

CONTENTS

	PAGE
Introduction	1
The All India Federation	6
British Sovereignty	7
Indian States in the Federation	12
Structure of the Federal Legislature	18
Powers of the Federal Legislature	23
Legislative Procedure	30
Responsibility of Ministers to Federal Legislature	33
The Federal Executive	34
The Federal Judiciary	43
Public Services	46
Federal Finance	50
Conclusion	54

INTRODUCTION

Historically speaking, most of the great Federations which we find in the world today came into being as the result of a desire to combine on the part of several Sovereign States, which were engaged in a common struggle either against another State or against another social system, and whose struggle was motivated by similar social and political aims. The United States of America, for example, emerged out of a successful revolt of the British Colonies in North America against the oppression of British merchant capitalists. The Union of Soviet Socialist Republics was formed for the purpose of ensuring the survival of the Socialist Republics, which had emerged on the breakup of the Czarist Empire, and whose existence was threatened by the concerted hostility of European capitalist powers. These Federations are in reality, voluntary associations of several free and sovereign states, each one of whom has surrendered a part of its sovereignty to the Federal authority in order to achieve certain common objectives. Their main characteristics are, firstly, that their Sovereignty resides within the Federation as a whole and is divided between the Federal authority and the constituent units, and, secondly, that their constituent units have a similarity of politico-economic organisation, from which is derived their common will and purpose, and which in a large measure prompted them to federate and achieve a higher unity.

The whole basis and content of the proposed Federation of India and its process of emergence is fundamentally different from the historic examples we have cited above. It is obvious that the objective conditions, which have in the past led to the formation of Federa-

tions in other countries, do not fully obtain in India today. For India, the so-called Federation is coming into being, neither as the result of a victorious struggle conducted by the sovereign people of India or by several sovereign States of India against a common oppressor, nor as a normal and peaceful culmination of certain unifying democratic tendencies in the country. It is, on the contrary, being imposed on the Indian people, against their declared and unqualified opposition, by a specific Act of British Parliament. It, therefore, reflects in its content neither the growing unity of the social aspirations of Indian masses, nor their democratic will, but merely the determination of British Imperialism to beat back the rising tide of mass revolt in India by tightening its octopus hold over the country with the help of a new constitutional machinery.

An analysis of the proposed Indian Federal structure will show that it has very little in common with any of the existing Federal Constitutions of the world. In the first place, the Sovereignty of Federated India will reside outside the country, that is, in British Parliament. The Federal Government as well as the governments of the constituent units will be subordinate entities, subject in almost every respect to the final authority of the Parliament. Secondly, the Indian Federation will not be constituted entirely on the principle of voluntary association of the federating units, since the Provinces, which represent nearly two-thirds of the population of the country, will have no choice in the matter of accession to the Federation, and will automatically become a part of it when other prerequisites, especially those in respect of the accession of States, are satisfied. Thirdly, the constituent members will differ a good deal from each other in respect of their internal political structure. While the States under the Federation will continue to be ruled by their autocratic princes, some degree of popular control over the administration will be permitted in the Provinces. The Federal Constitution will

neither declare nor guarantee any fundamental rights of the people, as was done in the Constitutions of the U. S. A., or the U. S. S. R.

These features of the Indian Federal structure and their implications will be analysed elsewhere in this pamphlet. Here, we may briefly note how the entire basis and framework of this Federation are determined by considerations of imperialist domination.

The Government of India Act of 1935, under which the Federal structure will be erected, reaffirms the absolute suzerainty of British Crown over India, makes British Parliament the sole authority responsible for determining any change in the Indian Constitution, and vests the Secretary of State with almost unlimited powers of control over the entire Federal machinery of government. Within the Federation, the Governor General is made the supreme authority in every field of governance. In the legislative field, he is given the power to override any decision of the Federal Legislature, to make laws by passing Acts independently of the Legislature, to issue Ordinances, and, if necessary, to suspend the entire "Constitutional" machinery and govern the country himself. He is also made the head of the Federal Executive, and his authority in this capacity is subjected to no limitations. Besides, he is empowered to administer and control personally, or through his agents, such important departments as Defence, External Affairs and Relations with Indian States. Then again, over 80% of the Federal budget is to be determined by him, quite independently of the Federal Legislature, and even with respect to the remaining 20% he is empowered to disallow any financial measure passed by the Legislature. Lastly, he is vested with what are called "Special Responsibilities" which cover almost every aspect of governmental activity, and in the discharge of which he is given the power to act entirely in his own discretion.

