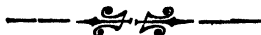


THE SHATRUNJAYA DISPUTE.

(Being reprints of some articles in the "BOMBAY
CHRONICLE", under the heading "Jains and
the Palitana Durbar", with some
alterations and additions.)

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Barrister-at-Law

(TOGETHER WITH THREE LEADING ARTICLES IN THE "BOMBAY
CHRONICLE" ON THE SAME SUBJECT.)

(RAMA RASAR KONDA
KESAR KONDA
KASUYANMA)



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P R E F A C E

The present booklet is a reprint of the Special Articles which appeared in the "Bombay Chronicle" in connection with the dispute of the Palitana Durbar with the Jain Community. The Articles appeared, unavoidably, owing to the exigencies of a daily newspaper, at intervals ; so that there is reason to apprehend that the continuity of impression to the dispassionate reader must have been broken. It is with a view to correct this want of continuity, and to give in one handy booklet the collective view of all the facts bearing upon the dispute, that the present pamphlet has been published.

The text of the articles is practically as it appeared in the "Bombay Chronicle", with the exception of the remarks in two places relative to the order of the Hon'ble Mr. Watson passed after the series, as originally designed, had been completed. These remarks were necessary to add, if only to bring the matter up to date.

The writer's thanks are due particularly to the managing representatives of Seth Anandji Kalianji, whose courtesy placed at the disposal of the writer and in the cause of due publicity, the necessary documents and informations bearing upon the case. This acknowledgment of the

writer's indebtedness would be incomplete without a mention of the masterly presentment of the Jain Community's case, with all its native dignity of style and temperateness of expression, as put forward in the Memorials prepared by the distinguished advocate, Sir Chimanlal H. Setalvad, Kt., LL.D.

Mention must also be made of the ready courtesy and active zeal of the Editor, the "Bombay Chronicle," which has expressed itself in the unfailing support given in the Editorial columns of that unflinching advocate of the cause of the Indian people, and as shown by the reproduction of the Editorials referred to, in this pamphlet.

The writer thinks his labours will be amply rewarded, if, on a perusal of this brochure, the Indian public,—Jain as well as Non-Jain—, interests itself in this question ; and brings to bear the might of its concerted opinion on the powers that be to rectify the grave injustice to the Jain Community involved in the dispute and its present ending.

High Court,
Bombay, 10th Sept. }
1926. }

M. J. MEHTA.

SACRED HILLS OF SHATRUNJAYA

JAINS AND PALITANA DURBAR.



(BY M. J. MEHTA, BAR-AT-LAW.)

Shri Shatrunjaya in Palitana, Kathiawar, is an ancient place of pilgrimage of the Jains, whose temples and places of worship have existed there, historians tell us, since as early as the fifth century of the Christian era. Among all the religious places sacred to Jains the hill and temples of Shatrunjaya are the holiest. Thousands upon thousands of pilgrims resort every year to this our "Holy of Holies" to offer the devotion of their heart, to testify the worship of their life. Centuries before the present ruling family of Palitana was invited to take up the task of watch and ward over the pilgrims visiting the shrines on the hill, the shrines as well as the pilgrims had been there. According to Col. Todd, the historian of Rajputana, in the year 421 of the Christian era, the shrine of Adinath (the principal deity on the hill) was renovated, which necessarily implies that the original structure must have been centuries older

even then. The old shrines as they went to ruins were restored and new temples were also built. The temples scattered over the Hill and on the road leading upto it have by constant additions become numerous. Sir Kinlock Forbes, one of the greatest authorities on the ancient history of Gujarat, says as follows in the "Rasmala":—

"Shatrunjaya is one of the most sacred shrines of the Jain religion. It is described as the first place of pilgrimage, the bridal hall of those who would marry ever-lasting rest. Like our sacred Iona, it is not destined to be destroyed at the end of the world.....There is hardly a city in India, through its length and breadth from the river of Sind to the sacred Ganges, from the Himalaya's diadem of ice-peaks to the throne of his virgin daughter, Rudra's destined bride, that has not supplied at one time or other contribution of wealth to the edifices which crown the hill of Palitana. Street after street, square after square extend these shrines of Jain faith with their stately enclosures, half palace, half fortress, raised in marble magnificence upon the lonely and majestic mountain, and, like the mansion of another world, far removed in upper air from the ordinary treads of mortals."

These temples and the other properties, including tanks, rest-houses etc., on the Hill

have all been built from time to time and kept in repairs by the Jain community.

MOGHUL EMPEROR'S SANADS.

The rights which the Jain community acquired on the Hill have been recognised, confirmed, and guaranteed by the Moghul Emperors from time to time by the issue of special Sanads or Imperial grants. The first of such sanads was granted in 1592 A.D. by the great Akbar to Hir Vijay Sury, the highest religious dignitary of the Jains, at the time. In that grant, the Great Mogul recognises the ownership and possession of the Jains of their five holy hills, among them being Shatrunjaya. Gujarat was then part of the Moghul Empire, and the Paragana of Palitana was situated within the Sirkar of Sorath, a dependency of the Subah of Ahmedabad. The next, in order, is Emperor Jehangir, the son and successor of Akbar, who in the third year of his reign, gave a further Sanad, enjoining all not to obstruct the Jains in their enjoyment and worship of the Shatrunjaya Hill. In the second year of his son and successor, Shah Jehan, (A.D. 1629), Murad Bax, the Vicegerent of the Emperor in Gujarat, granted a Sanad reciting that the village of Palitana, was granted as an Inam to Shantidas, a Jain jeweller. This was further confirmed in the 31st year of the reign of Shah Jehan (1658 A.D.)

by a Sanad declaring that the Paragana of Palitana which was given as Jagir to Murad Bax was granted by the latter as an Inam to Shantidas. In the same year Murad Bax confirmed the said Paragana to Shantidas and his descendants. The said grant was further confirmed by a later Sanad of the same year by Emperor Aurangzeb, and it was endorsed by his son Bahadur Shah.

These Sanads were produced in the proceedings before Mr. Candy, who, after examining the evidence relating to them, and after giving due weight to the opinion of Colonel Keatinge, came to the conclusion that the Sanads were genuine. He said :—

“Among all this mention of the Sanads produced by the Shrawaks, I do not find that the Thakore ever impugned their genuineness. They certainly, from their appearance, seem to be genuine. They are written on manifestly old paper, and bear a number of wonderfully devised seals which could hardly have been forged. I shall take it, therefore, that the documents are genuine.”

In dealing with the suggestion of Colonel Keatinge that the Moghul Court had not the power to enforce the Sanads at the period they were given, Mr. Candy says as follows ;—

"I find then that Sorath including Gohelwad was under the direct control of the Moguls; and that the Emperor at Delhi or his Subah at Ahmedabad had the power to grant a firman and to make such firman respected."

Mr. Candy discussed and considered in great detail the evidence with regard to each Sanad, and referred to the inscription on the Hill appearing in Mr. Burgess' book about Shatrunjaya recording the grants and Sanads of the Moghul Emperors. Mr. Peile, the Political Agent, agreed with Mr. Candy and said that "the Shrawaks formerly held possession of the sacred Hill under the firmans of the Delhi Emperors; and these firmans are a good title to any buildings which are found to have remained ever since in the undisturbed possession of the grantees."

