CHAPTER-IV
PARAMOUNTCY AND THE FEDERAL SOLUTION

Round Table Conference and the States: The Round Table conference was the first serious attempt and effort on the part of the British Government to evolve a constitution for India. It was to be carried out with the consent of all concerned political parties. It too was the first ever serious attempt to forge some kind of a constitutional relationship between British India and Indian States, of course, with their mutual consent or agreement. Even though its representative character was demolished by the absence of the Congress, the most significant political organization of the people in India, the Labour Government’s goodwill enabled it to carry on its deliberations with enough unity in its first session.

Inauguration of the Round Table Conference: The work of the plenary session of the Conference started on November 17, 1930. It began with an opening address by Sir Tej Bahadur Sapru. He appealed and pleaded to the Princes to join an All-India Federation. He thought and also maintained that the association of Indian States with British India would be welcome due to the following reasons: (a) they would furnish a stabilizing factor in a federal constitution; (b) the process of unification would begin at once; and (c) in regard to matters of defense, the States would provide British India with the practical experience which it would lack.1 Representing the Muslim League, Sir Muhammad Shafi and M.A. Jinnah, too supported an All-India Federation.

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1 Indian Round Table Conference, Proceedings, 12th November 1930–19th January 1931, His Majesty’s Stationery Office, London, 1931, p. 29.
The Maharaja of Bikaner accepting the invitation of British India, observed that the Princes agreed that an All-India Federation was “likely to prove the only satisfactory solution of India’s problem”\textsuperscript{2} and that the Princes were ready to contribute “to the evolution of a system of government which will lead to the close and effective association of Indian States with the British India”.\textsuperscript{3} However, he made it clear that they would come to such a federation only “on terms which will secure the just rights of their States and subjects”.\textsuperscript{4} Enumerating these terms, the Maharaja of Patiala mentioned that the continuance of the British connection, the safeguard of their treaty rights and the preservation of their internal autonomy without any intervention from British India were the basis of their stand. He also explained and elaborated the concept of federation which the Princes had in their minds. To them, federation was “an arrangement entered into by them and by British India jointly under which, while British India manages those affairs which exclusively concern it, and while the Indian States manage those affairs that exclusively concern them, and while the Crown discharges such functions as are reserved to it, the Crown, British India and Indian States join together in a system which provides for the joint management and joint control of matters that jointly concern the two sides of India”\textsuperscript{5}.

The acceptance of an all-India federation by the Princes was acclaimed as a great achievement of the Conference. In order to thrash out the details of such a federation it was decided to appoint a few committees to deal respectively with the different aspects of issues such

\begin{itemize}
\item \textsuperscript{2} \textit{Ibid.}, p. 37.
\item \textsuperscript{3} \textit{Ibid.}
\item \textsuperscript{4} \textit{Ibid.}
\item \textsuperscript{5} \textit{Ibid.}, p. 79.
\end{itemize}
as federal structure, defense, etc. In all such committees, the Princes had sufficient representation.\footnote{Ibid., pp. 200-99 and 399-402.}

With the formation of these committees, the work of the first Round Table Conference (hereafter RTC) appeared to be over. In an announcement on behalf of the British Government, on 19 January, 1931, the Prime Minister noticed the following points as emerging from the deliberations of this Conference. These were: (i) the Centre should be a federation of India embracing both the Indian States and British Indian region; (ii) the precise form and structure of the government must be determined after further deliberations with the Princes and also representatives of the British India; (iii) with regard to all the questions not ceded by them to the federation, the States would be related with the Crown acting through the Agency of the Viceroy; (iv) defense and external affairs would be the special responsibility of the Governor-General; and (v) the Governor-General would have special powers to deal with an emergency in order to maintain the tranquility of the States.\footnote{Ibid., pp. 505-06.}

However, in view of the character of the Conference, the British Government decided to adjourn it at once so that Indian view could be consulted upon the work done by this Conference. The Government also promised that, if the non-cooperation group of the British Indian politicians, who were carrying on the Civil Disobedience Movement, wanted to co-operate, “steps will be taken to enlist their services”.\footnote{Ibid., p. 508.}

**The First Round Table Conference and Smaller States:** With the close of the first RTC started the quest for federal constitutional structure. In this quest, the Indian States were faced with two tough questions; first, to evolve a formula for the representation of several small States in the
federal structure; and secondly, to effect a reconciliation between the safeguards that they had demanded and the character of the federation which the British Indian statesmen had in their minds.

Rulers of small States felt much concerned with the issue of distribution of seats among the States in the Federal Legislature. All of them emphasized on sufficient representation; whereas a few of them maintained that their acceptance or refusal of the federal scheme was dependent absolutely on whether they were given individual representation or not. Besides, States like Panna and Malerkotla even expressed serious doubts on the “wisdom and practicability”\(^9\) of accepting an All-India Federation.

**Proposals of Patiala:** Rulers of small States found a strong supporter of their case in the *Maharaja* of Patiala. He was the Ruler of a State that was of middle size. In a pamphlet published in June 1931,\(^{10}\) the ruler of Patiala gave a historical review of the condition and situation exiting in the States and British Indian territories. After discussing the nature of Federal Constitutions of other countries, he expressed his preference for a “United State’s constitution in relationship to the Crown” to a federation of the Indian States and British India. The Ruler maintained that there was no “trace of federal spirit in India”, and observed “Federation is radical innovation; it subverts the very basis of the well-tried and time-honoured political institutions; it attempts to destroy their individuality and culture; it is revolution as far-reaching as the absorption of the States in British India”. The *Maharaja* further observed that with the implementation of the ‘Federal Scheme’ the smaller States were bound to lapse, because the federation could not comprise such a vast number of

\(^9\) Patiala Archives Chamber Section (hereinafter referred to PA. CH.) IV (b) 17 of 1931, pp. 40-44.

\(^{10}\) The *Maharaja* of Patiala, *Federation and Indian States*, Thacker Spink & Co., Simla, 1931.
States as its units. No attempt, he remarked, was made to safeguard the interests of the federal units in the face of the powers of a strong federal executive and no device had been proposed in the scheme to minimize the opportunities of “conflicts of interests and power” between the units/states and the Centre. Finally, he maintained that, as the powers of Paramountcy would lie outside the scope of federal constitution, they would “continue to be exercised by the representatives of the Crown in the same arbitrary and unreasonable manner”. He also feared “inevitable interference by the federal legislature and the federal executive not only with federalized subjects but also in matters outside the scope of the federal constitution”, and viewed the future of the States as “dark, uncertain and gloomy under the federal constitution”.¹¹

Alternative to Federation: On the ground of these objections, the Maharaja of Patiala proposed an alternative scheme for a Union of States. He, in fact, believed that the nucleus of such Union already existed in the Chamber of Princes. To make it broad based, he proposed that the Chamber should be enlarged to provide individual representation to those Rulers who had the right to send only twelve representatives so far and to provide some kind of representation to those who were not represented at all in the Chamber.¹² This reconstituted Chamber should have an enlarged Standing Committee with powers “to confer with the permanent Standing Committee of both legislatures of British India particularly constituted for the purpose” and to settle with it “all the questions of common interest and policy”. In cases of any dispute or disagreement, all justifiable questions should be referred to the judicial Committee of the Privy Council in England. All non-justifiable matters should be decided by a permanent Court of Arbitration comprising the

¹¹ Ibid., pp. 13-14.
¹² Ibid.
representatives of the two parties and presided over by a representative of
the Crown.13

**Modifications in Patiala Scheme:** The Patiala Scheme of the Union of
States differed from Lord Simon’s suggestion of a Council of Greater
India whereas the former contemplated two separate Standing
Committees. The latter envisaged a single Council. The Patiala Scheme
too differed from the scheme, the *Maharaja* of Dholpur prepared. Unlike
the former, the latter envisaged an all-India federation of the States as
well as British India through the confederation of States.14 On August 9,
1931, the *Maharajas* of Patiala and Dholpur met the Rulers of Panna and
Jhalawar at Bombay. They evolved an agreed scheme that came to be
known as Dholpur-Patiala Scheme.15

**Dholpur-Patiala Scheme:** This scheme envisaged a federation formed
by British India and “Confederation of States”, i.e. the “Indian States
collectively”, as federating units. This Confederation was to comprise of
(a) the States who's Rulers were members of the Chamber of Princes, and
(b) collective representation of the remaining States.16 The Confederation
would deal with all federal matters including the election of the State
representatives and the question of due representation of its units in the
federal legislature. Also, the Confederation would function “through the
Chamber of Princes, suitably enlarged both in respect of its numerical
strength and scope”.17 Finally, “cases of breach or non-compliance on the
part of any State, the Confederation (Chamber of Princes) will take the

14 PA. CH. IV (b) 24 of 1931.
15 PA. CH. III (c) 29 of 1931.
16 *Foreign and Political* (hereinafter referred to as FPD) 31, Special, 1931, pp.
58-60.
responsibility” to watch that the decisions of the Federal Government were properly enforced.

