

ADDENDUM A

1. As stated in para. 24 of the Report we are unable to concur in the view that the Secretaries and Joint Secretaries in the Government of India Secretariat should be appointed on the basis of a limited tenure. In our opinion they should be appointed without any specified limit being placed on the tenure of their posts. Our reasons are as follows.

2. The system of limited tenure was, we have no doubt, well suited to the position which existed in 1905 when it was introduced. The present position is already different by reason of the Reforms of 1919 and the difference will be more marked with the advent of Federation. Indeed it is true to say that the position under Federation so far as it affects the point under discussion will bear little, if any, resemblance to the position in 1905.

3. Under Federation, the official element in the Executive Council will disappear and control of policy will be vested in Ministers, subject, of course, to the powers of the Governor-General. It is vital in the interests of efficient Government that these Ministers, whose period of office may be uncertain and who may, in many cases, be unlikely to have had any official or administrative experience, should, so far as it is practicable, have available to them, as their principal advisers, officers able to speak with knowledge and authority arising out of experience in their particular posts.

4. It may be that this result could be obtained by prescribing a fairly lengthy tenure and making provision for extensions to meet special circumstances. This brings us to our second main point.

5. The relation of Civil servants to Ministers under a Parliamentary system has been summarised in the following extracts from a memorandum submitted by Sir Warren Fisher, G.C.B., G.C.V.O., D.L., the Head of the Home Service, to the Royal Commission on the Civil Service 1929-30:—

“Determination of policy is the function of Ministers and once a policy is determined it is the unquestioned and unquestionable business of the Civil Servant to strive to carry out that policy with precisely the same energy and precisely the same good will whether he agrees with it or not. That is axiomatic and will never be in dispute. At the same time it is the traditional duty of Civil servants, while decisions are being formulated, to make available to their political chief all the information and experience at their disposal, and to do this without fear or favour, irrespective of whether the advice thus tendered may accord or not with the Minister's initial view. The presentation to the Minister of relevant facts, the ascertainment and marshalling of which may often call into play the whole organisation of a department, demands of the Civil Servant the greatest care. The presentation of inferences from the facts equally demands from him all the wisdom and all the detachment he can command.”

“The preservation of integrity, fearlessness, and independence of thought and utterance in their private communion with Ministers of the experienced officials selected to fill the top posts in the Service is an essential principle in enlightened

government; as—whether or no Ministers accept the advice thus frankly placed at their disposal, and acceptance or rejection of such advice is exclusively a matter for their judgment—it enables them to be assured that their decisions are reached only after the relevant facts and the various considerations have, so far as the machinery of government can secure, been definitely brought before their minds”.

6. The point we would emphasise in this extract is the duty of an officer holding the position of a principal adviser to a Minister to give to the Minister independent advice whether the advice thus tendered may accord or not with the Minister's initial view. The Governors-General of the future will also stand in need of such independent advice. An extensible tenure system seems to us to be inconsistent with the proper discharge of this highly important duty. However clearly defined may be the “special circumstances” in which an extension is to be granted—and there are obviously limits to the extent to which definition is possible—the Governor-General will be bound in a matter of this kind to have regard to the wishes of the particular Minister concerned. We have no doubt that, in practice, the grant of extensions will largely be dependent on the Minister's wishes although it may be true that the Secretary is, in theory, a Secretary to Government as a whole and not to any particular Minister. Such a practice would strike at the root of an efficient public service under a Parliamentary system, and, as an inextensible tenure system is admittedly unworkable for these posts, we find ourselves forced to the conclusion stated in this note.

7. As illustrating the danger we have in mind, we may mention the position of a Secretary towards the end of his tenure. Failing an extension he has either to face (i) reversion to his province, where in all probability he would have no appropriate place and where he will receive substantially reduced emoluments and status, or (ii) premature retirement. Such a situation is pregnant with risks. It is relevant in this connection to mention that, of the 13 Provincial Ministers from whom we received evidence, no fewer than 7 were in favour of *extensible* tenures, and it was evident from their evidence that amongst the advantages accruing from such an arrangement was the fact that it would enable Ministers to retain Secretaries “whom they liked” and also to replace those with whom they could not get on. Further, numerous witnesses have frankly admitted the difficulties facing the Secretaries to the Government of India at the end of their tenure without, however, putting forward any real solution.

