in Hindustan, and by General Wellesley (afterwards the Duke of Wellington) at Assaye and Argaom, in the Northern Deccan. In reporting (July 13, 1804) the general pacification which followed these victories, Lord Wellesley observed that the British power in

India had finally been placed in a 'commanding position with regard to other states,' affording 'the only possible security for the permanent tranquillity and prosperity' of the British possessions.

These words well sum up the position attained and the leading motives, other than those of self-preservation, which had led to its attainment. By no one have the reasons why it was impossible to apply the law of nations in India been more clearly explained than by Lord Wellesley's still more distinguished brother, the great Duke. It is unfortunate that General Wellesley's reply to Lord Castlereagh's strictures on the Treaty of Bassein is not dated, but it was probably written in November 1804. I may be permitted to quote from that paper at some length.

'European governments,' General Wellesley says, 'were, till very lately, guided by certain rules and systems of policy, so accurately defined and generally known, that it was scarcely possible to suppose a political event in which the interests and conduct of each state would not be as well known to the *corps diplomatique* in general as to the statesmen of each particular state. The Asiatic governments do not acknowledge, and hardly know, such rules and systems. Their governments are arbitrary; the objects of their policy are always shifting; they have no regular established system, the effect of which is to protect the weak against the strong; on the contrary, the object of each of them separately, and of all of them collectively, is to destroy the weak; and if by chance they should by a sense of common danger be induced for a season to combine their efforts for their mutual defence, the combination lasts only as long as it is attended by success, the first reverse dissolves it; and, at all events, it is dissolved long before the danger ceases, the apprehension of which originally caused it. . . . These observations apply to the government of the Marhattas more than to any other of the Asiatic governments. Their schemes and systems of policy are the wildest of any; they undertake expeditions not only without viewing their remote consequences upon other states and upon their own, but without considering more than the chance of success of the immediate expedition in contemplation. . . . The picture above drawn of the state of politics among Asiatic powers proves that no permanent system can be adopted which will preserve the weak against the strong, and will keep all for any length of time in their relative situations, and the whole in peace;



excepting there should be one power, which, either by the superiority of its strength, its military system, or its resources, shall preponderate and be able to protect all.' The British Government was the preponderating power, and the Treaty of Bassein is evidence that it knew the fact and was prepared to act up to its responsibilities.

The virtual condemnation pronounced by Parliament upon the somewhat Oriental theory of politics illustrated by the early action of the Company forced the governors of India, who now represented the British nation, to adopt some generally consistent and sufficiently satisfactory theory of their political position in the land. The theory of the Marhattas was as incompatible with the principles of international law as was the theory of the First Napoleon. Europe united in arms to resist the attempts of the French republic and empire to impose the supremacy of France upon the other Western states. At the very time when England took the lead in that contest, she was herself playing a Napoleonic part in another continent. The inconsistency in appearance was none in fact: when Wellesley and his still more famous brother and Lake were fighting Tippoo or the Marhattas and spreading over the territories which were not actually annexed a network of protective alliances, they were destroying French influence and sweeping out of the land the possibilities of French supremacy. Moreover, there was not in India a single one of the political conditions which in Europe for many years made the principle of a balance of power an effective guarantee for international tranquillity. In India there was, and is, no national life; at most there have been the beginnings of two nationalities. In India there was, since the downfall of the Moghal empire, not one considerable government of any stability, the government of the Company itself alone excepted; there was no possibility of any lasting quasi-international combination for pacific purposes framed on a common assent; and the governments of the several native states had not enough either of administrative and political strength or of public morality to act persistently and for any length of time up to what might be called international obligations. Europe was saved by its civilisation from the domination of one power of the West; a more advanced civilisation was the efficient cause which made one Western power supreme throughout India.

It is noticeable that at the moment when the question of supremacy had just been decided in the field the British

Government resolved to forego any advantage there might be in claiming to succeed by right of conquest to the suzerainty of the Great Moghal. There had been no like forbearance on the part of the Marhattas and their generals, who sought to use the prestige of the House of Delhi in furtherance of their own aims. Mahaji Sindhia obtained for the Peshwa from the King of Delhi the grant of the office of *vakil-ul-mutlak*, or executive prime minister of the Moghal empire, and was himself appointed to execute the functions of that office under the title of deputy. Daulat Rao Sindhia succeeded to the office of deputy *vakil-ul-mutlak*, and to the consequent control which his predecessor exercised over the house and family of the King. By a successful intrigue Perron obtained the office of commandant of the fortress of Delhi, which was the residence of the royal family, and thus secured the possession of the person and of the nominal authority of the emperor. These examples apart, there were temptations of substantial advantage in the possible use of the traditions of the empire which it required moderation to resist. Notwithstanding the King's total deprivation of real dominion, almost every state and class in India still acknowledged his nominal supremacy. The current coin of every established power was struck in the name of Shah Alam. Princes and persons of the highest rank and family still bore titles and displayed the insignia of rank which they or their ancestors derived from the throne of Delhi, and the King was still considered to be the legitimate fountain of similar honours.

The arrangements, however, actually made after the battle of Delhi, and the explanations given of those arrangements, were alike inconsistent with any intention on the part of the Company to stand forth as emperor, as they had formerly stood forth as dewán. The Emperor sought the protection of the British Government; and it was arranged that certain territories near Delhi should be assigned as part of the provision for the maintenance of the royal family; that these lands should remain under the charge of the Resident at Delhi; that the revenue should be collected and justice administered in the name of Shah Alam under regulations fixed by the British Government; that the King should appoint a dewán and other officers; and that two courts should be established for the administration of the Muhammadan law to the inhabitants of the city of Delhi and of the assigned



territory, death sentences, however, being subject to confirmation by the King.

In describing these arrangements on June 2, 1805, Lord Wellesley wrote: 'It has never been in the contemplation of this Government to derive from the charge of protecting and supporting his Majesty the privilege of employing the royal prerogative as an instrument of establishing any control or ascendancy over the states and chieftains of India, or of asserting on the part of his Majesty any of the claims which, in his capacity of Emperor of Hindustan, his Majesty may be considered to possess upon the provinces originally composing the Moghal empire.' The benefits claimed were the preclusion of hostile projects, which might be founded on the restoration of the authority of the Emperor under the direction of agents of France; and the confidence and good feeling amongst states and people which the British Government could secure by becoming the lenient protector of the representative of the House of Timur. The Delhi emperor was not to be a Nawáb of Arcot or a Nawáb of Murshidabad for the purpose of consolidating British dominion throughout the continent; for, indeed, the days when it was necessary to proceed under the countenance of some native power had passed away. As I have said, the main instrument of policy now was the formation of subsidiary alliances.

It must not, of course, be supposed that there were no subsidiary alliances before the time of Lord Wellesley; but he greatly improved and extended the system and was at special pains to avoid the evils which had arisen, particularly in Oudh and the Carnatic, from the previously defective nature of the British alliances with tributary governments or states. The subsidiary alliances were generally formed upon one model, and have been very well described by Mr. H. T. Prinsep, whom I shall follow here and presently when I come to speak of the final pacification of the interior of India under Lord Hastings. The British Government supplied a specific force for the protection of the state and the maintenance of the ruler's legitimate authority. 'This force,' says Mr. Prinsep ('History,' vol. i. p. 5), 'was not ordinarily to be employed in the duties of civil administration, nor in the collection of the revenues; and the British Government generally agreed not to interfere in such matters. A subsidy, equivalent to the payment of the force, was furnished by the protected state either in periodical money payments or by territorial cession, more frequently the



latter. A certain native contingent, as it was called, was also to be maintained in readiness to act with the British troops and for the efficiency of this the protected state was answerable. But the most material provision of the treaties was, that the states accepting them engaged to discontinue all political negotiation with the other powers of India, except in concert with the British Government, and to submit all claims and disputes with others to its arbitration and adjustment. This article, though an indispensable correlative of the stipulation for protection, gave to the British a controlling power in all matters of external relation; while the obligation to maintain the protected prince's just authority implied the right of interfering, with advice at least, in matters of internal policy likely to bring it in question. Hence all the subsidising states were more or less in dependence, a reference to the British Government being always necessary either to prevent or punish the aggression of neighbours, to quell insurrections or enforce the submission of powerful vassals and guarantee their just treatment, or, finally, to regulate the succession on a sovereign's demise.

This, it will be observed, is a description of the state of things in 1813, eight years after Lord Wellesley had left India. The deliberate aim of his policy of subsidiary alliances will best be stated in words used with his authority. In a despatch to the resident at Hyderabad, dated February 4, 1804, it is said: 'The fundamental principle of his Excellency the Governor-General's policy in establishing subsidiary alliances with the principal states of India is to place those states in such a degree of dependence on the British power as may deprive them of the means of prosecuting any measures, or of forming any confederacy hazardous to the security of the British empire, and may enable us to preserve the tranquillity of India by exercising a general control over those states calculated to prevent the operation of that restless spirit of ambition and violence which is the characteristic of every Asiatic government, and which from the earliest period of Eastern history has rendered the peninsula of India the scene of perpetual warfare, turbulence, and disorder. The irremediable principles of Asiatic policy, and the varieties and oppositions of character, habits, and religions, which distinguish the inhabitants of this quarter of the globe, are adverse to the establishment of such a balance of power among the several states of India as would



effectually restrain the views of aggrandisement and ambition and promote general tranquillity. This object can alone be accomplished by the operation of a general control over the principal states of India established in the hands of a superior power, and exercised with equity and moderation through the medium of alliances contracted with those states on the basis of the security and protection of their respective rights.'

Briefly, while states were still in that primitive condition in which predatory violence is the sole substitute for political principle, the only possibility of keeping the peace between them lay in the supremacy of one civilised authority: the effective establishment of a balance of power belongs to a much later stage of political progress; and one instrument for acquiring the necessary supremacy in India was the use of the subsidiary alliances above described. In some such terms, after nearly ninety years as fertile, perhaps, in political theories as any other equal period in the history of literature, we may explain to ourselves the leading idea which animated Lord Wellesley as the founder of the Indian political system; and the explanation suggests itself that perhaps the old world theory was right after all, and that the universal or at least general dominion of one state is the right principle upon which to base the relations between a number of states where one of them far exceeds the rest in its degree of civilisation.

The policy of Lord Wellesley, the very next year after it had been thus emphatically described, was as emphatically repudiated by his successor. In August 1805 Lord Cornwallis wrote of a 'belief which, however unjust, appears to be too generally entertained of a systematic design on the part of the British Government to establish its control and authority over every state in India. It is,' he said, 'the primary object of his lordship's' (*i.e.* his own) 'policy to remove this unfavourable and dangerous impression by abstaining in the utmost degree practicable consistently with the general security of the Company's dominions from all interference in the internal concerns of other states. His lordship considers even the preservation of our actual alliances to be an object of inferior importance to that of regaining the confidence and removing the jealousy and suspicions of surrounding states.' Lord Cornwallis returned to India only to die; but the principle of non-intervention, approved at the time by the British Government, was accepted



and acted upon by his successors, Sir George Barlow and (in a much less degree) Lord Minto, with the result that the anarchy of the interior of the continent—an anarchy which the vigorous prosecution of Lord Wellesley's measures would have speedily dispelled—was prolonged for another twelve years, and even aggravated.

But before English opinion had become terrified at Lord Wellesley's audacity, his far-sighted policy had borne lasting fruit. He remained long enough in India to give to his grand ideas the physical basis of an inexpugnable strategic position. A glance at the map of India will show that the vast territories of Native India, that is, of the feudatory states, lie, like enormous islands, surrounded by a sea of British dominion. The coasts, the great rivers, the dividing lines between the realms of powerful princes, every strategic point of any imperial consequence, all these are red. In physical fact as in political theory, the British Government is supreme. Nor is this commanding position due to happy accident or blind chance. To secure the coasts and the rivers was a part, and a consistent part, of Lord Wellesley's general design. External and internal means of communication were alike to be in British hands. In the conquest of Mysore, in 1799, one of Lord Wellesley's objects was to cut off that state from communication by sea with French allies. In the partition and settlement which followed the conquest, he reserved to the British Government the province of Kanara, the district of Coimbatour, and all the territories lying below the Ghauts between the former possessions of the Company in the Carnatic and in Malabar respectively. To these he added the forts and posts on the table-land forming the heads of all the passes above the Ghauts. He annexed Tanjore and so much of the Carnatic as was not already under British administration, thus completing the acquisition of the whole line of the Madras coast. He separated the Mysore state, reconstituted under an entirely dependent Hindu raja, from the dominions of the Nizam by a broad belt of territory ceded by the latter in payment for the cost of the subsidiary force. Later on, the victories over the Marhattas and other circumstances were made the occasions for similar measures in consolidation of British dominion. The Doab of the Jumna and the Ganges was annexed, partly by conquest from the Marhattas in 1803 and partly in 1801, on the same principle as that which was applied in the case of Bellary and Cuddapah, that is, by cession from Oudh to

provide a subsidy for the forces supplied by the British power. On the eastern coast he annexed Cuttack, including the seaport of Balasore, and thus established 'between the province of Midnapore and the Northern Sirkárs a continuation of the British dominion and authority,' thereby completing the line of connection between the territories under the Governments of Bengal and Fort St. George respectively. The possession of Cuttack, he pointed out, would have enabled the Raja of Berar to interrupt the communication between our northern and southern possessions, to facilitate the invasion of Bengal and the Northern Sirkárs, and to obtain the aid of the French and other European officers and troops who might have been landed in that province. On the west coast we acquired at the same period the port and territory of Broach and the seaports belonging to Sindhia, which, Lord Wellesley said, afforded to that Marhatta chieftain and to the French officers in his service the means of intercourse with the Government of France, and to the French an easy access to the Marhatta states in a quarter where our military power was less formidable and our political influence less firmly established than in other parts of India. It was reserved for another Governor-General, for Lord Dalhousie, the equal of Lord Wellesley in commanding ability and strength of will, to link the north with the south of the Bombay Presidency by the lapse of Sattára, to complete the separation of the Deccan from Central India by the lapses of Jhánsi and Berar, and to incorporate the Indus Valley and extend the empire to the mountain base of the Himalayas and the Sulaimans by the annexation of the Punjab in retribution for unprovoked rebellion and in the just maintenance of imperial security, and of Oudh, as a penalty for misrule. It is not by mere chance that the big ring of British dominion has closed round the protected states. Various political circumstances have thrown these vast acquisitions on our hands; and as they came they have been so shaped by great Indian Governors, that we have territorial guarantees for the effective enforcement of our political system.

As political influence has advanced side by side with actual acquisition of territory, and acquisition of territory has strengthened political influence, it may be worth while to finish here this very rough and general sketch of the growth, not of the protectorate, but of Indian dominion. Indeed, the growth of each is intimately connected with the growth of the other. Glancing at the great Indian provinces,



it is not difficult to bear in mind the great names with which their incorporation with British territory is associated. Bengal, Behar, and the northern part of Orissa we owe to Clive; Warren Hastings added the province of Benares to the territories of the Company. Almost all the rest of the North-West Provinces and the Presidency of Madras, as a province of the empire, were, as already shown, acquired by Lord Wellesley. He also annexed a great part of Bundelkhand. Lord Hastings wrested Kumaun and Gharwal from the Gurkhas, thus rounding off the North-West Provinces and extending them to their existing area. He further made the Bombay Presidency out of the dominions of the Peshwa and parts of the Gaekwar's dominions and of the present districts of Surat, Broach, Kaira, and Ahmadabad, which had been ceded by the Peshwa to Lord Wellesley under the Treaty of Bassein in 1802. To Lord Hastings also is due the foundation of the Central Provinces by the appropriation of the Saugor and Nerbudda territories, the river valleys in the very midst of India from which the Pindári bands set forth on their yearly expeditions of devastation. Forced into the first Burmese war by what Sir Charles Metcalfe called 'the clearest case of self-defence and violated territory,' Lord Amherst conquered Aracan, Tenasserim, and Assam. Sir Charles Napier took Sindh in 1843 during the period of Lord Ellenborough's administration. In 1846, after the first Sikh war, Lord Hardinge annexed the Jullundur Doáb of the Punjab. Then followed, under Lord Dalhousie, an extension of the empire comparable only to that effected by Lord Wellesley fifty years before. By both of these great men vast territories were acquired, alike in peace and in war; but the main instrument which Lord Wellesley used for the acquisition of territory without bloodshed was the subsidiary alliance, while that employed by Lord Dalhousie was the doctrine of lapse. In one noticeable instance however—that of Berar—Lord Dalhousie adopted the method of his great predecessor. The Hyderabad districts were assigned for the support of the Hyderabad Contingent, and placed under British administration in 1853. By conquest Lord Dalhousie extended British rule over the north and west of the Punjab in 1849, and over Pegu in 1852. The outlying provinces of the Punjab and Burma were thus brought to the shape or to the position in which they stood in reference to the rest of the empire till quite the other day. By lapse he acquired, amongst other states,

Jhānsi, Sattāra, and Nāgpur : the latter state and the Saugor and Nerbudda and some other territories now form the Central Provinces. Oudh was annexed in 1856; and for more than twenty years after the mutiny there was no extension of British Indian dominion of any great consequence. There were similar pauses of about twelve years after Lord Wellesley, and of about seventeen years after the first conquests from Burma. As I have pointed out, in the early days one of the chief causes which thrust territorial power upon the Company was the certainty that if they abstained from grasping political authority, it would assuredly have been seized by some rival European nation. It is interesting to note that our two most recent acquisitions are substantially due to similar possibilities. Sibi and Pishin are British districts, and the Agent of the Governor-General at Quettah is also Chief Commissioner for British Baluchistan. Upper Burma was annexed in 1886. The empire has thus been increased on both western and eastern frontiers; and it will not, I think, be denied that the expansion on the west was the consequence of repelling Russian influence, while the expansion on the east was even more directly due to the interference in the affairs of Burma, if not of the French nation, at all events of French adventurers.

Roughly and broadly, then, it may be said that Clive made Bengal; Lord Wellesley, Madras and the North-West Provinces; Lord Hastings and Sir Charles Napier, the Bombay Presidency; and Lord Dalhousie, all the provinces formerly described as the non-regulation provinces, except Assam and Burma—that is to say, the Central Provinces, the Punjab, Oudh, and, in a sense, Berar. With Assam we may connect the name of Lord Amherst, who acquired it from the Burmese in 1825. Burma was annexed in three instalments—part by Lord Amherst in 1826 as a consequence of the same war that gave us Assam, part by Lord Dalhousie in 1852, and part by Lord Dufferin. For the purposes of this very rapid and general view I have omitted all acquisitions which are not of the first consequence; amongst many others, Cachār in 1830 and 1853, Coorg in 1834, Jaintia in 1835, numerous lapses throughout the century in the Cis-Sutlej states and the Bombay Presidency, the Cis-Sutlej chiefships sequestrated after the first Sikh war in 1849, the Duārs conquered from Bhutān in 1865, and many small confiscations at various dates for misconduct or rebellion.

The point in all this deserving most attention is, that any

one supposing the British empire in India to consist merely of the territories thus annexed would have an exceedingly imperfect idea of the political situation. The British empire in India consists of the British dominions and the Indian protectorate; and without the dominions the protectorate could not exist. What, then, is the general extent and character of the Indian protectorate at the present day? According to an official return prepared in 1886 by the Secretariat of the Government of India, there are 629 feudatory states, of which 108 have an area of upwards of 500 square miles. By the latest figures the total area of India is computed at 1,583,276 square miles; and the feudatory territory at 638,672 square miles; and the population under native rule is about sixty-five and a half millions out of a total population of two hundred and eighty-six millions and a half. It will be seen from the map that, if we put aside the Central Provinces—an intrusive block of British territory in the very midst of Native India—almost the whole of the interior of the continent from the Sutlej to the Kistna consists of native states; and to these we may add a great part of the apex of the southern triangle—namely, Mysore, Travancore and Cochin, and the small state of Pudukottai. To the north and south we have two great states created by the British Government—Kashmír and Mysore. Just above Mysore, proceeding northwards, lies the Nizam's territory, the sole important fragment still remaining of the empire of the Moghals, all the other provinces of that empire that were left at the close of the first half of the eighteenth century in anything like integrity having been incorporated in the structure of British dominion. The Rájputs, the chiefs of the middle country and the Hills, never thoroughly subjugated by the Moghal emperors, are divided laterally and vertically from each other. The western group is severed from the eastern group by the intervening wedge of Marhatta conquest, the states of Sindhia and Holkar; and from the northern Hill group, partly by British territory and partly by the possessions of the Cis-Sutlej Sikhs, whose rise presents an analogy in many respects remarkable to the rise of the Marhattas.

Thus on the face of India as it exists to-day live and move the surviving specimens, as it were, of dynasties and politics once predominant, or nearly attaining to predominance. There are the old Hindu principalities in the Punjab Hills and Rájputána and Central India, and far south in



Cochin and Travancore ; there is in the Deccan, under the rule of the Nizam, at least one considerable remnant saved from the wreck of the Moghal empire when it was destroyed, partly by common plunderers, partly by those whose first duty was to maintain its integrity; there are the states raised by the successful spoliation of that empire as it fell or of the no-man's land that ever edged its uncertain borders, the Sikh states saved by British protection from absorption by the Sivaji of the north, Ranjít Singh, and the Marhatta states, the Bhonsla and the Peshwa having disappeared, and the Gaekwar, Holkar, and Sindhia being the three survivors; last of all, there is a new species, the states created by the British Government, of which Kashmír and Mysore are examples, as also Loháru, Dojána, and Pataudi, petty states near Delhi, dating from the time when Lord Lake was charged to interpose a belt of neutral territory between the frontiers of the Company and the Marhatta power. In this way political geography, like geology everywhere, bears in India continued witness to the past; the primitive formations crop up in large masses in the Rájput states of Rájputána and Central India and the Punjab Hills, and far south in Travancore ; side by side with them in the centre of India are still traceable territories devastated by that volcanic eruption of irrepressible pillage which burst upon the Moghal empire in its days of decadence; while almost all the rest of the country levelled to our hand by Muhammadan dominion has been overspread by the recent deposit of the tide of British statesmanship and conquest, carried forward sometimes by imperceptible progress, sometimes by gigantic storm-waves, which leave, as ridges to commemorate the eras of considerable advance, the boundaries of the British-made states, of the Chief Commissionerships, and the provincial governments.