Let us now cast a glance at the origin and nature of the connection between the Palitana Durbar and the Jain community going in pilgrimage to Shatrunjaya.

The earliest traces of the advent of the Gohel Rajputs, to which clan the Palitana Durbar belongs, are found somewhere in the 13th century. The ancestors of the present Palitana Durbar established their first seat at Mandvi, and then came to Gariadhar—a small town in the Palitana State; and finally removed them-

selves to Palitana at a much later date. For the immediate protection of the pilgrims and their property more effectively by some locally stationed force, the Jains entered into a contract with the ancestors of the present Palitana Durbar in A.D. 1651, whereby the latter guaranteed protection to the Jain pilgrims coming to the Hill, and undertook to recompense them for any property that may be lost. The Jains, in return, agreed to make them certain payments. This definite agreement clearly shows that the ancestors of the Palitana Durbar had not, and did not claim, any sovereign or controlling powers over the Shatrunjaya Hill, but that they merely undertook the protection of the Jain pilgrims from molestation by freebooters or knights of the highway in consideration of a money payment for rendering such services.

A PERMANENT AGREEMENT.

Contractual relations of this character were continued between the Jain community and the Palitana Durbar after the establishment of the Kathiawar political Agency in 1820. Fresh contracts of the same kind were entered into from time to time through the intervention of the British Government, as the bulk of the Jain community were either British subjects or subjects of other Indian States. On the 9th Decem-

ber, 1821, an agreement was arrived at between the Palitana Durbar and Sheth Anandji Kallianji on behalf of the Jain community through the intervention of Capt. Barnwell, the then Political Agent. It was agreed for ten years commencing with November 1821, to pay Rs. 4,500 per annum in full settlement of the Durbar's claims for the protection and watch and ward of the pilgrims going to the Hill. "We will thoroughly guard and protect the company of Shrawaks of diverse people who shall arrive on pilgrimage, and will not allow the pilgrim people to suffer annoyance in any way," expressly stipulates the Palitana Durbar in this agreement; and the agreement adds, "Should any person sustain loss by robbery or theft, then for that we will make restitution." All other claims and dues of whatsoever kind the Thakore expressly foregoes in this agreement. How can such an agreement be even conceived if the payment made to the Durbar was in the nature of a tax in the slightest degree?

Though originally made for ten years only, this agreement of 1821 was acted upon for nearly 40 years, and the same uniform payment of Rs. 4,500 was made every year during that period.

In 1860, the Durbar desired a cancellation of the Agreement; and in 1863 a representation

was sent by the Durbar to the Government of Bombay. The Durbar therein contended that the Agreement of 1821 was not in the nature of perpetual commutation of the *Rakhopa* money (Watch and Ward dues) but was simply a settlement for ten years. The Jain community, on the other hand, contended that the agreement was intended to be perpetual.

The dispute was referred by the Government of Bombay to Major Keatinge who after an inquiry fixed the annual payment at Rs. 10,000. He made that sum unalterable for a period of two years, and gave liberty to either party to call for a revision of the amount which was then to be fixed by the Agency.

RAKHOPA PAYMENT NOT A TAX.

It must be observed that the sum of Rs. 10,000 fixed by Col. Keatinge was fixed not merely on the number of pilgrims supposed to be visiting the Hill. This award was forwarded by Major Keatinge to the Government of Bombay who ultimately gave their decision on the 6th February, 1866. They confirmed the award of Col. Keatinge. In doing so they said that "the award should include all demands of the Shrawaks who should receive credit for any payments which the Thakore Saheb may take from them on any pretext, and for this sum the

Shrawaks should be guaranteed efficient police protection for their persons and property." It was further said that, "should any tax be imposed for sanitary purposes such tax, I am to observe, must be imposed only with the consent of the British Government and will not be allowed to the Thakore Saheb of Palitana as personal income; but will be strictly secured for appropriation to the purposes for which it is to be raised." These orders again clearly bring out and emphasize the position that the Durbar has not full sovereignty and authority over the Shatrunjaya Hill; and that the British Government recognised the obligation on them to protect the vested interests and rights of a large body of British subjects. They further say that the *Rakhopa* payment was not a tax for revenue purposes, but was merely a payment to be made in return for certain services. This is apparent from the stipulation that for the sum of Rs. 10,000 to be paid by the Shrawaks they should be guaranteed effective police protection of their persons and property. That the *Rakhopa* payment was not a tax is clearly emphasised by the fact that it was always recognised and accepted that the Durbar was bound to compensate the pilgrims for any loss that may occur to them. In 1874 a pilgrim sustained a loss in respect of which the Durbar, after proceedings before the Political Agent, paid Rs.

4,300 to the pilgrim in 1876. It was further laid down that any tax imposed for sanitary purposes must be imposed with the consent of the British Government, who would see to it that the application of the proceeds was strictly for the purposes for which the tax was levied. All this makes it clear that the British Government recognised the Thakore's obligation effectually to protect the Jain Committee.

The Palitana Durbar appealed to the Secretary of State against the orders of the Bombay Government, but the Secretary of State declined to accept the views of Major Keatinge and confirmed the orders of the Bombay Government of 1866 which continued in operation till 1881. During this period numerous disputes arose between the Durbar and the Jain community which were dealt with by the Agency authorities.

The system of counting pilgrims and levying payment from them was tried, but was found to be unworkable; and the Government and the Agency came to the conclusion that the only desirable course was to follow the old arrangement of a fixed annual payment and parties were, therefore, asked to put their heads together and arrive at a solution on the same lines. The result was

THE AGREEMENT OF 1886,

which was as follows:—

The Thakore Saheb of Palitana agreed to receive and the Jain community to pay, a fixed annual sum of Rs. 15,000 in consideration of which the Palitana Durbar agreed that no further dues or pilgrim taxes of any kind will be levied from the Jains. This inclusive sum of Rs. 15,000 would be due on the 1st of April of each successive year. The agreement was to last for forty years from the 1st April 1886.

After the expiration of these forty years, either party would be at liberty to ask for a modification of the fixed annual sum, and it would rest with the British Government, after considering the respective arguments of the contending parties, to grant or to withhold modification.

In forwarding the agreement of 1886 for ratification by Government, Col. Watson points out in paragraph 4 the purpose for which the authority was reserved to the British Government to grant or withhold modification of the fixed annual sum. He said: "As Government may possibly be unwilling to hereafter allow any enhancement of the sum now fixed, the power of making any modification in this fixed annual

sums has been solely vested in the British Government."

Col. Watson's opinion that it was not desirable to allow any enhancement of the sum fixed, was evidently prompted by the view that the "Rakhopa" payment was in fact merely in the nature of remuneration for services rendered in the way of protection to the persons and property of the pilgrims visiting the Hill. The quantum of such remuneration can have relation only to the expenses necessary to be incurred for such protection ; and as the security of persons and property in Kathiawar was assured by and under the present paramount Power of the British Government ; while the facilities of Railway travelling right upto Palitana had radically modified the burden of keeping watch, the expenditure incurred by the Durbar for the protection of the pilgrims had become merely nominal.

FORTY YEARS' TRUCE.

