

Prince had surrendered his right to decide causes relating to the soil of the Cantonment ; and sometimes he claimed as against the British Magistrate that his own subjects merely passing through or attending the market in the camp, ought to be handed over to him if charged with offences. We believe these questions were settled in the last resort by the Government of India, as they arose ; and by reference to the words used in the treaty with the Prince, interpreted, where as often happens, they are vague, by the practices or usages in which the parties had acquiesced. One legal draftsman once tried to cut the Gordian knot by a suggestion that the Cantonment Magistrate had the same plenary powers as a Provost Marshal of an army in a foreign land in time of war. But as already said the Government of India has followed the diplomacy of European states in giving weight to the treaty in force with the Native Prince concerned, and to later arrangements, claims and decisions thereupon.

In 1872 that Government followed the precedents made long before by Imperial Parliament and passed an Act which besides making the Queen's subjects outside her dominions responsible to her laws and Courts enabled the Government to regulate such jurisdictions as it actually possessed. This Act and a later one of the same kind did not attempt to define them : their chief object was to supply *leges fori*, to say what laws the Courts established by the Indian Government in Native States should administer and to appoint British officials to do the work of appeal and control which in British India is done by the Courts of Districts and of Sessions and by Judicial Commissioners and High Courts. For these purposes Orders in Council are made by the Governor-General, with as much care and precision of language as those whereby the Queen, by the advice of the Secretary of State, defines the Courts for Zanzibar, Uganda and Cyprus. While the African Orders in Council impose on the High Court of Bombay the duty of hearing appeals from Equatorial

Africa, those made by the Viceroy usually require some Resident or other high official in the diplomatic service to perform similar functions. It is the Government of India too which creates the Courts exercising the Queen's jurisdiction in such places as Muscat, the shores of the Persian Gulf and the wild region of Somaliland. When a new railway passes through the territory of any Indian Prince, he almost invariably cedes by a written convention a jurisdiction to the Government of India which is plenary as regards the land used as a railway and not merely personal over designated classes. Disputes seldom arise over these modern arrangements which are set forth in plain words, avoiding the vague ambiguity of the treaties made in the earlier decades of this century. The same ambiguity appears in many of the older conditions about extradition as where the British Government and the Native Chief mutually agree to "deliver up offenders." Naturally questions arise whether such language, easily applicable to persons who commit serious crimes, can rightly be extended to persons who fail to pay rates and taxes, to petty smugglers and to those charged with only *mala prohibita*. Many a Raja has cherished the right of affording an asylum or refuge, like the sanctuaries of Europe; and all States have a keen dislike to surrender any of their own subjects to a foreign power. The discontent of a Native Prince is a serious matter, as their loyalty to the British Crown was found to be a strong support of order in the time of the Mutiny, when in some places the ordinary magistracy had lost all power. What then ought to be done when the jealousy of the Chief is raised, when some pushing District Magistrate, eager for good police administration, thoughtless of general foreign policy, clamours for applying the ancient treaty to a new or doubtful case? In theory, there ought to be an international arbitration. In practice, the good offices of the Political Agent avail between the Magistrate and the Chief. He is a sword used to cutting both ways. He gets some of his own importance from the

Chief, and is often ready to frame arguments for him, at the risk of being silenced as an *advocatus diaboli*. In final resort the Indian Government decides the point, trying to be impartial, although fully aware that our position as Paramount Power shakes the judicial balance, and brings into one scale suggestions about prestige and use of power to secure the good of the greatest number. The decision is sometimes sent to other Magistrates and other Political Agents, perhaps in a different Province and working under quite other treaties and practices. Where uniformity is desired, there is always a danger of the facts and circumstances being ignored, for reasons of expediency, especially where the effect of the order issued in general terms is to prejudice claims and to refuse trial of them. While one result is a certain amount of alarm and discontent in the minds of the most powerful class in India, the system is not as a matter of fact very much resented. The Native Princes are themselves used to dealing with many contentions without using purely judicial means. They know too that in many great matters, e.g., the selection of officers for the highest places in the Army, the Navy, the Bench, and the Embassies no judicial hearing of claimants is possible, that in fact much must be trusted to the prerogative, that confidential reports cannot be dispensed with. It may be added that Imperial Parliament has provided for the Indian Government a means of applying the great rules of equity and evidence as nearly as may be. We mean the requirement that some of the members of the Council shall be persons of real judicial or forensic experience. Besides this, there is in practice an appeal to the Secretary of State in Council; and sometimes the serious attention of Parliament may be drawn to a really serious case, such as the deposition of a Raja or the refusal to allow the passing of the royal rights to an adopted son. The present writer believes however that two great acts of state, of which the chief credit is due to Lord Salisbury, have done most to quiet the anxieties of the Chiefs in their peculiar

position of parties to diplomatic inquiries, who cannot demand judicial trials. The one was the decision that the Kingdom of Mysore should not be annexed on failure of heirs, however long it had been actually administered by British Commissioners and Deputy Commissioners. The other was the refusal to treat the attempt of Mulhar Rao Gaekwar of Baroda to poison the Resident as a reason for attainting all the Gaekwar race and for forfeiting the State to Her Majesty. It is now generally known to the princely families that the policy of annexation, whether on failure of direct heirs or on proof of high crimes and misdemeanours has been abandoned long ago. Secure in the rights most valued, the Chiefs taken altogether sit fairly comfortable on their *gadies* feeling some indifference to small changes; like as a lord of a manor, sure that his freeholds and copyholds are firmly guarded by the law, minds little if some old franchise, some flower of regalia, the choice of heriot, the right to waif, crumbles away under the changing hands of Time.

Something more than this has happened in several parts of India where apparently every franchise connected with palatine offices and rights has been taken away, the only signs of regalia remaining to the Chiefs being a dignity, a style, and perhaps an immunity from process issued under the municipal law of British India. This interesting change is discussed by Sir H. S. Maine in an official minute about the Chiefs of Kathiawad, printed in his *Life*. It would seem that three of these Chiefs retain the sovereign right of coining money. Four or five have a complete jurisdiction over all persons except certain classes over whom the British Government wields the sword of its own Courts. Another set of Chiefs have a jurisdiction which may be roughly described as that of the County Court and the Quarter Sessions; every cause which would go to the High Court or the Assizes in England goes in these States as a matter of course to the British Government Court. Below these, we find a numerous class of lords, whose jurisdiction, once as various as that of the Island