CHAPTER III

THE LATER GROWTH OF THE PROTECTORATE

It is fortunate that for the most part the narrative of the formation of the protectorate has been admirably told by Lord Wellesley in his despatches, and by Mr. H. T. Prinsep, the secretary of Lord Hastings, in the book from which I have already quoted a passage. To complete a brief general account of the growth of the protectorate, I must now touch upon some of our relations with the minor states generally, and upon the circumstances of the time of Lord Minto and Lord Hastings. The latter was not only at one with Lord Wellesley in perceiving that unquestioned British supremacy was the only possible guarantee for the peace of the Indian continent, but he also extended the system of well-defined relations with protected states which Lord Wellesley had begun, and which circumstances compelled Lord Minto to continue. I shall also have to refer again to some of the less important annexations, which in the last chapter I merely mentioned and passed by. It is a drawback, but an inevitable one, that the narrative becomes tamer as it advances. What has now to be said is like the third act of a play, when we have already guessed the plot and are wishing the characters would end their tedious elaboration of it, and pair off and make their bow. The first and second acts, when we had upon the stage such striking figures as Lord Clive and Lord Wellesley, and when the Duke of Wellington himself was part of the cast, were much more interesting.

Some of the smaller states had been brought within the protectorate before Lord Wellesley left India. I have already mentioned his policy of establishing a barrier of petty dependent states between our then frontier of the Jumna and the countries over which the Marhattas were left for a time to carry their depredations. The protectorate of the Orissa Tributary Mehals fell to us with the conquest of Cuttack. In 1803 a few of the Káthiawár chiefs applied



for British protection, and offered, on certain conditions, to cede their estates to the British Government. The offer was not accepted; but in 1807 the joint forces of the Gaekwar and the British Government advanced for the purpose of effecting a settlement of the country. The supreme authority in Káthiawár was not, however, vested in the British Government alone till the Peshwa, in 1817, had ceded to it all his rights in that peninsula, and the Gaekwar in 1820 had engaged to send no troops to the province and to make no demands on it except through the British Government. In 1808 Mr. Metcalfe, the British envoy at the court of Ranjít Singh, was endeavouring to negotiate with the Maharaja a treaty of alliance against France. The Maharaja replied by claiming the right of sovereignty over the whole Sikh country; and the rejoinder of the British Government to this ambitious demand was, to take the Cis-Sutlej chiefs under its gladly welcomed protection. Some additional chiefs of Bundelkhand were also admitted to protective alliances about this period; and these measures and, to a less extent, the intervention in Káthiawár constitute exceptions to the then prevailing policy of political abstention. With these slight modifications, and a few more which need not be mentioned, the relations of the British with the native powers of India were, when Lord Hastings assumed the office of Governor-General in October 1813, 'precisely in the condition in which they were placed at the close of the Marhatta war in 1805-6.'

Mr. Prinsep, the maker of that remark, divides the states of India at this time into four classes: 'First, those with whom the British nation had formed subsidiary alliances. Secondly, those enjoying its protection without any subsidiary contract, and consisting for the most part of small principalities, scarcely meriting the name of substantive powers. Thirdly, acknowledged princes with whom the British Government was at peace, and connected by the mutual obligation of treaties, but with whom it had no closer intercourse or recognised means of influence, except in so far as the residence of a British representative at the court was sometimes a matter of stipulation. Fourthly, independent chieftains and associations never yet acknowledged as substantive states, and to which the British nation was bound by no engagements whatsoever.'

The states of the first class connected with the British by subsidiary alliances were those of the Nizam of the Deccan,

the Peshwa, the Gaekwar, Mysore, and Travancore. In strictness, Oudh might be added to this list, but the cessions exacted by Lord Wellesley had been so considerable that Oudh was 'in too great dependence on the British Government to be regarded as one of the political states of India.'

The protective engagements had a controlling character, 'nor did they differ materially from the subsidiary treaties, except inasmuch as there was seldom any consideration exacted for the protection to be afforded, and never any obligation on the British Government to maintain a specific force for the purpose. The principal members of this class were the Rajas of Bhurtpur, of Dholpur Bári, of Alwar or Macheri, and various other chiefs round Delhi and Agra, with whom arrangements had been made in the close of the Marhatta War in 1805-6. The Rajas of Oorcha and Tehri, of Dattia, of Punna, and others of the Bundela race, together with the Marhatta chiefs of Jalaun and Jhánsi, and one or two more taken under protection on the conquest of Bundelkhand or subsequently; also the Raja of Rewa in Baghelkhand, and the Sikh chieftains between the Jumna and the Sutlej, to whom allusion has before been made as added to the list in the time of Lord Minto. The Musalmán Nawábs of Rámpur and Kalpi in Hindustan, of Karnúl and Ellichpur in the Deccan, and numberless others, whom it would be tedious to recapitulate, belong also to this class. The two Rájput states of Jaipur and Jodhpur had been included in this system by Lord Wellesley; but in the settlement of 1805-6 they were left without the pale of our relations, from an apprehension that these were already too extensive. The Raja of Jaipur was considered by his conduct in the war with Holkar to have forfeited all claims to our further protection; while the Raja of Jodhpur had refused to ratify the treaty concluded with Lord Lake by his representative; so that no impediment arose out of any existing engagements with either state to counteract the desire then felt by the British Government to withdraw from the connection.' The passage I have already cited from a despatch of Lord Cornwallis, in which he disclaimed the policy of his predecessor, supplies an instructive commentary on these remarks.

'The states and powers of the third class, that is to say, those not directly under our influence and with whom our connection was that of mutual amity alone, were the Sikh chieftain Ranjít Singh, the Gurkha nation, which ruled



Nepal, and the three Marhatta governments of Central India, namely, the Sindhia, Bhonsla, and Holkar families.'

The fourth class consisted of the predatory bands of the Patháns and Pindáris. The principle of the Marhatta government was plunder; and the effect of the peace of 1805 was to circumscribe the area of their depredations. Within the limits assigned to their power we did not interfere with their *mulk-giri*, or country-taking expeditions, their recognised and habitual procedure for collecting what they claimed as revenue at the sword's point by means of an army in the field. Within the theatre of war so narrowed disorder increased; and fresh bodies of armed plunderers appeared, subsisting on what we might now perhaps call dacoity committed on a colossal scale. The Pindáris adopted the old Marhatta or Parthian method of warfare; and their object was general rapine carried out by roving expeditions directed against British and native territory. The Patháns had horse, infantry, and artillery organised more or less in the European style; and they moved about, chiefly in Rájputána, for the purpose of preying on governments and powerful chiefs. In 1814 Amir Khan, the best known of the Pathán commanders, was at the head of a force of at least 30,000 horse and foot, furnished with an artillery well manned and served. It is not easy to compute the numbers of the Pindáris, partly because the same bands or individuals would at one time be associated under the leading adventurers of the class, and at another employed in the loose cavalry establishments of Holkar or Sindhia. But on a general combination of Pindári bands in 1811 there was an assemblage of not less than 25,000 cavalry, with several battalions of newly raised foot.

I have extracted these particulars at some length for the purpose of stating in a compendious way the net political results of Lord Hastings' administration. When he left India, the aim of Lord Wellesley had been attained. The British protectorate extended over the Simla Hill states, the Cis-Sutlej states, the whole of Rájputána and Central India, the states of the Bombay Presidency, and the other powers of peninsular India which had been brought within the system in former times. As predatory associations, the powers of the fourth class had disappeared. The Pindáris were destroyed or so shattered as never to unite again. Amir Khan became a petty territorial nawáb, the tracts granted to him by Holkar being guaranteed to him in perpetuity under British protection. His guns were nearly all



surrendered, and his army disbanded, except the pick of his battalions, which were taken into British pay. Of the states and powers of the third class, Ranjít Singh had avoided all rupture with the British, and was consolidating his power beyond the Sutlej, practically recognising that river as the dividing line between his dominions and the tracts and states under British supremacy. The time when the unprovoked aggression of the Sikhs was to lead to the conquest of their country across the Sutlej was not to come till his death had removed the only native ruler who was capable of keeping the formidable Sikh army in check. The Gurkha race had been defeated in arduous campaigns, and had yielded territory in Kumaun and Garhwal, with the suzerainty over the chiefs of the Simla Hills. Sindhia, Holkar, and the Raja of Nágpur had become feudatories of the empire. On the treachery and defection of Appa Sahib, the Nágpur territories of the Bhonslas became ours by conquest; some districts were annexed, and the rest were conferred upon a youth connected with the ruling family through the female line; and the state of Nágpur, thus re-granted by the British Government, was administered by British officers under Sir Richard Jenkins during some ten years, for the greater part of which time the new raja was a minor. The Peshwa, Báji Rao, was an exile at Bithúr, a few miles from Cawnpore, drawing the enormous pension of 100,000*l.* a year for life. He lived till January 28, 1851, and his adopted son, Dandhu Pant, was the Nána Sahib who authorised the atrocities of Cawnpore. The territories of the Peshwa, with the exception of Sattára, conferred by the British Government on a representative of the House of Sivaji, were annexed. The other states of the first class stood in much the same position as before. At the commencement of the Pindári War in 1817 a close alliance was formed with Bhopál, which agreed to furnish a contingent of horse and foot. A great addition was made to the number of the simply protected states, the addition, indeed, practically including all the remaining states except Khairpur, Kashmír, the Trans-Sutlej states, Baháwalpur, and some frontier states elsewhere. It remains to note that the settlement of our relations with the different groups of states was effected in the case of Central India through the agency of Sir John Malcolm; in the case of Western India, through the agency of Mr. Mountstuart Elphinstone, the historian of India and Governor of Bombay; and in the case of Rájputána, through Sir Charles Metcalfe. Sir David

only then as a
total change of policy
the danger of
the policy of
subordination
isolation, in
place of military
alliance



Ochterlony was the British agent who made the arrangements with the Cis-Sutlej chiefs; and in him also, after native Garhwal was restored to its raja, was ultimately vested the superintendence of the affairs of the hill chiefs who had been under Gurkha supremacy. The British system of relations was introduced in this quarter in the first instance by Mr. Fraser, the political agent with General Martindell's force in the Nepal War.

In this way the political system was built up in Southern India and the plains of the Jumna and Ganges by Lord Wellesley, and on the Bombay side and throughout the interior of the continent north of the Deccan by Lord Hastings. On January 1, 1823, the Marquis of Hastings left India; and there is not much that need detain us in the history of the next twenty years. The government was busied with Asiatic rather than Indian wars, with the conquest of three out of five provinces of Burma, and with disastrous attempts to set up in Afghanistan, as a counterpoise to Russian influence, a dynasty favourable to the British Crown. An interval, however, of comparative repose and internal progress was interposed between the conquest of Assam, Arracan, and Pegu, and the conquests of Sindh and the Punjab. Lord William Bentinck was a later Lord Cornwallis. The judicial system was remodelled; the foundation of the revenue system of Northern India was laid; education was encouraged; *sati*, or the self-immolation of women, and *thagi*, or wholesale murder by strangulation for purposes of plunder under the sanction of a perverted religion, were suppressed; and about the same period energetic measures were directed against human sacrifice in certain savage parts of the country, and against female infanticide in more civilised localities, where the dictates of humanity were overpowered by Rájput notions of honour. It is perhaps interesting, but it is a mere accidental coincidence, that the pacification of India by the proceedings of 1818 followed closely upon the pacification of Europe at the Congress of Vienna in 1815; and I mention the fact here only because it is sometimes useful to keep sight of the main currents of European and English politics when we are considering the development of Indian affairs.

Indian political law made at this time exceedingly little progress. The inevitable consequences of our position and the real nature of our responsibilities to the populations of native India were realised by few, and actually disclaimed by

the most powerful authorities. Yet just as parliamentary and official prohibitions have been impotent to stem the extension of British dominions, so no abnegation of the political functions, which we have in part inherited from various predecessors and in part assumed, has, in the end, availed to prevent their deliberate acceptance, their definition, and, in their definition, their substantial change. One statesman who discerned clearly the necessary tendency of contemporary events was Sir Charles Metcalfe. In 1806 he wrote a scathing denunciation of 'the fundamental principle' of Sir George Barlow's administration; the principle that we should withdraw from all connection and alliance with the states situated west of the Jumna, and get rid of our possessions so placed, except a strip of a few miles in breadth along the western river bank. 'I have occasionally,' he said, 'heard something of a commercial policy belonging to the company separate from its interest as a sovereign state. Without entering here into the question how far the company may have benefited by becoming a potentate, and granting, without discussion, the full justice of all the lamentations which are uttered on this subject by many worthy directors and proprietors, I must be allowed to say that it cannot be helped—the evil is done. Sovereigns you are, and as such must act, if you do not mean to destroy the power of acting at all, to demolish your whole corporation, your trade, and your existence. Execrate the memories of Clive and Watson, and those who first brought you from the state of merchants. Burn them in effigy, hang their statues, and blast with infamy those malefactors. Your progress since has been inevitable and necessary to your existence. "To stop is dangerous, to recede is ruin," said Lord Clive at an early stage of our power. We have arrived now at that pitch that we may stop without danger, but we cannot recede without serious consequences. . . . I repeat you are, in spite of yourselves, sovereigns, and must be guided by those rules which the wisdom of the world has applied to the government of empires. . . . For my part I wish to have your influence increased. It is generally sought for, and I am certain in its operation it gives the most real and essential benefit to all chiefs and states, and to the subjects of all chiefs and states over which it is exercised. There is a loud cry that we are in danger from extended dominion. For my part I can contemplate universal dominion in India without much fear.' Events in the Marhatta empire and in



the gathering places of the Patháns and Pindáris and the provinces which they ravaged soon proved that we could not stop without danger, even in 1806.

Nearly twenty years later, at a time when the Court of Directors maintained that 'the settlement of 1818 had in no degree extended our right of interference in the internal concerns of other states, except as it had been provided by treaty,' Sir Charles Metcalfe had occasion to advise the government as to the course which should be pursued with reference to passing events in Bhurtpur. Confidence had been shaken by want of success in the Burmese War; and there may have been in many quarters a disposition to try conclusions with the British Government. A child, named Balwant Singh, whose right to succeed had been recognised by the Governor-General in Council, had come to the throne of Bhurtpur; and his guardian had been killed, and his person and government seized by Durjan Sál, a relation and a pretender. Sir David Ochterlony had promptly ordered a force into the field to coerce the usurper. His proceedings had been disapproved, to the great increase of the strength and contumacy of Durjan Sál. The question was, what should now be done? 'We have by degrees,' said Sir Charles Metcalfe—I quote here from Marshman, vol. ii. p. 408—'become the paramount state in India. In 1817 it became the established principle of our policy to maintain tranquillity among the states of India; . . . and we cannot be indifferent spectators of anarchy therein without ultimately giving up India again to the pillage and confusion from which we then rescued her. . . . We are bound, not by any positive engagement to the Bhurtpur state, but by our duty as supreme guardians of tranquillity, law, and right, to maintain the legal succession of Balwant Singh. . . . Our supremacy has been violated, or slighted, under the impression that we were prevented by entanglement elsewhere from sufficiently resenting the indignity. . . . A display and vigorous exercise of our power, if rendered necessary, would be likely to bring back men's minds in that quarter to a proper tone; and the capture of Bhurtpur, if effected in a glorious manner, would do us more honour throughout India, by the removal of the hitherto unfaded impressions caused by our former failure, than can be conceived.' This advice was accepted and acted on. Lord Lake had been baffled before Bhurtpur in 1805. It was quickly taken in 1826 by Lord Combermere.

The interpretation placed by the Court of Directors on the political results of the settlement of 1818 is one of an immense number of instances of British moderation in dealings with native states. But neither moderation nor the theory of non-intervention in internal affairs availed to prevent the absorption of some states, and the direct assumption of the administration of one of the most important states in India. In 1793 a treaty had been made with the then Raja of Assam; but the country lapsed into anarchy, and fell under the dominion of the Burmese. Its conquest in 1825 was confirmed by the treaty of Yandabu in 1826; and with the cession followed the supremacy over certain states and tribes in that quarter. Of these states the whole of Jaintia and a great part of Kachár were annexed during the administration of Lord William Bentinck, 'chiefly,' as Mr. Wilson says ('History,' vol. ix. p. 324), 'through the folly and criminality of their native rulers.' The Raja of Jaintia, in 1832, failed to comply with a demand for the apprehension of persons concerned in the kidnapping of four British subjects for the purpose of offering them as victims to the goddess Káli. His territory in the plains was therefore confiscated; and upon this he voluntarily relinquished his subjects in the hills in return for a pension. In 1830 Govind Chandra, Raja of Kachár, who had been restored after the Burmese War, was assassinated. He had made himself obnoxious to his people by the employment of strangers and by extortion, and the people had repeatedly solicited annexation; and as there was no descendant, lineal or adoptive, the state was annexed, with the exception of a hill tract in the hands of a rebellious subject. This tract was also annexed in 1853. In 1826 Lower Assam had been forthwith placed under British management; but the upper part of the valley was made into a separate principality under Raja Purandhar Singh, with whom a treaty was made in 1833. The Raja's government was mild but weak. He fell deeply into arrears in the payment of his tribute, and declared his inability to meet the engagements by which he had bound himself. The management of the country was therefore resumed by government in 1838. During the same period events of much the same character were bearing witness to the impracticable nature of the doctrine, that we should abstain from interference in the affairs of native states; though at the very same time that doctrine was in other quarters applied with political results of great evil.



The raja whom we had set up in Mysore misgoverned his country, in spite of warnings, for years. In 1830 half of it was in revolt. It was necessary to send a British force to quell the insurrection; and the administration was, in 1831, entrusted to British officers, and remained in British hands for fifty years. The Raja of Coorg murdered many of his kinsmen, committed various other barbarities, and set the British Government at defiance. His state was therefore annexed in 1834. In 1838 the Nawáb of Karnúl (a Pathán chiefship founded by Aurangzib, which passed as a feudatory to us in 1800 when the Nizam ceded Bellary and Cuddapah in payment for the subsidiary force), was found to be engaged in treasonable military preparations on an extensive scale. His town and fort were taken in arms, himself imprisoned, and his state became a British district.

These annexations, though small, are not without importance; for they were made at a time when the circumstances under which intervention in feudatory affairs is requisite had by no means been defined. It was thought that the native princes became indolent by trusting to strangers for security, and cruel and avaricious from the assurance that they had nothing to dread from the hatred of their subjects as long as their protection was guaranteed by an irresistible power (Marshman, iii. p. 15). Non-interference, it was supposed, would make the princes efficient instruments of government. It is easy now to see that we must interfere to prevent evils threatening the existence of the state itself or the general tranquillity of the country; and that, as the native rulers are virtually maintained by British power, the correction of gross misrule is an imperial responsibility. But this platitude, as it now seems, could only become a political maxim in virtue of a long experience fraught with many miseries to the subjects of native states. The annexations I have mentioned, occurring when they did, suggest that non-intervention would, in the end, produce exactly that consequence which most of all it was intended to obviate. Leave all the native states alone to follow their own devices without guidance and without warning, and many would speedily blot themselves out by the sheer force of misgovernment, to the ultimate disturbance, as we may now believe, of the political equilibrium of the empire.

Amongst instances of our reluctance to interpose, which might be quoted from the records of those days, I will refer only to the history of the state of Gwálíor between 1827 and

1843. In March 1827 died Daulat Rao Sindhia, with whom had been effected the settlement of 1805. His state had passed during his lifetime from independence to vassalage. He left no son, natural or adopted ; but a successor, a boy of eleven years of age, was adopted by Baiza Bai, Daulat Rao's widow, in accordance with Marhatta custom. Baiza Bai endeavoured without success to obtain a formal recognition of her right to be regent for life, and held the youthful Maharaja in such irksome restraint that he fled from the palace and took refuge with the Resident. The Baiza Bai was unpopular ; the army espoused the cause of the young Maharaja, and the ambitious lady was compelled to retire from Gwálíor territory. The Maharaja was, indeed, acknowledged by the British Government. But, says Sir Charles Aitchison ('Treaties,' iii. p. 255), 'to such a length was the principle of absolute neutrality carried at this time' (1833) 'that government declared it was matter of indifference whether the Maharaja or the Bai was at the head of the Gwálíor state, and that the only object of government was to preserve the general tranquillity and its own reputation, recognising such ruler as might be placed by the popular voice at the head of the administration.' Baiza Bai from without the Gwálíor territories continued her intrigues. She was not supported by any strong party ; but the rule of the Maharaja was very weak. 'The court was one constant scene of feuds and struggles for power among the nobles ; the army was in a chronic state of mutiny. The weakness of the internal government prepared the way for the hostilities with the British Government which broke out shortly after the Maharaja's death, and resulted in an entire change of the British policy towards the Gwálíor state.' The Maharaja died in February 1843. Again the widow, Tára Ráni, adopted ; and the adoption was recognised by the British Government. The boy was eight years of age ; and the maternal uncle of the Maharaja just deceased was chosen by the chiefs as regent. He was opposed and expelled by one Dáda Khásjiwala, a mere usurper ; and the latter acted with hostility towards the British Government, which demanded his surrender, 'security for the tranquillity of the frontier, and the reduction of the mutinous army, which possessed the real power in Gwálíor and overawed the government of the state.' The Dáda was surrendered on the advance of a British force. But the army resisted, and was totally defeated in the battles of Maharájpur and Punniar, fought on the same day in December 1843. Territory yielding eighteen



lakhs a year was ceded for the maintenance of a contingent force; the army was largely reduced; and it was arranged that the government during the minority should be conducted according to the advice of the British Resident. The Baiza Bai was eventually allowed to return to Gwalior, where she died in 1862.

