

The Solicitor-General said:

“The States will not agree to federate in a structure which within limits, is definite and certain and obviously we could not completely alter the structure afterwards. The purpose of this clause is to lay down those matters which can be altered without being regarded as fundamental or as impinging on the Instrument of Accession.” “If the structure were to be altered in fundamental respects, of course the States would clearly have the right to say “This is not the Federation to which we have acceded.”

The Secretary of State said :

“If you amend the parts of the Bill which affect the States, obviously you would be altering the conditions on which they have acceded and that would certainly create a situation in which the Princes could rightly claim that their Instrument of Accession had been altered. It certainly means that we cannot amend any part of the Bill which affects what is virtually the treaties under which the Princes come in. If we make a change in the Bill as to strike at the basis of their Instrument of Accession then obviously, the agreement has been broken between the Princes and Parliament and the Princes are free.”

“It will be accepted by every one that under the general scheme of the Bill the States, when they are asked to federate are entitled to know with certainty certain aspects at any rate, of the Federation to which they are to accede. It would be an absurd position if having said to a State this month, “Will you accede to a Federation,” it was possible next month for this House to alter in some fundamental respects the provisions of the Federation to which the State was held to have acceded. Therefore, some schedule of this kind is necessary. It is a sorting out of the various parts of the Bill which should be capable of amendment without in any sense altering from the point of view of the States the constitutional machinery to which they have acceded. The scheme of the Schedule is to set out the provisions of the Act, the amendment whereof is not to affect the validity of the Instrument of Accession of a State.”

“One sees set out those parts of the Bill the amendment of which is not to affect the validity of the Instrument of Accession of a State, and on the opposite side there are set out those subjects the amendment of which, would affect the validity of accession. In drawing up a schedule of this kind one has to proceed with great care in defining what are the legitimate matters on which the Rulers of a State are entitled to ask that there shall be no amendment without their consent. Of course there will be border-line cases. There could be minor amendments, which would not really make any great difference to the existing position, and it would be very unreasonable

if the States took objection to such amendments and said, "We are going to stand on our rights on this point as affecting the validity of our Instrument of Accession." It is right that any matter which really affects what I may call the general balance of powers, the questions of the reservation of subjects of executive control and of matters which can be dealt with by the Governor-General in his discretion, matters which are vital to the architecture of the Federation to which the States are asked to accede, should not be amended without their assent.

"The whole area of the special powers vested in the Governor-General is one of the essential features of the Federation. That is one part where the States are entitled to say 'That is a change' or 'That is altered'. But this does not in any way check for all time the development of India. These are to be the subject-matter of negotiations with the States, because, in effect, they will produce a Federation of a different kind from that to which the State has acceded."

Therefore to the question what would happen if Parliament did make such changes which by virtue of Schedule II are treated as changes which will affect the Instrument of Accession the answer is that the Princes will get a right to walk out of the Federation. In other words, the consequence of any such change would be to break up the Federation.

What are the changes which cannot be made without affecting the Instrument of Accession? I will draw your attention to some of the provisions which Schedule II says cannot be amended by Parliament without affecting the Instrument of Accession. According to Schedule II no changes in the Constitution can be made which relate to (1) the exercise by the Governor-General of the executive authority of the Federation; (2) the definition of the functions of the Governor-General; (3) the executive authority of the Federation; (4) the functions of the Council of Ministers and the choosing and summoning of ministers and their tenure of office; (5) the power of the Governor-General to decide whether he is entitled to act in his discretion or exercise his individual judgment; (6) the functions of the Governor-General with respect to external affairs and defence; (7) the special responsibilities of the Governor-General relating to the peace and tranquility of India or any part thereof; (8) the financial stability and credit of the Federal Government; (9) the rights of the Indian States and the rights and dignity of their Rulers; (10) the discharge of his functions by or under the Act in his discretion or in the exercise of his individual judgment; (11) His Majesty's Instrument of Instructions to the Governor-General; and (12) the superintendence of the Secretary of State in the making of the rules for the Governor-General in his discretion for the transaction of and the securing of transmission to him of information with respect to, the business of the Federal Government.

Schedule II is a very extensive collection of constitutional don'ts. I have given just a few of them. They will however be sufficient to show how limited is the authority of Parliament to make changes in the Constitution.

