

If the financial curb upon Ministerial enthusiasm for the economic betterment of the masses does not prove quite effective, there are the enormous powers of the Governor-General, as protector and champion of foreign vested interests and Imperialist exploitation, which are bound to be employed to impede or frustrate too enthusiastic Ministers. There are, again, specific provisions of the Constitution, such as those against any discrimination against British-vested interests,* or in protection and guarantees to the Public Services, or even in grants to Indian States under Sections 147-149, which must needs prevent the Ministers from embarking upon ambitious schemes of national reconstruction and economic re-habilitation, which the stress and strain of modern economic nationalism require in every country. Finally, the Ministers' own internal difficulties,—the want of solidarity among them because of their incongruous composition, or because of lack of sufficient appreciation of their economic policies in the masses of their countrymen,—may prevent their achieving anything by way of constructive benefits to the people, and so making *Swaraj*, or popular Government, a real, visible, tangible advantage.†

*cp. Sections 111-121.

†Soon after the Congress Working Committee had authorised acceptance of Ministerial Responsibility in the Provinces where the Congress was in a majority, the President of the Congress issued a statement (July, 20th 1937) warning the people against the facile feeling that Congress Ministries would mean Congress raj, much less *swaraj*. Such a caution would, if anything, be more necessary as regards the Federation even if the first Federal Ministry is of Congress complexion.

CHAPTER VII

FEDERAL SERVICES

The actual work of Federal Administration is carried out by well organised, carefully protected, and meticulously safeguarded Public Services. These are not exclusive to any particular Department, except in regard to the Department of Defence; but specialised qualifications and experience are necessarily becoming more and more important in the recruitment, promotion, or postings in the various Departments.

The most difficult single problem of the Indian Constitution, and the one which also affects most immediately the economic side of our national development, is that in regard to the place and function of the Public Services. We shall consider in this Chapter those branches of the Public Service, and add that portion of the general reflections on the matter, which were either omitted from the volume on Provincial Autonomy, or insufficiently discussed there.

The bulk of the Public Services,—including the Indian Civil Service proper, the Police, Judicial, Engineering, Educational and Medical, work in the Provinces. We have already considered, in the volume on Provincial Autonomy, most of the problems connected with their recruitment, discipline, promotion, protection, and emoluments. In this section, therefore, of our study of the Constitution, we need say no more than that what applies in the case of Services operating in the Provinces applies with still greater force as regards the Federation, if and when that entity is established.

We shall, accordingly, confine ourselves, in this Chapter to considering the Federal Services proper, which include:

- (1) Secretariat and Counsellors;
- (2) the Defence Services;
- (3) the Political Services, in the Indian States, and other officers in connection with the External Relations of the Federation of India;
- (4) Ecclesiastical Department, and Miscellaneous Federal Services.
- (5) the High Commissioner, and the Department under him;
- (6) the Audit and Accounts Services;
- (7) the Railway Services; Reserve Bank Service; Posts and Telegraphs;
- (8) the Customs, Income Tax, Salt and other Services under the Finance Department of the Federal Government;
- (9) Inspecting and co-ordinating Staff;
- (10) the Federal Judicial Service;

The basic principles of recruitment, payment, promotion, discipline are, as already observed, exactly similar; and so we need devote no space to discussing these; or considering the problems connected therewith. The same question of overweighted superior ranks and overpaid service; of lack of Indianisation; of secured independence from Indian Ministerial authority, militating against good discipline and proper subordination of efficiency in the country's service; of guaranteed communal proportions; of progressive discontinuance of the principle of recruitment by open

competitive examination in favour of direct or indirect patronage,—not to mention the possibility of imperceptible corruption due to the progress of the popular elements,—confront the student of the Indian Constitution in the case of the Federal Government as in those of the Provincial Governments; and the means open to deal with them are in no way better. The Governor-General is even more the Patron Saint and the Sovereign Grand Master of the Services,—federally considered,—than the Governor in the Provinces. His powers of appointment, fixing of the terms and conditions of service; scales of pay and allowances, pensions and other privileged forms of exploitation; protection by way of appeal and in matters of discipline; are even more considerable than those of the Governor. On the other hand, the opposition that the representatives of the Indian people in the Federal Cabinet can put up is, if any thing, weaker than in the Provinces from the corresponding quarter.

(1) Secretarial Staff for the Governor-General

Let us consider first the services required for the manning of the Reserved or Excluded Departments under the Governor-General, and those officers needed by him to aid him in the proper discharge of the powers and functions to be exercised in his discretion. The most important of the latter is the Private Secretary to the Governor-General, and the staff needed for that department or office. Under Section 305:—

305.—(1) The Governor-General and every Governor shall have his own secretarial staff to be appointed by him in his discretion.

