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JOINT COMMITTEE
ON INDIAN CONSTITUTIONAL REFORM

[SESSION 1933-34]

RECORD
CONTAINING
MEMORANDA

submitted to the Joint Committee on

**INDIAN CONSTITUTIONAL
REFORM**

BY THE DELEGATES FROM BURMA
ON THEIR DEPARTURE

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JOINT COMMITTEE ON INDIAN CONSTITUTIONAL REFORM

MEMORANDA SUBMITTED TO THE COMMITTEE BY THE
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Memorandum Submitted to the Joint Committee on her departure by Dr. Ma Saw Sa on Wifhood Franchise and the proposal to reserve Seats for Women

As the representative of Burmese women in the Burma Delegation I welcome the recommendation of literacy and age qualifications for women by the Indian Franchise Committee. But this does not widen the franchise enough for practical purposes. We cannot accept the recommendation that the wife of a man with property qualification be not granted the vote in Burma on the ground that it would bring the number of women voters into practical equality with the number of male voters. Even though equal numbers be enfranchised, we cannot hope for a full voting strength in operation at the beginning before things settle down. Even later, women for reasons peculiar to them and for reasons of household duties may be prevented from taking full advantage of their vote.

Apart from that, we claim that, in the case of votes given to a man on property qualification, the wife is equally entitled to vote, on the same ground, because she is, in Burma, the joint owner of property. The claim is so clear, asking only a fair treatment of men and women alike, that I feel that there should be no question about it.

We claim wifhood franchise for the wives of all men who vote on other qualifications, also, for the same reason.

On the principle of equal status with men, we are not at all in favour of having seats reserved for women.

The Burmese women are fully emancipated and are regarded by men in our land as equal partners with them in home, economic and political matters, as borne out by their unanimous and full support of our claims.

As Burma is expected and is hoping to make a definite forward move, under the new Constitution, we feel that it is only in keeping with the tradition of Burma that women should keep pace with men and that therefore it is important and necessary that we be given our own rightful place and a fair share in the working of the Constitution. If, by narrowing down the franchise, women are not given their natural place, our national progress and our constitutional advance will be set back.

I trust that the rights and claims of women, forming practically half the population, may have adequate importance given to them, and that mere increase of work in preparing electoral rolls and running the elections would not be accepted as an excuse for denying them their just rights and claims.

II

General Memorandum submitted to the Joint Committee on his departure by U Chit Hlaing on the Position of Burma

1. Burma is at present a part of the Indian Empire. She has her own Legislative Council and has her representatives in the Indian Council of State and Legislative Assembly.

2. From the point of view of Government, Civil Service, police, trade, fiscal policy and foreign policy, she is, and for generations has been in fact, part and parcel of the Indian Empire. Not only so but the people of Burma have come to look on themselves and their country as part of the Indian Empire and as sharers in its destiny.

3. It is true that the Government of Burma has made in recent years many moves towards the separation of Burma from the remainder of the Indian Empire, but these have been official actions and preparations and have not received the sanction of the people of Burma.

4. The majority of people in Burma were opposed to the diarchical constitution inaugurated by the Montagu-Chelmsford Reforms and for ten years (until the last General Election) took no part either in the elections or in the legislatures. They were opposed also to the Statutory Commission presided over by Sir John Simon and gave no evidence before it.

5. The only people who took part in the elections, sat in the legislatures at Rangoon and Delhi or Simla, and gave evidence before the Statutory Commission, were the so-called co-operators and it was from the ranks of this minority only that representatives were invited to serve on the First Indian Round Table Conference.

6. We who wish to continue as part of the Indian Federation never accepted them as acting or speaking for the majority of the electors of Burma whom I, Dr. Ba Maw, and others represent, nor do we accept them now as speaking for any except a minority of the people and electors of Burma.

7. On their statements, backed up by the Government of Burma and the India Office, it was assumed that Burma would wish to be separated from India. A Burma Round Table Conference was held in London, at St. James's Palace, from 27th November, 1931, to 12th January, 1932.

8. At that Burma Round Table Conference we, the Burman majority, who desire to remain in the Indian Federation, were represented for the first time.

9. In spite of our statements there, most of the time of that Conference, as most of the time that we have sat as Delegates with this Joint Select Committee, was spent in discussing the kind of constitution Burma should have *if she were separated from India*.

10. It was agreed on all sides, at the Burma Round Table Conference, that the decision of separation from or continued federation with India should be decided by the people of Burma by their votes on this distinct issue at a General Election to be held after our return to Burma following the conclusion of the Burma Round Table Conference.

11. At the final session of that Conference the Prime Minister made the matter crystal clear. He read a statement which he was "authorised to make" by his "colleagues of His Majesty's Government." *

* Cmd, 4004 of 1932 p. 182.

GENERAL MEMORANDUM BY U CHIT HLAING.

12. The chief points in the Prime Minister's Declaration were contained in these words:—

"The first step is to *ascertain whether the people of Burma* endorse the provisional decision that separation should take place. . . .

"*The people of Burma will be in a position to decide* whether or not they are in favour of separation from India. His Majesty's Government consider that the decision might best be taken after a general election at which the broad issue had been placed before the electorate. . . .

"*That decision will determine* whether, on the one hand, Burma should be independent of India with a Constitution on the lines set forth above or, on the other hand, should remain a Province of India with the prospects indicated in the proceedings of the two Sessions of the Indian Round Table Conference—and in this connection it should be remembered that if an Indian Federation is established it cannot be on the basis that members can leave it as and when they choose." *

(*My Italics.*)

13. The Prime Minister's statement was translated into Burmese, printed as a booklet (a copy of which was exhibited to the Joint Select Committee), and circulated by the Government of Burma by thousands in every village in Burma. It is impossible, therefore, to argue that the electors of Burma were not fully cognisant of the issue to be voted on at the General Election, of their responsibility in casting their votes, and of the express statement made by the Prime Minister that Burma's decision on this question of federation or separation was final and conclusive.

14. The issue put before the electors of Burma was further emphasised and made clear by a statement, made by the Secretary of State for India in the House of Commons on 20th March, 1933, after the General Election had taken place. In this statement the Secretary of State for India used these words:—

"In the event of Burma electing for separation from India, His Majesty's Government hope that it will be possible for the Joint Select Committee to examine their proposals for a Constitution for a separated Burma, and to do so in consultation with representatives of Burma, in the same way as it is proposed that representatives of India should be taken into consultation on the Indian proposals.

"The second of *the two alternatives open to Burma* is to remain a province of British India and be included as a Governor's Province in the Indian Federation. It has been explained more than once in this House, and also in the Legislative Council in Burma, that no differentiation in favour of any one Province in respect of conditions of inclusion in the Federation is possible. The constitutional proposals for each and every Governor's Province are now shown in detail in the White Paper that has just been laid.

"*If Burma chooses to remain a Province of India* in the Indian Federation, the proposals contained in this White Paper for the structure of the Provincial Constitutions, for the relations between Provinces and the Federal authority, and for the allocation of revenue between Provincial and Federal Exchequers, will be applicable to her as to all other Provinces; and the inclusion of Burma will necessitate no modification of these proposals. Her inclusion would, however, involve some revision of the Federal proposals, in respect, particularly,

* Cmd. 4004 of 1932, Pages 182-183.

GENERAL MEMORANDUM BY U CHIT HLAING.

of the composition of the Federal Legislature. His Majesty's Government contemplate that, *if Burma elects for inclusion in the Federation* while the present proposals are under consideration by the Joint Select Committee, the adjustments involved by her inclusion might be made at the Committee stage; but it is evident that the longer that Burma delays a choice between the only two alternatives that are open, the greater will be the delay to the prospects of her own constitutional development." *

(*My Italics.*)

15. If after that Election, fought on the issue fixed by His Majesty's Government, Burma is now separated from India against the clear expression of their wishes given by a large majority of the people of Burma at the General Election, it will shake the faith of the Burman people in the sanctity of British pledges. I dread and am unable to anticipate what the possible reactions in Burma may be. This is a matter that affects the people of Burma vitally in their economic and financial future. They look to His Majesty's Government to fulfil the pledge given to them by your Prime Minister. They feel no doubt that such pledges are as sacred to you as they are to us. I pray you not to force our people into the belief that a promise given to them by His Majesty's Government is not to be relied on to be carried out to the full. We have trusted you and pray that the trust of a people 8,000 miles away from your shores may not be misplaced.

16. There is no party or section in Burma or in the Legislative Council— not even the Separationists represented by the People's Party led by U Ba Pe—which has not refused to accept the separated constitution for Burma outlined by the Prime Minister at the conclusion of the Burma Round Table Conference. Indeed, all parties have voted against such a constitution as being quite unacceptable to Burma.

17. The General Election, for the election of 80 members to the Burma Legislative Council, *on the issue fixed by the British Cabinet*, was held in Burma in November, 1932. The final results were as follows:—

Anti-Separationists	...	...	...	...	...	...	...	...	42
Separationists	...	...	...	...	...	...	...	...	29
Neutrals	...	...	...	...	...	...	...	...	9

The figures were given by me in the Discussion between the Joint Committee and the Delegates from Burma on 6th December, 1933, as Anti-Separationists over 500,000; and Separationists 270,000. The voting was therefore nearly 2 to 1 in favour of continuing the association with India and against separation.†

The "Morning Post" of London, commenting upon this, said that "the Burmans have now to all appearances voluntarily voted themselves into the proposed Federation of All-India." That exactly sums up the position.

18. We were astounded, in the course of our earlier discussions with the Joint Select Committee on 7th December, 1933, to hear the Secretary of State say that—

"The Government never said that the general election need necessarily be the final word in the controversy. The Prime Minister was very

* HANSARD. Vol. 276. No. 53. 20th March 1933. Cols. 3 & 4.

† RECORD OF DISCUSSIONS. B1 Page 5. Col. 2. (Joint Committee on Indian Constitutional Reform. Session 1933-34.)

GENERAL MEMORANDUM BY U CHIT HLAING.

careful to state both at the beginning of his speech and later on in his speech that the opinion of Burma would be asked and that when we had received the opinion of Burma, then *the Government would have to arrive at its own decision*; but never on any occasion has the Prime Minister or any Member of the Government abdicated the right of the Government or the right of this Committee or the right of Parliament to come to any decision that they thought fit, whatever may have been the result of the general election. I would remind the Committee of the words that were actually used by the Prime Minister on page 178 of the proceedings of the Round Table Conference. I will read one or two of the material paragraphs: 'His Majesty's Government are prepared, if and when they are satisfied that the desire of the people of Burma is that the Government of their country should be separated from that of India, to take steps subject to the approval of Parliament,' and so on. Then again there is another passage on page 182, the passage at the bottom of the page: 'With this material before them, the people of Burma will be in a position to decide whether or not they are in favour of separation from India. His Majesty's Government consider that the decision might best be taken after a general election at which the broad issue had been placed before the Electorate.' That passage quite clearly safeguards the right and indeed the duty of the Government and of Parliament to consider the whole problem after the election had taken place."*

(*My Italics.*)

19. The whole burden of the Prime Minister's speech was to lay the onus of decision on the people of Burma to vote as to whether they elected to be separated from India or to continue as part of the Indian Federation.

20. The portion of the Prime Minister's speech quoted by the Secretary of State as quite clearly safeguarding "the right and indeed the duty of the Government and of Parliament to consider the whole problem after the election had taken place" refers *not* to the decision of His Majesty's Government but to the decision of the Burma Legislative Council after the election.

It was so understood by us at the time the statement was made by the Prime Minister, and it was so understood in Burma. Indeed, it is difficult to see how any other meaning could be read into the words.

21. It is true that no clear decision was given by the Burma Legislative Council but it is equally true that no party is in favour of the proposed constitution as outlined by the Prime Minister and all parties voted against it.

22. In view of the Prime Minister's statement on behalf of His Majesty's Government, it seems to be clearly promised to us that Burma cannot be treated as outside the proposed Indian Federation *unless she specifically votes for separation*. This she has not done. It would seem therefore as if the logical course would be for His Majesty's Government to continue to treat Burma as a Province of the Indian Federation.

* RECORD OF DISCUSSIONS. B1 Page 43. (Joint Committee on Indian Constitutional Reform. Session 1933-34.)

GENERAL MEMORANDUM BY U CHIT HLAING.

23. The Secretary of State presented a Memorandum on Burma to the Joint Committee on 10th October, 1933.* In view of the results of the General Election in November, 1932, it is surprising to read in his Memorandum:—

“ I have come to two conclusions that were reached by the Statutory Commission, namely, that Burma should henceforth be separated from India, and that the general body of Burman opinion supports separation.”

How he arrived at this conclusion we are unable to understand. There is certainly no ground for it in the result of the last General Election.

24. On 29th November, 1933—on the eve of our meeting with this Joint Select Committee—an article occupying a column and a half appeared in the middle pages of the “ Times ” newspaper in London under the heading “ The Choice for Burma.” That article, “ From a Special Correspondent ” gave, in our view, an entirely misleading picture of the present political position in Burma. Although I replied to this article at once, the Editor of the “ Times ” did not and has not published my reply giving the real facts and figures. That is only one example of how difficult it is to have our true position realised or appreciated by the British public.

25. Of the Delegates from Burma who have been asked to sit with this Joint Select Committee, only 4 out of 12 represent the majority on the Burma Legislative Council elected at the last General Election. The others represent other “ parties and interests in Burma ”—to quote from the Secretary of State’s Memorandum.†

26. It does seem to us as if the strength of our position and case was not realised in this country in regard to the question of federation and it is to be regretted that it was not possible to devote more time to the discussion of this problem.

27. I ventured to outline the special provisions that, in our view, should be included in the Constitution Act. To the points in that speech I would humbly request the members of the Joint Select Committee to pay special attention.

28. We earnestly pray that the decision of the majority of the electors of Burma, given so clearly at the General Election held in November, 1932, may be accepted by His Majesty’s Government and that we may be included in the Indian Federation. If this Joint Committee should decide otherwise the faith of an Eastern people will be seriously shaken with repercussions that no one can foresee.

* RECORD. VI. Page 135. (Joint Committee on Indian Constitutional Reform. Session 1932-33.)

† RECORD. IV. Page 137. (Joint Committee on Indian Constitutional Reform. Session 1932-33.)

III

Joint Memorandum submitted to the Joint Committee on their departure by U Ba Pe, U Shway Tha, Dr. Ma Saw Sa, U Thein Maung and *U Kyaw Din on the Scheme of Constitutional Reform in Burma if separated from India

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* Subject to a separate memorandum attached hereunto.

JOINT MEMORANDUM BY U BA PE, U SHWAY THA, DR. MA SAW SA, U THEIN MAUNG AND U KYAW DIN.

INTRODUCTION.

The aspiration of the people of Burma is to attain "Dominion Status," i.e., full responsible self-government on equal footing with other Dominions within the British Commonwealth of free nations. The constitution as sketched in the Burma White Paper proposals is not full responsible self-government. It does not come up to the aspirations of the people of Burma.

We are told that it is an attempt to lay the foundation of Burma's future full responsible self-government. However, there are so many reservations, checks and safeguards that unless modifications and improvements are effected as suggested in the following pages, it will not serve its purpose.

In suggesting them we have the following in view:—

(a) That transfer of power and responsibility as regards departments other than those that are reserved should be real and effective.

(b) What is kept back from popular control at present should be transferred within reasonable time. With this end in view there should be provisions to train the people of Burma in the reserved Departments, to keep the reserved Departments in close contact with the Legislature and to facilitate transfer to popular control without necessity for further Parliamentary legislation.

(c) There should be provisions enabling the Burmese people to protect their interests.

(d) The safeguards should be provided and used only in the interests of the people of Burma.

(e) To apply the principle of reciprocity immediately as between India and Burma or as between the United Kingdom and Burma would be highly unfair, as Burma is comparatively young, inexperienced, and ill-equipped, and therefore unable to hold her own against others at present. The new Constitution should give her a fair opportunity for commercial, economic and political growth.

It is stated in para. 24 of the Introduction to the Burma Proposals that the question of continued recruitment by the Secretary of State to the Superior Medical and Railway Services is under examination. It is also stated in para. 38 (3) of Appendix II to Record A1 (II) (Joint Committee on Indian Constitutional Reform, Session 1933-34) that a lengthy investigation as to what should be qualifications for Labour constituencies will be necessary. We hope that the results of the said examination and the proposed investigation will be placed before the people of Burma, and that we shall be given an opportunity to express our opinion thereon.

We were assured that we could submit a memorandum expressing our views on Mr. Harper's memorandum on trade relations, etc., and we shall do so when he supplies us with a copy.

The King Emperor.

We welcome the suggestion that His Majesty might be pleased to adopt the title of King-Emperor of Burma after the separation of Burma from India.

The Governor-General of Burma.

(1) The head of the Executive in Burma should be designated Governor-General.

JOINT MEMORANDUM BY U BA PE, U SHWAY THA, DR. MA SAW SA, U THEIN MAUNG AND U KYAW DIN.

(2) He should always be a man who has had appreciable Parliamentary experience, held high political office or had experience in the working of full responsible Government.

(3) He should never be a military man, a member of the Civil Service nor a man who is not acceptable to the Ministry of Burma with which he would have to work. (*Cf.* the case of the Dominions.)

The Working of the Executive.

PROPOSAL 10.

A.—*Defence.*

(1) *Military Council.*—There should be a Military Council for Burma on the lines of the Imperial Defence Committee. (*Cf.* Report of Sub-Committee VII, Defence, Indian Round Table Conference, pages 46-47 and 86-87, and Burma Round Table Conference Report, para. 69 at page 127.)

(2) *Training the people to defend themselves.*—The Governor-General and the Military Council should be charged with the duty of raising a Burmese army and training the Burmese people to defend themselves, e.g., by opening schools on the model of British Army Schools, by having Burmans trained to be Army officers in India or the United Kingdom, by making provision for Officers' Training Corps in the University and High Schools and by raising citizen forces.

(3) *Periodical Reports.*—The Governor-General should be required to report periodically of the progress made in Burmanization of the army, including the Military Police.

(4) *Military Estimates.*—There should be close consultation between the Defence Member and other immediate advisers of the Governor-General on the one hand and the Council of Ministers on the other before the Military estimates are submitted to the Governor-General for final approval and for presentation to the Legislature.

(*Cf.*—Sub-Committee's Reports, Indian Round Table Conference, page 44.)

(5) *The Legislature and military affairs.*—The Legislature of Burma should be kept acquainted with military matters and it should have the right to discuss them.

(Burma Round Table Conference Report, paras. 69 and 71 at pages 127 and 128.)

B.—*External Affairs.*

These should be confined to the subject of political relations with other countries. Commercial, economic and other relations should be within the purview of the Legislature of Burma and Ministers responsible thereto.

(*Cf.*—The Fourth Report of the Federal Structure Committee, para. 11, quoted at page 165 of the proceedings of the Burma Round Table Conference.)

C.—*Ecclesiastical Affairs.*

It should be made clear that the ecclesiastical affairs are only those of the European Civil and Military services in order to dispel all doubts and apprehensions which have arisen as regards Buddhism, etc. (*Cf.*—Burma Round Table Conference Proceedings, pages 176-177.) Expenditure on them should be placed under Defence. (*Ibid.*)

JOINT MEMORANDUM BY U BA PE, U SHWAY THA, DR. MA SAW SA, U THEIN MAUNG AND U KYAW DIN.

D.—Schedule A (Excluded Areas).

1. All areas in this Schedule except the Federated Shan States should be transferred to Schedule B; and there should be express provision for removal of areas from both Schedules by Orders in Council as proposed by the Secretary of State for India. (Appendix of Record A. 1 [III], (Joint Committee on Indian Constitutional Reform, Session 1933-34).

2. The contribution from Burma revenues to Federated Shan States, viz., the subvention referred to in the Report of the Statutory Commission, Vol. I, at page 82, should be stopped immediately and they should be required to pay their share of the costs of defence and general administration.

3. The claim made by them for financial settlement between them and Burma should be referred to an impartial tribunal—like the tribunal proposed for such settlement between India and Burma—and should not be left to be dealt with by the Governor-General. (Burma Round Table Conference Report, pages 109-110, para. 4.)

4. Government of Burma should be charged with the duty of adopting and carrying out a definite policy to remove the backwardness of the areas excluded partially or otherwise in order that they may be qualified for a share in representative Democratic Government with the rest of Burma in the near future.

5. *Legislation.*—Clause (C) in the Appendix of Record A1 [III] (Joint Committee on Indian Constitutional Reform, Session 1933-34) should be so amended that the Governor-General should have to act on the advice of the responsible Minister as regards areas in Schedule B, inasmuch as the Minister is to be primarily responsible for their administration.

6. *Legislature and Scheduled Areas.*—The Legislature of Burma should not be altogether prohibited from discussing or asking questions about the administration of areas in Schedule A. The Governor-General's power to disallow any question or resolution about them should be regarded as sufficient safeguard as in the case of areas in Schedule B.

(Cf.—Burma Round Table Conference Report, para. 64 at page 126.)

Monetary Policy, Currency and Coinage.—The reservation of these subjects should be for the period of transition only. The Secretary of State for India observed at a meeting of the Indian Round Table Conference that “the British Government have fully accepted the fact that there can be no effective transfer of responsibility unless there is an effective transfer of financial responsibility.” (Indian Round Table Conference, 3rd Session, page 79) and transfer of financial responsibility cannot be effective so long as currency coinage and monetary policy are reserved.

2. The Government of Burma should have liberty to introduce a separate currency system for Burma as recommended by Sir Henry Howard and Mr. J. C. Nixon in para. 7 of their Memorandum on the Financial Questions arising out of the proposed separation of Burma from India.

3. Burma should have liberty to establish a central reserve Bank of her own either as a State Bank or a shareholders' bank as recommended by the Burma Provincial Banking Enquiry Committee, 1929-30 (para. 804 at page 350). (Cf.—The recommendation of the International Financial Conference at Brussels in 1920.) We do not suggest that Burma should have a separate currency system and a separate reserve bank straight away. However, we must insist upon her right to have them in future should the Government of Burma consider it to her advantage to do so.

JOINT MEMORANDUM BY U BA PE, U SHWAY THA, DR. MA SAW SA, U THEIN MAUNG AND U KYAW DIN.

E.—Reserved Subjects generally.

It should be made quite clear at least in the Instrument of Instructions to the Governor that Burmans should be associated with the administration of all the reserved subjects, e.g., as Parliamentary Under-Secretaries or by increased employment in responsible posts in the departments, so that they may get the necessary training to take over the full responsibility of administering them in future.

Financial Adviser.

PROPOSAL 11.