The Federal Legislature, viewed from the standpoint of its constitutional powers, will be a thoroughly impotent body. It will have no say in matters relating to Defence and External Affairs, and four-fifths of the Federal Budget will be completely outside its control. The Governor General will be empowered to stop any measure passed by it from becoming law. Besides, the Federal Court in charge of the higher Judiciary, the Federal Railway Authority, directing the transport system, and the Federal Reserve Bank, controlling the financial and industrial life of the country, will function almost independently of it.

It is, however, in its composition that the Federal Legislature exposes most glaringly, the new device of Imperialism to tighten its stranglehold over India, in alliance with the reactionary and antiquated feudal elements of the country. The representatives of the States, who may be all direct nominees of the Princes and not elected spokesmen of the people of the States, will occupy a solid one-third of the seats in the Federal Assembly, and 40% of the seats in the Council of State. The representation given to the State in both the Houses is not only much greater than their due share on the population basis, but is also far in excess of the proportion of national wealth they represent, and the financial contribution they will make to the Federal exchequer. The rest of the seats in the Federal Legislature will be filled through a variety of separate communal constituencies, which have been so determined as to ensure the predominance of politically backward and reactionary elements in the Legislature.

It will, thus, be seen that the Federal Structure will not in any sense mark a constitutional advance in the direction of self-government in India. On the contrary, it will be a distinctly retrograde step, as it will tip the balance overwhelmingly in favour of feudal and other vested interests in the highest organs of the State. Besides, under the Federation the powers of the Gover-

nor General will be far more comprehensive and explicit than they have been under the Constitution of 1919. In reality, therefore, this so-called Federation will be nothing more than a reassociation of the old administrative divisions—Provinces and States—effected in a manner as to reinforce the system of imperialist exploitation. The whole Federal Scheme is obviously meant to be a counterblast to the growing unity of the Indian masses in their common democratic struggle for bread and freedom, in so far as it organises at the top, all the anti-democratic and unprogressive vested interests under the direct control of imperialist bureaucracy.

All this need not be a matter of surprise. The imperialist system is fast approaching its inevitable doom. On the one hand, inter-imperialist antagonisms have brought humanity to the brink of another world slaughter, and on the other, both in the homelands of imperialist powers, and in the oppressed subject countries, a fresh revolutionary upsurge of the downtrodden masses has begun. British Imperialism, as the oldest and the most experienced of the dying Imperialisms of the world has not been slow to sense the impending danger; its federal scheme, which arms it with a constitutional machinery to face the new situation, is a clear testimony to its active preparation to beat the storm that is rapidly gathering over India.

THE ALL INDIA FEDERATION

Section 5 of the Government of India Act of 1935 provides for the formation of a Federation, composed of the British Indian Provinces and such Indian States as accede to it.

The accession of Indian States to the Federation will be voluntary. No State will accede unless its Ruler executes an Instrument of Accession declaring his willingness to join the Federation. The Provinces will, on the other hand, automatically become a part of the Federation, when all the other conditions necessary for its inauguration have been satisfied.

The Federal Constitution will not be launched unless a minimum number of States agree to join it. The Act lays down that States representing at least one half of the total State population of India, and claiming not less than 52 seats in the Upper Chamber of the Federal Legislature must accede before the Federation is started.

States which do not join the Federation at the beginning will be able to accede later, provided their application for accession is made within a period of 20 years from the establishment of the Federation. No State will be able to accede after the expiry of this period.

Neither the Provinces nor the States, having once joined the Federation, will be free to leave it, though the latter will have a limited right to modify their original Instruments of Accession even after they have been executed.

