

State of Rajasthan Vs. Shamlal and ors.

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Court : Rajasthan

Decided On : Mar-24-1960

Reported in : AIR1960Raj256

Judge : Sarjoo Prosad, C.J.,; D.S. Dave and; L.N. Chhangani, JJ.

Acts : High Court Rules; High Court Orders; Rajasthan High Court Rules, 1952 - Rule 59; [Constitution of India](#) - Articles 295, 295(2), 300, 363 and 372; Rajasthan Administration Ordinance, 1949 - Sections 3

Appeal No. : Civil Ref. Nos. 27, 29, 53, 54 and 55 of 1959

Appellant : State of Rajasthan

Respondent : Shamlal and ors.

Advocate for Def. : V.P. Tyagi, Adv.,; C.L. Agarwal, Adv. for Respondents Shamlal and Ramrichhpal Agarwal,;

Advocate for Pet/Ap. : G.C. Kasliwal, Adv. General and; R.A. Gupta, Deputy Government Adv.

Judgement :

Sarjoo Prosad, C.J.

1. This Special Bench was constituted on a reference made to me by a Division Bench of this Court presided over by Modi and Bhandari JJ. As the order of

reference shows, the learned Judges were 'not agreed on the proper interpretation to be put on Article 295(2) of the Constitution in view of the opinions expressed' in their respective judgments. They, however, were pleased to formulate the point of reference as follows :

'Whether the expression 'Government of the corresponding Indian State' used in Article 295(2) of the Constitution with reference to Rajasthan properly means the Government of the United State of Rajasthan which was the only Indian State in existence at the time of the commencement of the Constitution Or it also includes the Government of any of the Covenanted States which had integrated with the United State before the Constitution came into operation? '

Having had the benefit of perusing the judgments of the learned Judges making the reference and the advantage of hearing elaborate arguments of the learned Advocate General and the counsel appearing for the parties, I confess that I have felt considerable difficulty in answering the point formulated. The difficulty has been enhanced because of the narrow compass in which the matter has been laid before us, which tends to restrict unduly the scope of the enquiry. Rule 59 of the High Court Rules provides that-

'The Chief Justice may constitute a Bench of two or more Judges to decide a case or any question or questions of law formulated by a Bench hearing a case. In the latter event, the decision of such Bench on the question or questions so formulated shall be returned to the Bench hearing the case, and that Bench shall follow that decision on such question or questions, and dispose of the case after deciding the remaining questions, if any, arising therein.'

Thus on the terms of Rule 59, this Bench is called upon to determine only the question formulated by Modi and Bhandari JJ. I do not find any other Rule in the High Court Rules, which provides specifically for cases where the Chief Justice may constitute a Bench of two or more Judges to hear and decide any difficult and important question of law arising in a case, or to constitute a Full Bench for the purpose of resolving any conflict of decisions in this Court. It appears to me, therefore, that Rule 59 cannot be exhaustive of the powers which the Chief Justice must possess in regulating the functioning of the Court to constitute appropriate

Benches for the decision of such questions which may, from time to time, necessarily arise. I find that in these cases the most substantial question which arises for consideration is :

'Whether on a true interpretation of Article 295(2) of the Constitution, the State of Rajasthan can be said to have incurred the liabilities of the other Covenanted States which went to form the United State of Rajasthan, before the Constitution came into operation?'

This was, in my opinion, the essential question which fell to be determined in these cases; and this Bench would have been in a happier position to determine the above question, if it had been formulated in that form. Since I have the honour of presiding myself over this Special Bench constituted for the purpose, I think that there can be no valid objection to my enlarging the scope of the enquiry in the present case, and formulating the auxiliary question in the manner that I have done, so that this Special Bench of three Judges may conveniently address itself to this important question of law bearing on the interpretation of Article 295 of the Constitution, and the decision given by this Court may be binding as an authority in future. I notice with some satisfaction that even the question formulated under reference does envisage this aspect of the interpretation of Article 295. This is evident from the latter part of the question formulated which says 'whether the Government of any of the Covenanted States which had integrated with the United State of Rajasthan was also included in the expression 'Government of the corresponding Indian State'.'

2. There can be no doubt that *ex facie* the words 'Government of the corresponding Indian State' as used in Article 295(2) of the Constitution with reference to Rajasthan would mean the Government of the United State of Rajasthan which was the only Indian State in existence at the time of the Commencement of the Constitution; but it would be an over simplification of the matter to suggest that this is about all that the Article means.

We have to remember that Article 295 relates to succession to property, assets, rights, liabilities and obligations; and in dealing with these rights and obligations one cannot forget the inexorable logic of the historical events which followed

rapidly, almost in cataclysmic succession, before the United State of Rajasthan was formed by its constituent units. My learned brother Dave has very exhaustively dealt with the historical background leading to the evolution of the United State of Rajasthan and the successive Covenants and Agreements which culminated in the constitution of that State.

It is true, no doubt, that as a result of these Covenants the various Covenanting independent Indian States then in existence in Rajasthan and recognised by the Government of the Dominion of India merged in the United State of Rajasthan, and in a sense gave up their sovereignty over their respective territories and vested it in the Rajpramukh of the United State of Rajasthan; but those Covenants, in my opinion, are the' fundamental source of the authority under which the United State of Rajasthan was created, and on the strength of which the Rajpramukh of the new State could exercise his executive, legislative or judicial functions. He was not like an independent sovereign who had acquired territory by force of conquest, or to whom any territory had been ceded by some diplomatic pressure exercised by himself; and who could, therefore, act on the strength of his own supremacy or authority.

It would not have been, therefore, wrong to assume that the said Covenants were in the nature of constitutional documents which in form and substance governed the constitution of the new State. It is recognised on all hands that the integration of these States followed a unique pattern of its own for which there is hardly any precedent or parallel. Therefore, it may not be altogether correct to treat these Covenants as mere agreements between high contracting parties to which no such constitutional sanctity could be attached as to enable the subjects of those Covenanting States which entered the Union to take advantage of the terms of those Covenants and enforce their rights in the municipal Courts of the successor State.

Here the same document, from which flowed the rights, the authority, and the jurisdiction of the new sovereign also provided that 'all the assets and liabilities of the Covenanting State shall be the assets and liabilities of the United State'. The powers of the new sovereign, therefore, went hand in hand with the liabilities

which the United State incurred for the Covenanting States; and any distinction drawn on the footing that the residents of the territories which came under the dominion of the Rajpramukh of the United State could not acquire any right of citizenship until the act of State had been completed ought not really arise.

There is no interregnum for the completion of the act of State; the rights of the new sovereign and the rights of the citizens in the covenanting territories, they both inhere and spring together. In fact it is all a continuous flow. On a perusal of these documents, therefore it appears to me that the citizens of these territories entered the constitutional haven of the integrated Unit at least as safe and unseathed as they were earlier, if not actually better still. Therefore, the declaration made by the new sovereign in the Covenants in question, to which he along with the other Sovereigns was a party, and by virtue of which alone he could take, seize and assume his sovereign powers over the integrated territory quoad the residents of these territories should well be regarded as having the character of a constitutional guarantee or at least the character of a law which could be agitated in his Courts.

As such the clauses entered in those Covenants providing [or the recognition of the rights of the subjects of ex-Sovereigns were capable of enforcement in the Courts of the new Sovereign. It was of course open to the new Ruler in the exercise of his plenary legislative authority at any subsequent stage to abrogate the old laws and enact new ones; but so long as he did not do so, the right of his subjects preserved under the existing laws remained unaffected, and could be the foundation of a legal action either between the subjects inter se or between the subject and the State in the Municipal Courts of the new State.

3. It is true that the integration of the Indian States, which followed in quick succession, all happened with a view to the eventual accession of those States to the Dominion of India; and the Covenants which evidenced the integrations operated ad hoc merely for a temporary or transitional period; but even so, these Covenants and Agreements governed the constitution of the integrating States during that short period, and were meant to facilitate the constitutional merger of those States in the Indian Union. It is to be remembered that the Constitution of the Indian Union itself was then being hammered into shape by a Constituent

Assembly, which consisted of the representatives of the people, including those residing in the territories of these Indian 'States.

It, therefore, stands to reason that by the rapid changes in the constitutional evolution, the people of the Indian States were not to be deprived of their rights and privileges which their Rulers themselves had vouchsafed to them under their local Saws and their peculiar judicial system. I do not dispute the position that if the Rulers of these States at any stage before the commencement of the Constitution in the exercise of their sovereign authority had denied, repudiated or deprived their subjects of their rights the position might be different but otherwise would it be legitimate to assume that by those constitutional changes the rights of the people living in those territories were meant to be frittered away without any constitutional protection?

Any such assumption would be repugnant to the very spirit of our Constitution which has not only safeguarded but broad-based and consolidated the rights of the people. Even the terms of the Covenants and Agreements repel any such assumption. But it is said that these terms are of no advantage to the subject because they are mere 'Acts of State', and cannot be enforced in the municipal Courts, unless the Ruler nodded his assent to them. I venture to think, however, that the analogy of a conquered or ceded territory cannot be legitimately extended to integrations of the kind which took place under the above Covenants.

4. The view that these Covenants had the status of a Constitution is supported by the high authority of the Supreme Court itself, in *Thakur Amar Singhji v. State of Rajasthan*, (S) AIR 1955 SC 504. The question which arose in that case was about the vires of a legislation enacted by the Rajpramukh of Rajasthan. The answer to the question depended on the fact whether the Rajpramukh was the authority in whom the legislative power of the State was vested within the meaning of Article 385 of the Constitution. The Court held that under the Covenant it was the Rajpramukh who had the power to enact laws, and that, therefore, the Ordinance issued by him was valid.

Of course., the question whether the Covenant was an Act of State or whether it was a law conferring on the citizens of the defunct States rights which were

enforceable in a Court of law was not directly considered; the Supreme Court nevertheless used the word 'Constitution' with reference to the Covenant and relied upon the terms thereof in support of the authority which the Rajpramukh held. If the Covenant was treated as a Constitution for the purpose, it could be also treated as a Constitution for the purpose of protecting the rights of citizens in the covenanting territories; and need not have been aligned with an Act of State technically so called.

5. I may point out that two other decisions of the Supreme Court converge on the same lines and fortify the reasonings which I have ventured to adopt. I mean the decisions in *Virendra Singh v. State of Uttar Pradesh*, AIR 1954 SC 447, and *Bholanath J. Thaker v. State of Saurashtra*, AIR 1954 SC 680. In the earlier case the question was whether certain absolute muafi grants of lands made by the Rulers of erstwhile States of Charkari and Sairola (which were independent States under the paramountcy of the British Crown, before the integration of the States into the United States of Vindhya Pradesh and their subsequent accession to the Indian Dominion) could be revoked as Act of State by the State of Uttar Pradesh.

Their Lordships proceeded to examine the divergent views of eminent jurists on the point. At one extreme, they observed, was the view of the Privy Council expressed in a series of cases, the effect of which was summarised in *Vajesinghji Jora-varsinghji v. Secretary of State*, AIR 1924 PC 219 at p. 217, and again in *Secretary of State v. Rustam Khan*, AIR 1941 PC 64 at p. 67, in the following words:

'A summary of the matter is this when a territory is acquired by a sovereign State for the first time that is an Act of State. It matters not how the acquisition has been brought about. It may be by conquest, it may be by cession following on treaty, it may be by occupation of territory hitherto unoccupied by a recognised ruler. In all cases the result is the same. Any inhabitant of the territory can make good in the municipal Courts established by the new sovereign only such rights as that sovereign has, through his officers, recognised. Such rights as he had under the rule of predecessors avail him nothing. Nay more, even in a treaty of cession it is stipulated that certain inhabitants should enjoy certain rights, that does not give a

title to those inhabitants to enforce these stipulations in the municipal Courts. Theright to enforce remains only with the high contracting parties.'

At the other extreme was the view of Chief Justice Marshall of the United States Supreme Court as held in *United States v. Percheman*, (1863) 32 US 51 at pp 86, 87 wherein he observed:

'It may not be unworthy of remark that it is very unusual, even in cases of conquest, lor the conqueror to do more than to displace the sovereign and assume dominion over the country. The modern usage of nations, which has become law, would be violated; that sense of justice and of right which is acknowledged and felt by the whole civilised world would be outraged, if private property should be generally confiscated, and private rights annulled. The people change their allegiance; their relation to their ancient sovereign is dissolved; but their relations to each other, and their rights of property, remain undisturbed. If this be the modern rule even in cases of conquest, who can doubt its application to the case of an amicable cession of territory?.. A cession of territory is never understood to be a cession of the property belonging to its inhabitants. The, king cedes that only which belonged to him. Lands he had previously granted were not his to cede. Neither party could so understand the cession. Neither party could consider itself as attempting a wrong to individuals, condemned by the practice of the whole civilised world. The cession of a territory by its name from one sovereign to another, conveying the compound idea of surrendering at the same time the lands and the people who inhabit them, would be necessarily understood to pass the sovereignty only, and not to interfere with private property.'