Why is the authority of Parliament limited? To understand this it is necessary to note the exact limits of the authority of Parliament. According to law the authority of the Parliament to legislate extends only to countries which are the Dominions of the King. The States did not form part of the Dominions of the King and none of them not even the finest of them was subject to the legislative authority of Parliament. The Government of India Act makes no change in this status of the States. The States remain foreign territories inspite of the Federation, and as they were before Federation. This is the most extraordinary state about the Indian Federation, namely that the different units are as between themselves foreign states. As the Act does not make the States Dominions of the King, Parliament gets no right to legislate about them. Parliament derives its authority over the States from the Instrument of Accession. That being so, the authority of Parliament cannot but be limited to what is transferred to it by the States through their instruments. To use the language of the Privy Council itself, as the stream can rise no higher than its source, similarly, Parliament cannot have powers over the States greater than those given to them by the Instrument of Accession. This explains why the authority of Parliament to amend the Constitution is limited.

The analysis made so far shows that the authority of Parliament to change is limited by the Instrument of Accession and that for any excess of authority, there must be prior consent given by the Princes. As a legal effect of the provisions of the Act it may not be shocking. But consider the fact that the provisions in regard to which Parliament has no power to change include those that relate to the transposition of such subjects as Defence and External affairs from the category of Reserved to that of the Transferred and that it will not have that power unless the Princes consent expressly to confer that authority on Parliament and permit it to do so. You will be in a position to realize how grave are going to be the consequences of this Federation. The establishment of the Federation means that the mastery has gone from the hands of Parliament into the hands of Princes. This Federation makes the Princes the arbiters of destiny. Without their consent India cannot politically advance.

Other consequences of this Federation might also be noted. I will just refer to one. It is that this federation, if accepted will weaken the position of British Indians in their struggle for change. Hitherto, in the struggle between the Indian people and the British Parliament the latter was always the weaker party. It had nothing to oppose the right of the people to change except its will. After the Federation the position is bound to be reversed. The Indian people would be in a weaker position and Parliament

would be in a stronger position. After the Federation, Parliament would be in a position to say that it is willing to grant the demand for change but that its authority to change is limited and that before making any demand for change. Indians should obtain the consent of the Princes. There is nothing to prevent Parliament from taking this stand.

What reply would Indians be able to give if they once accept the Federation and thereby admit the implications underlying it?

VIII

THE FATALITY OF FEDERATION

What shall we do with the Indian States? That is a question that is often asked. Some people with Republican faith in them desire their total abolition. Those who do not care for forms of Government will reject this view. But even they must abide by the consideration that what works best is best. Can the Indian States be said to work best? I do not know that there is anybody, who will be prepared to give an affirmative answer, at any rate an affirmative answer which will apply to all States. The internal administration of the States is a bye-word for mismanagement and maladministration. Very few States will escape this charge.

The people are always asking as to why there should be this mismanagement and maladministration in the States. The usual answer is that it is the consequence of Personal Rule. Everywhere the demand made is that Personal Rule should be replaced by Popular Government. I have grave doubts about the efficacy of this demand. I do not think that in a large majority of cases the substitution of Popular Government will be any cure for the ills of the State subjects. For, I am sure that the evils arise as much from the misrule of the Ruler as they arise from want of resources. Few have any idea as to how scanty are the resources of the Indian States.

Let me give you a few facts. Out of the total of 627 States there are only ten with an annual revenue above 1 crore. Of these ten, five have just about a crore, three have between 2 and 2¼ crores. One has just about 3¼ crores and only one has a revenue just about 8 crores. There are nine with a revenue ranging between 1 crore and 50 lakhs. About twelve have a revenue ranging between 50 to 25 lakhs. Thirty have a revenue varying between 25 lakhs and 10 lakhs. The rest of the 566 have an annual revenue which is less than 10 lakhs. This does not, however, give an idea of how small are some of the States which fall below 10 lakhs. A few illustrations may therefore be given. Among these 565 States there is one with a revenue of Rs. 500 and a population of 206 souls. Another with a revenue of Rs. 165 and a population of 125 : another with a revenue of Rs. 136 and a population of 239, another with a revenue of 128 and a population of 147 and another

with a revenue of Rs. 80 and a population of 27. Each one of these is an Autonomous State, even the one with a revenue of Rs. 80 and a population of 27 !

The Autonomy of these States means that each one must take upon itself the responsibility to supply to its subjects all the services which relate to matters falling under law and order such as revenue, executive and judicial and all the services which affect public welfare such as education, sanitation, roads etc. We in Bombay with our 12 crores of revenue are finding it difficult to maintain a civilized standard of administration. Other Provinces with equally large revenue are finding the same difficulty. How then can these small tiny states with a revenue of few hundreds and a population of few thousands cater to any of the wants which a civilized man must have his Government satisfy in full measure ? With the best of motives and given an ideal Prince the task is hopeless.

The only way out is to reorganize the whole area occupied by the Indian States. The proper solution would be to fix an area of a certain size and of certain revenue and to constitute it into a New Province and to pension off the rulers now holding any territory in that area. Only such States should be retained in whose case by measure of area and revenue it can be said that they by reason of their resources are in a position to provide a decent standard of administration. Those which cannot satisfy the test must go. There is no other way. This is not merely what might be done. I say, to do this is our duty and a sacred duty.