The Dholpur-Patiala Scheme differed from the Patiala Scheme on two major grounds: (i) while the Patiala Scheme criticized the idea of a federation for India, the revised scheme accepted an All-India Federation for “the purpose of specified matters of common interests only”; also accepted the Confederation of States as a medium for their entering into All-India Federation with British India. In other words, the Confederation was a step prior to federation; (ii) while, in the Patiala Scheme, all the States, entitled to send representatives to the Chamber of Princes, were to be admitted to it as its permanent members. In the Dholpur-Patiala Scheme they were to be combined in factions for the purpose of their association with the Chamber; (iii) powers and functions assigned to the Standing Committee of the enlarged Chamber of Princes in the Patiala Scheme were denied to it in the Dholpur-Patiala Scheme; (iv) unlike the Patiala Scheme, the new one made the Chamber responsible for the enforcement of the decisions of the federal government in case of non-compliance by a State and to select the representatives of the States in the federal legislature. Both the schemes, truly, laid equal emphasis on the need of enlarging the Chamber of Princes and making it equally representative of the smaller States. The smaller States obviously welcomed such a scheme as it was favourable to them and also because it satisfied their honour.

Meeting of the Members of Confederation: Rulers twenty nine in number, belonging to the Confederation group met in Bombay on August

\[\text{Ibid.}\]

\[\text{PA. CH. IV (b) 17 of 1931.}\]

\[\text{Ibid.}\]
They resolved to send one confederation in the Indian States’ delegation to put forward and plead their opinions before the RTC and the Federal Structure Committee. It was also decided that the Confederation Scheme should be examined in all its aspects and provisions should be made to incorporate it in the federal scheme. The scheme soon began to attract more Rulers. They signified their consent to the declaration form that was sent to them for their consent. Twenty States gave their approval to the scheme. Six more had promised to join the Confederation and thirty-six States expressed their leanings towards the scheme. Thus, more than ninety States, including certain middle-sized States like Patiala, Indore, Jodhpur and Rampur, decided not to accept any constitution which involved *inter alia*: (a) the creation of a new State and consequent imposition of uniform nationality and double allegiance on the subjects of States; (b) the infringement of the rights, privileges and prerogatives of the Rulers of the Indian States; (c) any infringement of the treaties, *sanads* and engagements of the Indian States without the consent of the States concerned; or that subordinated in any manner Indian States to the legislative authority of the Imperial Parliament or which did not secure *interalia* (i) sufficient and individual representation in the federal legislature for all States whose Rulers were or might become members of the Chamber of Princes in their own right or of the factions of remaining States, or (ii) the preservation of Indian States as an individual entity, or (iii) the maintenance of the complete internal autonomy of the States and reservation of all residuary powers with them. These Rulers held that the

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21 Rulers of Bhavnagar, Bijawar, Banswara, Cambay, Danta, Dholpur, Dewas (Junior and Senior), Dharampur, Idar, Indore, Joara, Jodhpur, Junagadh, Limbdi, Lunawada, Morvi, Mudhol, Orchha, Panna, Pratapgarh, Patiala, Porbandar, Rajgarh, Rampur, Sachin, Sangli, Sonepur and Tehrigarhwal participated; PA. CH. IV (b) 14 of 1931.

22 Maharao Rena of Dholpur was deputed for this purpose. Vide. PA. CH. I (b) 21 of 1931, p. 44.

23 PA. CH. IV (c) 29 of 1931.
federal authority was to exercise legislative and executive powers with regard to merely such subjects as might be specified with “the individual consent of all States”. The Dholpur-Patiala Scheme was supported to the extent it was calculated to fulfill these aims.

The emergence of Confederation split up the Princes into two factions- the Bikaner-Bhopal faction, which favoured joining the federation directly, and the Dholpur-Patiala group that favoured joining federation through confederation. Of course, efforts had been made in the meanwhile to bring these two factions to terms in the conference held in Bombay from 30 June to 3 July. Though apparently the members of Federation agreed that the “door to federation or confederation should be left open”, yet the inconclusive deliberations amongst the members of Federation and also Confederation, during the period when the session of the Federal Structure Committee was on, made it vivid that such an understanding was superficial and unworkable. The differences between the two were largely a reflection of the contradiction between the interests of the smaller States and those of the bigger ones.

Meetings of the Federal Structure Committee: The Federal Structure Committee, met on September 7, 1931, prior to the second RTC. It was attended by Mahatma Gandhi as the sole representative of the Indian National Congress. The States’ delegation to this Committee was strengthened by the inclusion of the Rulers of Baroda, Rewa, Dholpur.

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24 PA. CH. IV (b) 25 of 1931.
25 PA. CH. IV (c) 21 of 1931.
26 On September 21, 1931, it seemed that some of the State delegates were not prepared to discuss the Confederation proposals among themselves. Consequently, the Ruler of Dholpur concluded that, if the scheme was not to be discussed among the delegation, he would directly place his proposals before the Federal Structure Committee in accordance with the mandate of the Bombay Conference. The Chancellor attempted to solve the deadlock by calling another meeting on September 30, 1931, but it was of no avail, PA. CH. IV (c) 30 of 1931.
and Sangli. In the meeting of the Federal Structure Committee that was held on September 24, 1931, the Ruler of Dholpur explained the Confederation Scheme and its uses. Sir Tej Bahadur Sapru, however, raised several issues regarding the scheme such as the number of States to it as well as the time the authors of the scheme thought its materialism would take. Wondering if the formation of an electoral college would “at all be a workable and feasible or not”. He also wanted to know whether the States, big and small, would agree to permit the task. That they ought to perform themselves, to be performed for those by a collective body like the chamber of Princes. He felt convinced that by accepting the confederation scheme the Princes would be “imposing upon themselves a super-sovereign in the person of the Chamber of Princes” and held that the scheme suggested by them was “not one which will facilitate the creation of the Federation which we have in view”. The Rulers of Rewa and Dholpur reiterated their case in the plenary session of the RTC. It was held from 28 November to 1 December 1931. However it did not appear to evoke much enthusiasm or interest from the British Indian delegation.

Second RTC and the States: On account of serious differences within the Indian States Delegation and disagreement on communal matters among the British Indian parties no agreed decision could be reached on most of the vital issues, such as the question of composition and powers of the federal legislature, the nature of the federal executive, its relationship to the federal legislature and the levying of corporation tax in the Second Round Table Conference. In the absence of agreement on federal proposals it was decided to appoint various bodies to decide these

27 Appendix–VI.
28 Indian Round Table Conference (Second Session), Proceedings of the Federal Structure Committee and Minorities Committee, His Majesty’s Stationary Officer, London, 1932, p. 134.
questions. Though the British Premier, as head of the National Government, reaffirmed that “the great idea of all-India Federation still holds the field” and “the principle of a responsible Federal Government, subject to certain reservations and safeguards through a transition period, remains unchanged”, yet the prospects of an Indian federation appeared to be dim. To end the deadlock in the Princes’ camp on the question of the apportionment of seats among them in the federal legislature, the Federal Structure Committee, in its third report, made it clear that, if the Princes failed to arrive at any agreement amongst them before March 1932, an Expert Committee would be formed to decide the issue. As neither of the groups desired the intervention of such a committee, they decided once again on a compromise. For this objective a meeting of the Princes and Ministers was called at Delhi on March 11, 1932.

**Delhi Pact:** The deliberations brought about reasonable agreement between the two factions; a Committee of Ministers was appointed “for the purpose of reconciliation, as far as possible, in the different schemes for associating the States with the proposals for all-India constitutional reforms”. The Princes met again on March 24, 1932. They incorporated the outcome of their deliberations in three documents which were acceptable to all the Princes. These documents were known as the A.B.C. documents. While document ‘A’ described the safeguards *sine qua non* for the Princes to join the federation, document ‘B’ listed the

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31 Indian Round Table Conference (Second Session), *Proceedings of the Plenary Sessions*: 7th December 1931-1st December 1931, Central Publication Branch, Calcutta, 1932, p. 291.

32 Those present at the meeting included the Rulers of Alwar, Bhopal, Bikaner, Dholpur, Panna, Patiala, Rampur, Sangli and the Yuvraj of Limbdi. Ministers of States like Sir A.J. Hydari (Hyderabad), Sir Manubhai Mehta (Bikaner), CI. K.N. Naksar and Mr. Maqbool participated in it. PA. CH. IV (b) 7 of 1932.

33 The material under the headings “Document A” and “Document B” in drawn from FPD No. 91, Reforms, Secret, 1934.
“fundamental principles” which the Princes desired to be incorporated in the proposed federal constitution. Document ‘C’ included the principal recommendations of the Committee of Ministers’ regarding the need of and also the method to the joining of the federation by the Princes. Now let us discuss here these documents, of course, briefly:

**Document A:** It comprised seven clauses. It was related to representation of the Princes in the legislature and the guarantee of non-intervention in their internal affairs either by the federal executive or legislature. The Princes also demanded 50% representation in the federal legislature. The representation was to be so constituted as to secure one seat for each State which “is a member of the Chamber of Princes or is qualified to be a member” and “collective representation for those States who are not members of the Chamber”. They further observed that they were against the revision or alteration of treaty rights except with their willing consent. This provision was to be safeguarded by the Crown. They also desired the recognition of their “right to secede from Federation at any future time”.

