

quisite guarantee of skill, etc. in the practice of medicines, etc. This decision of the Privy Council will have to be notified to the Governor-General, who must communicate to those authorities in India, or publish it, as he thinks proper for the purpose.*

Needless to add, the principle of reciprocity seems to be maintained in this section also, i.e., in regard to discriminatory action in the United Kingdom for the practice of medicine, etc. by Indians holding medical diplomas or degrees of Indian Universities. The right of appeal to the Privy Council is also given to such Indian practitioners in England, in case their diploma is declared in the United Kingdom as not furnishing sufficient guarantee of knowledge, skill, and experience in the party concerned; and the same procedure is allowed for hearing the case and the disposal of it. No liability, disability, restriction or condition would be imposed, either in the United Kingdom or in British India, on the respective holders of medical diploma, practising in the other country, which it does not impose on the corresponding practitioners of that country's own diploma-holders.†

Critique of the Constitutional Provisions in regard to Discrimination

Taking all these provisions together, it is obvious that they arise out of the British doubt of the Indian Legislatures and Ministers of the future being either just or fair to the competing British interest in India; or secondly, out of a dread of India's active effort to promote local industry, enterprise, or talent, in the fields hitherto monopolised by Britishers in India. As many

*Sub-section (2) of Section 120.

†The powers of the Medical Council in India to suspend or debar any person from practice on the ground of misconduct, or to remove any persons from a register on that ground, are not affected by this provision.

of these fields are, however, of a most important strategic character in regard to the economic development of the country, the desire of Indians, when they attain effective power in their own country, to take all possible steps for securing by native enterprise or talent the possession of these fields,—and, thereby, retaining the wealth produced therein for use in the country itself,—is as natural as it is legitimate. The British desire, on the other hand, to prevent such legislation materialising, or to prevent effect being given to the spirit of such proposals by executive action, by means of a specific instruction given to the Governors or the Governor-General in that behalf, or even by imposing special responsibilities on such officers for this purpose, is equally understandable. So long as they can maintain effective command of the Indian fields of enterprise, which yield no small proportion of England's annual wealth, they would naturally prevent any counter effect being made. The provision in regard to the reciprocity is only a pretence. In the much stronger English field, competing Indian enterprise has not the ghost of a chance. Hence, the provision against any discrimination in the United Kingdom against Indians is, in reality, no more than an eye-wash for Indians. Not only is the Indian enterprise insignificant in the British market, but the secret discrimination actually being made by British industrialists or professional and technical people against the corresponding Indians working in the United Kingdom is impossible to prevent by law. Nor does there seem any desire to do so in the powers that be in the United Kingdom. Accordingly, these provisions which appear as unmitigated burdens upon the Indian public are calculated to pro-

voke immediate and lively clash with the forces of Indian Nationalism in the Constitutional machinery hereafter.

II. Statutory Railway Authority

The Statutory Railway Authority is a new creation of this Act. It is intended to take railways out of the management of politicians, and place them under such an authority as would prevent any danger of needless waste or lack of economy. The Indian Railways, however, have not hitherto been conspicuous for any such economic management as to justify the implied charge against the Indian Legislature of the future controlling the finances of the railway. In fact, during the last few years, since some railways have come directly under the control and management of the State in India, intensive efforts at retrenchment and economy have not been wanting, during the period that the Railway Budget has been separated under a special convention or resolution of the Indian Legislative Assembly in that behalf. These Railways have made considerable profits even on a directly commercial basis. And though they suffered in the years of Depression, even more perhaps than other departments of Government, the record of railway management does not reveal any conclusive evidence to show that Indians are incapable of managing this great public enterprise. But the most dominant consideration seems to have been that considerable foreign capital is invested in the Indian Railways. And these creditors, presumably, lack that confidence, which Indian people were forced to place in Indian railways management in the years before 1920, when they were hopelessly losing concerns. It is, perhaps, to reassure the foreign bond-holders of

the Indian railways that the institution of a special Federal Railway Authority is provided for in Part VIII and Schedule VIII of this Act.