The Financial Adviser should not be eligible for appointment as a Counsellor. He should be an independent expert who is not connected with any political or financial interests in India, Burma and the United Kingdom; he should not have any executive power (*Cf.* the Report of the Financial Safeguards Committee, 3rd Indian Round Table Conference, p. 35) and he should not be allowed to develop into a rival Finance Member. He should be under statutory obligation to give such financial advice to the Legislature of Burma as it may require.

Council of Ministers.

PROPOSALS 12, 13, 14.

1. The Prime Minister should be a person who commands the largest following in the House of Representatives and he should be asked by the Governor-General to form the Ministry. We are of opinion that no nominated member of the Upper House should be in the Ministry. However, we are prepared to leave it to the discretion of the Prime Minister. We would insist upon it only if the Governor-General actually *chooses* his Ministers.

2. The Council of Ministers should be collectively responsible for all matters concerning departments of state administered by members thereof.

3. The Council of Ministers should retire or be required to retire from Office should it cease to retain the support of a majority in the House of Representatives.

4. The maximum number of Ministers should not be fixed in the Constitution Act, inasmuch as there must be provision for future replacement of Counsellors by Ministers as and when reserved subjects are transferred.

5. The Council of Ministers should have the right to reduce or surrender their salaries during their term of office.

6. The Prime Minister should have the right to appoint Parliamentary Secretaries for Ministers. (*Cf.*—Government of India Act, 1919, S. 52.)

Financial Adviser's Salary and conditions of service.

PROPOSAL 16.

Financial Adviser's salary and conditions of service should be fixed by the Governor-General after consultation with Ministers.

JOINT MEMORANDUM BY U BA PE, U SHWAY THA, DR. MA SAW SA, U THEIN MAUNG AND U KYAW DIN.

Special Responsibilities of the Governor-General.

PROPOSAL 17.

Commercial discrimination in clause (e) should be confined to what falls within Proposals 58 and 59 only or proposals superseding them, viz. Record A2 (I) (Joint Committee on Indian Constitutional Reform, Session 1933-34).

The Governor-General's decision as to whether any of the special responsibilities are involved by any given circumstances should be reported immediately to the Secretary of State and shall be subject to cancellation by him. It shall also be subject to revision by the Judicial Committee of the Privy Council at the instance of the Ministry.

Instrument of Instructions.

PROPOSAL 20.

In addition to what is in para. 23 of the Introduction to Indian Proposals, the Instrument of Instructions should contain the following:—

(1) Instructions on the points raised above under the heading "Defence".

(2) Instructions to foster the growth of healthy constitutional conventions in the direction of full responsible self-government.

(3) Instructions for automatic growth of the constitution to ensure the advance of Burma through the new constitution to full responsibility for her own government.

(*Cf.*—The Prime Minister's speech at page 177 of the Burma Round Table Conference Proceedings and para. 5 of the Introduction to the Burma Proposals.)

The Legislature.

PROPOSAL 21.

The Legislature should be unicameral. A second chamber is not necessary for the following reasons:—

(1) Burma is not being granted full responsible self-government yet and it is doubtful whether a second chamber would be necessary with it even, there having been a decided tendency in the Dominions to create single chamber Legislatures in the place of the original bicameral system. (*Keith on Responsible Government in the Dominions*, page 391.)

(2) There are ample checks and safeguards on the little power that is being transferred in the form of Governor's powers and special responsibilities and provisions against commercial and administrative discrimination.

(3) The composition of the House of Representatives would be such, having regard to the proposed representation of minority communities and special interests, that it would in itself be an insurance against rash legislation.

(4) The case of Burma is different from that of India inasmuch as the Government must be unitary and not federal.

The Special Commission on the Constitution of Ceylon observed at page 39 of their report "However the question may be approached it can hardly be denied that the creation of a Second Chamber, even with a scope less wide and with powers less extensive than those assigned to the Lower House, would

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neutralize to a large extent the transfer of responsibility to the elected representatives of the people. It would be the height of timidity as of inconsistency to recommend a transfer of responsibility while devising means to render that transfer not fully effective." And these remarks apply to the Burma proposals with greater force having regard to the proposed composition and powers of the Upper House.

PROPOSAL 22.

The Governor-General should exercise his powers to summon, prorogue and dissolve the Legislature ordinarily on the advice of Ministers.

The Composition of the Chambers.

PROPOSAL 25.

The Senate, if there must be one at all in spite of our protest, should be constituted as follows:—

Half by direct election, each Division and the Rangoon Town District being treated as separate constituencies for the purpose;

Quarter by indirect election by the House of Representatives; and

Quarter by nomination—not by the Governor-General in his discretion, but by the Governor-General on the advice of the Council of Ministers.

PROPOSAL 28.

Senators returned by direct election should not be required to retire by rotation. They should be allowed the full period of eight years.

As regards members elected indirectly, those who polled the smallest number of votes should be required to retire first (*Cf.* the rules of the Bar Council, Rangoon). Government nominees should also be placed in serial order and those who are at the bottom should be required to retire first. One third of the nominated and indirectly elected Senators should retire at the end of the 5th year, another third of them should retire at the end of the 6th year, and the remaining third at the end of the 7th year.

PROPOSAL 29.

The numbers should be subject to variation by a constitutional resolution or by an Order in Council having regard to the fact that areas which are excluded at present must have representation when they are allowed to come in.

PROPOSAL 33.

Conviction of election offences and suspension from legal practice should be disqualifications for five years only, subject to the proposed proviso.

Legislative Procedure.

PROPOSAL 37.

There should be no deviation from the well-known parliamentary practice and procedure nor from the Indian Proposals as regards Money Bills and they should not be allowed to be initiated in the Upper House.

In this connection the promise made to Burma by the Secretary of State for India* that her prospects of constitutional advance would not be prejudiced by separation from India should be borne in mind.

* In the House of Commons 20th January, 1931.

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PROPOSAL 40.

The Governor-General should not be merely empowered but required to call a joint session of the Houses in case of a deadlock; or in the alternative a certain number of the members of either House should have the right to requisition a joint session of the Houses.

PROPOSAL 41.

The Governor-General should be required to take Ministers into his confidence and to consult them before he exercises his discretion as proposed. Furthermore, Governor-General's Acts should come into force only with the assent of His Majesty in Council and they should not be presented for such assent "until copies have been laid before each House of Parliament for not less than eight days on which that House has sat." (Cf. Government of India Act, S. 72E (2) and (3).)

PROPOSAL 43.

The Governor-General should have no right to stop proceedings in the Legislature as regards matters which are within its competence. His power to refuse assent to the Bill and to reserve it for signification of the pleasure of His Majesty in Council are sufficient safeguards. The proposal strikes at the very root of liberty to discuss matters and propose measures in the Legislature.

Procedure with regard to Financial Proposals.

PROPOSALS 44 AND 45.

It should be made clear that Governor-General always means Governor-General with his Council of Ministers and that even where he is to act "at his discretion" or "in his discretion" he would have to act after consultation with his Ministers.

Proposal 45 should also require budgets for excluded areas other than the Federated Shan States to be prepared separately from those for the Federation and the rest of Burma for the reasons stated under Proposal 47.

PROPOSAL 47 (iii).

We have urged above that the Military Estimates should be prepared in close consultation with the Ministers.

As regards expenditures on Excluded Areas (other than the Federation of Shan States) they should be met out of the revenue therefrom and any contribution that the Governor-General might require out of the general revenue should be votable by the Legislature of Burma.

Salaries.—The Legislature ought to have the right not only to discuss but also to reduce salaries of all except the Governor-General—not for political but for financial reasons. There has been grave dissatisfaction in the country that the salaries of high officials cannot be reduced even in these days of serious economic depression and financial stringency.

Emergency Powers of the Governor in relation to Legislation.

PROPOSAL 51.

1. Ordinances and not mere renewals thereof should be required to be laid before both Houses of Parliament as soon as possible.

2. They should not only be subject to disallowance as an Act passed by the Legislature but should also be controlled or superseded by any such Act.

(Cf.—Government of India Act, S. 72).

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Powers of the Legislature.

PROPOSAL 55.

The words in italics have given rise to disputes as to the real purport of the entire proposal, but we have been assured that it would be made clear that the intention is only to provide for enforcement of the Naval Discipline Act, the Army Act, the Air Force Act, and similar Acts as regards members of Indian public forces in Burma.

Constitutional Resolutions.

Sufficient power should be given to the Legislature of Burma to amend the constitution by constitutional resolutions (Cf. Art. 68 of the Constitution of New Zealand which reads "It shall be lawful for the said General Assembly (*i.e.*, the New Zealand Legislature) by an Act or Acts to alter from time to time any provisions of this Act.") Redistribution of constituencies, revising their delimitations, revision of the franchise, rearrangement of the methods of election and the alteration of the size of legislature should be within its power subject to safeguard by prescribing a definite majority say of two thirds (Cf. Indian Statutory Commission's Report, Vol. II, paras. 94, 95 and 109. We however object to the suggestion of restriction for ten years therein).

PROPOSALS 58, 59, 60, 61 AND 62.

These have been superseded by Record A. 2 (I) (Joint Committee on Indian Constitutional Reform, Session 1933-34), and attention is invited to our remarks thereon.

Financial Powers and Relations.

PROPOSAL 64.

There is a consensus of opinion that financial settlement between India and Burma should be referred to an independent tribunal.

The Government of India in their Despatch on Proposals for Constitutional Reforms, dated 20th September, 1930, observed "We believe that a Committee of the Privy Council would be the sort of tribunal most likely to satisfy Indian opinion. Their decisions could be given on evidence placed before them, assisted by expert witnesses or possibly assessors, from India and from Burma". Sub Committee No. IV (Burma) of the Indian Round Table Conference considered that it should be dealt with in the manner recommended by the Government of India; and we are of the same opinion. We only wish to add that the Tribunal should be appointed or declared as soon as the decision to separate Burma from India is arrived at and that financial settlement between Burma proper and the Federated Shan States should also be referred to the same tribunal.

Statutory Railway Board.

PROPOSAL 68.

Record A. 2 (II) (Joint Committee on Indian Constitutional Reform, Session 1933-34) and the Sketch Proposals for the future administration of the Burma Railways attached to the Record.

Para. 4 (b) of the Sketch Proposals.—1. The Chief Commissioner, *i.e.*, the General Manager of the railways, should not be President of the Board of Management. He should be only a member in executive charge of the affairs of the Board which should have the right to elect its own President.

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from among its non-official members. It is highly desirable to have an independent President who would see that the Chief Commissioner places the necessary items on the agenda with all the necessary information thereon, that the Chief Commissioner carries out all the resolutions of the Board with due despatch and who would conduct the business of the meetings fairly. We have had experience of difficulties and dissatisfaction where members in executive charge are Presidents.

2. The President of the Board—and not the Chief Commissioner—should have the right of access to the Governor-General of Burma, and that right should be exercised in consultation with the Minister in charge of Railways. It is not at all proper to let the President have access to the Governor-General behind the back of such Minister.

3. The Governor-General should appoint the Chief Commissioner after consultation with the Minister in charge of railways.

4. The Governor-General should determine the Chief Commissioner's salary after consultation with the Minister.

Para. 4 (c)—1. The Financial Adviser should not be a member of the Board. He should be only an independent adviser thereto in order that there might be no cause for suspicion that he has pet schemes or ideas of his own or that he is taking sides.

He should be required to attend meetings of the Board to give it the benefit of his financial advice, but should not be at liberty to vote upon, or to make, any proposition at any such meeting. (Cf. The position of the Inspector of Schools with reference to the Rangoon Education Board under Burma Act VI of 1922, Schedule I, Chapter VII, S. 8).

2. Non-official members should be appointed by the Governor-General after consultation with the Minister.

3. Remuneration of the non-official members of the Board should not be fixed in the Constitution Act but should be left to be fixed by the Governor in consultation with the Minister.

Para. 5. Please add "ordinarily" after "shall" in the third line. We agree that the Board should adjust rates, fares and other charges to meet the necessary outlay; but it is not always practicable nor expedient to do so. e.g., during a period of trade depression, like the one through which Burma is passing, rates and fares cannot be increased at all and if they are increased the revenue will rather decrease than increase. The Board should have power to raise loans through the Government of Burma to meet the deficits during such periods.

Para. 7. The railways should be entitled to contribution from general revenue only as regards such new lines as may be required by Government to be constructed for purely defence purposes; and such contributions should cease as soon as these lines become self-supporting.

General. 1. The Constitution and powers of the Board should be subject to variation by Orders in Council.

2. Disqualifications for non-official members of the Board should be the same as those for the Indian Railway Authority (Joint Committee on Indian Constitutional Reform, Session 1932-33—Vol. III.—page 41).

PROPOSAL 71.

Further provision should be made for preparation of separate Budgets for Burma proper and areas (if any) in Schedule A other than the Federated Shan States. (Please see observations on Proposal 47 (iii)).

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The High Court.

PROPOSAL 73.

1. The Judges should be appointed by His Majesty on the recommendation of the Governor-General, and the latter should make the recommendation after consultation with the Minister in charge of Law and Order.

2. The age limit, having regard to climatic conditions, should remain 60 and should not be raised to 62.

PROPOSAL 74.

There was remarkable unanimity of opinion among the members of the Burma Delegation at the Burma Round Table Conference

(1) that the Chief Justice should always be a Barrister (or Advocate) Judge and

(2) that the quota of Indian Civil Service Judges should not be increased beyond one-third (Burma Round Table Conference Proceedings, pages 125-136), and the members of the Burma Delegation before the Joint Select Committee are in unanimous agreement with them.

In fact, we do look forward to the day when we shall be drawing on the legal profession for all Judges of the High Court.

PROPOSAL 75.

It should be open to the Legislature of Burma to discuss the scales of pay, pension, leave and other allowances for all Judges and generally to make recommendations for reduction thereof for financial reasons, especially during the days of trade depression and financial stringency.

PROPOSAL 76.

Temporary appointments very often lead on to permanent ones and there is no reason why in these days of quick communication, temporary appointments should not be made by the Crown in the same manner as permanent ones.

The Secretary of State's Advisers.

PROPOSAL 80.

Burma should have a Secretary of State for Burma separately from India. We would prefer a separate Secretary of State; but if that be not possible, we would like the office of Secretary of State for Burma to be held by the Secretary of State for Dominions. We object to the Office being held by the Secretary of State for India, as we feel that it would be impossible for him to hold the balance evenly between India and Burma, and that we should have a member of the British Cabinet to stand up for Burma when there are disputes or differences between the two countries.

PROPOSAL 83.

The Secretary of State for Burma should in no case be required to consult members of the Indian Council in any matter relating to Burma.

General.—There should be a separate High Commissioner for Burma with a separate Burma House in London.

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The Public Services.

PROPOSALS 86 AND 88.

The last sentences in these proposals are too vague. They should be deleted. The rest of these proposals are wide enough to cover all legitimate claims for compensation.

PROPOSAL 87.

The last sentence should be deleted since a statutory inquiry is contemplated (Proposal 93) and the Inquiry Commission or Committee is to have power to recommend rules and regulations *re* conditions of service, etc.

We assume that the determination of cadre, conditions of service, salaries, etc. of the other services would be entirely within the power of the Government of Burma.

PROPOSAL 93.

The statutory inquiry should be made within a year or two after the new Constitution Act comes into force, it should be by a committee of equal numbers appointed by Parliament and the Legislature of Burma, and appointments to services should not be made *in advance* before the Committee have reported.

Public Services Commission.

PROPOSAL 100.

We appreciate the desirability of the Public Services Commission being free from political influence. However, we feel that it would be too drastic to disqualify the Chairman of the Commission permanently from holding any office under the Crown in Burma. Disqualification for a period of five years would serve the purpose.

The members of the Commission should be appointed by the Governor-General in consultation with Ministers, and the majority community should always be represented thereon.

GENERAL.

I.—*Automatic Growth.*

We wish to repeat the observations made by Sir Oscar de Glanville (now President of the Legislative Council of Burma) "We ought to have a constitution with safeguards which will enable us without further legislation or Round Table Conferences or Statutory Commissions gradually to attain full responsible self-government." (Burma Round Table Conference Proceedings, page 50.) Major Graham Pole also stated thereat "I am also of opinion that the new constitution must be such as will automatically develop into full self-government without the necessity of coming back for another Act of Parliament. I am strengthened in this view by the opinion expressed by the Simon Commission." (*Ibid* page 165.) The Prime Minister remarked at the end of the said Conference "You are not only getting to-day, you are getting to-morrow as well, and what you have got is not merely the Constitution as may be laid down in the Act of Parliament very shortly; but with that you have got the potentialities of that Constitution, and the potentialities, the chances of advance, of broadening, of widening, of extending are with you etc." (*Ibid* pages 177-178.)

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The Burmese people attach great importance to provisions for automatic growth and they are anxious that the period of transition should be short. (Resolution of the Burma Legislative Council of the 22nd December, 1932.) And there has been great stress laid on the seeds of growth in the Constitution before the Joint Select Committee. We accordingly submit (1) that the Legislature of Burma should have ample powers to deal with constitutional matters by means of constitutional resolutions as suggested by us under Proposal 55, and (2) that provision should be made for transfer of reserved subjects by Orders in Council on the recommendation of the Legislature of Burma.

II.—*Excluded Areas.*

With reference to Clause A in the Appendix to Record A 1 [III] (Joint Committee on Indian Constitutional Reform, Session 1933-34) we wish it to be made clear that subsequent Orders in Council would be passed to take the areas out of the Schedules (in the case of the Federated Shan States when the Sawbwas-wish to fall into line with Burma and in the case of others when they have made sufficient progress to take part in a responsible representative form of government along with Burma proper) and to amalgamate them with Burma proper. We make this submission as it has been suggested in some quarters that some of these areas might be amalgamated with areas outside the Burmese territory, *e.g.*, to form a North East Frontier Province of the Indian Empire. We strongly object to these suggestions and we are glad that no such suggestion has been made to us by Government.

III.—*Burmanization of the Army and Military Police.*

We wish to make it quite clear that we are not asking for duplication of the Forces for Defence by raising a Burmese Army. The Indian troops and the Military Police should be replaced gradually as and when Burmese forces are raised.

IV.—*Trade Convention with India.*

The Trade Convention should be between the Governments of India and Burma under the new constitutions. However, as this is a matter of vital importance, the progress of negotiations therefor should be reported, and the terms proposed therefor should be submitted to the Legislature of Burma for approval.

V.—*Financial Settlement between India and Burma.*

The Government of Burma should place their case before the Legislature of Burma through the Finance Committee thereof before it is submitted to the independent tribunal for adjudication.

JOINT MEMORANDUM BY U BA PE AND OTHERS.
APPENDIX 'A.' DISCRIMINATION IN BURMA.

APPENDIX 'A'

Discrimination in Burma

A.

[Vide page 1297, Vol. II B, Minutes of Evidence given before the Joint Committee on Indian Constitutional Reform (Session 1932-33).]

Clause 3 (i).—There should be a reciprocity clause as against the rest of the British Empire inasmuch as such a clause is there even in the case of the United Kingdom. Equality or mutuality is equity and it is absolutely unfair to compel Burma to recognise the rights of citizens of other countries in the British Commonwealth which do not similarly recognise the rights of her people. Besides, there is no reason why they should not be satisfied even with the same terms and conditions as the United Kingdom. This protest is made on principle. In actual practice there may not be any Burman to take advantage of reciprocity in the matter for some considerable time.

Clause 3 (ii) (b).—It should be made quite clear that a certain percentage of labour to be employed on any particular job being required to be Burmese (with a view to helping indigenous labour and thereby alleviating unemployment) would not be within the mischief of this sub-clause.

Clause 3 (iii).—It should be made quite clear that prescription of the following conditions for contracts with or concessions by Government or local public bodies would not be within the mischief of this sub-clause so far as companies to be incorporated hereafter are concerned:—

- (1) Requirement to offer a certain percentage of the share capital to the Burmese people in the first instance;
- (2) Requirement that the Burmese people should be represented on the Directorate;
- (3) Requirement that facilities should be given for training Burmans; and
- (4) Requirement that a certain percentage of labour employed should be Burmese.

It is but fair that new companies seeking contracts with or concessions from the Burma Government and the local public bodies should throw their shares and directorate open to the Burmese public, provide facilities for their training and employ some Burmese labour.

Clause 3 (iv).—Add “and contracts with or concessions by the Burma Government and local public bodies” after “bounties and subsidies of clause (vii) (2)” for the reasons set out above.

Clause 3 (vii) (2).—It should also be lawful to require that companies incorporated after the passing of the Bounty Act should first offer a certain proportion of their share capital to the Burmese public. As regards companies already trading in Burma, it should be lawful to require as a qualification for the benefit of the Bounty or Subsidy Act that they should offer unsold shares or debentures to the Burmese public, make arrangements for representation of the Burmese people on the Directorate and provide facilities for the training of Burmans and that a certain percentage of labour employed by them should be Burmese, subsidies being usually intended not only for particular trades but also for the people of the country through them.

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APPENDIX 'A.' DISCRIMINATION IN BURMA.

Clause 3 (viii).—It should be lawful to requisition facilities for the training of Burmans in shipping and navigation.

Clause 4.—It should be clearly declared in the Constitution Act itself that the clauses against discrimination should not affect freedom of contract in any way.

Clause 6.—It should be clearly declared in the Constitution Act itself that it is open to Burma to require additional qualifications from new entrants to professions which are justified by the special needs of conditions in Burma.

General.—It should be within the competence of the Burma Legislature to remove such commercial and administrative discrimination as may have been in existence before the Constitution Act comes into force.

B.

[*Vide Record A2 (1) Joint Committee on Indian Constitutional Reform (Session 1933-34).*]

The proposals in the Annexure to this Memorandum are open to the same criticism as those in the Memorandum by the Secretary of State dealt with in part A of this Appendix.

We note with some satisfaction that no protection of the right of entry into Burma is contemplated in favour of British subjects domiciled in India and we were glad that the Secretary of State for India observed before the Joint Select Committee that any restriction on the right of Burma to control immigration would strike at the very roots of self-government. (*Cf. Sir Hari Singh Gour quoting Resolution XXII of the Imperial War Conference, etc., on page 1321 of Volume II B of the Evidence of the Joint Committee on Indian Constitutional Reform (Session 1932-33).*)

However, we find serious restrictions actually proposed. It is proposed in paragraph 15 that the introduction of any legislation regulating immigration should be subject to the Governor or Governor-General's prior consent and might also be reserved for signification of His Majesty's pleasure and we strongly oppose these proposals.