I know some will think of the hereditary right of the Prince to rule over his territory. But I ask, what is more important, the right of the Prince or the welfare of the people ? I am sure that even the best friends of the States will not say that the rights of the Prince are more important than the welfare of the people. Which should give way, if the two are in conflict ? There again, I am sure that even the best friends of the States will not say that the welfare of the people should be sacrificed for the sake of maintaining the rights of the Prince.

The question of the reorganization of the Indian States is not a political question. As I look at it, is a purely administrative question. It is also an inevitable question. Because, not to tackle it is to condemn the people of the States—and there are millions of them—perpetually to a life of misery and security. The way I suggest is not a revolutionary way. To pension off a Prince and to annex his territory is a legal way and can fall under the principles with which we are familiar under the Land Acquisition Act which allows private rights and properties to be acquired for public purposes.

Unfortunately, the question of the Indian States has not been tackled from this point of view so far. The question that I want to place before

you is, and it is a very important question, "Will it be open to you to tackle this question after the Federation is established?" I say no. You will perhaps ask why. How does this conclusion follow?

I have already pointed out that with regard to the entry into the Federation, the Provinces and the States stand on a different footing. The Provinces have no choice. They must agree to be the units of the Federation. The States have a choice. They may join the Federation or they may refuse to join the Federation. That is so from the standpoint of the Provinces and from the standpoint of the States. What is the position from the standpoint of the Federation? Has the Federation any choice in the matter of the admission of the States? Can the Federation refuse to admit a State into the Federation? The answer is no. The Federation has no right to refuse. The State has a right to enter the Federation. But the Federation has no right to refuse admission at any rate for the first 20 years. That is the position. Now what does the admission of a State into the Federation mean? In my view the admission of a State into the Federation means recognition of the sovereign status of the State. Recognition of its sovereign status means the recognition of its indestructibility which means its right to the integrity of its territory and to guaranteeing of its powers of internal administration. This would apply even to the State with a population of 27 and revenue of Rs. 80. These being the implications of the admission of a State in the Federation, I am perfectly justified in suggesting that the territorial reorganisation of the Indian States will not be possible after the establishment of the Federation and the people of the Indian States will be forever doomed to misrule and mal-administration.

Can British India do anything in the matter now? I think British India is not in a position to do anything in the matter. If British India could have secured Responsible Government for itself, it might have been in a position to dictate which State should be admitted and on what terms. It would have been in a position to make the reorganization of the States territory into tolerably big units as a condition precedent for their entry into the Federation. Unfortunately British India has no Responsible Government. Indeed its right to Responsible Government at the Centre is denied and is made dependent upon the entry of the States. "No States, no responsibility" has now become the fate of British India. That being the position of British India, British India is not in a position to make terms with the States as she would have been able to do if she had Responsible Government. That is why I have said and that is why I have always maintained that British Indians should first ask for a Federation and Responsibility confined to British India. Once that is obtained, the path for an All India Federation on the basis of freedom and good government all round will become possible. That possibility will be gone if this Federation comes into being.

I have already drawn your attention to some of the deformities of the Federal Scheme. What I have now drawn attention to is more than a deformity. It is a fatality of the Federation. So far as the States' people are concerned, it is a decree of fate. It is something which they will never be able to escape once it is executed.

The State's problem is one which, I believe could be solved by the Paramount Power along the lines I have suggested or along any other line consistently with the welfare of the people, if it wishes to do so. Paramountcy is like the Trimurti of Hindu Theology. It is Brahma because it has created the States. It is Vishnu because it preserves them. It is Shiva because it can destroy them. Paramountcy has played all these parts in different times in relation to the States. At one time, it played the part of Shiva. It has now been playing the part of Vishnu. To play the part of Vishnu with regard to the States is from the point of view of the good of the people the crudest act. Should British India be a party to it? It is for you to consider.

IX

FEDERATION WITHOUT THE STATES

There is another point of view from which the case for Federation is argued. I must now proceed to examine that argument.

It is argued that the constitution creates Autonomous Provinces. The Autonomy of the Provinces means independence and therefore disruption of the Unity of British India. This must be counteracted. Some binding force must be provided so that the Provinces may be held together and unity and uniformity built up for the last hundred years as a result of British administration is preserved intact in fundamentals if not in details.

The argument is quite sound, if it only means that the creation of Autonomous Provinces makes the creation of a Central Government a necessity. This proposition I am sure will command universal assent. In all the Round Table Conferences the late Sir Mahomad Iqbal was the only delegate who was against the establishment of a Central Government. Every other delegate irrespective of caste or creed differed from him. They asserted that with the creation of Autonomous Provinces the establishment of a Central Government was a categorical imperative and that without it autonomy would result in anarchy.