This narrative is instructive, partly because it is a good illustration of the necessity of imposing a limit on the military forces of native princes, and partly because it exhibits one set of natural consequences which flow from the refusal of the paramount power to interfere. The struggle with the Sikhs was known to be impending, and it was impossible to leave the mutinous forces of Gwalior on our line of communications or in our rear. Interference of the most drastic kind was forced upon us by the pressing necessities of self-preservation. We had allowed disorders to grow up of a type only too familiar to the readers of Indian history. The result was two pitched battles and a fresh annexation of territory. It is in this way, amongst others, that native states would gradually accomplish their own ruin, if there were no timely resolve on the part of the British Government to preserve them by friendly but strong interposition.

The year 1843 was that of the annexation of Sindh. Upon this event it is not necessary for me to make any comment. It belongs quite as much to the history of the British in Asia as to Indian history, and the only connection it has with the growth of the protectorate is that the annexation did not extend to the still-existing Sindh state of Khairpur. In six years more the whole of the Punjab had been annexed. With the annexation of the Jullundur Doab our protectorate extended to a number of hill states to the north and west of those of which the British Government became the suzerain after the Nepal War. I also have to note that the creation of the state of Kashmir dates from the close of the first Sikh War in 1846; and that the failure of the government then established in the Punjab to hold the country in check by means of a Resident and a native administration was not without some, though a slight, influence upon the decision to annex the province of Oudh. Upon that annexation I shall have to remark at some length in the next chapter.

It is time now to sum up what we have so far gathered as to the relation between international law and Indian political law and the growth of the British protectorate. The



early administrators of the company no more acted upon the principles of international law than did the country powers for or against whom they fought in the contest for dominion which everywhere prevailed in the continent of India when the Moghal empire ceased to be strong. The first British peer who was Governor-General, Lord Cornwallis, attempted to apply the law of nations in India; and even Lord Wellesley himself appealed to it when the name served a political purpose of the hour. But it was soon perceived that in British supremacy lay the only hope of general tranquillity, or even perhaps of preserving the acquisitions already made. The first methods used were the support of pageant princes, the formation of subsidiary alliances, and actual conquests in arms. The policy of Lord Wellesley was reversed by his successors, but the inevitable course of events was only slightly retarded. Stringent doctrines of abstention did not prevent the extension of the protectorate; and it was obviously unnecessary to call in the maxims of international law to justify the suppression of the Pindaris.

Speaking generally, we may say that the protectorate has been formed without reference to international law, and depends upon a different order of ideas. Sometimes native powers were compelled to accept military aid or protection as part of a general design for the pacification of the whole country; sometimes that aid and that protection were eagerly sought by them when threatened with extinction by the Sikhs or Marhattas; and sometimes the British Government inherited by right of conquest the supremacy exercised by its predecessors. The paramount power of that government is not derived from the law of nations or from the Moghals, or, indeed, from any of the potentates who maintained a fluctuating and often nominal suzerainty over different parts of the country in former times; it rests on conquest, agreement, and usage, and the necessity, in the general interest, of keeping the peace. But it may safely be said that whatever suzerainty, real or nominal, belonged to the *Khalsa* in the Punjab, to the Gurkhas in the Hill states, to the Peshwa in so much of India as was overrun by the Marhattas, or to Delhi emperors has now become vested in the British Government in such a way that we can at least claim all those acts of allegiance which were due to our predecessors, and the performance of which we have not expressly waived; though how much more we could claim in any given case would be a question of fact to be answered by an examination of the



relations existing in that particular case between the government and its feudatory. Following the practice of Europe, we have, in an immense number of cases, though not by any means in all, recorded the results of the proceedings, military or diplomatic, which established our supremacy in documents known as treaties or agreements; in many other cases, adopting the usage of India, we have acknowledged rights on the part of feudatories by *sanads* or imperial grants; while in many cases the relations between suzerain and feudatory are not described in any formal instrument at all, but must be gathered from history, from official correspondence, and from those general principles of Indian political law which effectively maintain the British protectorate.

It is important to observe that the principles in question cannot be considered to have become fixed till within quite recent years. The fundamental principle of all, the universal supremacy in India of the British Government, was indeed laid down by Lord Wellesley; but, as I have shown, it was immediately repudiated by his successor, and for the greater part of this century—for years after it had been made operative by the wars and pacification of Lord Hastings—its consequences were left to be matters of conjecture or contradictory action, and were never so pursued as to form a body of doctrine that might be regarded as a part of the constitutional law of the whole British empire in India and elsewhere. Occupied with wars and conquests, the early administrators had little leisure for the elaboration of systematic rules, which might have hampered them in the urgent necessities of self-defence and the suppression of political disorder; and if, without the experiences of 1857 to guide them, they had attempted to work out their principles to results, the probability is that we should have been met now by the obstacle of authoritative expositions of policy unfavourable, in their ultimate tendency, to the autonomy of native states. We have, indeed, in the case of the doctrine of lapse, been compelled to encounter such an obstacle; but, as will appear below, we have successfully surmounted it.

As it is, the accepted principles are not the deductions of text writers from any general propositions, established or assumed, but generalisations from the course actually adopted by the government on typical and important occasions. They are, for the most part, to be gathered from specific cases, like the rules of judge-made law on topics untouched by



legislation. And the fact that Indian political law has, in the main, been formed in this way raises a strong presumption that it will be found suitable for its purposes. Having been so formed, it obviously could not exist in any considerable volume until a good many states had become feudatories, and a sufficient number of cases had arisen in practice to admit of safe rules for future guidance being drawn from their results.

If we distinguish between the Indian political system and Indian political law, we may say that the former was almost wholly constructed in the first twenty years of the present century; while the latter, though based upon occurrences of year after year from the middle of the last century to the present day, only really took shape during the twenty years next after the mutiny. The provinces, so to speak, of Native India were nearly all of them added to the British protectorate by Lord Wellesley and Lord Hastings. A good deal more was, however, effected by Lord Minto than we are sometimes apt to remember. Before the conquest of Mysore we had dealt with native potentates in one of two ways: we had either negotiated with them, or made wars or treaties on an equal footing, for they were then rival independent powers; or we had subjugated them, leaving them the mere pageantry of royal state, while we took or supplied all the substance of political or military authority. In our relations with the Mysore state itself, the Nizam, and the Marhattas, we copied, to some extent, the procedure of international law; and in our relations with the Nawáb of Arcot and the Nawáb of Murshidabad, rather that of the Peshwas and the mayors of the palace. Our dealings had been with the great and practically independent officers of the dying empire; and with the great Indian powers originating in the violence to which its moribund condition afforded the opportunity. With few exceptions, the alternatives before the smaller states were subjugation by or continued subjection to the Sikhs or the Marhattas or the French wielding their power; or, on the other hand, acceptance of British protection, with that degree of political dependence which that protection necessarily implies. Many of them willingly or eagerly elected for British protection; and it is satisfactory to reflect that in great part the protectorate of native India is due to the deliberate political assent of the states concerned. Again and again the character in which the British Government has appeared has been that of a deliverer and a preserver.



CHAPTER IV.

THE ANNEXATION OF OUDH.

THIS chapter traverses well-worn ground, but there are good reasons for repeating here the oft-told tale of the last great measure of Lord Dalhousie's administration. The story illustrates the worst features of native rule under the protectorate, and thus enables me to shorten a later part of this work; and it also serves to fix a date for the origin of Indian political law as now understood. It is clear from the discussions which I am about to summarise that before the mutiny there was no coherent system of settled principles and rules such as we now apply in our relations with the feudatory states; and that thirty-seven years ago ideas on that subject were in a nebulous haze, and had not as yet been concentrated by events into definite shapes with a permanent inter-connection. In the process of concentration much matter has been whirled away into the outer limbo of forgotten politics; but we may hold that one important part of the lasting residuum was derived from Oudh experiences amongst others. Tardily, indeed, but at last, the conscience of the British Government awoke to its duty to the people of Oudh. The annexation illustrates the principle, that if there is misrule on the part of a government which we uphold, we ourselves are ultimately responsible for it.

Oudh was not annexed on account of any treasonable acts on the part of its rulers. On the contrary, they never wavered in their friendship to the British Government. In war they were active and useful allies, at least in the matter of supplies of grain, cattle, and money; for their army, with the exception of some corps commanded by British officers, was always a rabble, and sometimes more dangerous to its friends than to its foes. In peace the officers of the Oudh Government attended with sufficient alacrity to those matters which depended exclusively on the requirements of

the paramount power. They gave up criminals who absconded from British territory. They supplied our troops on the march through Oudh. They protected our posts. They co-operated actively with us in the capture of *Thags*, and in the settlement of petty frontier disputes about lands. An Oudh Frontier Police was established, which was of great benefit to the neighbouring British districts. During the Nepal war the King of Oudh lent us, free of cost, nearly three hundred elephants. During the Nepal and Burma wars, he lent us three million pounds sterling, at times when we were extremely in want of money and could not procure it elsewhere. In 1842 the grandfather and father of the eventually deposed king between them lent us nearly half a million sterling, which was of great use in enabling Lord Ellenborough to equip and push on the army of General Pollock to retrieve our disasters in Afghanistan. The Court of Directors stated that a more shocking picture of a country given up to lawless violence, and to the extremes of rapacity and cruelty, never had been placed before it, than that which appeared in the reports of Colonel Sleeman, the last of the Oudh residents but one. Yet Colonel Sleeman, who could speak with authority on such a point, believed that no native sovereigns in India had been better disposed towards the British Government than the rulers of Oudh; or had, in time of difficulty, rendered aid, to the extent of their ability, with more cordiality or cheerfulness. Lord Dalhousie declared that the Government of India would feel itself guilty in the sight of God and man if it any longer sustained by its countenance and power a system fraught with suffering to millions. But he recorded that the rulers of Oudh had all along acknowledged our power, had submitted without a murmur to our supremacy, and had aided us, as best they could, in the hour of our utmost need.

Oudh was annexed solely for the purpose of ending misgovernment in all interior affairs; misgovernment which had lasted in spite of censure, remonstrance, warnings, and threats, for a period of forty years. I say forty years, because I wish to exclude the period from 1798 to 1814, when Saadat Ali was Nawáb, and I may add that under Muhammad Ali Shah (1837 to 1842) there may have been some improvement. But from the earlier time, when Shuja-ud-Daula laid his turban at Lord Clive's feet and owed the restoration of his territory and the promise of support to the pleasure of the British Government, it may be said in

general terms that corruption in all departments rarely, if ever, ceased, and there had been little, if any, remission of the extortion, tyranny, and cruelty of local chieftains and local officials. Oudh, when our connection with it began, was in a condition not unusual in Indian provinces at the time of the disruption of the Moghal Empire. That condition was never thoroughly reformed. Indeed, there is only too much reason to believe that, under the British protectorate, it deteriorated. Warning after warning was given without avail; respite after respite demonstrated the vanity of every hope that at last there might be some effort towards improvement. In 1779 Warren Hastings told the Wazir that the disorders of his state and the dissipation of his revenues were principally due to his detestable choice of ministers. In 1793 Lord Cornwallis, addressing the Wazir, said: 'The revenues are collected, without system, by force of arms: the *ámils*' (the local revenue officials) 'are left to plunder uncontrolled; the *ryots* have no security from oppression, nor redress for injustice exercised upon them.' In the following year Sir John Shore wrote in much the same strain. In 1801 Lord Wellesley had formed the conclusion that no effectual remedy could be provided against the ruin of the province of Oudh until the exclusive management of the civil and military government of that country should be transferred to the Company, suitable provision being made for the maintenance of the Wazir and his family. 'No other remedy,' he observed, 'can effect any considerable improvement in the resources of the state, or can ultimately secure its external safety and internal peace.' Writing to the Wazir a little later in the same year, he said: 'I have repeatedly represented to your Excellency the effects of the ruinous expedient of anticipating the collections, the destructive practice of realising them by force of arms, the annual diminution of the *jumma* (revenue) of the country, the precarious tenure by which the *ámils* and farmers hold their possessions, the misery of the lower classes of the people, absolutely excluded from the protection of the Government, and the utter insecurity of life and property throughout the province of Oudh.' Lord Wellesley annexed more than half the country and endeavoured, without success, to provide for the better government of the residue. But the misgovernment of the districts left to the Wazir was not permanently abated. A scheme was devised upon the principle of assimilating the administration of Oudh to that

of a British province, and dividing the territory into districts with revenue and judicial officers acting under separate controlling officers at the capital. About the year 1810 this scheme was submitted to the Nawáb, with a letter from Lord Minto strongly urging its adoption. The Nawáb refused to accept the scheme; and it was entirely dropped by Lord Hastings in 1814, as a measure of conciliation and of preparation for the approaching Gurkha war. It is said that after Lord Hastings's departure the British Government again determined to interfere authoritatively for the correction of confusion and misgovernment. However this may be, during the years from 1815 to 1822 the British troops were constantly employed against refractory *zamindárs*; and in the beginning of 1820 these troops occupied and dismantled more than seventy of the Oudh forts. The Government of Oudh was unable, without assistance, to suppress even the gangs of armed robbers who haunted the jungles and made frequent and desperate inroads into British territory. In 1826 Lord Amherst had an interview with the King in the hope of inducing him to amend the administration of his country. In 1831 Lord William Bentinck informed the King that matters had come to that pass that, in the event of improvement and reformation not being effected by his Majesty's officers, the settlement of the country would need to be made by British officers: and this intimation was accompanied by a significant allusion to the stories of Bengal and Benares, Arcot and Tanjore. The same Governor-General recommended to the Home Government that the British Government should undertake the management of the country in the name of the King for such period as might be found necessary for restoring order and for establishing an efficient system of administration. The Court of Directors authorised the Government of India to carry this measure into effect, if they still considered it necessary to do so. In the despatch of July 16, 1834, which conveyed this permission, the Court observed: 'The administration of Oudh, instead of being conducive to the prosperity or calculated to secure the lives and property of the inhabitants, has become progressively more and more oppressive until the country presents a scene of anarchy and tyranny unparalleled in any other of the more considerable native states; and, instead of always advising with the officers of the British Government and acting in conformity to their advice, the Prince has,



during all this long period, disregarded the most earnest remonstrances and the most solemn admonitions, perpetually addressed to him, both by the British representative at his Court and directly by your Government.' 'Unfortunately,' writes Sir J. P. Grant in a valuable minute to which I shall refer again presently, 'the measure thus authorised was not carried into effect at the time in the unfounded hope of amelioration.' We may at least conjecture that if it had been, the result might have equalled that attained in the not dissimilar case of Mysore. But 'the Afghan and other wars,' continues Sir J. P. Grant, 'suspended the consideration of the Oudh question for several years; . . . at last, in 1847, the Governor-General, Lord Hardinge, at a solemn interview, gave the present ruler of Oudh a term of two years, within which period, if his administration were not reformed, he was assured that the measures which had been so long threatened would be carried into execution.' Nothing was done. The Punjab and Pegu wars and the reluctance of the Government to resort to the necessary extremities caused a delay of some years. At length General Outram was sent to Oudh as Resident, with instructions to report whether the improvement peremptorily demanded by Lord Hardinge seven years before had been in any degree effected. The report of General Outram showed no improvement whatsoever. In the language of Lord Dalhousie, the misgovernment of Oudh was even more gross and palpable than at the first: the condition of the King's territory and people was even more miserable than before. Upon this report and the consultations which followed it, her Majesty's Government resolved upon the annexation of the country.

It is idle now to inquire whether Oudh might not still have been one of the feudatory states of India, if the whole of Lord Wellesley's policy had been carried out, and not merely a part of it; if the scheme of Lord Minto had been firmly insisted upon at the time; or if Lord William Bentinck's proposal for a temporary sequestration had been acted upon by his successor. I shall have to dwell a little longer upon the actual nature of the evils which existed in Oudh, because the record against that state of wrong and disregarded human suffering is the most forcible illustration I can adduce of the anarchy and oppression which may ensue when the British Government protects a native potentate against attack from without and internal disorder, removes

the natural check upon Eastern rulers of general revolt, and unhappily relies, as the sole security for good government, upon advice, expostulation, and censure. Measures, not mere words, are required if we would save native states from the loss of their autonomy. This is a commonplace now, but the whole history of Oudh proves that it has been long indeed in becoming an accepted principle.

What, then, was the general condition of Oudh in the period which immediately preceded annexation? In 1839, Dr. Butter, an officer who had excellent opportunities of becoming acquainted with the facts, wrote: 'The administrative state of the country may be summed up in a few words: a sovereign regardless of his kingdom, except so far as it supplies him with the means of personal indulgence; a minister incapable, or unwilling, to stay the ruin of the country; local governors, or more properly speaking, farmers of the revenue, invested with virtually despotic powers, left, almost unchecked, to gratify their rapacity and private enmities; a local army, ill-paid, and, therefore, licentious, undisciplined, and habituated to defeat; an almost absolute denial of justice in all matters, civil or criminal; and an overwhelming British force distributed through the provinces to maintain the faith of an ill-judged treaty and to preserve peace.' In 1849, while the minister was framing a plausible balance-sheet, more than one-third of the revenue remained uncollected at the end of the year; all the public establishments and stipendiaries were deeply in arrears; the treasury was empty; scores of landholders, with large armed forces, were in open rebellion. There were 246 forts or strongholds, mounted with 476 pieces of cannon, all held by landholders of the first class, chiefly Rājapūts. Large quantities of the most fertile lands in Oudh were converted by the landholders into jungles around their strongholds, some of them extending over spaces from ten to twenty miles long by from four to eight miles wide. Into these mazes of desolation and iniquity no man dared enter without the permission of the robber chief. The strongholds were dens of plunderers, infesting the whole country, defying the Government, imposing intolerable taxes upon traders and travellers, and making life and property everywhere insecure. The revenue was collected by force; and landholders who failed, in their resistance to the wretched soldiers of the Nawáb, took to plunder, burnt as many villages and murdered or robbed as many travellers as they could, to



obtain subsistence for their armed followers and to avenge themselves on the Government and its supporters.

Oudh has an area of 24,000 square miles, and was then supposed to have a population of about five millions. During the seven years ending 1854, according to the statistics of reported crime, there was an annual average of more than 147 gang robberies and 212 cases of kidnapping. According to the like statistics during the same period, there was an annual average of 1,573 persons killed and wounded, and of 78 villages burnt and plundered. The actual suffering was much greater, for innumerable crimes were never reported at all. General Outram estimates the corrected average of killed and wounded at above 2,000 a year. Outside of Lucknow there were no courts of justice of any kind. There were six hundred and sixty news-writers distributed over the face of the country, drawing, on an average, less than ten shillings a month apiece. It was their duty to make a true report of all occurrences to the Durbār or headquarters of Government, through the Darogah, or head of the department. They sold their reports to the officers, civil and military, who abused their authority, and shared the proceeds of this iniquitous traffic with the Darogah, who, in turn, shared his plunder with the minister and other influential persons at court. Colonel Sleeman reports a case in which the wives and children of the landowners and cultivators of whole towns and villages were driven off in hundreds like flocks of sheep to be sold into slavery. A great many perished of cold and hunger. The emissaries of the news-writers were present, and received so much a head on all who perished or were sold. Frightful tortures were common. There were numerous cases of men being burnt on the body with hot ramrods; the mode of punishment for recusancy was to place the wrist between split bamboos, which were daily tightened. If the victim failed to pay the demand, he was left in this situation till his hand dropped off. Three men lost their hands in this manner in the year 1854 in the villages of Pipapur and Kaliānpur. In 1847 the following were amongst the crimes committed by high Government officials or their subordinates: five hundred women and children were sold by auction; in a gang-robbery four men were killed and a fifth was buried up to the neck in the ground and his ears filled with powder, which was fired and killed him; a revenue-collector with a thousand sepoy's attacked a bazaar, plundered five villages, and

carried off thirty-two captives; a weaver who delayed to prepare some thread was tied to the leg of an elephant and thus dragged, his body being lacerated, to the camp of the local official; a farmer of a village, on the plea of arrears of revenue, was burnt in the body with hot ramrods. I need not go on with the list. In all these cases the matter was represented by the Resident to the King, but no answer could be obtained. In Lucknow, where there were tribunals, justice was openly bought and sold. The King's eunuchs, the King's fiddlers, the King's poets, and the King's creatures plundered the people as much in the capital as the revenue officers plundered them in the distant districts. These minions had their separate courts of so-called justice, and on the pretence of adjudicating claims under the authority of the King, imprisoned and ruined whomsoever they pleased. Officials bought their places and recouped themselves by rapacity. The revenue officials gave large fees to the court officials, but were not safe in their positions for a year, so much depended on Durbár influence and Durbár intrigue. The King left all power ostensibly to the minister; but the minister was hampered on every side by the interference of the despicable crew of strumpets and parasites who hung about the King. The position of the minister, if unenviable, was profitable. His salary was more than ten thousand pounds a year, and his perquisites were reckoned at more than seven times that sum. Bad as the civil administration was, the army was perhaps even a worse plague to the miserable subjects of the King than the systematic corruption of all authority and the systematic prostitution of all justice. The rebels and robbers sometimes spared the villagers; but the King's troops, who dared not face the high-handed marauders, showed the common people no mercy. Three-fourths of the officers commanding regiments were singers or eunuchs, or their creatures, or the creatures of court favourites—men or boys who never saw their regiments and never left the court. Numbers of the army existed only on paper, their pay being the perquisite of the commanding officers and their crew. The officials embezzled the money supplied for powder, for the repair of gun carriages, for the purchase of bullocks. The bullocks actually purchased were starved, and the price of the grain supposed to be supplied to them misappropriated. Other bullocks used for artillery purposes were taken from the villagers by force. The paymasters received their offices on contract. With the con-



nivance of the Government and its officers, the troops—of whom it was said that none had a whole coat to his back and few muskets which could be discharged—were for ever engaged in pillaging the farmers and cultivators. Outlay for grass, wood, and fodder was disallowed; every corps on reaching its ground therefore sent out a foraging party. The doors and roofs were torn from the houses to be used for fuel. The covering of houses, doors, and windows, and stores of grass and straw were to be seen moving towards the camp from every village within two or three miles. The Chāmārs and like inferior castes, it was said, were the prey of all, caught at every hour of day or night, used as beasts of burden, beaten and abused, never paid, and often robbed even of their scanty clothing.

