

similarly charged on the revenues of the Federation. A similar Rule applies to the Pensions of those retired from any such service or post before 1st April, 1924. Section 260 provides that the Pension of people who are retired from the civil service, or from a civil post under the Crown in India, before the coming into operation of Part III of the Act of 1935, shall be charged upon the provincial revenues; for the same would have been payable by the Local Government in any province, if this Act had not been passed. In all other cases, these shall be paid out of the revenues of the Federation.\*

All the powers of the Secretary of State in this connection are to be exercised by the Secretary of State with the concurrence of his Advisers.†

#### Public Service Commissions

Though practically all the accepted principles of securing a healthy, efficient, and really independent Public Service in India have been abandoned by the Act of 1935,—so far as the *de facto*, or rather the *de jure* governments in India are concerned; though recruitment by open competitive examination is a rapidly vanishing quantity in a majority of Public Services, and the powers of discipline or economy of the authorities in India less than nominal, they still maintain the pretext of recruitment through independent Public Service Commissions.

In Chapter III of Part X of the Act of 1935, provision is made for the appointment of Public Service Commissions, for the Federation, as well as for such Provinces as may desire to have this device for recruit-

\*Sec. 260.

†Sec. 261.

ing to the several services under their charge.\* Though the Act requires a Public Service Commission for each Province,† it also provides that two or more Provinces may agree to have a Common Public Service Commission, and that the Public Service Commission of one Province may serve the needs of any other Provinces agreeing to such an arrangement. Any agreement for this purpose must specify, wherever one Commission is to serve the purposes of more than one Province, as to which Governor or Governors will exercise those functions in connection with the services, which are, under Part X of the Act, required to be exercised by the Governor of a Province.‡

The Federal Public Service Commission may, if requested so to do by the Governor of a Province, agree to serve the needs of a particular Province, if the Governor-General approves of such a course.§

#### Constitution

A Provincial Public Service Commission consists of a Chairman and such other members as are appointed by the Governor *in his discretion*.§ No qualifications have been laid down for membership of this body, except that at least one half of its members must have served the Crown in India for at least 10 years on the date of their appointment. This means that the bulk of such Commissions shall be made up of persons who are replete with Service prejudices, and from whom, therefore, no sympathy with popular ideas or ideals of democratic government can be expected.\*\*

\*Sec. 264 (1).

†Sec. 264 (1).

‡Sec. 264 (2).

§ Sec. 264 (3).

§ Sec. 265 (1).

\*\*Ibid.

The Governor *in his discretion*, makes regulations to govern the provincial commission, on the following matters:—

- (a) The number of members of the Commission, their tenure of office, and their conditions of service.
- (b) the staff of the Commission and their conditions of service.\*

The Chairman of the Federal Public Service Commission is ineligible for further employment under the Crown in India, when he ceases to hold the chair of the Commission.† On the other hand, the Chairman of a Provincial Commission is eligible for appointment as the Chairman or member of the Federal Commission, or as Chairman of another Provincial Commission, but not for any other employment under the Crown in India.‡ This, however, would not prevent any of these persons, disqualified from further employment under the Crown in India, from being employed in the Indian States, or semi-Governmental bodies like the leading Municipalities, Port Trusts or Universities, not to mention the far more lucrative openings in modern capitalist industry. If the idea underlying such a bar on employment is to ensure the integrity and independence of such persons in the choice of candidates selected by them for public employment, the growing modern practice of transition of high public officers into private industry ought to be put to an end to. Scandals like that which recently occurred in connection with a high official of the British Air Ministry will be only too common in the relatively laxer atmosphere in India, if a specific guarantee is not obtained from

\*Sec. 265 (2).

†Sec. 265 3 (a).

