

ADDENDUM B.

I regret that I am unable to concur in the majority view that in the case of Secretaries and Joint Secretaries to the Government of India no specific limit should be placed on their tenure of these posts. As indicated in para. 24 of the Report, I would advocate a longer tenure than that which at present obtains, but would limit it to five years.

2. In considering this matter I attach more importance than my Colleagues are disposed to do to the weight of opinion among those questioned by us. Out of 65 persons who expressed opinions on this point, only 7 favoured a permanent tenure—in one instance because a specially recruited Central Secretariat was proposed. None of the Heads of Provinces advised this course, while out of eight Secretaries and Joint Secretaries at headquarters whom we examined only 2 (both in the Department of Education, Health and Lands, who also recognised that all departments could not be treated alike) supported this solution. Out of 13 provincial Ministers whom we interviewed only one desired permanency; all eight Indian Members who met us would retain the tenure system and several definitely emphasised that extensions should be resisted. Indeed my Colleagues “fully recognise that the bulk of the evidence is in favour of a tenure system”.

They would, however, discount the value of this testimony by the argument that much of it came from members of the Indian Civil Service. This, in the circumstances, was inevitable, but most of these witnesses must also have some “conception of the future under the Government of India Act” and are not without experience of other spheres. Also, after all, the problem is an Indian one.

Secondly, my Colleagues argue that 7 Ministers were in favour of extensible tenures. If the inference implied is that they wished to keep their Secretaries dangling on a string according as they proved complaisant or not, this was neither suggested nor advocated. The question as put to the majority of witnesses was whether it was not likely that Ministers would like to keep Secretaries to whom they had grown accustomed for longer than three years, and 7, it is true, said they would like to be able to extend that term. But, of these, one would make the post a permanency; one desired to keep his present Secretary as long as he was in office; one wanted an extension for a definite term, though not a permanency, and two gave as one reason that it was not sound to have a simultaneous change of Minister and Secretary. Of the rest five were definitely against extensions, while one wished for a longer initial term. None of these gentlemen were questioned as to the possible reactions of extensions upon the independence of their Secretaries. In fact, the point was hardly stressed until towards the close of our enquiry when it was raised by two witnesses. One witness had previously admitted this risk; three had repudiated it when it was suggested.

I find it difficult to believe that so many experienced individuals—both official and non-official—were altogether mistaken in their views or have overlooked any fundamental consideration in the case. It is true that there was an appreciable measure of agreement that under the new constitution a longer tenure for the highest secretariat posts would be desirable, but this was mostly put at from four to six years and permanency was explicitly deprecated.

3. My Colleagues proceed to emphasise the special need of Ministers under Federation having "available to them, as their principal advisers, officers able to speak with knowledge and authority arising out of experience in their particular posts" and they rightly lay stress upon the need of absolutely independent advice. They argue 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".

It is, of course, the case that the existing official Members of Council will give place to Ministers, and that this will mean a momentous change in the constitution, but *quâ* the Secretariat I cannot agree that so marked a change will ensue. Sir Warren Fisher's admirable summary of the position of civil servants under Ministers is equally true of their position under Members. The post of *Secretary to the Government of India has always been regarded as a responsible one to which it is sought to attract the best men. Speaking generally, I doubt if it can be said that Secretaries in the past have been lacking either in experience or ability, and the Ministers of the future will have to work with the material available.

4. To my mind, the fundamental fallacy underlying the argument of my Colleagues is that the choice lies between an extensible tenure system and one of unlimited tenure, and by implying that an "extensible" term means one extensible for reasons of sheer favour. In paras. 21 (i) and 23 of our Report we have enumerated certain perfectly legitimate reasons for keeping on a Secretary for a short time after the expiry of his tenure; they imply no question of favouritism: they are based upon the public interest and are easily recognisable. Allowing for this contingency, which need occasion no abuse, I do not follow the statement that "an inextensible tenure system is admittedly unworkable for these posts". It is certainly not admitted by me. Neither (subject to this contingency) do I recommend an extensible system.

5. Apart from this, my Colleagues base their conclusion in favour of no prescribed tenure on the following grounds:—

- (a) that, in fact, whatever is laid down, no tenure rule will be observed and the grant of extensions will be dependent on the wishes of the particular Minister concerned;
- (b) that whereas it is essential that a Secretary should tender his advice without fear or favour, his judgment will always be liable to be deflected by the desire to gain favour with his superiors in the expectation of an extension of his term, rather than having to face the alternative of premature retirement or reversion to an inferior post.