The Federation thus constituted will have a double chambered Legislature; the lower chamber will be called Federal Assembly, and the upper chamber Council of State. The Federal Executive will be composed of a Council of Ministers and the Governor General. The Federal Judiciary will be organised in a permanent Federal Court. Every organ of the Federal Government will draw its power and authority from the provisions of the Government of India Act of 1935.

British Sovereignty.

British Sovereignty over India will not be affected in the slightest degree by the creation of the Federation. The Government of India Act of 1935 asserts more explicitly than any previous Act, the absolute suzerainty of British Crown over India. Section 2 of the Act says:

“(1) All rights, authority and jurisdiction heretofore belonging to His Majesty the King, Emperor of India, which appertain or are incidental to the government of the territories in India for the time being vested in him, and all rights, authority and jurisdiction exercisable by him in or in relation to any other territories in India, are exercisable by His Majesty, except in so far as may be otherwise provided by or under this Act, or as may be otherwise directed by His Majesty.”

“Provided that any powers connected with the exercise of the functions of the Crown in its relation with Indian States shall in India, if not exercised by His Majesty, be exercised only by, or by persons acting under the authority of, His Majesty's Representative for the exercise of those functions of the Crown.”

“(2) The said rights, authority and jurisdiction shall include any rights, authority or jurisdiction heretofore exercisable in or in relation to any territories in India by the Secretary of State, the Secretary of State in Council, the Governor General, the Governor General in Council, any Governor or any Local Government, whether by delegation from His Majesty or otherwise.”

These provisions constitute one of the clearest and the most categorical formulation of British Sovereignty over India, ever attempted in an Act of Parliament.

The principle that British Parliament alone can determine any constitutional advance for India has been expressly embodied in the new Constitution. The Act of 1935, while repealing the Act of 1919, retains its Preamble, which among other things states that “the time and manner of each advance can be determined

only by Parliament upon whom responsibility lies for the welfare and advancement of the Indian people". In addition to this, Section 110 of the Act of 1935 provides that nothing in the Act shall be taken—

"(a) to affect the power of Parliament to legislate for British India, or any part thereof, or

(b) to empower the Federal Legislature, or any Provincial Legislature;

to make law affecting the Sovereign or the Royal Family, or the Succession to the Crown, or the Sovereignty, dominion or suzerainty of the Crown in any part of India, or the law of British nationality, or the Army Act, the Air Force Act, or the Naval Discipline Act, or the law of Prize or Prize courts."

Due provision has been made in the Constitution to ensure an unquestioned compliance with the dictates of Parliament on the part of all the organs of government in India. Not only have the bureaucratic agents of Parliament—Secretary of State, Governor General and Governors—been vested with very extensive and almost dictatorial authority in their respective spheres, but their powers have been so arranged, on a well designed system of checks and balances, as to secure the penetration of parliamentary authority into every section of the administrative machinery. Thus, the Governors with their unlimited powers over Provincial administration are placed under the immediate superintendence of the Governor General, who with all his absolute authority over the entire Federal structure is subjected to the guidance and control of the Secretary of State. Section 54 of the Act provides for the control that the Governor General is to exercise over the Governors. It says, "In so far as the Governor of a Province is by or under this Act required to act in his discretion or to exercise his individual judgment, he shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given to him by, the Governor General in his discretion, but

the validity of anything done by a Governor shall not be called in question on the ground that it was done otherwise than in accordance with the provisions of this section". Section 14, which in similar terms lays down the power of superintendence of the Secretary of State over the Governor General, says, "In so far as the Governor General is by or under this Act required to act in his discretion or to exercise his individual judgment, he shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given to him by the Secretary of State, but the validity of anything done by the Governor General shall not be called in question on the ground that it was done otherwise than in accordance with the provisions of this section."

It will be noted that according to these sections the Governors and the Governor General are subject to superintendence only in respect of those matters in which they are required to act in their discretion or to exercise their individual judgment, but, as we shall see later, these matters are so numerous and so comprehensive in scope as to cover almost every field of governmental activity.