With reference to paragraph 14, it should be made quite clear in the Act that the Government of Burma should have complete control of its own land policy.

With reference to paragraphs 18, 19 and 20, the principle underlying S. 13 (1) of the Indian Medical Council Act, 1933, should be applied in favour of Burma and the Government of Burma should be at liberty to negotiate with authorities in India and other countries for the settling of a *Scheme of Reciprocity* for the recognition of medical qualifications. The proposal in paragraph 20 that Indian qualifications recognised under the Indian Medical Council Act should be accepted ad interim pending arrangements with the said Council is objectionable inasmuch as it would interfere with the Burma Government's discretion and put it under a handicap in the negotiations. The proposal in the same paragraph that there might be an appeal to the Privy Council is unacceptable both on principle and on account of time and expenditure involved in appeals thereto.

JOINT MEMORANDUM BY U BA PE AND OTHERS. APPENDIX 'B'—FRANCHISE,
COMPOSITION OF LEGISLATURE AND SPECIAL REPRESENTATION.

APPENDIX 'B'

Franchise, Composition of Legislature and Representation of Minorities and Special Interests

[Vide Record A1 (II) Joint Committee on Indian Constitutional Reform
(Session 1933-34).]

A.—Communal Representation.

1. There should be no communal representation for the following reasons:—

(a) "We regard any system of communal electorates as a very serious hindrance to the development of the self-governing principle"—Report on Indian Constitutional Reforms, 1918, para. 231.

"Division by creeds and classes means the creation of political camps organised against each other and teaches men to think as partisans and not as citizens, and it is difficult to see how the change from this system to national representation is ever to occur."—*Ibid.*, para. 229.

(b) In surveying the situation in Ceylon the special Commission on its constitution "have come unhesitatingly to the conclusion that communal representation is, as it were a canker in the body politic, eating deeper and deeper into the vital energies of the people, breeding self-interest, suspicion and animosity, poisoning the new growth of political consciousness and effectively preventing the development of a national or corporate spirit. . . . There can be no hope of binding together the diverse elements of the population in a realization of their common kinship and an acknowledgment of common obligations to the country of which they are all citizens so long as the system of communal representation, with all its disintegrating influences, remains a distinctive feature of the constitution."—(See the Report page 39, *cf. ibid.*, pages 91, 99 and 100). Communal representation has been abolished in Ceylon as a result of this report.

(c) The communal problem in the Indian sense does not exist in Burma. (See the Footnote under Burma Proposal 20.)

(d) If the criterion of the existence of a minority adopted by the League of Nations be applied viz.: that a minority must constitute at least 20 per cent. of the total population, there are no minorities in Burma.

(e) The minority communities have gained representation through general constituencies in the past and they are influential enough to do so in future, e.g.

Mr. Lamb, a European, was returned for Magwe General Constituency.

Mr. Wellington, an Anglo-Indian, was returned by the Tavoy General Constituency.

U San Baw, a Karen, was returned by Tharrawaddy General Constituency.

Mr. Eusoof, an Indian, was returned by Moulmein General Constituency.

(Attention is invited to Appendix B 1. for a list of non-Burmans returned by general constituencies.)

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 COMPOSITION OF LEGISLATURE AND SPECIAL REPRESENTATION.

Besides, even as regards the Indian Legislature, where the whole of Burma forms one constituency, Indians like Messrs. Munshi, Chari, Naidu and Hamid, have been returned.

(f) In some constituencies the minorities are compact enough to be able to secure the seats to themselves, e.g., the Indians in Rangoon, the Chinese in West Rangoon, and the Karens in Thaton and Amherst districts.

(g) Two of the communities are to be represented through special seats for commercial interests, such seats being provided for the European and Indian Chambers of Commerce.

(h) Protection of the legitimate interests of the minorities is a special responsibility of the Governor-General; and

(i) There are provisions against trade and administrative discrimination.

For further criticism of minority claims please see Burma Round Table Conference Report, page 115, para. 26, and cp. page 164 of the Proceedings and pages 55 to 64 of the Burma Round Table Conference Proceedings of the whole Committee.

2. We would make the following submissions with reference to the various communities:—

(a) *The European Community.*—There are 11,651 Europeans in Burma, divided as follows:—

British subjects:

Races of British Empire	...	...	...	...	...	9,998
Other races	...	...	...	...	...	629
Total	...	...	...	...	...	10,627
Foreign subjects	...	...	...	...	...	1,024
Total	...	...	...	...	...	11,651

If the number of British troops is deducted, there will be 9,858, consisting of Europeans in Government service, commercial firms, and in the other professions. Those in service will be amply protected by provisions in the Act. Those in the professions will also be on the same footing as members of other communities. The commercial interest will also be protected by the proposals against discrimination. There will also be seats for European Commerce. In addition to these the Governor, the Counsellors, the Financial Adviser, and many members of the Superior Services will, for some time to come, be Europeans and they can very well look after the interests of the community. If the European Community is given communal seats on the population basis like the other communities, and no special weightage is allowed for their commerce inasmuch as it is to get special representation, the community would be entitled to about .08 of the seats. (See para. 2 and 5 (3) of Appendix II to Record A1 (II) Joint Committee on Indian Constitutional Reform (Session 1933-34).) That being so, there is no justification to provide communal seats for the European Community.

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COMPOSITION OF LEGISLATURE AND SPECIAL REPRESENTATION.

(b) *The Anglo-Indians*.—There is no justification for the provision of communal seats for the Anglo-Indians. According to the 1931 Census Report on Burma, they number 19,200 in the whole of Burma and 18,447 in the areas that will be made into constituencies. The Community is divided into three sections, viz.:—

(a) Those with European and Indian blood.

(b) Those with European and Burmese blood.

(c) Those with no European blood but pure Burmans or Indians who adopt European names, customs and manner.

Anglo-Indian members of Section (b) are out for a merger with the Burmese people and are opposed to communal representation and separate electorates. Section (c) is also against communal representation. The agitation for communal representation is only by a section of Section (a), consisting mainly of Anglo-Indians serving in the Railways, Post and Telegraphs Departments. They have no abiding interest in the country and they will return to India on completion of their term of service in Burma. They have also no special commercial interest to be protected. As regards members of the various services, their prospects and position will be fully secured by proposals under the caption of Public Services. They will also enjoy equal rights and liberties on the same footing as the Burmese people. There is therefore no justification to provide communal seats for the Anglo-Indians.

(c) *The Karens*.—According to the 1931 Census Report on Burma there are 1,367,673 Karens. But in the areas that will be made into constituencies there are only 1,100,226. In the proposed Karen constituencies, however, there will be only 749,700. The Karens are divided by religion as follows:—

Buddhists	...	...	...	...	...	...	...	1,049,547
Christians	...	...	...	...	...	...	...	218,890
Animists and others	...	...	...	...	...	...	...	98,959
Muslims	...	...	...	...	...	...	...	287

The Christian Karens are again sub-divided as follows:—

Baptists	...	...	...	...	...	...	...	168,935
Roman Catholics	...	...	...	...	...	...	...	41,294
Anglicans	...	...	...	...	...	...	...	7,817
Other sects	...	...	...	...	...	...	...	744

A few months ago out of 168,935 Baptist Karens some 7,000 Karens gave up Christianity and formed a new religion under the leadership of Sao Durmay Thompson.

The demand for communal representation is made by the Baptist Karens only. The Buddhist and Animist Karens live peacefully with the Burmese and they do not want communal representation. Among the Christian Karens neither the Roman Catholics nor the Anglicans want it. At the last general election among the five Karens returned to the Burma Legislative Council, there are two Buddhist Karens. One joined Dr. Ba Maw's Party and the other U Chit Hlaing's Party. They are against communal representation. In the Burma Legislative Council, therefore, three Baptist Karens only are for communal representation. The vast majority of the Karen community does not want it. The Karens are in a strong position in at least half a dozen constituencies and without communal representation they can always find seats in the Legislature.

 JOINT MEMORANDUM BY U BA PE AND OTHERS. APPENDIX 'B'—FRANCHISE,
 COMPOSITION OF LEGISLATURE AND SPECIAL REPRESENTATION.

(d) *The Indians* in Burma numbered 1,017,825 according to the 1931 Census. In the areas that will be made into constituencies there are 955,338 only. But of this number 683,433 are born outside Burma and 376,905 are temporary residents. Of the 955,338 Indians 320,319 will be in the proposed Indian constituencies. Again in the 955,338 Indians are also included members of what are known as Indo-Burma races. The members of these Indo-Burma races are opposed to communal representation as they always get seats in the Council through general electorates. In the 955,338 Indians also are included very large numbers of Indian coolies—estimated in Rangoon town alone between 65,000 and 70,000. It is proposed to allot two seats to Indian Labour. If the Labour votes and the votes of the members of Indo-Burma races are deducted from 955,338, the actual number of Indians who are clamouring for communal representation on separate electorates will be very small indeed. If the deduction of Indian Labour votes and votes of the Indo-Burma races be effected from the Indians in the Indian communal constituencies, i.e., from 320,319, the actual number of Indians who are clamouring for communal representation will be confined to members of the India-Burma Association, India-Burma Chamber of Commerce, and Nattukkottai Chettiar Association. They are temporary residents with no abiding national interests in the country. The Indians are in a strong position in Rangoon, Mandalay, and other places, and they will always find seats in the Legislature through the general constituencies. It is, therefore, very unfair to the people of Burma to provide communal seats to a section of Indians in the name of the whole Indian community

3. We have shown above that there is no justification to provide communal seats in that legislature. The people of Burma are opposed to it. The Burma Government did not recommend communal representation in its Memorandum submitted to the Burma Reforms Committee in 1921 (vide para. 6 of the Report). The Burma Reforms Committee also came to a similar conclusion and stated that it is undesirable to segregate them completely from the general electorate (para. 21). Communal representation was forced on Burma by the Government of India to pacify Indian agitation. As a result of the communities who received this kind of representation have clamoured for more. To satisfy this demand it is now proposed to allot them more seats. The following table will show the one-sidedness of the proposed allotment of seats:—

<i>Communities.</i>	<i>Present Seats.</i>	<i>Proposed Seats.</i>	<i>Gain. Per Cent</i>
Karens	5	12	140
Indians	9	12	33.3
Europeans	4	7	75
Anglo-Indians	1	2	100
Chinese	1	1	Nil
	—	—	—
	20	34	70
Non-communal	83	98	18
	—	—	—
	103	132	
	—	—	—

It will be seen that the seats for the Burmese Chamber and University are included in the non-communal seats while the seats allotted to Burmese labour are not taken into consideration. The 23 nominated official and non-official seats in the present Legislative Council are also included in the non-communal seats as they are not meant for any particular community.

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From the table below also it will be seen the increase in communal and special representations is unjustifiable.

				Total Number.	Communal and Special.	Per cent.
Present	...	...	...	103	20	19.4
Proposed	...	...	...	132	34	25.7

The following observations of the Special Commission on the Constitution of Ceylon, who ultimately recommended the abolition of communal representation, apply with special force to the claims now advanced by various communities.

"We found, however, that not only did those who already had communal seats desire that the number of these should be increased but also that a number of other communities, religions, castes and special interests, not at present represented, came before us claiming that it was necessary for them to have seats in the Legislative Council and that they were as much entitled to this privilege as those who already possessed it. The result was that, so far from the demand being reduced, increased and new claims were put forward which would have made the number of communal seats more than 50, instead of the 10 already existing. Our investigations show that the desire for communal representation tends to grow rather than to die down, and in these circumstances, it being in itself admittedly undesirable, it would seem well to abolish it altogether while the number of seats involved is still comparatively small."

4. If there must be communal representation and if there must be an Upper House at all, such representation should be in the Upper House. Minorities are bound to be represented therein as a result of the elections, direct and indirect, proposed by us; and on default representatives for them can be nominated by Government.

5. It is not fair that members of the minorities who receive communal representation on separate electorates are allowed to stand for election in the general constituencies. They should not be allowed to stand for election in any constituency other than their own.

6. Such communal representation as is allowed should be only for a definite period of ten years or until a substantial majority of the representatives in the Legislature of any community so protected declare themselves in favour of change whichever is earlier. (*Cf.* Report of the Burma Round Table Conference, para. 26 at p. 115.)

B.—Plural Member Constituencies.

All general constituencies should be single member constituencies so that the areas might be smaller and members might be able to keep themselves more in touch with their respective constituencies. This is the general desire of the people, witness discussions in the Burma Legislative Council on the 10th August, 1933 (Burma Legislative Council Proceedings, Vol. 26, p. 119). The Government of Burma is prepared to satisfy this desire. (See para. 27 of Appendix II to Record A1 (II), Joint Committee on Indian Constitutional Reform, Session 1933-34.) Besides, there is ample time to have new general constituencies delimited as single member ones for the first election under the new constitution.

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C.—*Special Interests.*

It is proposed to allot seats to the following special interests:—

- (a) European Chamber of Commerce.
- (b) Indian Chamber of Commerce.
- (c) Chinese Chamber of Commerce.
- (d) Burmese Chamber of Commerce.
- (e) Indian Labour.
- (f) Burmese Labour.
- (g) University.

As regards the European Chamber of Commerce, it is proposed to allot four seats. We consider this is too much. The Governor, the Counsellors, the Financial Adviser will be Europeans for some time to come. There will be provisions in the Act against trade or administrative discrimination. The Superior Services in all branches will contain Europeans for some time to come. Besides it cannot be said that the European interests in trade and commerce are separate from or are above the interests of the whole country in these matters. In actual fact, however, the interests of the people of Burma in these respects are much wider and more abiding. We therefore consider that the present representation by two seats is quite adequate.

As regards the Indian Chamber of Commerce, their interest is not more than that of the European, and considerably less than that of the people of the country. One seat to the Indian Chamber is therefore quite adequate.

As regards the Chinese Chamber, we do not consider that any seat should be given to it. The majority of the members of this Chamber are non-British and are Chinese subjects and there is no justification for providing seats for non-British subjects in Burma. Besides, the Chinese community has always won a seat for West Rangoon constituency.

As regards the Burmese Chamber we consider that it should at least be placed on the same footing as the European Chamber seeing that the people of Burma, whose abiding interests in the country cannot be denied, have predominating interest in the trade and commerce of the country.

No Reservation of Seats for Women.

The proposal to reserve seats for women has been made by the Secretary of State for India very tentatively. It is expressly stated at page 25 of Record A1 (II), Joint Committee on Indian Constitutional Reform, (Session 1933-34), that it is not proposed to press the suggestion if the women of Burma do not wish reservation of seats.

The women's delegate at the Burma Round Table Conference disclaimed any requirement by the women of Burma for special means of representation. She made herself quite clear, saying, "We do not claim special treatment or special electorates. . . . I definitely say we want to stand in the open field with our men demanding equal responsibilities with equal rights." (Burma Round Table Conference Proceedings, page 163.) The lady member of the present Burma Delegation has also stated definitely that the women of Burma ask only for a fair field and no favour and that they object to reservation of seats for them on principle. Besides no one on the same Delegation has supported the proposal to reserve seats for them.

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The people of Burma have always treated their women very well, and a lady was returned to the Burma Legislative Council by a general constituency as soon as one sought election after removal of the sex disqualification. There is every likelihood of women faring better without reserved seats.

Seats for Labour.

Since two seats for Burmese labour are counted against the majority community, i.e., the Burmese people for the purpose of calculating seats for minorities, Burmese labour should be represented by Burmans only. At the same time there should be provisions to prevent representation of labour by employers thereof.

Rangoon Trades Association.

We strongly support the recommendation of the Government of Burma that there should be no special seat for the Rangoon Trades Association in the House of Representatives. (Page 39 of Record A1 (II), Joint Committee on Indian Constitutional Reform, Session 1933-34.) The Chairman of the Burma Reforms Committee, 1921, and two members thereof, Mr. Smyth (now Sir S. A. Smyth) and U. Myin, would have preferred (in 1921) to withhold representation on the ground that if the comparatively unimportant interests of the retail trade in Rangoon are entitled to representation there are many similar interests such as co-operative societies who ought to receive at least equal, if not prior, treatment. And this reason remains valid and will gain more and more force in the course of time.

General Rural Constituencies.

Akyab District West, Bassein District, and Prome District, each with a population over 360,000, should get three seats each instead of two as proposed by the Government of Burma in para. 27 of Appendix II to Record A1 (II) (Joint Committee on Indian Constitutional Reform, Session 1933-34).

*Franchise for the Lower House—(Appendix II, para. 37)—
Enfranchisement of Women.*

The Indian Franchise Committee recommended wifehood franchise for India.

They observed, "We think that it is a reasonable view that marriage gives a community of interest and that in it a woman enters into a partnership with her husband which may well confer civic rights as well as domestic duties." And these observations apply with greater force to Burma where, according to Burmese Buddhist Law, women enjoy equal rights with their husbands and where husbands and wives own properties jointly and in co-partnership irrespective of the manner in which they have been acquired. In the vast majority of cases, wifehood franchise would mean not a concession but only removal of an anomaly by due recognition of the wife's property qualification or payment-of-tax qualification, the properties having stood and the taxes having been paid in the name of the husband only. The suggestion that recognition of wifehood franchise might mean that more women than men are enfranchised is not borne out by the statement of the Government of Burma (Record A1 (II) Appendix II, para. 37, Joint Committee on Indian Constitutional Reform,

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Session 1933-34), and there should be no objection to the number of women voters being practically equal to that of male voters. At any rate, men have not raised any objection thereto and purely administrative difficulties, which can be surmounted with a little effort on the part of Government, should not be allowed to stand in the way where such an important question as enfranchisement of women is concerned.

Without wifehood franchise, only 700,000 women will be enfranchised as against 2.3 millions of men in a population of 12.9 millions (*ibid.*, para. 39).

Qualifications for members of the Upper House.

(Appendix II, para. 46, page 46.)

The Burma Delegation is unanimous in the opinion that the proposed qualifications are too high. We submit that the present qualifications for members of the Indian Legislative Assembly should be accepted as qualifications for members of the Upper House and that there should be no sex disqualification. We also submit that the present franchise for the same Assembly without sex disqualification should be accepted as franchise for direct elections to the Upper House.

We further submit that apart from property qualification and qualification by service in public appointments, qualification by having been a graduate or a member of a learned profession for a certain number of years or by having been member of the Burma Legislature or President of local self-governing bodies should be recognised.

The qualifications proposed by Government recognise only very high property qualifications and distinguished public service, and they can only produce an organ of class-government which is objectionable from all points of view.

APPENDIX 'B1.'

List of Members of Minority Communities returned by
General Constituencies to the Legislative
Council of Burma

First Term, 1923.

1. W. S. Lamb, Magwe West	...	...	European.
2. U Po, Kyankse	...	...	Indo-Burmans.
3. U Sulaiman, Mandalay Town	...	...
4. Ebrahim Mohamad, Morgui	...	...	Karens.
5. U La Ba, Tavoy Town	...	...
6. U San Baw, Tharrawaddy South	...	...	Chino-Burmese.
7. H. C. Khoo, Tavoy Rural	...	...
8. U Mya, Myingyan North	...	...
9. L. Ah Yain, Rangoon West	...	...

Second Term, 1926.

1. K. Beng Chong, Rangoon West	Chino-Burmese.
2. U Mya, Myingyan North	...	...
3. L. Soo Doon, Tavoy Rural	Anglo-Burmans.
4. H. Kim Seng, Pegu North	...	...
5. L. H. Wellington, Tavoy Town	...	...
6. U Ni, alias E. Pritchard, Prome Town	Indo-Burmans.
7. E. G. Maracan, Akyab West	
8. U Shwe Yun, Mergui	
9. U Mya, Meiktila West	
10. U Maung Maung, Sagaing East	

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Third Term, 1928.

1. U Aung Thin, Mandalay Town	} Indo-Burmans.
2. M. Eusoof, Moulmein Town	
3. U Ba Yin, Meiktila East ...	...
4. U Mg Mg, Sagaing East ...	...
5. L. H. Wellington, Tavoy Town	} Anglo-Burmans.
6. U Ni, Myingyan North ...	...
7. H. Kim Seng, Pegu North	} Chino-Burmese.
8. U Po Aye, Yamethin North ...	...
9. Chan Chor Khine, Rangoon West ...	...
10. U San My, Pakokku East	} Burmese Christian.
11. U Tun Pe, University ...	...

Fourth Term, 1932.

1. H. C. Khoo, Tavoy Town ...	...	} Chino-Burmese.
2. L. C. Khoo, Tavoy Rural ...	...
3. L. Choon Fong, Rangoon West ...	...
4. U Po Khine, Akyab West ...	...	} Indo-Burman.
5. U Ni, Myingyan ...	...	} Anglo-Burman.
6. U Kyaw Din, Henzada South ...	...	} Burmese Christians.
7. U Tun Pe, University ...	...

JOINT MEMORANDUM BY U BA PE AND OTHERS. APPENDIX 'C'—
MEMORANDUM ON ARAKAN BY U SHWAY THA.

APPENDIX 'C'

Memorandum on Arakan by U Shway Tha

Arakan is a narrow fertile strip of territory lying along the Western coast of Burma. It has an area of about 18,000 square miles and a population of about a million. On the north it is bounded by a conglomeration of hills of Chittagong Hill Tracts and Manipur. On the north-east it is separated from Chittagong District of Eastern Bengal by the Naaf river, on the west and on the south by the Bay of Bengal, and on the east it is separated from the mainland of Burma proper by the lofty ranges known as the Arakan Yomas. Thus the country is more or less shut in by natural barriers throughout the year. Arakan owing to its geographical position is cut off from the rest of Burma. Her needs in communication, roads and education are neglected in comparison to other divisions in Burma which pay about the same revenue as Arakan. To remedy this, provision for appointment of a Parliamentary Under-Secretary for Arakan may be made in the Constitution Act. His duties will be to look after the interests of Arakan and advise the Ministry.

When Arakan's aim is accomplished, i.e., after communication by way of roads and railways with Burma proper and formation of schools to the satisfaction of the Arakanese public, the post of Parliamentary Under-Secretary may be discontinued.

JOINT MEMORANDUM BY U BA PE AND OTHERS. APPENDIX 'D'.
MEMORANDUM ON EDUCATION.

APPENDIX 'D'

On Memorandum by Lord Eustace Percy and others on Education in Burma (See Appendix D(1))

Comment, para. (1).—No case for additional safeguard has been made out. It is quite clear that there has been no pressure, political or otherwise, brought to bear on the heads of the schools and that there has been no threat nor suggestion to reduce the grants. If there be any reduction—other than pro rata with other schools—and if such reduction be not justifiable, the Governor-General of Burma would have ample powers to interfere under Proposal 17 (c) and (e).