All this time the King had utterly disregarded the responsibilities of his high station. At first, he sometimes held a durbār or levée; but in 1849, and afterwards, he passed most of his time in the female apartments; and the only persons, except the females, who saw and spoke to him, were the eunuchs, the fiddlers, and the songsters, who meddled in every affair and influenced every decision. His aversion to business became incurable. All he required from his minister was not to importune him on affairs or allow others to do so. He virtually appointed his favourite fiddler to be the supreme head of the civil courts in Lucknow. Blinded by his minions to the iniquities committed in his name, he made himself deaf to the miseries of his people. He never read or heard read a report or a complaint or public document of any kind, except perhaps the letters of remonstrance of the Resident or the Governor-General. When he went out to take the air in his carriage, no one was permitted to approach him with a petition, though the streets were crowded with people clamouring for a redress of the wrongs they suffered in the town or the provinces. He did not even attend to the abject wants of his own family. In 1854 the King's own uncle had not received his stipend for three years, and upwards of seventy thousand rupees were still due to him. One of the first petitions General Outram received was from 216 ladies of the royal house, representing that their stipends were overdue for periods averaging from three to four years. These unfortunate persons were literally starving. While the royal family was in want, while justice was being sold at his door, while corruption was rampant in public posts, and public officers were defrauding the Government, bribing their

superiors or the minions of the King, and robbing the people whom it was their duty to protect, while the royal army was pillaging the country, and the chief landholders were levying war on the troops and the villagers and each other, the King was receiving the obeisances of his doctors and courtiers, distributing shawls and handkerchiefs to his fiddlers and females, letting off fireworks, gazing at flights of pigeons, and enjoying the performances of dancing-girls. It may be that the last King of Oudh was the worst, or one of the worst, of a long line of imbecile or dissolute rulers. It may be that we see Oudh at its worst during the dark period which preceded its deliverance. But culpable apathy in the ruler was no more a novelty in Oudh than gross misrule in the state. 'The sovereigns of Oudh,' wrote Lord Dalhousie, 'have been enabled for more than half a century to persist in their course of oppression and misrule. Their eyes have never seen the misery of their subjects; their ears have never been open to their cry. Secure of the safety of his person, secure of the stability of his throne, each successive ruler has passed his lifetime within the walls of his palace, or in the gardens round his capital, careful for nothing but the gratification of his individual passion—avarice, as in one; intemperance, as in another; or, as in the present King, effeminate sensuality, indulged among singers, musicians, and eunuchs, the sole companions of his confidence, and the sole agents of his power.'

Early in 1856 troops were moved up to Lucknow from Cawnpore, and at the latter place was assembled a body of civil officers to take charge of the divisions and districts of the province. On February 7, 1856, General Outram took over the administration. Before this the King was offered a draft treaty, of which the first article vested in the East India Company for ever the civil and military administration of the territories of Oudh. Notwithstanding much pressure, the King persisted in refusing to sign; and the annexation was effected without his assent, and in spite of his protests. In 1859 he accepted a pension of twelve lakhs (or, roughly, 120,000*l.*) a year; and he was allowed to retain the title of King of Oudh, which, on his death, ceased absolutely. In 1862 an act was passed to exempt him from the jurisdiction of the criminal courts except in capital cases, and to provide for his trial and examination if necessary.

Wajid Ali Shah, the ex-King of Oudh, lived till lately in the suburbs of Calcutta in a residence purchased for him by



the British Government. He died on September 21, 1887. The province of Oudh became part of British India. It was administered for some time by a Chief Commissioner and commission on the non-regulation system of the Punjab. In January 1877 it was partially amalgamated with the North-Western Provinces, by the union of the offices of Chief Commissioner and Lieutenant-Governor. But there are differences still between the Oudh and North-Western administrations which, under one and the same Local Government, rapidly tend to disappear.

The whole story suggests the reflection that, if the maintenance of native potentates under the British protectorate necessarily produces a condition of public affairs characterised by the turpitude, oppression, insecurity, violence, and cruelty which the above picture of Oudh displays, time given to the elaboration of Indian political law is time worse than wasted. Assuredly, the British nation would never wittingly assent to the direct or indirect employment of British troops to uphold so monstrous an engine for the infliction of human misery as, under that supposition, the Indian political system must be. If we conscientiously believe that there is no mean between the direct administration of a state as British territory by officers of the British Government and the relinquishment of the state to the native prince and his ministers, secured by the military strength of the empire against foreign and domestic dangers, and under no check save that of advice or censure, which they are at liberty to disregard, we had better abandon all attempt to consolidate the existing system of relations with feudatories and seize every opportunity which presents itself and is consistent with good faith to convert the remaining foreign territories into British districts by systematic annexation. Any political risk which this might involve would be preferable to the insupportable moral responsibility of deliberately maintaining the misgovernment of millions. From other parts of this book it will, I hope, clearly appear that we are not really in the dilemma of upholding misrule or endangering the empire. We have realised much better than in times past the nature of our duty towards the inhabitants of native states. At the present day the Government has the means of fulfilling that duty, and uses them, in case of necessity, without hesitation.

The chief interest of the annexation of Oudh to the students of Indian political law lies in the discussions of the



OUR INDIAN PROTECTORATE

Indian Government which set forth the justification of the measure. In the minutes recorded at that time we can see Indian political law in the making ; and the contrast between the ideas prevalent then and now will show something of the progress made in the interval. There was no substantial difference of opinion as to what should be done. All were agreed that the British Government must permanently undertake the whole government of the province. As to the basis of the right to do this, and, in consequence, as to the manner in which it should be done, there was considerable divergence of view.

Mr. J. Dorin preferred to 'assert the right of the Government of India, as the paramount power, to adopt its own system of government in respect to any portion of the Indian Empire that is hopelessly ground to the dust by the oppression of its native rulers.' He therefore advised that the King should be required to abdicate his sovereign power, and to consent to the incorporation of Oudh with the territories of the British crown, ample personal provision being made for himself and his family.

The minute of Sir J. P. Grant assumed the existence of a theory of the Indian constitution apart altogether from the obligations of treaties and the precepts of international law. His argument was that, whatever were the rights and obligations of Lord Wellesley in 1800 towards the ruler and people of Oudh, such would be the rights and obligations of the British Government in 1855, when the treaty of 1801 was justly abrogated. No King of Oudh, no ancestor of any King of Oudh, was ever an independent sovereign. The Nawábs of Oudh never threw off their legal subordination to the Moghal Emperor. The position of the Nawábs of the Moghal Empire was no more than the position of an hereditary viceroy ; 'and by *the theory of the Indian constitution*, they and their family had no claim to hold it longer than they continued to govern their provinces tolerably well. By the practice of the Indian constitution they never did hold it longer, for when they misgoverned, if the Emperor was too weak to dethrone them, some ambitious ameer did the Emperor's duty.' Shuja-ud-Daula, the *subadár* of Oudh, unjustly attacked the British Government of Bengal. He was conquered and restored to power in 1765 under certain stipulations. These stipulations gave him no independence. In virtue of them every Nawáb of Oudh has been, in fact, what Mr. Hastings formally designated the son and successor



of Shuja-ud-Daula, a vassal of the Company. The Nawábs or *subadars* of Oudh have been supported solely by the arms of the British Government; they knew and admitted that their existence depended on that of the British Empire. Oudh was recognised by them and by everybody else as a part of that empire. It was bound to contribute to its defence. The Oudh army was a useless rabble, the country was grossly misgoverned. Lord Wellesley, not in pursuance of any treaty, nor under any of those circumstances in which a sovereign state may be legitimately asked to disarm, but as a measure of military reform indispensable for the good of Oudh and its people, compelled the Nawáb to disband his army. He further endeavoured to induce the Nawáb or *subadár* to give up to the British Government absolutely the whole civil and military administration of his *subadári*. The Nawáb refused, and he was then compelled to cede about half his territory. This compulsion was not exercised either under any treaty or in virtue of any natural right, as between separate nations, entitling one to sequester territory of another in payment of a debt, for the subsidy to be secured on the ceded districts was not in arrears. It was exercised by military preparation, by instructions to the Resident that in the case of the refusal of the Nawáb to grant what was required of him 'the British troops were to march for the purpose of establishing the authority of the British Government within those districts,' of which the cession had been demanded, and by the Resident actually issuing to the Oudh officials orders to remit no more revenue to the Oudh Government. The Nawáb further engaged, under the treaty of 1801, thus forced upon him, to establish in his reserved dominions such a system of administration, to be carried into effect by his own officers, as should be conducive to the prosperity of his subjects and be calculated to secure the lives and property of the inhabitants. In all this Lord Wellesley was fully justified by the relative positions of the British Government and the ruler of Oudh. Lord Wellesley's position was that of the head of an empire. The legal position of the *subadár* under the Emperor of Delhi, and his actual position under the Governor-General in Council, was that of a subject prince administering in a subordinate capacity one of the component parts of that empire. The principle of Lord Wellesley's action was that the relative positions of the parties thus explained gave the British Government the right, and imposed upon it the obligation,



in the proved case of extreme misgovernment on the part of the ruler of Oudh, to make whatever organic change of administration in the whole or in any portion of that country, due consideration for the character of the British Government, the general good of the empire, and, especially, the rights and interests of the people of Oudh, rendered necessary. 'Lord Wellesley's principle,' said Sir J. P. Grant in another part of the same paper, 'lies at the bottom of our relations with nine-tenths of the native states in alliance with us.' In 1801, Lord Wellesley provided finally for the welfare of one-half of Oudh, and instituted an experiment for the welfare of the other half, with which his successors should deal, as masters, if it should break down, exactly as he had dealt, as master, with the former constitution of Oudh when it broke down in 1801. The stipulation of the treaty of that year, which had regard to the welfare of the people of Oudh, had not been performed by the Oudh Government. The treaty was therefore at an end; and the parties were in 1855 in the same position as in 1800. 'When the British Government succeeded to the empire of the Moghal it acquired permanent dominion over Oudh by a double right. It has never been imagined that it would have been thought justifiable in the Moghal, if he had had at command the necessary physical force, to neglect to relieve his Oudh subjects from the incorrigible misgovernment of his *subadárs*. I am unable to see on what ground we, who stand in the Moghal's place, and who have at command the necessary physical force, can doubt that we have the same right, and the same duty, as the Moghal would have had. Such, I contend, has been the theory of the relation of the rulers of Oudh to the British Government; and, most assuredly, our practice has accorded with no other theory. In 1798 we deposed a nawab, Wazir A'i, who had actually ascended the *masnad*, and commenced to rule, on the ground that, in our judgment, he was not the son of the late Nawáb, who had acknowledged him as such. And in 1837 we set aside, by force, a son of the late King, on the ground that, in our judgment, he was illegitimate, and we, by force, enthroned the brother of the late King instead. These were, doubtless, very proper acts on our part; but if such acts were not founded on the assertion of our having supreme dominion over the kings and people of Oudh, I ask on what doctrine were they founded? by what reasoning they can be justified? Is it only when the people are concerned that we should

hesitate to assert our supreme dominion?' Accordingly, Sir J. P. Grant recommended that, with or without the King's consent, Oudh should be incorporated with the territories immediately administered by the British Indian Government, the treaty of 1801 being declared violated and at an end.

General Low agreed that the treaty was annulled; but thought the King should be persuaded to sign a new treaty, making over his whole kingdom permanently to the exclusive management of the British. If the King should refuse to sign a new treaty, we should still, as Sir J. P. Grant held, be in possession of those peculiar rights over the rulers of Oudh which were ours before the treaty of 1801, as that document did not in any respect cancel our previously existing rights.

So far, it will be noticed, the arguments were drawn from Indian history, Indian practice, Indian theory. Neither Mr. Dorin, nor Sir J. P. Grant, nor General Low dreamt of applying to the case the maxims of European international law. The whole structure of Sir J. P. Grant's argument shows that he regarded them as entirely inapplicable. It was otherwise with the two other members of the Government of India who took part in this memorable discussion. Sir Barnes Peacock argued that 'if a treaty between two *nations* be broken by one of them, the injured nation has the option either to consider the treaty at an end, or to uphold it, and insist upon the performance of it, and, if necessary, resort to force for that purpose,' and he supported this position by quotations from Vattel. He preferred to uphold the treaty, as our title to the provinces ceded in 1801 depended upon it. He thought the King should be required to consent to vest the whole civil and military administration of his kingdom in the East India Company for ever, to be carried into effect by their officers in his name. Thus, Sir Barnes Peacock considered, we should obtain a sufficient guarantee for future good government, without deposing the King or compelling him to abdicate, and to vest the whole of his territories in the British Government. The King should not be allowed to exercise any option. If he should refuse his consent to the offer to be made to him, the East India Company should exercise that power which was, Sir Barnes Peacock believed, in strictness vested in them in consequence of the violation of the



treaty, and remove the King and his heirs for ever from the throne.

Lord Dalhousie pointed out the objection that the treaty required the administration to be conducted through the officers of the King. His lordship advised that the treaty 'should be declared null and void, that our troops should be withdrawn, and that our protection of the Government should cease, and that all our relations with it should be broken off.' A new treaty should then be offered to the King, of which the most essential article should be that, while retaining the sovereignty of his kingdom, he should vest the whole civil and military administration of it in the East India Company. Lord Dalhousie believed that in less than a month, 'either the King's subjects would have marched over the King's troops and pillaged Lucknow; or the King, to save himself, would have been glad to agree to whatever engagements might be offered to him by the British Government.' His lordship's colleagues, however, and the Court of Directors considered that in the interval of delay during which the resident and British troops would be withdrawn the most terrible evils would, at least temporarily, be brought on the people of Oudh, whose benefit was the sole motive, as well as the sole justification, of the proposed measure. Lord Dalhousie, having regard to a recent outbreak of fanatical violence in Oudh, yielded; and the measure actually effected was substantially that suggested by General Low. Without withdrawing the troops or Resident, a new treaty was offered, and, on its rejection, the administration was authoritatively assumed.

The point for particular attention, however, is the reason assigned by Lord Dalhousie for the course he originally advocated. He believed it to be most in accordance with established usage, most *in conformity to international law*, and, therefore, least liable to criticism or cavil, and least open to the attack of those who might be expected to condemn and oppose the action of the Government of India. The view propounded by Sir J. P. Grant, 'namely,' as Lord Dalhousie incorrectly described it, 'that the King of Oudh was no independent sovereign, but only a *subadár*, whom the British Government as paramount power, in succession to the King of Delhi, was entitled to remove at its pleasure,' his lordship emphatically repudiated. 'The theory itself,' he said, 'is, in my humble judgment, destroyed at once by the simple fact of the acknowledged existence of treaties

as looking at the
basis of the treaty
he was right



concluded between the British Government and the rulers of Oudh, for treaties can be formed only between independent powers. The apparent arguments in support of the theory drawn from the proceedings of Lord Wellesley could, I affirm, be readily refuted from his lordship's own despatches. So entirely did I dissent from the view which had been taken by my honourable colleague, and so erroneous did it seem to me that, if, unfortunately, it had found favour with the Honourable Court, I must have declined to take part in the establishment, or enforcement, of any policy which might have been founded upon it.' Sir J. P. Grant promptly replied that he had never intended that the British Government was entitled to remove the rulers of Oudh *at its pleasure*. So long as they performed their treaty obligations, the treaty made with them could not be annulled. The succession to the Delhi Emperor was not really material. As a matter of fact, in 1800 it had not occurred.

The Court of Directors had not these subsequent explanations before them. They judiciously refrained from expressing any opinion on the principles laid down by the several members of council, and prohibited the complete severance of our connection with the Oudh Government unless it was certain that the King would forthwith accept the proposed new treaty. If this was uncertain, they took the responsibility of authorising and enjoining the only other course by which our duties to the people of Oudh could be fulfilled—that of assuming authoritatively the powers necessary for the permanent establishment of good government throughout the country.

This somewhat elaborate abstract of a famous debate shows that, though the principles of Indian political law and its relation to international law were unsettled, the supreme Government acknowledged its duties to the people of Oudh and resolved to act up to them by the exercise of authority. As to the foundation of the authority thus to be exercised, there can be no doubt that in one point Lord Dalhousie was in error. There are many treaties with Indian Rulers who are not independent. Of all the theories put forward, I believe that any one who has passed an official life in India, and has had occasion to study Indian history and to deal with native states, will at once assert that the theory of Sir J. P. Grant, though not at all beyond criticism, is nearer the facts than any other. Sir J. P. Grant perhaps did not assign sufficient weight to the

de facto, though limited, sovereignty of the Nawábs of Oudh, a sovereignty which had actually existed for half a century at least, if not more. As I have already pointed out, when the Emperor of Delhi fell into our hands we were so far from taking on ourselves his theoretical suzerainty that Lord Wellesley himself expressly disclaimed any intention to make that political use of the occurrence. Indeed, homage continued to be offered on the part of the British Government to the Great Moghal till the cold season of 1842-3, when it was prohibited by Lord Ellenborough. An amusing account of the last occasion on which British officers made their obeisance and offered tribute in the shape of bags of gold coins to the Delhi Emperor will be found in Kaye's 'Sepoy War.' The surprise and indignation of Lord Ellenborough at an act which made the Governor-General appear as the vassal of the imperial house of Delhi was naturally extreme. Since that time, no doubt, her Majesty the Queen-Empress has succeeded to the throne of Delhi, vacated by the treachery and rebellion of the last occupant. Whatever additional claim on the loyalty of feudatories may result from this accession, it is not the basis of the suzerainty exercised in India for years, while homage was still being paid to the Delhi Emperor.

Another lesson to be drawn from the story of Oudh is that Indian political law is, or may be, exposed to a double danger. It may be ignored by lawyers, who may turn to text-books of international law because they are not acquainted with any other law applicable to the relations between the British Government and the feudatory states. It may be ignored by statesmen, because they may believe that if their action should become the subject of party conflict in the parliamentary arena or before constituencies, political opponents at least will be prone to draw their weapons of attack from an exclusively Western armoury. Obviously the best resource against these dangers is, if possible, so to state the general principles and history of Indian political law that they shall become easily accessible for perusal to those who may have occasion to consider the questions to which they apply.

Before leaving the case of Oudh I have to add a remark upon Lord Wellesley's policy. It is probable that he looked forward to a much more active interposition by the Government of India in the internal affairs of Oudh than was ever actually practised before annexation. The sixth article of



the treaty of 1801 obliged the Nawáb always to advise with, and act in conformity to the counsels of, the officers of the East India Company. There is no doubt that Lord Wellesley intended the advice to be systematic, comprehensive, and authoritative. 'It is my intention,' he said in a minute of August 16, 1802, written nearly a year after the signature of the treaty, 'as soon as the state of public affairs may admit, to prepare a detailed plan for the administration of the Wazir's dominions, founded on that which shall be established within the ceded provinces.' 'The whole minute,' says Sir J. P. Grant, 'shows that, whatever Lord Wellesley would have done under his own treaty, had he remained in power to see how Oudh affairs have gone on since he left the country, he would not have left them in the state they have been in for the last fifty years.' We have seen that a regular scheme for the government of Oudh was formally proposed to the Nawáb by Lord Minto. It was dropped by Lord Hastings for other reasons besides those I have mentioned. The conduct of the then Resident appears to have been injudicious. Any one who cares to pursue this uninviting topic will find ample details in Mr. Prinsep's History (vol. i. pp. 217-221). If, however, in 1802 Lord Wellesley thought it practicable to make a Native Ruler govern well through his own officers, this is some support to the belief that, in 1892, the Government of India need experience no substantial difficulty when it has occasion to require chiefs to act up to their obligations of good government.

I may mention that this chapter was written in 1887, without any reference being made at that time to chapters IV. and V. of Mr. H. C. Irwin's very able and interesting book 'The Garden of India.' In these chapters Mr. Irwin gives a very full account of the administration of Oudh under the Nawábs and of the annexation. After reading what Mr. Irwin has said, I have slightly revised two passages to avoid any injustice to two of the Nawábs. It is unnecessary to enter upon any matter on which I might venture to differ with Mr. Irwin; but I wish to make one extract from his work. 'It is difficult,' he says (p. 175), 'to rise from a study of the Blue Book of 1856 without feeling that the motives which led to the adoption of that measure' (i.e. the annexation of Oudh) 'were not mere vulgar lust of conquest or mere greed of pecuniary gain. There can be no doubt that Lord Dalhousie and the members of his Council, and General



Outram, were, one and all, firmly convinced that by assuming the administration of Oudh they were acting in the interests of humanity, and conferring a great blessing on several millions of people. And they were certainly right in their belief that the misrule and oppression prevailing in the province were intense.' In these opinions I entirely agree.