The procedure adopted in bringing about the agreement of 1886 and making the ratification of Government necessary for its finality and validity, and the absolute powers reserved to Government to grant or withhold modification of the fixed annual sum after considering the respective arguments of the contending parties, entirely negative the present claim put

forward by the Durba. that it has sovereign right to levy payment from the pilgrims as a matter of internal taxation for revenue purposes. Col. Watson's opinion is clear, beyond the possibility of misunderstanding, when he declares that even the tax for sanitary purposes is not to be regarded as a kind of personal income for the Durbar, but is to be wholly reserved for the purpose for which it is levied and for that purpose only.

The proceedings of 1886 clearly establish that the method and quantum of the levy of the *Rakhopa* money was to be determined only by the agreement of parties with the ratification of the British Government; and any alteration of the amount of the payment could only be made if permitted by the British Government. The matter was treated not as one between the Palitana Durbar and its subjects, but was considered as a question arising out of contractual relations between two parties, the Palitana Durbar and the Jain community, a large body of whom are British subjects; and protection of whose rights and vested interests in the Shatrunjaya Hill is and must be the special care of the British Government.

THE CENTRAL FEATURE.

The central feature of the arrangement of 1886 is that it firmly established for all time the

position that there was to be only a fixed annual sum of Rs. 15,000 to be paid by the Jain community to the Palitana Durbar for 40 years; and thereafter such higher or lower figure as the British Government might fix. It further recognised and established the fact that in the event of any modification of this fixed annual sum becoming necessary, the British Government was to be the supreme deciding authority to whom the contending parties, namely, the Durbar and the Jain community of India, were entitled to approach direct in the matter.

The quantum and method of this *Rakhopa* payment have been invariably regulated by arguments between the parties with the ratification and sanction of the British Government or by direct orders of the British Government in that behalf.

In their own financial system the British Government in India have set their face sternly against any kind of a Poll Tax, being but too keenly aware of the havoc and horrors of such mischievous levy. They have realised by bitter experience, even in such cases as we are here discussing, that any recovery of the *Rakhopa* payment by means of a Poll Tax on every pilgrim was bound to lead to considerable annoyance and inconvenience to the pilgrims, and create innumerable occasions of frictions be-

ween the two parties which cannot but result in acrimonious accusations against each other. They, therefore, insisted upon the parties coming to an agreement, with a definite fixed lump sum payment every year in full discharge of all claims. In 1820 the sum of Rs. 4,000 was deemed to be sufficient. Forty years later, it was increased to Rs. 10,000 (1863), and in 1886 the same was fixed at Rs. 15,000 for a period of 40 years. The levy from the pilgrims direct, which was taken up by the Agency in 1881 as a provisional or experimental measure, was the result of very exceptional circumstances, and was discarded by the agreement of 1886.

MR. WATSON'S ORDER.

When the agreement of 1886 expired on 1st April, 1926, the Thakore applied to the British Government to allow him to impose what would practically amount to a Poll Tax of Rs. 2 on every Jain from British India visiting the Hill, and Rs. 5 for every Jain visiting the Hill from the Thakore's own territory. The Jains, through the firm of Sheth Anandji Kalianji, submitted a rejoinder urging that the Thakore was not entitled to any pilgrim tax, and that the payment hitherto made had been in the nature of a contractual obligation under the agreement accepted and acted upon by both parties. The matter was put for hearing before the Agent to

Governor-General, Western India States, who, after hearing Counsel on both sides, reserved his order. The Order was published on 12th July 1926, and was to the effect that the Jains should pay Rs. 1 lakh to the Palitana Durbar in commutation of his right to levy the pilgrims tax. He further ordered that the arrangement as regards the payment of Rs. 1 lakh should remain in force for 10 years.

In this order there are several points both of law and fact in which Mr. Watson has permitted his prejudice against the Jain community to get the better of his sense of judicial propriety and legal exactness.

From the practical point of view the rise of 700 per cent. at a stroke, *i.e.* from Rs. 15,000 payable under the agreement of 1886 to Rs. 100,000 awarded by Mr. Watson, is the most astounding feature that has provoked the resentment not only of the Jain community but of the entire Indian public. Viewed in perspective with the previous stipulation with regard to successive rises, which began with 4,500 in 1821, to 10,000 in 1861, and 15,000 in 1886, the present jump seems to be really of Hanuman dimensions, as described by Bahadursingji Singhi, the president of the Special Sessions of the Jain Conference held at Bombay on 31st July 1926 and on the 1st, 2nd and 3rd August 1926.

It is impossible to understand Mr. Watson's reasons for this phenomenal increase by any reference either to the history of this case or to the law or equity involved therein.

He seems to have ignored entirely the long series of agreements solemnly made between the Jains and the Palitana Durbar throughout the Nineteenth Century,—agreements which were given an added degree of solemnity by their being sometimes negotiated through the mediation of the British Government, and always ratified and confirmed by that Government. Even if we go no further back than the British period, the legal force of these solemn agreements ought to have counselled Mr. Watson, had he ever paid the slightest attention to them, that the nature and bearings of the Jain-Palitana dispute was something quite *sui juris*, something which had to be judged by the law and custom and contracts governing that particular case. In those agreements it has been laid down more than once, and without possibility of ambiguity, that the payment made by the Jain community was in the nature of an agreed stipulation for specific service, and not in the least in the nature of a commutation of tax payments. The Palitana Durbar has no right to tax the Jain pilgrims, from its own state, and *a fortiori*, from beyond its own jurisdiction. In the former case,

the Jains could very well rely, and they do, on the force of the solemn agreements stretching over centuries, which definitely preclude the Palitana Durbar, in consideration of a stipulated amount paid regularly irrespective of there being pilgrims or not, from making any other exactions from the Jain community going on pilgrimage to the Hill in the state. In the latter case, there is, besides these agreements, the much wider principle of imperial policy in India, which precludes any local authority from taxing the citizens of any other local authority, not to mention the still more general principle of national statesmanship in India, which has condemned for centuries past pilgrim taxes as invidious, inexpedient, and unpermissible. The Hon. Mr. Watson has calmly ignored all these treaties, sanads, firmans, agreements, because they do not fit in with his rooted prejudice against the Jains, because they do not square with his determination to enrich the Palitana Durbar at the cost of the Jains of India at large. The single fact, that in his order he has opined that the Jains ought in the first instance to have had recourse to the municipal courts of Palitana is enough to condemn the legal aspect of his entire Order. For this is not a dispute between the Palitana state and its own subjects, whether Jains or non-Jains. This is a dispute in which the Palitana state is interested against the Jains of all India. Ob-

viously, by this single fact, the dispute is taken out of the jurisdiction of the municipal courts of the Palitana State. But in addition to this, there is the specific provision in previous agreements and express orders of the British Government, which require that in any event when either of the parties, viz. the Durbar or the Jains, desire a revision of the agreement, the same shall be done through the intervention of the British Government. This aspect has also been hopelessly overlooked by Mr. Watson, who, if he was not interested in any way personally in making the Order he has passed, must stand the charge of being not thoroughly conversant with the law and custom, of the Orders and Agreements and precedents governing this case.