(2) The salaries and allowances of persons so appointed and the office accommodation and other facilities to be provided for them shall be such as the Governor-

General or, as the case may be, the Governor, may in his discretion determine, and the said salaries and allowances and the expenses incurred in providing the said accommodation and facilities shall be charged on the revenues of the Federation or, as the case may be, the Province.

As the Joint Parliamentary Select Committee, which considered this Constitution in its Bill form, remarks:—

"The Governor-General will require an adequate staff with an officer of high standing at its head. Whether one of the Counsellors will fill this position it is unnecessary for us to consider, for the question is administrative rather than constitutional; but it is of exceptional importance that the Governor-General should be well served, and we do not doubt that this matter has engaged and will continue to engage the earnest attention of His Majesty's Government".*

In the paragraph of this Report just immediately preceding, the Committee have given consideration to the Indian apprehension that the Counsellors of the Governor-General, placed in charge of his special responsibilities or extraordinary powers, might develop into "super-ministers." While negating that fear, the Committee cannot conceal the fact that, if the various powers of discretion, and for overriding the Ministry in given cases, entrusted to the Governor-General, are to be properly carried out, he would need highly skilled and experienced aid in the discharge of those Special Responsibilities, and the exercise of those extraordinary powers. The Provincial Governors, with corresponding similar powers and functions, have appointed in this place officers of the rank of a Collector-Magistrate, Civilian of some twenty years' experience in Indian administration. Private Secretaries to the Governor-General have, even under the existing Constitution, been very high officers, who, on completion of their term of office, have frequently been

*Rep. Para. 189, Op. Cit.

promoted to be Governors of Provinces. Under the new Constitution, the responsibilities and duties of this office will be particularly onerous. It is, therefore, no surprise, that provision is made for such appointments by the Governor-General in his discretion.

The only comment one might permit oneself to offer is that, so long as the Governor-General is himself an alien officer appointed on alien advice, there is every likelihood that he would select for his Private Secretary a person, who, by race and training, would have greater affinity with British vested interests of all sorts in India than with the leaders of the people. As, moreover, this appointment will be made by the Governor-General in his discretion, the Indian Ministers of the Governor-General will have no necessary say as a matter of right in the choice of the individual or his emoluments of office. There is thus every reason to fear that, in so far as the well-being of the country is closely mixed up with the proper, sympathetic, and discriminating exercise of the extraordinary powers of the Governor-General, the individual appointed, and the terms and conditions of his appointment will militate against adequate attention and sympathy being shown to India's expectations. The Governor-General is usually a high-born gentleman, not particularly distinguished for his capacity for hard work, and much less for intellectual acumen or political discernment. Such personages inevitably become dignified mouthpieces of their competent secretaries. But even when they are not mere automata speaking out the lines put into their mouths by their secretaries, the powers given to the Governor-General under the new Constitution are such and so vast, that

his private secretary will necessarily exercise immense, even if invisible, power for the success or failure of the Responsible Ministers, and so for the success or failure of the entire Constitution. It is but natural, then, that Indians should feel particularly concerned in the choice of the individual to fill this place, his outlook and sympathies.

The Counsellors of the Governor-General

The staff needed for the other Reserved or excluded Departments, placed in charge of the Governor-General in his sole discretion, would be headed by the respective Counsellors in each such Department,—except possibly the Department of Ecclesiastical Affairs. Before discussing the Constitutional position of these Counsellors,—half-Ministers, half-secretaries, wholly ambiguous and amphibious creatures,—of the Governor-General, let us note that, under the provisions of Section 244 (2), the Secretary of State is entitled to make appointments, until Parliament otherwise determines, to any service or services which, after the coming into operation of the system of Provincial Autonomy, may be established to secure the recruitment of suitable persons to fill civil posts in connection with the discharge of the Governor-General's discretionary functions. The strength of these services, the conditions regarding pay, leave, pensions, etc., are to be determined by the Secretary of State.* In so far as the persons in such posts are serving in connection with the affairs of the Federation, their salaries, leave allowances and pensions, must be charged upon the revenues of the Federation,—i.e., be not votable by the Federal

*cp., Section 244 (3) and Section 247.

Legislature.* These will be the most costly services under the new regime; and they will have every right of complaint to the Secretary of State, and compensation for any real or fancied ill-treatment. No change can be made in their mode of recruitment, scale of pay and allowances, pensions or Provident Fund contributions, by any authority in India, even though they may be concerned with the most vital affairs of India.