The one real factor explaining the possible weakness in the management of railways, that has not been touched upon above, lies in the apprehension of a possible use of political pressure to staff and man this enterprise. It is assumed that, if the management of the railways is placed in charge of a Statutory Authority, independent of the political control from the Ministers or the Legislature, this danger would be avoided.* Rules and regulations, after and within the constitutional provision in this Act itself, relating to the employment in the Indian railway enterprise of the different communities in their stated proportions, are such that it is impossible to believe political influences would be completely removed from the staffs or personnel of the Indian railways.

Be the reasons what they may, the institution of a Statutory Railway Authority for the whole Federation is, henceforward, to be an integral part of the constitutional machinery of India.

Scope of Railway Authority

The executive authority of the Federal Government, in regard to the regulation and construction, as well as the maintenance and working of railways, is entrusted, by Section 181, to a Federal Railway Authority. The sphere of activity of this Authority extends to all Federal Railways, as well as all enter-

*cp. Section 242 (2) which manifests particular solicitude for the continued employment of the Anglo-Indian community in the Railways. "The specific class, character and numerical percentage of the posts hitherto held by members of that community, and the remuneration attaching to those posts" have to be duly regarded by the Railway Authority in making these appointments to superior as well as lower posts.

prise carried on as ancillary to the railways, or which may hereafter come to be so carried on.* The Authority is also entrusted with making subsidiary arrangements with other persons or organisations for carrying on any undertaking, deemed to be incidental to the railway enterprise collectively. This may include not only subsidiary or feeder motor services, but may also include such other industry or business enterprise, as the keeping and maintenance of hotels and restaurants, providing refreshments, workshops, iron-foundries, rubber plantations, forests, and any other material which may be necessary for the construction, maintenance, or operation of the railways.

Federal or Provincial Legislation is applicable to the Authority, only in so far as it is relevant to the working of the Authority. The relations between the Federal Railway Authority and the railways in any of the Federated States, as a matter of special agreement, are provided for separately under Part VI, Sections 121 to 128.

Government Supervision over Railways

The Federal Government is given powers of supervision, by sub-section (3) of Section 181, in regard to construction, equipment and operation of railways, with a view to secure safety both of passengers and the staff working in the railways. This power of supervision may include the power of holding inquiries in causes of accidents, etc., if the Federal Government so please. In such cases, it may order inquiries to be held by persons independent of the Railway Authority.

Employment on Railways

The regulation of employment in the Railways, particularly in Railway Service Class I and Class II is

*cp. Section 181 (2).

governed by Part X of the Act, Sections 240 to 250 in particular. As this subject has in general already been discussed, we need not go into details in this place, beyond remarking that the basic principle of guaranteed service, assured pay, promotion, pension, and other privileges applies here as rigorously as in any other department.

The Federal Railway Authority is a body corporate entitled to sue and be sued in its corporate capacity.

Constitution of the Railway Authority

The Constitution in detail of the Railway Authority is provided in Schedule VIII, which lays down that the Federal Railway Authority shall consist of seven members. The Governor-General is entitled to nominate not less than $\frac{3}{7}$ ths of the total number of members constituting the railway authority.* He acts in his discretion in regard to this function, as also in appointing one of the members to be president of the railway Authority. The qualifications required for a person to be appointed as a member of the railway authority are, that he must have experience in Commerce, Industry, Agriculture, Finance or Administration. If he has, within the last preceding twelve months, been a member of the Federal or any Provincial Legislature, or an officer under the Crown, or a railway official, he would not be qualified to be so appointed.†

Of the first members appointed to the Authority, three must be appointed for three years, subject to

*cp. Section 182 (1).