Another point, also of purely legal aspect, deserves notice in passing at this stage. Mr. Watson has assumed some *obiter dicta* of a previous officer concerned with this case to make the entire question of the right of the Durbar to tax the Jain pilgrims a sort of a *res judicata*. As a matter of history the agreement between the Jains and Palitana in 1886, was arrived at *after* this so called *res judicata* had taken place. If Mr. Watson's opinion about this precious *res judicata* of his, as a sort of a short cut to solution from the extremely

tangled skein of the dispute holds, the agreement of 1886, which was accepted and acted upon by the parties for forty mortal years, must be invalid or at least unnecessary. Neither of the parties, nor the British Government, however, ever questioned the force and solemnity of that agreement. Mr. Watson has been blinded by his invincible prejudice against the Jains so much that he cannot see what is plain as a pikestaff; he needs must ignore the nature and character of that entire agreement, and set up as a counterpoise an impossible doctrine of inapplicable *res judicata*, which needs but to be mentioned in order to be exploded.

SOVEREIGNTY OVER THE HILL.

Let us next glance at the vexed question of the sovereignty over the hill. In the year 1874 the Durbar contended that the right of the Jain community extended only to the existing temples and other structures on the Hill; and that the permission of the Durbar was necessary to build fresh temples within the *Gadh* or the Fort. The Jain community having contested this claim the British Government ordered an inquiry to be held. An elaborate enquiry was held on the subject by Mr. Candy, the then Judicial Assistant in Kathiawar, and afterwards one of the most eminent Judges of the Bombay High Court. The voluminous report of Mr.

Candy with the recommendations of Mr. Peile was forwarded to the Government of Bombay, who issued their orders thereon embodied in their resolution dated the 16th day of March 1877, and bearing No. 1641 Political Department. These orders set out in a very concise form the situation between the Durbar and the Jain community, as Government conceived it to be. They refer to the state of things "which history shows to have existed for centuries even before the Thakore had his capital at Palitana, namely, that the Shravaks or the followers of the Jain religion had their temples and one of their most sacred places of pilgrimage on the Shatrunjaya Hill. That spot was one particularly venerated by them." Bearing in mind, on the other hand, that the Hill was situated within the Durbar's principality, Government expressed the view that as regards the Hill the Durbar was not authorised to interfere in the same manner as he could do with reference to other portions of his territory. They further held that the claims then put forward by the ruler of Palitana were not such as any of his predecessors had ever made, and that their exercise would tend to constant quarrels and accusations and breaches of the peace. Government accordingly passed the following definite orders:—

- (1) Within the *Gadh* the control of the Thakore shall be recognised only for the purposes

of police. No money payment shall be claimed by him on account of the erection of a new temple or tank within the *Gadh*.

(2) Without prejudice to the rights of those interested in any existing buildings, the use of any part of the Hill in a manner opposed to the tenets of the Shravak community is prohibited.

(3) No money payment will be claimed on account of any temple already in existence either outside or within the *Gadh*.

(4) In the event of the Shravak community desiring to erect a new temple outside the *Gadh*, permission shall be given by the Thakore on receipt of one rupee per square yard for the land.

(5) No molestation shall be offered to the members of the Shravak community resorting to the Hill, nor shall any permanent Police post be established at the *Gadh* or within 500 yards of the road leading up the Hill to the *Gadh*.

In passing the said orders the Government of Bombay, did not do full justice to the Jain community in the way of the recognition of their full rights as shown by their enjoyment and use of the Shatrunjaya Hill for centuries. If the Government of Bombay had then given full effect to the legitimate claim of the Jain

community, without undue regard to the susceptibility of the Palitana Durbar, all subsequent trouble would have been avoided. The Government of Bombay ought in conformity with past history and practice, to have declared the Jains full owners of the Shatrunjaya Hill, and negatived any jurisdiction of the Durbar over the same.

PREDOMINANT INTERESTS OF THE JAIN COMMUNITY.

By clause 1 it was laid down that "within the *Gadh* the control of the Thakore shall be recognised only for purpose of the Police." This means that the Durbar was to exercise no interference within the *Gadh* except such as it might become necessary for the arrest of any offender, or for the detection of any crime. This is made further clear by clause 5 which directed; "Nor shall any permanent Police Post be established at the *Gadh* or within 500 yards of the Road leading up the Hill to the *Gadh*." In other words, although the Hill was held to be within the principality of the Durbar, its control over the Hill and in particular the *Gadh* was considerably restricted by reason of the vested interests of the Jain community that had been enjoyed for centuries even before the Durbar came to Palitana. The predominant interests of the Jain

community in the whole Hill were fully recognised by the direction in clause 2 that "the use of any part of the Hill in manner opposed to the tenets of the Shravak community is prohibited."

The present trouble was thus bound to arise in this year of grace 1926, full forty years after the last settlement. The immediate occasion for the present difficulty has, however, its own particular history. In 1921 the Jain community were carrying out certain repairs and were cleansing tanks, when the chief Karbhari of the State issued certain orders likely to interfere with the internal management of the property. Orders were also issued with regard to the 'custody,' and management of the small temple of Mahadev within the 'Gadh,' although in the investigation undertaken in 1875-77, and the orders passed thereon that temple was held to be under the control of the Jains. The orders of the chief Karbhari in those matters on the face of them exhibit such lack of restraint and courtesy as to make it clear that he was determined to disturb the situation once again and revive the previous position of mutual hostility and distrust.

OWNERSHIP OF THE FORT.

Because in the Government Orders it is said that "within the *Gadh*:" no

of the Thakore shall be recognised except for Police purposes, it was contended by the Durbar that the 'Gadh' itself does not belong to the Jain, although the conclusions of Mr. Candy and Mr. Peile quoted in the Government Resolution of 1877 distinctly state that the ownership of the 'Gadh' or the Fort and land within it was vested in the Jain community.

Advantage is taken of the fact that the limits of the *Gadh* have nowhere been clearly defined in the Government's Orders of 1877, and it is contended on behalf of the Durbar to suit the particular occasion that a particular temple or place is not within the *Gadh*. Within the *Gadh* there is a small temple of Mahadev, which has been in existence for a long period, and which was referred to in the proceedings before Mr. Candy. There are in all twelve non-Jain temples within the *Gadh* including among them one Mahomedan shrine. Mr. Candy, after carefully considering the fact relating to these shrines, came to the conclusion that these shrines were really erected by the Jains themselves in order to be on friendly terms with the religious persuasions of other sects, and that their existance did not in any way affect the full dominion and ownership of the Jain community, within the *Gadh*. With regard to the Mahomedan shrine he observed : "Whatever may

be the origin of the shrine, it seems to be solely under the control of the Jains, and its existence on the Hill in no way affects the interests of the Shravaks."

In spite of this, the Durbar has interfered with regard to this Mahadev temple as well as the Mahomedan shrine on the grounds, among others, that the said Mahadev temple was not within the *Gadh*, whereas in the proceedings of 1877 and the appeal then made by the Durbar to the Secretary of State against the decision of the Government of Bombay, the very fact of this temple being within the *Gadh* was strongly relied upon by the Durbar as a circumstance against the exclusive possession of the Jains of everything within the *Gadh*. The Durbar then said as follows: "The very fact of there being within the *Gadh* temples of Hindus no less than eleven and of the tomb of a Mahomedan Saint precludes the idea of an exclusive possession of all land within the *Gadh*, which the resolution of the Bombay Government would give to the Shravak community alone."

UNJUSTIFIABLE INTERFERENCE.