8. We do not think that the advent of Federation will make a revolutionary, or indeed any, change in the type of Secretaries available in the future. On the other hand, we consider that our system is specially designed to attract the right type of men to those key posts and to keep them in those posts when they have been obtained. Nor do we suggest that Secretaries in the past have subordinated their judgment to their personal interest. When independence of judgment is insisted upon, it is not that we are contemplating deflection from probity as a normal feature. What we are anxious to do is to eliminate the possibility of temptation, so far as it is practicable so to do, and to see in existence a rule and a safeguard which will not only tend to produce an independent outlook and attitude on the part of the Secretary and Joint Secretary, but will also make the public at large believe that such independence will be maintained. The matter is of special importance in this

country in view of the communal and other factors on which we do not wish to dilate but which cannot be overlooked. The scheme of special responsibilities including safeguards for the protection of the Government of India Act does not involve a distrust of the various authorities in respect of whom the safeguards are enacted.

9. We turn now to the objections to the course, we recommend. It is apprehended that the same officers will hold their posts for unduly prolonged periods with the result that (i) the Government of India will be faced with "tired" Secretaries, (ii) the prospects of junior officers will be prejudiced.

10. On the question of "tired" Secretaries, it is not accurate to postulate a completely static position amongst Secretaries. No only are some Governorships open to the Services but they will presumably be represented amongst the Counsellors. There are also possibilities in other directions under the Act of 1935. All this points to the fact that vacancies in the posts of Secretary are bound to arise from time to time and will be a means of avoiding that unduly prolonged tenure the possibility of which has given rise to fears. Indeed it is open to doubt whether under our proposals the tenure of a Secretary would in practice exceed by more than a year or two at most that which would be the case under an *extensible* tenure of five years. After all, it must not be forgotten that if the proposed interchange between the Provinces and the Centre and the fixation of a limit to the tenures of the same post are adhered to up to the stage of Joint Secretary, the officer concerned will have put in a service of about 20 years when he becomes a Joint Secretary and if it be also understood that Joint Secretaries should not automatically or as a matter of course ascend to Secretaryships but should ordinarily, before they become Secretaries, work in some outside sphere at the Centre or in a province under a system of mutual agreement, or in an allied department, an officer will not, normally speaking, attain to a Secretaryship before 23 to 25 years of service. When these results are analysed, and when it is remembered that higher posts exist to which Secretaries will probably proceed, it will be seen that an officer, under ordinary conditions, will not remain as Secretary for more than a maximum of 7 or 8 years from which, if leave be deducted, he will normally serve 6 or 7 years. The alternatives before the Committee are not therefore so essentially divergent or incompatible as may at first sight appear and are only between an extensible period of 5 years (less leave) and a period of 6 or 7 years. The divergence of views is thus not really between a permanent and a non-permanent tenure in the sense in which the expression "permanent" is ordinarily used. The real difference arises from the distinction between an extensible tenure and one which is not dependent upon outside factors. The advantages of the outlook accruing from the latter system are to our mind decisive.

11. As to the danger sometimes apprehended of a person becoming Secretary with say, 23 years' service and staying on for 12 years, we would further observe that, especially latterly, very few people have stayed on until the 35-year limit is reached and it is unlikely that they will so stay on in future. In fact actuarial calculations made some time ago appear to have reached the conclusion that service at the time of retirement is about 29 years. Further a "tired" Secretary can often be dealt with by a transfer to other work and we should have thought that an

officer who can be so described would be apt to retire on his own initiative or on receipt of a hint. But we would unhesitatingly accept the risk of an occasional "tired" Secretary who wished to hold on to his post after he had ceased to be able to carry out effectively the duties thereof rather than adopt the alternative which has been put forward. The cases of exceptional rapidity of promotion on the ground of exceptional merit are of a special character and must be recognised as such. In these cases the person concerned will *ipso facto* have better chances of earning recognition elsewhere.