Their Lordships, however, refrained from indicating their preference for either of the two views, because in their opinion none of these decisions had any bearing on the problem which confronted them, namely 'the impact of the Constitution on the peoples and territories which joined the Indian Union and brought the Constitution into being.' The flow of events upto the date of final accession was only of historical interest in the matter. Their Lordships held that whether the Privy Council view was correct or that of Marshall C. J., it was agreed by all the authorities that it was within the competence of the new sovereign to accord

recognition to existing rights in the ceded or conquered territories, and apply its own laws to them which could be examined and interpreted by the municipal courts of the absorbing State.

Their Lordships found in the case in question that the title of the petitioners to the disputed land had not been repudiated upto 26-1-1950, when the Constitution came into force. They considered it immaterial whether or not the right of the Dominion Government to repudiate their title remained in abeyance till it was exercised, despite the agreement embodied in the Instrument of Accession and the legislation and notification quoted above because, in fact, any such right was never exercised; and in the circumstances they held that even according to the English view, the petitioners concerned were not without rights in the land, nor were they without any remedy when the Constitution came into force. They quoted with approval the dictum of Lord Atkinson in *Johnstone v. Pedlar*, 1921-2 AC 262 at p. 278:

'It is on the authorities quite clear that the injury inflicted upon an individual by the Act of State of a sovereign authority does not by reason of the nature of the act by which the injury is inflicted cease to be a wrong. What these authorities do establish is that a remedy for the wrong cannot be sought for in the Courts of the sovereign authority which inflicts the injury, and that the aggrieved party must depend for redress upon the diplomatic action of the State, of which he is a subject.'

They further referred to the principle underlying the decision in *Mayor of Lyons v. East India Co.*, 1 Moo Ind App 175 (PC), wherein the title of a foreign alien to land was upheld, not under the English law (because if that had applied there would have been an escheat), but under the law in India derived from non-British sources, that is to say, under the laws of the land before its cession. This was so, because those laws continued until changed and for that reason a title which would have been bad under the English law was upheld. It was also-observed that:

'It is impossible for a sovereign to exercise as Act of State against its own subjects. However disputable the proposition may be that an Act of State can be

exercised against a citizen who was once an alien the right being only in abeyance till exercised, there has never been any doubt that it can never be exercised against one who has always been a citizen from the beginning in territory which has from its inception belonged to the State seeking to exercise the right.'

The principle, as we shall soon see, has an important bearing on the matter before us. They further pointed out that in the case in hand, there was no question of conquest Or cession. The new Republic was born on 26-1-1950 and all derived their rights of citizenship from the same source and from the same moment of time; so also, at the same instant and for the same reason, all the territory within its boundaries became the territory of India.

'There is, as it were, from the point of view of the new State, Unity of Possession, Unity of Interest, Unity of Title and Unity of Time.'

The same can be easily predicated of the United State of Rajasthan when it came into being. I feel tempted to quote at this stage an inspiring note in the judgment, which, if I may respectfully claim, very much coincides with my own view of that Constitution and the different changes in the political scene which formed a prologue as it were to the final Act, It is as under:

"It is impossible to think of those who sat down together in the Constituent Assembly, and of those who sent representatives there, as conqueror and conquered, as those who ceded and as those who absorbed, as sovereigns or their plenipotentiaries, contracting alliances and entering into treaties as high contracting parties to an Act of State. They were not there as sovereign and subject, as citizen and alien, but as the sovereign peoples of India, free democratic equals, forging the pattern of a new life for the common weal.

Every vestige of sovereignty was abandoned by the Dominion of India and by the States and surrendered to the peoples of the land who through their representatives in the Constituent Assembly hammered out for themselves a new Constitution in which all were citizens in a new order having but one tie, and owing but one allegiance: devotion, loyalty, fidelity, to the Sovereign Democratic Republic that is India. At one stroke all other territorial allegiances were wiped out and the

past was obliterated except where expressly preserved; at one moment of time the new order was born with its new allegiance springing from the same source! for all, grounded on the same basis: the sovereign will of the peoples of India with no class, no caste, no race, no creed, no distinction, no reservation.'

It is important to remember that this was a case concerning right to property of a person residing in the territory of the Covenanting State; but the other case, to which I am about to refer, relates to rights under a contract claimed! against the successor State,

6. That case is the decision of the Supreme Court in AIR 1954' SC 680, mentioned above. An official, who was in the service of the Wadhwan State, continued to serve that State till the administration of the State was made over to the Saurashtra Government on 16-3-1948. The Ruler of Wadhwan State had promulgated a Dhara (Act) No. 29 of St. 2004, under which the age of superannuation for the State civil servants was fixed at 60. The officer thus became entitled to remain in service till that age. The Ruler of the Wadhwan State entered into a Covenant for the formation of the United States of Kathiawar on the 24th January, 1948.

Under Article 16(1) of the Covenant, the United States of Kathiawar had' guaranteed continuance in service of the permanent members of the public services of each of the Covenanting State on conditions not less advantageous than those on which they were serving before the date on which the administration of the State was made over to the Rajpramukh or for payment of reasonable compensation, in case of earlier termination of their services. The Ruler of Wadhwan State made over the administration of the State to the Saurashtra Government. By an order dated 29-6-1948, the officer was retired by the Saurashtra State on payment of three months leave salary and a monthly pension on the ground that he had passed the age of superannuation which was taken at 55 years. The officer then filed a suit against the Saurashtra State claiming a certain sum of money by way of compensation on account of his premature compulsory retirement.

It was contended for the State that Article 16 of the Covenant, on which the officer relied, could not be enforced in the municipal Courts; and the suit was incompetent; and that the services of the officer with the Wadhwan State were during the pleasure of the Ruler of the State, and that if the said Ruler could have compulsorily retired him without being liable to pay him any compensation whatever, the position of the officer could be no better so far as the Saurashtra State was concerned. These contentions were repelled.

The Supreme Court held that the Ruler of Wadhwan State was competent to enact Dhara No. 29 of St. 2004; that when the Wadhwan State merged in the Saurashtra State all the existing laws continued until repealed; therefore, Dhara No. 29 of St. 2004 was still good law, and could have been enforced in the municipal courts until either repealed or repudiated; and that not having been done, the rights were carried over after the Constitution when the Indian Republic was formed with the result that the officer then became an Indian citizen, and his rights could not be defeated except by legislation, if any, under the Constitution. He could therefore, enforce his rights in the municipal court which were held entitled to examine the contracts and apply Dhara No. 29 of St. 2004 for the purpose of giving relief to the officer concerned.

The terms of the Covenant could at least be looked into to see whether the Rajpramukh of the United States of Kathiawar had waived his rights to ignore rights given under the laws of the former sovereign; and all that the officer was seeking to enforce was the right which he had under the contract, as recognised by the existing laws of the then Wadhwan State, which continued to be in force even when the United States of Kathiawar was formed, and until the stage of the Indian Constitution coming into force. Even though the tenure of service of the officer with the Ruler of the Wadhwan State was initially during the pleasure of the Ruler, the Ruler put a fetter upon his powers to dispense with the services of the officer when he passed the Dhara in question, and this obligation of the Ruler passed on to the Saurashtra State, which did not repeal the Dhara, and in fact under Article 16 of the Covenant recognised the same.

This decision, in my opinion, definitely supports the view that the liability of the Dholpur State, which could be enforced under the local laws, could equally be enforced' against the United State of Rajasthan so long as the laws then in force were not repealed by the successor State; and that the terms of the Covenant could be looked into for the purpose of enforcing those rights. The point of importance is that if the then existing laws under which the rights and remedies of the subjects were secured were not repealed even after the formation of the new State, they would continue to operate in those territories, and would continue to be interpreted by the municipal courts of the new State in the enforcement of those rights.

7. If these decisions of the Supreme Court had stood alone, I would have had no hesitation in holding, on the terms of the Covenants, that the liabilities of the erstwhile Indian States in natural sequence devolved on the United State of Rajasthan, and then, under Article 295 of the Constitution, on the present State of Rajasthan and in each case they could be legally enforced. I am, how-over, embarrassed by the fact that the same learned Judge, who delivered the judgment of the Supreme Court in the earlier case of Thakur Amar Singhji, (S) AIR 1955 SC 504 (supra), explained that decision in a later judgment of the Court in Dalmia Dadri Cement Co.; Ltd. v. Commr, of Income-tax, AIR 1958 SC' 816.

In the later case the learned Judge held that the Covenants in question were mere Acts of State and their terms could not be enforced in the municipal courts of the successor State. It was observed! that the expression 'Act of State' was not limited to hostile action between rulers resulting in the occupation of territories, but included all acquisitions of territory by a Sovereign State for the first time, whether by conquest or cession; and on principle it made no difference whether it was acquisition of new territory by an existing State or as in the present case, formation of a new State out of territories belonging to quondam States. In either case, according to their Lordships, there is establishment of new sovereignty over the territory in question and that is an Act of State.

In coming to their conclusion their Lordships showed a decided preference for the view of the English' jurists as based upon the various Privy Council decisions.

Vivian Bose, J., in a short separate judgment of his own agreed with the judgment of the majority, though he demurred as to the reasons for the decision. He opined that though! the English authorities held that all lights to property including those in real estate, were lost when a new sovereign took over, except in so far as the) new sovereign chose to recognise them or, confer new rights on them, yet that did not appear to be the view of the international court of justice.

The learned Judge thought that it would be a pity to disregard the trend of modern international thought and' continue to follow a line of decisions based on the views of an old imperialism, when we were not bound by them, and were free to mould our own laws in the light of modern thought and conceptions. He, however, held that in the case in question in so far as the right was claimed on the basis of contract, it would fall to the ground on any view; and in so far as it was not founded on any contract, it was an obligation sought to be fastened on the new State. To quote his words :

'There is no contract between the new State and the appellant, so there also he is out of Court; and even if there was some agreement or understanding between the high contracting parties, it cannot be enquired into, or enforced, by the municipal Courts of the new State.'

His Lordship appears to have drawn the same distinction that was drawn by Lord Alverstone C. J. in *West Rand Central Gold Mining Co. v. Rex*, (1905) 2 KB 391 at p. 411, where commenting on the American cases the noble Lord said that there was a difference between private rights of individuals in private property and contractual rights, which are sought to be enforced against the new sovereign. To what extent that distinction is valid in law is more than I can say.

Here we enter the domain of both public and private international law; and since the law on the subject is still in a fluid, state, I would venture to suggest that if we apply the sains test to sovereign States as we apply to individuals in a civilised society, the exemption from liability should be confined only to such rights of individuals as arise out of tortious acts of the defunct State or as can be justified' On 'the principle of *actio personalis cum moritus causa* ; the exemption should not be extended to cover contractual rights as such, when the defunct State had

already had the advantage of the contract to the detriment of the individual affected thereby.

Be that as it may, we are bound by the law as laid down by their Lordships of the Supreme Court in their latest pronouncement, and, therefore we are constrained to hold that the declarations embodied in the terms of the Covenant, creating the United State of Rajasthan, which was an Act of State, could not be enforced in the municipal Courts of that State. If the said Covenant had been treated as a Constitution, as I am respectfully inclined to think it was, then under Article VI (2) (c) of the Covenant (see Appendix XL of the White Paper),, the contractual liabilities which devolved upon the new State could be duly enforced in the Courts of that State. Fortunately this is not the finale of the) problem.

8. At this stage I consider it necessary to advert to two distinctive features of the above case, which in my opinion, are vital to the questions before us. Firstly, their Lordships thought it unnecessary to express any opinion on the contention based on Article 295 of the Constitution. The case, therefore affords no guidance on the interpretation of Article 295. Secondly, in the case in question it is, important to notice that immediately after the Rajpramukh of Patiala had taken over the administration of find on its merger: with the East Punjab States Union on (the terms of the Covenant, he promulgated the Patiala and East Punjab States Union Administration Ordinance (1 of St. 2005) repealing all laws in force in such Covenanting State immediately before the date of the merger.

The new sovereign had thus directly and categorically repudiated the laws in force in those territories thereby sweeping away the rights preserved by those laws which went by the board. No subject residing in the Covenanting territories could, therefore, take the shelter of these laws for the protection or enforcement of the rights which he enjoyed, unless and until the new sovereign chose to recognise them. The question then arises: would the position in law have been any different, if the new sovereign had allowed those laws to operate, either by not doing anything to repeal them or to render them ineffective or by making an express declaration that the laws would continue in force until so repealed?