Touching these arguments, I see no reason to suppose that future Ministers will not themselves realise the advantages underlying a system of tenures. The argument used before us as justifying a longer tenure than three years was, as I have already said, that Ministers, being once accustomed to a Secretary they liked, would be loth to change him. A longer tenure of five years will largely meet that point. On the other hand, it is possible that a Minister may himself prefer a different Secretary, while Ministers themselves will come and go. Moreover Ministers in the

* I use the term "Secretaries" for brevity's sake. Unless the contrary is clear from the context, it includes Joint Secretaries also.

past have worked with changing Secretaries without undue embarrassment. Again, if a term is prescribed it will be for the Governor General to see that it is observed. The posts of Secretaries and Joint Secretaries will presumably be reserved under section 246 (2) and appointments to them will be made by him in the exercise of his individual judgment, while section 17 (4) of the Act recognises the most important principle that a Secretary is a Secretary to Government, not the personal Secretary of a Minister. When one remembers the many special responsibilities of the highest importance which the Governor General may have to discharge, it may be, at variance with his Ministers, this matter of extensions becomes relatively insignificant as a possible source of disagreement. I do not agree that "the Governor-General will be bound to have regard to the wishes of the particular Minister concerned".

6. Again, I doubt if it can be said of Secretaries in the past that they have subordinated their judgment to their personal interests, and, be it observed, the temptations to do so have been in the past exactly what they will be in the future, or rather greater since extensions have been granted in the past for reasons which I would not admit hereafter. Why then assume so serious a deterioration in the future or an attitude on the part of future Ministers which will be hostile to any man of independent outlook and will usually, *ex-hypothesi*, be unsound? Moreover, assuming either tendency to exist, it is not only, or even most markedly, in connection with extensions that there is a risk of its manifesting itself. There are other appointments to which a Secretary may aspire. Surely if an officer is disposed improperly to curry favour the expectation of promotion is a powerful lure. Again Honours are an attractive bait. Of course these are in the gift of the Governor-General or the Crown, and although popularity with the Ministry will doubtless be no handicap, a Secretary might find himself in the quandary of either having to play up to the Governor-General in the hope of another post or to his Minister in the hope of an extension. But, presumably, an officer so amenable to these influences as my Colleagues envisage will solve the difficulty somehow. Given human nature, as it is, it can never, of course, be guaranteed that weaknesses will be eliminated, but it seems to me unwise in the hope of avoiding one possible temptation to incur more serious risks.

7 The reasons which weigh with me in urging the retention of a tenure in these posts are, briefly, that—

- (i) after a certain term of office and age the ordinary officer will not prove to be an efficient and energetic Secretary. We had ample testimony to the strain entailed by these appointments; I can corroborate it from personal experience. The Government of India hitherto have not experimented to any extent with officers of over 30 years' service as Secretaries, and I very much doubt the success of this innovation. The relief afforded by promotion, as has happened in the past, to a Membership of Council or Governorship is immense. I do not believe that the ordinary keen officer will stand the racket for longer than a reasonable term, in the not very stimulating atmosphere of Delhi or Simla; he will work himself out and go, but there is a danger of a type of man coming to the fore, who, it may be, disappointed for one

reason or another or of diminishing mental activity, will be content to slack or throw his responsibilities upon others, remaining quietly in a highly paid appointment till the end of his tenure and growing increasingly out of touch with realities. If we are to assume that it will be difficult to refuse an extension, it will be practically impossible to dislodge an officer who has given no marked cause of offence. It is easy to slack and yet to avoid disaster, and most of us who have served for any time in India know well the man who is really played out but who still hangs on. My Colleagues favour the innovation of taking, in the case of the Indian Civil Service, the power compulsorily to retire an officer at the end of his minimum service for pension (25 years) without giving any reasons. I can imagine no more powerful weapon to place in the hands of a Minister who wishes to bring a too independently minded Secretary to book, since we are presumably to assume here also, on my Colleagues' theory, that the Governor-General will "be bound to have regard in a matter of this kind to the wishes of the particular Minister concerned". If the Secretary of State were to intervene it would, of course, make the relations between Minister and Secretary impossible:

- (ii) the expectation of appointment to a Secretaryship under the Government of India is legitimately prized by the Indian Civil Service, and materially to reduce the prospects of many of them of attaining it would undoubtedly arouse resentment. At a moment when the attractions of the Indian Civil Service are scarcely as great as they were, it seems inopportune to add another grievance. It is easy to say that the interests of the State must prevail over those of the Service. But it is to the interest of the State to have an efficient and contented Service, and I have argued that a marked change in this respect is not necessarily to the interest of the State at all. Again capable, competent and keen officers are to be found at all stages of service. It is in every way advantageous to utilise their services by bringing in fresh blood at reasonable intervals, rather than disappointing them in favour of their more lucky seniors. If the existing system of tenures were abrogated in respect of the present Secretaries to the Government of India, it would mean (excluding the Foreign and Political and Legislative Departments) that they might remain for 3, 7, 12 (in two cases), 14 and 15 years respectively. The present Joint Secretaries might similarly remain for 9, 10, 11, 14 and 19 years respectively. The consequent possible block in promotion is obvious. However capable a Deputy or Joint Secretary may show himself, it is easily conceivable that his chances of ever reaching the grade of Secretary will be seriously prejudiced. My Colleagues reply that they would not necessarily bring all the existing Secretaries and Joint Secretaries on to the new system which they propose. Apart from the fact that it will be a somewhat delicate task to differentiate between them and in favour of new men, if the existing staff is to

complete their present terms in uncertainty whether they will then be retained or told to go, it can scarcely conduce to the smooth working of the Secretariat and will certainly offer the very temptation of the "extensible" tenure which my Colleagues seek to avoid.