12. We would remark that the risk of the "tired" Secretary is not sought to be avoided in the case of the Foreign and Political and Legislative Departments.

In order to deal with the problem when it arises of the "tired" Secretary who is really played out but still hangs on, the right course in our view is for the Government of India to take power to deal with the problem, *e.g.*, on the lines of Note (i) to Article 465A of Chapter XVIII of the Civil Service Regulations. The difficulty is apparently not a new one, and there is much to be said for a power of the kind suggested whatever decision is reached on the point under discussion.

13. On the point of the possible loss of prospects, it may well be that fewer officers will succeed to the present posts of Secretary and Joint Secretary. But it is relevant to point out:

- (i) that the number of these posts is likely under Federation to be higher than at present having regard to the possibility of 10 Ministers and 3 Counsellors, to say nothing of other high appointments that are likely to come into existence after the advent of Federation:
- (ii) that in recent years the appointments to these posts have been restricted to a somewhat narrow field in contrast to the wider field contemplated by the general proposals of the Committee: and
- (iii) that, as we feel sure the Service would be amongst the first to recognise, the interests of the State are paramount in a matter of this kind.

14. With regard to the effect on prospects of promotion of other officers if our proposals are applied to the present Secretaries and Joint Secretaries to the Government of India, we wish to observe that these officers were appointed on a limited tenure basis and can have no absolute claim to automatic re-appointment on the new basis. It need not, therefore, be assumed (i) that all the officers in question will automatically, and without adequate balancing of pros and cons, be appointed to posts on the new basis, or (ii) that these officers will remain in their existing posts up to the date of the completion of 35 years' service.

15. On the question of the evidence submitted to the Committee we fully recognise that the bulk of the evidence is in favour of a tenure system, but we consider it our duty not merely to record evidence for and against a particular view, but in addition to weighing up the evidence, which we have done with the utmost care, to bring to bear on the problem such experience as we possess in different spheres and our conception of the future under the Government of India Act. Importance must be attached to the fact that the new Government of India Act is inaugurating the first stage of a democratic constitution based to a large extent on

the British model of Parliamentary Government, and while we would not for one moment seek to minimise the experience and the attainments of the witnesses that appeared before us, the fact remains that the vast majority of those witnesses were officers belonging to the Indian Civil Service who are familiar with and had worked under the present system.

16. We seek to draw no analogy from the Home Service except on the one point of the relations between Ministers and their principal advisers. At Home, as in India, there is an elaborate system of noting and record. It may not—particularly in the matter of printing—be so elaborate as the Indian system but it does ensure that a new comer can acquaint himself with the history of cases coming before him. Nevertheless, neither at Home nor in India can the material recorded in files serve as an effective or justifiable substitute for the many “contacts” with persons and bodies so essential for the efficient and expeditious handling of affairs. The adoption of our proposal in no way involves the recasting of the Government of India Secretariat on British lines. The latter would not in our view suit the circumstances of India. The prospects in the Home Civil Service do not appear to us to be relevant. Since, however, reference is made to this matter, we feel it necessary to say that a large proportion of the class in England recruited normally at the same examination as the Indian Civil Service do not proceed beyond the grade of Assistant Secretary the maximum salary of which is £1,450 per annum. This salary is approximately the same as the emoluments of an Indian Civil Servant who is just above the half way line in the senior time scale, overseas pay being ignored.

17. There is a further point to which we should refer. The tenure system in the case of a Secretary to the Government of India involves, as pointed in paragraph 7 above, a risk of premature retirement. It is not taking a pessimistic view of human nature to assert that Secretaries who do not obtain promotion as Governors, Counsellors or otherwise would be more likely to retire than to go back to the province. We must point out that such retirements would, especially in the initial stages of the new constitution, be very detrimental to efficiency as it would deprive the Ministers of the services of highly trained and competent officers. The remarks in the Report on the depleted state of the cadre are very relevant in this connection.

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