‡Sec. 265 3 (b).

any officer serving in given positions of particular importance, not to seek private employment when he retires from public service, on pain of losing his pension, and suffering such other penalties as the Rules made in that behalf may ordain. Other Members of the Federal or Provincial Commission are not eligible for any other appointment under the Crown in India, without the approval of the Governor in the case of an appointment in connection with the affairs of a Province, or of the Governor-General in the case of any other appointment. The action of the Governor in this connection is to be in his discretion.\*

### Duties

The duties of the Federal and Provincial Public Service Commissions are laid out, in section 266 as follows:—

- (1) To conduct examinations for appointments to the service of the Federation and the Provinces respectively.
- (2) If requested by any two or more Provinces so to do, to assist those Provinces in framing and operating schemes of joint recruitment for their forest services, and any other services for which candidates possessing special qualifications are required.
- (3) The Secretary of State as respects services and posts to which appointments are made by him, the Governor-General in his discretion as respects other services and posts in connection with the affairs of the Federation, and the Governor *in his discretion* as respects other services and posts in connection with the affairs of a Province, may make regulations specifying the matters, on which,

\*Sec. 265 c.

either generally, or in any particular class of case, or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted. But, subject to regulations so made, and to the provisions of the next succeeding subsection, the Federal Commission or, as the case may be, the Provincial Commission *shall be consulted*:—

- (a) on all matters relating to methods of recruitment to Civil Services and for civil posts;
- (b) on the principles to be followed in making appointments to Civil Services and posts, in making promotions and transfers from one service to another, and on the suitability of candidates for such appointments, promotions or transfers;
- (c) on all disciplinary matters, including memorials or petitions relating to such matters;
- (d) on any claim by or in respect of a person who is serving or has served His Majesty in a civil capacity in India, that any costs incurred by him in defending legal proceedings instituted against him in respect of acts done in the execution of his duty should be paid out of the revenues of the Federation or, as the case may be, the Province;
- (e) on any claim for the award of compensation in respect of injuries sustained by a person while serving His Majesty in a civil capacity in India, and any question as to the amount of any such award, and it shall be the duty of a Public Service Commission to advise on any matter so referred to them, and on any other matter which the Governor-General in his discretion, or, as the case may be, the Governor *in his discretion*, may refer to them.

Public Service Commissions are not entitled to be consulted on the manner in which appointments

and posts are to be allocated as between the various Communities in the Federation or a Province, or, in the case of the subordinate ranks of the various Police forces in India, as respects, any of the matters mentioned in paragraphs (a), (b) and (c) of subsection (3) of section 266. These are matters in general policy which can only be settled by the supreme authority.

These duties are mainly advisory, except as regards the Examinations, which are to be conducted by these Commissions for appointment to public service. But it is not certain that on the results of the Examinations conducted by these Commissions, the successful candidates in the order of merit will necessarily and automatically appointed to the vacancies announced or available.

#### The real role of the P. S. Commission

The interposition of such a body,—even if only by way of consultation—on matters relating to methods of recruitment, principles of appointment, promotion and transfer, as also all disciplinary matters, is a needless and unjustifiable check on the Ministers, that, in the conditions of India, will not promote the interests of administrative efficiency or smooth government. The Commission have got no executive functions of their own; but they have enough statutory privileges of their own to embarrass or impede, without aiding, the Constitutional Ministers.

#### Extension of Commission's Functions

The functions of the Public Service Commission may be extended, under section 267, by Act of the Federal Legislature or the Provincial Legislature,



which may provide for the exercise of additional functions by these Commissions.

But—

- (a) no Bill or amendment for that purpose can be introduced or moved without the previous sanction of the Governor-General, or of the Governor *in his discretion*.

Besides,

- (b) it must be a term of every such Act that the functions conferred by it must not be exercised—

- (i) in relation to any person appointed to a service or a post by the Secretary of State, or the Secretary of State in Council, any officer in His Majesty's Forces, or any holder of a reserved post, except with the consent of the Secretary of State.