A more vivid picture of the rigid supervision and control that the British Parliament will exercise over the Indian Federal structure can be secured by looking at the powers that have been, explicitly or implicitly, vested in the Secretary of State. In the first place, the Secretary of State, will, in practice, exercise all the powers reserved to the Crown. He will, for example, exercise the power of the King to disallow any Act passed by the Provincial or Federal Governments, and also to repeal, extend or modify any extraordinary legislation, such as Ordinances, or Governor's or Governor General's Acts. (Sections 43-44, 89-90). As the main advisor of the Crown, the Secretary of State will be in charge of supervising the relations of the States with British India, in all matters which fall within the scope of the special treaty obligations between the Crown and the States.

Besides, the absolute right of the British Parliament to make, abrogate or suspend the constitution, or a part thereof, will also be exercised generally at his recommendation.

In addition to all this, as stated above, the Secretary of State will direct and control the Governor General in all matters in respect of which the latter is empowered to act in his discretion. These matters include such important subjects as Defence, External Relations, administration of Excluded areas, Relations with Indian Princes, supervision over Provincial Governors, appointment and dismissal of Federal ministers, and all the extraordinary powers of the Governor General in regard to the Federal Government. The suspension of the constitution by the Governors and the Governor General will also be subject to the supervision and control of the Secretary of State, since the suspension will be in the discretion of the Governors and the Governor-General. The Secretary of State will also be entitled to interfere in all matters, which involve the exercise of the Special Responsibilities of the Governor General, and these are so comprehensive in scope as to cover almost every aspect of government. More specifically, they include the maintenance of law and order, the safeguarding of financial stability of the Federal Government, the protection of the interests of minorities, the protection of Indian States and their Rulers, the prevention of any discrimination, direct or indirect, against British goods, trade and industry in India.

The proclamation of a State of National Emergency by the Governor General acting in his discretion, under conditions when the security of the country is threatened by war or internal disturbance, will have to be submitted to the Parliament through the Secretary of State.

The Secretary of State will wield a great deal of direct influence over the Civil Administration of the country, through his right to make appointments to the Imperial Services. He will also, according to sections

246 and 247 make rules specifying the number, character and conditions of service of the posts under the Crown, which will be filled by persons appointed by him. Besides, under Section 244 he will be empowered to make appointments to any service or services related to those functions, which the Governor General will exercise in his discretion. The direct authority of the Secretary of State over the military administration of India will in no measure be smaller. Apart from the higher defence appointments, which will be made by the King at his instance, he will be entitled to interfere with any branch of the Department of National Defence and to prescribe the number and conditions of service of the Defence Forces. Section 235 expressly lays down that, "the Secretary of State may acting with the concurrence of his advisors, from time to time specify what rules, regulations and orders affecting the conditions of service of all or any of His Majesty's Forces in India shall be made only with his previous approval." Section 236 provides for the continuance of the right of appeal to the Secretary of State, which certain sections of the Armed Forces enjoyed under the Act of 1919.

The Secretary of State will also be in a position to wield a great deal of direct influence over the judicial system of the country, since, in actual practice, it will be at his recommendation that the judges of the Federal Court, as well as those of the Provincial High Courts will be appointed under the Royal Sign Manual.

Though, at first sight it may seem that the financial powers of the Secretary of State have been considerably reduced by the Act of 1935, especially in respect of public borrowing on account of the Government of India, yet it must not be forgotten that, under Section 14 it has been made obligatory on the Governor General to comply with the orders and directions of the Secretary of State in all matters, which involve the exercise of his Special Responsibilities, and one of these matters is the *safeguarding of financial stability of the Federal Government*,

a phrase which is vague and general enough to justify any act of interference in financial matters by the Secretary of State.

It will be seen from these provisions that the Secretary of State, as the chief representative of the Parliament in the governance of India, will dominate the entire Federal structure through his unlimited powers. His authority will not only extend to the protection of British imperial interests in India, and the interests of Indian Princes and other feudal elements, which are the main prop of British imperialism, but will also enable him to interfere in the ordinary day to day administration of the country. The Governors and the Governor General, with their varied and extensive powers in regard to internal administration, will be entirely subservient to him. He will have the final say in every matter.