†cp. Schedule VIII Article 2. It is curious to note that under Article 7 of this schedule a person holding or interested in a contract under the Railway authority is not disqualified from membership but is only required to make a full disclosure of the facts, and refrain from taking part in the discussion or voting. This seems to be perverted logic, and at best obviously profiteering ethics characteristic of individualist society.

being re-eligible for the same office for a further period of three years, or at most five years. With this exception, all other members are appointed for five years, and are re-eligible to the office for another term not exceeding five years.* The Governor-General has the power, in the exercise of his individual judgment, to terminate the appointment of any member, if he is satisfied that the member in question is, for any reason, unable or unfit for continuing his duties.† In case of temporary vacancies, power is given to the Governor-General, in the exercise of his individual judgment, to make rules for appointing acting members in place of any temporarily unable to perform their duties.‡ These provisions may be amended by Federal Legislature under Section 182 (2); but no Bill or amendment for such a purpose can be introduced in the Legislature without the previous sanction of the Governor-General in his discretion.

The members of the Railway Authority are entitled to receive such salaries and allowances, as the Governor-General, exercising his individual judgment, determines.§ But, during the term of office of any member, his emoluments cannot be reduced.

All acts of the Authority and all questions before them must be decided by a majority of members present and voting at a meeting of the Authority.¶ The president has a second and casting vote, in the event of an equality of votes at any meeting. The Governor-General is entitled to depute any one or more persons

*cp. Schedule VIII Article 3.

†Ibid. Article 3.

‡Ibid. Article 4.

§cp. Ibid. Article 5.

¶cp. Article 6 of the Schedule.

to attend any meeting of the Railway Authority, and such persons are entitled to speak there as his representatives, but they are not entitled to vote.*

Executive of the Railway Authority

For the discharge of its own business, the Authority is entitled, by Article 9 of the Schedule VIII, to make standing orders for the regulation of their proceedings and business, and to modify or revoke or alter any such order.

The executive of the Railway Authority is headed by a Chief Railway Commissioner,† who must be a person with experience in railway administration. He is appointed by the Governor-General, exercising his individual judgment, after consultation with the Authority. This Railway Commissioner is assisted in his work by a Financial Commissioner, who is also appointed by the Governor-General, presumably on the advice of his Ministers. All other executive officials or heads of departments are appointed by the Authority itself on the recommendation of the Chief Commissioner only.‡ The Chief Commissioner is not removeable from his office by the Authority, except with the approval of the Governor-General, exercising his individual judgment; while the Financial Commissioner cannot be removed from his office, except by the Governor-General himself, exercising his individual judgment.§ The Chief Commissioner and the Financial Commissioner are entitled to attend any meeting of the railway Authority; and the Financial Commissioner is entitled to demand that any

*cp. Schedule. Article 8.

†Ibid. II.

‡Ibid. 12.

§Ibid. Article 13.

matter which relates to or affects finance should be referred to the Authority.*

The Indian Railway Authority, by article 15 of Schedule VIII, is exempted from the Indian Income-tax or super-tax on any of its "income, profits or gains."† The logic of this provision is difficult to appreciate, particularly in view of the financial prospects of the Federation when it comes into being. This is a public utility corporation deriving its gains from a practical monopoly. Its profits or surplus of income over expenditure is really due to a tax upon the community; and, as such, there is no reason to exempt these gains from taxation. Assuming the net profits of the Railways, after meeting working expenses, to be Rs. 40 crores, the loss to the Federal revenues may be estimated at about Rs. 5 crores per annum.

All the monies of the railway Authority in India for immediate requirement must be banked in the Reserve Bank of India. The Authority must employ the Bank as their Agents for all transactions, including remittances, exchange and banking. The Bank undertakes the custody of such monies and deposits, as well as agency work on such terms and conditions, as they undertake the corresponding work on behalf of the Federal Government.‡

Working of the Railways

By Section 183, the railway Authority is required to act on "business principles" in the exercise of the functions assigned to them. This is an exceedingly ambiguous expression; and neither the Act nor the

*cp. Schedule VIII. Article 14.

†Ibid. Article 15.

‡Ibid. Article 16.