But the argument goes beyond its legitimate scope. It seeks to justify the establishment of a Central Government for All India. The argument which can justify the establishment of a Central Government for British India is used to justify a Central Government for the whole of India. And the question that you have to consider is whether the creation of Autonomous Provinces in British India can justify a Central Government for the whole

of India including the Indian States. My contention is that the creation of Autonomous Provinces does not require the creation of a Central Government for the whole of India.

The establishment of Autonomous Provinces in British India will call for two things; (1) That there shall be a Central Government for British India and (2) that the form of that Central Government must be federal and not unitary. The essence of Federation lies in the division or allocation of Legislative and Executive Powers between the Central Government and the Units by law. The powers of the Units and the Centre are defined and demarcated and the one is not entitled to invade the domain of the other. Autonomy of the Provinces means that their powers are defined and vested in them. To make Provincial Autonomy real the Powers of the Central Government must also be limited, otherwise it would be in a position to invade the domain of the Provinces. To put it simply, autonomy means definition and delimitation of Powers by law and wherever there is definition and delimitation of powers between two Political Bodies there is and there must be Federation. You will now understand why I said that all that Provincial Autonomy demands is that the Central Government for British India shall be Federal in form. It does not justify all India Federation. Why is it necessary to bring in the States still remains to be answered and those who plead for this All-India Federation as distinct from British India Federation must answer this question.

As I said all that is necessary is that Central Government for British India shall be Federal in form and this fact has been recognized by the Constitution.

Many seemed to have failed to notice that the Government of India Act, 1935 establishes two distinct Federations. One is a federation which is a federation of the Provinces of British India another which is a Federation of British Indian Provinces and the Indian States. It is surprising that so many should have missed so important a fact. That the Government of India Act establishes two federations is beyond dispute. To those who have any doubt they should read Parts III and XIII together and Part II and Part III together. Part II and Part III reveal that there is an All-India Federation and lay down the constitution of that Federation. Part III and Part XIII reveal that there is a Federation of British India Provinces apart from the States and lay down the Constitution of that Federation. That Part XIII relates to provisions which are called transitional does not make the British India Scheme any the less a Federation, because the law is law whether it is for a limited period or for all times.

That the Act establishes a Federation for British India Provinces and also an All-India Federation cannot be denied. What is the difference between these two Federations? Is there any difference in the Legislative

Powers of the Federation ? The answer is no. The Federal Legislative List remains the same whether the Federation that is in operation is British India Federation or the All-India Federation. The Concurrent list also remains the same whether the Federation in operation is one or the other.

Is there any difference in Financial Powers ? The answer again is no.

The Powers of taxation remain the same whether it is an All-India Federation or British India Federation.

Is there any change in the Judicial organization of the Federation ? There is none. Federal Court is as much necessary for the All-India Federation as for British India Federation.

How do these two Federations differ ? The two differ in one respect only. To find out this difference you should compare section 313 with section 8. The comparison will show that if the Federation is a British India Federation the Executive Authority of the Federation will be the Governor-General in Council and if the federation is an All-India Federation the Executive Authority in transferred matters to be the Governor-General acting on the advice of Ministers responsible to the Legislature. In other words while there is British India Federation only there is no responsibility at the Centre so long as there is no All-India Federation.

This means that the entry of the States is a condition precedent for the grant of responsibility to British India. You will therefore ask, why is the entry of the States so essential ?

All Federations have come into existence as a result of some danger from outside affecting the safety and integrity of the Units. The States of North America federated because of the fear of subjugation of the States by British Imperialism. The Provinces of Canada federated because of the danger of invasion or absorption by the United States. The Australian Colonies federated because of the danger of invasion by Japan. It is obvious that the Indian Federation is not the result of any such circumstance. There is no new invader on the border of India waiting to pounce upon both British India and the Indian States. Nor is this Federation necessary for bringing about peace between British India and the Indian States. It matters not that British India is under the sovereignty of the Crown and the Indian States are under the suzerainty of the Crown. So far as foreign relations are concerned, and they include peace and war, the two are subordinate to one and the same authority namely the crown. That is the reason why the two have been at peace. That is the reason why they will not be and cannot be at war. Prevention of external aggression or the maintenance of internal peace cannot be the motive for this All India Federation. What then can be the motive of this Federation ? Why are the States invited to enter into this Federation ? Why is their entry made a condition precedent for responsibility at the Centre ? To put it bluntly,

the motive is to use the Princes to support imperial interests and to curb the rising tide of democracy in British India. I should like to have another explanation, if there is any. I see none. That the Princes are wanted in the Federation to serve ends of the British Imperialism is beyond question. The Secretary of State for India speaking in Parliament during the course of the debate on the Government of India Bill admitted that "we should all welcome the entry into the Central Government of India of a great force of stability and imperial feeling represented by the Princes". While the suppression of democracy in British India may not be the motive I am sure that that will be the consequence of the entry of the Princes in the Federation.