Comment, para. (2).—There is no case for additional safeguard. School Boards usually act on the advice of Education Officers known as Inspectors of Schools and they are subject to control by the Deputy Commissioner, the Commissioner, and the Ministry of Education. The right of appeal already provided is ample. To allow minority communities to appeal to the Governor-General of Burma in any case of dispute between them and a local education authority would make the position of the local education authority and the Ministry of Education impossible and it might lead on to serious political and constitutional consequences.

As in the case of English schools, the Governor would have ample power to intervene on behalf of minorities if there be administrative discrimination against them under Proposal 17 (c) and (e).

Comment, para. (3).—No case for an inquiry has been made out. There is no indirect motive and no discrimination. The standard of English is being raised for non-Europeans just as the standard of Burmese is being raised for English schools. The Government of Burma and the University of Rangoon should be free to deal with the standards of education in Burma and the University. At any rate the consultation should not imply a gesture for lowering those standards.

APPENDIX 'D1'

Memorandum on Education in Burma by Lord Eustace Percy and others

(1) *Admission of Students to English schools.*—The schools have no complaint to make against any existing law or regulation. They enjoy freedom to admit or exclude what students they please. Their complaint is that they have sometimes felt obliged in the past to act contrary to their better judgment in this matter because they have feared that their Government grants might otherwise be reduced. They ask, therefore, that the grant regulations now in force, both as to the amount and conditions of grant, shall not be altered to the prejudice of existing schools without the consent of the Secretary of State.

(2) *Registration of minority vernacular schools as subsidised schools.*—The complaint here is that District Boards have been unable to register new Indian or Karen schools for subsidy, or even to "recognise" them so that their students may enter for government examinations. These minorities, therefore, ask that in any district where there are a minimum

JOINT MEMORANDUM BY U BA PE AND OTHERS. APPENDIX 'D'.
MEMORANDUM ON EDUCATION.

number of children belonging to the community concerned that community should have a constitutional claim to a fair proportion of local grants and, in case of dispute, a right of appeal to the Governor acting under his special responsibility. They suggest that the Governor's special responsibility in such matters should be more precisely defined, on the lines sketched in paragraph 85 of the Report of the Burma Round Table Conference; and that, in deciding appeals, he should consult representatives of the minority communities.

(3) *Language.*—The complaint here is that the Government, in pursuit of the bi-lingual policy which it has recently adopted, is so raising the standard of Burmese as a compulsory subject in High Schools and for University matriculation as to prejudice the interests of non-Burmese students. The English schools would not object to the recognition of Burmese and English as twin official languages (as in the South African constitution), or to both languages being taught in the schools, as in South Africa. Nor do they object to Burmese being made a compulsory subject for examinations for entry into locally recruited public services for which a knowledge of the language may be considered necessary by the Public Services Commission. They would, however, urge that, as in South Africa, the second official language should not be a compulsory subject of school or university examinations for English students, or at least that English students should be able to pass in the second official language at a lower standard (as in the optional subjects for matriculation in South Africa). Similar objections are raised by the Indian and Karen communities, though they fully recognise the necessity for their communities to attain a reasonable standard in Burmese.

The decision on these complaints and suggestions must lie with the Joint Select Committee, but the following comments on each of the above three heads may be of service to the Committee in reaching a conclusion:—

(1) If it is considered necessary to safeguard the position of the English schools, such a safeguard might take the form of a statutory provision on the lines of that proposed in regard to Anglo-Indian schools in India in the first part of paragraph 4 (a) of the Report of Lord Irwin's Committee: i.e., that there should be no reduction in existing educational grants-in-aid for these schools other than a reduction *pro rata* with a reduction in the general educational grants-in-aid.

(2) The Governor's special responsibility for the legitimate interest of minorities might provide a sufficient safeguard for minority vernacular schools if it were made clear in his Instrument of Instructions (a) that, in the area of any local education authority, a fair proportion of grants to vernacular schools should be applied to Indian and Karen schools, if fit for recognition and desiring it, and (b) that he should give the minority communities an opportunity of appealing to him in any case of dispute between them and a local education authority. The question by what means the Governor should be enabled to enforce decisions taken under his special responsibilities in matters of local administration, having regard to the nature of the existing local government legislation in Burma, may require further consideration by the Joint Select Committee. It should be added that, in the view of the Burmese delegates, a fair proportion of grants is already being applied to minority vernacular schools, recent difficulties having been solely due to the financial straits of local authorities, which have affected Burmese vernacular schools no less than minority vernacular schools.

JOINT MEMORANDUM BY U BA PE AND OTHERS. APPENDIX 'D'.
MEMORANDUM ON EDUCATION.

(3) Apparently the minorities have little complaint to make against the position in regard to language teaching as it existed up to about a year ago. That position was that a lower standard of English was accepted in high school examinations in Burmese Anglo-vernacular schools and a lower standard of Burmese in English schools and in Indian and Karen Anglo-vernacular schools; and Burmese was not, at any rate in practice, a universally compulsory subject for university matriculation. It is understood that within the last year or so the university has made Burmese a compulsory subject in its matriculation examination, and both the Government and the university have announced their intention of requiring an equally high standard in both English and Burmese for all high school final examinations and for university matriculation in about five years' time. In these circumstances, it might be desirable to consult the Government of Burma as to whether the *status quo* of a year or so ago might not be restored and perpetuated.

JOINT MEMORANDUM BY U BA PE AND OTHERS. APPENDIX 'E'—
MEMORANDUM BY U KYAW DIN.

APPENDIX 'E'

Memorandum by U Kyaw Din

I agree generally with the memorandum signed by U Ba Pe, U Shway Tha, Dr. Ma Saw Sa and U Thein Maung except on the following points:—

(1) At the present juncture, I am of the opinion that an Upper House, as proposed, is essential. I think the proposals regarding the mode of election and nomination as proposed in the Burma Government memorandum are suitable, and I agree with the views of the Burma Government. But I consider that the qualification for membership as proposed by the Burma Government is too high.

(2) I am against communal representation on principle. But as things now stand in Burma, I cannot see any other alternative except the proposals made by Burma Government as a suitable and satisfactory solution of this difficult question.

IV

Memorandum by Sra Shwe Ba on behalf of the Karen Community

Introduction.

The Karens form a second important indigenous race in Burma. To acquaint the Joint Select Committee with the situation of the Karens, who are an entirely different race from the Burmese, and their claims in the proposed constitution for Burma, I would respectfully invite references to the Memorandum submitted to the Indian Statutory Commission by the Karen Elders of Burma and to the various Census Reports of the Government. I would also invite a reference to the claims put forward by the Karen delegates at the Burma Round Table Conference, *vide* Burma Round Table Conference Proceedings, pages 60 and 61, 86 and 87, and 141-143.

1. As my right to represent the claims of the whole Karen Community and my statement that the Karens as a body are in favour of separate electorates for the Karens has been challenged, it seems necessary for me to make my position clear on this matter. Some statements of my position and of the basis of the claims of the Karens seem therefore to be called for at this juncture.

2. I endorse the statement made by the Secretary of State for India (*vide* Para. 23, Record A1 (II), Joint Committee on Indian Constitutional Reform, Session 1933-34), that the difference between the Karens and the Burmese is "entirely racial." As further stated therein it is true that "Religious differences seem to be an unimportant factor." I might also add that the Karens and Burmese have in many cases a different outlook, too. This fact has been greatly recognised by the Government of Burma in their Memorandum to the Indian Statutory Commission, page 10, paragraph 24. The Karens have always maintained a racial solidarity forming a highly individualised group and withstanding assimilation into the Burmese.

3. I also agree with the statement made by the Secretary of State in the same Memorandum on page 13, paragraph 7: "But the Karens, though belonging to the same main branch of family are a different race from the Burmese proper, speaking a different language and holding aloof from the Burmese in many ways." I wish to lay special emphasis on the words "in many ways." But I fear that space would not permit me to mention them.

4. It has been contended that the claim for separate representation for the Karens did not represent the unanimous view of the Community. This must be emphatically repudiated. If there is any matter on which there is a unanimity of opinion on the part of the Karens, this is the one. The history of the political activities of the Karens furnishes irrefutable evidence that the demand for separate representation is the foremost one of all.

(a) Successive Karen deputations have waited upon the various Parliamentary Committees and representatives of the British Government to express their desire and enforce the claim for separate representation since the introduction of Reforms in Burma. In 1917 a deputation of the Karens crossed over the Bay of Bengal and waited on Mr. Montagu, the then Secretary of State for India, and Lord Chelmsford, the then Viceroy of India, and made a representation on behalf of the Karens for a grant of their own

MEMORANDUM BY SRA SHWE BA ON BEHALF OF THE KAREN COMMUNITY.

representation by separate electorates in the new constitutional scheme for Burma. Another Karen deputation came over to London in 1919 to give evidence before the Joint Select Committee presided over by the Earl of Selborne in a committee room of the House of Lords. This deputation again reiterated the same request. Further the representatives of the Karens of which I was one, expressed this same desire in their evidence before the Whyte Committee in 1921.

The Karens have thus unanimously and consistently maintained their view on the matter of separate representation for themselves.

(b) It may be further pointed out that I have been given a mandate to press for the grant to the Karens of representation by separate electorates in the proposed scheme for the government of Burma both on the occasion of the Burma Round Table Conference and also before the present Joint Select Committee. A meeting of the General Council of Pwo Karen Associations was held in Rangoon on the 12th of October, 1931, prior to the departure of the Karen delegates to the Burma Round Table Conference and passed a unanimous resolution to instruct the Karen delegates to demand nothing less than representation of Karens by separate electorates. This was mentioned by my colleague, Mr. Loo Nee, before the Burma Round Table Conference. This mandate was given us with a hint of liability to be regarded as traitors to the Karen cause in the event of default to put forward this claim. The meeting which gave this mandate, it may be mentioned, was attended by the Karens irrespective of creed, denomination or tribe.

On the 9th September, 1933, a Representative Karen meeting was held in Rangoon [*vide* Appendix III (IV) B, Record A1 (II) Joint Committee on Indian Constitutional Reform, Session 1933-34] and unanimously accepted the proposal of separate representation for Karens. Again on the 6th November, 1933, a meeting of representatives of the Karens was held prior to my departure to England to sit with the Joint Parliamentary Committee. I was reminded in a farewell message to accept no alternative but separate electorates for the Karens. Thus, the Karens have been unanimous and have never shown a cleavage of opinion on this point.

5. The suggestion has been made that I voice only the opinion of the Karens of the Christian section to which I belong. This statement, made by those with little knowledge of the desires of the Karens, is entirely untrue. I was elected to the Burma Legislative Council on the last three occasions by Karen Buddhists, who form the majority in my constituency. As the President of the General Council of two Karen Associations, Burma, whose membership comprises mostly non-Christians, I can boldly say that I am actually voicing the attitude of the whole Karen Community in demanding separate electorates. I may further mention that there has never been an occasion since the Reforms were introduced in Burma on which the contest for Karen seats in the Legislative Council was along religious lines. The doubts cast on the representative character of the Karen delegate on account of his religious affiliation must be strongly repudiated. The following extract from a letter from a Karen Buddhist member of the present Legislative Council, representing Amherst Karen Rural, will convincingly show that not only my own co-religionists but Buddhist Karens also regard me as their leader and spokesman and that religious affiliation is not a disqualification of my expression of the views on behalf of the Karens.

MEMORANDUM BY SRA SHWE BA ON BEHALF OF THE KAREN COMMUNITY.

Dated Kawkareik,

5th September, 1933.

DEAR U SHWE BA,

I am very much thankful to your letter of the 1st instant and I understand that my knowledge and experience is not as wide as yours. So I should say that I will agree to all the views made by you for the Karens . . . Sorry, I could not furnish you with my view as requested by you and I solely rely on your views.

* * *

Yours sincerely,

(Sgd.) HTUN BAW, M.L.C.,

Kawkareik.

I would point out that during the whole period occupied by the present review of the constitutional position, no section of the Karen community has recorded views on this subject conflicting with those now urged by me.

6. The demand of the Karens for an adequate representation by separate electorates stands upon a stronger ground than that of other minorities. Unlike the others the Karens are the aborigines of Burma, claiming a history in the country longer than even the Burmese. The interests of the Karens are more closely bound up with Burma than that of the other minorities, the Indians and the Europeans, whose residence is mostly temporary conditioned mainly upon commercial interests.

7. It is the considered opinion of the Karens that they cannot obtain adequate representation in the government of the country except through separate representation by their own elected members in the Legislature of Burma. A statement has been made that since the Karens had been elected from general constituencies in the first Council they need not be given separate communal representation in the new constitution. However the facts seem to be against such a possibility. Three Karens were elected to the first Burma Legislative Council under very special and exceptional circumstances. In the later elections no Karen member was returned from the general constituencies, although seats were contested by them. The elections have been run on racial lines and there is no guarantee that it will not be so in future. Hence the Karens stand no chance of being elected in the general electorates. The sentiments of the majority party show clearly a racial outlook and bias. It is therefore obvious that an adequate representation of the Karen interests in the new Legislature can only be made through separate communal electorates.

8. In the matter of the representation of the minorities generally, the Karens are in favour of an allotment of seats on population basis. For this reason, they have accepted the award of 12 seats for their community although their claim was for 16 seats. The allotment to the Indian and European communities of more seats than they are qualified for on this ground cannot be agreed to. Other considerations besides that of representation on population basis, would give these communities larger representation than the sons of the soil who have permanent interests and full rights of the country. The Indians and the Europeans have their mother countries, India and England, respectively. All political advantages, rights and privileges are theirs. If they are not content with all this, which they do not share with us, and make extravagant claims in respect of Burma, they are certainly asking too much for the "best of both worlds."

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I would in this connection support the views expressed by the Independent Party on page 48, Appendix III, of Record A1 (II), Joint Committee on Indian Constitutional Reform, Session 1933-34.

9. Reference has been made to my provisional view tendered to the Government of Burma as contained in the Record A1 (II), Appendix III (IV), Joint Committee on Indian Constitutional Reform (Session 1933-34), that the Karens and Burmans can easily hold the reins in their hands. This statement does not mean that the Karens are in every way of one accord with the Burmese. As stated in paragraph 27 of Record A1 (II), Joint Committee on Indian Constitutional Reform (Session 1933-34), the Karen members of the Legislative Council "did not tend to form a solid bloc but voted according to the matter in debate." The statement was intended to show the possibility of an increase in the strength of the representation of the indigenous races by acceding to the claim of the Karens for separate representation.

10. Regarding the number of seats to be allotted to the Karens, the proposal of the Government of Burma to allot 12 seats to the Karens on population basis has been accepted by the Representative Karen Meeting—(vide Record A1 (II), Appendix III (IV) Joint Committee on Indian Constitutional Reform, Session 1933-34). A slight correction (to make up 12) should be made in the last paragraph of page 39, to which should be added Tharrawaddy and Prome with Karen population of 31,300. However, in the matter of their distribution the Karens have felt it necessary strongly to urge that the representation should be distributed over a wide area instead of being concentrated in a comparatively small area. This proposal is deemed necessary in view of the need for political education in the democratic methods of election and for better service to the new Government of Burma.

11. It is to be hoped that the position of the Karens in the matter of representation by separate electorates has been made clear.

12. I must also not forget to mention that in the Burma Army it is the desire of the Karens for the creation of a Karen regiment, the officers of which should comprise a proportion of Karen officers.

13. The Karens are a peculiar race in Burma, speaking a language of their own, and their traditions, culture, manners and customs are unlike the Burmans, by whom they were once oppressed. The Karens have always been loyal to the British Government. The fact that during the Great War the Karens furnished more men (who also saw active service) in proportion to their numbers and contributed more men to the Burma Military Police for the defence of Burma than did the Burmese community proper, must avowedly deserve concrete recognition and a grant of adequate measures to obtain their legitimate rights and privileges, consonant with their sentiments, wishes and aspirations, for their future progress and prosperity, politically, socially, and economically, in order to enjoy their rightful place in the administration of the country in which they have peacefully lived.

I hope that I have made the case for the Karens clear, and have made it without fear or favour in order that the Committee may realise our true and earnest desire for the privilege of serving our homeland as a separate entity, strongly maintaining that in so doing we will be promoting the true interests of our motherland.

I would, in conclusion, add that without adequate safeguards to preserve the legitimate rights of the Karens racially, educationally, economically, and religiously, and a grant of adequate representation through separate

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electorates which is the only means of education for the Karens of Burma in the democratic government, the seed of automatic growth cannot be said to be provided in the proposed constitution for Responsible Government of Burma.

Communal representation for the Karens is not a menace to progressive democratic government. The Karens, being the true sons of the soil, wish to share the burden of the government of the country in which they live and die. In the past no opportunity has been given them to take their proper place in the life of the province. They have always been downtrodden and oppressed. Needless for me to mention all the details of our past sad history. As only the wearer knows where the shoe pinches, so the Karens have sufficient experiences in the past. We do not want to obstruct the reforms which we would not only welcome but work in co-operation with the majority for the betterment of Burma.

The Karens further ask for adequate statutory safeguards in the matter of administrative services, education and religion, etc. This we ask as there has been a tendency during the past few years for nationality and religion to be considered more important than efficiency.

In this connection I would refer to the statement by my colleague, Mr. Loo Nee, on this subject before the Burma Round Table Conference (Proceedings, pp. 60-61) in which he asked for separate Karen electorates, representation on public bodies, and in the Public Services, with statutory provision for the protection of Karens, with reserved rights to the Governor to intervene to remedy any injustice.

It is the desire of the Karens that at least three seats may be allotted to the Karens by the nomination of the Governor in the Upper House.

V

“A” Memorandum by Mr. K. B. Harper on Trade Relations between India and Burma in the Event of Separation

I.—Introduction.

In my statement to the Committee on the Separation issue on the 6th December (which is reported in Record B1, Joint Committee on Indian Constitutional Reform (Session 1933-34)), I pointed out that the European Community in Burma attach the utmost importance to the preservation of the existing fiscal relationship in respect of the exchange of indigenous articles of trade between India and Burma in the event of Burma being separated from India. I think I am right in saying that all the other members of the Burma delegation share the European Community's view of the importance of preserving these relations. This Memorandum does not enlarge on the need for preserving this relationship but, accepting that, deals with the practical question of giving effect to it.

II.—Description of “Existing Relations.”

The articles of trade exchanged between India and Burma are at present subject to the following fiscal conditions:

1. India and Burma at present form one fiscal unit and there are no export or import customs duties payable on goods exchanged between India and Burma.
2. There are certain indigenously produced articles which are subject to Central Excise duties, namely, Petrol, Kerosene, Silver and Salt.
3. Cigarettes are subject in Burma to a *Provincial Luxury Duty* which applies to imports from India and of Indian made cigarettes and to cigarettes manufactured and consumed in Burma.
4. Matches are subject in Burma to a *Provincial Consumption Duty* which applies to all matches sold in Burma, whether Burma, Indian or foreign made.
5. The Excise Duties on Petrol and Silver are at the same rates as those of the Import Duties on Petrol and Silver imported from other countries. The Excise Duty on Kerosene is at present 11½ pies per gallon less than the Import Duty. The Excise Duty on Salt is at present 2½ annas per maund less than the Import Duty.

III.—Suggested Formula.

In my statement on the 6th December I ventured to ask the Joint Committee, if it were not found possible to enact that in spite of political Separation the “existing fiscal relationship” between India and Burma shall be maintained, to adopt alternatively a three-fold course; firstly, to record an emphatic view that it would be in Burma's and India's interests to maintain the “existing trade relations” and that those relations should be regulated by a Trade Agreement; secondly, to record the view that in order to avoid so far as possible interfering with the fiscal autonomy of the new Governments the Agreement should be negotiated between the new Government of India and the new Government of Burma; and thirdly, to recommend that the Constitution Act should provide that until that Trade Agreement has been concluded by the new Governments, “existing trade

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relations" should be continued. Whether for this status quo period or for a longer period, if it is decided to enact the preservation of this existing relationship, it will be necessary to define the principle in the Constitution Act. While claiming no ability as a draftsman I venture to attempt below a formula designed to cover the principle involved.

1. There shall be free trade* between India and Burma in all indigenous articles and products:

Provided that where any article or product was on the day preceding the date of Separation subject to a Central Excise Duty or a Provincial Consumption or Luxury Duty, such article may be charged on importation from India into Burma or *vice versa* to a corresponding duty being neither (i) higher than the rate of the Excise Consumption or Luxury Duty as the case may be from time to time chargeable in respect of similar indigenous articles or products of the importing country; nor (ii) in the case of an article or product on which, on the day preceding the date of Separation, the rate of Excise, Consumption or Luxury Duty in the importing country was lower than that of the Import Duty on similar foreign articles or products, at a lesser differential below the rate of Import Duty from time to time chargeable on such foreign articles or products than was in force on that day.

2. India and Burma shall each be free to alter its tariffs in respect of its trade with other countries:

Provided (a) that if the rate of import duty on any article is altered by either country such rules may be made by the country of the higher tariff as may be necessary to provide for the payment of the due rate of import duty on such articles re-exported from the country of the lower tariffs; and

(b) further that the articles listed in *Schedule A (India)* shall not be made subject to any reduction of duty by the Government of Burma except with the agreement from time to time of the Government of India, and articles listed in *Schedule B (Burma)* shall not be made subject to any reduction of duty by the Government of India except with the agreement from time to time of the Government of Burma.

With regard to the last provision it is suggested that the two Governments should agree upon two lists to be scheduled to the Act—Schedule A being a list compiled by India of articles of Indian manufacture, e.g., Cotton Piece Goods, on which Burma would agree to maintain the preference afforded by the existing rates of import duty; Schedule B being a similar list (including, e.g., Teak) compiled by Burma *mutatis mutandis*. These lists would presumably have to be agreed by the present Governments, but could be added to or amended from time to time by agreement between the two countries.

IV.—*Points the Formula should cover.*

It is suggested that it would be necessary for the Formula to fulfil the following subjects:

(a) to cover all aspects of "existing relations" as described above in Section II.

(b) to leave India and Burma general freedom of action as regards their respective tariffs on their trade with other countries.

* By "free trade" is meant freedom from both Import and Export Duties.

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(c) to allow for the possibility of a reduction of outside tariffs by either country having the effect of adversely altering "existing relations."

(d) in the event of either country altering its import duty on any article, to prevent the re-exportation from the country of the lower tariff of such article free of duty into the country of the higher tariff.

(e) in the event of either country reducing its export duty on any article or products, to prevent the re-exportation from the country of the lower tariff of such article or product imported free of duty from the country of the higher tariff.