Thus, the Federal scheme will not in any way touch the basic political relationship between India and Great Britain. The corner-stone of imperialist system in India, that is, British Sovereignty will remain intact and in virtue of this sovereignty British Imperialism will continue to hold every economic, financial and political key position in India, as firmly as when it first conquered power a century and a half ago from the effete feudal rulers of the country.

Indian States in the Federation.

A glance at the political history of India under British rule would show that British Imperialism has from time to time deliberately revised and reconstructed the constitutional machinery of the country, in order to secure a technique of rule more consistent with changed conditions. The motive behind these periodic constitutional revisions has been the same throughout, from the time of the Queen's Proclamation of 1858 to the passing of the Government of India Act of 1935, namely,

to safeguard the steel frame of imperialist rule from being weakened by the stress and strain of new political forces, within and without the country.

The Federal constitution is another step in the same direction. It is a device to reinforce the economic and military dictatorship of Great Britain over India at a time when the Economic Depression has shaken the imperialist system to its very foundations, when another world war seems inevitable, and when, above all, growing misery and starvation has brought the Indian masses to the verge of an open revolt against the present system of government.

At this critical juncture, Imperialism seeks to strengthen the pro-imperialist political alignment in the country, by erecting a constitutional machinery which will draw the Indian Princes into the Central Government as an organised bloc, to throw their full weight against all democratic and progressive forces. The Federal structure will bring all the allies of Imperialism, especially the big feudal interests, into closer and more active collaboration with the bureaucracy, for defeating popular movements on the one hand, and for preparing the State machinery for an imperialist war on the other.

It may be observed, that while the States and the Provinces will be formally considered to be coequal members of the Federation, the conditions governing their accession and their respective relations with the Federal authority will be such as to give the States a constitutionally superior position in the Federation. In the first place, while all the Provinces will, *ipso facto*, become a part of the Federation, the States will accede only when the Ruler concerned voluntarily executes an Instrument of Accession, whereby he for himself, his heirs and successors—

“(a) declares that he accedes to the Federation as established under the Act, with the intent that His Majesty the King, the Governor General of India, the Federal Legislature, the Federal Court and any other Federal

authority established for the purposes of the Federation shall, by virtue of his Instrument of Accession, but subject always to the terms thereof, and for the purpose only of the Federation, exercise in relation to His State such functions as may be vested in them by or under this Act; and

(b) assumes the obligation of ensuring that due effect is given within his State to the provisions of this Act so far as they are applicable therein by virtue of his Instrument of Accession."

Secondly, the relations of the Federal Government with the Provinces will be governed strictly by the provisions of the Government of India Act; no Province will be at liberty to prescribe its own obligations and responsibilities *vis a vis* the Federation. As against this, the Instrument of Accession executed by the Ruler of a State will specify the matters in respect of which the Ruler accepts the authority of the Federal Legislature to make laws for his State, and the limitations to which the power of the Federal Legislature and Executive will be subject in his State. A ruler may by a supplementary Instrument vary the terms of the original Instrument of Accession by extending the functions exercisable by the Federal Government in relation to his State.

Thirdly, the form of Government which the Provinces will have under the Federation is prescribed by the Act, but none of the Federating States will be required to effect any reform in its internal administration on accession to the Federation, however different its system of Government may be from that of the other members of the Federation. Besides, every State will be free to introduce changes in its internal constitution without reference to any outside authority, while the Provincial Constitutions are determined by the Act, and cannot be altered without the consent of the British Parliament.

Lastly, while the constitutional status of the Provinces under the Federation will be regulated in strict

accordance with the provisions of the Act, the position of the States will be governed not merely by the Act or the Instrument of Accession but also by a variety of Treaties, Engagements, etc, which exist between the States and the Crown, and which will not necessarily be abrogated or suspended on the States joining the Federation.