CHAPTER V.

THE DOCTRINE OF LAPSE AND THE ADOPTION 'SANADS.'

THE doctrine of lapse, so largely applied but not invented by Lord Dalhousie, was the bane of the states of the Indian protectorate. It actually extinguished some states; notwithstanding the distinctions formally but imperfectly made between states of different classes, it threatened or might, on strong grounds, be held to have threatened the gradual extinction of all. The antidote was the distribution by Lord Canning of the *sanads* or written grants declaring the desire of the crown that the governments of Ruling Chiefs should be perpetuated, and assuring them that adoptions regularly made by themselves or future Chiefs would be confirmed by the British Government. The present system of relations between the British Government and its Indian feudatories to a great extent depends on the maintenance of the altered policy which these *sanads* expressed. It is therefore necessary to examine in some detail both the bane and the antidote.

I heartily rejoice to think that the doctrine of lapse has been abandoned; but here again, as in the case of the annexation of Oudh, I believe it to be a very grave error to attribute to the great or distinguished men who made use of that doctrine either mere ambition or mere greed of territory or revenue. Unquestionably those men were actuated by the highest political motives. Their first desire was the desire of all those, native or European, who have the interests of the British Empire at heart. They wished to see the Empire strong and the millions who inhabit India prosperous and well governed. And they believed—though at this date under changed circumstances we may well differ from them on this essential point—that these ends would be best attained by the substitution, whenever it might be consistent with justice and good faith, of direct British administration for native rule. I shall adduce in illustra-

tion of these remarks the cases of Sattára, Karauli, Tehri, Jhánsi, and Nágpur.

When Lord Dalhousie landed in India in 1848 there was no novelty in the lapse of foreign territory to the paramount power; and in the Bombay Presidency, where we had succeeded to the comparatively recent dominion of the Marhattas, it had been the practice, on the failure of heirs to chiefships, to grant or refuse permission to adopt according to circumstances. In a series of despatches dating from 1834 to 1846, the Court of Directors had laid down that the permission of adoption, when optional, should be the exception, not the rule, and should never be granted but as a special mark of favour and approbation. When refusal to permit adoption would be, with reference to the tenure of the state and the custom of previous governments, an act of harshness or an injury, permission, they said, should be given, but not otherwise, except as a reward. On these principles, on failure of natural heirs, permission to adopt had been refused in the cases of the petty states of Colaba and Mandavi and of certain *jágirs* in the Deccan and Southern Marhatta country, which had accordingly lapsed; while the chief of Sangli had been allowed in his lifetime to adopt a son, and an adopted son had been allowed to succeed to the Jamkhandi *jágir*. Among the Sikhs, Cis-Sutlej and Trans-Sutlej, 'adoption, though carrying with it all the right of succession to private property enjoyed by the son of the body, had never been acknowledged as conferring any right of succession to a chiefship. In the Punjab proper, the Maharaja of Lahore, and south of the Sutlej, the British Government claimed, as paramount, the right of inheriting all estates to which there were no near male heirs, among whom the adopted son had no place; and the families of Umballa, Ferozepur, Biláspur, Rupar, and many others had vainly endeavoured to secure for adopted children a share at least in the estate' ('Punjab Rajas,' p. 226). In 1837, in the case of the Phulkian states, namely, Patiala, Jhind, and Nábha, females had been excluded from the succession; and the British Government, 'although allowing the right of collaterals, had only admitted their right to such property as had been held by the common ancestor from whom they derived their claim.' Ranjít Singh 'asserted the rights of a sovereign more jealously than ever the British Government had done, and neither allowed the claims of adopted sons nor of the nearest

collaterals' (*ibid.* pp. 225-227). On these principles a great part of the Jhind state, now included in the British districts of Ludhiāna and Umballa, lapsed in 1835 and 1837; and a great part of the Kaithal state in 1843. Nor were these solitary instances. 'The number of lapses,' says Sir Lepel Griffin, 'that had fallen to the Government from the time of its first connection with the country north of Delhi was very great; and chiefship after chiefship had been absorbed in the British territories' (*ibid.* p. 226).

In Rājputāna, on the other hand, lapses had not occurred. The Rājput princes, though feudatories of the Moghal Empire, and harried by the claims and incursions of the Marhattas, had preserved attributes of sovereignty greater, than those possessed by the petty states of Western India and perhaps greater than any that had ever been acquired by those Cis-Sutlej Sikhs, who were *mālguzārs*, or revenue-paying tributaries of the Delhi Emperors. Moreover, the constitution of Rājput principalities in Rājputāna supplied principles directly conducive to the perpetuation of Rājput dynasties. In this part of the country the general rule was, and still is, an election or adoption, most commonly an election, by the chiefs and councillors of the state after the decease of the chief, requiring an adoption by his widow to complete the arrangement, an essential point being that the ceremonies and rejoicings should be performed in public. 'The confirmation of the suzerain,' wrote Sir Henry Lawrence, then Agent to the Governor-General for the states of Rājputāna, after a very elaborate inquiry in 1853, 'is necessary in all cases: he is the arbitrator in all contested adoptions; he can set aside one or other for informality, irregularity, or for misconduct; but it does not appear by the rules or practices of any of the sovereignties, or by our own practice with the *Istamrārdars* of Ajmir, that the paramount power can refuse confirmation to one or other claimant, and confiscate the estate, however small. . . . A Rājputāna chiefship, great or small, can never escheat to the suzerain except by rebellion.'

Such being the diversity of custom, political constitution, and practice in different parts of India, the first case to come before Lord Dalhousie in which the general question of permitting adoptions was raised, was that of the Sattāra *rāj* or principality in Western India. He had, indeed, a few months before decided to permit the lapse of one native state to another, of Ahmadnagar to Edar, both on the Bombay

side; but that decision is only referred to here because it proceeded on a well-known paper by Mr. Willoughby, described by Lord Dalhousie as a text-book of adoption. The Sattára *rāj* was a creation of the British Government. When the Peshwa was conquered and his territories were annexed in 1818, we found the representative of the house of Sívaji in a prison and we set him on a throne. The rajas of Sattára had at that time ceased to be rulers; they were powerless, pageant monarchs maintained in confinement by the Peshwa for political objects. We gave them the principality partly because it was thought the measure would be popular with the Marhattas, partly because the state would provide an asylum for those who might be unwilling to serve us, and partly, perhaps, because the danger of formidable confederacies amongst the Marhatta chiefs had not entirely passed away, and it may have been considered expedient, as a counterpoise to their power, to maintain a nominal sovereignty in the House of Sívaji. The first raja under the British protectorate was found guilty of engaging in treasonable intrigues and was deposed in 1839. He was exiled, and died at Benares in 1847. The second raja died on April 5, 1848, leaving no issue, but having, just before his death, hastily adopted a distant relative. The adoption was set aside, and the state annexed. But this annexation did not proceed upon any ground of misgovernment or of failure on the part of the late raja to discharge his duty to the paramount power. 'Unquestionably,' wrote Sir George Clerk, then Governor of Bombay, 'a native government conducted as that of Sattára has for some time been is a source of strength to the British Government.' Mr. Reid, a member of the Bombay Council, referred to the probability of a 'conviction that under the mild and excellent government of the late raja his country flourished in a degree with which our neighbouring districts cannot well sustain a comparison.' On the question of right the decision proceeded on the proposition that the consent of the suzerain is indispensable to the validity of an adoption involving succession to a principality; and that the right to grant this consent implies the right to withhold it. The first proposition was regarded as established by evidence, applicable at all events to the Bombay Presidency and the states of Gwálíor, Indore, Bhopál, Nágpur, Mehidpur, and others in Bundelkhand and Rájputána. The second proposition was taken as an inference from the

first, though it is directly opposed to the conclusion subsequently arrived at by Sir Henry Lawrence in regard to the states of Rájputána. It was, however, said by Lord Dalhousie that the power to confer or refuse sanction to the adoption was possessed by the British Government 'by virtue of its authority as the sovereign state of Sattára, a position which it holds equally as the successor of the emperors of Delhi, as the successor by conquest of the Peshwas, the virtual sovereigns of the rajas of Sattára, and, lastly and especially, as the creators of the *rāj* of Sattára under the treaty of 1819.' On the question of expediency I quote at length the further words of Lord Dalhousie: 'I take,' he said, 'this fitting occasion of recording my strong and deliberate opinion that, in the exercise of a wise and sound policy, the British Government is bound not to put aside or to neglect such rightful opportunities of acquiring territory or revenue as may from time to time present themselves, whether they arise from the lapse of subordinate states, by the failure of all heirs of every description whatsoever, or from the failure of heirs natural, where the succession can be sustained only by the sanction of the Government being given to the ceremony of adoption according to Hindu law. The Government is bound in duty, as well as in policy, to act on every such occasion with the purest integrity and in the most scrupulous observance of good faith; where even a shadow of doubt can be shown, the claim should at once be abandoned. But where the right to territory by lapse is clear, the Government is bound to take that which is justly and legally its due, and to extend to that territory the benefit of our sovereignty, present and prospective. In like manner, while I would not seek to lay down any inflexible rule with respect to adoption, I hold that on all occasions where heirs natural shall fail, the territory should be made to lapse and adoption should not be permitted, excepting in those cases in which some strong political reason may render it expedient to depart from this general rule. There may be conflict of opinion as to the advantage or propriety of extending our already vast possessions beyond their present limits. No man can more sincerely deprecate than I do any extension of the frontiers of our territory which can be avoided, or which may not become indispensably necessary from conditions of our own safety and of the maintenance of the tranquillity of our provinces; but I cannot conceive it possible for any one to dispute the policy of taking advantage of every just

opportunity which presents itself for consolidating the territories that already belong to us by taking possession of states which may lapse in the midst of them, for thus getting rid of those petty intervening principalities, which may be made a means of annoyance, but which can never, I venture to think, be a source of strength, for adding to the resources of the public treasury, and for extending the uniform application of our system of government to those whose best interests we sincerely believe will be promoted thereby. Such is the general principle that, in my humble opinion, ought to guide the conduct of the British Government in its disposal of independent states (*sic*) when there has been total failure of all heirs whatsoever, or where permission is asked to continue, by adoption, a succession which fails in the natural line.'

I shall show presently that, in substance, the policy which Lord Dalhousie could not conceive it possible for any one to dispute has been completely rejected, both in word and deed, since the Government of India was assumed by the Queen-Empress. The words of Lord Dalhousie deserve attention because the prevailing ideas as to expediency can never be without effect on the system of relations with native states and the confidence and loyalty of feudatories. On questions of adoption in connection with principalities, and of the customary law of inheritance to chiefships, a mass of learning has accumulated. Here and there, as with reference to the states of Rājputāna, a few well-established principles are to be discerned. But for the most part the amorphous aggregate of conflicting texts and precedents may be bent either for or against the continued existence of states at the will of any able dissertator; and if the maintenance of states were left to depend upon the interpretation of so-called customs, originating when the measure of right was the length of the sword of the suzerain, or formed by British precedents occurring before it was generally apprehended that, in primitive law, the tie of adoption is equally binding with the tie of blood, there would be keenly-felt peril most subversive of loyalty in every discussion of a succession, and the dearest interests of our faithful feudatories would be the continual sport of chance. Uncertainty and agitation vanish with the knowledge that the British Government sincerely desires to preserve the native states in their integrity; and that desire springs partly, no doubt, from a sense of justice, but in the main from radically



altered views on the question of expediency. Briefly, we now believe that it is the interest of the British Government to maintain the principalities, and that if we were to get rid of them we should be injuring ourselves.

Sattára, then, was annexed in consequence of the conviction mentioned in the papers that, for the permanent good of the people and the advancement of intelligence, British administration is 'incomparably better than the government of any native state.' The excellence of the late Raja's administration arose from his personal qualities, it was said, not from the nature of the institutions of the state. 'In my conscience I believe,' wrote Lord Dalhousie, 'we should ensure to the population of the state a perpetuity of that just and mild government which they have lately enjoyed, but which they will hold by a poor and uncertain tenure indeed, if we resolve now to continue the *rāj*.' It was also observed that the district was fertile and the revenue productive; and that it consisted of a strong and hilly country inhabited by a bold and hardy population, and interposed between the Deccan and Southern Marhatta districts of the Bombay Presidency and between its two principal military stations, Poona and Belgaum. All these considerations were in a certain sense secondary considerations. A perusal of the record cannot fail to bring home to any impartial mind the conviction that if Lord Falkland, who had succeeded Sir George Clerk as Governor of Bombay, and Lord Dalhousie and their advisers had doubted for a moment that annexation was the best course to adopt in the interests of the people, motives of political and fiscal advantage, standing by themselves, would never have induced them to agree to it.

In the Karauli case there was no lapse. Karauli is a state about the size of an average British district in the Punjab, or rather smaller; it is situated about fifty miles to the south-west of Agra, and is an old Rájput principality which was taken under protection, and acknowledged the supremacy of the British Government when the Peshwa, in 1817, ceded the tribute formerly payable to him. It was in the Karauli case that Sir Henry Lawrence made the report upon Rájput successions from which I have already quoted. Lord Dalhousie, before that report had been received, recorded that the circumstances of Karauli appeared 'to resemble those of Sattára in all essential particulars.' As Sir Alfred Lyall has justly pointed out ('Asiatic Studies,'

p. 206), it was in all essential particulars that the circumstances differed. The Raja, Narsing Pál, died on July 10, 1852, having adopted, the day before his death, a distant kinsman named Bhurt Pál. The Governor-General and Mr. Lowis considered that the arguments preponderated in favour of declaring Karauli a lapsed state. Colonel Low and Sir Frederick Currie were of an opposite opinion. The matter was referred to the Court of Directors for orders, who determined to sanction the succession of Bhurt Pál on the grounds that the Sattára state was one of recent origin, derived altogether from the creation and gift of the British Government, while Karauli was one of the oldest of the Rájput states, which had been under the rule of its native princes from a period long anterior to the British power in India; that probably there was no part of India in which it was less desirable to substitute British for native rule, except upon the strongest reasons; and that no such reasons existed in the case. It subsequently appeared that the adoption of Bhurt Pál had been practically set aside; and the succession ultimately fell to one Madan Pál as the nearest of kin to Narsing Pál, as accepted by the *ránis* of Karauli and by all the nine most influential Thákurs, who, under a purely native administration, would probably have been the electors, also by more than three-fourths of the thirty-eight heads of branch families entitled to vote in important state matters, and, as far as could be judged, by the almost general feeling of the country.

The state of Oorcha, or Tehri, is rather larger than Karauli. It is the oldest and highest in rank of all the Búndela states, and was the only state in Bundelkhand which was not held in subjection by the Peshwa. When the Raja of Tehri presented a *nazr* (tributary offering) to the Governor-General in 1807, he is said to have remarked that it was the first time his family had acknowledged the supremacy of any power. The chief died without an heir, natural or adopted. But here the Government of Lord Dalhousie took measures for the continuance of the state under a native ruler. The neighbouring Bundela chiefs were asked to point out the nearest collateral heir to the late Raja capable of adoption, and the boy so indicated was adopted by the widow. In the course of the correspondence the Government of India declared that in the states of Rájputána it is a standing rule that the chiefs and councillors of the principality shall be consulted in all



doubtful cases of succession. This was in 1855, nearly three years after Lord Dalhousie's mistaken observation about Karauli.

The state of Jhānsi lapsed in 1854. This territory had been severed from the state of Oorcha by the Marhattas in the middle of the eighteenth century, and in 1804 a treaty was made by the British Government with the Marhatta *subadār* or governor. In 1817, after the Peshwa had ceded his rights in Bundelkhand to the British, another treaty was made which was interpreted as guaranteeing the inheritance of Jhānsi to the descendants of the *subadār* whom we found in possession in 1804. Collaterals were allowed to succeed, but in 1853 the Raja (the title was changed from *subadār* to Raja in 1832) died childless, and the state lapsed because there existed no male heir of any of the chiefs who had ruled Jhānsi since our relations with it originated.

These details illustrate the great diversity in the circumstances of native states with reference to questions of succession, and show what grave cause native chiefs had for anxiety in regard to the perpetuation of their dynasties so long as it was the honest conviction of the British Government that the acquisition of territory was, in the general interest, a thing to be desired. True, distinctions were drawn between states of different histories; but who could tell what weak spot in his title might not be pointed out in the ingenuity of learned argument? So long as there was the disposition to believe that the discovery of defects of title was a piece of good fortune for the empire, the voluminous records of a long series of discussions might easily be made to supply proofs of the defect.

Towards the close of Lord Dalhousie's administration there seems to have been a not unnatural impression that the native states of India would be gradually but quickly eaten away by the pressure of encircling British dominion, much as the petty principalities of Thrace and Asia Minor crumbled in the iron grasp of Imperial Rome. It is not a mere conjecture, but a fact on record, that many natives in Rājputāna about this time told a high officer of the British Government that they thought the annexation of Sattāra a case of might against right, and expressed the hope, not unmingled with dread, that the Rājput families might be saved from like disgrace and disaster. Similar language was held in Mālwa; and the usual question was what crime had the Raja of Sattāra committed that his

country should be seized by the Company; the belief being thus implied that annexation might be justified as a penalty. Colonel Low in one of his minutes on the proposal to annex Nagpur—a proposal to which he was strongly opposed—expressed the opinion that probably, in course of time, the whole of India would become a British province; ‘but,’ he said, ‘many eminent statesmen have been of opinion that we ought most carefully to avoid *unnecessarily* accelerating the arrival of that great change; and it is within my own knowledge that the following five great men were of that number, viz. the Marquis of Hastings, Sir Thomas Munro, Sir John Malcolm, the Hon. Mountstuart Elphinstone, and Lord Metcalfe.’ It will be noted that four out of these five eminent men had no small share in laying the foundation of the British protectorate. Colonel Low went on to give reasons for his view in a passage which contains one of the prophecies of the mutiny. He dwelt on the impolicy of annexations, except for breach of engagements, at least until there should be ‘numbers of men in every large district so prosperous and wealthy and so thoroughly satisfied with their condition’ as to be ‘sincerely attached to our Government and both able and willing *for their own interests* to afford important aid to us, by the exertion of their influence, in the event of our Indian possession being invaded by powerful foreign foes, or endangered by any internal insurrection, or want of fidelity in our native army.’

It is not very rare, even at the present day, to trace in the comments of contemporary observers a somewhat similar vein of speculation in regard to the future of Indian states. For instance, the writer of ‘The Armies of Native States of India’ (reprinted from the ‘Times,’ 1884), after telling the story of the chief (presumably a Cis-Sutlej chief) who said that the grip of Ranjīt Singh was death by cholera, and the shadow of the British death by slow consumption, adds (page viii) ‘the prediction, though not realised at the time, may prove true.’ Such remarks are disturbing to our loyal adherents, and misleading to all. They entirely overlook the existence of the system which it is an object of this work to explain. The answer to all such misgivings is that Indian political law is conservative of Indian native states, just as international law is conservative of the states of Europe; and if the principles of Indian political law are properly understood and maintained, the prediction will certainly prove erroneous.



This would not be the case if the doctrine of lapse had not been ejected from the strong position in which it was at one time established. The doctrine has been defined as 'the claim of the British Government to treat as an escheat any state in which the ruling family becomes extinct.' That is perhaps the broadest definition of the doctrine that could be given. It was considerably narrowed by the great statesman who made the most vigorous use of it. If Lord Dalhousie's term of office and life had been prolonged for thirty years, and the mutiny had never happened, it seems a fair inference, from his ready acquiescence in the decision of the Court of Directors in the case of Karauli and his action in regard to Oorcha or Tehri, that he would not have claimed as escheats heirless states of long standing in Rājputāna and Bundelkhand. In his minute regarding Nāgpur he quotes and affirms nearly the whole of the passage I have cited from his minute regarding Sattāra, and continues: 'I have perceived that in the course of public criticism a far wider interpretation has been given to these words of mine than they were intended, or can be rightly made to bear. I by no means intended to state, nor did I state, an opinion that the settled policy of the British Government should be to disallow every succession resting upon adoption made by a native prince according to the forms of Hindu law. The opinion which I gave was restricted wholly to subordinate states—to those dependent principalities which, either as the virtual creation of the British Government, or from their former position, stood in such relation to that government as gave to it the recognised right of a paramount power in all questions of the adoption of an heir to the sovereignty of the state. In the case of every such state I held that sound policy at this day required that the British Government should take advantage of any lapse that might occur, whether it arose from failure of all heirs whatsoever or from failure of heirs natural, so that succession could only pass by permission being given for the adoption of an heir. But even in the case of such lapse I declared that no advantage should be taken of it, unless it could be done in accordance with the "most scrupulous observance of good faith." I repeat, therefore, that in the minute quoted above' (the Sattāra minute) 'I gave no sweeping opinion adverse to the right of a native prince to adopt a successor according to the authority of Hindu law. The opinion which I gave referred

exclusively to "subordinate states"—to "a dependent principality like that of Sattára" and others that have been named.' There is an ominous gap in this explanation, because no definition is given of subordinate and dependent principalities; but possibly the meaning is elucidated by the despatch of the Court of Directors in the Karauli case, where it is said (incorrectly) of the Karauli state that it stands to us only in the position of a protected ally. At all events, it is a fair inference from this passage that in his matured opinion Lord Dalhousie held that there were, or might be, some states where the ruler had the right of continuing the succession by adoption; and the doctrine of lapse, as Lord Dalhousie finally shaped it, probably amounts to this, that in certain by no means clearly defined cases it is optional with the Supreme Government to refuse to permit an adoption to be made, or to refuse to acknowledge an adoption actually made, when the object of the adoption is to continue a native dynasty; and further, that when this option can be exercised the decision should, except for special reasons, cause the lapse of the state. This is quite consistent with the terms of the despatch of the Court of Directors in the Sattára case, in which they expressed themselves fully satisfied that, by the general law and custom of India, a dependent principality like that of Sattára cannot pass to an adopted heir without the consent of the paramount power; that they were under no pledge, direct or constructive, to give such consent; and that the general interests committed to their charge were best consulted by withholding it. There is some importance in realising the connection between the law of adoption as applied to chiefships and the doctrine of lapse, because we can thus see that Lord Canning subsequently applied in exactly the right place the prop which was required to restore the shaken confidence of native rulers.