(f) to avoid undue restriction of the working of Imperial Preference.

V.—*The Formula analysed.*

The Formula suggested in Section III is intended to cover the desired objects in the following manner:

(a) "Existing Relations" as defined in Section II;

1. The basis of free trade relations between India and Burma is preserved by Part 1 of the Formula.

2. The Central Excises in force on certain indigenous products are covered in the Proviso to Part 1.

3. The Provincial Luxury Duty on cigarettes is covered in the Proviso to Part 1.

4. The Provincial Consumption Duty on matches is covered in the Proviso to Part 1.

5. The differential between the rates of Import Duty and Excise Duty on kerosene and salt are covered in the Proviso to Part 1.

(b) Freedom to both countries in respect of their outside tariffs is covered in Part 2.

(c) Adjustments for a reduction of outside tariffs adversely changing "existing relations" are provided for in Part 2 (b).

(d) Adjustments for re-exports from the country of the lower import duty into the country of the higher import duty are provided for in Part 2 (a).

(e) Re-exports from the country of the lower export duty of articles and products imported free of duty from the country of the higher export duty would be dealt with under Part 2 (b).

(f) Working of Imperial Preference. In respect of articles on either schedule referred to in Part 2 (b) of the Formula, the fixing of Imperial Preferential rates would be subject to agreement between India and Burma. In respect of all other articles Part 2 imposes no restriction.

Finally, the whole Formula is designed to impose the minimum of interference with the fiscal freedom of either country consistent with the fulfilment of the main principle.

VI.—*Certificates of Origin.*

Part 2 (a) of the Formula provides that if the rate of Import Duty on any article, other than an indigenous article, is altered by either country, such rules may be made by the country of the higher tariff as may be necessary to provide for the payment of the due rate of Import Duty on such articles re-exported from the country of the lower tariff. In order to distinguish between re-exported and indigenous articles for this purpose it would be necessary to adopt some device, e.g. for the importer to furnish

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a Certificate of Origin of the article in question. In an Annexure to this Memorandum I have discussed possible alternatives to procedure by Certificates of Origin. I have arrived at the conclusion that no other alternative would be satisfactory, and that the possible inconvenience of the system of certificates would present no serious obstacle to the fulfilment of the proposal to maintain the "existing trade relations."

VII.—*Comparative Bargaining Power of the two countries.*

Although it is suggested that in practice there should be no insuperable difficulty in defining satisfactorily the existing fiscal relationship which it is desired to preserve between India and Burma, pending the conclusion of a Trade Agreement between the two countries, it is by no means certain that it will be found possible to conclude an Agreement which will be satisfactory to both parties. The success of any negotiations must depend to a large extent on that intangible factor "goodwill" and not merely on the respective bargaining powers of the two countries. It is to be sincerely hoped that the goodwill of neither country will be strained by the act of Separation but there is no point in being blind to the possibility of this not being the case.

In considering the respective bargaining powers of India and Burma there can be no doubt that the whip hand lies with the larger country. Taking the average figures of recent years, it will be seen that of Burma's Exports 48 per cent. go to India, while of India's Exports the proportion which goes to Burma is no more than 5 per cent. Prima facie therefore India is much less dependent on the Burma market than Burma is on the Indian. If we take the rupee value of exports from both countries it will be seen that, if Rice be excluded, Burma's Exports to India amount to about Rs.16 crores per annum and India's to Burma to about Rs.12 crores per annum. On this basis it might be argued that if it could be assumed that India would not in any event want to tax Burma rice the bargaining powers of the two countries are fairly evenly balanced. Indeed, in any such bargain, the deciding factor is Rice—the crop on which it is estimated 60 per cent. of the population of Burma directly depend for their livelihood and prosperity. The total Rice production of India, excluding Burma, varies between 22 and 28 million tons per annum. Burma's annual exports of Rice to India have in recent years varied between 900,000 and 1,300,000 tons per annum. So long as Burma has been part of India, India has not hesitated to take annually from Burma all but a few thousand tons of the country's requirements of rice in excess of its own production. India has gone even further than this, for, thanks to its call on Burma rice, it has been able to export Patna rice in larger quantities than the total of its imports of foreign rice from other countries than Burma. With Burma no longer Indian territory, it may be that India's rice policy will change. No great expansion would be needed to increase India's own production from 22/28,000,000 tons by the 1,000,000 tons now imported from Burma. It is always difficult to say with certainty who would pay an import duty on any particular article. Ultimately the tendency is for it to be recovered from the consumer. If an import duty on Burma rice imported into India were to raise the price of rice in India, this would provide the encouragement needed to agriculturalists to produce the extra million tons. At present the world's production of rice is slightly ahead of consumption. In these circumstances, it might not be possible for the seller of Burma rice in India to recover the duty in his price, in which case India might welcome the opportunity to impose such a duty and be assisted in getting the support of the Legislature by the expectation that its burden would fall on the Burma agriculturalist.

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So long, therefore, as there can be any possibility of Burma rice becoming vulnerable to an Indian import duty, and in to-day's conditions it would be so, the balance of bargaining power in negotiations for a Trade Agreement will be heavily with India. It is true that it is proposed to give Burma the power to restrict immigration of Indian Labour, and that this power will be available for use as a bargaining counter whether Indian Labour is an item for inclusion in the Trade Agreement or in a separate ad hoc Convention. But it would be dangerous to assume that this power will be entirely and only in Burma's hands. As a weapon, it may be two-edged. One of the main reasons for the employment of Indians in Burma hitherto has been that Indians are, in many of the tasks on which they are employed, more efficient than Burmans.

Following upon riots between Burmans and Indians in May, 1930, an agreement was drawn up whereby 50 per cent. of the stevedore labour in the Port of Rangoon was to be allotted to Burmese labour gangs, where it had formerly been almost entirely Indian. Even now, when Burmese labour has had three-and-a-half years of training and experience, its outturn of work is so much below that of Indians that shipping companies have to pay to their stevedores when Burmese labour is employed 20 to 25 per cent. more than they pay when the labour employed is Indian. In the wharf labour of the Port, which is more arduous than stevedore work, the Commissioners for the Port of Rangoon have given a trial in the last few years to Burmese labour. After a reasonable period of trial it was estimated that the Burmese gangs, employed as "casual labour," had turned out 45 per cent. less work than Indian gangs. A further year's trial was undertaken with Burmese gangs on continuous employment. Careful records of the results were kept and it was found that their outturn of work was still 45 per cent. less than that of Indians under similar conditions.

The effect therefore of employing Burmans in the work of the Port of Rangoon has been very considerably to increase the cost of handling cargo, and it is logical to assume that this extra cost is, and in normal times will continue to be, borne by Burma—by the consumer in the case of imports and by the producer in the case of exports. Even the present degree of reduction, therefore, and certainly any further reduction of the quota of Indian labour in Rangoon, are not matters to the disadvantage of India only.

Further, there are certain classes of work for which training is necessary, and in which few Burmans have so far sought employment. These include river engineering works and maintenance, river survey, and work as crews of inland steam vessels. There is also a class of specialised labour known as "busta" coolies, who are employed in the shipment of bagged cargo. Burma's exports of rice, all of which is packed and shipped in gunny bags, are handled at the rice mills by this class of labour. These are all instances of work for which in present conditions Indians are indispensable. It may be accepted that no future Burma Government would restrict the entry of these classes of Indian labour into Burma, but if for any reason India were to prohibit their emigration, the effect would be seriously to hold up the business of the Ports of Burma.

VIII.—*Possibility of India and Burma not being able to come to an Agreement satisfactory to both Parties.*

If the arguments in the foregoing Section are accepted, it follows that in any negotiations for a Trade Agreement, Burma may find itself in the position of having to accept terms which in themselves put Burma at a disadvantage; or alternatively of having to hold up the conclusion of the

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Agreement. If, therefore, the Joint Committee decide to recommend the Separation of Burma from India politically, I would respectfully urge that they not only endorse the vital need for not breaking the internal economic connection of the two countries, but also recommend that Parliament accept the responsibility of ensuring that any Trade Agreement which may be negotiated between them will be fair to both parties. Whether this object could be best achieved by the inclusion of special provisions in the Constitution Act, or by granting a right of appeal by either party to the Privy Council or by some other means is a matter of constitutional practice which I am not qualified to judge, and which I confidently commend to the wisdom of the Joint Committee and Parliament.

ANNEXURE.

CERTIFICATES OF ORIGIN.

In Section VI of the Memorandum it is stated that if there is to be free trade between India and Burma in indigenous articles, it will be necessary to be able to distinguish indigenous from re-exported articles. Wherever a similar necessity has arisen from the adoption of a system of preferential tariffs, I understand that the device usually employed is that of Certificates of Origin. Before resorting to this procedure the Governments of India and Burma will no doubt wish to consider whether there is any simpler method of attaining the object in view in the case of India-Burma trade.

One suggestion is that there might be a provision on the lines that, subject to the proviso to Part 1 of the Formula,

there shall be free trade between India and Burma in all articles except those on which there are, in respect of imports from other countries, different rates of duty in India from those prevailing in Burma; on such articles imports into the country of the higher tariff shall be subject to duty at a rate equivalent to the difference between the rates of duty in force in the two countries.

The differential rate of duty would, under this provision, apply equally to indigenous and re-exported articles. Taking, for the purpose of argument by a particular case, the instance of rice, it would be possible under this proposal for India to put a Customs Duty on imports of non-Burma rice into India in which event the same rate of duty would automatically become applicable to imports of Burma rice into India. This is precisely the kind of situation which it is desired to avoid. This duty differential suggestion would, therefore, not act satisfactorily in the case of increases in duty or of the imposition of a duty where none formerly existed. To confine the operation of the proposal to cases of reduction of duty by either country would clearly not fulfil its object since Certificates of Origin would still be necessary in the cases of increases of duty.

There would, moreover, seem likely in practice to be a further objection. Customs Duties in India at the present date are subject to a surcharge of 25 per cent. imposed in September, 1931. At the time of its imposition it was stated by the Government of India that this increase in the Customs Duties was made by way of surcharge because it was intended to be temporary, to be removed as soon as the revenue position permits. The surcharges are still in force at the present date and indications suggest the possibility that the revenue position will not permit their removal for some time to come. If therefore it is decided to separate Burma it is possible that these surcharges will still be in force at the date of Separation. If, after Separation, Burma were in a position to remove these surcharges

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before India could do so it would obviously be unfair to Burma if in fulfilling the assurance which was made by the Government of India to the public at the time of the imposition of the surcharges, the effect of their removal were to be that Burma's indigenous articles were to become subject on their importation into India to duty at a rate equivalent to the surcharge which Burma had removed. On the other hand to take the substantive rate of Customs Duty (after deducting the surcharge) as the rate from which reductions would operate for the purpose of this suggestion would be no remedy, for the need for Certificates of Origin would again arise as soon as the surcharge was removed by one but not the other country and the object of the suggestion would thus be destroyed.

It would, therefore, seem that this suggestion does not offer a satisfactory method of avoiding the use of Certificates of Origin, nor am I aware of any other method of doing so other than a complete Customs Union in which rates of import duty would remain the same in Burma as in India. But this would in itself preclude one of the main benefits to be expected from Separation. Moreover, I suggest that there is, in these times, no serious practical objection to the use of Certificates of Origin. With the extension of Imperial Preference this procedure is becoming daily more and more common and offers no real difficulty which could not be overcome in the case of Indo-Burma trade. In any case, the possibility of inconvenience which the use of Certificates of Origin may sometimes involve does not seem to constitute an obstacle to the principle underlying the proposal to maintain the "existing trade relations" between India and Burma. I suggest, therefore, that it may safely be left to the Governments of India and Burma to make rules for the use of Certificates of Origin, or for any other method they may agree upon, in accordance with Part 2 (a) of the suggested Formula.

V (Contd.)

"B" Memorandum by Mr. K. B. Harper on the Burma White Paper Proposals

The views of the European Community in Burma on certain of the matters which arise from the "Scheme of Constitutional Reform in Burma if Separated from India" were expressed by me in the Discussions with the Committee. These notes are supplementary.

Proposal 25.

This Proposal deals with the selection of Members of the Senate, half by election by the Lower House and half by nomination by the Governor. Although the object of this method is to make "the Upper Chamber as far as possible fully representative of the interests of different sections of the population,"* it would be unfortunate if the result of elections by members of the Lower House were that the Minorities had to rely entirely on the Governor's nomination to give them their due representation in the Upper House. In the minds of political Burmans there is a distinction between elected and nominated members of the Legislature. They regard the latter merely as creatures obliged to follow the dictates of the authority which nominated them, with none of the freedom of elected members in speech and vote. If, therefore, the Minorities have to rely entirely on nomination for their representation in the Senate the composition of the House will be a constant reminder and exaggeration of the depth of the apparent gulf between the Majority and Minority Communities. This would be the more regrettable because in fact the real gulf is neither wide nor deep. The peace and prosperity of Burma and all its people is the common interest of all communities. It is important therefore that the Minorities should return some of the elected members, but there is only one method of election which would reasonably enable them to do so, namely, the method of the "single transferable vote." I would suggest therefore that it should be prescribed in the Constitution Act that this shall be the method by which the indirect election to the Upper House should proceed.

I suggest also that the Governor's Instructions should direct him to use his power of nomination first to redress any inequalities which may have resulted from the indirect election of the elected half of the House, and then to fill the remaining seats with men whose qualifications may be of particular value to the Senate.

Proposal 27.

This Proposal deals with the procedure for filling Casual Vacancies in the Senate. It provides that if the seat of a Senator becomes vacant it shall be filled by election if he were an elected member or by nomination if he were nominated. If the vacant seat is that of an elected member there is no method of election, either by the single transferable vote or otherwise, which could result in the return of a Minority representative, unless he were the choice of the Majority community in the Lower House. This would clearly be unfair to a Minority community if the member whose seat becomes vacant were their representative. It would obviously not be possible to confine the power of electing a member to the vacant seat to those members who had elected the vacating Senator, since it would not be possible to say with certainty who those electors were. I suggest therefore that all Casual Vacancies should be filled by nomination and that the member so nominated should hold his seat for so long as the

* See footnote to p. 71 of Record IV (Joint Committee on Indian Constitutional Reform, Session 1932-33 (Volume III)).

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vacating member would have held his had he not vacated it. In such cases if it were an elected seat which had become vacant the new member would retire when his predecessor would have retired under Proposal 23, and the seat would then become open again to election in the ordinary course of rotation.

Proposal 23.

In any method by which members are retired by chance and their successors are elected by design there is an inherent improbability that the balance of representation will remain undisturbed. Under Proposal 23 one-quarter of the Senators will retire every two years, nominated members after the first and third two years and elected members after the second and fourth. Since the selection of the individual Senators for retirement is to be on the result of a ballot, the chances are against the proportion of Minority to Majority representatives being the same among the retiring quota as in the whole House from which they are retiring. It follows that after each rotational by-election either the Majority or Minority communities are likely to find themselves with one or more fewer representatives in the House than they had previously.* It would not be possible for the Governor to restore the balance until a nominated portion of the House retires two years later, and even then he might be able to do so only at the expense of depriving the House of some specially qualified Senator who would otherwise have been renominated.

I suggest that it would be possible to get over this difficulty by retiring some nominated and some elected members in each quarter; say, for example, in a House of 36 Members, retiring five nominated and four elected after the first and third two years, and four nominated and five elected after the

* E.G. In Houses of 133 Members (Lower) and 36 (Upper) the quota for original elections to the Upper House would be

$$\frac{133 + 1}{18 + 1} = \frac{134}{19} = 7.05, \text{ or } 8 \text{ votes.}$$

and, with a total Minority representation in the Lower House of, say, 34 Members, the maximum total number of elected seats obtainable by Minorities in the Upper House would be

$$\frac{34}{8} = 4 \text{ seats.}$$

In rotational by-elections the quota would be

$$\frac{133 + 1}{9 + 1} = \frac{134}{10} = 13.4 \text{ or } 14 \text{ votes.}$$

and the seats obtainable by the Minorities would be

$$\frac{34}{14} = 2 \text{ seats.}$$

Therefore if the original ballot for the retirement of the first nine elected members were to result in retiring more or less than two Minority members (and the chances are four to one against retiring exactly two), the by-election (by the system of the Single Transferable Vote, which alone can ensure the return of any Minority member at all) must in one period result in a loss of a seat or seats to either the Majority or Minority communities followed by a reversal of the inequality four years later. Even if the Governor in the intervening two year period redressed the inequality by nomination, the history of the Upper House would be one of constant alteration in the balance of Majority and Minority representation, a situation which would be none the more satisfactory for the possibility of foreseeing with reasonable certainty what the balance would be at any particular time in the future.

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second and fourth two years. By this means the Governor could redress immediately after each by-election any inequality which might have resulted from it, and I suggest that his Instructions should direct him to do so.

Proposal 29.

For the reasons reproduced in Sections V-VII of Record A1, Joint Committee on Indian Constitutional Reform (Session 1933-34), the Burma Chamber of Commerce claims 13 and the Burma British Association 12 of the seats of the Lower House of 132 members, or, say, 10 per cent.

I would also invite the attention of the Joint Committee to the support of these claims which is afforded by the Secretary of State's Memorandum published in Record A1, Joint Committee on Indian Constitutional Reform (Session 1933-34).

1. The Table on p. 12 of this Record summarising the position in respect of Communal representation, gives the impression that the European Community hold only four seats in the present Lower House in Burma. The Table, however, takes no account of the nominated members in the House. To omit these is to give credence to the erroneous impression held in some quarters in Burma that the purpose of nominating members is to add under another name to the strength of the Official Bloc and that these members are not as free to speak and vote as elected members. There are seven of these nominated members and as the Secretary of State points out* they "have hitherto included almost invariably since 1922 three European Members." The effective non-official European representation in the present Burma Council is therefore not four but seven seats. This fact is further recognised in Table B in Appendix I of Record A1, Joint Committee on Indian Constitutional Reform (Session 1933-34).

2. The European Community in Burma claim parallel treatment to that accorded in the Communal award to Europeans in Bengal, viz., 10 per cent. of the total seats in the Lower House. In support of this claim I would refer the Committee to the Secretary of State's statement in paragraph 27 (iv) of Record A1, Joint Committee on Indian Constitutional Reform (Session 1933-34), to the effect that "the position and importance of the European non-official community in Burma is more nearly comparable to that in Bengal (or Bombay, where there is nearly as high a proportion of general seats allotted), than to that in any other Province."

3. When calculating the representation which should be given to Minorities it is difficult to assess the extent to which the Karens should be regarded as a Minority Community. The point is discussed in the Memoranda of the Burma British Association† and the Burma Chamber of Commerce‡ and the conclusion arrived at is that "we must regard the Burmese and Karens together as the real Majority interest, and the Europeans, Indians, Anglo-Indians and Chinese as the true Minorities."

In support of this conclusion I would invite the attention of the Committee to the Karen delegate's own letter§ of 21st September, 1933, to the Reforms Secretary to the Government of Burma where he summarises his views on that Government's proposals for the distribution of seats in the Lower House, in these words: "This summary clearly indicates the majority

* Paragraph 27 (iv) of his Memorandum, Record A 1 (Joint Committee on Indian Constitutional Reform, Session 1933-34).

† Paragraph 3 of Record A 1 (Joint Committee on Indian Constitutional Reform, Session 1933-34).

‡ Paragraph 7, Record A 1 (Joint Committee on Indian Constitutional Reform, Session 1933-34).

§ Paragraph 7, Record A 1 (Joint Committee on Indian Constitutional Reform, Session 1933-34).

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of the Burmans in the Council, and there appears to be no fear when the percentage of the Minority representation is only 26. The Burmans and Karens, being true sons of the soil, can easily hold the reins in their hands."

This statement justifies the apprehension that, in the consideration of any legislation adversely affecting the non-indigenous Minorities in Burma, those Minorities could not safely look to the Karen Members for support.

4. The Burma Chamber of Commerce* calls attention to the large amount of British capital invested in Burma, and the Secretary of State† points out that "a considerable portion of the wealth of the country is derived from the enterprise of a comparatively few, but highly important, commercial and industrial organisations". He concludes that these interests must be given adequate representation. "It is not enough that they should merely be able to give expert advice to the majority on matters in which their constituents at least will have little or no experience and no conscious concern, the representatives of commerce and industry in such conditions need to be given sufficient voting strength to ensure that their advice is, at any rate listened to with attention."

I endorse this Conclusion, but regret that the representation at present proposed for the European Community is inadequate for the fulfilment of this object.

5. The present and proposed distribution of seats in the Lower House in Burma may be summarised as follows:

	No. of seats.	Total House.	Per- centage.
<i>Non-Official Europeans</i>			
Present	7	103	6·8
Proposed by Government of Burma ...	7	132	5·3
Proposed by Secretary of State ...	8	133	6·0

To see the real position in its proper perspective the Official Bloc of 16 members should be excluded from these calculations. The comparative figures are then as follows:

	No. of seats.	Total House (excl. Official Bloc from present House).	Per- centage.
<i>Non-Official Europeans</i>			
Present	7	87	8·0
Proposed by Government of Burma ...	7	132	5·3
Proposed by Secretary of State ...	8	133	6·0

Not only therefore is it proposed to reduce the effective representation of the European community below the present level, but in the process the Europeans, in common with the other Minorities, are also to lose the protection hitherto afforded by the existence of the Official Bloc.

6. The European Community have from the beginning realised that differences of opinion might exist as to the exact extent to which their representation should be increased in the new Lower House, but have confidently assumed that there could be no question of reducing it below its present level. It is not surprising therefore that the present proposals have been received by the Europeans in Burma with profound dissatisfaction and apprehension.

* Para. 20 of Record A 1 (II) (Joint Committee on Indian Constitutional Reform, Session 1933-34).

† Para. 29 (ii) of Record A 1 (II) (Joint Committee on Indian Constitutional Reform, Session 1933-34).

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To do no more than avoid a reduction of their present degree of representation they should have 8 per cent of the seats in the new House of 133, or 11 seats. In addition, having regard to the abolition of the Official Bloc, the relative importance of the European Commercial interests, the close analogy between the position of Europeans in Burma and in Bengal, the doubtful practicability of looking on the Karen vote as a Minority vote, the need for a steady element in the Lower House, and the greater weight to be attached to all these considerations if Burma is to be separated, I submit that there are sound grounds for giving further weightage to European representation in Burma, and that there should accordingly be reserved to European interests 10 per cent. of the total seats in the House.*

Proposal 38.