8. In this respect analogies drawn from the Home Civil Service are apt to be misleading. In England the strength of the administrative class (recruited normally at the same examination as the Indian Civil Service) is approximately three-fourths of the whole strength of the latter. It affords a self-contained secretariat career, enjoyable in more or less uniform conditions and offering in itself a reasonable range of promotion to all. But secretariat work is only one aspect of the duties of the Indian Civil Service which vary greatly in attractiveness. Jealousy will be inevitable if the chief plums are to be reserved in great measure for the favoured few. Clearly, too, the conditions of work in England are far less conducive to staleness and exhaustion than in India.

9. My Colleagues seek to meet these objections by the argument that, in practice, Secretaries will not get tired or unduly block promotion because, in fact, some will not stay on for 35 years and others will get other posts. I have agreed that the keen man will very likely not serve indefinitely in the Secretariat: my apprehension is that the slacker may, if he has the chance, and such a man is scarcely likely to be influenced by "hints" to retire. Again if a more permanent superior Secretariat is never likely to be achieved, why in the hope of doing so incur the risks attendant on the disappearance of tenures? And if it is true that in the ordinary course of events Secretaries will seldom wish, or need, to serve for a protracted period, then the overwhelming temptation to wangle an extension rather than retire or revert will not be experienced. I think, however, that the opportunities of promotion are over estimated. Certainly two of the higher posts (the Auditor-Generalship and Financial Advisership) can only go to men of financial training, and the latter is more likely than not to go to a man from Home. While, too, experience in the Secretariat at the Centre will doubtless be a noticeable qualification for appointment to a Counsellorship or Governorship, it can hardly be assumed that such promotion will be limited to this field, and although there have been exceptions, it is the normal practice that the Governor of a province is selected from among those who have served in it. It does not follow that a suitable province will always be vacant when a senior Secretary is desirous of it; neither will the highly specialised training which certain departments call for, and which we would seek to afford, necessarily fit a man to be the Head of a province. But to the extent to which these higher appointments are available, I have already observed that, if my Colleagues' fears are justified, they too may undermine the morale of the Secretariat. As regards the argument that the Service will find compensation in the fact that under an enlarged Federal Ministry more Secretaryships and possibly one or two new high appointments will be available, I question whether this will be the case to any marked extent. The existing total of 17 Secretaryships and Joint Secretaryships (Appendix X) should suffice to man a larger number of separate departments and the motive of economy will operate against any avoidable increase. Moreover, it is to be remembered that the abolition of 13 Memberships of Council means a serious curtailment of the prospects of promotion.

10. I would only advert briefly to a few other points.

It is not essential in order to secure effective knowledge of the work of a department that an officer should remain for an unduly protracted time in it. Doubtless the English system is able to achieve this by continuity in the superior personnel; the Indian system seeks, and attains, the same end by a more elaborate system of noting and record. In this connection paras. 6 and 64 of the report of the Llewellyn Smith Committee may be read. It would be impossible to follow the English model unless the superior Secretariat is to be recast upon English lines, which, politically and financially, is difficult. But even granting certain disadvantages of the Indian method, it does ensure that an officer coming newly to a secretariat post can acquaint himself with the history of the cases which come before him. It may mean that for the first six months or so he will have to do considerable reading of old papers, but the difficulty is not insuperable.

11. Again, given the conditions of Indian service, continuity must periodically be disturbed by the requests of officers for leave. This contingency is inevitable.

12. The liability to reversion or retirement on the expiry of a term is no new thing in Indian service. Governors and Members of Council (who cannot revert) have, in some instances, had to retire before completion of 35 years' service. Secretaries have similarly had to retire and in a few cases have reverted. It is well recognised that the officer concerned has enjoyed the amenities of a high appointment and accepted it knowing the conditions attaching to it. The contingency in no way is regarded as a Service grievance, and the contention that the State loses unduly by dispensing with such senior officials turns entirely upon the theory that their retention as Secretaries is expedient, which, beyond a point, I have argued that it is not.

13. On all these grounds I would not depart from the well established practice of appointing Secretaries or Joint Secretaries for a term only, but I would recognise the opinion in favour of a longer tenure and would put it at five years. I would not absolutely debar a Joint Secretary from going on continuously to be a Secretary, since at the former stage he should already have gained the requisite administrative experience, but in that event I would limit his total tenure of both appointments to five years. I would impose the same limit in the event of an officer moving from a Secretaryship in one department to the corresponding post in another, though ordinarily I doubt if the practice is to be commended.

14. Since writing the above I have seen the second note by Sir James Rae of the meaning of which I am not sure. If it merely contemplates the case referred to in the last four lines of para. 23 of the Report, then there is no disagreement. If the expressions "a greater measure of elasticity" and "*reasonable** extension" connote more than this, then my Colleague is perilously near advocating the tenure extensible at option which we all condemn.

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* Italics are mine.