There can be no doubt that it is open to the new sovereign to exercise his prerogative either way: he may repeal the laws in force in those territories or abandon his prerogative and allow the continuance of those laws for the benefit of the subjects in those territories. This abandonment of his prerogative can be gathered even from circumstances and not necessarily by an express declaration. The effect of the non-exercise of this sovereign right is that the person is not without his rights in the land, nor is he altogether without a remedy. It is just a question of means of redress. In *Forester v. Secy, of State*, Ind App Sup Vol 10 at p. 17: (1874) 12 Beng LR 120, the Begum whose estate the Government sought to confiscate as an Act of State, was only in de facto possession.

The Privy Council held that the Government had purported to act under colour of a legal title, so its attempt at resumption was not an Act of State and consequently could be reviewed in the courts. Their Lordships thereupon proceeded to investigate the Begum's title, not under the British Government, but as, derived from the sovereign power which preceded it. So also in 1 Moo Ind App 175 (PC) as we have noticed already, the title of a foreign alien to land was upheld, not under the English law, (because if that had applied there would have been an escheat), but under the law in India derived from non-British sources; in other words, the title was upheld under the laws of the land before cession of the territory, on the principle that those laws continued until changed with the result that a title which would have been bad under the English Law was upheld as valid. It was recognised that as between Her Majesty and her subject there could be no such thing as an Act of State. In the case of AIR 1958 SC 816 (*supra*), the Supreme Court reiterated these principles. In repelling the argument of the learned counsel that the Patiala Union had affirmed the agreement, they observed thus :

'If there were any acts of the new State, which were equivocal in character, it would have been possible to hold in the light of Article VI of the Covenant that its intention was to affirm the concessions in Clause (23) of Ex. A. But the act of the new sovereign immediately after he became in titulo, was the application of the Patiala State laws including the Patiala Income-tax Act to the territories of Jind involving negation of those rights.'

It follows, therefore, that where the new sovereign does not repudiate the laws prevailing, in the acceding territory,, his conduct is equivocal, and the laws would be deemed to operate; and, therefore, in terras of Article VI of the Covenant those laws would continue to protect individual rights of the citizens. Here we find that under section 3 of the Rajasthan Administration Ordinance, 1949 (No. 1 of 1949) it was expressly provided that all the laws in force in any Covenanting State immediately before the commencement of the Ordinance in that State shall, until altered or repealed or amended by a competent Legislature or other competent authority, continue in force in that Since: and again by virtue of Article 372 of the Constitution these laws continued to operate as existing laws at the date of the commencement of the Constitution.

Therefore, under the law of contract, the liabilities of the Dholpur State devolved on the United State of Rajasthan, and then on the present State of Rajasthan when the Constitution came into force, because each of the successor States and their the then Sovereigns recognised those laws, and lent their authority tacitly or by express declaration to their, continuance. Thus it was no longer open to the United State of Rajasthan so long as those laws continued to operate to repudiate the liability which arose under that law in favour of the individual concerned. Mr. Tyagi is right in contending that the authority directly bearing on the point is the decision of the Supreme Court in the case of AIR 1954 SC 680, referred to earlier.

9. The attention of my learned brothers Modi and Bhandari was not pointedly drawn to this aspect of the matter. Bhandari J. observed that there was nothing in those laws, from which it could be inferred that the obligations of the former State of Dholpur devolved on the State of Rajasthan and that :

'as between the subject and the subject the continuance of the existing law did bring about that result but as between the subject and the State, it cannot be said that the Government of Rajasthan has become the successor of all rights and liabilities of the Government of the former State of Dholpur.'

This in my opinion would run counter to the principles established above. The very recognition of those laws and their operation in the absorbing State would guarantee the rights, which the citizens of those territories possessed, and their

enforce-ability in the Courts of law in the new State. Once it is found that the laws of the land continue to operate, it lies within the province of the local Courts to interpret and apply the laws to particular facts in order to give relief to parties. No further guarantees or declarations by the Sovereign are required for the protection of the citizens' rights. I have already said that even in the *Dalmia Dadri Cement* case, AIR 1958 SC 816, the principle was recognised and duly endorsed. Let me again quote a passage from that judgment to illustrate my point:

'When the sovereign of a State meaning by that expression the authority in which the sovereignty of the State is vested, enacts a law which creates, declares, or recognises rights in the subjects, any infraction of those rights would be actionable in the Courts of that State even when that infraction is by the State acting through its officers. It would be no defence to that action that the act complained of is an act of State, because as between the sovereign and his subjects there is no such thing as an act of State, and it is incumbent on his officers to show that their action which is under challenge is within the authority conferred on them by law.'

Where is then the authority for the assumption that the said laws operated only vis-a-vis the subject and the subject and not vis-a-vis the subject and the State? The Act of State so called has already terminated, and after the merger the new sovereign has by unequivocal declaration recognised the operation of the laws already in force in the Covenanted territories, thereby granting as it were a charter of rights and liberties to the subjects and the modes of securing them in the manner provided by these laws. Modi J., says:

'All such rights and liabilities of the various covenanted States had already devolved by virtue of the covenant on the United State of Rajasthan, much before the Constitution came into force and there they rested for what they were worth.'

Obviously the learned Judge accepts that the liabilities did devolve upon the United State of Rajasthan; but they were of no avail to the persons concerned, since they could not be made good in the municipal Courts. Therefore, when the Constitution came into force, they rested where they were. In other words, though the rights were there, there was no remedy for enforcing them, and thus the rights were practically frozen. Though I regret I am unable to accept that any such

situation arose; but even if it is assumed that the rights were frozen, the thaw set in almost simultaneously when the Rajpramukh of the United State on the terms of the Ordinance declared that the laws in force in the Covenanting territories immediately prior to their merger would continue in force.

10. The learned Advocate-General concedes that if the laws operate between the subject and the subject, there is no valid reason why they should not be held to operate between the subject and the State. He, however, contends that prior to the merger of the States the liabilities of the defunct States cease to exist and the laws operated as if only prospectively when the new sovereign, who takes charge of the States, adopts those laws by his act or declaration. He further submits that the affirmation of the laws operating in the territory does not amount to any affirmation of the obligations of the previous Government of that territory, which has been replaced by another Sovereign not ipso facto bound by these obligations.' As I have shown, even on the English authorities these submissions are not tenable. If the laws operate, they serve to protect the rights of the parties even against the new Government.

11. The same conclusion follows on a proper interpretation of Article 295 (2) of the Constitution. Article 295(2) which is relevant for our discussion runs as under:

'Subject as aforesaid, the Government of each State specified in Part B of the First Schedule shall, as from the commencement of this Constitution, be the successor of the Government of the corresponding Indian State as regards all property and asset and all rights, liabilities and obligations, whether arising out of any contract or otherwise, other than those referred to in Clause (1).'

It may be useful to quote here also Clause (1) because some importance has been attached in the course of the arguments to the difference in the language of the two clauses. The clause has two Sub-clauses, and is as follows :

'As from the commencement of this Constitution :

(a) all property and assets which immediately before such commencement were vested in any Indian State corresponding to a State specified in Part B of the First

Schedule shall vest in the Union, if the purposes for which such property and assets were held immediately before such commencement will thereafter be purposes of the Union relating to any of the matters enumerated in the Union List, and

(b) all rights, liabilities and obligations of the Government of any Indian State corresponding to a State specified in Part B of the First Schedule, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations of the Government of India, if the purposes for which such rights were acquired or liabilities or obligations were incurred before such commencement will thereafter be the purposes of the Government of India relating to any of the matters enumerated in the Union List,

subject to any agreement entered into in that behalf by the Government of India with the Government of that State.'

It is important to remember that Schedule I of the Constitution has since been amended, and Parts A and B have been repealed; but curiously enough there have been no consequential changes in Article 295 of the Constitution, as one would naturally have expected. Why this anomaly has continued is difficult for me to say, and we have to look to the Constitution as it stood prior to this amendment in order to ascertain what this Part B of the First Schedule is. Be that as it may, the point which we have to consider at present is whether the words 'the Government of the corresponding Indian State' refer to the United State of Rajasthan corresponding to 'Rajasthan', the State specified in Part B of the First Schedule, or they also refer to its component Units.

The learned Deputy Government Advocate followed by the learned Advocate General contends that the words have only reference to the 'United State of Rajasthan', which was the only State in existence at the time of the commencement of the Constitution, and not to the component Indian States like Dholpur etc. which had already merged in the United State, and dissolved their identity. Therefore, the Part B State of Rajasthan succeeded only to the liabilities of the United State of Rajasthan and not to the other Indian States. Shri V. P. Tyagi contends for the opposite view. The former view has found favour with Modi

J., while the latter with Bhandari J.

12. I may mention at once that for reasons more than one, I am inclined to accept the latter interpretation of the language of the Article. Before I proceed to mention them, I would wish to recall some salient principles which bear on the interpretation of the Constitution. Accustomed as we have been in our day to day administration of justice to the interpretation of numerous statutes, we are apt to lose sight of the fact that the Constitution is unlike most of the statutes that we come across and has to be judged from somewhat different standards.'

The Constitution is the very framework of the body polity : its life and soul; it is the fountain-head' of all its authority; the main-spring of all its strength and power. The Executive, the Legislature, and the Judiciary are all its creation, and derive their sustenance from it. It is unlike other statutes which can be at any time altered, modified or repealed. Therefore, the language of the Constitution should be interpreted as if it were a living organism capable of growth and development if interpreted in a broad and liberal spirit, and not in a narrow and pedantic sense. The need for this caution is greater, where the Court is called upon to interpret the Constitution of the great democratic Republic of India devised by the people of the land who were anxious to insure for themselves a Government of the people, by the people and for the people.

The Constitution was not merely concerned with the present and the past; but also built for the future. It would be small credit to the makers of the Constitution, if we start with the erroneous assumption that they failed to visualise the problems with which we are at present confronted, and that in the Constitution they did not provide for them, We cannot but presume that in the normal course they must have peeped into the future 'far as human eye could see', or far as human intellect could prove, and foreseen these contingencies. Keeping, therefore, these considerations in view, let us now turn to consider which of the two viewpoints about the interpretation of Article 295(2) of the Constitution is correct.

13. Articles 294-300 occur in Part XII, Chapter III, of the Constitution. Chapter I deals with Finance, Chapter II with Borrowings, and' Chapter III, with which we are concerned, with Property, Contracts, Rights, Liabilities, Obligations and Suits. The

Articles contained in this Chapter are integral parts of a scheme regarding the devolution and distribution of and succession to these assets and liabilities, and' the right to sue in respect of them after the commencement of the Constitution. Article 294 provides, broadly speaking, for the vesting of assets which were heretofore vested in His Majesty; they were to vest in the Union Government or the corresponding State according to the purpose for which they were vested in His Majesty : namely, if they were vested for the purposes of the Dominion of India, they would vest in the Union Government, and if for the purposes of the Governor's Province, then in the corresponding State.

Similarly, all rights and liabilities and obligations of the Government of the Dominion of India, or of the Government of each Governor's Province, were to become the rights, liabilities and obligations respectively of the Government of India, & the Government of each corresponding State. Article 295(2) is substantially in similar terms, except that Clause 1 (a) of the Article deals with the disposal of property and assets heretofore vested in an 'Indian State corresponding to the State specified in Part B of the First Schedule'.

Here if the property and assets were held by the corresponding Indian State for any purpose relating to matters specified in the Union List, the property and assets would vest in the Union. Clause (1) (b) of the Article provides that all rights, liabilities, and obligations of the Government of any Indian State corresponding to Indian State specified in Part B of the First Schedule shall be the rights, liabilities and obligations of the Government of India, if they were acquired or incurred for purposes relating to matters enumerated in the Union List. Thus Clause (1) (b) stops short with the devolution of the rights, liabilities and obligations on the Union Government.

Then comes Clause (2) of the Article, which is the most relevant clause, and this completes the picture by providing for the succession of the Government of each State specified in Part B of the First Schedule to the property and assets and all rights, liabilities and obligations of the corresponding Indian State before the commencement of the Constitution. I need not refer to the other Articles except Article 300, which provides inter alia that the Government of India or the Union of

India and the Government of a State may sue Or be sued in relation to their respective affairs in like cases as the Dominion of India and the corresponding Provinces or the corresponding Indian States might have sued or been sued. Clause (2) (b) of Article 300 is also important. It is as under:

'(2) If at the commencement of this Constitution : (b) any legal proceedings are pending to which a Province or an. Indian State is a party, the corresponding State shall be deemed to be substituted for the Province or the Indian State in those proceedings.'