Schedule provides any definition of what is to be understood by "business principles." Perhaps they are to be interpreted in contrast with "charity", or again in opposition to the usual routine of administrative red-tapism. In either case it needs to be more clearly explained. The only explanation the Act gives is: "business principles" are to be interpreted, so as to have "due regard to the interests of agriculture, industry, commerce, and the general public."* Particularly, the Authority is required to make proper provision for meeting out of their receipts on revenue account all expenditure, to which such receipts are applicable under this Act. The Central Government is entitled to give instructions on questions of policy to the railway Authority; and the latter are bound to observe such instructions in the exercise of their functions. If any dispute arises under this provision between the Federal Government and the Railway Authority, as to whether a question is or is not a question of policy, the decision of the Governor-General, in his discretion, is final.

All the powers given to the Governor-General to be exercised in his individual judgment, as also those in connection with his Special Responsibilities, are also to apply as regards matters entrusted to the Railway Authority. In other words, for all supervision, control or direction that the supreme Federal authority is to exercise over the Railways of India, the position is as if the executive authority of the Federal Government were vested in the Governor-General, and, as if the functions of the Railway Authority were the functions of the Ministers. The Governor-General may issue to these Authorities such directions as he

*cp. Section 183 (1).

deems necessary. With reference to any matter that appears to involve any of his special responsibilities, or wherein he is required to act in his discretion, or to exercise his individual judgment, the Railway Authority must implicitly obey any directions so issued by the Governor-General (133).

Railways and the Federal Government

The relations between the Federal Government and the Railway Authority are to be guided and conducted by rules made for the purpose, after consultation with the Railway Authority, by the Governor-General, exercising his individual judgment.

"The rules shall include provisions requiring the Authority to transmit to the Federal Government all such information with respect to their business as may be specified in the rules, or as the Governor-General may otherwise require to be so transmitted, and in particular provisions requiring the Authority and their chief executive officer to bring to the notice of the Governor-General any matter under consideration by the Authority or by that officer which involves, or appears to them or him likely to involve, any special responsibility of the Governor-General."*

As regards the acquisition or the sale of land, etc., needed on account of the working of the various railways, and for making contracts and working agreements, the Federal Government is entitled to make regulations. Except as provided for in these regulations, the Railway Authority is not to acquire or dispose of any land. Whenever land is to be acquired compulsorily for the railways, it must be by the Federal Government, and not directly by the Railway Authority. So also, contracts made by or on behalf of the Authority are to be enforced by or against the Authority itself; and not by or against the Federal

*cp. Section 184 (2).

Government,—except in the case of a contract supplementing one already in existence before the Authority comes into being.* The same rule applies to the making of working agreements with a State or any other corporation operating a railway in India.

Finance of the Railway Authority

The Railway Authority is enjoined to establish, maintain and control a fund, called the Railway Fund, under Section 186. All receipts by the Railway Authority, whether on capital or revenue account, must be credited to that Fund. All monies provided even from the Federal purse to enable the Railway Authority to carry on its functions must be likewise credited to the same account. Conversely, all expenditure of the Railway Authority must be defrayed out of that Fund. Separate Provident Funds may, however, be maintained by the Authority for the benefit of those who are or have been employed in connection with the Railways.

Under sub-section (2) of that section:—

"The receipts of the Authority on revenue account in any financial year shall be applied in

- (a) defraying working expenses;
- (b) meeting payments due under contracts or agreements to railway undertakings;
- (c) paying pensions, and contributions to provident funds;
- (d) repaying to the revenues of the Federation so much of any pensions and contributions to provident funds charged by this Act on those revenues as is attributable to service on railways in India;
- (e) making due provision for maintenance, renewals, improvements and depreciation;

*cp. Section 185 (2).

- (f) making to the revenues of the Federation any payments by way of interest which they are required by this part of this Act to make; and
- (g) defraying other expenses properly chargeable against revenue in that year.

