

the Ministers under the dyarchical regime into a consolidated Ministry of the autonomous regime.

Congress and Ministerial Salaries

The resolution of the Karachi Sessions of the Indian National Congress (1931), fixing a maximum salary of any public servant in India at Rs. 500/- per month, if enforced so far as the Congress members are concerned, may create a novel situation.* The voluntary surrender of the excess over Rs. 500/- per month by the Congress Party members, if appointed Ministers in any Province, may spell a measure of economy*. But this cannot be universalised so long as the act of renunciation is a voluntary measure; and the benefit of the renunciation will go to the Party Chest, not to country as a whole. The Acts of the Provincial Legislature determining the salaries of the Ministers will, —even in the Provinces where the Congress secures a majority in the Legislature,—be very likely such as to afford no real economy in this matter of the scale of ministerial salaries. And if the popular Ministers themselves do not set an example in this direction, their efforts at economy or retrenchment in the Provincial Budget through reduction in salaries would be doomed to failure, even assuming the Constitution as a whole would permit such changes.

Appointment and functioning of Ministers.

The appointment of Ministers is left, as already noted, to the Governor by law. There is nothing in the law to suggest that he must choose his Ministers in any particular manner, though the Instrument of

*Though the original Resolution had fixed the maximum salary at Rs. 500/- p.m. the Special Committee appointed recommended increasing the absolute maximum of any public salary to Rs. 1,000/- p.m.

Instructions to the Governor may,—and does*—lay down certain lines according to which the Governor must select his Ministers. But the Instrument of Instructions, though issued under the authority of the Act,† is not a document which can be taken to a Court of Law for interpretation; nor can any constitutional issue be settled by reference to it in a proper tribunal. It is a Prerogative act of the King, and the King's representative is responsible to the British Sovereign alone for any violation of the terms of that Instrument.

Instructions to Governor for forming Ministries

The Instrument may require the Governor to select His Ministers from among that party in the Local Legislature, which commands a majority of the votes in that body for the time being, so, however, that important Minorities in the Legislature should be represented in the Ministry. If the Party composition of the Legislature is such, that in the Majority Party there is no member of a Minority community, the Governor would be entitled by law to force upon his Cabinet a colleague from a Minority community who may not share their political faith and ideals. This is not calculated to add to the homogeneity, solidarity, or a sense of collective responsibility among the Ministers.

*See also Appendix to this Chapter for "Instructions to Governors," Article vii.

†"53.—(1) The Secretary of State shall lay before Parliament the draft of any Instructions (including any Instructions amending or revoking Instructions previously issued) which it is proposed to recommend to His Majesty to issue to the Governor of a Province, and no further proceedings shall be taken in relation thereto except in pursuance of an address presented to His Majesty by both Houses of Parliament praying that the Instructions may be issued.

(2) The validity of anything done by the Governor of a Province shall not be called in question on the ground that it was done otherwise than in accordance with any Instrument of Instructions issued to him."

It may, indeed, be that the provincial politicians would themselves see to it that, in their party ranks, are some members of Minority communities, whom the Act suggests, by a Special Responsibility of the Governor, to be included in the Cabinet; and the Instrument of Instructions directs the Governor to do so. But such choice of Ministers—on grounds of Communal complexion, rather than on the strength of the political capacity,—is apt to undermine completely the spirit of true constitutionalism in the Provincial administration.

Collective Responsibility

The wording of sub-section (4) of Section 51, again, does not at all show that the Ministers will act collectively in offering advice to the Governor, on such matters in which by law they are entitled to offer advice to the Governor, and the latter is bound to follow that advice. The rules of business of the Government,* made by the Governor in his discretion, may provide for individual consultation between the Ministers and the Governor. Again certain minor matters of Government may be left to be disposed of by the Minister concerned, either on his own authority, or with the concurrence of the Governor, as seems to be the case under the Constitution of 1919. In such cases, the tradition and policy of individual advice to the Governor will be continued; and to that extent the development of a spirit of collective responsibility and Ministerial solidarity will be impeded.

*Cp. ante p. 79, section 59.

The fact, moreover, that the Governor is entitled to preside at Cabinet meetings,* coupled with the further fact that he is, by law, entitled to demand and obtain all the information relating to every subject in any department of his Government from the Ministers or from the Secretaries, will suffice to make the Governor the real head of the Government, rather than his Prime Minister, if any.

Probabilities of the political complexion of the first Ministries in the leading Provinces

What will be the political complexion of the first Ministries in the Governors' Provinces under the new Constitution? This is necessarily a matter of speculation at the moment of writing. But an analysis of the composition of the Legislature in the important Provinces, coupled with the past experience of the composition of the Legislatures under the Montford Constitution, might supply some data for making a forecast.

The following Table represents the composition of the Legislatures under the Act of 1935 in the Governor's Provinces, including the Legislative Assembly as well as the Legislative Council wherever the Legislature is bicameral.

*Cp. Section 50 (2). But this is a matter of his sole discretion, and not an imperative, categorical, obligation imposed upon him by the Constitution. See also Section 59.