- (ii) Where the Act is a Provincial Act, these functions must not be exercised in relation to any person who is not a member of one of the services of the Province, except with the consent of the Governor-General.

It is impossible to see in what directions can the functions of these Commissions be added to, by such legislation, without at the same time diminishing what little authority still remains in the Legislature, *e.g.*, by way of voting supplies.

The expenses of the Public Services Commission, including the salaries, allowances and pensions payable to members of the staff of the Commission, are to be charged upon the revenues of the provinces, and so be outside the authority of the local Legislature to vote upon.\*

\*268. Pensions, however, to members of the Commission, &c., are not to be charged on Provincial revenues, being already made a charge upon the Federal revenues under section 247(5) and 250.

### Absolutely Guaranteed Position

We have outlined above the several provisions relating to the constitutional position and safeguards of the Public Servants in India, in order to make our general criticism of the whole scheme more objective and documented, and incidentally to show the actual scope left to the Ministers to influence the administration of the country in its daily routine. Of the half dozen problems connected with the Public Services in India, those in regard to salary, pensions, and other allowances affect the economic ability of the Indian people; while those in regard to recruitment, discipline and Indianisation affect the political sentiment for Self-Government which is reinforced by economic considerations. We shall consider them in these two main groups.

The public servants are all so thoroughly guaranteed their tenure of office, emoluments, and other privileges, that any kind of material sanction, which the power to affect the position of any public servant by the Government as a whole, or the official superior, namely, the Minister in charge of a Department, implies, is extremely insignificant. Even the right of posting, transfers from one post to another, or promotion from a lower to a higher grade or post, is so meticulously regulated by Law, or Rules to be made by the Chief Executive Authorities, that the influence of the popular chiefs of government in controlling the public servants under their official charge, is reduced to nullity.

### British Analogy

It is urged, indeed, that the provisions of the Act of 1935 are following, in essence, the practice developed in the United Kingdom, in which the Public Servants of the Crown are assured the independence and safety, which no Minister of the Crown can really tamper with. The Prime Minister is supposed to be personally in charge of the question of the appointment, promotions, and discipline of the public servants in the several Departments; and as such, he is able to secure to them that measure of safety, which in India is accorded to them by the provisions of the Constitution Act.\*

But the British analogy has no place, not only because the sovereignty of Parliament is absolute, while the Indian Legislatures have no right to legislate on such matters; but also because the traditions of

\*This tendency has been emphasised by the argument frequently advanced and accepted in the past, both by Indians and Englishmen, that provincial self-government necessarily entails control by the provincial government over the appointment of its servants. This argument has, no doubt, great logical force, but it runs the risk of distorting one of the accepted principles of the British Constitution, namely, the civil servants are the servants of the Crown, and that the Legislature should have no control over their appointment or promotion, and only a very general control over their conditions of service. Indeed, even the British Cabinet has come to exercise only a very limited control over the Services, control being left very largely to the Prime Minister, as, so to speak, the personal adviser to the Crown in regard to all Service matters. The same principle applies, of course, equally to the Services recruited by the Secretary of State for India, though this fact has been sometimes obscured by inaccurate references to the control of Parliament over the All-India Services. But, whatever misunderstandings may have arisen in the past as to the real status of the Provincial services, there ought to be no doubt as to their status under the new Constitution. We have already pointed out that, under that Constitution, all the powers of the Provincial Governments, including the power to recruit public servants and to regulate their conditions of service, will be derived no longer by devolution from the Government of India, but directly by delegation from the Crown, i.e., directly from same source as that from which the Secretary of State derives his powers of recruitment. The Provincial Services, no less than the Central Services and the Secretary of State's Services, will, therefore, be essentially Crown Services.' (Para. 291 Joint Select Committee's Report. Page 179).

public service, in India and in Britain, and the entire outlook of public servants, is so fundamentally different.