**Document B:** In this document, the Princes enumerated seventeen fundamental principles. They maintained that, to make any federation acceptable to the Princes, the inclusion of the clauses set out in the document in the constitution was essential. To begin with, they maintained that the sovereignty and autonomy of the States should be fully respected and guaranteed. They further stated that there should be no intervention, direct or indirect, with the internal affairs of the States. They also expressed that no direct tax or levy of any kind including income tax and corporation tax should be imposed by the federal government. Federal sources of revenue and other subjects should be strictly confined to the subjects mutually agreed upon; all residuary powers should remain with the States; the States must have at least 40%
representation in the Upper House and 33% in the Lower House;\textsuperscript{34} the system and method of their representation should be of no concern of the federation; States would enter the federation by means of treaties made with the Crown; it should be open to them to enter the federation directly or through confederation; the position of the States and British India in federation should be of equal partners; the federal court should derive its authority from the Crown as well as from the Rulers of the federating States; in case of issues where the federating units were involved, an appeal should lie with the Privy council in England; the fundamental rights should find no place in the federal constitution and should not be treated as a federal subject; and lastly, India should remain an integral part of the British Empire.

**Document C:** The Ministers’ Committee’s recommendations firmly pleaded again that the Princes’ participation in the federation was “not only desirable, but necessary”. Though States’ policy, it realized, should be one of joining the federation as a collective unit, it should be “permissible for any State that may so desire, to go individually”. It further made clear that the scheme of confederation, as expounded and developed during the discussions of the Committee, was not incompatible with the Sankey proposals and that representation should, as far as possible and except in the case of the States sending their representatives direct, be through an electoral college.\textsuperscript{35}

Of course, these three documents incorporated all the points of the declaration form of the Confederation, which was signed by several members of their faction as early as August 1931. There was a basic

\textsuperscript{34} As regards the representation of the States in the Legislature, the Document A and B seem to be incongruous. According to Document A, the Princes demanded 50/50 representation but in Document B they asked for less representation.

\textsuperscript{35} *Ibid.*
contradiction between the Confederation scheme and these proposals. While the Confederation scheme required all the Princes including the bigger States to join the federation through a confederation the Delhi Pact made it optional. This made it vivid that the Confederation Scheme could only be effective as a substitute for grouping the smaller States for the purpose of their representation in the federal legislature. Secondly, while the Dholpur-Patiala Scheme laid emphasis on the acceptance of the principle of singular voting which implied that all the States, whether big or small, would have one vote each. The Delhi Pact was silent on this issue. It appeared that, as the bigger States were not prepared to surrender on the point, the Confederation group agreed to drop it. Thus, though it outwardly accepted Confederation of course, in principle, yet, by evading certain basic points of Dholpur-Patiala Scheme, the Delhi Pact was practically ineffective, particularly in connection with the bigger States were concerned.

The Delhi discussions, however, were a significant landmark as well as turning point in the history of the federation of India, for it was here that the Princes for the first time put forward their demands-fundamentals, as they called them-in a clear and consistent manner. It was finally decided by them that this Pact “could be supplemented but not controverter by any subsequent meeting”.  

Thus, the Princes in the Chamber then appeared to be prepared to face the RTC in a united manner. It became clear in the meeting of the Chamber just after Delhi Pact, where the Maharaja of Patiala told that they were meeting, not as “partisans”, but as “the united voice of Indian Princes”.  

The Chamber of Princes in this session authorized its representatives to carry on

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36 PA. CH. IV (b) 3 of 1932, p. 103.
37 Proceedings of the Informal Meeting of the Ruling Princes held at Delhi in March 1932, Delhi Printing works, Delhi, 1932, p. 9.
negotiations for an All-India Federation further in accordance with the documents A and B. It, however, kept in tact the right of the Chamber to examine the whole constitution, after that came in the form of the Draft Bill, jointly and, of the States, individually.  

**Third Round Table Conference and the Prince:** In the Conference two members Sir Manubhai Mehta and Sir Liaquat Hyat Khan represented most States. The Chamber of Princes deputed them. They made efforts to secure as many safeguards as they could. However, on the issue of the allocation of seats, differences began to crop up amongst the States. As stated in the Ministers’ report submitted on March 6, 1933, to the Chamber of Princes, It read: “Our differences with the States like Hyderabad, Mysore and Baroda were fundamental”, and as they were not at all to be satisfied by any kind of compromise, the Secretary of State intelligently decided not to waste time of the Conference on “profitless wrangling amongst ourselves”. Thus, by the close of 1932, no decision could be arrived at with regard to either the size of the federal legislature or the allocation of seats.

**Federal Finance:** It was another question on which the Princes were not at all ready to compromise. As pointed out previously, a committee on federal finance was formed in 1931 under the Presidentship of Sir

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38 *Progs. C. of P. 1932, Government of India Press, Delhi, p. 56.*

39 Bikaner, Bundi, Kotah, Karaulim Junagarh, Idar, Kishengarh, Banaras, Rajpipla, Ratlam, Alirajpur, Jangira, Narsingarh, Rajgarh, Sitamau, Chirkhari, Balsinor, Bansda, Danta, Lunawada, Wadhwan, Baria, Chotta Udaipur and Sangli asked Sir Manubhai Mehta to represent their States too. *Reports of Ministers deputed to secure the conditions laid down by the Chamber of Princes in the new scheme of Federation elaborated at the third sitting of the Round Table Conference (Confidential), P & O Works, n.d., Delhi, p. 2.*

40 Patiala, Khairgarh, Sikkim, Kapurthala, Tripura, Jhalawar, Panna, Bijawar, Cambay, Chatterpur, Chamba, Suket, Sirmoor, Tehri, Mandi, Malerkotla, Dharampur, Lahar, Maihar, and Jasden were represented by Sir Liaquat Hyat Khan. *Ibid., p. 3.*
Eustace Percy. It was to examine the question of the federal revenue. Another committee under the chairmanship of Lord Davidson was constituted by the British Government “to explore more fully the specific financial problems arising in connection with certain individual States”. Both these committees after examining different aspects of the federal finance and the States as well as the Provinces’ heterogeneity in the economic sphere came to the finale that merely a policy of “give and take” could solve the tough question of federal finance. For example, according to Davidson’s Report, there were several States which had been enjoying “immunities or privileges” by the treaties as well as had been paying some tribute or other contribution. In this respect, if they desired their tributes to be remitted on the basis that they were of the feudal character or unknown to other federation. It was felt that they should also accept to adjust such remission against the value of any privilege or immunity they had been enjoying so far from ordinary “federal revenues”. Besides, the imposition of some kind of a tax, preferably a corporation tax or surcharge on income tax, was advised by the Peel Committee. It was suggested as a federal source of revenue. It was another set back contrary to the hopes of the Princes on the federal proposals. Thus, the more the scheme crystallized the more they started to

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42 Sir Eustace Percy’s Committee comprised, apart from the Chairman, L.J. Kershew, A. Hyderi, K.N. Khksar, F.P. Robinson and V.S. Sunderam.
43 Rt. Hon. J.C.C. Davidson, Sir Maurice Gwyer, Sir Charles Stuart Williams, Mr. J.R. Martin, Sir Robert Hutchinson, and Sir Reginald Glancy constituted The Indian States Enquiry Committee (Financial).
47 Percy Committee was appointed in continuation of the Sub-Committee of Federal Structure Committee under the chairmanship of Lord Peel to examine the question of federal finance. Ibid., p. 1.
realize that the proposed federation might be a liability and not an asset to them.

**Publication of White Paper:** A White Paper incorporating proposals for a constitutional reform in India was issued in March 1933, by the British Government. They were mostly based on the discussions/deliberations of the Round Table Conference and also the recommendations of its various committees including the Federal Structure Committee. It was popularly known as Sankey Committee. The White Paper suggested a Federation of India. It was to be a “union” between the Governors’ Provinces and the federating States. This Federation could be founded by a proclamation of His Majesty on a request by both Houses of Parliament. This kind of request could, however, be made only when the Rulers of States representing not less than half the aggregate population of Indian States and entitled to not less than half the seats to be given to States in the upper chamber had signified their desire to accede to the Federation. The Ruler was to accede to the Federation by an Instrument of Accession whereby he would transfer to the Crown for the purpose of Federation his powers and jurisdiction in regard of those matters which he would be willing to recognize as federal matters. In the case of every State which would accede, the powers and jurisdiction of the Federation in relation to that State and its subjects were to be strictly coterminous with the powers and jurisdiction transferred to the Crown by the Ruler himself and defined in his Instrument of Accession. The executive authority of the Federation was, thus, limited to such powers and jurisdiction falling

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48 Indian Round Table Conference (Second Session), *Proceedings of the Federal Structure Committee and Minorities Committee*, n. 30, pp. 272-81.
49 *Proposals for Indian Constitutional Reform*, Government of India Press, Delhi, 1933, p. 31.
within the federal sphere as the Ruler had transferred to the King.\textsuperscript{52} All the powers of the Crown in relation to the States which were to be exercised by the Governor-General in Council, other than those which were to fall within the federal sphere, they were to be exercised by the Viceroy as Crown’s representative.\textsuperscript{53}

**Federal Legislature:** The federal legislature was to be bicameral. In the upper chamber, i.e. Council of States, not more than 100 out of 260 seats were provided to the States; in the federal assembly they were to have not more than 125 seats out of the 375.\textsuperscript{54} The distribution of seats among the State-members was to be based, “in the Council of States, on the relative rank and importance of the State as indicated by the dynastic salute and other factors”, and in the case of the lower chamber it was to be based, “in the main, on population”. The States’ representatives in the federal legislature were to be “appointed by their Rulers”.\textsuperscript{55} The White Paper suggested that the federating States should be needed to contribute corporation tax after 10 years, and should also contribute to the federal revenue a proportionate sum in lieu of surcharges on taxes on income.\textsuperscript{56}