This order of priority, or preference, in payments of railway obligations throws a strange light upon the motive underlying this provision. While working expenses,—including wages, salaries, stores, etc.—are given pride of place, payment on account of interest comes last but one in the list. Provision by way of renewal, replacement, or depreciation takes precedence over Interest charges. Of course, the surplus open to division between the Federal Government and the Railway Authority would be available only after all these charges have been met. That the Railways have been, for the greater portion of their existence in India, a net drain upon the revenues of the country; and that, even to-day, on balance India has spent more on account of the railways than derived benefit from that source, does not seem at all to have influenced those who drew up this section.

Even the next following sub-section makes little amend for the omission, since it provides:—

“186 (3) Any surpluses on revenue account shown in the accounts of the Authority shall be apportioned between the Federation and the Authority in accordance with a scheme to be prepared, and from time to time reviewed, by the Federal Government, or until such a scheme has been prepared, in accordance with the principles which immediately before the establishment of the Authority regulated the application of surpluses in railway accounts, and any sum apportioned to the Federation under this sub-section shall be transferred accordingly and shall form part of the revenues of the Federation.”

Considering that, in the years of Depression alone, between 1930-36, the Railways lost some 62 crores on

the balance; and that they have ceased to make any contribution to the national revenues for over 7 years, this is a very lenient and partial treatment accorded to the railways, which the record of that enterprise in India scarcely deserves. Interest charges on capital invested in the Railways by the Government of India are, under Section 187, to be made good by the Authority to the Federal Government, at rates to be agreed upon, or, in default of such agreement, as fixed by the Governor-General in his discretion. The phrase, however, used in the section, which speaks of the sum provided for capital purposes “out of the revenues of India or of the Federation,” is open to considerable misrepresentation; since not all the sums spent on capital purposes in connection with the railways were provided “out of the revenues of India” or of the Federation. True, the definition of the revenues of the Federation, as given in Section 136, may include borrowed monies as much as monies taken out of the recurrent income. But that definition is extremely artificial, not to say misleading; and it did not apply under the Government of India Acts between 1858-1919. It is to be hoped this obvious ambiguity will not involve litigation, and consequent danger of heavy loss to the Indian tax-payer. The prospects of this somewhat obsolete enterprise in the years to come are sufficiently gloomy to justify the worst apprehensions.

Railway Rates Committee

Section 191 provides for a Railway Rates Committee to be appointed by the Governor-General—

“to give advice to the Authority in connection with any dispute between persons using, or desiring to use, a railway and the Authority as to the rates or traffic

facilities which he may require the Authority to refer to the Committee."

This is different from the Railway Tribunal, which is mentioned in Section 193, and which is entitled to hear disputes between the Authority and any State in connection with mutual facilities needed for the efficient and economic operation of the railways.*

Critique of the Railway Authority

The other provisions of this Part of the Act are of a detail or consequential nature; and, accordingly, need not be discussed at length in this place.

The setting up and working of the Railway Authority is a new experiment, whose success cannot be judged at the present moment. Inasmuch, however, as it is obviously a creation of distrust of the democratic principle in government, or of the Indian politician come into power, its object as well as nature must meet with the strongest criticism. Not only it effectually and materially restricts the authority of the responsible Federal Ministry; it makes no provision by way of economy and retrenchment in the ordinary management of the railways by means of this new creation. Vast capital investment, already made on this account, will naturally dispose every critic of the Indian railway management to be more circumspect and restrained in his criticism than, perhaps, the facts of the case would absolutely warrant. But the division of subjects between the Federal and the Provincial Governments, and the absence of any incentive to economy in the Railway Authority, which would be naturally engendered by the necessity to pass its votes for expenditure through the Legislature, make the

*cp. Section 193 (1).

prospect more gloomy than one is disposed to contemplate. The cancellation of the recent debt due to the Indian Government by the railways, on account of current deficits in the Railway Budget in recent years, is an instance of solicitude and specially favoured treatment, which is hardly reciprocated in the constitution of this Authority, and is unlikely in the working of that body, when at last it is set going.