### Services and Ministers

One effect of these provisions must inevitably be to make the constitutional chiefs of the administrative Departments of Government in the Provinces utterly impotent to control their subordinates in the Public Service, and to secure that the policy they have adopted through the Legislature is carried out. In the United Kingdom this never happens, simply because of the traditions of loyalty, which makes all Public Servants of the Crown render to each successive Government, no matter to what Party it belongs, the same measure of support and co-operation that is expected of the Public Servants in carrying out the wishes of Parliament, embodied in legislation. In India, however, the opposition of the existing services to constitutional progress on democratic lines is no secret. It is reasonable to suppose, therefore, that the new popular Ministries will be looked upon with a degree of distrust by the higher ranks of the Public Servants in India, which would not augur well for the smoothness, harmony, and progressive character of public administration.

It is, therefore, reasonable to fear that these officials may not show the same co-operation that is expected of the public servants in a parliamentary democracy. During the transition period, accordingly, the need seems to us to be imperative, that, in the last resort at any rate, the official control of the Provincial Cabinet should be secured over the Public Ser-

vants serving in the Province, no matter by whom they have been initially appointed, if the effect of Provincial Autonomy is to have any real meaning in the governance of the provinces.

#### **Service Discipline and Administrative Efficiency**

It is needless to labour upon the subversive influence of those innumerable measures of safety, which are found in the many provisions for aggrieved public servants to complain against any decision of a superior authority affecting them, and also to appeal against the same to a higher authority. Such opportunities for securing justice to the public servant, even if needed, must be consistent with the maintenance of discipline in the ranks, and of the ultimate sovereignty of the people,—and, therefore, of the supreme authority of their chosen representatives,—in a democratic Constitution. The actual manner, in which such opportunities are provided by the Act of 1935 to the various grades of Public Servants in India, suggests, even if they do not express in so many words, the possibility of indiscipline or insubordination, which will not bode well for the continued efficiency of public administration in this country. The public services in such entrenched and privileged position will always be looked upon as mere exploiters, who had no concern with the good of the country they administer, except to squeeze out the last ounce of wealth needed to pay their inflated and innumerable salaries, allowances and emoluments. The very objective these provisions are intended to achieve will thus be defeated by making them appear as an alien garrison in this country.

#### **High scales of pay and innumerable allowances**

It may be admitted that the power of supreme and ultimate control in the hands of the popular Ministers over their official subordinates need not necessarily be exercisable in a manner which would prejudice or adversely affect the public servants. But the public servants' claim to fairness of treatment must not be confounded with that desire of riveting vested interests of a clique or a class, which will not tolerate the slightest modification of their excessive and insupportable privileges. Without mentioning the innumerable and bewildering classes of allowances to public servants,—which operate, individually and collectively, as so many opportunities for exploiting the exchequer or the tax-payer,—the present scales of pay, leave, pension, and other emoluments allowed to the Public Servants in India, are, it is notorious, the result of past history, and not of any economic valuation. The British Servant in the employ of the East India Company, and subsequently of the Crown, was given his pay, *etc.*, not simply and solely in return for the work he did in India, but also as a measure of insurance against temptation to abuse the position he held. Perhaps in part it was also a kind of indemnity for having left his own country, friends, and relatives, in order to serve in India. The two latter factors in regulating the scales of pay, pension, *etc.*, of the public servants in India, ought not, under modern conditions, to influence the supreme authority, as they evidently seem to have done in the foregoing provisions. No economy in the cost of administration would be possible, no measure of real social reform feasible, unless this unbearably heavy burden on the Indian



Tax-payer is relieved. The aggregate salary bill of the superior officers of the Indian Governments in all departments amounts to over 100 crores. A graduated reduction from 10% on the lowest to 50% on the highest of these salaries, and a radical overhaul and economy in the innumerable allowances and pensionary charges, could easily make a saving of some 20 crores a year, which could make up for all the leeway in education and sanitation that the country so badly needs.