The Ruler of a State-member of the federation was to be needed to see that due effect was given, within his State, to every act of the federal legislature that applied to that territory. The Governor-General was to be empowered. And, if the terms of any State’s Instrument of Accession so provided, was to be required “to make agreements with the Ruler of any State for carrying out in that State, through the agency of State authorities, of any federal purpose”. However, in that case the Governor-General was to be entitled, by inspection or otherwise, to satisfy himself

\textsuperscript{52} Ibid., p. 32.
\textsuperscript{53} Ibid., p. 31
\textsuperscript{54} Ibid., p. 36
\textsuperscript{55} Ibid., p. 2, 6.
\textsuperscript{56} Ibid., pp. 22-23.
that an adequate standard of administration was maintained. He was also to be given powers to issue at his discretion general instructions to the government of any State-member of the federation for the objective of ensuring that the federal obligations of the States were being duly fulfilled.\(^{57}\)

The Federal Court, which was to be formed under the new Act, was to exercise both original and appellate jurisdiction. However, these were to be exercised over matters or decisions. These involved the interpretation of the Constitution Act. It too involved the interpretation of any rights or obligations arising there under. It was also to have original jurisdiction over any matter involving interpretation, arising under any agreement entered into after the commencement of the Constitution Act between the Federation and a State or between a Province and a State, unless the agreement otherwise provided. An appeal in civil suits could also lie in the Federal Court with the leave of the Federal Court or a High Court of a Province or State.\(^{58}\)

**White Paper and the Princes:** The suggestions made in the White Paper did not evoke the enthusiasm of the Princes. The Confederation group, in its meeting on 20-23 March 1933, expressed its dejection and agony at the White Paper’s silence on the issue of confederation. The informal meeting of the Chamber of Princes, held in March itself, expressed its regret that the federal scheme, as outlined in the White Paper, was very different from the one which was suggested or proposed in the first RTC; that the White Paper’s scheme neither fulfilled all the conditions nor included the safeguards needed by the Princes for the acceptance of the


federal proposals. The resolution, therefore, declared that the proposals were not acceptable to them. However, in the Chamber’s formal session, the Princes resolved that, in view of the fact that the Viceroy had invited “reasonable amendment to make it generally acceptable”. Of course, the Chamber of Princes was prepared “to make a further attempt towards that end”. In April 1933, a Joint Select Committee was constituted by the British Parliament under the chairmanship of Lord Linlithgow. It was to consider the future of the Government of India in the light of the White Paper proposals. For this object, the Chambers Standing Committee deputed Mr. P.K. Sen, Mr. Mir Maqbool and Mr. K.M. Panikkar to give evidence on behalf of the Chamber before the Committee. The delegates took part in the discussions. A memorandum incorporating the points of view of the Princes was presented. The evidence of Sir Samuel Hoare, Secretary of State for India, was very significant as it clarified many points; for instance the issue of allocation of seats to the Princes in the federal legislature, contribution from the States to the federal finance, and the question of remission of tributes, enforcements of the acts of the federal legislature in the States, etc.

Report of the Linlithgow Committee: It submitted its report in October 1934. It only endorsed the recommendations of the White Paper on a
majority of matters. It laid special emphasis on the voluntary character of the accession of States to the federation. It also made certain significant modifications and additions to the White Paper proposals. The report affirmed that the Indian Federation would be “composed of disparate constituent units, in which the powers and authority of the Central Government will differ as between one constituent unit and another”.65 However, it insisted that “the Instruments of Accession should in all cases be in the same form”.66 While the White Paper suggested that the seats that remained unfilled in the federal legislature on account of non-accession of States to the federation should remain vacant. The Linlithgow Committee Report recommended that the representatives of acceding States should be empowered to elect additional representatives to both Houses up to half the number of States’ seats (including those States whose rulers are minors) which remained unfilled.67 Further, while the White Paper stated that His Majesty’s Government was satisfied that some provisions with regard to “personal liberty and rights of property and the eligibility of all for public office, regardless of differences of caste, creed, religion, etc., could appropriately, and should, find a place in the Constitution Act”.68 The Joint Select Committee was surely opposed to any declaration of fundamental rights in it. But the Committee wanted it to be reiterated in the Constitution Act that “no British subject, Indian or otherwise, domiciled in India, shall be disabled from holding public office or from practicing any trade, profession or calling by reason only of his religion, descent, caste, colour or place of birth”.69

65 Joint Select Committee on Indian Constitutional Reforms, n. 65, p. 16.
66 Ibid., p. 87.
67 Ibid., p. 115.
68 Proposals for Indian Constitutional Reforms, n. 51, p. 29.
69 Joint Select Committee on Indian Constitutional Reforms, n. 65, pp. 215-16.
also wanted that this provision be “extended, as regards the holding of office under the Federal Government, to subjects of Indian States”.

The Joint Select Committee recommended the States to accede to such forty eight items of the Federal Legislative List; that did not include most of the items of federal taxation. The report also accepted in principle some views of the Princes, relating to financial matters, of course, not mentioned in the White Paper, namely, that there should be a “gradual abolition over a period of years...of any contribution paid by a State to the Crown which is in excess of the value of the immunities which it enjoys”. It further accepted, in principle, the right of States to collect internal customs revenue. Finally, the report stated that the maritime States should be permitted to “retain only so much of the customs duties which they collect as is properly attributable to dutiable goods consumed in their own State”.

**Linlithgow Report and the Chamber:** Soon after the publication of the report, the Standing Committee of the Chamber of Princes constituted a three-man committee consisting of Sir Manubhai Mehta, Sir Liaquat Hyat Khan and Sir Prabha Shankar Pattani to examine it. Their report was to be in the nature of: (1) a comparative statement on the safeguard demanded by the Chamber of Princes and those provided for in the report; (2) discussion of items which, in their opinion, were either not clear or adequately provided; and (3) their recommendations regarding future action.

After analyzing the report clause by clause, the Joint Select Committee recommended that the Viceroy should be asked to clarify some points which were vague in it. Thus, proper amendments should be

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73 *PA. CH. IV (c) 59 of 1935, pp. 1-5.*
introduced in the Government of India Bill, while affirming their previous policy; the Princes must await the actual Bill before any final judgment or decision.\textsuperscript{74}

The Linlithgow Report was debated threadbare by the Chamber of Princes during its session held on 22 and 23 January 1935. While not only agreeing but also accepting that the report was an improvement in certain measures on the White Paper proposals, particularly in the financial field. The Princes too realized that further elucidation appeared to be essential on several points as the recommendation regarding them appeared ambiguous and capable of different interpretations.\textsuperscript{75} The Princes too made that clear that they could give their final view merely after examining the parliamentary bill relating to constitutional reforms, the proposed Treaty of Accession and the Instrument of Accession.\textsuperscript{76}

**Government of India Bill:** After the publication of the Joint Select Committee Report, the Government of India Bill was introduced in the British Parliament. The Bill was mostly based on the Joint Select Committee Report’s recommendations. It retained voluntary character of the accession of States to the Federation of India. However, it provided that the States would be deemed to have acceded to the Federation. His Majesty had signified his acceptance of the declaration made by the Ruler for himself, his heirs and successor that he accepted the Act as applicable to his State and subjects. It was too done with the intent that federal authorities would exercise in relation to his State and subjects such functions as might be vested in them by or under this Act.\textsuperscript{77} The Ruler was also authorized to execute a supplementary declaration with regard to his willingness to accept, conditionally or otherwise, any other matter as a

\textsuperscript{74} Ibid., p. 23.
\textsuperscript{75} Progs. C. of P. 1935, Government of India Press, Delhi, 1935, p. 22.
\textsuperscript{76} Ibid., p. 58.
\textsuperscript{77} Government of India Bill, Government of India Press, Delhi, 1935, Section 6.
subject in regard of which the Federal Legislature might make laws in relation to his State and the subjects. Thereof, or his willingness to waive, in whole or part, any condition specified in earlier declaration made by him. The Bill provided for a few safeguards against discriminatory legislation regarding British subjects domiciled in Great Britain. However, no provision was made in respect of fundamental rights of the people of India.

**Hydari Committee Report:** Immediately after the Bill was introduced in the Parliament, a committee of Minister along with a legal counsel, at the initiative of the Nawab of Bhopal, was constituted under Sir Akbar Hydari’s Chairmanship. The Committee held that in certain significant respects the Bill departed from “the agreed position arrived at during the meetings of the States’ representatives with His Majesty’s Government”. It particularly pointed out that the Instrument of Accession was not in the form of a “bilateral agreement between the States and the Crown”. It did not include “any declaration or covenant on the part of His Majesty preserving inviolate the treaties and agreements concluded with the States”. The Committee further maintained that, under clause 6(1) as at present drafted the Instrument of Accession would operate only so far as “the Act gives it effect”. It made clear that “there should be no misapprehension that the acceptance of the Act does not

78 *Ibid.*, Section 6(2).
80 This Committee consisted of Mr. K.A.H. Abbasi (Bhopal), Sir C.P. Ramaswami Aiyer (Travancore), Pt. Amar Nath Atal (Jaipur), Rai Bahadur S.M. Bapana (Indore) Col. E.J.D. Colvin (Kashmir), Sir Liaquat Hyat khan (Patiala), Sir manubhai Mehta (Bikaner), Mr. K.M. Panikkar (Patiala), Sir Prabha Shankar Pattani (Bhavnagar), Sir S.P. Rajagopalachari (Mysore), Mr. Ranadive (Baroda), Mr. P.K. Sen (Mayurbhanj), Mr. D.K. Sen (Mandi) and Rao Sahib Y.A. Thombare (Sangli).
81 *Views of Indian States Correspondence relating to a meeting of States’ Rulers held at Bombay to discuss the Government of India Bill and a provisional draft Instrument of Accession*, Government of India Press, Delhi, 1935, p. 3.
mean or lead to the inference that the legislation is applicable to the States *proprio vigore*. Consequently the Committee suggested that sub-clause (a) of clause 6(1) should be so redrafted as to make it vivid that “what are accepted are specific provisions of the Act and that the governing factor in the transaction of accession is that Instrument of Accession, subject to which alone the provisions of the Act are agreed to”. It also suggested that the Instrument of Accession should indicate in a schedule “the matter in respect of which the States agree to federate and the reservations, conditions and limitations (e.g., in the matter of administration) subject to which they accede”. Finally, the Committee held that without these satisfactory amendments the suggested scheme could not be accepted by the Rulers.