This Proposal is to provide in the Act that among other matters “(c) the method of election of representatives of minorities and other interests” will be regulated by Orders in Council. While the European Community in Burma appreciate the theoretical objections to Communal Electorates, the position in Burma is that so long as the Majority Communities deny the existence of the Minorities and therefore any obligation to protect their interests, just so long will it be necessary for the Minority communities to assert that their interests do exist and must be protected by Communal Electorates. It is to be hoped that experience of self-government in action in Burma will satisfy the Minorities that they can safely forego the Communal electorates which at this stage they consider necessary for their protection. But I would request the Joint Committee to endorse the principle to which expression was given by the Indian Statutory Commission† that the decision in this matter must rest with the Minorities themselves in the light of the treatment which they have been accorded by the Majority, and that the Act should provide that no change in the method of election of representatives of Minorities and other interests should be made in the future without the consent of the Minorities and interests concerned.

Proposal 47.

In order to preserve the complete independence of the High Court from the Legislature, I suggest that the salaries and pensions of judges of the High Court should not be open to discussion in the Legislature. As proposed at present in para. (iv) of Proposal 47, the salaries and pensions of judges will not be submitted to the vote of either Chamber but will be open to discussion in both Chambers. I suggest that there is no advantage to be gained by allowing discussion of this subject. If it were to be suggested that the Legislature in the interests of economy should be allowed to discuss the salaries and pensions of judges with the object of recommending a reduction in the salary of any or all of them, such a recommendation would cut across Proposal 75 under which a judge is to be assured that his salary will not be reduced during his tenure of office. Some economy could no doubt be achieved by reducing the number of judges but the criterion for the desirability of so doing would be the amount of work requiring to

* As the Burma Chamber of Commerce points out in paragraph 21 of their Memorandum of Record A 1 (II) (Joint Committee on Indian Constitutional Reform, Session 1933-34), the apportionment of these seats between General constituencies and Special interests is a matter of minor importance. On the analogy of Bengal, a suitable allocation would be in the ratio of six General to seven Special.

† Vol. II, paragraph 95, of Report of Indian Statutory Commission.

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be done by the High Court rather than the cost of the judges' salaries. If such a reduction were considered necessary, there would appear to be more suitable channels for achieving it than by way of discussion of judges' salaries in the Legislature. With the close relations which it is hoped the Governor will have with his Ministers the latter should have no difficulty in acquainting him with their views in a matter of this kind.

There appears to be no advantage in the discussion of judges' salaries which can go any distance towards outweighing the disadvantages of allowing the Legislature to affect in any way the administration of the High Court. I suggest therefore that the salaries and pensions of judges of the High Court should be classed with the salary and allowance of the Governor as matters which will neither be submitted to the vote of either Chamber nor be open to discussion by the Legislature.

Proposals 58, 59, 60, 61, 62.

A separate Memorandum on these Proposals will be submitted.

Proposal 68.

This Proposal concerns the Constitution of a Statutory Railway Board in Burma. The suggestions which I put forward on behalf of the Burma Chamber of Commerce will be found to be to a large extent in accord with those of the Secretary of State as published in Record A2 (II) (Joint Committee on Indian Constitutional Reform, Session 1933-34). The chief point of difference between them is that in the interests of efficiency the Burma Chamber prefers a board of six to a Board of eight as proposed by the Secretary of State. Although the Burma Railways is a big business, it is homogeneous in nature, not requiring great diversity of experience. Further, there is, undoubtedly, a limited field from which to select suitable men to serve on the Board, especially since it is proposed, rightly in my opinion, to exclude all Members of either House of the Legislature.

A provision in the India scheme has been adopted in the Burma proposals, namely, that no person who in his personal capacity or as a manager of a company is interested in a Railway Contract will be eligible for membership of the Board. The principle is unexceptionable, and in India, where the field of selection of members is almost unlimited, the proposal is no doubt entirely practical. In Burma, however, the field is so small that application of this provision is likely to result in depriving the Board of some of the otherwise most suitable candidates for membership. I suggest, therefore, that the object of the provision would be satisfactorily met in Burma by excluding any member of the Board who is in his personal or business capacity interested in any of the Railway contracts from the discussion and decision on the contract in question.

Proposal 74.

Under this Proposal, which deals with the qualifications for appointment as Chief Justice or Judge of the High Court, the provisions of Section 101 (4) of the Government of India Act of 1919 are to be abrogated.

I have received a cable from these Associations expressing the view that Burma is not yet ready for a judiciary containing no judge drawn from the Civil Service. They suggest therefore that the substance of Section 101 (4) of the present Act should be re-enacted, except that

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the minimum percentage of Civilian Judges should be reduced from one-third to one-quarter; and that in particular eligibility for the Chief Justiceship should be confined to judges who have previously been practising barristers or legal practitioners.

The latter point is of the utmost importance. The chief value of Civilian Judges lies in their experience on the criminal side. The Chief Justice presides over the First Appeal Bench. He has also to control the administration of justice throughout Burma. It is very necessary therefore that he should be a trained lawyer, skilled in Civil Law. The Civilian Judge is not normally well-grounded in such law.

It might be argued that Proposal 74 is designed to allow the best man to be appointed as Chief Justice. It might, however, be inconvenient in practice to pass over a Civilian Judge for promotion to the Chief Justiceship if he were in length of service the next senior judge. It would be more satisfactory to recognise this position in the Act, and to prescribe that only a judge who has been a practising barrister or legal practitioner will be eligible to be Chief Justice.

V (Contd.)

“C” Memorandum by Mr. K. B. Harper on Representation of Burma in the Indian Federal Legislature in the event of Burma being included in the Federation

As regards the representation of Burma in the Federal Legislature (in the event of Burma being included in the Indian Federation) I would suggest that,

in the Council of State

- (1) eight seats should be allotted to Burma;
- (2) the number of non-Provincial Communal* seats should be increased from 10 to 11;
- (3) of the non-Provincial Communal seats eight (instead of seven) should be reserved for Europeans. This will generally enable Burma Europeans to secure the election of their choice to one of the European seats.

in the Federal Assembly

I would suggest increasing the total number of seats so as to allow of the allotment of 15 seats to Burma. One of these seats should be reserved for the Burma European Community and one for the Burma Chamber of Commerce.

Although it would be possible to find grounds, such as Burma's contributions to the Central Revenues,† for granting to Burma larger representation in the Federal Legislature, the above is in accordance with the claim registered by the European Representative at the Third Indian Round Table Conference, and in the circumstances is regarded by the European community in Burma as adequate.

* Appendix 1, p. 88, of the Indian White Paper.

† Indian Statutory Commission Report, Vol. II, Table on p. 230.

V (contd.)

“ D ” Memorandum by Mr. K. B. Harper on Discrimination in and against Burma if Separated from India

Vide:—(a) Proposals 58 to 62, Burma White Paper, page 53, Volume III, (Joint Committee on Indian Constitutional Reform, Session 1932-33).

(b) Memorandum by the Secretary of State for India, page 1297, Volume II B (Joint Committee on Indian Constitutional Reform, Session 1932-33).

(c) Memorandum by the Secretary of State for India on Discrimination in Burma, Record A.2 (Joint Committee on Indian Constitutional Reform, Session 1933-34).

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Part I.—Discrimination as between Burma and the United Kingdom.

Part II.—Discrimination as between Burma and India.

(a) Provisions in the Burma Constitution Act.

(b) Provisions in the India Constitution Act.

PART I.

Discrimination as between Burma and the United Kingdom.

1. It is proposed to apply the provisions of paragraphs 3, 4, 5 and 6 of the Memorandum by the Secretary of State for India, page 1297, Volume II B (Joint Committee on Indian Constitutional Reform, Session 1932-33) *totidem verbis* to Burma. The Memorandum by the Secretary of State for India, page 1297, Volume II B (Joint Committee on Indian Constitutional Reform, Session 1932-33), supersedes the Burma Proposals 58, 59 and 61 by including and expanding them. The comments in this section of the Memorandum therefore refer to the Memorandum by the Secretary of State for India, page 1297, Volume II B (Joint Committee on Indian Constitutional Reform, Session 1932-33), rather than to the Burma White Paper Proposals [page 53, Volume III, Joint Committee on Indian Constitutional Reform (Session 1932-33)], the words “Burma” and “Burman” being read for “India” (or “British India”) and “Indian.”

2. The Memorandum by the Secretary of State for India, page 1297, Volume II B (Joint Committee on Indian Constitutional Reform, Session 1932-33), explains many points which were not altogether clear in the original Proposals. The proposals, speaking generally, are, in the opinion of the European community in Burma, as satisfactory as any form of constitutional safeguard is likely to be in the face of determined attempts to circumvent it. So much, however, depends on the precise wording in which the Bill is framed that final opinion must be reserved until a draft of the Bill itself is obtainable. I would respectfully express the hope that adequate time will be available for the examination of the Bill.

3. In the meantime, in the hope that they may be of assistance to the Joint Committee, I venture to offer the following comments. Some of them refer to matters of principle. The remainder are largely drafting matters.

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I take the paragraphs of the Memorandum by the Secretary of State for India [page 1297, Volume II B, Joint Committee on Indian Constitutional Reform (Session 1932-33)] in numerical order:—

4. Paragraphs 1 and 2 call for no comment.

5. Paragraph 3 (i).—*General Declaration as to British Subjects*: A list of Disabilities and a list of Prohibited Grounds of disability are given in this sub-paragraph. Both lists differ from those given in 3 (ii) (b) which deals with British subjects domiciled in the United Kingdom. I presume that this is not intentional. I suggest it is important that these lists should be uniform. To make them so the list of *Prohibited Grounds* in 3 (i) should include Residence, Duration of Residence, Language, and Domicile. Continuity of Residence is not covered and should be added. A full list of *Prohibited Grounds* in respect of Subjects, in paragraphs 3 (i) and (ii) (b), would then be

Domicile.
Residence.
Duration or Continuity of Residence.
Race.
Religion.
Descent.
Caste.
Colour.
Language or Place of Birth.

6. As regards *Disabilities*, Taxation, Travel and Residence, "the right to make and enforce Contracts," "the holding of Property" should be added to 3 (i). The full list of Disabilities in these two paragraphs would then be as set out in 3 (ii) (b) after adding "the right to make and enforce Contracts."

7. The corresponding lists in respect of Companies are dealt with in the reference in this Memorandum to paragraph 3 (iii).

8. Paragraph 3 (ii).—*British Subjects domiciled in the United Kingdom*: Subject to the comments which I make in paragraphs 32 to 36 of this Memorandum* and to any criticism which may be necessary when the "special form of protection" referred to in 3 (ii) (b) is formulated, the principle embodied in this clause is satisfactory.

9. I would suggest that the matters in respect of which protection is to be provided should be termed "Civil Rights" generally, the specific cases of Taxation, Travel, and Residence, etc., being expressed as examples, and that the right to make and enforce contracts should be added to the examples.

I have suggested that the prohibited grounds should be the same as the list given in the comments above on 3 (i).

10. Paragraph 3 (iii).—*Companies incorporated in the United Kingdom, but trading in Burma*: Taxation is the only disability specified in this paragraph, but it is assumed (and it is suggested that it be made clear)

* Where I suggest the extension of the protection of paras. 3 (ii) to (v) of the memorandum by the Secretary of State for India [page 1297, Volume II B, Joint Committee on Indian Constitutional Reform (Session 1932-33)] to all British subjects domiciled in parts of the British Empire which do not discriminate against Burma.

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that all the Civil Rights referred to in the comments above on 3 (ii) (b) are included, in so far as they are applicable in the case of Companies.

11. There are two other points calling for comment:—

(a) The paragraph refers to trading *in* India: it does not cover trading *with* India (or Burma). Burma Proposal 59 protected United Kingdom British subjects in respect of certain specified rights among which was the right "to carry on any trade or business in, or with the inhabitants of, Burma." I presume from this and from the Secretary of State's answer to Q. 15,634* that Companies trading *with* Burma are protected as well as Companies trading *in* Burma.

(b) It is difficult and therefore presumably dangerous to specify all the grounds of discrimination against a Company which are to be prohibited. As it stands, however, the proposal of this sub-paragraph leaves room for evasion by basing disabilities on the size of a Company's capital or on the currency in which it is expressed, or on the situation of its registered office, or on some disability attaching to its debenture holders. If these grounds are added the list in this sub-paragraph would be extended to include:

the Place of Incorporation	}	of the Company.
the Situation of the Registered Office		
the Amount of Capital		
the Currency in which the Capital is expressed		

or the

Domicile.
Residence.
Duration or Continuity of Residence.
Race.
Religion.
Descent.
Caste.
Colour.
Language or Place of Birth

of its Directors; Shareholders, Debenture Holders, Agents or Servants.

12. *Para 3 (iv).—Companies incorporated in Burma:* Colour and Continuity of Residence and a reference to Debenture Holders would need to be added to this paragraph to complete the list of grounds referred to in above comments on 3 (iii).

13. This proposal deals with Companies "which are or may hereafter be incorporated." Provision appears also to be necessary to prevent legislation prohibiting the incorporation of a Company absolutely or except in conditions which would be contrary to the spirit of these proposals.

14. There is a further serious difficulty about this proposal. It is, I understand, intended to protect a Company against certain disabilities if, for

* Q. 15,634. Mr. *Jayaker*: "You make no distinction throughout your Memorandum, Secretary of State, as regards bodies which were trading with India at the date of the Constitution Act but which were not resident in India nor had establishments there. You make no distinction between bodies which were trading and had residence and establishments and those which were merely trading but who had no residence and no establishments?"

Secretary of State: "No; and I do not think you can make any distinction of that kind." [Page 1330, Volume II B, Joint Committee on Indian Constitutional Reform (Session 1932-33).]

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example, its shareholders are United Kingdom British subjects. As the proposal is worded it is the United Kingdom British subject and not the Company itself which gets the benefits of the ipso facto provision. If there were also among the shareholders British subjects from some part of the Empire other than the United Kingdom, they presumably would not get the benefit of the ipso facto provision, and therefore the Company would not receive due protection.

15. I respectfully agree with the answer which the Secretary of State gave to Question 15,640, [page 1331, Volume II B, Joint Committee on Indian Constitutional (session 1932-33)] (on a similar but not the same point) that in these matters incorporation is the only satisfactory test. In this case it would follow that the ipso facto provisions should be made available to all British subjects domiciled in parts of the Empire which do not discriminate against Burma.*

16. I would suggest that the sense of this paragraph, in the case of a Company which is or may hereafter be incorporated in Burma, should be:

Directors, shareholders, debenture holders, agents or servants of a Company incorporated in Burma will, subject to the special provisions as regards bounties and subsidies of Clause vii (2), be deemed ipso facto to comply with any conditions imposed by law on the Company in respect to their domicile, residence, duration or continuity of residence, race, religion, descent, caste, colour, language or place of birth.

One of the advantages of such amendment is that the employment of foreigners, who are occasionally employed by Burma Companies in technical and scientific work, would not involve the Company in any difficulty under the terms of this paragraph.

17. *Para. 3 (v).—Provisions for Reciprocity:* Proposals 3 (ii), (iii) and (iv) deal only with discrimination against United Kingdom British subjects and Companies. As regards the principle embodied in the provisions for reciprocity under this sub-paragraph, I understand that protection by prohibition is to be afforded prima facie in all cases but can be withheld or withdrawn in respect of any particular disability to which Burmans are made liable by law of the United Kingdom. I would suggest that this clause in the Act should be so drafted as to make it clear that the onus would be on the Government of Burma to justify any such discrimination by a reference to a corresponding discrimination of the United Kingdom and that it will not be necessary for the Complainant to prove that such discrimination does not exist in the United Kingdom.

18. In order to prevent the possibility of discriminatory legislation being based on a mistake of, say, a person exercising delegated powers in the United Kingdom, I would suggest that some procedure should be prescribed whereby before any discriminatory legislation is introduced the Government of Burma should satisfy itself by enquiries through the proper channel as to whether the legislation in the United Kingdom really bears the character

* The extension of all the proposals of paragraph 3 to British subjects domiciled in parts of the Empire which do not discriminate against India instead of only to United Kingdom British subjects is discussed in paras. 32 to 36 of this Memorandum in comments on paragraph 5 of the Memorandum by the Secretary of State for India, [page 1297 Joint Committee on Indian Constitutional Reform (Session 1932-33)].

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which the Government of Burma alleges it bears. It might be possible to obtain a certificate from the United Kingdom either :

(1) that the discrimination is in order under the law of the United Kingdom

or

(2) that it is not so in order.

In the case of (1) the Government of Burma could legally reciprocate with the like restrictions on the same grounds, applied generally and not to any person or Company in particular.

19. It is not stated whether "reciprocal disabilities" will be applied to "existing or future persons or Companies" or to "future persons or Companies" only, but I understand that the latter is intended. I respectfully suggest this should be made clear.

20. *Para 3 (vi).—Reservation of Bills:* This proposal provides for the compulsory reservation of Bills which, though apparently not in form, are in fact discriminatory. This is a valuable safeguard. The opening words of sub-paragraph (vii) (viz., "The provisions indicated above will be subject to two other forms of exception or qualification") suggest that no subsidy Bill under 3 (vii) (2) will be compulsorily reserved, even if it is the means of subjecting one or more of His Majesty's subjects to "unfair discrimination." I understand that this is not intended, and I suggest that it be made clear that such Bills are subject to the provisions of sub-paragraph (vi).

21. The word "class," in this sub-paragraph, may be unduly restrictive and I would suggest words in substitution to read: "likely to subject to unfair discrimination any one or more of His Majesty's subjects or any class, company, partnership or association of His Majesty's subjects protected by these clauses."

22. *Confiscation.*—There is one important safeguard which appears to have been omitted from paragraph 3 of the Memorandum by Secretary of State for India [page 1297, Volume II B, Joint Committee on Indian Constitutional Reform (Session 1932-33)], and that is protection against confiscation. The proposals do not deal with the question of confiscation but, in answer to Q. 15,769 [page 1347, Volume II B, Joint Committee on Indian Constitutional Reform (Session 1932-33)], the Secretary of State remarked that it has always been "assumed that somewhere in the Act there should be a Clause prohibiting confiscation, expropriation, and also dealing with compensation." This is both satisfactory and important. I suggest it is necessary that the Act should provide clearly that no person shall be deprived of his property unless proper compensation is paid; the amount to be ascertained by independent arbitration or judicial proceedings and that the expropriation shall not be effective until the full amount of compensation has been paid and duly received.

23. *Paragraph 3 (vii).—Exceptions:* Exceptions (1) (a), (b) and (c) appear to be necessary and unexceptionable. Sub-section (d) saves "the right to legislate in the sense indicated in the provisos to paragraph 122."* Under these provisos no law will be deemed to be discriminatory because:—

(1) it prohibits the mortgage or sale of agricultural land to a member of non-agricultural class, i.e., "A class of persons engaged in, or connected with, agriculture in that area."

* Of the Indian White Paper (Cmd. 4268).

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While I understand the same difficulty does not arise in parts* of India it is hardly possible to say in Burma who does or who does not belong to an agricultural "class." In the circumstances in which the rice crop, for instance, is, and for many years has been, financed in Burma it is certainly not possible to describe Indian bankers or money lenders as "a class of persons not engaged in or connected with agriculture in Burma," and I understand it is this class of Indian to which the proposal is generally directed.†

Would an Englishman who has previously been engaged in other pursuits and who wishes to start planting in Burma be a person "belonging" to such a "class"?

Again it would seem that mortgages to banks or other commercial lenders could be directly prohibited, with one result at least, that the value of all agricultural land would automatically be reduced.

The proposal might, further, authorise the prohibition of a genuine sale of agricultural land for building or industrial purposes.

If the intention of this proposal is not only to permit measures, but also to point to a certain kind of measure, for preventing agricultural land in Burma from passing into the hands of "non-indigenous and non-agricultural"† owners, it would seem that the solution of this important and difficult problem lies in some other direction. The disadvantages of the proposal as it stands appear to outweigh the problematical advantages.

Less (but not much less) exception could, perhaps, be taken to provisions which would leave the way open to prohibit the transfer of agricultural land not to any class but to any person or association of persons who have not in good faith the intention themselves to build on it or cultivate it or turn it to industrial use. Even this, being a restriction, would have the effect of reducing land values. It is doubtful, moreover, whether this would be a matter of discrimination within the meaning of the memorandum by the Secretary of State for India [page 1297, Volume II B, Joint Committee on Indian Constitution Reform (Session 1932-33)] and whether therefore there is any need to specify such a provision as an exception.

(2) It "recognises the existence of some right, privilege, or disability attaching to the members of a community by virtue of some privilege, law or custom having the force of law."

If the words "at the date of Separation" are added after the word "existence" there can be no objection to this proposal.

(3) It is declared by the Governor "to be necessary in the interests of the peace and tranquillity of Burma or any part thereof."

I presume that the intention is that before any legislation of the kind envisaged can be introduced the Governor will formally certify that the matter is one of temporary urgency and is necessary in the interests of the peace and tranquillity of Burma.

The history of Burma repeated during the last few years shows that it is not difficult to foment a rebellion in Burma. There is no reason to believe from consideration of the origin of rebellions in Burma that under a responsible Government the country will be any more immune from the danger of

* See Punjab Land Alienation Act of 1900.

† Paragraph 10 of the Secretary of State's Memorandum on Discrimination in Burma, published in Record A 2 (Joint Committee on Indian Constitutional Reform; Session 1933-34).

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rebellion than under the former or the present forms of Government. If the proviso in this paragraph is to find a place in the Act it is calculated to encourage rebellion or some lesser disorder of the kind, directed perhaps to political ends. If, as I understand, the Governor's administrative powers to carry out his special responsibility for the prevention of any grave menace to the peace or tranquillity of Burma are unlimited, I suggest there is no need for this proviso in the Act.

24. *Para. 3 (vii) (2).—Exceptions in regard to Bounties and Subsidies:* From the language of paragraphs 3 (iii) and (iv) read with paragraph 3 (vii) (2) it is assumed that the intention is to treat the special provisions of the latter paragraph as exceptions from the general prohibitions against discrimination. It is important that this should be so. It is hoped therefore that in giving effect to these general prohibitions the clauses of the Bill will be so drafted as to cover all cases of discrimination by means of or in the matter of bounties or subsidies, the exceptions referred to in 3 (vii) (2) being dealt with by way of proviso.

25. The general principle of this paragraph has for some time past been accepted by the Associated Chambers of Commerce of India of which the Burma Chamber of Commerce is a member. The following comments are directed towards a clearer appreciation of the details involved in giving effect to the principle:—

(a) It is understood that technically the word "subsidies" does not include the protection afforded by import duties and that nothing in this paragraph can be read to mean that any conditions such as those recommended by the External Capital Committee may be demanded in connection with the imposition of an import duty, or that any legislative measure may be passed to withhold (by requiring a refund or otherwise) the benefits of such protection from any Company entering the trade in question after the import duty has been imposed.

