

ANNEXURE IV.

The public services under reforms.

The Report deals in various places with the position of the public services (paragraphs 128, 156, 240, 259, 318—327), but two passages are of outstanding importance. On the one hand it is laid down (paragraph 259) that there is to be no duplication of the services :—“ To require Ministers to inaugurate new services for their own departments would be to saddle them with difficulties that would doom the experiment to failure.” On the other hand, it is declared (paragraph 325) that “ any public servant, whatever, the Government under which he is employed, shall be properly supported and protected in the legitimate exercise of his functions ” ; and the Government of India and the Governor in Council are to have unimpaired power to “ secure these essential requirements.” The Government of India accept these propositions. They take it that the machinery of the public service, as it exists to-day, is to be used by Ministers, and the service is to be given adequate protection in its new situation. Means must be found of fulfilling these requirements.

2. Hitherto the regulation of the public services has been to a great extent uncodified, or codified only by executive orders. The position will be altered now, with the public services coming, in an increasing measure, under popular control. It will be only fair both to ministers and to public servants that they should be supported by a clear regulation of their formal relations to each other. And it is eminently desirable that they should find this regulation established from the outset of the new conditions. Moreover, there ought not to be one law for public servants working under Ministers, and another for those who remain under the official part of the Government. So far as may be, the public employé should find himself under a similar régime in whatever branch of the administration he may serve. So also the claims of Ministers upon the public service and their duties towards it should be closely comparable with those of the official members of the Government. The whole machinery ought to be arranged so that the transfer of a department from one part of the Government to the other should cause the least possible dislocation, or change in the conditions of their service, among the permanent officials employed in the department. The most hopeful way of arriving at the basis of the necessary law and rules seems to be to consider in relation to each class of service how the operations which are necessarily involved in running a service ought in future to be performed when the new constitution is in operation.

CLASSIFICATION.

3. The Government of India think that all public servants working in the provincial field of administration should be classified in three

divisions, Indian, provincial and subordinate. Such a step has invariably been found necessary in the Dominions ; it seems necessary in India for the purpose of distributing authority in future ; and it has the advantage of enabling greater simplicity to be introduced into the rules or regulations.

4. The chief criterion will be the appointing authority. Broadly speaking, the Indian division would include services for which the Secretary of State recruits the whole or a considerable part of the members—the services, in fact, in which it is desired to retain a definite proportion of Europeans or Indians educated in Europe. The provincial division would embrace posts with duties of a responsible character, and not of a merely clerical type, for which the local Government ordinarily recruits. Posts for which the Government of India at present recruit could be treated as Indian or provincial, according to the nature of their duties. All subordinate and clerical posts would come into the third division. It will probably be found that the classification will entail considerable changes in existing nomenclature. Again, a number of grades do not now receive provincial status, although their officers are recruited on uniform qualifications for the whole province and may be liable for service in any part of the province. From this point of view, such classes as the *naiib-tahsildar*, the sub-assistant surgeon, and the like, may be conveniently placed *ad hoc* in the provincial division. Similarly, all miscellaneous posts, not being of a purely subordinate character, which are not at present in either the Indian or provincial category, would be treated as belonging to one or the other if they are of similar status, or recruited for in a similar way, to those branches respectively. The third division would take in all appointments of lower than provincial status. They would usually be the posts which are filled departmentally, or by district officials, without reference to a central authority.

5. It is probable, however, that in all provinces there would be certain posts of importance which would not conveniently fall into either the Indian or the provincial category. Some of the technical educational posts are a case in point. For these it may be necessary following the usual Dominion practice to create a separate professional division.

6. The proposed classification should at present be undertaken only, to use the phrase of the report (paragraph 238), in the “field of provincial administration.” The division into Indian and provincial classes might not be easy in services like the railways, post office or customs ; and it is not necessary for present purposes, though power may suitably be taken to make it when the necessity arises.

7. The dominant considerations are that Ministers coming new to office should be provided with an efficient staff and not have to rely on what they can get ; and that it is of the utmost importance to India to have in the highest services, which are to set a model to the rest, an Indian as well as a European element on which the seal of the existing system has been definitely impressed. The Government of India think that—

(1) recruitment whether in England or India for the India services should be according to the methods laid down in statutory orders by the Secretary of State ;

(2) all persons recruited to the India services whether in England or in India (whether by examination, promotion or direct appointment) should be appointed by the Secretary of State.