On February 25, 1935, a meeting of the Princes and the State Ministers was held. It was to discuss the Bill in the light of the Hydari Committee’s recommendations. The Princes realized that the time had come for them to take a final decision on the question of federation. They refused to accept the Bill because of various factors. The Nawab of Bhopal opined the Bill in its present form affected the sovereignty of the Princes. Instead of giving them protection it, “opened the door to incessant encroachment on our internal rights”. Sir C.P. Ramaswamy Aiwer, while examining its constitutional provisions, warned them of its “implications”. Sir Akbar Hydari reiterated his views which were earlier

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83 Ibid., p. 4.
84 Ibid.
85 Ibid., p. 10.
86 Ibid., p. 3.
87 Ibid., pp. 3-11.
88 Proceedings of the meeting of the Princes and Ministers held at Patiala House, 5 Naapeansea Road, Bombay, on the 25th February 1935 (Strictly Confidential) (for official use only), p. 15.
89 Ibid., p. 25.
stated in the Hydari Committee Report. Ultimately, supporting the views of the Hydari Committee, the Princes expressed “regret to note that the Bill and the Instrument of Accession do not secure those vital interests and fundamental requisites of the States on which they have throughout laid great emphasis”. They summed up that, “in their present form, and without satisfactory modifications of, and alteration to, the fundamental points, the Bill and the Instrument of Accession cannot be regarded as acceptable to Indian States”.

**Modifications to the Bill:** The Princes subsequently conveyed these views along with their suggestions to the Viceroy. These were taken into consideration by the British Government. Some substantial modifications, specially in respect to clause six that dealt with the nature and terms of accession of the States, were made in the Government of India Bill and in sub-clause (a) of section 5(1) of the Act it was particularly laid down that the federal authorities should, “by virtue of his Instrument of Accession, but subject always to the terms thereof, and for the purposes only of the Federation, exercise in relation to his State such functions as may be vested in them by or under this Act”. After receiving the Royal Assent on August 2, 1935, the Bill became an Act.

Thus, after many vicissitudes and shifts in position, the British Government was able to provide a federal constitution for Indian States and British India.

**The Proposals of 1935:** The Government of India Act, hence, for the first time in India’s constitutional development, opened the path for the States to be brought into the federal structure. Even after the passing of
the Act there were several issues which remained to be solved. There was, for example, the problem of the allocation of seats amongst the Princes. On this, there was a clash of interests between the smaller and the middle-sized States which resulted in the split up of the Princes into Federation and Confederation. This bifurcation subsequently resulted in the weakening of the Chamber of Princes to such an extent that, during 1933-34, most of the 17 and 19 salute States, who were active members in the Chamber, expressed their intention to withdraw from it. The Chamber could not, thus, make itself realized as much as it had done before on vital issues, nor could it give a clear lead in the matter.

On the question of Federation as such, a review of the Princes’ attitude at different phases of its evolution indicated that, though initially they accepted it, they were all the time keenly conscious of the possibility of their powers being absorbed by the federal authority. Also the clearer the federal proposals became the more confirmed the Princes’ fears got. In respect to federal finance also, the Princes, after the publication of the Federal Finance Reports, realized that the Federation might not assist them financially. In other spheres again, the Princes became increasingly conscious of the overriding powers of the federal authority. This was evident from their suggestions and counter-suggestions for the modification of the constitutional proposals as well as the emphasis on the inclusion of safeguards and *sine qua non, ad verbatim* in the federal constitution.

So far as the spokesmen for British India were concerned, it was difficult to trust that they would agree to join a federation in which such safeguards as were claimed by the Princes were included. These safeguards would have meant the nullification not only of several federal principles but also of full responsibility at the Centre. The Congress,
which demanded an elected responsible government at the Centre, could not be expected to agree to have a nominated element from the States in the federal legislature. It was, thus, evident that the federation, as envisaged in the Act, was bound to be rejected by the political parties in India.

Finally, during this period, the Princes began to doubt the motives of the British Indian politicians in asking the States to join the federation. They seemed to have thought the politicians of British India wanted them to come to Federation in the expectation that, “in the near future, we will be forced by circumstances to introduce in our States democratic reforms”. This doubt appeared to be the more pronounced because of the rise of the States’ People’s Movement in some of the States. This got its stimulus as well as leadership from British India. It then remained to be seen to what extent these fears were real and their doubt justified. It will not be out of place rather it will help us to understand the attitude of the paramountcy towards the question of federal solution and efforts made by it during the period 1935 to the end of the solution found. It is pertinent to mention that the Federal Scheme stated in the Government of India Act, 1935, was the first attempt to define and establish the constitutional relationship between the Indian States and British India. The dejected nature of the federating units (Provinces and States) the contradiction in the scope of powers of the Central authority in the fields of executive, legislative and judiciary relating to States and Provinces and also the peculiar position of the Crown, specifically in its relationship with the States, gave the Federation a character that was without precedent in any part of the world. The Indian Federation could be set up only when the States’ Rulers, representing not less than half the aggregate population of the States. They also were entitled to not less than half the seats to be
allocated to the States in the Federal Upper Chamber, signified their will
to accede to it.\footnote{\textit{Government of India Act} 1935, Government of India Press, Delhi, 1936, Section 5(2).}

The States’ accession to the Federation could be effected by the
King’s acceptance of an Instrument of Accession executed by its Ruler.
With regard to a federated State, federal authorities could exercise such
works as might be vested in them by or under the Act “by virtue of his
Instrument of Accession, but subject always to the terms thereof”.\footnote{\textit{Ibid.}, n. 1, Section 6(1).}

Once an Instrument of Accession was implemented by the Ruler on
behalf of “himself, his heirs and successors”, and accepted by His
Majesty, it for ever and irrevocably limited his sovereignty. It was limited
to the extent to which he acceded to the Federation. Though accession
was to be voluntary, the Rulers were expected to accede on the first 47
out of 59 items of the Federal Legislative List. The content of accession
was to be as uniform as possible for all the States. A Ruler might, by a
supplementary Instrument of Accession, executed by him and accepted
by His Majesty, agreed to an extension of federal authorities’ functions in
relation to his State.\footnote{V.P. Menon, \textit{The Story of the Integration of Indian States}, Orient Longmans,
Calcutta, 1956, p. 35; \textit{Government of India Act} 1935, n. 1, Section 6(3).} The Instrument of Accession, once accepted, was
to be conclusive “to the extent of Federal authority, both legislative and
executive, in relation to that State”.\footnote{Eddy and Lawton, \textit{India’s New Constitution: A Survey of the Government of
India Act} 1935, Macmillan & Co., London, 1938, p. 32.} For the purposes of fixing federal
jurisdiction due judicial notice thereof was to be taken by the Federal
Court.\footnote{\textit{Government of India Act} 1935, n. 1, Section 204 and Section 207.}

The Federal Legislature was to make laws for a federated State
merely in matters enumerated for this purpose in the Instrument of
Accession. It was subjected to such limitations, if any, which were
imposed by that Instrument. Hence, unlike the Provinces, a federated State was to have residuary powers. It could also have concurrent jurisdiction in respects of federal subjects so enumerated in the Instrument of Accession. But, of course, it was subject to the overriding power of the Federal Legislature.\textsuperscript{101}

The executive power of the Federation was to extend in any federated State simply to matters with respect to which the Federal Legislature had authority to make laws for that State. The exercise thereof in each State was to be subject to such limitations, if any, as might be specified in the Instrument of Accession of the State.\textsuperscript{102} The Ruler was not only to exercise such executive authority as was not transferred to the exclusive charge of the federal executive authority. However, he might too administer federal laws in his State subject to the supervision and directions of the Governor-General\textsuperscript{103} and judicial review of the Federal Court, if it was so stipulated in agreement. Such an agreement must necessarily be executive if it was specifically stipulated in the Instrument of Accession.\textsuperscript{104} Even in respect of army and railways, the Federal Executive’s authority was mostly limited to functions of co-ordination, so far as federated States were concerned. They could continue to maintain their own armed forces in their own territories. The Federal Executive’s authority being limited to the raising of naval, military and air force in British India and also to the governance of His Majesty’s forces on the Indian establishment.\textsuperscript{105} At the same time, federated States could have their own railways, subject to the disposal by the Railway Tribunal of any