What a price has been paid for the entry of the Federation ! I do not wish to repeat what I have said. If you will re-call what I have said regarding the discrimination which has been made in favour of the Princes in the matter of representation, taxation, administration, legislation etc., you will know what benefits have been conferred, what rights have been surrendered and what immunities have been granted by British India to induce the Princes to come into the Federation. And what has British India got in return ?

If the Federal Constitution had provided full responsible Government, there would have been some compensation to British India for the price it has paid to the Princes for their joining the Federation. But British India has not got any responsibility worth the name. What British India has got is a system of responsibility halved in part and mutilated in substance by conditions and restraints. Not only British India has not been able to secure responsibility at the Centre commensurate with the sacrifices it has made for making the Federation easy for the Princes, but it has lost its claim for Dominion Status in its own right and independently of the Princes. Many people do not know what British India has lost and stands to lose in this business of an All India Federation. The new Constitution is the result of the struggle of the people of British India. It is the agitation and the sufferings of the people of British India which was the compelling force behind this constitution. What was the right which the people of British India were claiming for themselves ? As I have said, their first claim was good government in British India. Next they claimed self-government, that is responsible government for British India. Lastly, they claimed Dominion Status for British India. Each one of these claims have been accepted by the British Parliament. In 1917 the British Parliament accepted the goal of Responsible Government. In 1929 the English Nation accepted the goal of Dominion Status, Now it must be emphasised that each time the claim was made, it was made in the name of the people of British India. Each time it was accepted in relation to the people of British India. What is going to be the position of British India as a result of the Federation ?

The position of British India is that they can never get any responsibility at the Centre unless the Princes come into the Scheme. That means that British India has lost its right to claim Responsible Government for itself in its own name and independently of the Princes. This right was a vested right because it was the result of a claim made and accepted. That right has been lost because British India is made dependent for the realization of its destiny upon the wishes of the States. Of the two parts of this Federation, British India is the progressive part and the States form the unprogressive part. That the progressive part should be tied up to the chariot of the unprogressive and its path and destiny should be made dependent upon the unprogressive part constitutes the most tragic side of this Federation.

For this tragedy you have to blame your own national leaders. Fortunately for me I am not one of your national leaders. The utmost rank to which I have risen is that of a leader of the Untouchables. I find even that rank has been denied to me. Thakkar Bapa, the left hand man of Mahatma Gandhi. I call him left hand man only because Vallabhbhai Patel is the right hand man—very recently said that I was only the leader of the Mahars. He would not even allow me the leadership of the Untouchables of the Bombay Presidency. Whether what Thakkar Bapa said was said by him out of malice or out of love of truth does not worry me. For politics is not my first love nor is national leadership the goal of my life. On the other hand, when I see what disasters your national leaders have brought upon this country I feel relieved to know that I am not included in that august crowd. Believe me when I say that some of your national leaders were thoroughly unprepared for the job of constitution-making. They went to the Round Table Conference without any comparative study of constitutions and could propound no solutions to problems with which they were presented. Others who were undoubtedly competent to tackle the problem were like little children so charged with the ideal of Federation that they never cared to see whether what they were shaping was a real federation or a fraud in the name of Federation. This tragedy is entirely due to wrong leadership. I do not know if the steps taken can be retraced and whether the lost ground can be regained. But I think it is a right thing that the people of British India should know what they have lost. They have a federation of their own and they have right to demand responsibility for their federation.

There is another reason why it would be desirable to have a Federation of British India only. A Federation of British India and of the Indian States cannot work harmoniously. There are two elements which I am sure will produce a conflict between British India and the Indian States. The first element arises out of the difference in the position of the representatives of British India and those of the Indian States. The representatives of British India will be free men. The representatives of the Indian States