(b) It has been observed that in discussing the principle embodied in this Exception, there has been a tendency to introduce the item of contracts. I understand that this paragraph is to be read in its strictly literal sense; that it refers to bounties and subsidies paid out of public funds, and that the terms cannot be extended to include contracts with Government or other statutory bodies. A commercial contract ordinarily connotes the sale of articles or services in return for payment made, and differs therefore radically from bounties and subsidies in the sense in which I understand this paragraph. I suggest it should be made clear that nothing in this paragraph can be read to mean that conditions such as those recommended by the External Capital Committee may be required by law of any Company in order to render it eligible to receive a Government contract.

(c) I understand and suggest it be made clear that under this proposal no condition may be imposed on a "future" Company in order to render it eligible for a bounty or subsidy unless that condition has been specifically included in the Subsidy Act itself, and further that the only conditions which may be imposed are those recommended by the External Capital Committee, namely:

(1) in all cases reasonable facilities for the technical training of apprentices, and

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(2) in the cases of incorporated companies—

(i) that the companies should be registered under the Indian Companies Act, 1913, with rupee capital, and

(ii) that a reasonable proportion of the directorate should be Indian

substituting, of course, in the case of Burma, the word "Burman" for "Indian" in para. (2) (ii).

With regard to (1) and (2) (ii) it is important that the word "reasonable" should govern these conditions.

26. It is appreciated that para. 3 (vii) (2) concedes an important power which in principle it would be unreasonable to withhold from the new Burma legislature. It is, however, not only important; it is one of the most difficult to define and limit appropriately. So much depends on the form of words adopted. It is therefore not possible to express a final opinion on the proposal until an opportunity comes to consider the draft of the Bill itself.

27. *Para. 3 (viii).—Special Provision for Ships and Shipping:* This seems to be a necessary provision and I have no comment to make on it.

28. *Para. 4.—Administrative Discrimination:* I understand that in Document A. 68 the broad distinction between discrimination by legislation and discrimination by administrative action lies in the remedies proposed in each case. While acts of the kind referred to in 3 (i), (ii) and (iii) (where they are applicable) are prohibited no less when the discrimination is administrative than when it is legislative,* in the latter case remedy will be sought in the courts; in the former complainants will rely on the special responsibility of the Governor. It is generally agreed, I think, that administrative discrimination is the more difficult form to cope with and provide against. I respectfully agree with the Secretary of State that the Governor's hand should not be tied* in the attempt to make his obligations explicit, but I put forward the following comments:

(1) in addition to the General Declaration contained in 3 (i) I would suggest that a provision should appear in the Act declaring all discrimination to be illegal and distinguishing between administrative and legislative discrimination by stating that recourse to the courts may be had only in the case of discrimination by a legislature or "by any person or body exercising delegated legislative powers".† It should be made clear that the Governor's powers in exercising his special responsibilities in matters of administrative discrimination are unfettered and implicit.

(2) The phrase "the prevention of commercial discrimination" which appears in Burma Proposal 17 (e) is to be extended to "the prevention of discrimination in matters affecting trade, commerce, industry or ships." Agreeing again as to the dangers of explicitness, I suggest that the phrase, as it is now proposed to expand it, is open to that very objection. It explicitly refers to "trade, commerce, industry and ships," and by implication leaves at least two other heads unprotected, viz., the holding of property and the exercise of a profession. I would suggest that the wording of the Act should explicitly prevent

* See Secretary of State's reply to Q. 15,410 [page 1304, Volume II B Joint Committee on Indian Constitutional Reform (Session 1932-33)].

† First sentence of para. 4 of the memorandum by the Secretary of State for India [page 1297, Volume II B, Joint Committee on Indian Constitutional Reform (Session 1932-33)].

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“discrimination in any matter relating to status or civil rights,” various kinds of rights being named as examples.*

29. In Questions 15,765 to 15,767 (page 1346, Volume II B, Joint Committee on Indian Constitutional Reform (Session 1932-33)] Sir Hubert Carr put forward the suggestion that any person who considers himself to be disabled by discriminatory administrative action should have the right to demand an enquiry into his case. It appears from the Secretary of State's answer that he understood Sir Hubert Carr to refer to a somewhat cumbersome and slow procedure, “a formidable affair; a number of people are appointed, taking weeks, it may be months, to come to a decision,” and so on. I agree with the Secretary of State that such a procedure would in most cases be in every way unsuitable, but I venture to think that this is not the kind of enquiry which Sir Hubert Carr had in mind. In practice it will presumably be the case, almost invariably, that appeals to the Governor in the matter of alleged discrimination will be directed against the action of a Minister. It is clear that the Minister's prestige must limit the nature of the enquiry which would be possible. It could only be undertaken by the Governor himself or by some independent person of authority such as a High Court Judge. The seat of the enquiry might be far away from the Governor's headquarters, too far away for his personal attention. The Governor might be reluctant to look for evidence beyond the word of the Minister himself. A High Court Judge could undertake a more thorough enquiry, at headquarters and elsewhere, than the Governor himself could, and could do so without legal formalities. A power to require security and to award costs should prove sufficient safeguard against frivolous applications for an enquiry.

30. I suggest therefore that in such matters the complainant should be given the right to demand an enquiry constituted as the Governor might think suitable, the object of the enquiry being to ascertain the facts and report them to the Governor for action at his discretion. While I agree with the Secretary of State that in general “elasticity and freedom”† in the hands of the Governor are essential to enable him to fulfil his various responsibilities, I suggest that in this connection the Governor himself might welcome the complainant's right to demand an enquiry as a means of relieving him of the embarrassment of having to institute action against one of his Ministers. This right in the hands of a complainant might also not be without its moral effect on those in administrative authority.

31. If, however, this suggestion is unacceptable to the Joint Committee I would endorse Sir Hubert Carr's request that in the Act the Governor should be given express permission to institute an enquiry and that his Instructions should call his attention to this power. I read the Secretary of State's reply to Question 15,767‡ to mean that he will in any case

* I would suggest as examples the right to hold and enjoy property of every description, the right to make and enforce contracts, the right to carry on or exercise any trade, business, employment, vocation or profession, and eligibility for any grant, bounty or subsidy, or for any office, post or preferment, and discrimination in the imposition or levying of any taxation, cesses, duties, rebates or other impositions of whatsoever kind.

† Secretary of State's answer to Question 15,765 [page 1346, Volume II B, Joint Committee on Indian Constitutional Reform (Session 1932-33)].

‡ Q. 15,767. Sir *Hubert Carr*: “In answer to that I would say that the class of enquiry I had in mind was the Governor appointing one man in whom he had confidence to go and investigate the cause of the complaint which might lie three or four hundred miles away from the Governor's seat?”

Secretary of State: “He could do that . . .” [page 1347, Volume II B, Joint Committee on Indian Constitutional Reform (Session 1932-33)].

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have implicit power in this respect, but I suggest it is not clear that without special provision in the Act he would have authority to appoint a High Court Judge to hold an enquiry and summon witnesses, if necessary. There appears also to be considerable force in Sir Hubert Carr's point that unless explicitly referred to in his Instructions as a course which is contemplated as suitable, it may either be overlooked by the Governor or, if ordered by him, might be regarded by the Minister as a pointed aspersion.

32. *Paragraph 5:* This paragraph draws a distinction between the proposals as they affect (a) British subjects domiciled in the United Kingdom and (b) British subjects domiciled elsewhere in the Empire than in the United Kingdom. For convenience and brevity of title I refer in this section to (a) as U.K. subjects and (b) as non-U.K. subjects.

33. Under this proposal full protection is accorded to U.K. subjects including right of entry into Burma. Non-U.K. subjects are to receive the general protection of paragraph 3 (i) once they have obtained legal entry, but such entry may be refused.

34. I understand that the object of this proposal is to reconcile "British and Indian policy in India . . . not to draw distinctions in India itself between one national of the British Empire and another"* with the existing fact that such distinctions are drawn in some other parts of the Empire. While I agree that it is not reasonable to compel Burma to accord treatment to a part of the British Empire which does not accord that same treatment to Burmans, it is not clear why those countries in the British Empire which do not discriminate against Burma should be treated on parallel lines with countries which do, rather than with the United Kingdom which does not.

35. The proposal as it stands appears to go further than the principle expressed by Sir Austen Chamberlain in Question 15,515 [page 1316, Volume II B, Joint Committee on Indian Constitutional Reform (Session 1932-33)] and accepted by the Secretary of State, namely, that the Constitution Act shall not "give free entry to India to the citizens of a Dominion which refuses free entry to Indians in that Dominion." Under the proposals, a refusal of entry to non-U.K. subjects is not dependent on discrimination by the non-U.K. country against Burma. Entry can be refused for any reason or without stating any reason. Even though we may accept it as unlikely that Burma will refuse entry to British subjects from a part of the Empire which does not discriminate against Burma, Burma is being given the power to do so, and this itself would seem to be contrary to the principle, which I suggest it is important to preserve, that British subjects throughout the Empire have an inherent right to protection in any country within the Empire until they have forfeited it by the action of such country.

36. I appreciate the Secretary of State's object† in drawing the attention of India and Burma and of those parts of the British Empire which at present discriminate against them to the advantage of making agreements which would be satisfactory to both sides. I respectfully suggest however that not only would this object be no less achievable, but the proposals

* Answer to Question 15,536 [page 1319, Volume II B, Joint Committee on Indian Constitutional Reform (Session 1932-33)].

† Answer to Question 15,503 [page 1315, Volume II B, Joint Committee on Indian Constitutional Reform (Session 1932-33)].

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would operate more simply and fairly if sub-paragraphs 3 (ii) (a) and (b), 3 (iii), 3 (iv) and 3 (v) were made applicable to all British subjects domiciled in, and Companies incorporated in, parts of the British Empire which do not discriminate against India or Burma in respect of any of the Civil Rights, including entry, referred to in paragraph 3 (ii) (a) and (b).

I am trespassing here on the Joint Committee's labours in connection with the Indian White Paper, but it would be unreasonable to distinguish in this respect between Burma and India.

37. *Para. 6:* This paragraph deals with professional qualifications. This is a matter to which the European community in Burma attaches great importance and on which I must reserve comment until the Secretary of State's proposals have taken more concrete shape. At this stage there are certain general principles to which the European community adheres:—

(1) The quality of knowledge required for qualification in a profession varies so greatly between country and country that this is not a suitable subject for simple treatment on a reciprocal basis.

(2) No person possessing British professional qualifications should be in a worse position after the Act comes into force, as regards liberty to practise in Burma, than he is now.

(3) As regards basic qualifications, no law or regulations made in Burma for the purpose of prescribing qualifications for any given profession should disable from practice in Burma a person whose qualifications would in England entitle him to practise.*

(4) It is not unreasonable to allow the Burma legislature "to require additional qualifications from new entrants to professions which are justified by the special needs" of Burma conditions; but this must not be used as a means of discrimination which is not required for those special conditions or is contrary to the spirit of these proposals.

38. To ensure these principles it is suggested that:—

(a) No law or rule affecting the existing right of British subjects to practise in Burma by reason of British qualifications may be made without the prior consent of the Governor and such law shall, after being passed by the legislature, be reserved for His Majesty's assent, or

(b) There should be a clause in the Constitution Act explicitly recognising in Burma British qualifications in all professions, inasmuch as these qualifications are recognised as adequate to-day.

39. I understand that all the above principles are accepted by His Majesty's Government. The European community attaches great importance to providing for them adequately and effectively in the Act.

PART II.

Discrimination as between Burma and India.

(a) Provisions in the Burma Act.

1. I agree with the view expressed by the Secretary of State in his Memorandum on Discrimination in Burma, published in Record A 2 (paragraph 3)

* This is not quite the same thing as is suggested by the Secretary of State's wording in para. 6 viz.: "No law or regulations made in India for the purpose of prescribing the qualifications for any given profession shall have the effect of disabling from practice in India, on the strength of his British qualifications, any holder of a British qualification."

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(Joint Committee on Indian Constitutional Reform (Session 1933-34)) that "as Burma is at present a province of British India and as British subjects domiciled in the United Kingdom occupy in Burma the same position as in other Provinces, and occupy it by virtue of the same considerations, precisely the same degree of protection should be accorded to them in Burma, if separated from India, as is to be accorded in continental India." For parallel reasons I consider that the same principles should apply as between Indians in Burma and Burmans in India, if Burma is separated from India. In general therefore I endorse the proposal that the terms of the Memorandum by the Secretary of State for India [page 1297, Volume II B, Joint Committee on Indian Constitutional Reform (Session 1932-33)], should be applied as between Burma and India, the words "Burma" and "Burman" being substituted for "India" (or "British India") and "Indian," and "India" for "United Kingdom," subject to the criticisms which I have made under the various corresponding heads in Part A of this Memorandum.

2. The one exception which the proposals (contained in the Annexure on pages 5 and 6 of the Record A 2 (Joint Committee on Indian Constitutional Reform (Session 1933-34)) make to this general rule is in the matter of the right of entry of Indians into Burma, on the lines of the corresponding right assured to United Kingdom British subjects in accordance with paragraph 3 (ii) (a) of Document A 68.

Careful consideration of the problem which is so clearly put in paragraphs 8 to 11 of the Secretary of State's Memorandum in Record A 2 (Joint Committee on Indian Constitutional Reform (Session 1933-34)) makes it difficult to escape the conclusion that there must be some means of controlling labour immigration from India to Burma. The existence of the problem is not conducive at present to good feeling between Indians and Burmans in Burma. It is, however, of the greatest practical importance, in the opinion of the European community in Burma, that if Burma is to be separated the parting should be, and should remain, friendly. With this in mind I would strongly support the observation made by the Secretary of State in paragraph 16 of his Memorandum, that the best solution of this problem lies in the conclusion between the Governments of India and Burma of an Immigration and Emigration convention. I would in fact go further, and suggest that statutory power to control immigration should not be granted to either Burma or India until they have tried to come to an agreement.

3. If my suggestion as regards the amendment of 3 (ii) (a)* is adopted there will be no discrimination by Burma against Indian immigration and therefore the present free entry of labour into Burma will be allowed to continue until the two countries have come to an agreement on this subject.

If agreement proves unattainable, and the problem seems seriously to call for more drastic measures, then the question of giving Burma statutory power to restrict immigration should be considered at a later date by Parliament.

If legislative power of this kind is eventually granted to Burma it will presumably be unreasonable to withhold a similar power from India.

4. If such power is to be given to the Legislatures I attach the greatest importance to the procedure contemplated in para. 15 of the Secretary

* As set out in para. 32 of this Memorandum.

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of State's Memorandum, under which any legislation regulating immigration—and I would add emigration* should be subject to the prior assent of the Governor-General or Governor as the case may be, together with the further precaution of indicating in their Instruments of Instructions that this category of legislation is particularly suitable for reservation for His Majesty's assent.

5. *Professional Qualifications.*—Comment on this subject must be reserved until definite proposals have taken shape.

(b) *Provisions in the India Act.*

6. Proposals exist for provisions in the Burma Act concerning discrimination† between

(1) Burma and the United Kingdom (paragraphs 3 to 6 of Record A 2 [Joint Committee on Indian Constitutional Reform (Session 1933-34)]).

(2) Burma and India (paragraphs 8 to 16 of Record A 2 [Joint Committee on Indian Constitutional Reform (Session 1933-34)]).

(3) Burma and British subjects domiciled elsewhere than in the United Kingdom and India (paragraph 7 of Record A 2 [Joint Committee on Indian Constitutional Reform (Session 1933-34)]).

I have seen no proposals for provisions to be included in the India Act to deal with discrimination in India against British subjects domiciled in and Companies incorporated in Burma, except in so far as British subjects in Burma are covered by the general declaration of para. 3 (i) of the memorandum by the Secretary of State for India [page 1297, Volume II B, Joint Committee on Indian Constitutional Reform (Session 1932-33)].

7. I presume it is intended to include in the India Act suitable provisions on lines parallel to the corresponding provisions in the memorandum by the Secretary of State for India [page 1297, Volume II B, Joint Committee on Indian Constitutional Reform (Session 1932-33)] and Record A 2 [Joint Committee on Indian Constitutional Reform (Session 1933-34)].

8. If my suggestion is accepted that neither the Burma nor India legislature should have the power to refuse entry to immigrants until the possibility of controlling such immigration by agreement has been fully explored without success, provision on the lines of 3 (ii) (a) of the memorandum by the Secretary of State for India [page 1297, Volume II B, Joint Committee on Indian Constitutional Reform (Session 1932-33)] (with "Burma" inserted where the words "United Kingdom" occur) would presumably find a place in the India Act.

* For the reasons given earlier in this Memorandum (V. "A," Section VII).

† In other matters than professional qualifications.

VI

Memorandum on behalf of the Anglo-Burman Community by Mr. Campagnac

Both as a legacy and bulwark of British Rule in the East the Anglo-Burman community might be excused perhaps if it sought to put forward special claims for consideration at the hands of Great Britain.

It owes its origin and the traditions it cherishes to the British annexation and occupation of Burma, and its members, whether the Asiatic element in their mixed descent be Indian or Burman, can justly pride themselves on their community's magnificent record of service to the British Raj and the province from the early pioneering days down to and after the Great War.

But the Anglo-Burman community, in this era of changing political conditions for the province which is its home, has no desire to seek any preferential treatment. It lives amicably with its neighbours and it identifies itself with their social, economic and political aspirations. All it asks is that it shall be allowed to preserve its own ideals intact and that it shall be saved from the risk of complete submergence by other and numerically stronger communities in the Burma of to-day.

For this end it advances the following extremely moderate demands:—

(1) That the new constitution should provide safeguards against any curtailment of grants to European schools and against any lowering of the standards of European education.

(2) That under the new constitution Anglo-Burmans should have the right to compete on equal terms with Burmans for appointments in the service of Government or of local bodies.

(3) That the community should secure representation in the Lower House of the new Legislature through separate electorates.

(4) That two seats should be reserved for the community in the Lower House and that at least one seat should be reserved for it in the Upper House, this latter seat being filled by nomination by the Governor.

As regards the first point the lack of any restriction of the number of Asiatic pupils admitted to European schools has already had the effect of lowering the standard of European education, and the community, faced with the ever-increasing difficulty of securing employment for its members, is naturally anxious that this tendency towards a lowering of educational standards should be checked and that its children should be given an education calculated to enable them to hold their own with Burmans.

As regards the second point there has been a marked tendency since the reforms were introduced into Burma to give preference to the claims of Burman Buddhists in the matter of appointments both under Government and under local bodies; and the result is to be seen in the very large number of unemployed Anglo-Burmans to-day. The community hopes that the same safeguards and protection as may be accorded to Anglo-Indians in India in this matter of appointments will also be extended to Anglo-Burmans in Burma.

That the desire for separate electorates is unanimous, so far as the Anglo-Burman community is concerned, I took occasion to convince myself before leaving Burma for England by consulting opinion throughout Burma through the branches of the Anglo-Burman Union; and that the

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community is opposed to any compromise on this point is proved by the cable I received from the President of the Mandalay branch of the Anglo-Burman Union in answer to a letter I despatched on my way to London. which reads:—

“Mandalay, 4th December, 1933.

“Your letter from Colombo. Mandalay requests you secure for Burma what Gidney will obtain for India, namely, European Education reserved and communal representation through communal electorates. We strongly oppose compromise with fellow Delegates on these points and request co-operation with British representatives who are in full sympathy with our special claims.”

On the question of a reservation of seats for the community in the Legislature it may be noted that the Burma Provincial Committee appointed to co-operate with the Indian Statutory Commission recommended that two seats should be so reserved in the Legislative Council while in Appendix III (II), Record A1 (ii) [Joint Committee on Indian Constitutional Reform, Session 1933-34] it will be seen that the Society of which U Chit Hlaing is President has agreed to the Anglo-Burmans having two seats reserved for them in the Lower House. If there are to be two Chambers in the Legislature, it is obviously only fair that the Community should also be represented in the Upper House.

Officially the community is still designated the Anglo-Indian community, in spite of the fact that it was decided at a public meeting some three years ago to drop the title Anglo-Indians and adopt that of Anglo-Burmans. As a matter of fact the community to-day is made up of about 60 per cent. Anglo-Burmans, 30 per cent. Anglo-Indians and 10 per cent. domiciled Europeans. I have been the elected representative of the community ever since the Montagu-Chelmsford Reforms and I was returned unopposed at the last two elections. There is only one Association of the community in Burma to-day, known as the Anglo-Burman Union. This Union has over 1,000 members on its rolls and has branches at Mandalay, Toungoo, Maymyo and Kalaw. Up till two years ago there were two Associations in Burma—one was the Anglo-Burman Association, of which I was the President, and the other was the Anglo-Indian and Domiciled European Association, which was a branch of an association registered in India. These two Associations amalgamated two years ago and registered under the name of the Anglo-Burman Union, of which I am the President.

VII

Memorandum submitted by Mr. S. A. S. Tyabji on Indian Labour in Burma

I have the honour to submit this Memorandum on matters arising out of the Burma White Paper and other Memoranda submitted to the Joint Select Committee. At the outset I must state that Indian Labour has been placed at a great disadvantage in so far as proposals regarding their representation in the Lower and Upper House and franchise affecting them are concerned. The fact is that the memorandum of the Government of Burma on these subjects was marked "confidential" and was given to a few persons. The memorandum being confidential it was not possible to place it before Labour for its clear expression of opinion.

Therefore, my first submission is that any decisions arrived at by the Joint Select Committee on the questions of Labour representation in the Lower and Upper House, and the franchise affecting them, may be published in Burma, for expression of opinion on them by Labour.

I.—Representation of Labour in the Lower House.

(a) The memorandum by the Government of Burma and that by the Rt. Hon. The Secretary of State for India, propose to give two elected seats to Indian Labour, but these shall be included within the 10 seats which have been allotted to the Indian community based on population basis.

I submit that Labour has always been considered as a "special interest," and the Royal Commission on Labour in India directly supports this view in their Report. Therefore the Labour seats should be treated separately and should not be included in the number of seats based on population basis.

(b) It is contended that the total Indian representation in the Lower House is inadequate. A strong case is made out in a separate memorandum, which is jointly signed by Mr. Cowasjee and myself, for increase of Indian representation. My submission is that if the number of seats for the Indian community is increased, in such an event the number of seats for Indian Labour be increased from two to three seats, the reason for such an increase being

- (1) recognition of the part played by Indian Labour in the development of Burma;
- (2) the substantial proportion of Indians in Burma employed in the occupation of Labour;
- (3) the necessity of having sufficient number of Labour representatives to propound the views of Indian Labour in Burma, on laws and regulations which may in future be considered by the Lower House.