The Governor-General is obliged, under Section 244 (4), to keep the Secretary of State informed as to the working of these special services created under Section 244 (2). As emblem of the continuing Parliamentary Authority in this regard, the Secretary of State must submit every year a statement to Parliament giving the number of appointments made to these services in that period, and of the vacancies therein.† In all this, there is no word or hint of concern for the Indian people, or their ability to support such burdens,—or enjoy such luxuries. The only consolation, if consolation it can be called, is to be derived from the somewhat belated and halting provision in 244 (4) that:—

"It shall be the duty of the Governor-General to keep the Secretary of State informed as to the operation of this section, and he may after the expiration of such period as he thinks fit make recommendations for the modification thereof."

This may be interpreted to mean,—though with a certain strain upon the spirit of the entire Constitution,—

*The same rule applies as regards those serving in connection with the affairs of a Province,—the salaries, etc., being charged on the Provincial Revenues.

†This last provision is interesting, in so far as the logic of Section 246 would seem to forbid keeping such vacancies, even in these services, for longer than 3 months, thereby effecting savings in public expenditure in an oblique fashion.

that the Governor-General may conceivably see, in some remote future, (a) the unwisdom, impolicy, or extravagance of having such services at all; or (b) having them manned by people appointed by an alien authority, like the Secretary of State, presumably unfamiliar with the requirements of Indian administration or local conditions; or (c) having them in such extraordinarily privileged position. If he so realises, he may recommend modification of this section in the direction he may deem proper and necessary for the efficient conduct of the administration. But even then, he acts on his own authority, without necessarily any reference to or consultation with his Ministers; for the second paragraph of the sub-section expressly provides:

"In discharging his functions under this sub-section, the Governor-General shall act in his discretion".

There is, therefore, no reasonable hope of relief being obtainable by the Indian exchequer or the Indian people from these innumerable old men of the mountains fastened upon our shoulders.*

The Counsellors themselves are appointed under Section 11. These appointments are not to exceed 3 in number; and their salaries and conditions of service are to be such as His Majesty may prescribe by Order in Council. What exactly will be the rôle of these hybrid relics of a vanishing system of Dyarchy, it is, at the moment, impossible to say. In all probability they would be midway between the Departmental

*Exactly what will be the strength of the Services created under this Section 244 (2), it is impossible to say to-day, even in the roughest estimate. A reference to the Governor-General's discretionary powers (See ante p. 147) is no guide, since he need not have special organised services in respect of all those functions. Much less is it possible to estimate to-day the cost of those services. All that one can now prophesy is that the strength may be quite considerable and the cost very high.

Secretaries and the Executive Councillors of to-day, appointed for definite terms, on fairly high salaries, but without any direct responsibility either to the Federal Legislature, or even to Parliament. The power of the Governor-General under Section 17 to make rules for the distribution of business, and the conduct of the work of government among his Ministers and Counsellors may relieve, or remedy to some extent, the inherent difficulties of this situation. Says the Report of the Joint Select Committee of Parliament, who considered this Constitution in its Bill form:—

"The Federal Government will be a dyarchical, and not a unitary government, the Governor-General's Ministers having the constitutional right to tender advice to him on only a part of the affairs of the Federation, while the administration of the other part remains the exclusive responsibility of the Governor-General himself. In these circumstances, it is clear that the Governor-General's Counsellors, who will be responsible to the Governor-General alone and will share none of the responsibility of the Federal Ministers to the Federal Legislature, cannot be members of the Council of Ministers".

Without being of the Ministry, or sharing their responsibility to the Legislature, these Counsellors will nevertheless share in all the deliberations of national policy. The Instructions to the Governor-General require that constant consultation, and interchange of ideas, should take place between these two halves of the Federal Government. The justification alleged for the practice is, not only the advisability of acquainting the Responsible, popular Ministers with the working and requirements of the non-responsible half of the Government, but also thereby to train and prepare the former for shouldering the full responsibility for all Departments of Government in the fullness of time, when it pleases the British Imperial Government to

make that concession. It may also happen, however, that, from this very practice, the non-responsible Counsellors may come to know of the policies and intentions of the Responsible Ministers for the Departments for which the latter are responsible at their very inception. If the Counsellors are unsympathetic, or unduly alarmist regarding the reaction of such Ministerial proposals upon the departments for which they are responsible to the Governor-General alone, it would be in their power to prejudice the Governor-General from the start against these proposals of his Ministers, even before they reach the stage of being formulated in legislative or other measures. The Governor-General can always plead his Special Responsibility for the maintenance of financial stability and credit of India,—or, failing that, for the prevention of any grave menace to the peace and tranquillity of India or any part thereof,—to veto such proposals from even being formulated, to frustrate them when formulated, or prevent their being properly carried out when enacted or resolved upon by the Legislature and the Ministry.