will be bondmen of the Political Department. The sources of mandate of those two sets of representatives in the Federal Legislature will be different. The British India representatives will be engaged in extending the authority of the Ministers. The States representatives are sure to act and will be made to act so as to lend support to the authority of the Governor-General as against the Ministers. This conflict is inevitable and it is sure to embitter the feelings of British India towards the Indian States. This was precisely what happened in the last regime in the Provinces. The feelings of the elected members towards the nominated members in the old Provincial Councils were certainly unfriendly. This experience I am sure will be repeated in the Federal Legislature. That it should be so is very natural when one section of the House feels that the other section has been brought in to thwart its wishes and is acting as the tool of some power outside the control of the Legislature. This is one element of disharmony. The other element of disharmony is the disparity in the position of British Indian States under the Federation. Equality before law is a precious thing. But not all people value it for the same reason. Most cherish it an ideal. Few realize why it is crucial. Equality before the law compels men to make common cause with all others similarly affected. Whereas if there is no equality, if some are favoured and others are burdened, those specially favoured not only refuse to join those who are burdened in the struggle for equality but actually take sides against them. A Dictator might, as the kings did in the olden times, pull out one by one the teeth of a few without necessarily exciting the resentment of the other people. On the contrary, the others will join in the raid. But suppose a law was made that all must contribute as much money as the dictators ask for under penalty of their teeth being drawn out all would rise in opposition. There is no equality between British India and the Indian States under the Federation. Indian States enjoy many benefits and many exemptions which are denied to British India. This is particularly so in the matter of taxation. There is bound to be great acrimony between the representatives of British India and those of the Indian States as to who should bear the load of taxation first. Patriotism vanishes when you touch a man's pocket and I am sure that the States representatives will prefer their own financial interest to the necessities of a common front to make the executive responsible to the Legislature.

What is the use of housing British India and the Indian States under one edifice if the result is to make them quarrel with each other?

There is a complete dissimilarity between the forms of Government prevalent in British India and the Indian States and the principles underlying the two. These dissimilarities need not produce any antagonism between the Indian States and British India if the two continue to evolve in their separate spheres. So long as the form of Government in the Indian States does not become a factor in the decision of affairs which affects British India, British

India can tolerate those forms of Government however antiquated they may be. But the Federation makes them a factor and a powerful factor and British India cannot remain indifferent to them. Indeed the forging of the Federation will compel British India to launch a campaign in sheer self-interest for revolutionising the forms of Government prevalent in the Indian States.

This will be the inevitable result of this Federation. Is this a consummation which the States devoutly wish for? This is a question they will have to consider.

Does British India welcome this prospect? Speaking for myself I will not. It would be impossible to wage war on so vast a front. The States are too numerous to allow concentrated attack. The States being a part of the structure, you cannot attack them and justify your attack as a Constitutional Act. Secondly, why put yourself in this difficulty? Sometimes it turns out that a man thinks that he is buying property when as a matter of fact he is buying litigation. For British India to accept this Federation is like buying trouble. Thirdly, this Constitution is a settlement from which Dominion Status is most rigidly excluded not only for the present but also for the future as well.

Looked at from any point of view, the wisest course seems to me that leaving the States where they are, British India should proceed on its own evolution and Federation for itself.

X

FEDERATION FROM DIFFERENT POINTS OF VIEW

Different people are looking at this Federation from different points of view. There is the point of view of the Princes. There is the point of view of the Hindus and the Muslims and the Congress. There is also the point of view of the Merchant and the Trader. The point of view of each one of these is of course the result of their particular interests.

What is the interest of the Princes in this Federation? To understand the motives of the Princes you must go back to the Butler Committee. The Princes had been complaining of the encroachment of the Political Department of the Government of India upon their treaty rights under the Doctrine of Paramountcy. The Princes were insisting that the Political Department had no greater right against the States except those that were given by the treaties subsisting between them and the British Government. The Political Department on the other hand claimed that in addition to the rights referable to the treaties, the Crown had also rights which were referable to political usages and customs. To adjudicate upon this dispute, the Secretary of State agreed to appoint the Butler Committee. The Princes had hoped that the Butler Committee would accept their contentions and limit the scope of

Paramountcy to the rights referable to the treaties. Unfortunately for the Princes they were disappointed, because the Butler Committee reported that the Paramountcy was paramount and that there could be no definition or delimitation of it. This decision of the Butler Committee meant a complete subordination of the Princes to the Political Department of the Government of India and the Princes were in search of an escape from this unfortunate position in which they were placed and they found, and quite rightly, that the only solution which can enable them to escape the tyranny of the Political Department was the Federation; because to the extent to which the Federal authority prevailed, the authority of the Political Department would vanish and as the Federal authority could only be exercised by a Federal Legislature and a Federal Executive and as they would have sufficient voice in the Federal Legislature and the Federal Executive they thought of federation. The federal solution of their problem offered two advantages to the Princes. The first was that it would secure to the States internal autonomy which they were very anxious to have, for it is of the essence of federating units to remain in their own hands all powers save those which they themselves have willingly delegated to a common centre and over which they themselves possess a share in the control. The second advantage of the Federation was that Paramountcy would disappear to the extent of the Federal authority. The motive of the Princes, therefore, was selfish and their primary aim was to get rid as much as possible of the authority of the Political Department of the Government of India. This was one of the primary interests of the Princes. The Princes had another interests to safeguard. That was to preserve their powers of civil and military government as much as possible. They wanted to make the Federation as thin as possible so that it might not impinge upon them very hard. The interest of the Princes is two-fold. They wanted to escape Paramountcy. Secondly, they did not want to subject themselves too much to the authority of the Federation. In looking at the Federation, the Princes keep two questions before them. How far will this Federation enable them to escape the tyranny of Paramountcy ? Secondly, how far does this scheme of Federation take away their sovereignty and their powers of internal government ? They want to draw more under the former and give less under the latter.