I have no doubt that the words 'the corresponding Indian State' as occurring in Article 295(2) have the same meaning throughout in both the clauses. Bhandari J. has tried to make some distinction because of the use of the words 'immediately before such commencement' in the first clause to which exception has been taken in the course of arguments. Let me also grant that no special significance attaches to these words, except that they pin point the time at which the assets devolve.

It is conceded and it is a settled! principle of International Law also, when the new Sovereign takes over a State, he immediately succeeds to all the assets and property of the defunct State, Let me also assume that the working out of the rights, liabilities and obligations might occupy a little time, and hence the distinction ; nevertheless I find myself faced with serious anomalies if I accept the argument of the learned Advocate General that the words 'corresponding Indian State' before the commencement of the Constitution with reference to the State of Rajasthan as specified in Part B of the First Schedule meant only the 'United! State of Rajasthan', and not its Component Units. It is true that at the commencement of the Constitution the United State of Rajasthan under a Rajpramukh was only in existence and for various purposes the integrating States may be taken to have been dissolved; but; their territory, identity or Unit had not disappeared for all purposes, and in various ways the Constitution continued to recognise their existence.

14. The history of integration shows that the integration of the Indian States in Rajasthan, which on the terms of the Covenants and agreements, were recognised by the Dominion of India started in February, 1948, when the Matsya

Union was formed. Then in March, 1948 there was the integration of the 9 States in the Smaller United State of Rajasthan, which the Maharana of Mewar also later joined. Then came the Agreement regarding the integration of eighteen States of Rajasthan in another United State of Rajasthan, and finally the Matsya Union also joined, thus culminating in the bigger United State of Rajasthan in May, 1949. If the argument of the learned Advocate General is correct it means that the only liability or obligation to which the State of Rajasthan succeeded when the Constitution came into force on 26-1-1950, was the liability, if any, incurred during this short period of about six months; all the other liabilities were gone, and the Constitution made no provision for them.

In fact the Sirohi State became a part of the United State of Rajasthan only on 25-1-1950, a day before the Constitution came into force. We are thus reduced to the position that the United State of Rajasthan as an integral Unit came into being only a day before the Constitution, and, therefore, the State of Rajasthan under the Constitution incurred the liability, if at all, only of that State. Modi J. was conscious of this anomaly, as he pointed out in his earlier judgment, the relevant excerpt where from has been quoted in this judgment. He observes :

'With all respect, it may be permissible to say here that the framers of the Constitution might have thought it sufficient that so far as the devolution of the liabilities and obligations of the integrating States was concerned, that had been already adequately provided for in the Covenant itself, and therefore, no further provision with respect thereto was necessary in the Constitution, As it has turned out, however, such a provision in the Covenant on the highest judicial authority in our country does not confer any rights on the subjects of the old States, and the municipal courts of the United State could not have recognised them, and, therefore, in my view, all that can be said at the best in connection with the liabilities and! obligations of the integrating States as respects their devolution on the United State is that the liability of the latter State in this regard may be a moral one, but the courts of law are not concerned with it and can neither recognise nor enforce the same.'

It was but natural that judicial conscience endeavoured to wriggle out of the difficulty, but the learned Judge found himself helpless inasmuch as he posed the following question to which he found no satisfactory answer. He says :

'I also consider it of no small significance to point out in this connection that if the expression 'corresponding Indian State' as used in Article 295(2) means the various Covenanting States as contradistinguished from the United State, one wants to know the provision in the Constitution dealing with the devolution of the property and assets Or the rights, liabilities and obligations of the United State of Rajasthan which had without a shadow of doubt been functioning some time immediately preceding the commencement of the Constitution. To my mind there is hardly any other provision in the Constitution which deals with this topic, and I think it well-nigh impossible to imagine that when the Constitution was being finally hammered out, its framers had forgotten to make any provision for the devolution of the liabilities of the United State which was very much in existence and were instead providing for the devolution of the rights and obligations of the erstwhile States which existed at one time but which had become defunct to all intents and purposes at the time of the inauguration of the Constitution. The expression 'corresponding Indian State' in Article 295(2) cannot, in my humble judgment, mean both things at one and the same time, and, therefore, I am satisfied; that this expression in the context of Article 295(2) connotes the United State of Rajasthan and not the smaller units which earlier combined together to form it.'

No one suggests that the framers of the Constitution had forgotten to make provision for the devolution of liabilities either way, and in my judgment the solution to the problem lay in accepting the position that Article 295(2) contemplated the 'United State of Rajasthan inclusive of its component Units'. The word! 'United' itself is significant, and shows that those Indian States had not completely lost their identity. They were not dissolved completely; but had formed a sort of a federation in certain respects for their common Government. They were all links in the same chain of the United State of Rajasthan.

15. The above conclusion is fully confirmed by the terms of the Covenants and the Agreements, For instance, the Covenant (Appendix XL to the White Paper) shows

that the Rulers of all the fourteen Indian States are parties. They agreed to form the United State of Rajasthan and authorised the Rajpramukh with the approval of the Government of India to enter into any agreement for the integration of any other State. Under Article III of the Covenants a Council of Rulers consisting of the Rulers of all the Covenanting States was established with the Rajpramukh as its President, who was authorised to carry on the administration of the newly formed 'United State'. Under Article VI, it was provided that all the assets and liabilities of the Covenanting States shall be the assets and liabilities of the United State, and in case of a new State integrating, the provision will apply to such State as well,

Then there was provision for the payment of the Privy Purse of the Ruler of each Covenanting State, who, along with the members of his family, was also entitled to the full enjoyment of all his private properties and to all the personal privileges, dignities and titles. The Government of India concurred in the above Covenant and guaranteed all its provisions, in token whereof it was signed by the Adviser to the Government. The Agreement (Appendix XLI), under which the Indian States which had earlier formed the Matsya Union joined the United State of Rajasthan with the approval and concurrence of the Government of India, adopts the terms of the previous Covenant, and is signed by the Rulers of Alwar, Bharatpur, Dholpur, and Karauli on the one hand, and the Rajpramukh of the United State on the other, the latter having authority to do so under Article II of the Covenant.

This document is again signed by the Secretary to the Government of India in token of its concurrence in the above agreement and its guaranteeing all its provisions. The 'Covenanting State' in the above agreement refers to all the eighteen Indian States who formed the 'Union'. They were all recognised as such by the Dominion of India as it is apparent from these documents, and though merging themselves in the United State, in many respects as the terms show preserved their identity. When the Constitution came into force, it preserved the rights and privileges of the Rulers on the one hand and the rights and liabilities of the States on the other (vide Arts. 291, 361, 362 and 363 of the Constitution).

Under Article 366 'Indian State' is defined as 'any (territory which the Government of the Dominion of India recognised as such a State', and 'Ruler' a person by

whom any such Covenant or Agreement was entered into in relation to an Indian State or his heir or successor recognised by the President Special significance attaches to the use of the word 'territory' in the definition, which denotes that these territories as component Units of the 'United State' could not be ignored. Article 295(2), therefore, has to be interpreted in that light, and the concept of the United State of Rajasthan carries with it the concept of the United State as composed of these territories and units which went to form it, and the Government operating in those territories.

16. Another important reason which impels me to adopt the view is because of the provision of Article 300 of the Constitution. I have already said that Arts. 295 and 300 are in effect complementary provisions, the former deals with the vesting of property and assets, and the devolution of rights and liabilities; the latter with the power to enforce them. Let us assume that the erstwhile Dholpur State had the right to sue for recovery of some property or certain debts from individuals; but no suit was filed before its merger in the United State of Rajasthan, and before the commencement of the Constitution no such suit was filed by the United State either. Is it to be assumed that although the cause of action would otherwise survive, the right lapsed because, the Part B State of Rajasthan succeeded only to the United State and since that State did not sue, the Part B State also could not do so? Should we not assume that on a fair interpretation of Article 300 the Part B State of Rajasthan could sue just in the same manner as the Indian State of Dholpur?

The whole process of merger from stage to stage all happened in a very short period and things were in a fluid state. Therefore, such cases would not be unusual. A similar or perhaps even a greater difficulty might arise in matters of substitution as contemplated by Clause (2) (b) of Article 300, if we adopt the stricter view for which the learned Advocate General contends. It is, therefore, proper to adopt the interpretation suggested by the learned counsel Shri Tyagi.

17. It is pointed out that devolution of assets or liabilities can take place only once, and if the liabilities of the Dholpur State devolved on the United State of Rajasthan, they could not again devolve upon the Part B State of Rajasthan,

except as the rights and liabilities of the new State. I agree that the entire fascicle of rights and liabilities of the component Indian States devolved upon the United State of Rajasthan, but in a similar manner under the terms of Article 295(2), they were passed on to the Part B State. They may be called the rights and liabilities of the United State, and for that matter the rights and liabilities of its component Units. No artificial standards should be adopted in judging of these matters.

The Constitutional provision has to be interpreted broadly in the light of the political changes evidenced by the Agreements and Covenants. I am loath to accept in the light of these Agreement? and Covenants that such international figures have paraded on the stage of Indian India as arrayed in their panoply of pride and power ignored all those who occupied the stage earlier. Our Constitution is a work of harmonious evolution by mutual adjustments in a spirit of cordiality where rights and obligations have been respected and provided for.

18. In any view of the matter, therefore, I come to the conclusion that the Part B State of Rajasthan succeeded to the rights, liabilities and obligations of the other Covenanting States which went to form the United State of Rajasthan before the Constitution came into operation, and that the expression 'Government of the corresponding Indian State' used in Article 295(2) of the Constitution with reference to Rajasthan means not only the Government of the United State of Rajasthan, but the 'United State of Rajasthan including its component Units. The points for consideration, therefore, in my opinion, have to be answered accordingly.

Dave, J.

18a. These cases have come before us for the determination of the following question :

'Whether the expression 'Government of the corresponding Indian State" used in Article 295(2) of the Constitution with reference to Rajasthan properly means the Government of the United State of Rajasthan which was the only Indian State in existence at the time of the commencement of the Constitution, or it also includes the Government of any of the Covenanting States which had integrated with the

United State before the Constitution came into operation'.

19. The aforesaid cases were first referred to one of us for resolving the difference of opinion which had arisen between Modi and Bhandari JJ. When the matter came for hearing, it was urged by learned counsel for both the parties that the question of law involved was of far-reaching importance and therefore it should be decided by a larger bench. It was also submitted by them that Modi J. had expressed his opinion only about the interpretation of Article 295 of the Constitution and that if he disagreed with Bhandari J. on other points, they should also be referred to the larger bench at the same time. Thereafter, the Chief Justice referred the matter to Modi J. for clarification. Modi J. returned the case with the remark that if he meant to disagree with Bhandari J. on other points, he would have said so in his dissenting judgment. This makes it quite clear that both, the learned Judges hold concurrent views on other points involved in the appeals.

20. In order to appreciate the difference of views between the learned Judges, it would be proper to state briefly the facts of the cases out of which the point referred to above has arisen.

21. Appeal No. 27 of 1954 is a First Appeal, It was fixed for hearing before a division bench of this Court in regular course. The other four appeals Nos. 268 of 1954, 4 of 1954, 276 of 1954 and 203 of 1955 are Second Appeals. They were listed for hearing before a Single bench but since the questions of law involved in them were the same as in First Appeal No. 27 of 1954, they were also referred to the division bench. The facts of all the five appeals are very similar, though not the same. In order to appreciate the vexed question of law, it would suffice to narrate briefly the facts of the First Appeal No. 27 of 1954.

22. The plaintiff-respondent Firm Janki Prasad Ramnath filed a suit against the State of Rajasthan for recovery of Rs. 28,568/8/- in the Court of the District Judge, Bharatpur, on 21-1-1952. It was averred by the plaintiff that in the year 1947, the former State of Dholpur, in whose territory the firm carried on its business, had placed a ban on the export of certain commodities, but, at the same time, permission was given to export them on a permit being issued by the Customs Department of that State. The plaintiff wanted to export 15,000 maunds of 'Churi of

Arhar'. The export duty on that commodity was Rs. 2/- per maund and so Rs. 30,000/- were deposited as advance for the (Customs) export duty.

A permit No. 13/1 dated 28-6-1947, was issued to the plaintiff to export 15,000 maundy of Churi and it remained in force up to 2-12-1947, because of extensions of period given from time to time. The plaintiff-firm could, However, export only 4,572 maunds 27 seers of Churi and since the date of permit was not extended beyond 2-12-1947, the remaining quantity could not be exported. The customs duty on the quantity which was exported amounted only to Rs. 9,145/-.