Not only are Indians of like qualifications now available in as large a number as may be desired; but also it must be remembered that means of communication and transport have improved so enormously, in the last generation or two, that much of the argument for an indemnity to the foreign Public Servant serving in India has now no significance whatsoever. And any claim to insurance against bribery and corruption of any sort in the higher branches of the Public Service must be sternly discountenanced, if only because it implies an insult to the many officials who can remain honest in the midst of temptations, without any help from high salaries, &c.

The admitted poverty, moreover, of the Indian people, and their inability to bear such burdens as the disproportionately high salaries and allowances paid to the public servants in India constitute, is a factor which every popular Ministry must consider, if it is at all to translate into practice, and in terms of real welfare to the people, the meaning of Provincial Autonomy. In so far, therefore, as the popular Ministries are precluded, by law, from making any attempt

at revising the scales of salaries, allowances, etc., of the public servants in India, the constitution inflicts an injury, not only on the *amour propre* of the Ministers, but also upon the possibility of any material advance of the provincial peoples.

### Modes of Recruitment.

The statutory provisions outlined above, regarding the recruitment, discipline, and retirement of the Public Servants, are further open to criticism, inasmuch as the salutary principle of appointing, in the first instance, all public servants according to the results of the Competitive Examinations in the civil departments is abandoned. By abandoning this method, not only is it easier to keep out qualified Indians getting into such services without any favouritism. It is also easier to keep out the less desirable non-Indians from these close preserves of the British steel frame in India. The necessity to assure a certain guaranteed proportion of appointments in the service of the country to the members of given Minorities could, if need be, be easily reconciled with the general acceptance of the principle of recruitment by open Competitive Examinations, by reserving a given proportion of seats exclusively to members of specified Minorities appearing at such examinations. Instead, however, on the ground that the Minority Communities would otherwise not obtain their share of the appointments in the Public Service, the powers that be have, of late years, given greater and greater prominence to the objectionable principle of patronage in making such appointments. The latest Constitutional Act confirms or sanctifies this unwelcome change. Without the

slightest desire to question the established rights of Minorities in such matters, it may yet be said that the self-respect of the Minorities themselves should require, that this type of invidious spoon-feeding, casting upon them the permanent stigma of incompetence to satisfy any reasonable tests of efficiency or qualification, be immediately dispensed with. The Minorities have every right to be patriotic, and concerned in the continued efficiency of the Public Service of their country. They have every right to demand that they should be given the same opportunities to serve the country as their brethren of the majority communities. We might even concede that the admitted lag in modern education, from which certain Minorities are suffering, demands, in simple justice, a compensation or special protection, which could be assured to them by reserving at open examinations certain seats for them. But when all such concessions have been made, we must not overlook the paramount demands of the purity and efficiency of the country's public services, which the relaxation of the principle of recruitment by examination involves.

Concurrently with this principle of recruitment through open competitive examination was another healthy principle of regulating the Public Service in India, *viz.*, the exclusive right of the authorities in India to decide upon and order the subsequent promotion of a public servant in India after he had been once appointed. That, too, has now been practically abandoned.

These provisions are, in reality, intended only to safeguard the interests of the British Public Servants

in India. But, by parity of reasoning, the Indian Public Servants, would necessarily claim equality of treatment. It is the thin edge of the wedge to widen the scope for the principle of patronage, ultimately leading to invasion by the "spoils" system in appointments to the Public Services in India. Nothing can be more disastrous than the adoption of that system in the government of India. Hence, in so far as the ideals of the independence, integrity, and efficiency of the public servants are at all accepted by the authors of the new Constitution, it must be said that the indirect result, at any rate, of the various provisions they have included in the Act of 1935, would be to pave the way to deterioration in the calibre of Public Service through the spoils system. The administrative standards are bound to be affected by the inclusion of such elements in the Public Service as would owe their place, not to proved or tried merit, but to the accident of being born in a given Community, or to that of the favour of a particular Authority. For well nigh a hundred years, the actual administration in England has called forth the admiration of all foreign students of the British system, simply because appointments to the Public Service are there made on the basis of Competitive Examinations. If in India the clock is now to be put back a hundred years,—the competitive examinations were first introduced, so far as the Indian Civil Services were concerned, somewhere about 1853,—the Indian student of the new constitutional machinery cannot but voice his apprehension that the prospects of administrative efficiency and public integrity in India, in the next decade or more, appear to be very gloomy.