Similarly, the ownership of the *Kunds* and the resting place on the Hill was vested in the Jain community, according to the proceedings of 1877. In olden times these *Kunds* were perio-

dically cleansed by the Jains without any permission having been asked for the purpose. The silt drawn from the tanks had necessarily to be thrown on the adjoining land. In the year 1919, on the plea that the adjoining land belonged to the Durbar, it was urged that permission should be obtained to throw the silt on it. In order to avoid an unnecessary dispute, permission was asked for and granted. In granting a similar permission in 1921, the Durbar used language suggesting that permission was also necessary to cleanse the *Kunds*, thereby throwing doubt on the ownership of the Jain community over the *Kunds*. The latter objected to the form of the order challenging by implication the hitherto undisputed ownership of the Jain community over the *Kunds*, and in order to make the position clear put certain boards on the *Kunds*. A long and harassing correspondence ensued and the Durbar forcibly removed the boards placed by the Jain community, and actually arrested the servants of the Jain community in charge of the *Kunds* and convicted and sentenced them. They even went to the length of forcibly removing the board enjoining cleanliness in the use of the tanks within the *Gadh*. In further aggravation of this unjustifiable interference, the Durbar ordered the Jain community to pay the expense of removing the boards, and in order to enforce payment of

that amount attached a vessel belonging to the temples and sold it by public auction. It seems absurd to contend that while within the *Gadh* the Jain community has full control, and even outside the *Gadh* they have such interest in the whole of the Hill that no part of it shall be used in any manner opposed to the tenents of Jainism, the actual walls or fortifications comprising the *Gadh* do not belong to the Jains; and it is puerile to claim that the Jains should not undertake any repairs to the *Gadh* without obtaining the previous sanction of the Durbar.

I have hitherto reviewed the historical situation. It is necessary to understand correctly, and appreciate clearly, the present position in all its shades and sidelights, as much as in its main salient features. Let me now sum up, for convenience of reference in this article, the outstanding features of the position as it has developed in the last few months, and as it exists to-day.

TWO ASPECTS OF THE DISPUTE.

The present dispute can be looked at and considered from two standpoints. One relates to the root question of sovereignty or dominion over the Hill and the properties thereon. The other concerns a matter, relatively speaking, of detail only, viz. the right of the Palitana State

to tax the pilgrims visiting the Hill. These two are of course, mutually intertwined; and they necessarily act and react on one another. But, or the sake of clarity and convenience, let us consider them severally, and as if either of them had no bearing one the other.

QUESTION OF JURISDICTION.

In considering this question, we must remember, as is clear from the historical outline given in the previous articles, that the Jains have been in possession and ownership of this Hill, long before the present ruling family of Palitana came anywhere near the neighbourhood of the Hill. Surely it is a most elementary and incontestable principle of prescription, were there no other basis for the Jain claim, that those who have been in unquestioned possession of a property for a length of time computed by centuries should be considered to have a better right to ownership and jurisdiction arising therefrom than those who came into the concern only a little over two hundred and fifty years ago. Even when the Palitana Thakore came upon the Hill, he came there distinctly and specifically as a retainer of the Jain community. With them he agreed, for a consideration payable in kind and cash, to discharge the police function of watch-and-ward, and to guarantee a measure of protection to the pilgrim visitors

on the mountain, which the unhappy condition of the country in those days had made a question of mere prudence. This is a matter no longer open to dispute as it is supported by incontrovertible evidence from records, submitted before now in the ordinary tribunals of the land. There is, moreover, a series of specific grants or sanads from the Mughal Emperors beginning with Akbar and ending with Alamgir or Aurangzeb, by which the Jain community is recognised and confirmed in the Inam ownership of the Hill. The first of these Imperial Sanads dates from 1592, full sixty years before the present Thakore's ancestor contracted with the Jain community to act as its watchman on the Hill. These Sanads have finally, been admitted, recognised and confirmed, without challenge or question from the Thakore, by the present Government through its appropriate tribunals. How, then, can there be any question of doubt about sovereignty at all?

UNTENABLE CLAIM.

The Jains are a peaceful community, whose religion forbids them to engage in violence; and the pilgrims are just the people who would least think of violence even if their religion did not definitely forbade it. They, therefore, engaged, on specific agreement, some one to take on himself the task of policing the Hill and its approaches, in consideration of definite advantages in

money and in kind. When the forty years' agreement expired on April 1st last, the Thakore petitioned to the Agent to the Governor-General in the States of Western India, in which he claimed a right to levy through its own agency a pilgrim tax at Rs. 2 per head per outside pilgrim, and Rs. 5 per annum per Shrawak residing in Palitana,—presumably quite apart from their going on pilgrimage or not. He has also adduced in support of his contention a quotation from the Montford Report (para. 297) in which it is stated "It (*i.e.* paramount power) intervenes when the internal peace of their (Indian States) territories is seriously threatened. The contention of the Thakore is untenable, all the more because all through the past, whenever a dispute of this kind has arisen, the Durbar have submitted to the intervention of the supreme authority in the land. The reliance on that para. in the Montford Report is utterly besides the point, since that paragraph contemplates the purely internal affairs between a State and its own subjects; while in this matter are involved the rights of the Jain community, a majority of whom are British subjects, owing no allegiance of any sort whatever to the State of Palitana. In the circumstances it seems insupportable, in the extreme, that the Palitana Durbar should claim the sovereign right on the Hill even against those members of the Jain community, who own the

Hill collectively, and who are not the subjects of the Thakore.

I now come to the question of the tax. As I have observed, it is really a matter of detail, which would follow automatically on the settlement of the root question of dominion and sovereignty. At present, however, thanks to the attitude adopted by the State and its advisers it has become the most absorbing question of the utmost importance. In considering the claim of the Palitana Durbar to impose this levy, the genesis of the entire dispute must be borne in mind. The State has hitherto obtained a subvention of fixed sums in cash as well as kind, in accordance with specific agreements with the Jain community. That is a purely a contractual obligation for specific service rendered, in which it is impossible to import any element of the sovereign right to exact a compulsory contribution, irrespective of any service rendered, which is commonly called a tax. So much for the historical aspect of the case. Let us next consider the theoretical aspect. As a rule States can tax their own subjects, or the property situate within their own jurisdiction. Here, however, is an attempt to tax parties, a majority of whom will necessarily be non-subjects of the taxing authority. Originally a contractual payment and not a tax collection

in any way, the proposed levy becomes doubly vitiated in its indiscriminate incidence,—except in the rate of the proposed levy,—on the subjects as well as visitors to the Hill, if they are Jains.

A POLL TAX.