The plaintiff demanded the return of the excess deposit which was made by it and since its request was turned down, it filed the present suit for the refund of Rs. 20,855/- & further claimed Rs. 7,714/ 8/- as interest at 12 per cent p- a. up to the date of the notice which was served on the defendant, under S, 80 of the Code of Civil Procedure. In the remaining cases also, out of which the other 4 appeals have arisen, the plaintiffs had filed their suits for the refund of export duty on similar grounds. The State of Rajasthan contested all the claims but all the suits were decreed with some variations in the amounts claimed,

23. The main contentions on behalf of the State in the courts below were that the plaintiffs had not deposited the amounts as advance export-duty but that there was an agreement between them and the former Dholpur State that they would export the entire bulk of the commodity for which permits were issued to them, within the time allowed in the permits, that they had obtained the permits irrespective of the consideration whether the commodity would be exported or not and therefore they were not entitled to the refund of the amount, A plea of limitation was also raised in some cases and the plaintiffs' right to claim interest was also challenged.

When the case came before the division bench, it was urged for the first time, that there was no law in the former Dholpur State to enable the plaintiffs to file a suit against that State. It was further urged, in the alternative, that the contractual obligations of the former Dholpur State did not devolve upon the State of Rajasthan, and, therefore, at any rate, it was not liable to refund the amount claimed by the plaintiffs, and that according to laws in force in the Dholpur State, that State could not be sued against by the plaintiffs.

24. After discussing the evidence of both the parties at length, Bhandari J. has arrived at the conclusion that the deposit which was made by the plaintiffs was a deposit of customs duty in advance and that the defendant had hopelessly failed to prove that there was any agreement with the plaintiffs at the time when the permits were granted, that the aforesaid amounts would not be refundable. He has observed that the argument raised on behalf of the defendant in this respect is an after-thought. He has further held that the plaintiffs were entitled to recover that amount which remained due to them after deducting the amount due as customs duty of the commodity which was actually exported. According to him, there was an implied agreement between the parties that the amount which would not be utilized for payment of customs duty would be refunded by the State of Dholpur.

He has further found that the Indian 'Contract Act, the Code of Civil Procedure and the Indian Limitation Act were in force in the former State of Dholpur and that the plaintiffs were entitled to recover the amount under Section 70 of the Indian Contract Act. He has exhaustively dealt with the question whether the State of Dholpur could be sued in its courts of law before its merger with the Matsya Union, and his finding is, that the said State could be sued in its own courts. Modi J. has not dissented from these findings and thus it is clear that both the learned Judges have concurrently held that the amounts decreed by the trial court in favour of the plaintiffs in the four cases were refundable to them by the former State of Dholpur and that the said State could be sued against in its own courts for the return of these amounts.

It is only in Second Appeal No. 276 of 1954 that it has been held that the suit was time-barred when it was filed' and therefore liable to dismissal. The suits out of which the remaining 4 appeals have arisen have been found to have been filed within the period of limitation. So far, there is no divergence of views between the learned Judges. They further seem to be of the view that although the obligations of the former Dholpur State devolved upon the United State of Rajasthan, because of the provisions contained in Article 6 of the Covenant, no suit could be filed against the United State of Rajasthan on the basis of the Covenant in view of the decision of their Lordships of the Supreme Court in AIR 1958 SC 816.

The difference in their views start hereafter. In the opinion of Modi J., since the United State of Rajasthan, as it stood before the commencement of the [Constitution of India](#), could not be sued against the Part B State of Rajasthan also was not liable to be sued and, therefore, all the suits were liable to dismissal. Bhandari J., on the other hand, is of the view that by virtue of Article 295(2) of the [Constitution of India](#), the Part B State of Rajasthan became the successor not only of the United State of Rajasthan but also of the various covenanting States out of whose amalgamation the United State of Rajasthan was constituted, and, therefore, a suit against Part B State of Rajasthan could be entertained by the courts of that State, even though the United State of Rajasthan could not be sued in its municipal courts, in respect of the liabilities of Dholpur State.

In his view, the expression 'Government of the corresponding Indian State' used in Article 295(2) of the [Constitution of India](#) meant not only the Government of the United State of Rajasthan which was in existence at the commencement of the Constitution, but it also included the Government of the various covenanting States which merged in the United State of Rajasthan. In the opinion of Modi J., however, the said expression meant only the Government of the United State of Rajasthan which was in existence at the commencement of the Constitution.

25. The case on behalf of the appellant was first argued by the learned Deputy Government Advocate and later by the learned Advocate General. Since, only one point of law has been referred to us, they have neither challenged nor admitted before us the correctness of the findings of both the learned Judges to the effect that the former State of Dholpur could be sued against in its own courts for; the amounts claimed by the plaintiffs and if that State had continued to exist, the amounts decreed by the trial court would have been refundable to them, except in Second Appeal No. 276 of 1954. The arguments before us have proceeded on the assumption that the said findings are correct.

They have supported the view taken by Modi J. about the interpretation of Article 295 of the [Constitution of India](#). On the other hand, the learned Advocates for the plaintiffs have urged that the obligations and liabilities of the former Dholpur State had devolved on the United State of Rajasthan, that both the learned Judges were

not correct in holding that the United State of Rajasthan could not be sued against in respect of the said obligations and liabilities, and so even on the interpretation given to Article 295 by Modi J., the present State of Rajasthan was liable to be sued. It is urged that the present case is distinguishable from Messrs. Dalmia Dadri Cement Co.'s case, AIR 1958 SC 816. It is further urged, in the alternative, that the interpretation placed upon Article 295(2) by Bhandari J. is quite correct,

26. It may be observed at the outset that though the learned Judges have referred to us only the question relating to the interpretation of Article 295 (2) of the [Constitution of India](#), yet, if we confine ourselves strictly to the interpretation of that Article only we are likely to be misunderstood to mean that we agree with the learned Judges in their opinion to the effect that the United State of Rajasthan was not liable to be sued in the present cases. Moreover, the mere interpretation of the provisions of Article 295(2) does not solve the real difference of opinion which has arisen between the two learned Judges.

Article 295 only deals with the question of succession of property, assets, rights, liabilities and obligations of the successor States and strictly speaking it is Article 300 which deals with the question as to the manner in which, and the matter in respect of which they could sue or be sued against. It would be pertinent to point out that Modi J. has reproduced in his judgment of the present cases the observation made by him earlier in State of Rajasthan v. Madan-swamp. First Appeals Nos. 73 and 77 of 1954, D/-28-8-1959: (AIR 1960 Raj 138). The relevant extract is as follows :

'I am fully conscious that the rights, liabilities and obligations of each of the Covenanting States had earlier been taken over by the new United State itself, but that was under the Covenant, which, as already discussed above, no subject of the Old Covenanting States could enforce in the courts of the New State and were, therefore, of no avail against the latter in its municipal courts'.

In the present case, he has again observed as follows:

'All such rights and liabilities of the various Covenanting States had already devolved by virtue of the Covenant on the United State of Rajasthan, much before

the Constitution came into force and there they rested for what they were worth'.

There is thus no difference of opinion between the two learned Judges about the fact that rights, liabilities and obligations of the Covenanting States had devolved on the United State of Rajasthan by virtue of the Covenant. So, whether the term 'Government of the corresponding Indian State' be interpreted to mean in the present case, the United State of Rajasthan, as held by Modi J. or the United State of Rajasthan inclusive of all the Covenanting States as interpreted by Bhandari J., the Part B State of Rajasthan became the successor of the rights, liabilities and obligations which had devolved upon the United State of Rajasthan by virtue of the Covenant.

The real difference between the learned Judges is on the question whether the liabilities and obligations of the former Dholpur State were enforceable against the Part B State of Rajasthan in its municipal courts on the date when the suits were filed. In order to resolve this difficulty, it is necessary first to decide the question whether the United State; of Rajasthan could be sued against by the plaintiffs before the [Constitution of India](#) came into force.

27. It is obvious that the present difference would not have arisen between the learned Judges if they were to hold that the United State of Rajasthan could be sued¹ against, in respect of the causes of action on which the present suits were based. The main reason which led the learned Judges to arrive at the conclusion that the United State of Rajasthan could not be sued against, is the decision of their Lordships of the Supreme Court in *Dalmia Dadri Cement Co.'s case* AIR 1958 SC 816.

We have gone through that case carefully and we think that it is clearly distinguishable from, the present cases for reasons which follow hereafter. It may be remarked at this stage that their Lordships of the Privy Council have pointed out in more than one case, that their observations should be read and understood in the context of the facts and circumstances of the case in which they were made. We may refer in this connection to *Punjab Co-operative Bank Ltd. v. Commr. of Income-tax, Lahore*, AIR 1940 PC 230 in which their Lordships of the Privy, Council reproduced with approval, the following remarks of Lord Halsbury in *Quinn*

v. Leatham, (1901) AC 495:

'every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed or qualified by the particular facts of the case in which such expressions are to be found'.

This general principle equally applies to the judgment of their Lordships of the Supreme Court.

28. Let us now consider the ratio decidendi of Dalmia Dadri Cement Co.'s case, AIR 1958 SC 816. In that case, the said company had obtained certain concessions from the ruler of Jind and one of the concessions was that the company would be assessed to income-tax in accordance with the State procedure but the rate of income-tax shall always be 4 per cent up to the limit of the income of Rs. 5 lacs and 5 per cent on such income as is in excess of Rs. 5 lacs. On 15-8-1947, when India became independent, the ruler of Jind signed an instrument of accession and on 5-5-1948, 8 rulers of the States in East Punjab including Jind entered into a Covenant for the merger of their territories into one State, called the Patiala and East Punjab States Union.

In accordance with Article 6 of the Covenant, the Rajprarmukh of the Patiala Union took over the administration of Jind, on 20-8-1948, and immediately after assumption of office, he promulgated the Patiala and East Punjab States Union Administration Ordinance No. 1 of Smt. 2005. By Section 3 of the said Ordinance it was provided that all laws, Ordinances, Acts, Rules, Regulations, Notifications etc. having force of law in Patiala State on the date of the commencement of the Ordinance shall apply mutatis mutandis to the territories of the said State and with effect from that date all laws in force in such Covenanting States immediately before that date, shall be repealed.

Thereafter, the said Cement Company was assessed to income-tax for the year 1949-50 according to the rate provided in the Patiala Income-tax Act. The validity of the assessment by the application of the Patiala Income-tax Act was challenged

before their Lordships of the Supreme Court and the first ground urged by learned counsel for the appellant Company was, that the ruler of Jind was an absolute monarch, his word was law and the agreement Ex. A should, therefore, be held to be a special law conferring rights on the licensees. It was urged that this being a special law and Sec. 3 of Ordinance No. 1 being a general provision, it should be so construed as not to affect the rights of the appellant under Ex. A.

This argument was repelled by their Lordships and it was held that in view of the clear language of Section 3 of the said Ordinance, all laws in force in the Covenanting States stood repealed. It may be pointed out here, that the first outstanding feature of the above case was that all the laws prevailing in the Covenanting States of the Patiala Union were repealed by Ordinance No. 1, but, as will be pointed out hereafter, in the present cases the laws prevailing in the Covenanting States out of which the United State of Rajasthan was formed were continued in force and the consequential effect of this continuance of laws was, in our opinion, not properly appreciated.

Then, it was next contended by learned counsel for the said Dalmia Dadri Cement Company that even if the Ordinance be construed as having annulled the special law contained in Ex. A, it was in contravention of Article 6 of the Covenant and therefore it was unconstitutional and void. It may be pointed out that it was in connection with this argument that their Lordships observed that the Covenant was an Act of the State and a claim based thereon could not be enforced in the municipal Courts of the new State. Then, it was urged by learned counsel for the appellant company that the Patiala Union had in fact affirmed the agreement and therefore it was bound by it. Dealing with this argument it was observed by their Lordships as follows:

'If there were any acts of the new State which were equivocal in character, it would have been possible to hold in the light of Article VI of the Covenant that its intention was to affirm the concessions in Clause (23) of Ex. A. But the act of the new sovereign immediately after he became in titulo was the application of the Patiala State Laws including the Patiala Income-tax Act to the territories of Jind involving negation of those rights.'

These observations are very weighty and let us now examine in their light the position which prevailed in the State of Rajasthan.