\textsuperscript{101} Ibid., Section 6(2); \textit{White Paper on Indian States}, Government of India Press, Delhi, 1950, p. 25.
\textsuperscript{102} \textit{Government of India Act} 1935, n. 1, Section 8(1).
\textsuperscript{103} Ibid., Sections 8(2) and 125.
\textsuperscript{104} Ibid., Sections 125, 204, and 207.
\textsuperscript{105} Ibid., Section 8(1) (b), Schedule 7 Federal List.
complaint by the Railway Authority of the Federation with regard to unfair discrimination and competition.\textsuperscript{106}

In fiscal matters too, federal authorities’ powers were much more limited with respect to federated States than with respect to Provinces. It was especially laid down in the Act that corporation tax would not be levied in any federated State until ten years had passed from the establishment of the Federation. Even thereafter a federated State might select to make the essential contribution to the revenues of the Federation in lieu of the corporation tax.\textsuperscript{107} A term for a similar contribution by the federated State, in lieu of the surcharge on income for federal objective, was also made in the Act.\textsuperscript{108} The federated States were also not needed by His Majesty’s Government to accede to several of the fiscal items of the Federal Legislative List; like as taxes on income other than agricultural income; taxes on the capital value of assets, exclusive of agricultural land, of individuals and companies; duties in respect of succession to property other than agricultural land; the rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bill of lading, letters of credit, policies of insurance, proxies and receipts, terminal tax on goods and passengers carried by railway and air; and taxes on railway fares and freights.\textsuperscript{109}

Under the Act, the Federal Court was given but limited powers with respect to federated States. Its jurisdiction extended to disputes relating to the interpretation of the Act of 1935, or of an Order in Council made there under, or the extent of the executive or legislative power

\textsuperscript{106} Ibid., Sections 193-95. Schedule 7 Federal List. A federated State was also entitled to refer to the Railway Tribunal a similar complaint against the Railway Authority of the Federation.

\textsuperscript{107} Ibid., Section 139.

\textsuperscript{108} Ibid., Section 138.

\textsuperscript{109} These matters constituted items 54 to 58 of the Federal Legislative List of the Seventh Schedule and accession to these items by a federated State was not insisted upon.
vested in the Federation by virtue of the Instrument of Accession arising under an agreement made with regard to the administration in that State of a law of the Federal Legislature by State authorities.\textsuperscript{110}

No doubt, in all these matters of the Federal Court’s jurisdiction was both original and appellate, it too had original jurisdiction in a dispute that was related to a issue if the Ruler of any State had failed in any way to fulfill his obligations in regard to the exercise of the executive power of the Federation or that in any way concerned some subjects in regard to which the Federal Legislature and power to make laws for that State or which arose out of an agreement after the setting up of Federation, with the approval of the Crown Representative, between that State and the Federation or a Province, provided it was laid down in the agreement that there would be such jurisdiction.\textsuperscript{111} It was particularly laid down that an appeal in case of a dispute from a federated State would be by way of special cases to be stated for the Federal Court’s opinion by the States’ High Court;\textsuperscript{112} that the Federal Court’s order to any judicial or civil authority of a federated State would be in the form of a letter of request to its Ruler.\textsuperscript{113}

Under the act, federated States were assigned a sufficient weight in the issue of distribution of seats in the Federal Legislature. While the people of Indian States did not form even one-fourth of the population of India, the States were allotted 104 out of 260 seats in the Council of States. Similarly, 125 out of 375 seats in the House of Assembly, known as the Federal Assembly\textsuperscript{114} while the allocation of seats in the Federal Assembly was to a large extent on the basis of population, in the case of

\textsuperscript{110} Ibid., Section 204 and 207.
\textsuperscript{111} Ibid., Section 128 and 204.
\textsuperscript{112} Ibid., Section 207.
\textsuperscript{113} Ibid., Section 211.
\textsuperscript{114} Ibid., Section 18.
the Council of States it too was based on “the relative rank and significance of the State as shown by the dynastic salutes and other factors.”\(^{115}\) Moreover, Crown’s powers in regard to Indian States were divided between two functionaries: one, the Governor-General and the other Crown Representative; while in relation to British India and the Federation the powers were to exercise by the Governor-General. The Crown Representatives were to exercise functions relating to the states, including that the Paramountcy.\(^{116}\) It was, however, laid down that a man might hold simultaneously both the offices.\(^{117}\) Of course, the legislative, executive, fiscal and judicial powers of the Federation were very wide, uniform and direct with regard to the Provinces. It was comparatively limited and variable in the case of the States. The Paramountcy was the ultimate sanction for the enforcement of federal authority in federated States. Again, while in the case of the Provinces accession to the Federation was automatic; the scope of federal authority was determined by the Act. However, both the accession and scope of federal power were governed in the States’ case by the Instruments of Accession voluntarily executed by the Princes concerned individually. Federal relationship between the Provinces and the Centre could be maintained irrespective of the States’ accession. The introduction of responsible government at the Centre banked upon the inauguration of the Federation of India. For it the accession of a sufficient number of States was essential. Again, while the whole of British India was to constitute part of the Federation, only 250 out of 563 States were given the option or right to join it.

From all this, it becomes apparent that, first, the form of the Federation embodied in the Act was doubtlessly unique in several

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116 Government of India Act 1935, n. 1 Section 3.
117 Ibid.
respects but illogical in theory. The prevailing federal units with variations of power in the federal field and also the emergence of the Paramountcy as the super-power so far as the States were concerned was sure to create several inconsistencies in a federal constitution. It made Lord Matson think that the scheme was like “mixing of oil with water”\textsuperscript{118}.

Secondly, while the Princes were given various concessions, sometimes even at the alter of the federal principles and at the cost of fair deal to British India, no effort was made to guarantee to their individuals the enjoyment of civil liberties or even rights of representation in the Federal Legislature, and British Paramountcy over the States remained undefined and complete as earlier.

**Lord Linlithgow and the Act:** With Lord Linlithgow’s arrival as the Viceroy and Governor-General in 1936. It is to be noticed that he had been the Chairman of the Joint Select Committee in 1933-34. Efforts were renewed to set up the Federation as early as possible. During his first address to the Central Legislature on September 21, 1936, he observed that “the interval between Provincial Autonomy and Federation must inevitably be a very short one”\textsuperscript{119}. He too made it vivid that he fully admired the significance of the decision to be taken by the Princes on the Act. He was in this matter absolutely prepared to help the Princes as much as possible.

The draft Instrument of Accession had already been supplied to them. It included in the first schedule the items in regard of which the federal legislature might make laws for States. The second schedule was to specify the limitations, if any, to which the States’ accession to the


\textsuperscript{119} Linlithgow, Marquess of, *Speeches and Statements*, Bureau of Public Information, Delhi, 1945, p. 23.
Federation was to be subject. Linlithgow also decided to send a few seasoned members of the Political Department as his special emissaries to assist the Rulers to come to an early decision.

**Special Emissaries of the Viceroy:** Sir Courtney Lattinar (for the States in Western India Agency, Baroda, the Deccan and Gujrat States Agencies), Mr. A.C. Lothian (for Hyderabad, Travancore, Cochin, Central India) and Mr. Wylie (for the Eastern States’ Agencies, Punjab States’ Agency and Kashmir) were the emissaries chosen by the Viceroy. They reported to the Viceroy that the Rulers seemed to envisage a federation less organic than that embodied in the Government of India Act of 1935. They also reported that, while several smaller States were ready to join the Federation if they got the lead of some prominent States. Several others were “sitting on the fence”. They could, however, be persuaded to join it. Surprisingly enough, the emissaries observed, Federation had to fear most from its “professed friends”, such as Bikaner, Bhopal, Dholpur and Patiala. A.C. Lothian maintained that, if one or two of the bigger States could be persuaded, “even at the sacrifice of principle, financial or otherwise”, to join the Federation, the remaining States would “tumble over each other to follow”. He feared however, the hardening of opposition if Federation was not formed soon. He realized that “we cannot afford to be too rigid in our adherence to Section 124 or even the retention of all excise revenues or in objecting to a

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120 *Foreign and Political Department* (hereinafter referred to as FPD) No. 136, Federation Secret, 1935.

121 FPD No. 20, Federation Secret, 1941.

122 Sir Lattimar was the Agent to Governor-General in Western India, Mr. Lothian, additional Secretary to the Government of India, and Mr. Wylie was the Resident at Jaipur. FPD No. 353, Federation Secret, 1936.

123 V.P. Menon, *op.cit.*, n. 3, p. 36.

124 FPD No. 20, Federation Secret, 1941.


considerable retrocession of railway jurisdiction to some half a dozen leading States, e.g. Hyderabad, Mysore, Bhopal and Gwalior”.127

Though the Princes differed among themselves in connection with certain federal issues, on general issues such as safeguards to their treaty and fiscal rights, they were of one view. As a result, in the meeting of the Princes where mostly questions of general nature affecting all the Princes were thoroughly discussed. There could not be any friction amongst them. Maharaja of Patiala’s election as Chancellor appeared to have quickened the activities of Confederation. The latter as a group were absolutely concerned with obtaining as many reservations and safeguards as they could.