**Indianisation**

As for the main problem of the Public Services in India, it is, in its essence, an indispensable ingredient of real self-government. Indians must have the right and opportunity to administer their own affairs. Only when Indians of the necessary experience or skill are unavailable could room be made for any non-Indian in the Public Service of their country.

But, under the new Constitution, the position is radically different. It is, really speaking, the Indian who is regarded as the outcaste, or at least as an undesirable; and it is the non-Indian who is privileged and pampered in every possible manner. The old arguments of giving such a special position to non-Indians have, of course, no bearing to-day; for Indians with the necessary skill and ability are available for all departments of the Public Service in ever increasing numbers.

No demand has in the past been so insistent as that for the Indianisation of all ranks of public services. To a certain extent that demand seems to have been met, by legislation or executive action, in the last 20 years or more. But the underlying motive and the real urge for demanding Indianisation in all Departments of the public service in India is, not merely the vindication of the right of the people of this country to administer their own affairs, but also the need for economy in the cost of administration, which the latest measure of constitutional reforms completely ignores. Indianisation in the public services of this country is also needed to infuse a measure

of sympathy and understanding of the peoples whose affairs they administer, as also to afford Indians the requisite knowledge and experience to conduct their own affairs.

The cost of salaries and allowances of the public service, with a large foreign element in it, is another consideration in the same direction. It absorbs more than forty per cent of the provincial revenues.\* If to that we add such other contractual obligations, as rent for public buildings, or the cost of stores and other materials, and the charges for provincial debts, all of which are fixed burdens more or less, we can hardly find even ten per cent of the provincial budget available for any projects of public development. The only way in which real self-government can benefit the country, is to develop the economic resources of the country; and so to minimise if not abolish the poverty in the masses of the people. But these can never be done, so long as public resources continue to be pledged in such large proportions for the maintenance of an overpaid Public Service, out of all proportion either to the value of the work done, or the ability of the people to pay for such work.

Indianisation seems to be the only solution, if only because Indian public servants can be induced or coerced into accepting much less extravagant scales of pay, allowances, and pensions, than have to be accord-

\*Report of the J.S.C. Para 316:

"We are informed that the percentage of the total annual revenues of a Province which would be required for the payment of all Service emoluments may be taken approximately as 40 p.c.; and we are satisfied that, in respect of payments which constitute so large a proportion of the total annual liabilities of a Province, the suggestions (of a prior charge on the Provincial Purse) are impracticable."

ed to Non-Indian public servants. A considerable margin remains to be covered in all the important services in regard to Indianisation; but the latest pronouncements of competent authorities make it doubtful if, even in the next twenty-five years, the goal of complete Indianisation, so far even as the Civil Services and civil posts are concerned, will be attained.

### **Administration in Actual Practice**

The work of actual administration in the Provinces is left to these Services; and the system as operating at present is in no great danger of being in any material particular modified. There may be incidental or consequential and minor changes; but they will not affect the main scheme of administration. The District Officer, usually an Indian Civil Servant, will still continue to be the principal and all-powerful representative of the Government; and the presence of elective, democratic, popular institutions will make little difference to the powers, authority and influence of these officers in the actual administration of the country. The old distinction between Regulation and non-Regulation Provinces now no longer exists; and so the difference in the details of administrative mechanism and technique will hereafter also not be so considerable, between Province and Province, as to demand any special study. We need therefore offer no further comment on the system and methods of Provincial Administration in India under the new Constitution.