29. The 'integration of the Rajputana States, as pointed out in the White Paper on Indian States (p. 53) was completed in several stages. The Rajasthan Union was originally formed by 9 States, namely, Banswara (including Khushalgarh), Bundi, Dungarpur, Jhalawar, Kishangarh, Kotah, Pratapgarh, Shahpura and Tonk. This first United State of Rajasthan was inaugurated on 25-3-1948. Subsequently, the Maharana Sahib of Mewar also agreed to join this Union and a second Union was then inaugurated on 18-4-1948. The Rulers of these 10 States entered into a Covenant. Thereafter, the Maharana Sahib of Mewar became the Rajpramukh of the United State of Rajasthan.

In Article 61.(b) and (c) of that Covenant it was provided that all duties and obligations of the Ruler pertaining or incidental to the Government of the Covenanting State shall devolve on the United State and shall be discharged by it, and all the assets and liabilities of the Covenanting State shall be the assets and liabilities of the United State. On 26-4-1948, the Rajpramukh promulgated Ordinance No. 1 of 1948 and S 3 thereof ran as follows:

'Continuance of existing laws in the Covenanting States.

When the administration of any Covenanting State has been taken over by the Rajpramukh as aforesaid all laws, Ordinances, Acts, Rules, Regulations, and Notifications having the force of law in the said State shall continue to remain in force until repealed or amended by a competent authority or unless otherwise provided in this Ordinance or any other Ordinance, and shall be construed as if a reference in them to the Ruler of the State were reference to the Raj Pramukh.'

30. It is clear from the said section that all the laws which were prevailing in the 10 covenanting States continued to remain in force until they were repealed or amended by a competent authority. It was also provided that reference to the Ruler in the laws would be construed as reference to the Rajpramukh. In Section 16 of the said Ordinance, it was provided that the provisions of Arts. 15 and 17 of the Covenant relating to the bar of certain suits and proceedings shall have the

force of law.

In other words, it was made clear that the Courts were not to entertain suits and proceeding in relation to matters provided in the said two Articles. It is noteworthy, that no similar bar was imposed in respect of other Articles of the Covenant. In Section 20, it was provided that 'all Courts of the United State of Rajasthan shall take judicial notice of the Covenant'. So the position was quite clear that if any of the covenanting States could be sued against in accordance with the laws in force in those States, the United State of Rajasthan could also be sued on the basis of the same laws.

When it was provided by the Rajpramukh in the Ordinance that all the Courts shall take judicial notice of the Covenant, did he simply mean that the Courts must take judicial notice of the fact that a Covenant was entered into by certain States, or whether he meant to say that the Courts will take judicial notice of the terms of the Covenant? This is a serious question which may have to be decided in some case. We need not enter into this discussion at this place, because this Ordinance is not material for the purpose of the present cases.

The object of referring to this Ordinance is only to point out that the Rajpramukh as representing the Government of the United State of Rajasthan from the very beginning, had bound: himself with the laws of the Covenanting States and taken upon the New State, the duties and obligations of the covenanting States if they were enforceable according to the laws of those States.

The second Rajasthan Union, pointed out above, came to an end on 30-3-1949, when the third United State of Rajasthan was formed with the integration of 4 more States, namely, Jaipur, Jodhpur, Bikaner and Jaisalmer with the former Rajasthan Union. The rulers of these 14 States then entered into a fresh Covenant which is reproduced in the White Paper at page 274.

31. Almost simultaneously with the formation of the first Union of Rajasthan States, referred to above, another Union of 4 States was formed and that was known as the Matsya Union. It was inaugurated on 18-3-1948. It consisted of the States of Alwar, Bharatpur, Dholpur and Karauli. These States also entered into a

Covenant. On 10-5-1949, there was an agreement between the Rajpramukh of the Third United State of Rajasthan and the Rulers of Alwar, Bharatpur, Dholpur and Karauli whereby the United State of Matsya integrated with the United State of Rajasthan from 15-5-1949. It was this Fourth United State of Rajasthan which continued by the time the [Constitution of India](#) came into force.

32. Here, it may be pointed out that soon after the United State of Matsya was formed, the Rajpramukh of that State had promulgated Ordinance No. 3 of 1948 and Section 11(1) thereof ran as follows:

'The enactments for the time being in force in any of the covenanting States shall apply and continue to be in force in that State until otherwise enacted.'

This provision makes it quite clear that all the laws which were in force in the 4 covenanting States (including Dholpur), out of which the Matsya Union had emerged, were continued within the territories of the said covenanting States so long as that position was not changed by a fresh enactment. This means that all laws which were in force in the former State of Dholpur continued to remain in force even after the formation of the Matsya Union so far as the territory of Dholpur State was concerned. Learned Deputy Government Advocate conceded before us that the laws, which were in force in Dholpur State, were not abrogated by any enactment by the time the Dholpur State merged into the United State of Rajasthan in 1949.

33. Now, the Rajpramukh of the United State of Rajasthan promulgated on 7-4-1949, (i.e., prior to the merger of the Matsya Union with the United State of Rajasthan) Rajasthan Administrative Ordinance No. 1 of 1949 and Section 3 thereof ran as follows:

'3. Continuance of existing laws-- (i) All the laws in force in any Covenanting State immediately before the commencement of this Ordinance in that State shall, until altered or re-pealed Or amended by a competent Legislature or other competent authority, continue in force in that State subject to the modification that any reference therein to the Ruler or Government of that State shall be construed as a reference to the Rajpramukh, or, as the case may be, to the Government of

Rajasthan.

(ii) In this section 'law' means any Act, Ordinance, regulation, rule, order, or bye-law which, having been made by a competent Legislature or other competent authority in a Covenanting State, has the force of law in that State.'

A perusal of this provision would show that all the laws which were in force in the 14 Covenanting States mentioned in the said Ordinance, before the commencement of the Ordinance, were kept continuing in force and it was further provided that they would remain to continue in force so long as they were not altered, repealed or amended by a competent Legislature or other competent authority. It was also provided that any reference in those laws to the ruler or Government of that State shall be construed as a reference to the Rajpramukh or, as the case may be, to the Government of Rajasthan.

This Ordinance was amended by Ordinance No. 5 of 1949 promulgated on 24-5-1949, after the merger of the State of Matsya with the United State of Rajasthan. Section 3 of this. Amendment Ordinance No. 5 shows that Ordinance No. 1, referred to above, also became applicable to the States which were comprised in the State of Matsya. In other words, it also became applicable to Dholpur State with which we are concerned in the present cases. By Section 4 of the said Amendment Ordinance, it was also provided that the constitution of the Government Or Administration of a Covenanting State in force in that State at the commencement of the Ordinance, shall with effect from such commencement be deemed to be in abeyance. It is obvious from the said provisions that all the laws which were in force in the former State of Dholpur continued to remain in force even after its merger with the United State of Rajasthan, except of course the constitution of that State if there was any.

34. It may be pointed out that the position of law in the present case is thus very different from that which obtained in the case of Dalmia Dadri Cement Co.'s case, AIR 1958 SC 816. In the said case, the Rajpramukh of the Patiala Union had repealed all the laws of the Covenanting States and therefore the agreement Ex. A in that case which was put forward as a special law on behalf of the company was annulled.

In the present case, all the laws, substantive and procedural, which were prevalent in the former Dholpur State continued to remain in force even after its merger with the United State of Rajasthan and their continuance was re-affirmed by the Rajpramukh of the State by means of an Ordinance. This is a cardinal distinction and although it seems to have been pointed out to the learned Judges, during the course of arguments, it did not receive their approval. Bhandari J., observed that:

'mere continuance of a law would not mean that the obligations of the former State of Dholpur devolved on the State of Rajasthan. There was nothing in those laws from which it can be inferred that such would have been the result. As between the subject and the subject, the continuance of the existing law did bring about that result but as between the subject and the State, it cannot be said that the Government of Rajasthan has become the successor of all the rights and liabilities of the Government of the former State of Dholpur. The only point that can be inferred from the continuance of existing laws is that the right of the plaintiff to recover the money deposited remained intact so far as the Government of the former State of Dholpur was concerned. But that State had ceased to exist and the new State, which, had come into existence, had not taken on itself expressly or by implication the liability arising out of the contract with the plaintiff till the time the Constitution came into force.'

The learned Judge has deduced the above result from the decision of their Lordships of the Supreme Court in *Dalmia Dabri Cement Co.'s case*, AIR 1958 SC 816. We have given our earnest consideration to the said observation and with great respect we find it difficult to agree with it. We are unable to understand how the laws of the former State of Dholpur continued to govern the relations only between the subject and the subject of the Dholpur State and how they ceased to have any effect on the successor of that State when the successor State made it clear in unequivocal terms that the said laws would continue to remain in force.

If the subject of the former Dholpur State were bound by those laws, the successor State, which continued then, was equally bound by the same, since it stepped into the position, of the 'Dholpur State. The last portion of Section 3 of Administration Ordinance No. 1 of 1949 is very significant. It says in clear terms that any

reference in the laws of the covenanting State to the Ruler or Government of that State shall be construed as a reference to the Rajpramukh or, as the case may be, to the Government of Rajasthan. The learned Judges have not referred to this portion of the said section and it may be that their attention was perhaps not drawn to it.

In our opinion, this section clearly shows that the Rajpramukh and the Government of the United State of Rajasthan, consciously and, knowingly, stepped into the position which was respectively occupied by the ruler and the Government of the former Dholpur State and if according to the laws (i.e., Civil Procedure Code, Contract Act and others) of the Dholpur State, the ruler or the Government) thereof could be sued against, the new. State could also be sued against in the same way. If the new 'State wanted to exempt itself from the, legal obligations of the, former State of Dholpur, it ought to have and must have said so while promulgating the Ordinance, as was done by the Rajpramukh of the Patiala Union.

In the present case, however, the subjects of the former Dholpur State had derived their right to sue that State in its municipal Courts from the laws which were prevalent in that State before its merger. When the same laws 'were continued by Administration Ordinance No. 1 of 1949 and when it was expressly laid down that the reference in 'those laws to the Ruler or Government of that State should henceforth be construed as a reference to the Rajpramukh or the Government of Rajasthan, as the case may be, then it became crystal clear that the rights of the citizens of the former State of Dholpur to sue the successor State in its municipal Courts was recognised in unmistakable terms.

In other words, the rights of the said subjects to sue the new sovereign in his municipal Court were kept alive in spite of merger, because the laws and regulations which applied to the municipal Courts of Dholpur State and which governed the rights and obligations of that State and its subjects were not only not abrogated but, on the other hand, they were expressly continued to prevail. Therefore, if the former Dholpur State had any contractual obligations under the laws prevailing in that State and if it could be sued in its municipal Courts, those obligations devolved upon the successor State and it could likewise be sued on

their basis in its municipal Courts.

Thus, Section 3 of the said Ordinance read with Article 6 of the Covenant leaves no room for any doubt that the obligations of the Dholpur State devolved upon the United State of Rajasthan and the new State accepted the position that it would be bound by the laws of the Dholpur State in the same manner and to the same extent, as the ruler or the Govt. of the former State of Dholpur was bound by them. This legal position is clearly implied in the observation of their Lordships of the Supreme Court in Dalmia Dadri Cement Co.'s case., AIR 1958 SC 816, that:

'If there were any acts of the new State which were equivocal in character, it would have been possible to hold in the light of Article VI of the, Covenant that its intention was to affirm the concessions in Clause (23) of Ex. A.'

35. Learned Deputy Government Advocate has urged that this Court should not look into the terms of the Covenant because it was a sort of treaty between the rulers of the Covenanting States and the new State could not be sued upon in its municipal Courts on their basis. He has referred to the observations of their Lordships of the Privy Council made in Secy, of State v. Bai Rajbai, AIR 1015 PC 59; AIR 1924 PC 216 and AIR 1941 PC 64.

It is also urged that these cases have been cited with approval by their Lordships of the Supreme Court in Dalmia Dadri Cement Company case, AIR 1958 SC 816. In reply, it has been urged by learned advocates for the plaintiffs that the Privy Council cases, referred above, related, to cases of acquisition of territories either through' conquest or cession. It is pointed out that in AIR 19.15 PC 59 a particular territory was ceded by a, native ruler to the British Government. In AIR 1924 PC 216 the Scindia of Gwalior had ceded certain lands in Panch Mahals to the British Government by a treaty.

Similarly, in AIR 1941 PC 64 there was an agreement between Khan of Kalat and the Agent to the Governor-General in Baluchistan, whereby the Khan of Kalat had granted to the British Government a perpetual lease of the Nasirabad Nisbat which was a part of the Kalat territory. In all the three cases, the plaintiffs wanted to enforce their rights which they enjoyed during the legime of the previous rulers and

they wanted to take support; of the treaties.