Soon after the receipt of the draft Instrument of Accession, Princes’ General Conference met in Bombay in July 1936. It decided to prepare a questionnaire related to all the aspects of Federation.128 This fifty-page comprehensive questionnaire had been drafted to assist the Princes in preparing their respective memoranda in respect of the limitations they would like to suggest on items of the Federal Legislative list. The data compiled from the replies was to be arranged in a tabular form. This would assist the individual Rulers make a comparison of their cases with those of others on any specific item.129

**Informal Conference of the Princes:** On the other hand, an informal Conference of the Rulers was held in October 1936. It was to discuss the

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129 By February 1938, the Secretariat of the Chamber had received the replies from 55 States. These were organized in a tabular from i.e. every item comprising the views of the States and the limitations suggested by them; statements on extra-territorial rights and privileges which certain States desired to safeguard through their Instrument of Accession; statement on items on which the States did not want to federate; limitations on certain items by various States of the Federal Legislative List, etc. Patiala Achieves Chamber Section (hereinafter referred to as PA. CH. IV (b) 74 of 1937.
Act as a whole. It was decided to appoint a Committee of the Princes and Ministers.\footnote{This Committee consisted of the Rulers of Patiala, Bikaner, Dewas, Panna, Rampur, Yuvaraj of Limbdi and Sir Akbar Hydari (Hyderabad), K.A.H. Abbasi (Bhopal), Pt. Amar Nath Atal (Jaipur), S.M. Bapana (Indore), Manubhai Mehta (Bikaner), K.C. Neogi (Mayur Bhanj), K.M. Panikkar (Patiala), Prabha Shankar Pattani (Bhavnagar), D.A. Surve (Kolhapur), Rao Sahib V.A. thombare (Sangli), Sir Mirza Ismail (Mysore), Col. E.J.D. Colvin (Kashmir), V.T. Krishnamachari (Baroda), Sir C.P. Ramaswamy Ayier (Travancore), Sir Shanmukham Chetty (Cochin), K.N. Haksar (Gwalior), Liaquat Hyat Khan (Patiala), D.K. Sen (Mandhi), B.M. Zutshi (Rewa), B.H. Zaidi (Rampur), Y.M. Pawar (Dewas), R.B. Kanwar Sain (Jodhpur), Pt. Dharam Narain (Udaipur), M.C. Sharma (Secretary to H.H. the Chancellor), Nabi Baksh Mohammad Hussain (Bahawalpur), and Mir Maqbool (Sachin). Besides this, regional groups of Punjab, Central India, Gujarat, Bombay, Kathiawar and Eastern States Agency and Rajputana States were asked to nominate the members to serve on the committee. Report of the Constitutional Committee of the Chamber of Princes, Hindustan Times Press, n.d., Delhi, pp. 9-10.} It was to examine the terms of the Government of India Act (1935) from the point of view of the States’ entry into the Federation in the light of the reports of the regional groups and other such material.\footnote{Ibid.} It was to submit its report of its findings to the Standing Committee by the end of 1937. A sub-committee was also constituted by the Constitutional Committee. It was to examine each and every section of the Government of India Act. It was also to report on the implications of its sections relating to the Princes.\footnote{Report of the Sub-Committee of the Constitutional Committee of the Chamber of Princes on Implications of the Sections of the Government of India Act, 1935, applicable to Indian States, (Publisher not known), Delhi, 1937.} In formulating its opinions, the Committee too was assisted by the memoranda. It was prepared by different committees, States or groups of States severally or collectively advised by Eminent Counsels such as Mr. Wilfred Greene,\footnote{Chamber of Princes, Government of India Bill as passed by the House of Commons on Third Reading, June 6th 1934: Joint Opinion of Mr. Wilfred Greene and Mr. W. Lenox McNair, Heritt and Hatchet Ltd., London.} Sir Walter Monckton,\footnote{Chamber of Princes, Proposals for Constitutional Reform: Joint opinion (Part I) of the Right Hon. Sir William Jowitt, Mr. J.H. Morgan, D.N. Pritt, Mr. Earnest Edwards, Heritt and Hatchet Ltd., a.d., London.} Sir William Jowitt, Mr. D.N. Pritt, Mr. Gavin Symonds, Sir Tej Bahadur
Sapru,\textsuperscript{135} Mr. Bhulabhai Desai,\textsuperscript{136} and ex-Judge Wadhams severally and jointly advised on this memorandum. It met from 25\textsuperscript{th} January to 6\textsuperscript{th} February 1937. Finally, it arrived at some unanimous conclusions in respect of the Government of India Act.

**Report of the Constitutional Committee:** The Committee reported that the safeguards advanced by the Princes in 1932 and 1933 were sufficiently met by the terms of the Act;\textsuperscript{137} and to the extent they had not been met, the committee suggested certain limitations on different federal items.\textsuperscript{138}

The Committee too suggested that the issue of the scope of Paramountcy should be discussed in a “not too distant future”.\textsuperscript{139} It maintained that, if its scope could be defined, it might end the nervousness existing amongst some of the Princes. By joining the Federation they would have to face the authority of the Federation and


\textsuperscript{136} *Opinion of Mr. Bhulabhai Desai, PA. CH. II (b) 33 of 1937.*


\textsuperscript{139} The Princes had incorporated their viewpoint on Paramountcy in various resolutions passed in the Chamber in 1930. They also discussed it informally in 1931-32 with His Excellency the Viceroy and the Secretary of State but the Princes could not make much headway in this. After the election of the Ruler of Patiala in 1933 as Chancellor in the Chamber, the *Nawab* of Bhopal expressed his inability to carry on the negotiation on Paramountcy because he thought that “it would be wrong on his part to conduct negotiations after his retirement from the Chamber”. The dissensions among the Princes became another obstructive factor in the negotiations of Paramountcy with the Viceroy. However, the Princes took up the issue again with Lord Wellington and the Viceroy tried to “resolve most of the difficulties and confirm in a practical manner the assurance frequently given to them in the past of the inviolability and security of their position under treaties, engagements and sanads”. Still as the *Maharaja* of Alwar confessed, further negotiation and deliberation were necessary to reach a final result. *Proceedings of the Meetings of the Chamber of Princes* (hereinafter referred to as *Progs. C. of P.*) 1930, Government of India Press, Delhi, 1930, pp. 178-82; *PA. CH. V (d) 329 of 1937* and *FPD No. 1, Federal Internal (Secret)*, 1937.
that of Paramountcy. It recognized that Paramountcy was the ultimate sanction for enforcing federal obligations. It too hoped that a State would be entitled, before Paramountcy intervened, to have these obligations determined in a Federal Court. Ultimately, the Committee denounced the dual personality of the Governor-General as the representative of His Majesty and also the Head of British Indian Empire. It also expressed its doubt in that federal responsibility might engross the greater part of his time. The distinction between his two personalities might be blurred in that “the federal personality would almost certainly become dominant”.

Chamber Session of 1937 and the Federal Proposals: The Constitutional Committee’s report was endorsed in the Chamber’s session held in 1937. It made this clear that the Rulers would submit their suggestions to the Viceroy. But they could do so after ensuring that the agreed standard Instrument of Accession contained terms of general applicability requisite to protect the State’s interests.

The Secretary of the State realized that acceptance of certain changes to the Princes might be made, provided they were such as would leave the scheme of federation inviolate. Also they could be introduced only when he was confident that the Princes would join the Federation. He, however, felt convinced that no amendment of the Act, or of the Instrument of Accession, would maintain the States in “an unduly preferential position in the federation indefinitely or indeed for very long”.

Political Department’s Activities and the Act: While there seemed to be some hope of the Rulers being satisfied on the other issues of the Act,

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140 FPD No. 1, Federal Internal (Secret), 1937.
141 Ibid.
142 Progs. C. of P. 1937, n. 48, p. 57.
143 V.P. Menon, op.cit., n. 3, p. 39.
144 Ibid.
an agreement on fiscal issues appeared nearly impossible, even though the Political Department had “a tendency to give in to the Rulers all along the line”. The Political Department meanwhile succeeded in devising a scheme for the smaller States. Such States were kept outside the Federation’s purview. This scheme was based on the reports of Mr. Edgerton and Mr. Shattuck, Officers on Special Duty. They, in their respective reports, summed up that the small estates could join the Federation only as a part of a Province or a full-powered State. Report of Mr. Shattuck's too suggested various stages through which absorption of these units with bigger States might be possible. This scheme, however, was executed during the war period.

**Federation Scheme Till 1938:** Thus, till the Federation Scheme remained stagnant and very little development was achieved. It was clear that demands of the Princes’ could not be acceptable unless and until the fundamental principle of Federation was renounced. The States demanded safeguards which were of such nature that they could not perhaps be accepted in a federal scheme. For example, bigger States such as Hyderabad, while refusing to accede in various items, were putting many reservations on the items which they were ready to accept. There were some others which suggested that the federal government should not directly exercise any function in the States but should devolve them on the State governments which could work as agents of the Government of India.

**Revised Draft of Instrument of Accession:** In January 1939, the Viceroy addressed a circular letter to the Rulers of all Salute States.