## **APPENDIX TO CHAPTER V**

### **PART I**

List of Principal existing rights of Officers appointed by the Secretary of State in Council.

(Note:—In the case of sections, the reference is to the Government of India Act, 1919, and, in the case of Rules, to Rules made under that Act).

1. Protection from dismissal by any authority subordinate to the appointing authority. [Section 96B (1)].
2. Right to be heard in defence before an order of dismissal, removal, or reduction is passed (Classification Rule 55).
3. Guarantee to persons appointed before the commencement of the Government of India Act, 1919, of existing and accruing rights, or compensation in lieu thereof. [Section 96B (2)].
4. Regulation of conditions of service, pay and allowances, and discipline and conduct, by the Secretary of State in Council. [Section 96B (2)].
5. Power of the Secretary of State in Council to deal with any case in such manner as may appear to him to be just and equitable, notwithstanding any rules made under Section 96B [Section 96B (5)].
6. Non-votability of salaries, pensions, and payments on appeal [Sections 67A (3) (iii) and (iv) and 72 D (3) (iv) and (v)].
7. The requirement that rules under Part VII-A of the Act shall only be made with the concurrence of the majority of votes of the Council of India. (Section 96E).
8. Regulation of the right to pensions, and scale and conditions of pensions in accordance with the rules in force at the time of the passing of the Government of India Act, 1919. [Section 96B (3)].
9. (i) Reservation of certain posts to members of the Indian Civil Service. (Section 98).
- (ii) Appointment of persons who are not members of the Indian Civil Service to officers reserved for members of that service only to be made subject to rules made by the Governor-General in Council with the approval of the Secretary of State





in Council (Section 99), or in cases not covered by these rules to be provisional until approved by the Secretary of State in Council. (Section 100).

10. Determination of strength (including number and character of posts) of All-India Services by the Secretary of State in Council, subject to temporary additions by the Governor-General in Council or Local Government (Classification Rules 24 and 10).

11. Provision that posts borne on the cadre of All-India Services shall not be left unfilled for more than three months without the sanction of the Secretary of State in Council. (Classification Rule 25).

12. Appointment of anyone who is not a member of an All-India Service to posts borne on the cadre of such a Service only to be made with the sanction of the Secretary of State in Council, save as provided by any law or by rule or orders made by the Secretary of State in Council. (Classification Rule 27).

13. Sanction of the Secretary of State in Council to the modification of the cadre of a Central Service Class I, which would adversely affect any officer appointed by the Secretary of State in Council to any increase in the number of posts in a Provincial Service which would adversely affect any person who was a member of a corresponding All-India Service on 9th March, 1926, or to the creation of any Specialist Post which would adversely affect any member of an All-India Service, the Indian Ecclesiastical Establishment, and the Indian Political Department. (Provisos to Classification Rules 32, 40 and 42).

14. Personal concurrence of the Governor required to any order affecting emoluments, or pension, any order of formal censure, or any order on a memorial to the disadvantage of an officer of an All-India Service. (Devolution Rule 10).

15. Personal concurrence of the Governor required to an order of posting of an officer of an All-India Service. (Devolution Rule 10).

16. Right of complaint to the Governor against any order of an official superior in a Governor's Province and direction to the Governor to examine the complaint, and to take such action on it as may appear to him just and equitable. [Section 96B (1)].

17. Right of appeal to the Secretary of State in Council, (i) from any order passed by an authority in India, of censure, withholding of increments or promotion, reduction, recovery from pay of loss caused by negligence or breach

of orders, suspension, removal or dismissal, or (ii) from any order altering or interpreting to his disadvantage any rule or contract regulating to conditions of service, pay, allowances, or pension made by Secretary of State in Council, and (iii) from any order terminating employment otherwise than on reaching the age of superannuation. (Classification Rule 56, 57 and 58).