The Muslims had an interest which not only coloured their whole vision but made it so limited that they did not care to look at anything else. That interest was their interest as a minority. They knew only one means of protecting themselves against the Hindu majority. That was to ask for reservation of seats with separate electorates and weightage in representation. In 1930 they discovered that there was another and a more efficacious method of protecting the Muslim minorities. That was to carve out new Provinces in which Muslims would be in a majority and Hindus in a minority as a counterblast to Provinces with Hindus as a majority and Muslims as

a minority. They hit upon this system because they felt such as a system of balance of Provinces would permit the Muslims in the Muslim majority Provinces to hold the Hindu minorities in their Provinces as hostage for the good behaviour of the Hindu Majorities in the Provinces in which the Muslims were in minority. The creation of Muslim majority Provinces and to make them strong and powerful was their dominant interest. To accomplish this they demanded the separation of Sindh and the grant of responsible government to the North West Frontier Provinces so that the Muslims could have a command of four Provinces. To make the Provinces strong they insisted on making the Centre weak. As a means to this end the Muslims demanded that residuary powers should be given to the Provinces and the Hindu representation in the Centre should be reduced by giving the Muslims not only 1/3 of seats from the total fixed for British India but also 1/3 from the total assigned to the Princes.

The Hindus as represented by the Hindu Mahasabha were concerned with only one thing. How to meet what they called the menace of the Musalmans? The Hindu Mahasabha felt that the accession of the Princes was an accretion to the Hindu strength. Everything else was to them of no consequence. Its point of view was Federation at any cost.

The next class whose point of view is worthy of consideration is the Indian Commercial Community. The commercial community is no doubt a small community in a vast country like India, but there can be no doubt about it that the point of view of this community is really more decisive than the point of view of any other community. This community has been behind the Congress. It is this community which has supplied the Congress the sinews of war and it knows that having paid the piper it can call for the tune. The commercial community is primarily interested in what is called commercial discrimination and the lowering of the exchange Ratio. It was a very narrow and limited point of view. The Indian Commercial Community is out to displace Europeans from Trade and Commerce and take their place. This it claims to do in the name of nationalism. It wants the right to lower the exchange rate and make profit in its foreign trade. This also it claims to do in the name of nationalism. Beyond getting profits to themselves the Merchants and Traders have no other consideration.

What shall I say about the Congress? What was its point of view? I am sure I am not exaggerating or misrepresenting facts when I say that the Congress point of view at the Round Table Conference was that the Congress was the only party in India and that no body else counted and that the British should settle with the Congress only. This was the burden of Mr. Gandhi's song at the Round Table Conference, He was so busy in establishing his own claim to recognition by the British as the dictator of India that he forgot altogether that the important question was not, with

whom the settlement should be made but what were to be the terms of that settlement. As to the terms of the settlement, Mr. Gandhi was quite unequal to the task. When he went to London he had forgotten that he would have before him not those who go to him to obtain his advice and return with his blessings but persons who would treat him as a lawyer treats a witness in the box. Mr. Gandhi also forgot that he was going to a political conference. He went there as though he was going to a Vaishnava Shrine singing the Narsi Mehta's Songs. When I think of the whole affair I am wondering if any nation had ever sent a representative to negotiate the terms of a national settlement who was more unfit than Mr. Gandhi. How unfit Mr. Gandhi was to negotiate a settlement becomes evident when one realizes that this Ambassador of India was ready to return to India with only Provincial Autonomy when as a matter of fact he was sent to negotiate on the basis of Independence. No man has brought greater disasters to the interests of India than did Mr. Gandhi at the Round Table Conference. Less one speaks of him the better.

How far each of these interests feel satisfied with the Federal Scheme such as it is, it is not for me to say. The question one may however ask is, are these the only points of view that must be taken into consideration in deciding as to what we shall do with this Federation? I protest that there are other points of view besides those mentioned above which must receive attention. There is the point of view of the Free man. There is also the point of view of the Poor man. What have they to say of Federation? The Federation does not seem to take any account of them. Yet they are the people who are most deeply concerned. Can the free man hope that the Federal Constitution will not be a menace to his freedom? Can the poor man feel that the constitution will enable him to have old values revalued, to have vested rights divested? I have no doubt that this Federation if it comes into being will be a standing menace to the free man and an obstacle in the way of the poor man. What freedom can there be when you are made subject to the autocracy of the Princes? What economic betterment can there be when you get Second Chambers with vested rights entrenched in MI and when legislation affecting property is subject to sanction by the Government both before introducing and after it has passed?

