

FIRST REPORT

STANDING JOINT COMMITTEE

ON

INDIAN AFFAIRS

(SESSION 1925).

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FIRST REPORT

OF THE

Standing Joint Committee on Indian Affairs

ON THE

GOVERNMENT OF INDIA (CIVIL SERVICES) BILL (H.L.).

ORDERED TO REPORT :—

1. That the Committee have met and considered the Bill and have made amendments thereto.

2. The Committee have had the advantage of hearing a statement on the Bill from the Secretary of State. Its main object is to secure that the budgetary provision for the salaries, pensions and allowances of certain classes of public servants shall not be submitted to the votes of the legislatures in India. This involves amendment of the law in two directions :—

- (i) The extension, in the case of persons whose salaries and pensions are at present exempted from the vote of the legislatures of the same exemption to other emoluments. The Government of India Act, 1919, exempted only the "Salaries and Pensions" of such persons, and, owing to the technical meaning of these terms in Indian practice there is at present a certain difficulty in classifying as "salary" certain allowances which form part of an officer's regular remuneration, or the reimbursement of expenses incurred by him in the course of official business.
- (ii) The Act removes from the vote of the legislatures the "salaries and pensions," however defined, *only* of persons appointed by the Crown or the Secretary of State in Council. But the concessions granted as the result of the recommendations made in the Report of the Royal Commission on the Superior Civil Services in India have not been confined to persons appointed by the Secretary of State in Council (who, broadly speaking, consist of the members of the services known as "All-India Services"). They have been extended to members of the superior

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services, both central and provincial, who are appointed by the Government of India and local Governments. It would not be consistent that public servants who enjoy the benefit of concessions granted by the Secretary of State in Council should depend for the yearly provision of their remuneration upon the votes of the various legislatures. The Bill, therefore, proposes to comprehend in the category of persons whose "salaries and pensions" are to be "non-votable" such existing (but not future) members of services declared by rules to be "superior services," as were appointed by the Government of India or a local Government.

3. The principle of the Bill has already been accepted on Second Reading in the House of Lords, and the Committee endorse it without hesitation. They realise fully the moral obligation of the Imperial Government to preserve the spirit of the Government of India Act, 1919, and on broad principles they are opposed to any invasion of the powers of the Legislatures in India. At the same time they consider the safeguarding of the interests of the Public Services in India to be a duty which must be fulfilled in the interests of the proper working of the new Constitution, and they are not apprehensive that the privilege now proposed will impair the proper discipline of the services by the proper authority.

4. The Committee, before proceeding to amend the Bill, had the advantage of hearing the views of the Under Secretary of State for India on various amendments which were proposed. They now proceed to deal with these amendments in some detail.

In the first place it was proposed to insert after Clause 1, page 2, line 16, and also after Clause 1, page 3, line 4, a new sub-section, going further than the Bill provided, by affording the same protection to certain persons whom the Secretary of State in Council may name, after certifying that exemption is justified by the circumstances of their original appointment.

This amendment, after careful deliberation, the Committee have agreed to.

5. The following views on this amendment were put before the Committee by the Under Secretary of State for India. He considered that the amendment was unnecessary as the Bill as it stands gives power to classify as "superior" (and thereby to make their salaries non-votable) any services or posts which have a status or responsibility comparable with those of the "All-India" or "Central" Services. He stated that the Government proposes to adopt that criterion in deciding whether any provincial service or post is to be classified as "superior" for the purposes of this Bill. The Government does not advise the inclusion of a number of persons who, judged by the above-mentioned criterion, could not be classified as holding "superior"

appointments. It considers that this would detract too much from the powers of the legislatures. In the matter of protecting any Provincial Services or posts which can be shown to be comparable in status or responsibility to the All-India and Central Services, the Government is prepared to go further than the recommendations contained in the Report of the Royal Commission presided over by Lord Lee of Fareham. It does not, however, mean to extend those recommendations to the Provincial Services as a whole, or to selected individual members. To attempt to do so would, in its opinion, reopen the whole question of the classification of the services and the distribution of control over them which has been effected on the basis of the Act of 1919.

6. The Committee have given the closest attention to those arguments, but have decided to insert the amendment, subject of course to whatever drafting alterations may be considered necessary to give effect to its purpose. Their view is that there are appointments, here and there, which it would be difficult or even improper to classify as "superior," but which are yet held at present by persons who were originally appointed in circumstances which gave them the right to expect, and which in fact entitle them to, the same measure of protection as will extend to members of the new "superior" services. Such cases, it is anticipated, will not be numerous; they raise no racial question, as the proposed privilege will be open to all public servants alike; and the Secretary of State will not exercise his power of individual exemption without investigating the particular conditions under which each claimant was appointed. The number of officers thus privileged will steadily diminish, and the Committee do not regard the concession as constituting any appreciable derogation from the powers of the legislatures, while it will remove any sense of grievance from a few meritorious officials.

7. The second amendment which the Committee have inserted is one which was put in at the request of the Secretary of State, and is not in any sense controversial. It is to supply an accidental omission in Section 96b of the Act of 1919, by adding the words "in Council" after "Secretary of State," as in the rest of that section.

8. The third and last amendment which the Committee have adopted was not dealt with by the Under Secretary of State and the Committee did not therefore have the benefit of his advice before considering it. The object of the amendment is to extend to all officers whose salaries are non-votable the same protection as Section 96B provides for officers appointed by the Secretary of State in Council. The provisions under which the salaries of officers are not submitted to the vote of the Legislative Councils would be nugatory if there were no special limitation to the power of abolishing their appointments.

The Committee were advised that this amendment does not come within the scope of the Bill. After discussion, however, they came to the conclusion that this additional protection is necessary, and the amendment was carried. They consider that the amendment is consistent with the recommendation made in paragraph 57 of the Report of the Royal Commission. They further consider that in the event of the recommendation in paragraph 27 of that Report being adopted by the Government this safeguard will be valuable. The Report recommends that an Appeal should only be finally referred to the Secretary of State provided that the case is certified by the Public Service Commission (when set up) as a fit one for such appeal.

9. In conclusion, the Committee trust that any Rules which are made by the Secretary of State in Council under Section 96c (2) of the Government of India Act, 1919, will be referred to them. They consider that the future and the security of tenure of public Servants in India may be so materially affected by the functions of the Public Services Commission, that the Rules governing the powers of that body and the question of the final right of appeal against its decisions should not be approved by the Imperial Parliament until they have been submitted to exhaustive examination.