These Counsellors are thus undesirable from every point of view. They are likely to be a fifth wheel of the coach, and a costly luxury, for the simple reason that their pay, etc., being outside the control of the Legislature, the authority fixing that may,—and, probably, will,—have no regard to the ability of the Indian people to bear such burdens. Their salaries and allowances will, we may assume, be fixed at levels not much below that of the present Executive Councillors. Certainly, we may take the salaries, etc., of the present Secretaries to the Government of India to be the lower limit

of these emoluments. Even at that level, they are bound to be a most costly and unwanted addition to the Federal Budgets. They might be appointed for a term of 5 years, and will very likely be all special importations for the purpose from abroad. Or they might be promoted from among British officers serving in India in the Civil, Military, and other Departments, provided they are known to be "strong men" who would not succumb to Indian influences, and hold no sympathy for Nationalist heresies. However appointed and recruited, they may be entitled to serve a further term in the same office, or be interchanged as between their different departments. Their responsibility being primarily and exclusively to the Governor-General, unless the latter in any way feels dissatisfied with their work or ways, they may continue to draw these excessive emoluments for an indefinite period in these relatively cushy jobs, with little responsibility, and perhaps less work.

Financial Adviser

The same, almost, might be said of the Financial Adviser to the Governor-General, except that his work would be much more considerable. His services would be available to the other Departments of Government in charge of Responsible Ministers; and the selection of the individual to be appointed to this post will not always be free from Ministerial influence. But the presence of the Financial Adviser to the Governor-General at Cabinet meetings may not be an un-mixed good to the Responsible Ministers, since the primary responsibility of this Adviser is towards the Governor-General; and his duties may include the

obligation to keep the Governor-General advised as to the Financial reactions of the Ministers' proposals in the Departments for which they are responsible upon Departments which are excluded from their purview; and for which the Governor-General is alone responsible. As, in discharge of his Special Responsibilities, and to meet the expenditure in the Reserved Departments, the Governor-General is entitled to a prior charge upon the Federal revenues, the information and advice of the Financial Adviser may quite possibly act prejudicially to the interests of the other Departments, and of the country generally.

(2) Defence Services

As already mentioned elsewhere, it is proposed to devote an entire chapter to consider the constitutional side of the problem of our National Defence in this volume. We shall, therefore, devote no further space here to such problems as Indianisation, Conscription, Retrenchment and Economy; Recruitment in the Defence Forces; institution within the country of all branches of industry needed for equipping the Defence Forces.

Considering here only the services in that Department, also an exclusive responsibility of the Governor-General, they are governed by a Chapter of the Constitution exclusively devoted to them. The Commander-in-Chief's appointment is specifically provided for in the Constitution;* and all the various branches of the Defence Services are regulated by Sections 232 to 239, both inclusive. As the entire expenditure in connection with the Department of Defence is excluded from the vote of the Federal Legislature, the pay, pen-

*cp. Section 4, and ante Ch. IV. p. 131.

sion, and allowances of the Commander-in-Chief may well be fixed by Order of the King in Council.* Section 237 provides:—

"Any sums payable out of the revenues of the Federation in respect of pay, allowances, pensions or other sums payable to, or in respect of, persons who are serving or have served, in His Majesty's forces shall be charged on those revenues, but nothing herein contained shall be construed as limiting the interpretation of the general provisions of this Act charging on the said revenue expenditure with respect to defence".

This principle is extended, by the next following section:

"to persons who, not being members of His Majesty's forces, hold, or have held, posts in India connected with the equipment or administration of those forces or otherwise connected with defence, as they apply in relation to persons who are, or have been, members of those forces".

This means that responsible Indian Ministers shall have not only no say whatsoever in the appointment of the Commander-in-Chief of their Defence Forces, or in the shaping of the general policy for making proper provision for defence according to their means and requirements, but they will have no say whatsoever in making any disbursements which are covered by the sacred name of National Defence,—whether in regard to persons directly engaged in that task, or those who are only remotely connected with some ancillary service in connection with it. And this in addition to the wide latitude afforded by Section 150 relating to expenditure in general, and the "purposes" on which it may be made, which has already been cited and commented upon in the volume on Provincial Autonomy.

*Section 232. The pay, etc., of the Governor-General is fixed by Schedule III to this Act.