It was in those circumstances that their Lordships proceeded to propound and explain the position of international law. It has been argued that in the State of Rajasthan there was no question of conquest of one ruler by the other ruler or of cession of a territory by one ruler to another ruler. All the rulers before integration of their States were sovereign in their own States. The Maharana Sahib of Mewar who was Maharajpramukh of the New State or the ruler of the former State of Jaipur, who was the Rajpramukh of the New State had not conquered other rulers, nor had they ceded their territories to them.

On the other hand, the rulers of the various Covenanted States in Rajasthan were guided by a patriotic spirit of cooperation in order to set up a democratic State in Rajasthan and it was with that object in view that they adjusted their sovereignty to form a United State of Rajasthan by mutual and voluntary agreement in the plenitude of their respective sovereignty and not under any force or pressure vis-a-vis a conqueror and conquered. By forming this New State, they were not trying to achieve anything for themselves, but all that was done by them was in the interests of their own subjects.

It has been argued that a treaty pre-supposes an agreement between two independent rulers. Generally, a treaty follows a war or dispute between the conqueror and the conquered or a victor and the vanquished. Similarly, in the matter of cession some territory is ceded by one sovereign to another sovereign. In such cases the sovereign, who gets a certain territory may not feel himself bound by the obligations of the previous ruler, and therefore the international law as propounded by their Lordships was based on historical traditions.

It is contended that international law is not a codified law but it is based on historical traditions and the views of the jurists. According to learned counsel, the international law, which their Lordships of the Privy Council had expounded, was laid down in very different circumstances. Learned counsel have taken us through the entire Covenant and pointed out that Article 1 thereof defined the Covenanted States, that by Article 3, they had agreed to unite and integrate their territories in one State with a common executive, legislature and Judiciary by the name of the

United State of Rajasthan and provision was also made to include therein, any other State, the ruler of which wanted to enter into an agreement with the Rajpramukh.

Then, Article 3 laid down that there would be a Council of Rulers and it also provided how the President and Vice-President would be elected and in what manner that Council would function. Then, it is pointed out that Article 6 clearly laid down that all duties and obligations of the ruler pertaining or incidental to the Government of the Covenanting State shall devolve on the United State and shall be discharged by it and that the assets and liabilities of the Covenanting State shall be the assets and liabilities of the United State. Particular stress has been laid on Clause (2)(a) of Article 6 which says that all rights, authority and jurisdiction belonging to the ruler, which appertain or are incidental to the Government of the Covenanting State, shall vest in the United State and shall thereafter be exercisable only as provided by this Covenant or by the Constitution to be framed thereunder.

It has been argued that the words 'exercisable only as provided by this Covenant or by the Constitution to be framed thereafter' clearly show that the Covenant was to be treated as an interim or tentative Constitution so long as a new Constitution was not framed. By Article 10 it was laid down that a Constituent Assembly would be formed and that it would be the duty of the said Assembly to frame a Constitution for the United State and until that Constitution was framed, the legislative authority would vest in the Rajpramukh.

It has been argued that thus the United State of Rajasthan was itself a creature of the Covenant, that it could function only in terms of the Covenant, and, therefore, it was nothing but an interim Constitution for the State. It was through this Covenant that the New State got all its rights, authority and jurisdiction belonging to the rulers and which appertained and were incidental to the Government of the Covenanting States and so also, all the duties and obligations of the previous rulers or the Government of the Covenanting States devolved on the United State of Rajasthan, Learned counsel for the plaintiffs have also referred to us Pitt Cobbett's Leading Cases on International Law, Vol. 1, Sixth Edn. at p. 73.

It is pointed out that according to the author succession in International Law may be grouped into two heads, i.e., (i) partial succession where a part of one State is severed from the parent stock and either becomes independent or is incorporated in another State and (ii) universal succession where an entire State is absorbed by some other State or by a union of States. They have drawn our particular attention to the following passage appearing at p. 80:

'Thus, if the Government of the absorbing State be a 'unified' Government then it will succeed to all the public domain and property, and the prerogative rights of the State absorbed, without qualification. It will also become liable for all civil obligation, including the State debts, whether general or local, and this apparently without regard to the value of the assets received.'

On the basis of the above passage it has been urged that the cases before their Lordships of the Privy Council, referred above, were those of partial succession and therefore they were not quite applicable to the present cases which are those of universal succession, They have referred to the following passages on the subject of succession of International persons from International Law by L. Oppenheim (Vol. 1, 6th Edn. p. 151):

'Although there is no unanimity among the writers on international law with regard to the so-called succession of International Persons, nevertheless the following common doctrine can be stated to exist:

A succession of International Persons occurs when one or more International Persons take the place of another International Person, in consequence of certain changes in the latter's condition.

Universal succession takes place when one International Person is completely absorbed by another, either through subjugation or through voluntary merger. And universal succession further takes place when a State breaks up into parts which either become separate International Persons of their own or are annexed by surrounding International Persons....there is a considerable body of authority among text-writers in favour of the view that the absorbing State is bound by the contracts of the extinct State -- for instance, a contract for the building of warships,

or for coaling a fleet; but it is believed that no judicial authority is in existence' (page 155).

36. We have given due consideration to these arguments and it would suffice to say that the merger of the various States into viable units in India, is a peculiar outstanding event which has no exact parallel in the annals of the various countries of the world. A Full Bench of this Court in *Bahadur Singh v. Rajpramukh of Rajasthan*, ILR (1955) 5 Raj 693: (S) AIR 1955 Raj 135, had considered the Covenant of 1949 to be a constitutional arrangement during the interim period. Again in *Purshotam Singh v. Narain Singh*, ILR (1955) 5 Raj 995: ((S) AIR 1955 Raj 203), it was held that the Covenant) of 1949 being the Constitution of the new State abrogated any law which was not' consistent with it.

The same position was again accepted by a Full Bench of this Court in *Associated Stone Industries Kotah) Ltd. v. Union of India*, ILR (1958) 8 Raj 700. These judgments were not cited before their Lordships of the Supreme Court in *Dalmia Dadri Cement Co. Case*, AIR 1958 SC 816. We venture to think that some of the arguments raised by learned counsel for the respondents need consideration of their Lordships of the Supreme Court. His Lordship Vivian Bose, J. while agreeing with the majority view himself observed in the above case as follows:

'I feel it may be a pity for us to disregard the trend of modern International thought and continue to follow a line of decisions based on the views of an older imperialism, when we are not bound by them and are free to mould our own laws in the light of modern thought and conceptions about rights to and in immoveable property.'

Despite these weighty reasons to the contrary with which we feel naturally impressed, since the majority of their Lordships of the Supreme Court are pleased to hold that the Covenant was not an interim constitution, we have no option but to reject that argument. We cannot now call the Covenant as an interim constitution of the United State of Rajasthan, but this does not mean that we cannot even look into the terms of the covenant.

It is one thing to say that the Covenant is not a constitution, that it is an Act of the State and that a suit cannot be based simply on that document in the municipal Courts of the new State and it is quite a different thing to use it for evidentiary purposes. It may be pointed out that even in *Dalmia Dadri Cement Co. case*, AIR 1958 SC 816 when it was argued that

'Article 6 of the Covenant would at least be a valuable evidence from which affirmance of the rights could be inferred',

it was observed by their Lordships as follows :

'This is so, but that inference must relate to Act or conduct of the new State, and that can only be after its formation on 20-8-1948. If there were any acts of the new State which were equivocal in character, it would have been possible to hold in the light of Article VI of the Covenant that its intention was to affirm the concessions in Clause (23) of Ex. A. But the act of the new sovereign immediately after he became in title was the application of the Patiala State laws including the Patiala Income-tax Act to the territories of Jind involving negation of those rights.'

It is obvious from the above observation that even their Lordships considered the Covenant as a valuable piece of evidence and if there were any acts of the Patiala Union which were equivocal in character, their Lordships would have been prepared to see in the light of the Covenant if the new State intended to affirm the concessions which were given by the Ruler of Jind to the Company. But since the new State repealed the earlier laws and legislated new ones as soon as it was formed, the position in that case was totally changed.

We have already discussed above at length that so far as the United State of Rajasthan was concerned the laws of the Dholpur State were knowingly continued in force by the new sovereign and it was further laid down that reference to the ruler or the Government of the Dholpur State would be construed as reference to the Rajpramukh or the Government of Rajasthan in those laws. It may be pointed out that in AIR 1954 SC 680, *Shri Bholanath* was a Judicial Officer in Wadhwan State till its administration was handed over to Saurashtra Government on 16-3-1948. The ruler of Wadhwan had earlier promulgated Dhara Act whereby the

superannuation age of civil servants was fixed at 60.

After the administration of Wadhwan State was taken over by the Saurashtra Government, Shri Bholanath was made to retire on the ground that he had reached the age of superannuation at 55. He, therefore, filed a suit against the Saurashtra State that the guarantee contained in Article 16 of the Covenant which was sought to be enforced by the plaintiff could not be so enforced in the municipal Courts. This contention was repelled by their Lordships and it was observed that:

'When the Wadhwan State merged with the Saurashtra State and again when it acceded to the Dominion of India all the existing laws continued until repealed. It follows that the appellant's rights under the Dhara No. 29 of St. 2004 were still good and could have been enforced in the municipal Courts until either repealed or repudiated as an act of State. These rights were carried over after the Constitution when the Indian Republic was formed with this important difference, viz., that as the appellant then became an Indian citizen the repudiation 'as an act of State' was not any longer possible. The only way therefore to defeat his rights was by legislation if that could be done under the Constitution.

There was in fact no such legislation and therefore his rights remained and the municipal Courts would be entitled to examine the contract and apply the Dhara No. 29 of St. 2004 and enforce whatever rights the appellant had under that Dhara and his contract of service. (See Article 300(1) and Article 372(1) of the Constitution). The Covenant could be looked at to see whether the new sovereign had waived his rights to ignore rights given under the laws of the former sovereign. The terms of the Covenant showed that the existing laws were to continue and whatever the rights of the appellant; were under the existing laws were available for enforcement to the appellant and there was no bar to the municipal Courts entertaining a suit to enforce such rights.'

It may be observed that the present cases are more akin to Bholanath's case, AIR 1954 SC 680, than to that of Dalmia Dadri Cement Co., case, AIR 1958 SC 816. Section 3 of the Rajasthan Administration Ordinance No. 1 of 1949 read in the light of Article 6 of the Covenant leaves no room for doubt in our mind that the

suits out of which the present appeals have arisen could be brought against the United State of Rajasthan in the same way as they could be brought against the former State of Dhol-pur during its existence and simply because of the voluntary integration of the State of Dholpur with the United State of Rajasthan, the rights of the plaintiffs were not affected.

37. Learned Deputy Government Advocate has also referred us to the case of Shree Umaid Mills Ltd. v. Union of India, ILR (1959) 9 Raj 984: (AIR 1980 Raj 92), but that case is of little help to him. It was remarked in that case that the plaintiff had relied on Article 6(2) of the Covenant in the trial Court in asserting that the agreement was binding on the successor State, namely, the United State of Rajasthan, but that stand was given up when the case was argued before the learned Judges of the High Court. There is no discussion in that case on the points which have been raised before us.

38. It would now be proper to take up the matter relating to the interpretation of Article 295 of the [Constitution of India](#) which runs as follows:

'295. (1) As from the commencement of this Constitution--

(a) all property and assets which immediately before such commencement were vested in any Indian State corresponding to a State specified in Part B of the First Schedule shall vest in the Union, if the purposes for which such property and assets were held immediately before such commencement will thereafter be purposes of the Union relating to any of the matters enumerated in the Union List, and

(b) all rights, liabilities and obligations of the Government of any Indian State corresponding to a State specified in. Part B of the First Schedule, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations of the Government of India, if the purposes for which, such rights were acquired or liabilities or obligations were incurred before such commencement will thereafter be purposes of the Government of India relating to any of the matters enumerated in the Union List,

subject to any agreement entered into in that behalf by the Government of India with the Government of that State.

(2) Subject as aforesaid, the Government of each State specified in Part B of the First Schedule shall, as from the commencement of this Constitution, be the successor of the Government of the corresponding Indian State as regards all property and assets and all rights, liabilities and obligations, whether arising out of any contract or otherwise, other than those referred to in Clause (1).'

Now there seems to be no difference of opinion between both the learned Judges to the extent that the United State of Rajasthan came within the meaning of the term 'corresponding Indian State used in Clause (2) of the said Article. It has been held above that the rights, liabilities and obligations of the various covenanting States constituting the United State of Rajasthan had devolved upon the latter State and that it could be sued in its municipal Courts in respect of contractual obligations of the covenanting States.