As Oudh affords the most signal instance of annexation effected as the consequence and punishment of misrule, so the case of Nágpur presents the most conspicuous illustration of a lapse decreed on grounds of general expediency. Jhánsi and Sattára were of comparatively small extent. The state of Nágpur comprised an area of 80,000 square miles and had an estimated population of four millions. The chief of Jhánsi had been a Marhatta *subadár*; the chief of Sattára had been elevated from a prison; but the rajas of Berar, whose territory at one time stretched from the



Nerbudda to the Godavery and from the Adjunta Hills to the Bay of Bengal, had been leading members of the great Marhatta confederacy. Nāgpur was the considerable remnant of their once more extensive dominions. Still, as in the case of Sattāra, the state had fallen to the British Government by conquest; Appa Sahib, the ruler at the time of the famous battle of Sitabaldi Hills in November, 1817, was faithless to his alliance and requited the terms conceded to him by renewed treachery; and when, on his second defection in 1818, the state was conferred on a Marhatta youth descended from one of the Raghoji Bhonslas through a female, this was an act of favour, dictated by policy, not the recognition of any pre-existing right. The cases, indeed, superficially appeared to differ in the circumstance that, whereas the Raja of Sattāra when at the point of death actually made an adoption, the Raja of Nāgpur died on December 11, 1853, without any heir and without having made or proposed an adoption. But there would have been no difficulty in arranging that an adoption should take place if the Government of the day had been minded to continue the Bhonsla dynasty. In point of fact the determination was that under no circumstances should an adoption be recognised as carrying with it a title to the succession. 'I should have felt it my duty,' said Lord Dalhousie, 'to advise that an adoption at Nāgpur (if it had been made) should be disallowed.' As there was an honest conviction that it was entirely at the option of the Government, so far as justice and right were concerned, either to allow or disallow an adoption, the decision was in reality guided by policy alone.

In Nāgpur there had been no such gross misgovernment as existed in Oudh. But there had been serious exactions after the Marhatta war in 1802. Appa Sahib had plundered and oppressed the country, and much land had fallen out of cultivation in his time. During more than ten years, when the raja whom we set up was a minor, the administration was conducted with marked success by British officers under Sir Richard Jenkins. In 1830 the raja was placed in power, and the condition of the country under British officers was gradually reversed. In 1837 the people, it was said, wished for British rule, were dissatisfied with the raja's management, and contrasted it with the past. In 1853 it was reported that justice was as taxable as any commodity in the bazaar; that functionaries



were selected by no rule but caprice, the favour of the seraglio, or purchase; and that there was a hatred of a fixed constitution or of settled principles which would impose a check upon arbitrary power. The public voice, it was stated, was greatly in favour of escaping the chance of a rule like that of the late chief in his later years. Lord Dalhousie argued—not quite fairly, for the second Sattára raja succeeded, if the first was disloyal—that we had thrice tried the experiment of setting up princes over territories gained in war, and always with disastrous results. We were compelled to assume the administration of Mysore. We were compelled to dethrone and exile the first Raja of Sattára. The Raja of Nágpur, trained under our auspices and aided by the excellent system of administration due to Sir R. Jenkins, nevertheless ‘lived and died a seller of justice, a miser, a drunkard, and a debauchee.’

A large space in Lord Dalhousie’s minute is devoted to the desirability of annexing Nágpur in the interests of England, because the great field of supply of the best and cheapest cotton lies in the valley of Berar and in Nágpur and adjoining provinces. In the previous year, 1853, we had acquired not the sovereignty, indeed, but the possession and administration of the valley of Berar. Now there was another opportunity of relieving another enormous territory from the disadvantages of arbitrary imposts, of transit duties strangling trade, and of the possibility of over-assessment of the land revenue, taking from the cultivator the whole value of his crops. To revive the *rāj* of Nágpur under a Marhatta sovereign would perpetuate the obstacles to a full, cheap, and excellent supply of cotton wool for the English market. Probably his lordship had here in view rather arguments which were likely to prevail with English critics of his policy than arguments which in fact bore upon the decision of an Indian question of the first consequence. Lord Dalhousie was not the man to be led by a sinister and selfish argument. His arguments were his slaves and not his masters; and in the exigencies of prospective self-defence he may have condescended to use some which his own judgment in reality despised. The better supply of cotton for English manufacturers was assuredly not the leading motive of the annexation of Nágpur. ‘I place,’ said Lord Dalhousie, ‘the interests of the people of Nágpur foremost among the considerations which induce me to advise that the state should now pass under British govern-



ment; for I conscientiously declare that, unless I believed the prosperity and happiness of its inhabitants would be promoted by their being placed permanently under British rule, no other advantage which could arise out of the measure would move me to propose it.' After reading the whole manuscript record relating to the annexation of Nágpur, I feel certain that this emphatic declaration was nothing but the simple truth.

The strongest part of Lord Dalhousie's case for the annexation of Nágpur was that which depended on the general interests of India. The absorption of the Nágpur state in the British dominions would, he pointed out, extinguish a government having separate feelings and interests, absorb a military power which, though no longer formidable, might be the cause of embarrassment or anxiety, render coterminous several British provinces, uniting Orissa with Khandeish and part of the Berar frontier with the Saugar and Nerbudda districts, and bring the direct line of communication between Bombay and Calcutta almost throughout its whole length within British territory. In any case in which right was clear and good faith maintained, these were cogent considerations, if the peace of the Indian Empire depends upon the British protectorate, and if the strength of that protectorate depends upon the consolidation of the British power.

The point in all this which is of practical interest at the present day is, that if we suppose some new conjuncture of affairs to arise, placing some other state in the position of Nágpur in 1854, there is not a single one of these arguments from expediency which would now hold good as a ground for annexation. Even the question of right, if it should be raised, which is highly improbable, would be debated in a different way and an entirely different spirit. Much has been learnt since that time of the nature of the primitive institutions and early society. Lord Dalhousie argued from the reports of political officers on Marhatta and Indian customs affecting succession, as though the conclusions had the certainty and effect of an enactment in the statute-book. We recognise much more clearly now how flexible a thing is the custom of early societies, and how readily, when it is applied from within and not from without, by the persons who make it, to the regulation of their own affairs of state, it is bent by an almost unconscious general assent to the exigencies of each political occasion. If the great object,



the perpetuation of the dynasty, is secured, surely, it might be thought, only dim-sighted pedants, not keen courageous men, would haggle over the legal formalities; and where custom is vague and has often been broken by fraud or violence, what lusty, fighting baronage, what high-born military caste would see any grievous sin in a new precedent? Lord Dalhousie did not believe in the temporary sequestration of states as a remedy for misgovernment. In the Oudh discussions he adduced, as an argument for the permanent establishment of British administration, the illustration of Nágpur and its deterioration after 1830, and the illustration of Hyderabad administered (in accordance with arrangements made by Sir Charles Metcalfe) by British officers between 1821 and 1829, but where the Nizam, on the cessation of this interposition, had set aside the system of Sir Charles Metcalfe and caused the condition of the country to revert to its former state of disorder and misrule. Lord Dalhousie quoted also the words of Lord Wellesley: 'Instability in the constitution of a government is the source of languor and weakness in all its operations. The subjects of a temporary government are perpetually agitated by the expectation of change, and the government itself cannot establish any systematic or comprehensive plan of administration. In such a state mutual doubt and uncertainty destroy that confidence which forms the most solid foundation of the reciprocal duties of allegiance and protection between the people and the governing power.' And it is clear generally from these two great state papers relating to Oudh and Nágpur that Lord Dalhousie did not believe in the strength of political influence as a security for the just and civilised government of the people of native states.

But in his public works policy he himself began to supply that strength with the most powerful instruments of its efficiency. Railways and telegraphs have been transforming the conditions of government in Native India no less than in British India. All the important groups of native states are now traversed by railways, and all the most important political officers have, at their head-quarters, a telegraph office within easy reach. Darkness can no longer dwell on the face of the land; and if dark or violent deeds call for prevention or requital, without any delay or embarrassment force can be summoned and concentrated where it is required. The mere knowledge that this is so arms advice with an authority which it could hardly possess



when a letter or traveller took fourteen days to journey from Calcutta to Delhi. Moreover, the experience of Mysore seems to show that temporary sequestration, even in extreme cases, may succeed if it is continued long enough to train up a generation of administrators capable of the intelligent and honest service of the state. Considerations based on the needs of English trade would now be deemed puerile; there is no reason why trade should not be freely developed in the dominions of a native prince. Land will be given for railways to the British Government on its application; the removal of arbitrary imposts interfering with important trade can be secured by political influence; and lastly, the governments of native states, when they rightly apprehend the position, have no interests separate from ours, except in much the same way as a Local Government may often, for local reasons, differ with the Supreme Government on minor questions of policy. The native states are part and parcel of the Empire; though some of them may be, with a different form of government, as autonomous as Canada or Queensland. Their armies, if properly organised, should be not a source of embarrassment or weakness, but a source of strength. Territorially the empire is completely consolidated. For the purpose of consolidating our possessions within the frontiers of India there is no occasion to add an acre of land to British dominion by any other means than voluntary agreement. We can plant our cantonments where we please, and run our strategic lines of railway communication over any part of the country. If a cantonment or a railway happens to fall in a native state, we acquire the jurisdiction without the sovereignty. The fate of the doctrine of lapse is the fate of exploded philosophical creeds and exploded superstitions. Nobody would take the trouble to refute it now, for, whether it be sound or unsound, it has become totally unnecessary.

The year after Lord Dalhousie left India one big wing of the imperial structure to which he had made so many additions was shattered for the time by a sort of dynamite explosion. There had been warnings, as, after the crash, men saw; but few, if any, political outbursts have been as sudden or as unexpected as the violently destructive shocks of 1857. Probably no adequate explanation has yet been given, perhaps none is yet possible, of the events of that time—events which had a double character, the mutiny of a mercenary army and, in consequence of the break in

political authority due to that mutiny, the reversion in some districts and provinces of the chiefs and tribes and village communities of an archaic society to their normal condition of private warfare against each other and against the representatives of the state. Neither military revolt, nor the armed outlawry of discontented men, nor violent and contumacious resistance to constituted authority, nor the prosecution with bloodshed of hereditary feuds or of expeditions in quest of plunder, were novelties in India; but the peculiarity of 1857 was the combination of all these symptoms of anarchy on an unprecedented scale. Perhaps the simple explanation is correct, that all the disturbances had their ultimate origin in the disaffection of the army. This disaffection may have been partly due to the men becoming ill disciplined and idle and spoilt, and losing their respect for their officers, under circumstances which induced the best men to leave military for civil employment. Possibly we should add to this that the soldiers may have been corrupted in many cases by the money of political pensioners who had lost high station by political changes and were ready to play for desperate stakes. But this is a conjecture of which I have found no proof. As to the immediate cause of the outbreak I entertain no doubt. The men, by whomsoever tutored, certainly believed that the order to use the greased cartridges was deliberately issued by the British Government for the purpose of breaking their caste. The vitality of historic traditions and ideas is shown by the facts that the sepoys attempted to seize the supreme power in the empire by setting up the King of Delhi as a puppet emperor, and at Cawnpore the adopted son of Baji Rao as a Peshwa; and they undoubtedly intended to give effect to their designs by the ignorant and ruthless policy of exterminating the Europeans in the country. Again, it does not seem to me to be established that the annexations of Lord Dalhousie had any considerable effect in producing the mutiny of the army and the insurrection in certain quarters of the civil population. It is true that the Rani of Jhansi was a conspicuous rebel; it is true that the Oudh sepoys in the Company's army were reckoned by very many thousands, and that there were disorders amongst the chiefs and people of Oudh, and not merely amongst the soldiery in the province. But the Rani of Jhansi took the occasion of the mutiny, like many other discontented persons, to avenge her supposed wrongs in arms; it cannot be said that her proceedings

were a cause, they were merely a consequence of the mutiny. No one acquainted with the condition of Oudh in 1855 can be the least surprised that, by 1857, the elements of anarchy, then so rife, had not been eliminated. The connection with the sepoys may have induced many villagers to join the wrong side, but it does not explain why the sepoys should have revolted. The establishment of British dominion in Oudh could not harm them, though it might ruin many persons whose influence had formerly been as great as their corruption. Berar, Nāgpur, and Sattāra were not theatres of disorder; the Punjab, though there were two unimportant local insurrections, was the prop of our power. With some very few exceptions, most of which, if we leave out of view the King of Delhi, were trifling, the feudatory chiefs were staunch. The contingents of the Central India states, with the exception of a few small bodies of men, and all the contingents of Rājputāna, except the Merwarra Battalion and the Meywar Bhil Corps, recruited for the most part from the indigenous tribes of the Mers and Bhils, joined in the mutiny. Their organisation connected them with the mutineers. But the chiefs of states, the rajas and maharajas and nawābs, with their irregular troops and feudal levies, gave us hearty and invaluable support, especially in the Punjab and Rājputāna. If the annexation policy of Lord Dalhousie had really had the effects which have sometimes been attributed to it, these feudatory chiefs would hardly have proved so conspicuously loyal. Nevertheless, there is reason to believe that feelings of anxiety and distrust were abroad, though they existed in India before the commencement of Lord Dalhousie's administration. 'While the renowned English Company,' said Sir Richard Temple, in an old report, 'was one of many competitors in the field of conquest—while it was struggling with others for existence—it had its followers and adherents, who fought under it and clung to it faithfully. When it succeeded in one quarter after another, its adherents rejoiced that they had sided with it; all men courted it and sought its friendships. But when that success spread and gradually enveloped the whole peninsula, then all men began to fear and wonder whom the conqueror would devour next.' As a broad general account of a tolerably widespread feeling at some uncertain date, these statements may perhaps be accepted.

At all events, it was a natural and necessary thing that,



after the suppression of disorder, the loyal services of feudatory chiefs should be acknowledged and measures taken to restore their confidence. The first measure then adopted, the publishing of the Amnesty Proclamation of November 1, 1858, has really determined the development of Indian political law ever since. The principles now accepted, if not directly derived from the announcements made at that time, must always be consistent with them; and the most important political cases and occurrences of internal India for more than thirty years bear witness to the sincerity of our desire to fall short in no particular in performing our share of what may be termed the covenant between the Crown and the people and chiefs of India.

The Amnesty Proclamation was promulgated throughout India with formalities and rejoicings; it was publicly read by officers of Government and in native durbars at all principal places; and copies of it were supplied to village accountants for purposes of accessible record. It is frequently referred to by natives of various classes and ranks in appeals, petitions, and addresses, and is, no doubt, regarded by educated Indians as a charter of popular rights and of the rights of dependent principalities.

The proclamation announces that the Queen has taken upon herself the government of the territories formerly administered in trust for her Majesty by the East India Company; appoints Lord Canning the first Viceroy; confirms in their several offices, civil and military, all persons employed in the service of the East India Company; and continues: 'We hereby announce to the native princes of India that all treaties and engagements made with them by or under the authority of the Honourable East India Company are by us accepted, and will be scrupulously maintained; and we look for the like observance on their part. 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.' The remaining paragraphs deal with the conditions of the amnesty for mutiny and rebellion; the duty of impartiality in matters of religion; and the admission



of subjects of whatever race or creed to offices for which they may be qualified by education, ability, and integrity. The document was communicated to the chiefs of India; and the language of heartfelt satisfaction in which they acknowledged it shows that they clearly and gladly recognised its great and permanent significance.

The passage I have quoted at length contains vital provisions of Indian political law; and I shall select, from amongst many, a few conspicuous instances of the faithful application of these provisions in the affairs of feudatory India. The first of these is the distribution in the viceroyalty of Lord Canning of the adoption *sanads*, which gave to native rulers a practical assurance of the sincerity of the assertion that the Queen desires no extension of her territorial possessions.

The story of the adoption *sanads* has been told by Sir Lepel Griffin in the 'Punjab Rajas' and amplified by Sir Charles Aitchison in the 'Calcutta Review,' No. cvi. of 1871. The narrative, however, may appropriately be repeated here with some condensations.

The Punjab chiefs did admirable service in the mutiny, and conspicuous amongst them were the Phúlkián chiefs. The Patialá chief was the acknowledged head of the Sikhs, and his unhesitating adherence to the British cause was of great political importance. Immediately upon the receipt of news of the occurrences at Delhi and Meerut he marched at the head of his troops to the neighbourhood of Umballa and thence to Thanesar, which district he took under his protection. Karnál and Umballa and the grand trunk road from Karnál to Phillor were guarded by his forces. He led or despatched troops to Sirsa, Rohtak, Hissár, Indore and Gwálíor, and many other places, and even as far as Oudh. He had upwards of five thousand men in the field, of whom five hundred served in the siege and assault of Delhi. He assisted in restoring order in the state of Dholpur. He furnished supplies and carriage, kept the roads clear, and aided fugitives. Raja Sarúp Singh of Jhínd was the only Punjab chief who was present before Delhi; the Maharaja of Patialá and the Raja of Kapúthalla wished to be allowed to go there but could not be spared. The services of the allied houses of Jhínd and Nábha were of the same invaluable nature, but need not be detailed.

In 1858, the three chiefs who had deserved so well of the British Government joined in presenting a paper of

requests. Of these requests, one was for the right of adopting a successor to the chiefship in default of male issue, or, in the case of death without male issue or making an adoption, for the selection of a successor from among the descendants of the common ancestor by the surviving chiefs. The request was at first refused by the Government of India, on the ground that the concessions sought would be important innovations on the custom which had always prevailed among the chiefs of the Cis-Sutlej territories. This was true; lapses, as I have already said, had been frequent; the dissipated lives of the chiefs made childlessness common; and there was a perpetual dread of the partial and ultimately the entire loss of dominion by the process which they had long seen before their eyes. The Home Government, however, took a more favourable view; but, before its despatch of December 1, 1859, could be received, Lord Canning's policy had undergone a change, and the experience of his famous tour through the Upper Provinces had shown him how near this question of adoption lay to the hearts of the feudatory chieftains. The concession was made to the Maharajas of Rewah and Chirkari in November, 1859, to Maharaja Sindhia in the next month, and to the Phulkian chiefs in January, 1860. It took some time to work out the new policy, and the adoption *sanads* were dated March 11, 1862, the day Lord Canning left India.

The nature of the policy will best be stated in the language of the celebrated despatch of April 30, 1860, from which I shall quote at length, as it is little accessible, and merits the careful study of every student of Indian political law.

Lord Canning during the course of his march through Upper India was forcibly struck by the want of some clear and well-understood rule of practice in our dealings with princes and chiefs on the subject of adoption as affecting states and principalities. How encumbered with doubts that subject was will already have appeared to some extent from the particulars I have given in regard to Sattara and Jhansi and Nagpur. 'It is not,' Lord Canning observed, 'that the measures taken under the orders of the late Court of Directors in dealing with doubtful or lapsed successions have not in many instances been liberal and even generous, and there certainly is not at the present moment any disposition on the part of the native states to doubt the general goodwill towards them of the paramount power.'



But there appears to be a haze of doubt and mistrust in the mind of each chief as to the policy which the Government will apply to his own state in the event of his leaving no natural heir to his throne, and each seems to feel, not without reason, that in such case the ultimate fate of his family is uncertain.' To this feeling he attributed the extraordinary satisfaction with which his recent assurances had been received by the chiefs to whom they were conveyed.