On economic grounds, moreover, the levy attempted by the Palitana Durbar is objectionable, as it is a kind of poll tax, which the united and accumulated wisdom and experience of the rulers and statesmen of India, past and present, have combined to exclude from the tax-systems of India. The great Akbar was the first, since the advent of Muslim rule in India and the introduction of the very idea of a pilgrim tax on non-co-religionists of the ruling power, to abolish all such invidious taxes, along with the famous *Jazzia* of hateful association. His heirs and successors, Hindus, Mussulmans and the British have followed in his footsteps, and steered clear of the vortex of taxing the pilgrims. The exceptions to the rule, such as there have been, have been generally condemned as unwise and unstatesmanlike. The British Government have rightly and wisely kept aloof from the poll taxes of whatever kind and name, as they know full well the hateful character of such impositions. In centres like Benares, there still survives, it is true, a tax

of this name; but the fact that it is entirely a municipal collection for the specific aim of investing the proceeds in the improvement of the sanitation of the place,—and thereby for the benefit of the pilgrim community, makes it far from a pilgrim tax proper in the real sense of the term. The attempt, however, of the Palitana Durbar to levy a tax of Rs. 2 per pilgrim from outside the State, and Rs. 5 on every Jain within the State whether or not the said Jain makes a pilgrimage to the Hill is of vastly different character. It is a poll-tax of the worst description. Apart from the rights of the subjects of the State itself, which are being ridden roughshod over by this attempt of the State, there are the rights of the British subjects, who pay no such invidious poll-tax in their own territory, and whom the State of Palitana has no right to tax in this invidious manner. In the past the State was for a time permitted to levy such a rate; but that was in the period when the old agreement for the lump sum payment in consideration of the services of the State was under revision; and the levy was permitted to obtain some definite, fair measure, of the sum that ought to be paid by the Shrawaks to the Durbar. For such a state of things there may, in the circumstances of the day, have been some justification. But that cannot be used now as a precedent for making an indiscriminate tax levy of the kind proposed.

Finally, at the time of the last agreement, it was distinctly laid down, that should either party to the agreement desire a modification of the amount payable, upwards or downwards, they must resort to the mediation of the supreme Government, without whose sanction no such modification can be made. By the proposed action to levy this tax, the Palitana Durbar has set at defiance the letter as well as the spirit of the said agreement, and claimed a right which is not warranted by the history of the case, and cannot possibly be permitted by the equity of the entire question.

WANTED—JUSTICE.

Such in short is the genesis and the actual situation of this most vexed problem. The Jain community has an unanswerable case in history, in equity, in point of the general policy accepted universally and unquestionably by the supreme authority in the land. They cannot allow this matter to be left to the tender mercies of the Palitana authorities. True to the traditions of loyalty and law-abidingness, the Jain community has agreed to refer the question to the decision of the supreme British Government in India. Let not the Thakore beg the whole question by this ill-advised attempt to

adopt the logic of the "fait accompli." Let him not drive the Jain community, by sheer despair, to adopt measures in mere self-defence which might not only embitter the relations that have been peaceful and happy for nearly three hundred years, but which might quite conceivably prejudice the entire matter in dispute by raising an unwholesome but unavoidable miasma of irrelevant and unsavoury issues that are bound to arise once a community is driven to despair. Even a worm trodden under foot will turn. And though the Jains of India are notable among the communities of India for their extreme peacefulness, the armoury of peaceful weapons to carry on the fight is not by any means exhausted. It is in the best interests of all concerned that the matter be inquired into by an impartial, dispassionate, authoritative Commission of inquiry commanding the full confidence of both sides. Those who have justice on their side need fear no such investigation; and when the findings of the Commission are published let the supreme Government again act the umpire of the final tribunal of appeal. We the Jains have full confidence in the integrity of British justice in matters like this; and there is no reason to believe that the State has any doubt about the fairness of the final decision, given, as it must be, after full, frank and free investigation of the entire question in all its bearings.

THE JAINS AND PALITANA.

(Leading Article, "Bombay Chronicle"
June 19, 1926.)

The case of the Jain community against the Palitana Durbar's unwarrantable exactions has been presented with force and conviction in these columns in a series of special articles from the pen of Mr. Makanji J. Mehta, Barrister-at-law, a leading young Jain of this city. The questions, however, raised by the dispute are not parochial in any sense of the term. If the precedent is established by the Thakore of Palitana being permitted to violate the spirit as well as the letter of his centuries' old agreement with the Jain community, the sufferers will not be the Jains of all India only, but the religiously-inclined Indians all over the country. To discuss the main issue, viz., the right of a tributary State to tax, by means of an inherently iniquitous and objectionable demand, not only his own immediate "subjects," but also the entire community professing a particular faith, is in no way to prejudice the particular issues to be raised at Abu on Monday before the Agent to the Governor-General in the Western India States. We shall not enter into a discussion, for the present, of the Jain contention regarding their sovereignty or full ownership over the Hill and

of the fortified walled area within which the temples and the *Kunds* are situated, and around and about which, by agreement of the parties as well as by the orders of Government, no act can take place which will in any way offend the religious susceptibilities of the Jain community. We shall not consider for the moment the question of the adequacy or otherwise of the compensation or payment made by the community to the Durbar for some centuries in return for the benefit of their protection, which is nowadays nominal only. These are matters which may well be thrashed out before the Agent to the Governor-General, though we cannot disguise from our readers the fact that the indirect effect of the decision on these matters is bound to have immense effect even on the main question of principle.

Leaving, however, the Jains and the Thakore to fight out the immediate issues in the tribunal before which they seem to have agreed to raise these questions in the first instance, we cannot avoid discussing the bearings of the general question of the pilgrim tax, and that of the right of an Indian State to tax in such an indirect manner the subjects of British India. The tax on pilgrims has been condemned *ad hoc genus omne*, ever since the day that the statesmanship and sagacity of the greatest of the Mughals recognised the futility of such a method of insidi-

ous persecution of a section of his subjects. The Jazzia, or the pilgrims Tax, abolished by Akbar, at no loss to the Imperial Treasury, was, it is true, restored for a time by Aurungzebe; but it can hardly be claimed by the most infatuated of the admirers of that great Emperor as among the great actions of his reign. Thereafter the Jazzia or the Pilgrims Tax was held in universal opprobrium, and the wisdom of the British Government has confirmed the sagacity of Akbar's measure in keeping away his vicious practice from the armoury of the present department of finance. A tax on pilgrims is even now permitted in such cities as Benares,—centres of pilgrimage,—but not only is the rate insignificant, but the proceeds are entirely municipal, earmarked for purposes of direct benefit to the pilgrim community. Such a tax, though levied invidiously on a section of the community, presumably not only very little able to bear the burden but also of a character whom it would not be to the advantage of the State to discourage, nevertheless ceases to be a tax in the real sense of the term, but becomes a sort of *quid pro quo*, a payment for a specific service rendered, which deprives it, to a considerable extent, of the hateful qualities of a tax. A Pilgrim Tax is bad, we repeat, as a general proposition. But a pilgrim tax of the kind levied in Benares, for example, loses much of its offensiveness in so far as it is turned into

a *quid pro quo* for the benefit very largely of the pilgrim community itself. But a pilgrim Tax which is levied by a State, with no intent or possibility of being made into a payment for specific service rendered, is indefensible without any possibility of extenuation. It is condemned alike by statesmanship and sociology. The Tax now proposed to be levied by the Palitana Durbar on the Jains visiting the Shatrunjaya temples is of the worst kind of a Poll Tax, which has always and invariably provoked riots in other countries besides India, whenever it has been attempted. In India it is no less objectionable on grounds of theory as well as expediency, because it affects a community whom it is not in the interests of the State to discourage or penalise.