III. Property, Contracts, Liabilities and Suits

Chapter III of Part VII of the Act of 1935, relating to the above subjects, and embracing Sections 172-180, enunciate no new principle of Constitutional Law. Section 172 vests all lands and buildings, used for purposes of government, in His Majesty, and, through him, either in the Provincial or in the Federal Government. But that does not invest the King-Emperor with the ultimate ownership of all land in India, even as an incident of eminent domain. Constitutional authority, therefore, of the new Governments, in respect of levying a Land Revenue as a share of the produce due to the joint or ultimate owner, seems still to be lacking,—except, of course, in virtue of the rights of succession claimed by the British Government in India to the governments that went before them.

Lands and buildings vested in His Majesty for the purposes of His Majesty's Government in the United Kingdom, under Section 172 (1) (c), or used for governmental purposes, cannot be sold, or their purpose changed, without the consent of the Governor-General.*

The executive authority of the Federal or Provincial Government extends, subject to appropriate legis-

*cp. Section 172 (2).

lation, to the grant, sale, disposition or mortgage of property vesting in His Majesty for purposes of Federal or Provincial Government.* But—

"any land or building used as an official residence of the Governor-General or a Governor shall not be sold, nor any change made in the purposes for which it is used, except with the concurrence, in his discretion, of the Governor-General or the Governor, as the case may be."†

All contracts in future made in the exercise of the executive authority of the Federation, or of a Province, are to be expressed as made by the Governor-General, or by the Governor, as the case may be. The contract so made shall be executed by such persons as the Governor-General, or the Governor, may direct. None of these, nor even the Secretary of State, are by Section 175 (4), to be personally liable in respect of such contracts. The Federation of India, and each Provincial Government, is entitled to sue and be sued in its own name, under Section 176. Special provision is made, by Sections 177 and 178, for the taking over of existing contracts of the Secretary of State-in-Council, as also as regards existing loans, guarantees and other financial obligations.

IV. Miscellaneous Provisions

Miscellaneous and general provisions contained in Part XII of the Act, Sections 285 to 311, have already been noticed in part, in their appropriate place, in the preceding pages. Sections 292-3 provided for the continuation of the existing Indian laws, and for their adaptation, wherever needed, to the altered condition under the new Constitution. A special Order-in-

*cp. Section 175 (1).

†Proviso to Section 175 (1)

Council was issued on the 1st of April, 1937, for the purposes mentioned in Section 293. Section 294 deals with the foreign jurisdiction of the Indian Government; but it is too technical to be discussed in this place.

Court of Revenue Appeal

A Court of Appeal in revenue matters is provided for by Section 296,—members of the Legislature being excluded from being appointed to such a body. In every Province the Governor is enjoined to constitute such a tribunal, and the members constituting the tribunal are to be paid such salaries and allowances as the Governor in his individual judgment may determine. These salaries and allowances are to be charged on the revenues of the Province concerned. It is, however, not clear what exactly will be the functions of this body, or its jurisdiction. Still less is it clear whether it would really help in easing the intolerable burden of the Land Revenue in the ryotwari Provinces.

Freedom of Internal Trade

Section 297 has a special significance. It forbids any Provincial Legislature or Government from taking any steps which would impede the free movements of goods from one province to another. Nor are they to be allowed to impose any tax, toll, cess or due, which would amount to discriminating treatment as between corresponding goods produced or manufactured in that Province, and those made elsewhere in the Federation. The wording, however, of the section makes it open to question if the principle of this section would apply to goods made in, or brought from, a Federated State into a Province.

Freedom of trade and movement within the Federation must be regarded as an essential ingredient in a common citizenship. But in so far as the Federating States are not definitely obliged to accord this treatment, the Federal system in India established by this Act cannot be said to be beyond criticism.

Equality of opportunity for service

Section 298 provides:—

"298 (1) No subject of His Majesty domiciled in India shall on the grounds only of religion, place of birth, descent, colour or any of them be ineligible for office under the Crown in India, or be prohibited on any such grounds from acquiring, holding or disposing of property or carrying on any occupation, trade, business or profession in British India.