PAY.

8. (a) *Rates of pay.*—After weighing the opposing considerations, the Government of India think that, if the India services are to be kept together on more or less one plan and the Secretary of State is to feel his responsibility for them, it is practically necessary that he should fix their rates of pay.

9. (b) *New appointments.*—The Government of India think that the addition of any new post to the India services should require the sanction of the Secretary of State.

10. It is, however, necessary to prevent the intention of the last proposal from being defeated by the device of creating appointments similar in purpose to those ordinarily filled by the India services, but keeping them technically outside the cadre. For this purpose a proviso on the following lines seems needed :—

Every new permanent post created in the provinces must be added to the cadre of the service to which its duties most closely correspond.

11. (c) *Temporary appointments.*—The Government of India consider that local Governments should have power to sanction, without any limit of pay, any temporary additions to the cadre of India services, either up to a limit of two years' duration, or else without any such limit, on the understanding that the audit will check any evasions of the rule about permanent posts.

ALLOWANCES.

12. These are known by several titles, but can probably all be brought within a few generic names—acting, exchange compensation, duty, local, travelling and personal and honoraria. Acting allowances are included in salary and are part of the emoluments attaching to a particular office. The introduction of a time-scale will to a great extent do away with them ; but where they are still required the Government of India think that the Secretary of State should lay down the rules under which they may be granted. The Government of India hope that these may be simplified and that it will not be necessary to keep all the existing bases of calculation. The same authority should lay down the basis on which exchange compensation may be granted and details would be settled by local Governments.

13. All other allowances, however, are clearly distinct from pay, and ought to be given for reasons which can only be fully known to the local Governments ; and the Government of India propose that, subject to very general directions by the Secretary of State, the grant should be left to them. Thus the Secretary of State would lay it down that travelling allowance was not to be a source of profit ; that local allowances in all their forms should bear some reasonable relation to the extra expenses of the locality ; and that duty allowances, deputation allowances and personal allowances should bear some reasonable relation to the officer's pay.

LEAVE.

14. Leave is one of the great amenities of the services, and ought to be maintained on generally uniform lines : but it has long been recognized that the leave code is needlessly rigid and restrictive and that greater latitude is desirable. The Government of India think that the Secretary of State should determine (a) the total amount of leave of every kind admissible, (b) the scale of allowances admissible for each, (c) the maximum to be taken at any one time, (d) the minimum interval between two periods, (e) the terms of commutation of one kind for another and that within these limits all leave questions should be determined by local Governments.

FOREIGN SERVICE.

15. The only matters in which it seems necessary for the Secretary of State to frame fundamental regulations are in regard to contributions to leave and pension by an officer on foreign service, and the calculation for purposes of subsequent leave of his foreign service pay. All other matters should be left to local Governments.

PENSIONS AND SUPERANNUATION.

16. The Government of India think that the age of superannuation and the scale of pensions for the India services should be fixed by statutory orders of the Secretary of State made under the new Government of India Bill.

ADMINISTRATION AND DISCIPLINE.

17. These appear to be all the matters connected with India services for which it is possible to make provision by rule. In all these cases where the local Government has been spoken of, the authority will be that of the Governor in Council in the case of reserved departments, and that of the Governor acting with Ministers in the case of the transferred services. But there remain to be still considered the day to day matters of administration which raise the question of the Governor's responsibility in all service questions.

While they plainly realize the difficulties involved the Government of India think that to give any formal option of serving or declining to serve under Ministers at the outset seems unwise. They prefer to abide by the ordinary rule that a public servant is required to fulfil any duty imposed upon him. It is, however, necessary to face the possibility that difficulties of various kinds may arise, and to consider how far these can be mitigated, and, when they get beyond mitigation, how they can be disposed of.

In all matters, both of ordinary administration and of discipline, where no rules can afford immunity, the task of making the new arrangements a success must fall largely on the Governor. The Government of India consider that this duty should be definitely and formally laid upon the Governor ; and that his rôle as protector of the public services should be known and recognized both by Ministers and the services. They

suggest, therefore, that the matter should be incorporated in the regular instructions to Governors, and that a declaration to the same effect should be made in the course of presenting the reforms scheme to Parliament. The Governor will have every opportunity of watching the situation. He may be able to remove trouble by a few words of advice or persuasion. If the difficulty is acute or widespread, he may have to investigate it with the help of the joint advice of his Council and Ministers. But the Government of India think that the Governor in Council should not be brought in as a formal agency of arbitration in the grievances of public servants. Such a course, they fear, would generate difficulties between Ministers and the Executive Council.