But there is a deeper objection to this tax in India than those mentioned so far. And that objection does not lie merely in the fact that by this means a small tributary State seeks indirectly to tax the subjects of the paramount power. The Indian States may not find the present financial arrangements all that is ideal; but they cannot be allowed thus to take the law into their own hands, and cut the Gordian knot by such taxation as this. Moreover, if this tax is permitted to the Palitana Durbar, there will be no justification for preventing every other State, boasting the slightest fragment of taxational jurisdiction, from levying a burden on every

shrine, durgah, or pilgrim centre, not on financial grounds, not because there is the slightest pretence at approximating a *quid pro quo*, but purely and simply out of religious animosity. The communal troubles are already distressing enough in India. Need we gratuitously make them worse by the interposition of these princely pranks? It is not only the Hindus and the Jains who resort to pilgrimages to distant centres. Every community resident in India has its shrines and durgahs and holy places, which its members hold it a great merit to visit occasionally. Now, if the local chiefs of each petty principality were allowed to tax the pilgrims to these centres, religious practice will be impossible, and religious toleration a mere figment of the brain. Were there no other reasons, we are convinced this great requirement of national statesmanship would put the contention of the Palitana Durbar summarily out of court.

THE PALITANA DISPUTE.

(Leading Article, "Bombay Chronicle" Monday,
July 19, 1926.)

The decision of the Hon. the Agent to the Governor-General in the Western India States regarding the dispute between the Jain community and the Palitana State, in respect of the latter's claim to levy a tax on the Jain pilgrims visiting the Hill and temples of Palitana, will not fail to raise the strongest possible opposition and resentment in the Jain community against this travesty of justice. On merits, the decision is the most fantastic one can imagine. We wonder if the Hon. the Agent-General has had the slightest acquaintance with the antecedents of this dispute as proved before his predecessors. We doubt if Mr. Watson has had the ghost of an idea regarding not merely the equities of this case, but also the larger issues of statesmanship, now passing through one of the acutest periods of the intensest trial. Had he had the least regard for either of these sets of considerations, he would not have given the decision to which he has put his signature. Take the former first. Before the present dispute arose, the Jain community was paying to the Palitana Durbar, in virtue of a distinct

agreement arrived at between it and the Durbar, in 1886, at the instance of the Bombay Government, Rs. 15,000 per annum in consideration of the protection afforded to the pilgrims by the Palitana Durbar. The protection is nowadays something less than a legal fiction, since the railroad which carries the pilgrim right to the foot of the hill makes him almost entirely independent of such watch and ward as the extremely circumscribed resources of this petty State in Kathiawar can afford. It may have been quite a different thing in the days when there was no settled authority in the country, especially after the decay and disruption of the Mughal Empire, as the series of agreements between the Jains and the Durbar, even now available, shows. But, granting for the sake of argument,—though utterly against the weight of reasoning—that there is the least little bit of truth in the allegation of the “protection” afforded to the pilgrims by the Palitana Durbar, granting further that this exaction from the Jains is in the nature of a *quid pro quo*, what ground has the Agent to the Governor-General to decide on such an extraordinary award making at a stroke 700 per cent. increase in the “consideration”? Has the cost of this precious “protection” increased seven times between 1886 and 1926? The slightest regard to facts would show that the cost of living has not even double in this interval,—the ex-

traordinary fluctuations of the war period apart. And, as a matter of fact, the burden to the State is nil ; while the indirect benefit that every place is bound to receive from such a fortuitous conjuncture as the visit of thousands of pilgrims is bound to grow. Why, then, has the Hon. Mr. Watson accorded this phenomenal windfall to the revenues of the State, which aggregate, as things stand, some seven lakhs per annum.

There is absolutely no case for this unjust decision on such grounds as these. There is still less no considerations of contractual obligations,—obligation which have been solemnly undertaken and acted upon for two hundred and seventy-five years. The Jain community has been recognised by Imperial Mughal Furmans as being in sovereign possession of the Hill and its appurtenances; the ancestors of the present Thakore had never questioned the sovereignty of the Jains on the Hill and in respect of the temples, kunds, and the fort on the Hill; it remained for a Watson to pose as a reincarnation of a new Daniel, and award this monstrous increase to the Durbar. What did it cost him but a stroke of the pen? Why need he worry that the Durbar demand was in itself a contravention of the most sacred principle of imperial statesmanship in India, ever since the day that the greatest of the Indian Emperors abolished the hateful taxation of pilgrims, even

of an alien creed? What does it matter to him and his like that, by a stroke of the pen, they have torn up the most solemn agreements in the spirit as well as the letter, and undermined the most cherished principles of British sovereignty in India? In gross violation of the historical antecedents and juridical precedents and principles affecting this dispute; in wanton disregard of the canons of taxation and demands of statesmanship; in monstrous opposition to the dictates of equity and honesty, Mr. Watson has issued a decree, whose only merit is that it has made the dispute worse than it was at its start.

In the whole episode, however, we cannot exonerate the leaders and spokesmen of the Jain community altogether from censure. They knew the dispute was brewing. What did they do to stem the tide of opposition, which they could not but have realised was setting in against them in the councils of the Palitana Thakore? They, it must be said, engaged experienced counsel and entrusted their case to tried and trusted hands, taking care to make such huge payments as to secure the undivided attention of even the most gorgeous luminaries of the legal profession. We have no quarrel with their throwing away the monies of the community in paying fabulous sums for such luxuries as the services of the leading lights of the legal profession.

We have no fault to find with the conduct of the case before Mr. Watson. But we must confess to a sense of complete disappointment and dissatisfaction with this the sum total of the activities of the traditional leaders of the Jain community. We consider their attempts at stifling energetic agitation, while such agitation was appropriate and timely, by procrastinating advice regarding a clarion call to be addressed to the entire community in all the four corners of the country, as suicidal and reprehensible to a degree. They seemed to have forgotten that after all the Jains do not inhabit only,—or even principally,—the Palitana State ; that the community was co-extensive with the British dominion in India : that the sovereign authority had obligations to that community, which it could not lightly ignore. Why then, a policy of hush-hush, a systematic endeavour to suppress or at least to put off the outbreak of an agitation on this vital concern to the entire community. The community ought to consider this decision not merely as a judgment for their sins of indifference. Its leaders must also regard it as a warning, lest, if they continue to be lulled into a false sense of unwarranted security, worse may still befall them in this as well as in other similar concerns. The Hon. Mr. Watson has, in his wisdom, ruled that the case is to be reopened ten years hence. He may be sure the case

is not ended even yet, and that long before his fateful ten years elapse it will have to be reconsidered. But that such a reconsideration may not take the Jains again by surprise and that even now this outrageous edict of a modern Daniel come to justice on the heights of Abu be not enforced against them to the permanent injury of their centuries old rights and privileges, it is upto the leaders and spokesmen of the community to take up this gauntlet flung to them; and while carrying on the fight to the bitter end, let them take measures of proper defence at home. Let them put their own house in order against an untimely repetition of the mischief and disaster that has now befallen the community. Let them demand an explanation of those who had had charge of this dispute and then reconstitute, if necessary, the communal organisation so as more effectively to uphold the rights of the community and maintain its privileges to safeguard its properties, to secure its progress and prosperity. The counsels of disaster reported to be given by some *soi-disant* friends of the community find no sympathy from us; for we do not think the Jains have anything to gain whatsoever by flinging a lot of good money after bad in trying to fight out the issue further in the Privy Council. The lawyer's charges alone for a case like this will mean an unconscionable tax upon the community, which

no one has a right to dissipate. The real remedy lies with the Jains themselves. They have already declared *Hartal* by way of protest, and resolved to suspend their pilgrimage to the Hill. Of course this remedy may seem like the policy of cutting off one's own nose to spite one's own face; but there are circumstances in which the assertion of self-respect demands some sacrifice; and we do not think the Jain will lose an iota of their just rights by suspending their annual pilgrimage to Palitana pending a satisfactory solution of this dispute. "Satyagraha" as a weapon has infinite possibilities, which such an eminently peaceful community as the Jains cannot but exploit to the utmost. We trust they will not listen to cowardly counsels of interested parties, and will not waste their time and energy and money in meaningless protraction of a struggle, the true remedy for which lies in their own hands.