(2) Nothing in this section shall affect the operation of any law which—

- (a) prohibits, either absolutely or subject to exceptions, the sale or mortgage of agricultural land situate in any particular area, and owned by a person belonging to some class recognised by the law as being a class of persons engaged in or connected with agriculture in that area, to any person not belonging to any such class or
 - (b) recognises the existence of some right, privilege or disability attaching to members of a community by virtue of some personal law or custom having the force of law.
- (3) Nothing in this section shall be construed as derogating from the special responsibility of the Governor-General or of a Governor for the safeguarding of the legitimate interests of minorities."

This section applies to the subjects of His Majesty domiciled in India. If it stood by itself, it would exclude from this privilege, or equality, those persons who are citizens of the Indian States, whether federated or otherwise. By Section 262, however, the Ruler or subjects of any Federated State are made automatically eligible to civil posts under the Crown

in India; while power is given to the Governor-General to declare that the ruler or any subject of any Indian State, not federated, as well as the native of any tribal area, or of territory adjacent to India,—shall be eligible to hold any such office, provided that the office in question has been specified in the declaration. The same powers are given to Provincial Governors to make similar declarations with regard to specified civil posts being open to the ruler or subject of any specified Indian State, federated or not. The same applies to the Secretary of State in respect of posts to which he makes appointments. Subject to these exceptions,

"No person who is not a British subject shall be eligible to hold any office under the Crown in India."*

Sex Bar in Public Service

While no disability is to be imposed upon any British or domiciled Indian subjects of His Majesty for holding any appointment under the Crown in India, the equality of sexes in this matter of holding posts in the service of the country is by no means as well guaranteed. Says Section 275:—

"275. A person shall not be disqualified by sex for being appointed to any civil service, or civil post under, the Crown in India other than such a service or post as may be specified by any general or special order made—

- (a) by the Governor-General in the case of services and posts in connection with the affairs of the Federation;
- (b) by the Governor of a Province in the case of services and posts in connection with the affairs of the Province;
- (c) by the Secretary of State in relation to appointments made by him.

*cp. Section 262 (4).

The effect of this section is that women will be excluded from serving in any branch of the National Defence Organisation even of a noncombatant type, unless special legislation is passed by Parliament in that behalf. And even from given Civil Services or posts, they might be excluded, if a general or special order made by the appropriate executive authority debars them for such a purpose. As a matter of fact, under the rules for admission to the competitive examination for recruitment to the Indian Civil Service, only males seem to be entitled to compete,* while the power to nominate has so far never been exercised in favour of a woman for a post in the Indian Civil Service. This is, to say the least, retrograde in a Constitution which appears to be founded on the equality of all citizens of the same commonwealth. Women constitute the largest single minority in the country. But, it seems that for their protection not even the doctrine of Special Responsibility of the Governor-General or of the Governor in respect of safeguarding the legitimate rights of minorities would avail.

We have already commented upon Section 299 in regard to the compulsory acquisition of land or industrial enterprise, and so need not repeat our comments on that point here.

*See Rule 4 (2) which says: "A candidate must be a male."

CHAPTER XIV

A SUMMARY OF CONCLUSION AND RECOMMENDATIONS

In the previous chapters of this book the Government of India Act 1935, embodying the new Constitution for India, has been examined in some detail, and criticisms have been offered from the point of view of the Indian people's ideal of political evolution and progress. That ideal, it must be remembered, is based on the sovereignty of the people; and it refuses to recognise any limitations or reservations to this sovereignty.

But while we lay stress on the independence of India and the establishment of a free national State, we recognise fully that the world of to-day urgently demands an international order, and the fullest co-operation between nations, to solve the problems and end the conflicts that afflict mankind. Science and modern industry and trade and finance and transport and communications, in fact the whole basic texture of the world to-day, is international. Hence the problems we have to face are essentially international and require international solutions. To think or act in terms of a purely national State, largely cut off from the rest of the world and developing itself independently of it, is to ignore realities, and to refuse to take advantage of the many avenues of progress and advancement which modern conditions offer. A narrow autarchy does not fit in with these conditions and must inevitably lead to reaction and a throw-back.