18. Right of certain officers to retire under the regulations for premature retirement.

## PART II

List of principal existing rights of persons appointed by Authority other than the Secretary of State in Council.

**Note:**—In the case of Sections, the reference is to the Government of India Act, 1919, and the case of Rules to Rules made under that Act.

1. Protection from dismissal by any authority subordinate to the appointing authority. [Section 96B (1)].

2. Right to be heard in defence before an order of dismissal, removal or reduction is passed, subject to certain exceptions. (Classification Rule 55).

3. Regulation of the strength and conditions of service of the Central Services, Class I and Class II, by the Governor-General in Council, and of Provincial Services by local Government, subject, in the case of the latter, to the provision that no reduction which adversely affects a person who was a member of the Service on the 9th March, 1926, should be made without the previous sanction of the Governor-General in Council. (Classification Rules 32, 33, 36, 37, 40 and 41).

4. Personal concurrence of the Governor required to any order affecting emoluments or pension, an order of formal censure, or an order on a memorial to the disadvantage of an officer of a Provincial Service (Devolution Rule 10).

5. Right of appeal from any order of censure, withholding of increments or promotion, reduction, recovery from pay of loss caused by negligence or breach of orders, suspension, removal or dismissal, and any order altering or interpreting to his disadvantage a rule or contract regulating conditions of service, pay, allowances or pension, and in the case of subordinate services the right of one appeal against an order imposing a penalty. (Classification Rules 58, 56, 57 and 54).

## PART III

## Non-Votable Salaries, etc.—(Civil).

The salaries and pensions of the following classes of persons are non-votable:—

- (a) persons appointed by or with the approval of His Majesty, or by the Secretary of State in Council before the commencement of the Constitution Act, or by a Secretary of State thereafter;
- (b) persons appointed before the first day of April, (1919), 1924, by the Governor-General in Council, or by a Local Government, to Services and posts classified as superior;
- (c) holders in a substantive capacity of posts borne on the cadre of the Indian Civil Service;
- (d) members of any Public Service Commission.

The following sums payable to such persons fall also under item (vi) of paragraph 49, and item (v) of paragraph 98, namely:

Sums payable to, or to the dependants, of a person who is, or has been, in the service of the Crown in India under any Order made by the Secretary of State in Council, by a Secretary of State, by the Governor-General in Council, or by the Governor-General, or by a Governor upon an appeal preferred to him in pursuance of Rules made under the Constitution Act.

"For the purposes of the proposals in this Appendix the expression 'salaries and pensions' will be defined as including remuneration, allowances, gratuities, contributions, whether by way of interest or otherwise, out of the revenues of the Federation to any Provident Fund or Family Pension Fund, and any other payments or emoluments payable to, or on account of a person in respect of his office."

## CHAPTER VI.

## PROVINCIAL LEGISLATURES

## Composition of the Provincial Legislatures:

## Unicameral vs. Bicameral.

Provincial Legislatures in India, upto the latest measure of constitutional reform, were Unicameral. In six Provinces, the Act of 1935 establishes a Double Chambered Legislature,—the Lower, or more important House, being called the Assembly; and the Upper, or the less important House, being called the Legislative Council.

## Says Section 60:—

- "(1) There shall for every Province be a Provincial Legislature which shall consist of His Majesty, represented by the Governor, and
  - (a) in the Provinces of Madras, Bombay, Bengal, the United Provinces, Bihar and Assam, two Chambers;
  - (b) in other Provinces, one Chamber,
- (2) Where there are two Chambers of a Provincial Legislature, they shall be known respectively as, the Legislative Council and the Legislative Assembly, and where there is only one Chamber, the Chamber shall be known as the Legislative Assembly.

## Direct Association of the King-Emperor.

In this one Section, there are two innovations: The King-Emperor is specifically made an integral part of the Indian Legislatures, in a manner that he never was