JAINS IN CONFERENCE.

("Bombay Chronicle" 2nd August, 1926.)

The Jains of India have been holding a Conference during the week-end to protest against the atrocious order of Mr. Watson regai-

ding the unconscionable claims of the Palitana Chief. The President of the Special Session has called the occasion a unique one,—an occasion of occasions—because this incident has brought a challenge to the entire Jain community, one of the quietest and most loyal communities in India, either to accept this shocking injustice embodied in Mr. Watson's order, or to exert themselves in definite concrete forms to manifest their resentment, to express their sense of injustice, not merely against the Palitana Prince-ling, but also against his patrons and abettors, the British Government. Any one who noticed the great gathering in Madhav Bag, or listened to the impassioned speeches that characterised the proceedings, could not but have noticed the warmth of feeling Mr. Watson, in his ill-judged anxiety to patronise the Palitana Durbar, has aroused in the Jains. The Agent to the Governor-General in the Western India States is not rich in judicial training and temperament. But even he had no right to allow his prejudice against the Jains thoroughly to run away with his sense of propriety and equity in making an award whose every enormity will be its own undoing. Mr. Watson has, of course, offended not merely the Jains. He has insulted the entire Press of India, as the only way to explain his impossible order. We are not concerned, however, for the moment at least,

with Mr. Watson's gratuitous and irrelevant insult to the Press, as an excuse for perpetrating a needless and indefensible injury to the centuries' old rights of the Jain community. The point of primary importance to the Jains assembled in Conference is to see that the present injustice is righted, that concrete steps are immediately adopted to secure that end, and that precautions and safeguards are adopted to prevent any recurrence of troubles like the present.

Of those two problems, naturally, the first attracts the most considerable attention of the Jain. Resolutions condemning Mr. Watson's award are natural and inevitable; we have no fault to find either with the wording or the speeches accompanying the resolutions. The wonder, if any, rather is that, with such a cause of grievance against the supreme Government, the Indian people have nevertheless become dispirited enough to think of nothing else than wordy bombast, which does no harm to any but the speakers themselves. If the Jains of India wish to manifest their sense of grievance against the Palitana Durbar and their abettors like the Hon. Mr. Watson, they must not trust to mere speeches. For our part, we have already advised the Jains, and have no hesitations in repeating the advice to-day, that if they desire a real, radical and lasting solution of this eternal wrangle

they must learn to depend on themselves. Mr. Watson may suggest any imputations he chooses against the integrity and independence of the Press in India and of such leading Indian communities as the Jains, in order to escape the inconvenient situations in which and his likes find themselves. The Jains must read between the lines of the rationale of this extraordinary judgment, particularly the passage dealing with the principles (?) of intervention by the Paramount Power in the disputes between the States of India and the Indian people. It indicates,—brutally, perhaps, but quite clearly—the altered angle of vision of the present administrators of India. They have nothing to do, it seems, on the authority of Mr. Watson, with the question of right and wrong, between the Indian people and the princely autocrats. They are far more concerned with the maintenance of the “prestige,”—in the first place of the British Government, and, when that is not affected, of the allies of the British Government. The Jains must realise from the verbiage and prejudice of Mr. Watson’s judgment that the long-drawn out agony of a pseudo-legal trial only results in vast sums being wasted on the legal advisers of the parties ; and that, wiser by the experience already gained, they must now see the futility of having recourse to such semi-judicial tribunals. It is, after all, not a ques-

tion as to which purse is the longest,—the Thakore of Palitana's, or the Jains'; nor even a question as to whose cupidity is most insatiable,—the Press agitators' (according to Mr. Watson) or their detractors'. The issue simply is that the Palitana Durbar is endeavouring to squeeze the Jains of all India by means of pilgrim taxes on them, which, according to well-established agreements and conventions in this particular case, it has no right to levy, even supposing there was no essential and inherent objection to pilgrim taxes as such. The Durbar have found an unexpected ally in the Agent to the Governor-General in the Western India States. He has mistaken his metier, and misunderstood his duties as a judge in the dispute. It is not enough for the Jains to realise that what has happened has happened because of the peculiar temperament and prejudice of the "judge." What has happened has happened and will happen so long as the Jains permit themselves to be exploited according to the exigencies of the Palitana people. Every time the Palitana Durbar has demanded an increase, the British Government have awarded it to it, though of course the present prodigious award is in a super extraordinary class by itself. The only reply of the Jains to this egregious award must be a determined refusal to accept it; a firm resolve to forego pilgrimage until this injustice is can-

celled. The suggestion in the President's speech about a Commission of Enquiry is an earnest of the reasonableness of the Jain community. The acceptance of this suggestion by the British Government and the Palitana Durbar will ensure an amicable and just settlement. But if this reasonable attitude did not evoke the right response, the President asked his co-religionists not to sit down in abject despair, not to abandon the fight for their rights supported as they are by history and justice but to resolve to do every thing in their power including, if need be, and as a last resort, the practice of Satyagraha. Are the Jains equipped with sufficient enthusiasm and firmness to carry out the suggestion of the President, and to make a trial of strength with the Palitana State by going on pilgrimage and refusing to pay the unjust levies, first taking care that no payments are made on their behalf and in the name of the community by anybody else? The weapon of Satyagraha, as the recent example of the Sikhs has shown, has never yet failed. If the Jains gird up their loins and bestir themselves, such a trial of strength, however, may not at all be necessary.

The other problem facing the Jain community is much more delicate. The question

of internal reorganisation necessarily raises issues which the Jains must decide upon after full consideration of all the consequences that a departure from the existing state of things is bound to involve. There is no denying the fact that the Jain community has reason to feel aggrieved at the handling of the present dispute: and it is but natural that they should seek to safeguard more effectively against a repetition of the mishap that has now befallen them. There seems to have been a want of living contact with the community at large, which led those who had the management of such concerns to under-estimate the forces opposing the Jain claims. Reform and reconstruction in so far as they are inevitable, must take the shape of a greater introduction of that element of representativeness in the agent and representatives of the community, which is to-day conspicuous by its absence. And, perhaps, the opportunity of this Special Session of the Conference may be seized, not unfittingly, to decide upon those other measures of internal reorganisation, which the history of this dispute must show are urgently necessary in order that the sentiment of the community may be more fully expressed and more clearly voiced. Personalities are bound to enter, and, in a way, to complicate, such discussions as these; but if those, who have the conduct of the Conference in their hand, keep

a level head, if they eschew all recriminations and avoid needless fault-finding or crying over spilt milk, if they keep in view steadily and exclusively the interest of the Jain community alone, we doubt not but that a happy solution will be forthcoming of the difficulties that have brought about the present miscarriage of justice.