It will thus be seen that as compared to the Provinces the States will enjoy a far greater degree of independence from the Federal Authority. Not only will their accession depend on a voluntary act of the Rulers, but they will even be empowered to determine their own relations with the Federal Government. Their direct treaty relations with the Crown will remain intact, and the Federal Government will interfere with their internal administration only to the extent that the Rulers in their Instruments of Accession allow such interference.

The representation given to the States in the Federal Legislature is far in excess of their real importance in the political or economic life of the country. In the Council of State they will occupy 40 per cent of the total seats, and in the Federal Assembly 33 per cent, though on the population basis they are not entitled to more than 25 per cent of the seats. In point of the national wealth that they represent, and the contribution that they will make to the revenues of the Federation they deserve a much smaller representation. It is estimated that 90 per cent of the Federal revenue will be derived from the Provinces, and only about 10 per cent from the States. And yet the Federal scheme gives them a disproportionate weightage, in order that they may effectively counteract the influence of the democratic elements drawn from the Provinces.

While the States with their disproportionately high representation on the Federal Legislature will be in a position to interfere in every matter concerning the Provinces, which under the Act falls within the jurisdiction

of the Federal Authority, the representatives of the Provinces will be able to influence legislation only on those matters concerning the States in respect of which the Rulers in their Instruments of Accession accept the authority of the Federal Government. Thus, the States will be free to project their reactionary influences into British India, by throwing their weight against every democratic move in the Federal Legislature, while they themselves will be immune from the pressure of the progressive forces operating elsewhere in the country.

It is important to note that every aspect of the relation of States with the Federal authority will be determined by the personal will of the Rulers, and not by any democratic process.

The people of the States will have no say in the matter of accession of the States to the Federation; nor will they elect the so-called representatives of the States in the Federal Assembly or the Council of State. Each Ruler will determine personally as to when and under what conditions his State will join the Federation; he will also in his individual capacity decide as to who will represent his State in the Federal Legislature. This will not merely ensure a consistent anti-democratic role of the States in the Federation, but will, in addition, make a few hundred odd princes the undisputed masters of the destinies of 81 million persons inhabiting the States, by enabling them to perpetuate their autocratic rule under the numerous guarantees afforded by the Federal Constitution.

Furthermore, it may be observed that the terms under which the States will join the Federation, and the privileged position that they will hold therein, will make the Federal structure a strange conglomeration of various governments, dominated by conflicting social ideas, and having widely different forms and methods of administration. The Provincial Governments based on some degree of popular control will be artificially aligned with a variety of autocratic feudal States. Obviously, a

Federal structure of this nature would be characterised by a complete absence of homogeneity of aims and outlook among its constituent members. This, aside from creating a great deal of confusion and difficulty in legislation, particularly as the Federal laws will not apply uniformly to all the constituent members, will make serious conflicts, between State and Provincial governments inevitable. One of the greatest sources of conflict will be the question of the jurisdiction of Federal authority, since what would apply to the Provinces would in many cases not apply to the States. In fact the whole character and composition of the Federation will be such as to make any concerted action, on the part of the constituent units, on major issues virtually impossible. The internal strains and stresses will be so great as to render the whole machinery of Federal government thoroughly incompetent for tackling any important problem concerning the welfare of the people. Thus, the Federation will achieve merely a semblance of unity between British India and the States; in actual practice it will convert the central government of the country into a battleground for various Provincial and State Governments.

All this is nothing fortuitous; it is a deliberate attempt by British Imperialism to counteract the growing unity of the Indian masses and the strength of their common struggle, by organising in the topmost organs of the State all the pro-imperialist vested interests in a manner as to bring the entire administrative system of the country under the direct hegemony and control of a feudal-imperialist block. The Indian States in the Federation, while maintaining their internal autocratic rule, will with the help and cooperation of the imperialist bureaucracy serve as the main bulwark against the advance of democratic struggle in the rest of the country. Their stronghold in the Federation will serve as an effective counterblast to the small measure of popular control that has been conceded in the Provinces.