XI

CONCLUSION

I have perhaps detained you longer than I should have done. You will allow that it is not altogether my fault. The vastness of the subject is one reason for the length of this address.

I must, however, confess that there is also another reason which has persuaded me not to cut too short. We are standing today at the point of

time where the old age ends and the new begins. The old age was the age of Ranade, Agarkar, Tilak, Gokhale, Wachha, Sir Pherozeshah Mehta, Surendranath Bannerjee. The new age is the age of Mr. Gandhi and this generation is said to be Gandhi generation. As one who knows something of the old age and also something of the new I see some very definite marks of difference between the two. The type of leadership has undergone a profound change. In the age of Ranade the leaders struggled to modernize India. In the age of Gandhi the leaders are making her a living specimen of antiquity. In the age of Ranade leaders depended upon experience as a corrective method of their thoughts and their deeds. The leaders of the present age depend upon their inner voice as their guide. Not only is there a difference in their mental make up there is a difference even in their view point regarding external appearance. The leaders of the old age took care to be well clad while the leaders of the present age take pride in being half clad. The leaders of the Gandhi age are of course aware of these differences. But far from blushing for their views and their appearance they claim that the India of Gandhi is superior to India of Ranade. They say that the age of Mr. Gandhi is an agitated and an expectant age, which the age of Mr. Ranade was not.

Those who have lived both in the age of Ranade and the age of Gandhi will admit that there is this difference between the two. At the same time they will be able to insist that if the India of Ranade was less agitated it was more honest and that if it was less expectant it was more enlightened. The age of Ranade was an age in which men and women did engage themselves seriously in studying and examining the facts of their life, and what is more important is that in the face of the opposition of the orthodox mass they tried to mould their lives and their character in accordance with the light they found as a result of their research. In the age of Ranade there was not the same divorce between a politician and a student which one sees in the Gandhi age. In the age of Ranade a politician, who was not a student, was treated as an intolerable nuisance, if not a danger. In the age of Mr. Gandhi learning, if it is not despised, is certainly not deemed to be a necessary qualification of a politician.

To my mind there is no doubt that this Gandhi age is the dark age of India. It is an age in which people instead of looking for their ideals in the future are returning to antiquity. It is an age in which people have ceased to think for themselves and as they have ceased to think they have ceased to read and examine the facts of their lives. The fate of an ignorant democracy which refuses to follow the way shown by learning and experience and chooses to grope in the dark paths of the mystics and the megalomaniacs is a sad thing to contemplate. Such an age I thought needed something more than a mere descriptive sketch of the Federal Scheme, It needed a treatment which was complete though not exhaustive

and pointed without being dogmatic in order to make it alive to the dangers arising from the inauguration of the Federal Scheme. This is the task I had set before myself in preparing this address. Whether I have failed or succeeded, it is for you to say. If this address has length which is not compensated by depth, all I can say is that I have tried to do my duty according to my lights.

I am not opposed to a Federal Form of Government. I confess I have a partiality for a Unitary form of Government. I think India needs it. But I also realize that a Federal Form of Government is inevitable if there is to be Provincial Autonomy, But I am in dead horror the Federal Scheme contained in the Government of India Act. I think I have justified my antipathy by giving adequate reasons, I want all to examine them and come to their own conclusions. Let us however realize that the case of Provincial Autonomy is very different from that of the Federal Scheme. To those who think that the Federation should become acceptable if the Governor-General gave an assurance along the same lines as was supposed to be done by the Governors that he will not exercise his powers under his special responsibilities I want to say two things. First I am sure the Governor-General cannot give such an assurance because he is exercising these powers not merely in the interest of the Crown but also in the interest of the States. Secondly, even if he did, that cannot alter the nature of the Federal Scheme. To those who think that a change in the system of State representation from nomination to election will make the Federation less objectionable, I want to say that they are treating a matter of detail as though it was a matter of fundamental. Let us note what is fundamental and what is not. Let there be no mistake, let there be no fooling as to this. We have had enough of both. The real question is the extension and the growth of responsibility. Is that possible? That is the crux. Let us also realize that there is no use hugging to Provincial Autonomy and leaving responsibility in the Centre hanging in the air. I am convinced that without real responsibility at the Centre, Provincial Autonomy is an empty shell.

What we should do to force our point of view, this is no place to discuss. It is enough if I have succeeded in giving you an adequate idea of what are the dangers of this Federal Scheme.