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146 For details of the scheme, see Chapter VIII.
148 V.P. Menon, *op.cit.*, n. 3, p. 56.
Revised draft of the Instrument of Accession along with the schedules and the draft acceptance of His Majesty were enclosed with the letter. The letter stressed that there was no prospect of any subsequent variation of the terms indicated in the direction of “following a lesser measure of accession” than that which was exhibited therein, or of modifying or adding to the limitations specified. In March 1939, the session of the Chamber was held. The Viceroy referred to the question of Federation in his inaugural address. He expressed his view as such: “no one has yet succeeded in devising a more satisfactory method of dealing with the problems which have confronted Your Highness than the scheme of Federation embodied in the Act of 1935”. The Chancellor of the Chamber, Jam Sahib of Nawanagar, in his reply to his address, stated that, at the last stage of negotiations of this vexed issue of the Federation, the Princes must be assured that “the power of the States to develop their natural resources remains unaffected, and the financial implications of the scheme leave us sufficient margin to balance our budgets and to provide funds for the growing and legitimate need of improvements in and raising the standard of our administrations and in developing beneficent activities”.

**Hydari Committee:** In order to examine the revised draft proposals, the Chamber of Princes constituted a Committee. It was chaired by Sir Akbar Hydari. The Hydari Committee submitted its report in April 1939. It maintained that the revised draft of the Instrument of Accession and the related papers were not satisfactory. Therefore, these could not be accepted in their present form. The Committee also suggested some basic changes in the revised draft. These were of general interest to the Princes. It was unanimously argued that the States concerned should not proceed

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150 FPD No. 246, Federation Secret, 1939.
151 Progs. C. of P. 1939, n. 48, p. 67.
with the consideration of their individual representation. But these matters should have been satisfactorily adjusted before it. The Princes also sought the expert opinion of Judge Wadhams and Mr. Manu Subedar.\textsuperscript{152} Finally, in the meeting of the Rulers and Ministers held in Bombay on April 13-14, 1939, it was decided that the provisions on the basis of which accession was offered to them was rejected.\textsuperscript{153}

**Princes’ Aide-Memoir:** The Princes also prepared an aide-memoir. In it, while expressing their faith in the Federation of India “under essential safeguards and suitable conditions”, they maintained that the provisions of the accession required satisfactory adjustment on certain necessary issues like the States’ rights arising under treaties, engagements and sanads, the sovereignty and integrity of the federating units, defense, development of industries and land customs including excise duties, etc.\textsuperscript{154}

Reviewing the aide-memoir, in a meeting with the Standing Committee of the Chamber on August 21, 1939, the Viceroy clarified some points relating to the Instrument of Accession. He also refuted the allegations of certain Princes that a few officials of the Foreign and Political Departments were putting pressure upon the Princes to join the Federation. He made it clear that the choice was the free choice of each individual Ruler and it was for him alone to make up his mind as to what decision he wanted to take.\textsuperscript{155} The Viceroy too corrected the wrong assumption of certain States that imperial interests were likely to suffer from the federal scheme. He made it vivid that the federal scheme had the

\textsuperscript{152} PA. CH. IV (b) 82 of 1939, p. 12PA. CH. IV (b) 63-64 of 1937 and 76-77 of1935-38.

\textsuperscript{153} PA. CH. IV (b) 36 of 1936-39.

\textsuperscript{154} PA. CH. IV (b) 85 of 1939, Part I.

\textsuperscript{155} PA. CH. IV (b) 85 of 1939, Part II.
full approval of the Crown and the British Parliament.\textsuperscript{156} The Viceroy further made it apt that the scope of any modification in the revised draft was very limited. The Viceroy concluded “Many years have been spent”, in considering the idea of federation; in protracted preliminary discussions; in the preparation and passing of Government of India Act; in the elaboration of the Instrument of Accession with its schedules and limitations in the presentation of offer to the States….The time for decision….is drawing t’o its conclusion. No one can reasonably expect that he will secure everything that he might ….wish in this world.\textsuperscript{157} However, it was clear that, despite the Viceroy’s previous assertions, the possibility of a federation becoming a reality was as far off as ever. The Rulers were adamant in not accepting the revised draft as final.

\textbf{Proposals for a White Paper on Federation:} Under these conditions, the Government thought of clarifying its position by issuing a White Paper on Federation. So it described the efforts made by it to make the Federation a reality and specified the grounds on which some of the Rulers declined to accede to the Federation. Accordingly, in August 1939, letters were written to various States intimating to them His Majesty’s Government’s intention to prepare a White Paper on the subject. It was too stated in the letter that, though reproduction of the Rulers actual letters might not be essential in the White Paper, yet no surety could be given in this regard. Besides, a statement giving the basis on which the Rulers had decided to decline to accede to the Federation was also to be prepared by the Government.\textsuperscript{158}

This letter obviously created a flutter among the Princes. The \textit{Maharaja} of Patiala answered that, of course, he felt the need of issuing a

\textsuperscript{156} \textit{Ibid.}\textsuperscript{157} \textit{Ibid.}\textsuperscript{158} PA. CH. IV (b) 87 of 1939.
White Paper on the subject, but it should, in his view, mention merely “the terms and conditions of accession offered and their acceptance and where the Rulers had declined to accede on the terms offered, the grounds, which might have impelled the Rulers to do so, should be referred to in general terms.” He further maintained that the Rulers would be put in a very embarrassing situation, if the actual answers were reproduced in the White Paper, because it might provide in certain cases “a handle to the unscrupulous critics who are not chary of distorting facts or of putting uncharitable interpretation on the Ruler’s sentiments”.

**Outbreak of the Second World War:** However, the outbreak of the Second World War in September 1939 made the British Government give up the idea of issuing such a White Paper. On September 11, 1939, Lord Linlithgow declared in his address that, while the Federation remained, as before, the aim of His Majesty’s Government that the compulsion of the present international situation, and the fact that, given the need for focusing on the emergency that confronted them, they had no choice but to hold in suspense the work in regard with preparations for federation while retaining federation as their aim. Thus, after such vast expenditure and the long series of discussions, the Federation remained yet what Lord Simon had envisaged that as a decade ago-a distant goal.

After examining the series of happenings during 1934-39, two issues arose: (a) If the war had not started, would the federal scheme have seen the light of day? (b) If it had become a reality, would it have lasted?

These were hypothetical questions but the answer to these would help in understanding the Princes’ attitude and also of the British Government.

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159 Ibid.
160 Ibid.
161 Linlithgow, Marquess of, n. 28, p. 203.
Government towards the coming events. It appeared that the Princes would not have yielded easily in making their demands more reasonable than they were. There was no doubt that the Princes were more interested in protecting their rights. Their entry to the Federation depended mainly on the question as to whether their treaty and financial rights were better served outside the Federation or in it. Even so, the Political Department’s firm attitude and a clear statement on the scope of Paramountcy would have facilitated the entry of the Princes into the Federation. For, despite of all their criticism of the Political Department, it was evident that the Princes adopted a line of action after consulting the Political Department. Its frank assertion of their need of joining the Federation would have, therefore, influenced them sufficiently. But this was not possible because the British Government was not prepared to give a rigid or fixed definition of Paramountcy. Political Department was not convinced with the view that it was not in the British interest to linger on the setting up of responsible government at the Centre. Besides, it was difficult to say that, even if the Princes had allowed to join the Federation, the representatives of British India would have taken part with them in implementing the Act as they firmly held that the Federation, as mentioned in the Act, had several inconsistencies in respect of the federal principles; that the States were given too much importance in the federal scheme. Moreover, that their representation in the legislature was not proportionate to their population; that their joining the Federation was just an effort on the part of British Government to have a traditional group that could be a counterpoise to the Congress. Politicians of British India were opposed to the suggested diarchy at the Centre and the division of the functions of the Governor-General and the Crown Representative. They firmly realized that, if the Crown Representative exercised Paramountcy responsible to British Imperial authority, Princes would only be stooges.
of British Imperialism. Their chosen representatives in the federal legislature would so function as to negate people’s political desires. Besides, by not was held, had indirectly negative the claims of the States’ people and also the Congress to have judicial safeguards for civil liberties. Politicians of British India finally and also firmly resented the interlinking of the establishment of the responsible government in the Centre with the formation of the All-India Federation. They wanted the introduction of responsible government at the Centre at the earliest, expecting that would by it self generate forces that would subsequently force Princes to join the federation of the right type. The transfer of power to the people and the growing political consciousness in the States, it was realized, could alone solve the problem.

After the Congress ministries came into power in certain Provinces, its policy of non-involvement in States’ politics rapidly gave place to a more “activist” policy- a policy of undisguised hostility to the States’ governments and of open encouragement of movement within and without the States against them”. 163 In the face of the popular agitation going on in several States during 1938-39, it was difficult to hope that the Princes be prepared to associate themselves closely with political leaders of British India, whom they considered was the root cause of the agitation. It was made quite clear by the Chancellor, the Jam Sahib of Nawanagar, in the formal session of the Chamber of Princes in 1940. While reviewing the activities of Princes’ during 1939, he maintained that “the political situation and the hostility in British India towards the States also proved a decisive factor [in taking the final decision with regard to accession to Federation] with many Princes. It was felt that the attitude of a large section in British India towards the Crown, and the recent

experience of organized subversive movements from British India against the States do not in the present circumstances provide that basis which is essential for a closer union between British India and the States”\textsuperscript{164}

But these “subversive movements” were, in deed, popular uprisings against the rule of the Princes and also for the introduction of constitutional monarchy in the States. These movements culminated in constitutional agitation in certain States. Though, at the outset, they apparently influenced the Princes to desist from joining the Federation. They ultimately facilitated the process of integration with the Indian Union by bringing pressure upon them to reduce the administrative disparity existing amongst the States and the Provinces.

\textsuperscript{164} Progs. C. of P. 1940, n. 48, p. 42.