18. But in case the Governor's intervention fails, it seems necessary to provide a final safeguard : and the Government of India think that, though no officer should have the option to decline to serve under the new conditions, they should have power at their discretion to grant any officer of the existing establishment for adequate reason permission to retire on proportionate pension. If the Government of India refused the application an appeal would lie to the Secretary of State. In the case of any disciplinary orders passed by Ministers which affected an officer's emoluments or pension there seems no choice but to allow a direct appeal to the Government of India and, if need be, to the Secretary of State. No officer of the India services should be dismissed without the orders of the Secretary of State, and all existing rights of appeal should be maintained.

19. The Government of India conclude that in two respects the Report cannot be literally translated into practice. In paragraphs 240 and 325 the protection of the interests of the public services is made the duty of the Governor in Executive Council. This, it is feared, would defeat the object which the Report intends to secure ; for the work of the public services cannot be formally made a reserved subject, and any less drastic measure of general protection would inevitably lead to friction between the two parts of the Government. Again, in the same paragraphs and in paragraphs 156 and 259, expressions are used which will be read as promising detailed support and protection to a public servant in the discharge of his duties. This, however, seems to involve too frequent intervention for working purposes. The Government of India think that all that can safely be guaranteed is in the last resort a right of retirement on fair terms, a generous right of appeal in clearly defined circumstances, and the steady influence of a vigilant Governor in the direction of harmonious working and good feeling. They think it necessary to make the position clear in this respect both to the Secretary of State and to the services.

20. The Government of India will now briefly review the proposed position as regards the India services. The basic idea is that the structure of the service, its duties and the general conditions of its employment should remain as far as possible untouched by political changes, at all events until the advent of the first statutory commission. When a Minister is placed in charge of a transferred department he will take it over as a going concern with its staff intact. The Indianization of the

services is an entirely separate matter and will be regulated in accordance with the general policy prescribed by the Secretary of State. The actual recruits, whether European or Indian, and in whatsoever proportion, will come into a service regulated on uniform lines and as little concerned with political controversy as possible. As in the past, rules of conduct should be maintained for all public servants, however employed, under standing orders of the Secretary of State. The services will be required to show the same diligence and fidelity to Ministers as to the official part of the local Government. The general conditions of their service will continue to be ordered by the service regulations (or by any special contract of recruitment), no difference being made wherever they are employed. And they will be amenable to the Minister's orders and discipline just as they will be in a reserved department to the orders and discipline of the Governor in Council. On the other hand, while Ministers will be supported in requiring their staff to carry out their policy, their employes will be protected, as now, against arbitrary or unjust treatment. To this end they will be given reasonable access to the authority by which they were recruited, and they may not be dismissed without at least the order of that authority—a rule universally accepted at present. But the power of intervention between them and the public servants under their control should be kept down to the minimum, and the right of appeal from Ministers should be as little in evidence as possible. Appeals should lie only where emoluments or pensions are affected, but where they do lie they should lie up to the Secretary of State.

21. It will frequently occur that a public servant will have duties in both a reserved and a transferred department; the district officer will be the most prominent instance of this type. It will make for simplicity and avoid improper conflict of jurisdiction if for purposes of posting, promotion and discipline such officers are kept entirely under the control of that part of the Government which is concerned with the budget head from which their pay is met. It may have to be arranged that Ministers will contribute to the emoluments of officers partly employed under them in a ratio to be fixed by the Governor (ultimately by rule), and similarly to their pensions on retirement. On the side of their work which concerns the transferred departments, such officers will have to take and carry out the directions of Ministers exactly as if they were whole-time officers in those departments. But they cannot be subjected to the discipline of two different authorities; and if either part of the Government is dissatisfied with the execution of its orders there seems no other course than for it to represent the matter to the Governor. It will be one of the most important duties of the Governor to deal with a delicate situation of this kind.

PROVINCIAL SERVICES.