The policy respecting adoption had been incoherent, the discussions voluminous; since 1849 the official correspondence on not less than sixteen or seventeen cases of doubtful succession and of adoption had been printed by order of Parliament. Parliamentary blue books were read in native states; and our inability to agree upon fundamental points was thus palpable to those most deeply interested. We were disagreed about our duty, our policy, our rights, and about the law and past practice by which we professed to be guided. Some, as Lord Dalhousie, thought we were bound not to neglect rightful opportunities of acquiring territory and 'getting rid of petty intervening principalities.' Others held that the absorption of such states would be a source of weakness to ourselves. Lord Auckland's declaration in the case of the Colaba succession, that we ought to 'persevere in the one clear and direct course of abandoning no just and honourable accession of territory or revenue, while all existing claims of right are at the same time scrupulously respected,' failed to determine what acquisitions were just or what claims of right existed. We appealed to the Hindu law; but a high authority asserted that, comprehensive as it was regarding rights to private property, it did not provide for chiefships. We looked to the practice of former rulers and erroneously supposed that it supported a pretension to withhold assent to adoption, even in the case of so-called independent states, though no single instance had been found in which adoption by a sovereign prince had been invalidated by a refusal of assent on the part of the paramount power; and the probability was that the generally prevailing practice had been truly described in the statements of Sir Henry Lawrence, which he limited to Rájputána. We established distinctions between 'dependent' and 'independent' states—'dependent' states being those like Sattára or Jhánsi, created or established by the Moghals or the Peshwa or ourselves, and sometimes invested

with less than sovereign authority; and 'independent' states, those like the Rājputāna states and some in Bundelkhand, which had survived under successive paramount dynasties and suffered little interference from any. But having established the distinction, we laid down no certain rules for our guidance in dealing with states in either category. We raised points of nicety depending on differences of origin, race, and tradition upon which it was perhaps impossible to arrive at sure conclusions: such as whether, in a Rājput state, the widow might adopt without having received her husband's permission; whether in a Bundela state the chief might adopt a stranger to the exclusion of collaterals; whether in Hindu states generally the senior widow of a chief is allowed to adopt unreservedly, or is limited to a choice within certain degrees of affinity. We did not even determine with certainty what was the meaning of the language of our own treaties; for it was doubtful, at all events in states other than those which were both dependent and in the same position as Sattāra, and perhaps even in those also, whether the words 'heirs and successors' and similar expressions frequent in these documents were to be interpreted to include heirs by adoption or not. No wonder the minds of princes and people were disquieted by all this inconsistency and uncertainty and conflict of opinion amongst those whose authority was practically absolute in dealing with their dearest interests and rights.

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

'A time so opportune for the step can never occur again. The last vestiges of the royal house of Delhi, from which, for our own convenience, we had long been content to accept a vicarious authority, have been swept away. The last pretender to the representation of the Peshwa has disappeared.

The Crown of England stands forth the unquestioned ruler and paramount power in all India, and is, for the first time, brought face to face with its feudatories. There is a reality in the suzerainty of the sovereign of England which has never existed before, and which is not only felt but eagerly acknowledged by the chiefs. A great convulsion has been followed by such a manifestation of our strength as India had never seen; and if this in its turn be followed by an act of general and substantial grace to the native chiefs, over and above the special rewards which have already been given to those whose services deserve them, the measure will be seasonable and appreciated.'

The precise method by which Lord Canning proposed to recognise the right of adoption will sufficiently appear from the reply of her Majesty's Government, which I shall transcribe below. As regards the effect of the measure, Lord Canning said: 'It would show at once and for ever that we are not lying in wait for opportunities of absorbing territory, and that we do deliberately desire to keep alive a feudal aristocracy where one still exists.' It '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. Neither will the assurance, worded as proposed, diminish our right to visit a state with the heaviest penalties, even to confiscation, in the event of disloyalty or flagrant breach of engagement.'

Finally, Lord Canning met the objection that the measure would cut off future opportunities of accession of territory in these memorable words: 'I regard this not as an objection but as a recommendation. . . . Notwithstanding the greater purity and enlightenment of our administration, its higher tone and its surer promise of future benefit to the people, as compared with any native government, I still think that we have before us a higher and more pressing duty than that of extending our direct rule; and that our first care should be to strengthen that rule within its present limits, and to secure for our general supremacy the contented acquiescence and respect of all who are subjected to it; the supremacy will never be heartily accepted and respected so long as we leave ourselves open to the doubts which are now felt, and which our uncertain policy has justified, as to our ultimate intentions towards native states. We shall not



become stronger so long as we continue adding to our territory without adding to our European force; and the additions to that force which we already require are probably as large as England can conveniently furnish, and they will certainly cost as much as India can conveniently pay. As to civil government, our English officers are too few for the work they have in their hands, and our financial means are not yet equal to the demands upon us. Accession of territory will not make it easier to discharge our already existing duties in the administration of justice, the prosecution of public works, and in many other ways.

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

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



'It was long ago said by Sir John Malcolm that if we made all India into zillahs' (or British districts), 'it was not in the nature of things that our empire should last fifty years; but that if we could keep up a number of native states, without political power, but as royal instruments, we should exist in India as long as our naval superiority in Europe was maintained.

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

The next month Lord Canning wrote a second despatch, adducing in support of the despatch of April further considerations drawn from the circumstances of the Punjab Hill chiefs. But this did not add materially to the argument. The Secretary of State (Sir Charles Wood, afterwards Lord Halifax) replied in these terms:—

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

'These measures have already received the approbation of her Majesty's Government. But gratifying as they were to the princes and chiefs who were thus assured of the continuance of their houses, it was not improbable that they would be regarded by the native community at large as special acts of grace in consideration of good service rendered to the paramount state, and that some feelings of doubt and disquietude might be excited in the minds of those to whom the same assurances had not been conveyed. Your Excellency, therefore, lost no time in placing upon record and laying before her Majesty's Government the sentiments which you entertain with respect to the propriety of a more general



measure of recognition, calculated to give renewed confidence to all the princes and chiefs of India whose minds had been unsettled by some recent decisions of the British Government.

‘These sentiments I have now before me in your Excellency’s letters No. 43 A of the 30th April and No. 46 of the 10th of May, and I have the gratification to inform you that I am commanded to communicate to you her Majesty’s approval of the principles which they enforce and the recommendations which they contain.

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

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

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



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

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

The *sanads* were distributed accordingly. The usual form in the case of a Hindu chief runs thus :—

‘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, in fulfilment of this desire this *sanad* is given to you to convey to you the assurance that, on failure of natural heirs, the British Government will recognise and confirm any adoption of a successor made by yourself or by any future chief of your state that may be in accordance with Hindu law and the customs of your race.

‘Be assured that nothing shall disturb the engagement thus 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.’

The form for a Muhammadan chief is substantially the same ; except that the assurance conveyed is that, on failure of natural heirs, any succession to the government of the state which may be legitimate according to the Muhammadan law will be upheld.

There is one point in connection with these assurances

that I hope will never be forgotten. Looking to the whole circumstances detailed in the despatches, I think we may say broadly that the feudatory chiefs of India earned concessions meeting their heart's desire by the loyal support which they gave us in our time of greatest need.

For the chiefs themselves the value of the *sanads* probably consists much more in the policy which gave rise to them, evinced by the declaration of her Majesty's desire that the governments of the several chiefs shall be perpetuated, than in the assurance that the British Government will recognise adoptions regularly made in proper form by chiefs themselves. It is likely that chiefs, always reluctant to adopt, have, since the distribution of the *sanads*, made fewer adoptions than ever. The *sanads* do not express any pledge to recognise adoptions irregularly made or made by the widow of a deceased chief, with or without his permission; and this, it is said by Sir Charles Aitchison in his article in the 'Calcutta Review,' was intended 'to induce childless chiefs to make timely and formal adoptions, whereby to prevent disputes as to the succession and frustrate zenāna influence and death-bed pressure in the selection of incompetent or improper heirs.' If so, that particular intention may have failed, and may be said to have implied too sanguine a view of human nature. Men not at the point of death, at almost any age or in almost any state of health, with young wives or the possibility of marrying young wives, are naturally unwilling to confess that prospects of an heir are hopeless; princes do not care to give to actual or possible opponents a rallying point for their intrigues or their contumacy. Adoptions may be rarer, because it is now practically certain, come what may, that the native government, in some shape, will be continued; there is therefore less reason than before to perform an act which is always disagreeable and sometimes both disagreeable and impolitic. When adoptions occur, they are, in almost every case, either irregular or open to the imputation of irregularity, as doubtfully in accord with some doubtful custom, or made by the widow of the chief, the latter having omitted to adopt a successor; and they are often merely the consequence of the selection of the successor by the widow and leading men or the Government, not the cause of the recognition of the right of some individual.

But one important consequence of the policy which suggested the *sanads* has been that the practice of the Indian



Government in regard to successions to chiefships, formerly varying with discrepant conceptions of right and expediency, has become uniform and well defined. Where there is a natural heir whose title to succeed is indisputable according to law and usage, he succeeds as a matter of course, unless he be obviously and totally unfit; though in this, as in every other case, a succession is thoroughly understood to require formal confirmation and recognition by the paramount power. Where the succession is disputed, the Supreme Government steps in and decides authoritatively in accordance with policy and the usages of the race and family. Where a regular adoption has been made in accordance with the terms of the adoption *sanad*, the succession of the heir by adoption is confirmed and recognised exactly as if he were an heir by blood. Where all heirs, natural or adopted, fail, and the Supreme Government recognises such successor to the rulership of a native state as, on general consideration, may seem best, whatever conditions appear fitting and desirable may be attached to the succession.

It is to be hoped that another consequence alike of the distribution of the adoption *sanads* and of that greater certainty in dealing with successions to chiefships which is a fruit of the whole policy, is a more assured conviction in the minds of ruling chiefs that we have no desire to annex their territories. With few exceptions they were loyal before they knew this in the way they know it now. But we may trust that the loyalty of most of them has acquired a new depth and sincerity. They may now see more clearly than they did before that their interests and those of the empire are identical. I will mention one circumstance amongst many which goes to support this view. The last Afghan war and the posture of affairs in the spring of 1885, when, on the occurrence of the Panjdeh incident, war with Russia seemed imminent, elicited offers of personal service, men, money, and supplies from all parts of India, of which it was impossible to mistake the genuine cordiality.

CHAPTER VI

PRESENT POLICY TOWARDS NATIVE STATES

THE Government has shown in many other ways, besides the distribution of the adoption *sanads*, its steady adherence to the policy happily inaugurated in 1858. From a multitude of illustrations I shall take three, all important, all matters of history, and the more convincing in regard to the real intentions of Government because the whole circumstances are generally known. Each of these illustrations carries with it a somewhat different political lesson. I refer to the deposition of the Gaekwar of Baroda, the restoration of Mysore to native rule, and the Delhi Assemblage of 1877.

Confidence is a plant of slow growth, and it must be admitted that in 1875 the native princes looked very anxiously to our proceedings in Baroda. They were content with the deposition of Mulhar Rao Gaekwar mainly because the native administration was restored and no suspicion could be entertained that we had derived any benefit from our interposition, except so far as the correction of misgovernment in any native state is always a benefit to the empire generally. I shall briefly recapitulate the main facts of the famous Baroda case and indicate the chief political principles which it illustrates or affirms.

Mulhar Rao Gaekwar had succeeded his brother Khande Rao in 1870. His country was misgoverned, and the first Baroda Commission appointed to investigate the general condition of the state reported in February 1874. The nature of the misgovernment which had taken place may be gathered from the fact that the Gaekwar was authoritatively advised to adopt measures relative to the future treatment of the relations and dependents of his late brother; to the realisation of revenue; the prevention and punishment of torture; the regulation of penalties in criminal cases; the spoliation of bankers and trading firms; the corporal punishment and personal ill-treatment of women and their



abduction for forced service in the palace. The Gaekwar was given till December 3, 1875, to effect the necessary reforms. The instructions constituting the commission asserted that he was responsible for the good government of his country, and that in isolated cases the Government would look to him to take the necessary measures to redress grievances or remove evils that might be brought to his notice. But when evils of the kind believed to exist pervaded all departments of the administration, it became the duty of the British Government to institute an inquiry and, if necessary, use the power it possessed under treaty of offering advice to the Gaekwar and requiring him to conduct the affairs of Baroda in accordance with its advice. The British Government could not undertake to protect him from the consequences of general misgovernment. In reply to an objection on his part, that the appointment of the commission was not warranted by the existing relations between the Baroda state and the British Government, Lord Northbrook argued that intervention in Baroda affairs was in accordance both with the terms of Baroda treaties and with constant usage; and that the particular intervention in question, though amply justified by the language of treaties, rested on other foundations. The British Government was the paramount power and the Baroda state, as admitted by the Gaekwar himself, was dependent on its protection. A subsidiary force of British troops was maintained for the defence of the state, the protection of the person of its ruler, and the enforcement of his legitimate authority. 'My friend,' Lord Northbrook went on to say, 'I cannot consent to employ British troops to protect any one 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.' The Gaekwar was distinctly informed that, if he failed to reform his administration within the eighteen months allowed for the purpose, he would be removed from power.

He was thus given a fair chance of amendment. He made no effort to amend, and some time before the expiry of the period of probation it was necessary to intervene again. An attempt was made to poison Colonel Phayre, the



CHAPTER VI

PRESENT POLICY TOWARDS NATIVE STATES

THE Government has shown in many other ways, besides the distribution of the adoption *sanads*, its steady adherence to the policy happily inaugurated in 1858. From a multitude of illustrations I shall take three, all important, all matters of history, and the more convincing in regard to the real intentions of Government because the whole circumstances are generally known. Each of these illustrations carries with it a somewhat different political lesson. I refer to the deposition of the Gaekwar of Baroda, the restoration of Mysore to native rule, and the Delhi Assemblage of 1877.

Confidence is a plant of slow growth, and it must be admitted that in 1875 the native princes looked very anxiously to our proceedings in Baroda. They were content with the deposition of Mulhar Rao Gaekwar mainly because the native administration was restored and no suspicion could be entertained that we had derived any benefit from our interposition, except so far as the correction of misgovernment in any native state is always a benefit to the empire generally. I shall briefly recapitulate the main facts of the famous Baroda case and indicate the chief political principles which it illustrates or affirms.

Mulhar Rao Gaekwar had succeeded his brother Khande Rao in 1870. His country was misgoverned, and the first Baroda Commission appointed to investigate the general condition of the state reported in February 1874. The nature of the misgovernment which had taken place may be gathered from the fact that the Gaekwar was authoritatively advised to adopt measures relative to the future treatment of the relations and dependents of his late brother; to the realisation of revenue; the prevention and punishment of torture; the regulation of penalties in criminal cases; the spoliation of bankers and trading firms; the corporal punishment and personal ill-treatment of women and their



abduction for forced service in the palace. The Gaekwar was given till December 3, 1875, to effect the necessary reforms. The instructions constituting the commission asserted that he was responsible for the good government of his country, and that in isolated cases the Government would look to him to take the necessary measures to redress grievances or remove evils that might be brought to his notice. But when evils of the kind believed to exist pervaded all departments of the administration, it became the duty of the British Government to institute an inquiry and, if necessary, use the power it possessed under treaty of offering advice to the Gaekwar and requiring him to conduct the affairs of Baroda in accordance with its advice. The British Government could not undertake to protect him from the consequences of general misgovernment. In reply to an objection on his part, that the appointment of the commission was not warranted by the existing relations between the Baroda state and the British Government, Lord Northbrook argued that intervention in Baroda affairs was in accordance both with the terms of Baroda treaties and with constant usage; and that the particular intervention in question, though amply justified by the language of treaties, rested on other foundations. The British Government was the paramount power and the Baroda state, as admitted by the Gaekwar himself, was dependent on its protection. A subsidiary force of British troops was maintained for the defence of the state, the protection of the person of its ruler, and the enforcement of his legitimate authority. 'My friend,' Lord Northbrook went on to say, 'I cannot consent to employ British troops to protect any one 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.' The Gaekwar was distinctly informed that, if he failed to reform his administration within the eighteen months allowed for the purpose, he would be removed from power.

He was thus given a fair chance of amendment. He made no effort to amend, and some time before the expiry of the period of probation it was necessary to intervene again. An attempt was made to poison Colonel Phayre, the



Resident; and the Gaekwar himself was suspected on very strong grounds of complicity in the crime. Sir Lewis Pelly was deputed to Baroda, and instructed in January 1875 to arrest the Gaekwar. The arrest was effected just outside the residency, and the Government of India, as an act of state, not in pursuance of any law or in the exercise of any right acquired by treaty, temporarily assumed the administration of Baroda. It was declared in the proclamation then issued that evidence had been adduced that the Gaekwar had instigated the attempt to poison Colonel Phayre; that to instigate such an attempt would be a high crime against the Queen, a breach of the condition of loyalty to the crown under which the Gaekwar was recognised as ruler of Baroda, and an act of hostility against the British Government; that it was necessary to inquire into the truth of the charge; that the Gaekwar was suspended from power; and that, in accordance with the desire of the Queen that the government of the princes and chiefs of India should be perpetuated, a native administration would be established in such manner as might be determined upon after the conclusion of the inquiry.

The charges referred also to bribing and holding secret communications with the servants of the residency, but of course the main charge was that of instigating the attempt to poison the Resident. The second Baroda Commission appointed to try these charges was not constituted as a judicial tribunal. Its function was to report to the Government of India, with whom the decision was ultimately to rest. But the proceedings were, in fact, conducted publicly as in a court of law, and counsel were permitted to appear. The three European members of this commission, Sir Richard Couch, Chief Justice of Bengal, Sir Richard Meade, president of the first commission, and Mr. P. S. Melvill, unanimously found Mulhar Rao guilty on all the charges; Maharaja Sindhia and Sir Dinkar Rao found the graver imputation not proved, while the Maharaja of Jaipur found the Gaekwar not guilty. Maharaja Holkar had expressed complete concurrence in the course taken by the Government of India, but had excused himself from serving on the commission.

Mulhar Rao was thus left under the gravest suspicion of having committed the heinous crime imputed to him. He was deposed by proclamation, but the decision was not based on the report of the commission, nor did the Govern-



ment assume that the truth of the imputations against him had been proved. His deposition was made to rest on his notorious misconduct, his gross misgovernment of the state, and on his evident incapacity to effect the necessary reforms, as also upon 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, to restore him to power. The widow of the late Khande Rao was then permitted to adopt a boy of the Gaekwar house, selected by the British Government; and this boy was installed as Gaekwar, suitable provision being made for the administration of the state during his minority. In the discussions connected with the selection of the person upon whom the sovereignty of the state was to be conferred by the Government of India, it was laid down that the considerations to be borne in mind were the relationship of the several claimants to Khande Rao Gaekwar; personal fitness for rule, if an adult were chosen; general intelligence and capability for education if a minor were preferred; and lastly, acceptability of the person selected to the leading nobles and people. It was held that under no circumstances would the Government of India have been justified in selecting for the succession a person who, whatever might be his other claims, was lacking in the primary requisite of personal fitness for rule. As soon as the succession was arranged, it was recognised by the Maharaja Holkar by the transmission of a dress of honour to the new chief.

The advice spontaneously offered by that Maharaja at a comparatively early stage of the affair, about the time when the report of the first commission was under consideration, that is, in the early months of 1874, is worth quoting, because it shows the ideas entertained by native princes as to the general authority and responsibility of the paramount power. '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 a British officer will be construed into another covering for annexation. I would rather have a clean removal and a clean succession.' He added that the successor should not be suddenly left to his own devices; but be for some time guided and strengthened by patient and judicious counsel.

The halting verdict of the second commission probably saved the ex-Gaekwar from the penalty which would have followed upon conviction of the crime alleged, if proved against a private person. It is not likely that on the point of procedure the Baroda precedent will be followed on any future occasion. The manifest inconveniences of a quasi-judicial trial in a political case of this nature are too obvious to need description. The true value of the case, from the point of view of Indian political law, lies in the number and importance of political principles which it establishes, and in the fact that most or all of these principles received the express or implied concurrence of several leading chiefs, who either took part in the proceedings or signified that they recognised their propriety. In the case of a state of the first consequence, and apart altogether from treaty rights, the Government of India declined to support misrule by its forces, suspended and ultimately deposed the erring ruler, and selected as the successor a person chosen with a view to the probability of his ruling well. While the extensive authority of the paramount power and its determination not to permit misgovernment, for which it was indirectly responsible, were thus exhibited, the rulers and chiefs were assured by the signal fact of the restoration of a native administration that the desire to avoid further acquisition of territory was perfectly sincere.

The story of Mysore conveys a similar moral; and its commencement carries us back to the early days of the century, already sufficiently characterised, when Lord Wellesley, in the strength of conquest, but nevertheless under pressure of necessity, was laying out the plan of the yet unacknowledged protectorate. On the conquest of Mysore it was necessary to obtain a reasonable indemnification for the expenses of the war and an adequate security against



the return of the dangers which had provoked hostilities. A large portion of the conquered territory was therefore divided between the Company and the Nizam. To have so divided the whole would have afforded the Marhattas grounds of jealousy, unduly aggrandised the power of the Nizam, and involved the establishment of an inconvenient frontier. There could be no hope that the dynasty of Tippoo would ever entertain anything but enmity to the British cause. It was thus determined to rescue the family of the old Hindu rajas of Mysore from the obscurity and durance in which they had been placed by the usurpation of Haidar Ali, and to set a child of that house upon the throne of a state entirely created by British authority. It was expressly recorded by Lord Wellesley at the time that no positive right or title to the throne existed in any party. In correcting the draft of the treaty of 1799 prepared by Colonel Kirkpatrick, Lord Wellesley, as is well known, struck out all reference to the heirs and successors of the Maharaja, and in his despatch of August 3 of that year his lordship thus described the intentions of the treaty: 'In framing this engagement,' he said, 'it was my determination to establish the most unqualified community of interests between the Government of Mysore and the Company, and to render the Raja's northern frontier in effect a powerful line of our defence. With this view I have engaged to undertake the protection of this country, in consideration of an annual subsidy of seven lakhs of star pagodas; but recollecting the inconvenience and embarrassments which have arisen to all parties concerned under the double governments and conflicting authorities unfortunately established in Oudh, the Carnatic, and Tanjore, I resolved to reserve to the Company the most extensive and indisputable powers of interposition in the internal affairs of Mysore, as well as an unlimited right of assuming the direct management of the country (whenever such a step might appear necessary for the security of the funds destined for the subsidy), and of requiring extraordinary aid beyond the amount of the fixed subsidy, either in time of war or of preparations for hostility. Under this arrangement I trust I shall be enabled to command the whole resources of the Raja's territory, to improve its cultivation, to extend its commerce, and to secure the welfare of its inhabitants. It appeared to me a more candid and liberal, as well as a more wise policy, to apprise the Raja distinctly, at the moment of his accession, of the exact nature of his

dependence on the Company, than to leave any matter for future doubt or discussion.'