Therefore, by virtue of the provisions of Article 295(2) the Government of Part B State of Rajasthan and later on, the Government of the present A State of Rajasthan, became successor of the property, assets, liabilities and obligations of the Government of the United State of Rajasthan which was undoubtedly an Indian State in existence at the time of the commencement of the Constitution and which corresponded to Part B State of Rajasthan mentioned in Schedule 1 Part B of the Constitution.

In this view of the matter, the difference of opinion which has arisen between the learned Judges has little importance left for purposes of the present cases and the conclusion arrived at by Bhandari J., about the responsibility of the State of Rajasthan in respect of the obligations of the Dholpur State, would be correct, though for different reasons.

39. We have now to answer the later part of the reference 'whether the expression 'Government of the corresponding Indian State' also includes the Government of the covenanting States which had integrated with the United State of Rajasthan before the Constitution came into operation'. In order to determine this question it

would be proper to first decide whether the term 'Indian State' has been used in the Constitution only in one sense or in more than one. The term 'Indian State' is defined in Article 366 Clause (15) as follows:

'Indian State' means any territory which the Government of the Dominion of India recognised as such a State' .

A perusal of the White Paper on Indian States (pp. 327-330) shows that the rulers of each one of the covenanting States which eventually integrated with the United State of Rajasthan had acceded to the Dominion of India by Instruments of Accession executed in August, 1947, and thus they came within the definition of the term 'Indian State' given above. Similarly, after the formation of the United State of Rajasthan the Rajpramukh of the United State acceded to the Dominion of India and therefore this new State also came within the definition of the above term. In Article 363 of the Constitution it is provided in Clause (2) as follows:

'In this Article 'Indian State' means any territory recognised before the commencement of this Constitution by His Majesty or the Government of the Dominion of India as being such a State.'

It is apparent that the language of Sub-clause (2) shows that the term 'Indian State' has been given a very wide meaning and it denotes not only that territory which was recognised by the Government of the Dominion of India as being such a State but also that territory which was recognised by His Majesty as a State. It may be pointed out, that although it appears from Sub-clause (2) as if this wide meaning has been given only for this Article, but the perusal of other Articles would show that the term 'Indian State' has been used in the sense of old covenanting States at other places as well.

For instance', in Article 291, the term 'Indian State' can only mean a covenanting State, or what at one time used to be called as an Indian Native State, because it has been used with the word 'Ruler'. Similarly, in Article 362, the term 'Indian State' has been used with the word 'Ruler' and therefore there also, it means the old Indian States' recognised by the Dominion of India, and not the United State because there was no single ruler of the United State. It is thus clear, that the term

'Indian State' has been used in the Constitution as meaning both, that is, (1) the various covenanting States and (2) the United State with which they integrated prior to the enforcement of the Constitution.

40. The question next arises whether the term 'Indian State' has been used in Article 295(2) in the first sense, or in the second sense or in both. It will have to be admitted that the reply is not free from difficulty. It may be pointed out that the distinguished members of the Constituent Assembly had also visualised the difficulty and therefore in cl. 7 of Article 366 it was provided that 'corresponding Indian State' would mean, in cases of doubt, such Indian State as may be determined by the President to be the corresponding Indian State for the particular purpose in question. A difference in views on such a vexed' question is therefore not surprising in the least.

41. Now, before attempting to interpret the above mentioned term, it may be remarked that as observed by Gwyer C. J., in *In re C. P. and Berar Sales of Motor Spirit and Lubricants Taxation Act (1938)*, AIR 1939 FC 1, 'a Constitution is not to be construed in any narrow or pedantic sense.' If a constitutional provision is capable of two interpretations, that which is more liberal and which leans in favour of justice should be adopted. It would not be proper to put such a strict and narrow interpretation on the provisions of the Constitution that it may defeat the very purpose for which it was framed.

As pointed out in paras Nos. 94 and 224 of the White Paper, the integration of States did not follow a uniform pattern in all cases. Barring certain States like Mysore, or Jammu and Kashmir which were not affected by the process of integration, those States which underwent that process may be divided into the following 3 broad categories:

1. Union of States like Rajasthan, Saurashtra etc.;
2. Centrally-merged States;
3. Provincially-merged States like Baroda and others which were contiguous to the then existing Provinces.

42. The covenants entered into by the Rulers of the States falling under the first category (for instance Article 10 of the Covenant at p. 278 of the White Paper Book) would show that the Unions of States were contemplating to frame Constitutions of their own. In the original draft Constitution, there was therefore no provision corresponding to Article 295. It was introduced when the Constituent Assembly took up the draft Constitution for its second reading.

One of the main objects of framing the Constitution was to secure Justice ---social, economic and political -- as enshrined in its preamble. The Constituent Assembly included amongst its members several representatives of Indian States and it passed beyond comprehension that those august personalities who were devoted to ameliorate the lot of the people could even think of depriving the residents of the covenanting States of those rights which arose out of contracts entered into between them and the Governments of those States. The spirit with which they were guided in their noble task cannot be better described than in the following observation of their Lordships of the Supreme Court in AIR 1954 SC 447 :

'It is impossible to think of those who sat down together in the Constituent Assembly and of those who sent representatives there, as conqueror and conquered, as those who ceded and as those who absorbed, as sovereigns or their plenipotentiaries, contracting alliances and entering into treaties as high contracting parties to an act of State. They were not there as sovereign and subject as citizen and alien, but as the sovereign peoples of India, free democratic equals, forging the pattern of a new life for the common weal.

Every vestige of sovereignty was abandoned by the Dominion of India and by the State and surrendered to the peoples of the land who through their representatives in the Constituent Assembly hammered out for themselves a new Constitution in which all were citizens in a new order having but one tie, and owing but one allegiance; devotion, loyalty, fidelity, to the Sovereign Democratic Republic that is India. At one stroke all other territorial allegiances were wiped out and the past was obliterated except where expressly preserved; at one moment of time the new order was born with its new allegiance springing from the same Source for all, grounded on the same basis; the sovereign will of the peoples of India with no

class, no caste, no race, no creed, no distinction, no reservation.'

43. Article 295 should, therefore, be viewed from this broad and benevolent vision and if a literal paraphrasing of a certain provision does not bring out the real intention of the framers of the Constitution, it should be interpreted in a liberal manner. Article 295 was introduced with the object of making a provision regarding succession to property, assets, rights, liabilities and obligations of Indian States. Sub-clause (1) (a) of this Article provided that all property and assets which immediately before the commencement of the Constitution were vested in an Indian State corresponding to the States specified in Part B of the First Schedule, would vest in the Union, if the purposes for which such property and assets were held, immediately before such commencement, will thereafter be purposes of the Union relating to any of the matters enumerated in the Union List.

Clause (1) (b) then provided that all rights, liabilities and obligations of the Government of any Indian State corresponding to a State specified in Part B of the First Schedule whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations of the Government of India, if the purposes for which such rights were acquired or liabilities or obligations were incurred before such commencement will thereafter be purposes of the Government of India relating to any of the matters enumerated in the Union List. Sub- Clause (2) was the residuary clause and it was subject to Clause (1).

The plain meaning of this clause was that the Government of each State specified in Part B of the First Schedule would from the commencement of the Constitution be the successor of the corresponding Indian State as regards all property and assets and all rights, liabilities and obligations whether they arose out of any contract Or otherwise. Now, this clause when applied to the Part B State of Rajasthan would mean that from the commencement of the [Constitution of India](#) it became the successor of the United State of Rajasthan including those States of which it was constituted.

This did not mean that Part B State became successor only of that property, assets and those rights, liabilities and obligations which were acquired by the United State of Rajasthan from the date of its formation to the date when the

Constitution came into force. The framers of the Constitution could not be oblivious of the rights, obligations and liabilities', which had already devolved upon the United State from the component States.

44. It may be pointed out that 'Part B of the First Schedule' was provided when the Constitution came into force and later on, when the Constitution was amended, this Part was deleted. Even then, it continues to be there without the necessary amendment. What is meant to be pointed out is, that even without the amendment it will have to be read as Part B of the First Schedule of the Constitution as it came into force on 26-1-1950'. A literal interpretation would hardly stand to reason. It is therefore not proper to give a very strict literal interpretation to Clause (2).

45. Let us suppose for a moment that Section 3' were not provided in the Rajasthan Administration Ordinance No. 1 of 1949. Such an omission could not be impossible because the changes between 1948 and the beginning of 1950 took place with a very rapid speed and it was not an easy task for the legislature to keep pace with it. Could it be said in that case, with any sense of fairness, that in spite of Article 295(2), the Part B State of Rajasthan did not inherit the contractual obligations of the covenanting States through the United State of Rajasthan? A different position may arise in the case of a liability arising out of tort or in the case where an intermediate sovereign State repudiates a certain right arising out of the contractual obligation of the integrating State. But, in a case where the right of a citizen of an old covenanting State has survived the birth of Constitution, the Part B State could not in the face of the provisions of Article 295(2), contend with any justification, that it was not responsible to discharge the obligation of the covenanting State.

It may be pointed out that most of the property and assets in the hands of the United State of Rajasthan were those of the various Covenanting States. The Part B State of Rajasthan inherited not only those assets and property which the United State of Rajasthan had freshly acquired during the years 1948 and 1949, but it also inherited those properties, assets and rights which the United State in its turn had received from the various covenanting States. So, if Part B State of Rajasthan received through the United State of Rajasthan all the property, assets and rights

of the various covenanting States by virtue of Article 295(2), how could it refuse to discharge the obligations or to accept the liabilities of the same covenanting States even though they devolved simultaneously upon it by the same provision

It is common knowledge that Part B State got through the United State of Rajasthan huge assets and properties which, at one time, belonged to the Governments of the covenanting States. The very territory of the United State of Rajasthan was composed of the territories of the covenanting States and if those territories were excluded from the territory of that United State, it would have been left as a sovereign without any territory. Therefore, although the term 'Indian State' corresponding to a State specified in Part B of the First Schedule literally meant, with reference to Rajasthan, the United State of Rajasthan which was in existence prior to the date of the Constitution, that State was inclusive of all the, covenanting States and not exclusive of them.

46. It may lastly be pointed out that the term 'corresponding Indian State' also appears in Article 300 of the Constitution and on a liberal interpretation, it appears to have been used in the same sense as above in that Article also. It would be pertinent to refer in this connection to Article 300(2)(h) which runs as follows:

'If at the commencement of the Constitution any legal proceedings are pending to which a province or an Indian State is a party, the corresponding State shall be deemed to be substituted for the Province or the Indian State in those proceedings.'

On a liberal interpretation the term 'Indian State' as applied to Rajasthan, would here mean both the old covenanting States and the United State of Rajasthan and corresponding State would be the Part B State of Rajasthan. If the meaning of 'Indian State' in such a case is restricted to the United State, a gross injustice is bound to occur. For instance, let us suppose that a suit was pending by or against a State like Alwar or Bikaner in some court prior to the commencement of the Constitution, and by inadvertence the United State of Rajasthan was not impleaded, formally, in place of the said covenanting State. Can it be said in such a case that Part B State of Rajasthan would not correspond to Alwar or Bikaner

If the covenanting State is not taken to correspond with the Part B State in such a case, a gross injustice is likely to result to the parties. To my mind, it is clear that the term 'Indian State' in the above provision was used both in the sense of the covenanting State and the United State and the term 'corresponding Indian State' was used in the sense of Part B State and the latter was to correspond with either, that is one or the other, as the case may be.

So, if the Covenant, Article 295 and Article 300 are read together and interpreted in a broad sense, they leave no doubt about the fact that contractual obligations of the covenanting States devolved upon the United State of Rajasthan and then in turn on the Part B State of Rajasthan and even if there was any hitch against the United State being sued in its municipal courts, in respect of the said obligations, that difficulty was resolved after the Constitution came into force. Thus, from whichever angle the matter may be looked at, the reply to the question referred by the learned Judges should, in my opinion, be as follows :

'The expression 'Government of the corresponding Indian State' used in Article 295(2) with reference to Rajasthan means the Government of the United; State of Rajasthan comprising of all the covenanting States, that is including the said States and not excluding diem'.

Chhancani, J.

47. I have had the advantage of going through the judgments prepared by My Lord the Chief Justice and Dave J. and agree with the conclusions reached in them and have nothing useful to add.

48. PER CURIAM: It is held that the Part B State of Rajasthan succeeded to the rights, liabilities and obligations of the other Covenanting States which went to form the United State of Rajasthan before the Constitution came into operation, and that the expression 'Government of the corresponding Indian State' used in Article 295(2) of the Constitution with reference to Rajasthan means not only the Government of the United State of Rajasthan, but the United State of Rajasthan including its Covenanting Units. The points for consideration are, therefore, answered accordingly.

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