22. It is recognized that the time must come, and may come soon, when Ministers will wish to take the provincial services of their departments entirely into their own hands, and to regulate their recruitment, pay, pensions, etc. The Government of India think that they should not

do so until they have put these matters on a legal basis by legislation. They suggest that such legislation may reasonably be expected :—

- (a) to secure selection, over the widest possible field, on merits and qualifications, and to reduce the risks of nepotism ;
- (b) to ensure efficient training for the higher and more responsible duties ;
- (c) to guarantee discipline and integrity on the part of the employees ;
and
- (d) to provide adequate pay, security of tenure, and satisfactory conditions of work in regard to such matters as pensions, promotion, and leave.

But pending the passage of such legislation, they consider that the determination of the conditions of the provincial service even in transferred departments must be left in the hands of the Governor in Council.

Recruitment.

23. The Government of India think that all existing rules for recruitment should be maintained unless altered by the Governor in Council. The requirements of different services differ, and it will not be possible to establish any uniform system. But the aim should be to eliminate the element of patronage, and to establish a system of appointment by examination before or after selection, or, where appointments are made direct, to set up some external authority for the purpose of advising. The actual appointment must in any case be made by the local Government, by the Governor in Council in the case of reserved subjects and by the Governor on the advice of Ministers in transferred subjects.

Pay.

24. The proposal which holds the field is that the Secretary of State's sanction should not be required to any new appointment or the raising of the pay of any appointment above Rs. 1,450, outside of certain scheduled services which would closely correspond with the India services contemplated in this note. That limit would have the effect of removing from the Secretary of State's cognizance practically all questions of the pay of appointments in the provincial services. But on grounds of expediency the Government of India think that their own sanction, though not that of the Secretary of State, should be required in the case of posts on Rs. 1,000, the rate suggested for selection grades by the Islington Commission.

25. The only other limitation which it seems necessary to consider is the limit of cost of service reorganizations. At present if the additional cost exceeds Rs. 25,000 the Government of India's sanction is required, and if it exceeds Rs. 50,000 the case must go to the Secretary of State. It has been proposed to give local Governments freedom of action up to Rs. 5,00,000, a limit sufficiently high to provide for all reasonable reorganizations of the most costly services. On one minor point it has hitherto been thought necessary to retain the Government of

India's sanction, *viz.*, if the revision involves the grant of local allowances as compensation for dearness of living in any locality in which officers paid from India revenues are employed. The Government of India think it unnecessary to maintain this restriction.

Allowances.

26. There need apparently be no difficulty in treating this question on the same lines as for the India services. Local Governments would accept the guiding considerations laid down for each class of allowance by the Secretary of State and would use their discretion in applying them in particular cases. It may probably be assumed that there would grow up under the hand of the provincial Finance Departments provincial regulations on the subject which would, it is to be hoped, be of a simpler nature than existing codes.

Foreign Service.

27. This appears also to admit of the same treatment as in the case of the India services.

Leave.

28. As regards leave the desiderata seem to be—(1) to secure that the rules shall not be altered to the detriment of existing officers, (2) to enforce a certain similarity in the conditions of leave among officers of equal status, and (3) to admit of special variations on account of special conditions of work (civil courts) or possibly, for special remote areas, unhealthy conditions. The Government of India propose that they should frame fundamental rules as it has been suggested that the Secretary of State should do in the case of the India services.

Superannuation and pensions.

29. It has been suggested above that before Ministers take over a service entirely they should embody among other standing provisions for the conduct of such service some provision for its pensions in the law. The Government of India think that from the inception of the reforms the central Government should set Ministers an example in this matter by legislating to secure the pensionary rights of the provincial services.

Administration and discipline.

30. It seems to the Government of India that these matters can only be treated on the same general lines as for the India services. The Minister must control the administration of transferred subjects, including such matters as postings and promotions. The Governor must be instructed to control him with a watchful eye to the well-being and content of the services. Officers cannot be given any option as to the transfer, but officers finding their position intolerable should be able to ask for a proportionate pension. Such applications should go to the Governor and an appeal should lie from his decision to the Government of India. Only in disciplinary cases affecting emoluments or pension should there be a regular appeal, and it should lie to the Government of India and from them if necessary to the Secretary of State.

31. The general conduct rules in respect of borrowing presents, in debtedness, buying property, political activity, etc., should be maintained in respect of provincial no less than in respect of India services by standing orders of the Secretary of State.

THIRD DIVISION.