The Raja or Maharaja was a child of tender years, and the administration of the state was conducted till 1812 by the Brāhman Purniah. The Maharaja ruled till 1831; he dissipated the treasure which Purniah had amassed, and he grossly misgoverned his territories. To paraphrase slightly the language of Sir Mark Cubbon, the government became venal, all establishments fell into arrears, local officials were uncontrolled, the highest offices were put up to sale, valuable lands were alienated and new taxes and monopolies were invented; there was no security for property; nothing fit to be called the administration of justice; the people, harassed by swarms of petty officers and monopolists, could obtain no redress. At length in 1829 an extensive insurrection broke out, and British troops had to be employed to suppress it.

These events led to the assumption of the administration by the British Government on October 19, 1831; and, as I have said, it remained in British hands for fifty years. At first the province was governed on the native system by a British commissioner, Sir Mark Cubbon, and four European superintendents for the several divisions. But in later years the administrative structure of Mysore was assimilated to that usual in non-regulation provinces; the full complement of British officials was introduced; and here, as elsewhere, patriarchal methods of rule fell into desuetude. The Maharaja whom Lord Wellesley had placed upon the throne lived till March 27, 1868; he applied again and again for the restoration of his state, but without success; for the obligations of the British Government to the people of Mysore were held to be no less sacred than its self-imposed obligations to the Maharaja. He asked that his right to adopt might be recognised; but the Government of India refused him their authority to adopt a successor to the state. He did not cease to press the question, and in 1865 actually adopted a boy of less than three years of age. At last, in 1867, the Home Government determined to maintain his family on the throne in the person of his adopted son, upon terms corresponding with those made in 1799, so far as the altered circumstances of the time would allow. Lord Cranborne explained in the House of Commons that this decision was influenced by the belief that the existence of well-governed native states is a benefit to the stability of British rule, for the reason, amongst others, that it affords



opportunities for statesmanlike capacity of natives of India ; and Sir Stafford Northcote said in his explanatory minute that he believed it to be both our duty, and, in a large sense, our interest, to maintain the existence of separate native states, and to exercise our influence to secure them good government at the hands of native rulers. He further pointed out that to give effect to this policy we had in the past found it necessary, and might find it necessary again, to assume the administration of misgoverned states ; and that in accepting and acting upon this view of our position it was important to prove ourselves to be influenced by no desire of territorial aggrandisement, but by a genuine wish to promote the welfare of the country.

It fell to the government of Lord Lytton in 1881 to carry out the decision of 1867. In general there is this objection, amongst others, to renditions of British Indian territory to native rulers, that whereas British rule is now, at any rate, a rule of law and system, native rule, in so far as it has not been modified by British influence, is in theory conducted at the mere volition of the prince, while the practical checks which limit usual Indian despotisms are very different from the codes and acts, the official discipline, and the constitutional practices which secure personal rights in British districts. Thus, if by a decision from Simla or Calcutta a British Indian subject is changed into the subject of a native state, he is practically thrust all of a sudden into a new legal atmosphere ; and the chances of his suffering in some way in his rights and liabilities and expectations are proportioned to the difference between the general system of the particular native state and the British system of which he is no longer a partaker. Mysore territory, it need not be said, was and is foreign territory ; but the people had been living under British laws and British methods of administration for a long course of years. It was therefore just as desirable to guard rights and expectations here as it would have been if the province had been annexed in 1831 instead of being sequestered.

Precisely this necessity for satisfying hopes and ideas which had become usual under British administration gave a specially novel and interesting character to the Mysore experiment. It was decided that the re-establishment of native rule should not interfere with the maintenance of the British system ; that the Maharaja, in fact, should not exercise a despotism checked by imperfect civil and military organisa-

tion, imperfect instruments of power and primitive ideas of what ought to be expected from the despot, but should conduct the administration on those fixed principles which had guided the British Chief Commissioner who had preceded him. This was an inevitable peculiarity demanded by the plainest dictates of justice and good sense ; in other respects there was nothing unusual in the position assigned to the Mysore state. The special powers of interposition reserved by Lord Wellesley have been duly maintained ; but the state stands generally on the same footing as other important native states under the British protectorate.

All that is new or old in the system of relations established with Mysore is summed up in the Instrument of Transfer, a document of the first political importance, which deserves the careful study of all interested in the present subject. The first seventeen clauses of the instrument comprise the principal conditions, territorial, financial, and military, affecting the state ; and none of these conditions are dissimilar in principle from those upon which are founded the subordinate relations of all other native states with the British Government. Other clauses provide that all laws and rules having the force of law in force in the Mysore territories, when the Maharaja was placed in possession of them, shall be maintained and efficiently administered, the Maharaja having no power to repeal or modify them except with the previous consent of the Governor-General in Council ; that except with that consent no material change shall be made in the established system of administration ; that title-deeds granted and settlements of land revenue made shall be duly upheld ; that the Maharaja shall conform to such advice as the Governor-General in Council shall offer him with a view to objects connected with the advancement of his Highness's interests, the happiness of his subjects, and his relations to the British Government ; and that in the event of the breach or non-observance of the conditions set forth in the instrument, the Governor-General in Council may resume possession of the Mysore territories, and assume the direct administration of them, or make such other arrangements as he may think necessary for the good government of the people of Mysore, or for the security of British rights and interests within the province.

As regards the manner in which the measure was received by the people of the state, I believe the Bráhmans and most of the leading men were in favour of the rendition.



The mass of the people were probably at first uneasy as to its possible effects. There would have been no difficulty in organising an agitation against it, just as there was no difficulty in organising the rejoicings which took place when the Maharaja assumed charge. As a fact, there was no such agitation. The leading men would not countenance it. Since the rendition, the people have been fairly satisfied. They have begun to think that there is not much difference after all; and no doubt the recognition of the Maharaja as successor to the throne, and his establishment in the palace with the usual Oriental retinue and display, were measures popular with every one. Generally the administration is conducted by native officials. The British officials were for the most part pensioned or provided with employment elsewhere; but there are still some European officers in high positions in the state. I understand that the machinery works smoothly at present, though inclined to be a little slack.

In order of time the Delhi Assemblage preceded the Mysore rendition of 1881 by several years. But I have given the event of January 1, 1877, the last place in this chapter, because it sums up the result of that whole process of organising and developing our Indian protectorate which it has been my attempt to describe. In no way are we here concerned with the parliamentary and other public discussions of the time as to the expediency of the assumption of the title 'Empress of India' by her Majesty the Queen. We have merely to look to the political significance of the assemblage itself, of the assumption of title there announced, and of the declarations made on the occasion.

The assemblage and the adoption of the imperial title were very natural consequences of the transfer of the government of India from the Company to the Crown and of the Proclamation of 1858, which informed the princes and peoples of India that the transfer had been effected. The Act of Parliament which empowered her Majesty to add to her title (39 Vic. cap. 10) recites that whereas it had been enacted that the government of India, formerly vested in the East India Company in trust for her Majesty, should become vested in her Majesty, by whom and in whose name India should henceforth be governed, it was expedient that there should be a recognition of the transfer of government so made by means of an addition to the royal style and

title. In the despatches of the day it was said that the native princes are directly concerned in the renown of the empire, the safety of its frontiers, the development of its commerce, the friendliness and dignity of its intercourse with foreign states, and the maintenance of its peace; that if any one of these imperial interests were attacked or menaced, it would be the duty of those chiefs to assist us in defending it; and that the occasion might properly be associated in their minds with the acquisition on their part of a new and more lively interest in the affairs of the empire. The intention was that the proclamation of the imperial title should add to the strength of the foundations of the British rule. In presenting to the chiefs who attended the assemblage banners which it was supposed they would appreciate, because of the importance attached by native potentates to similar marks of distinction conferred on them by the Moghal emperors, the Viceroy reminded each of them of the close union between the throne of England and the house of the chief, and of the earnest desire of the paramount power to see the dynasty of the chief strong, prosperous, and permanent. The speech made by the Viceroy at the time of the proclamation described the new title as one meant to be to all the princes and peoples of India a permanent symbol of the union of the crown with their interests and of its claim upon their allegiance. The opening words of the speech were an allusion to the proclamation of 1858; which, it was said, had conveyed to those peoples and princes assurances of her Majesty's goodwill, cherished by them as their most precious political possession. The promises then made needed no confirmation; but the assemblage itself was conspicuous evidence of their fulfilment. 'Princes,' said the Viceroy, 'and chiefs of this empire, which finds in your loyalty a pledge of strength, in your prosperity a source of splendour, her Majesty thanks you for your readiness, on which she reckons, if its interests be attacked or menaced, to assist her Government in the defence of them. . . . 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 relations 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 Government of her Majesty,' the Viceroy continued, 'in every quarter of the globe over which its dominion is established, trusts less to

the strength of armies than to the willing allegiance of a contented and united people, who rally round the throne because they recognise therein the stable condition of their permanent welfare. It is on the gradual and enlightened participation of her Indian subjects in the undisturbed exercise of this mild and just authority, and not upon the conquest of weaker states or the annexation of neighbouring territories, that her Majesty relies for the development of her Indian empire.'

These words breathe the very spirit which animated Lord Canning when he effected a pacification no less momentous than that effected by Lord Hastings forty years before. With pageantry and formalities not unsuited to a state of society in which ceremonies and display retain a powerful hold on the popular imagination, it was announced, not merely at Delhi, but at native courts and in British districts throughout the length and breadth of the land, that the Queen had openly accepted the position which she and her predecessors had virtually held since the victories of Lord Lake placed the King of Delhi in actual dependence on the Company, and which she had both virtually and technically held since the date of the Amnesty Proclamation. There was nothing really new in this formal publication of a long-accepted fact; but the opportunity was properly taken to assert the strength, the tranquillity, the unity, and the permanence of the empire, and was rightly used to remind the feudatory chiefs of their duty to support its interests.

By those whose capabilities and position enabled them to form a judgment on the event, the proclamation of January 1, 1877, was in most cases welcomed entirely in the spirit in which it was intended to be received. According to Eastern ideas, to attend a formal gathering convened at the behest of a ruler is a customary mode of signifying homage. Sixty-three ruling chiefs were present at the assemblage, including the Nizam of Hyderabad, the Maharaja of Mysore, the Gaekwar of Baroda, the Maharajas of Gwálior and Indore, and the other principal chiefs of Central India, Rájputána and the Punjab, together with chiefs from Bombay, the North-Western and Central Provinces, Bengal, and Sindh. It was reported that the aggregate populations under the direct rule of the chiefs present at Delhi approached forty millions, while their united territories exceeded the combined areas of England, Italy, and France. Chiefs who did not come testified their



loyal acquiescence in the propriety of the proceedings by letters of congratulation and the celebration of rejoicings in their several states. It may be said generally that in British districts the bearing of the leading men who attended the local assemblies was loyal and cordial; while many of the addresses, particularly those presented by people in Upper India, evinced a clear idea of that actual situation of affairs which the ceremonies and announcements of the hour were meant to symbolise. The inhabitants of Poona and of other places in the Deccan wrote that 'the native princes, great and small, are protected by the strength of the paramount power from internal dissension, and their continuance as the feudatory members of the empire has been assured to them beyond all risk of change;' and the memorialists referred to the new title as legalising *de jure* what had long been true in fact, namely, that the British power is paramount over all other powers in India, which are protected by its sovereign rule. The inhabitants of Calcutta and of other parts of Bengal described the assumption of title as formally defining 'the exact position of India in the body politic of the British Empire;' and as at once incorporating 'her, with her princes, chiefs, and people, as an integral member of that empire.' Some addresses from the North-Western Provinces and the Punjab still more significantly dwelt on the constant anarchy and barbarous bloodshed of the times which succeeded the downfall of the Moghal Empire and on the benefits received from the British nation in security against invasion from without and the suppression of intestine warfare.

With these general recognitions of the unquestioned strength and right of the British protectorate we may close our review of recent developments of Indian political principle. The lesson of the annexation of Oudh is a lasting one, because political abstention which leads to anarchy is in itself a mistake, and involves an intolerable wrong to populations for whose welfare the British nation is ultimately responsible. But the policy of annexation, except as the supreme punishment for political crimes, the policy evinced in the discussions on Sattára, Karauli, Tehri, and Jhánsi, and in the refusal to recognise a native succession in Nágpur, has been eliminated from amongst political ideas accepted by any responsible authorities in India. This is shown by the proclamation of 1858, by the distribution of the adoption *sanads*, by conspicuous proceedings at Baroda,



in Mysore, and at Delhi. It is no part of the plan of this work to enter upon any discussion of current political events in India; but the late restoration of powers to the Maharaja of Kashmir and the re-establishment of a native administration in Manipur after the recent lamentable occurrences, suffice to prove that the counsels of the Indian Government are still inspired by the same principles.

One of the addresses of January, 1877—it was presented at Maldah, the head-quarters of a district in Bengal—quaintly but concisely expresses a popular view of the real position: 'This golden India,' so the address runs, 'has been ruled by three nations. In the first period the Hindu kings of the solar and lunar race (as they were called) reigned over from the beginning up to 1206 A.D. In the second, Moghals and Patháns reigned over the country from 1206 to 1802; and thence up to the present the English nation governs it.' The dates might be the subject of learned discussion, but the observation is substantially true.

In the next month Mr. A. P. MacDonnell, now Chief Commissioner of the Central Provinces, reported of the people of Durbhanga, in Bengal, where he was then collector: 'Among the mass the news has permeated everywhere. But wherever the news has created a clear conception in the *ryot's* mind (and that is not always or everywhere), the conception he has formed is that not her Majesty the Queen, but his Royal Highness the Prince of Wales it is who is the *Pádshah*.' The Durbhanga *ryot* was not quite correct in his facts; but he was right in his general idea, for the title of *Pádshah* was that assumed by the Delhi emperors.

I shall now leave for a while the later political conceptions which are our practical guides, and turn to those early notions of kingship in India and those theories of government acted upon by the Moghals which characterised the first and second of the periods defined by the people of Maldah. I hope to show that in native India the primitive Hindu raja still survives, and that the texture of the British protectorate, which now envelops the land has been woven from materials left to us by our predecessors on a pattern consonant with the history of India and with much that is lasting in Indian ideas of kingly power and imperial supremacy.



CHAPTER VII

EARLY INDIAN IDEAS OF SOVEREIGNTY

It would be a grave misconception of the character of our Indian empire to imagine that its institutions are the mere inventions of foreigners arbitrarily imposed upon conquered populations and subject states. I shall fully admit in a subsequent chapter that some of our necessary principles of action are not in harmony with Indian ways; but, on the whole, I believe that our empire has been largely though not exclusively developed by forces and from elements which are alike indigenous. It seems to me to have arisen, like other Oriental empires, out of the pre-existing circumstances of the societies upon which it has been formed, to draw from the territories over which it extends most of the materials of its composition, and to derive from its Oriental surroundings some of its most important principles of life and growth. If this view is correct, if in truth our Indian dominion and political preponderance are so rooted and sustained, two consequences may follow. The intimate connection between the empire as it is and the former institutions of the country, which have been absorbed and improved by its establishment, should presage its stability; and the impulse which many of us may feel to condemn foreign domination as almost necessarily unjust may be altered into a belief that foreign supremacy, when largely due to and moulded by the characteristics of the subject societies, may sometimes be not only inevitable but salutary.

Administrative and political arrangements are, indeed, much more the result of little-observed social forces than of deliberate design, and often survive the paroxysms of change which, on a superficial view, appear fatal to them. De Tocqueville has shown very well that administrative centralisation in France was not brought into existence by the Revolution, but preceded and partly caused it. The scheme of the British Indian empire, taken as a whole, comprises



the direct administration of certain provinces by officials appointed by a central power, and the suzerainty of the same power over a large number of states enjoying considerable, though varying, degrees of internal sovereignty. The chief ideas which enter into that scheme were not generated by the British conquest of the provinces directly administered, but preceded it, and may, indeed, be reckoned amongst the causes which made British supremacy inevitable. Moreover, the Delhi empire itself, at its height, might be described almost in the very words just used to describe the British Indian empire; and it actually perpetuated some Hindu institutions when it seemed, and probably intended, to destroy them. I hope at least to show that in conceptions of sovereignty we are the heirs of the Moghals, and that they were the heirs of the Hindu rajas, whom they rooted out of the Punjab and Hindustan.

I know that Mr. Benett, whose admirable report on the Gonda district of Oudh I shall quote in several places, says, in another paper, that the mistake which vitiates almost all our political theories in India is that we are the successors of the Musalmán emperors. But were we only that, he adds, we should not be where we are. The commissioner, he observes, has supplanted not so much the *názim*—the local official of the Delhi emperors—as the raja. Certainly we are not by any means the successors only of the Moghals; they won their inheritance by the sword from the Hindu rajas and we have succeeded both Musalmáns and Hindus.

Speaking of the complete political dissolution of India in the eighteenth century, Sir Alfred Lyall ('Asiatic Studies,' p. 190) observes: 'The Moghal empire had made a clean sweep of indigenous political institutions within its sway; and in their turn the Marhattas, aided in the work of destruction by the Afgháns, Sikhs, Játs, by rebels and commanders of free companies generally, made a clean sweep of the Moghal empire.' As usual, Sir Alfred Lyall does not allow the vigour of his style to impair historical accuracy. The political institutions to which he refers are the old Hindu states in those parts of the Delhi empire which the Moghals succeeded in bringing under their direct administration. Sir Alfred Lyall does not mean that in the Delhi empire as a whole, including the subjugated or partially subjugated states, we cannot trace many degrees of interference and non-interference, from the raja being left in possession of his principality, subject only to demand for tribute or



service and submission, to the ejection of all hereditary middlemen and the collection of the dues of the state from the village proprietors by Government officials. Nor does Sir Alfred Lyall mean that the Moghals entirely succeeded in bringing under their direct sway many remote or outlying parts of the country, such as the Punjab frontier, the Punjab hills, parts of Central and Southern India, and generally, with the exception of the Nizam's dominions, nearly the whole of the country shown in the maps as belonging to native states, where indigenous political institutions, the states themselves included, have lasted on to our day. The case of Oudh, to which the remark I have quoted from Mr. Benett especially applies, is in point. There were parts of Oudh where the Muhammadans by no means completely succeeded in grinding down to the dust all the indigenous Hindu principalities; as we found when, after annexation, we had to turn Rájput feudal chieftains, amongst others, into Oudh talukdárs. Still less does Sir Alfred Lyall mean that Muhammadan conquest altered the old constitution of Hindu society, which lasted on through the many centuries of the Delhi empire, and has lasted on through the single century of our own. And the old constitution of Hindu society influenced Muhammadan ideas of government and the Muhammadan style of government in many ways. The best of the Muhammadan emperors or kings rallied around them tributary Hindu rajas, and employed Hindu ministers or officials to arrange their revenue affairs on Hindu principles of administration; and some of the emperors were, indeed, themselves partly Hindus by blood, for their fathers married daughters of the great chiefs of Rájputána.

In the India of our predecessors, sovereignty was territorial or tending to become so; it was based on the land and on the idea of a double ownership in prince and peasant; and it not infrequently included some notion of suzerainty, often very vague, so that sometimes in the division of sovereignty which this notion implied the fragment left with the suzerain was almost invisible. All these ideas are still current in the India of to-day; but we have, so to speak, called them in and re-issued them. The ideas of the old stamp wanted edge; they were perhaps incapable of sharp definition; they were of different mintage in different parts of the country. The old bullion is still in use; but we have amalgamated with it a little Western material, and have given the new coinage a clear-cut rim and a fresh and



uniform image and superscription. The tendency to territorial sovereignty has been led somewhat suddenly to its result, and all our states are territorial sovereignties. With the basis of Indian sovereignty, the customary division of the produce of the soil, we have not interfered; but our own example and influence tend to beget in many places clearer definition and separation of public and private rights. The suzerainty of the paramount power has become well defined and is a substantial reality. I may add that in India, before and during our time, as in many other lands and ages, the sovereign was and is the fountain of honour.

In illustrating these remarks I must necessarily resort to localities outside the rim of that monotonous platform where Muhammadan supremacy beat down the old Hindu principalities. I shall adduce evidence from the Punjab frontier, the Punjab Hills, and a strip of Oudh territory on the borders of Nepal; I shall then compare some of this evidence with that contained in Sir Alfred Lyall's paper on Rājputāna, and in the next chapter I shall extend the inquiry to the Indian peninsula. To follow the unfamiliar details thus brought together may, I fear, tax the patience of any who are not specialists; but it seems right to explain pretty fully the grounds of the opinions just given, even at the risk of being tedious.

In the history of institutions there is, of course, a phase of sovereignty which is earlier than territorial sovereignty. As we know from Sir Henry Maine, sovereignty was not always associated with a definite portion of the earth's surface. He points out that the older ideas are reflected in the titles of the earliest monarchs in Western Europe, which were 'Rex Anglorum, Rex Francorum, Rex Scotorum'—King of the English, King of the Franks, King of the Scots. On the Punjab frontier, particularly in the southern portion of it, we find excellent specimens, if not of early kingship, at least of the sort of personal leadership in semi-political groups out of which we may suppose early kingship might arise. Tribal chieftainship, which, I take it, precedes territorial despotism, is extremely well marked amongst Baluchis, and is occasionally traceable, though in a rudimentary form, amongst Pathāns. In historic times, and perhaps in remote ages of which history has no record, the tide of conquest or immigration has swept again and again from Central Asia or Afghanistan over the fertile and thickly populated plains of India; and, although in the countries of these Muhammadan