32. This would embrace the minor executive posts, the bulk of the ministerial establishments, the menial servants and the like. Some superior ministerial establishments would probably rank in the provincial division. In respect of the third division there is an obligation to see that the rights and privileges of present incumbents are maintained and that in particular their pensions and provident funds are secured. This object can, perhaps, be secured by directions to the Governor in Council as regards reserved and instructions to the Governor as regards transferred subjects. The Government of India recognise that present incumbents would probably greatly prefer to see their pension and provident funds secured by legislation by the Government of India. As regards future incumbents, they think that, subject to what is said below as to a Public Service Commission, it can only be left to the Governor in Council and to the Governor and Ministers to regulate the entire working of the service.

PUBLIC SERVICE COMMISSION.

33. In most of the Dominions where responsible government has been established, the need has been felt of protecting the public services from political influences by the establishment of some permanent office peculiarly charged with the regulation of service matters. The foregoing proposals have assumed that every effort must be made to fulfil the pledge given to the services, and indeed to secure the main services firmly on their present lines. For this purpose, indeed, it cannot be said that any organization, other than the official Governments, is at present required; or that its introduction will be felt as otherwise than embarrassing to local Governments and Ministers. Nevertheless the prospect that the services may come more and more under ministerial control does afford a strong ground for instituting such a body in the beginning, while such a step would be entirely in keeping with other features of the scheme like the proposals for treasury control and audit. The Government of India have accordingly considered whether there are any concurrent grounds for taking the matter further.

34. The Public Services Commission have proposed not merely that for certain services examinations should be held in India, but that to a great extent direct appointments, on the advice of selecting Committees, should also be made. For the former purpose no agency exists and some agency must be set up. As regards nominations the need for regulation is obvious. The present distribution of patronage, however conscientious, does not escape criticism, and is extremely laborious for which reason it is very desirable to set up without delay some more impersonal method of selection. It is, moreover, clear that the reconstitution of the public services will involve much re-classification, and

much reshaping of rules and regulations, as well probably as legislation in India. A Public Service Commission could give valuable help to the Home and Finance Departments in settling these matters. It seems likely that an efficient office would establish its position both with the Government of India and local Governments. It would come to be regarded as the expert authority on general service questions (as distinct from cases of discipline in which the desirability of allowing it to intervene requires further consideration). The following list of duties suggest itself for it:—

- (i) to hold the examinations and to arrange for the selection in India of entrants into the India services under the orders of the Secretary of State ;
- (ii) to perform the same functions for provincial services in accordance with the policy of local Governments ;
- (iii) to advise upon and arrange for recruitment for the Government of India offices ;
- (iv) to advise local Governments, if required, on the qualifications to be laid down for their subordinate services ;
- (v) to advise, if required, on all general questions of service reorganization, and especially on proposed legislation or changes in the regulations ;
- (vi) to advise educational authorities as to the educational requirements of the public service ;
- (vii) to conduct departmental examinations and perhaps language tests possibly absorbing the existing Board of Examiners ;
- (viii) to act as an advisory authority in cases where the interpretation of service rules is in dispute.

35. Although at this stage it is not possible to define the utilities of the office with precision, there seems reason for thinking that the value of a Public Service Commission would outweigh the objections to it. The Commission should be appointed by the Secretary of State, whose responsibility for the maintenance of the services would by this means be made manifest. It would, of course, have provincial agencies in the provinces. Provision for the appointment would be made in the new statute, and the duties of the office would be regulated by statutory orders of the Secretary of State.

Summary.

36. The general scheme may be summed up as follows:—

- (i) Concurrently with reforms, legislation should be undertaken in Parliament to declare the tenure and provide for the classification of the public services. It should secure the pensions of the India services and should empower the Secretary of State to make rules for their conduct and rights and liabilities, and to fix their pay and regulate their allowances. The Bill should also provide for the establishment of the Public Service Commission and its duties.

(ii) The Government of India should pass a Public Service Act providing for the tenure and pensions of all provincial public servants and empowering the Governor-General in Council to define their other rights and liabilities by rule and leaving all other matters not so regulated to the Governor in Council. The Act should also secure the pension rights of existing members of the subordinate services and should empower the local Governments, herein including the Governor and Ministers, to make rules for them in all other respects. It would then be necessary for a Minister who wished to take over complete control of the services in transferred departments to introduce provincial legislation amending the Act, to which under section 79 (2) of the existing statute the previous sanction of the Governor-General would be necessary.