II.—Labour Constituencies.

It has been proposed to constitute two Labour constituencies for Indian Labour, one in Rangoon, or Rangoon combined with Syriam, and the other in the Oil Fields—the latter being undefined.

* Vide Record A 1 (II), Appendix II (Joint Committee on Indian Constitutional Reform, Session 1933-34).

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(a) One in Rangoon.

1. The Indian Labour population—Labour including occupations like traders and shop assistants, Army, Navy, and Air Force, etc., technical experts and professional classes, managers and officials of organised industrial undertakings, and manual workers—number 150,000 approximately in Rangoon alone. Out of this, manual workers would approximately number 100,000.

Therefore Rangoon with one Labour seat would have a Labour electorate, on adult franchise, of 100,000 voters. This number of voters is three times more than the total number of voters of all the other Indian communal constituencies put together, i.e., 33,000.

2. Therefore my first submission is that in any case Syriam be not included in the Labour constituency of Rangoon, because

(i) it will add considerably to the large electorate in Rangoon;

(ii) Syriam is not opposite to Rangoon, but takes about 45 minutes to reach by steam launch;

(iii) it is otherwise treated as a separate constituency.

3. I further suggest that this constituency be divided into two parts—

(a) East Rangoon, (b) West Rangoon—and the Oil Fields constituency be not formed.

(b) Oil Field Constituency.

1. The Oil Field constituency is a very small constituency. To an inquiry made by me, the Reforms Secretary to the Government of Burma, in his letter No. 37, Reforms, dated 23rd September, 1933, stated the figures of employed for the year 1932 as under:—

Total employed	...	...	...	...	...	...	...	14,330
Burman indigenous	...	...	...	...	...	...	...	7,726
Indians	...	...	...	...	...	...	...	6,401
Others	...	...	...	...	...	...	...	203

2. Thus it will be seen that the number of Indian Labour electors would only be 6,401 (1932).

3. The Oil Field constituency besides being a small one comprises only one interest.

4. It is cut away from the other centres of industry and agriculture, and has little connection with those problems which the general industrial or agricultural Indian labour has to face.

5. Therefore I submit that the proposed constituency for Indian Labour in Oil Fields would not be really representative and that it would be preferable, as suggested above, to fill the two seats from Rangoon.

(c) 1. If through increase of Indian representation labour obtains one more seat, I propose that it should be given to agricultural Indian labour.

2. Indian agricultural labour has problems of its own, and it may be suitable and advisable that it may be represented direct by at least one constituency.

3. There are a considerable number of Indian labourers born in Burma, occupied in agricultural labour numbering approximately 150,000.

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4. As Akyab District has the largest number of Indians outside Rangoon, it would be suitable to select one area out of that district to form into a rural constituency of about 25,000 voters.

(d) 1. If it is not considered advisable to form a rural agricultural labour constituency, then I suggest that Akyab Town be given a labour seat.

As Rangoon represents the largest number of Indian Labour in the Delta so does Akyab represent the second largest number of Indian labour of the coast.

Reference—Imperial Table XI—Occupations by Race—p. 186. Census of Burma, 1931, part II. The following is the summary of the above table, viz.:

“ Earners and working dependents ” for “ All occupations.”

	<i>All races.</i>	<i>Indians born in</i>	<i>Indians born out</i>	<i>Indo-Burma.</i>
Burma	5,331,000	97,000	465,000	55,000
Delta	2,341,000	36,000	323,000	12,000
Coast	700,000	54,000	66,000	25,000
	3,041,000	90,000	389,000	37,000
Centre and North	2,290,000	7,000	76,000	18,000

It would mean that the following would be represented:

	<i>Rangoon.</i>	<i>Akyab.</i>
Indians born in Burma	36,000	54,000
Indo-Burma	12,000	25,000
	48,000	79,000
Indians born out	323,000	66,000
	371,000	145,000

Roughly, two seats for Rangoon and one seat for Akyab would enable these two large centres for Indian Labour (Industrial and Agricultural) to be represented.

2. It is also a fact that the Coast is not easy of access from Rangoon, and its problems would best be understood by representatives from Akyab Town.

3. I however realise that Akyab is a small constituency having the following population:

Indian races	38,000
Other indigenous races	13,000
Indian Hindus	11,000
Indian Muslims	10,000
Indo-Burma races	2,500
	23,500

4. But I prefer Akyab to Oil Fields because

(i) it has a larger labour interest, comprising industrial and agricultural interests;

(ii) it definitely represents the second largest area in which Indians born outside Burma, and the largest area in which Indians born in Burma, and Indo-Burma races are settled;

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(iii) it represents an area about whose problems persons living in Rangoon do not, as a rule, know much. It is much easier to reach the Oil Fields or Yenangyaung from Rangoon than to reach Akyab.

(iv) Akyab would definitely represent Industry (17,000) and Transport (15,000), i.e., 32,000 Labour, as against 6,000 employed in the Oil Fields. The representative from Akyab would also be in a position to know the conditions of 80,000 agricultural labourers, out of whom 45,000 are born in Burma and 17,000 belong to Indo-Burma races.

(v) Oil field is an isolated interest.

III.—*Franchise.*

1. I have the honour to submit that in Record A1 (II) (Joint Committee on Indian Constitutional Reform (Session 1933-34)) it is proposed in para. 15 (b) to "insure also that the great majority of the non-indigenous population will not have the vote till they have resided in Burma for at least three years, so that when the time comes for them to vote they will have had the opportunity afforded by three years' residence to acquire an interest in local affairs and exercise their vote intelligently."

2. From this I understand that it is not desired to make all those persons born in Burma or who have resided in Burma for a considerable period, that is, more than three years, prove their interest in the country at every election.

3. I understand that all that is desired is to ensure that persons who have not acquired interest in local affairs shall not have the vote. Therefore it is considered that:

(i) payment of income tax "involves residence for a minimum period of 12 to 18 months, and this seems adequate in the case of a person of some standing and education."

(ii) "It is not considered necessary to apply it (the three years' test) to the qualification based on possession of property (Rule 3 (a)) which will in any case take some time to acquire."

4. From the above two qualifications it is clear that three years' qualification is one of the qualifications amongst others (as per above) to prove that a person has acquired an interest in local affairs to exercise his vote intelligently.

5. The three years test is applied in rural constituencies to persons paying certain taxes, and in urban constituencies to persons paying certain taxes, and also to those paying rent at the rate of Rs. 48 per year.

6. The three years qualification in rural constituencies as applying to Indians, born in Burma, or resident for a considerable number of years in Burma, would fall heavier on them than on indigenous persons because

(a) though they may have paid their tax for two years out of three or for the last 10 years, but failed to pay for one year out of the three years they would lose their franchise.

(b) In the case of urban constituencies, a person must have made payments for the three previous years of municipal or cantonment taxes (these are being paid generally by house owners) or he must have paid for the three previous years rent of not less than Rs. 48 per year; or must have lived rent free for the previous three years.

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- (c) Any person not being able to prove payments of rent for three years would automatically lose his vote.
- (d) In the case of Indians, both in rural and urban areas, the problem of necessary visits to India arise and these short absences may mean in rural areas non-payment of certain taxes, and in urban areas non-payment of rent by such absentees, and they would lose their franchise although they may have been paying their taxes or rent regularly for quite a number of years.
- (e) In the case of urban constituencies, an absence of six months or one month from Burma would be sufficient to disqualify a person unless he maintains a rented house during his absence, which a poor man is not expected to do.
- (f) It is a fact that Indian traders and poor classes move about considerably, and in many trades are forced to move about from place to place.
- (g) The rich man has two qualifications—property and income tax, and he can eventually fall back on rental qualification, whilst the poor man has only one qualification—that of paying rent or taxes for three years.
- (h) It is unjust that if a person has been paying his rent or tax for a number of years, for one failure he should be disqualified, whilst a rich man may pay his income tax every third year and still obtain his vote.
7. The real intention behind this proposal was to take away the vote from immigrant Indian labourers, if they have not stayed in the country for three years, because, it is said, they would acquire no interest in local affairs.
8. The fact is:—
- (a) that the majority of Indian labourers who come to Burma have spent many more than three years in Burma. They stay in Burma for two and a-half or three years, go back and return within six months or a year. In this manner a goodly portion of their life is spent in Burma.
- (b) It is wrong to think that such labourers have no interest in local affairs, or that by nature they are such as could not understand matters affecting them, or generally.
- (c) From personal experience, I can state that they are very wide-awake persons, and have the same shrewd common-sense which mass electorates have in every country.
9. The Indian immigrant labour against whom particularly the residential test was considered desirable, number 300,000 to 400,000 out of a population of 14,000,000.
10. Out of 300,000, about 100,000 labourers would be found in Rangoon.
11. Out of 100,000 in Rangoon, about 3,000 or 4,000 labourers came on to the electoral roll of Rangoon East and West Indian constituencies, taken together.
12. The total number of Indian voters inclusive of Rangoon for Indian constituencies number 30,000 out of which not more than 7,000 or 8,000 labourers come on to the electoral rolls, under the present franchise qualifications.

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13. Besides the Indian immigrant labour, it will very seriously affect that class whose income or salary is less than Rs. 80 and more than that of the manual labourer, and would form the largest majority of the following occupational groups:—

Occupation.	All races.	Indians born in.	Born out.	Indo- Burma.
Trade	557,000	9,000	87,000	12,000
Public Force	31,000	1,000	13,000	—
Public Administration	45,000	1,000	12,000	1,000
	633,000	11,000	112,000	13,000

(Note.—These figures include working dependants.)

14. A large majority of these would be the class I am referring to. This class through trade and service has an abiding interest and has lived in the country, except a few, for a considerable number of years.

15. This class of person has the sound common-sense required to act as a buffer between ultra-capitalistic or ultra-socialistic policies; to put any check on it seems impolitic. It is true that the majority of these would be paying rent of Rs. 48 per annum, but the practical difficulties arising from proving through three years rental seem insuperable for many.

16. The practical difficulties are the following:—

- (a) The insuperable difficulty of preserving three years rental receipt, as proof.
- (b) Change of venue of small traders.
- (c) Transfer of persons in Government service, private service or public force.
- (d) For Indians in particular, added to these difficulties is the one necessitating their going to India to their relations every few years.

17. Through actual experience I have found that even in a large city like Rangoon, on our present electoral rules, it is very difficult to produce rental receipts even of the previous year, and in the East and West Rangoon Indian constituencies very small numbers of such class of persons (compared to their number) can be enrolled on the electoral rolls.

18. With regard to Indian Immigrant Labour, the difficulties are:

- (a) A very small percentage is stationary in any one constituency, as almost all Industrial work is seasonal. Sometimes he is in the rice mill, at other times working as casual labourer; again during other months working in the fields. How can such a person obtain rental receipts for three years?
- (b) He cannot obtain certificate from his employer after three years that during particular months he worked with him, and obtained free lodging worth Rs. 48 per annum.

19. I venture to suggest that if the rule obtaining in Burma at present and the manner of its working is closely examined, it will be found that it is more restrictive than the rule prevailing in Ceylon. 6c. of Ceylon Electoral rules runs thus: "Has not for a continuous period of six months in the eighteen months immediately prior to the first day of August in that year resided in the electoral district to which the register relates."

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20. The Burma electoral rules—Schedule II. Qualification of Electors under Urban Constituencies, lays down in Section 3 (b) "Has paid during and in respect of the *previous* financial year, etc., etc." and in 3 (c) (i) "Has paid during and in respect of the *previous* financial year, etc." 3 (c) (ii) "Has lived rent free during the *previous* financial year, etc., etc."

It will be seen that these qualifications lay down the necessity of having paid certain taxes, rent, or lived rent free, etc., "during the *previous* financial year." Our financial year ends on 31st March. Therefore the person must have been in Burma for at least one year prior to the making up of the electoral roll, if the electoral roll is prepared in April.

21. Whilst in Ceylon the voter has to prove that he has resided in the electoral district for at least six months in the eighteen months prior to the first of August, in Burma, as the rule stands at present, he has to prove that he has paid tax, rent, etc., for the *previous* financial year—thus the length of residence required is much longer than under the present Ceylon Constitution.

22. In the memorandum of the Government of Burma on the franchise proposals—paragraph 33—I point to the following sentence: "The names of persons on the present electoral rolls would, however, be allowed to remain and such persons would not be disfranchised." Thereby I understand that all those who are on the present roll would not be disqualified on account of three years qualification from being entered on the fresh roll. I agree with this proviso, and if any alteration of existing qualifications are made perhaps on Ceylon lines, this proviso must form part of it.

23. It is quite clear from paragraphs 1, 2, 3 and 4 of this Memorandum that the principle which is desired to introduce is that a person must have "interest in local affairs" to be able to vote intelligently, and that the three years test is a method and not a principle.

24. Therefore my proposal is that

(a) Instead of 3 years rules as proposed, the Ceylon rule be introduced, or in the alternative maintain the present qualification 3 b. 6 and 3 c (ii) of the Burma electoral rules, Schedule II.

(b) If the Ceylon rule 6. c. is introduced no further residential qualification need be proved.

(c) If the present Burma qualification is maintained, and it is considered that proving of three years residence is necessary, then it should be possible to prove three years residence

(i) through production of rent receipts for three years;

(ii) through certificate from a bank, or a banker, or co-operative societies of having an account with a bank or a banker or co-operative society for three years;

(iii) through production of registration of a firm (under the local act);

(iv) through certificate of membership of a registered organisation;

(v) through certificate of membership of an organisation representing a profession;

(vi) through certificate of service in government administration or service in semi-government public institutions;

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(vii) through certificate or through pay bills of service in a private firm;

(viii) through certificate of an employer that a labourer has worked for three years with him;

(ix) through other reasonable proofs that he has been in the country for three years, with possible break;

(x) through a name of a person being in one of the previous electoral rolls prior to the new rules coming in;

provided that once a person's name has appeared on the roll under the new qualification it shall be considered proof of his three years residential qualification, and such a person shall not be called upon to prove his residential qualification on preparation of every fresh electoral roll.

IV.—*Discrimination in Burma.*

(*Vide Annexure to Record A2 (I) (Joint Committee on Indian Constitutional Reform, Session 1933-34).*)

1. *Regulation of Immigration.*—No protection of right of entry into Burma is contemplated in favour of British subjects domiciled in India such as is proposed by para. 3 ii (a) for British subjects domiciled in the United Kingdom. Para. 9 referred only to immigrant labour, and not to all the immigrants from India. I am not against a regulation of Indian Immigrant Labour through a Convention between the Governments of Burma and India; but I could not view with equanimity the taking away of our right of free entry into Burma. I understand the right of free entry into Burma for Indians would remain intact and would be provided for in the same manner as for British subjects domiciled in the United Kingdom, except that so far as Indian Immigrant Labour was concerned, a Labour convention between Governments of India and Burma would probably be the best means of arranging the question satisfactorily.

2. Therefore I contend that 3 ii (a) must equally apply to British subjects domiciled in India, or United Kingdom, with the proviso that the regulation of the Indian Immigrant Labour should (in my opinion) be arranged for through a convention between the Governments of India and Burma. It is a question of policy between the two countries, and the Government of India would be in a position to obtain those conditions of life and work for Indian Immigrant Labour which the Royal Commission on Labour in India envisaged, and which are stated under the Chapter for Burma in their Report.

3. I am constrained to state that there is in my mind a very strong impression that neither the value of the past services nor the absolute need in future of Indian Immigrant Labour has been recognised or realised by Government of Burma, at all events by officers who have had anything to do with problems connected with them. To give point to this statement I refer to Vol. X Burma, pages 270 to 299 of the Report of the Royal Commission on Labour in India, as also to the report of the Rangoon Housing Committee and to my dissenting note thereto.

4. Under the Government of Burma, there have been two posts, one as Director of Labour Statistics, and the Protector of Immigrants. Generally these are combined in one officer. At present they are held by two separate officers. The Director of Labour Statistics is generally an I.C.S.

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and he is often in charge of Land Records. These officers have no particular interest or practical experience in labour matters. The result is that statistics which could help in the solution of the manner in which Immigrant Labour could be regulated are absent. I have made some study of the subject, and it has shown me how many factors must be considered, factors with regard to which I can obtain no data.

5. The problem of regulation of immigrant Indian labour presents the following considerations. One must firstly have a fair idea of what is the normal requirements of labour for each branch of Industry, without having a large surplus of unemployed, and during what part of the year they are required, and what would be the subsidiary occupation when seasonal industries cease to work; to what community or district in India would the required labour belong; which is the embarkation port; what will be the position of labour which walks across the boundary between Chittagong and Akyab (for which we have no information available). What then would be the system of regulation which will give each industry sufficient labour and give subsidiary employment to labour when seasonal industries cease to work till the industries begin to work again. Clearly, a flat reduction of 50,000 or one lac for any year under such complicated circumstances could not be a satisfactory method. When it is remembered that different classes or communities of labour do different types of work; that all labour does not embark in India from one port, for instance, part of Telugu labour comes through Madras, and part of Telugu labour and part of Ooriya labour through Coromandal Coast ports; parts of Ooriya, Hindustani, Punjabi and part of Bengali labour comes through Calcutta, and part of Bengali (Chittagong) labour comes through Chittagong all to Rangoon. A part of Bengali (Chittagong) labour walks across to Akyab; that each of these classes have sub-classes which are specialised in some particular form of labour and are required at some particular time of the year.

6. With due sense of responsibility therefore I would sound a note of warning that any hasty measure for regulation of such labour may act with disastrous effect on the Industries of Burma.

7. Therefore my submission is that the first step should be for the present Governments of Burma and India to enter into an agreement that status quo should be maintained till the two new governments come into being. As soon as the two new governments come into being a convention may be entered into that in future by mutual co-operation Indian immigrant labour (to be defined) may be regulated; secondly, that the Government of Burma will take upon itself greater responsibilities with regard to conditions of life and labour of immigrant labour; and, thirdly, I suggest the condition that once Indian immigrant labour to the extent required lands in Burma that there shall be no further restriction imposed upon employers to employ any particular labour, or on labour to seek any employment or work, and that it shall be unlawful for government or any public bodies to specify any type of labour to be employed by an employer in carrying out any work on its behalf. In the meantime the Government of India should immediately appoint a protector of immigrant Indian labour in Burma; he would study the whole problem including condition of life and labour in Burma, and suggest after three years to the Government of India and, if desired, to Government of Burma the extent and method of

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regulation and the steps that should be taken to improve the conditions of work and life of labour. If Government of Burma so desires, it can simultaneously appoint its own officer to study the same problems and the two officers could work out some scheme in co-operation with each other.

8. In my making these suggestions it must not be understood that I am not sympathetic towards the requirements of indigenous labour. But my clear position is that Indian immigrant labour would be required by Burma for some considerable period yet. The rapid increase in cultivation both in rice and other cereals since about 1880 has naturally required all the indigenous labour that was available. And to my mind cultivation will go on increasing—if the Burmese people take to industrial labour—some other labour will have to do the agricultural work. It seems impossible that a land where there is yet so large an acreage of culturable land, and as communication by road and rail is opened, further lands would become culturable, where the population per square mile is only 68, that such land would be allowed to remain vacant and uncultivated, specially so when the pressure on land in other countries is becoming unbearable.

9. This problem of the desire of indigenous labour to take part in Industrial Labour has manifested itself since about 1930, since when values of agricultural products have gone down considerably. The position has been further accentuated by the decline of the importance of subsidiary industries, like hand weaving, etc. On the other hand it is conceivable that an agricultural country which imports annually cigarettes and tobacco to the extent of 1½ crores of rupees, milk products to over one crore of rupees, Fish about one crore of rupees, Betelnut and Coccoanut and such like articles of a very considerable value, must lose both work and money at some stage of its development. This is so because of lack of any distinct agricultural or industrial policy of the government—both transferred subjects.

10. It may be asked why agricultural labour cannot take part in Industrial labour, when agricultural work has ceased. Shortly, the explanation is, that the agricultural seasons and the industrial seasons overlap each other. Therefore the only solution to provide more work for agricultural workers is to create agricultural industries.

11. It is possible that my conception of the whole problem may be wrong, but my views are not unsympathetic towards indigenous people—in fact I have been doing all in my power to promote the views I have expressed above.

12. It will thus be seen that Indian labour is not a challenge to indigenous labour; it was brought in, and since has been coming in to meet a demand which indigenous labour could not meet, and is therefore supplementary to it, for the need of the country.

13. Arguments that it sends considerable money out of the country have no bearing on the question. It does definitely come to earn money, and in doing so helps the country to earn profits many times the amount which it itself earns, therefore it is not a loss.

14. I think I have dealt passingly on the more important factors arising in consideration of this problem, which though lightly touched upon will give an idea of the type of factors which must be dealt with as a complete policy to solve the problems of Agricultural and Industrial Labour.

VIII

Memoranda by Mr. N. M. Cowasjee and
Mr. S. A. S. Tyabji

“ A ” . Discrimination in Burma

[*Vide—Record A2 (I) Joint Committee on Indian Constitutional Reform (Session 1933-34).*]

I. We have to offer one preliminary remark which applies generally to the Memorandum referred to above. We understand by the term “British subjects domiciled in British India” those persons born in or settled in British India. We have to point to the fact that there are quite a number of persons from Indian States, who practise their profession or trade or are employed in service, and there are business houses whose principals or managers or office staff are persons born or domiciled in Indian States. It is undesirable to exclude such persons or firms from protection against discrimination.

Therefore we propose that wherever the words “British India” appear, be added the words “and Indian States”, or if Federation of British India and of Indian States becomes a fact, a suitable term may be used to indicate British subjects domiciled in the Federation of British India and Indian States.

II. *Reference—Annexure—Clause (vii) Exceptions.*

Whilst we do not object to maintaining laws, rules, and orders in operation at the passing of the Constitution Act (e.g. the Burma Courts (Amendment) Act of 1931) and further, for example, such rules as have been already framed for the purposes of selection for services, we do consider that giving them a finality, as this “exception” proposes to do is not right. There are many rules and orders in respect of service, or entry into service, which even now act most unjustly and vexatiously against Indo-Burmans, Indians and Anglo-Indians, and even against those who are born and bred in Burma. This is so particularly in the matter of “selection” to services, or selection for entry into educational institutions. We submit that in a case of any act, rule, or order, which places distinct disability, or is so worded as to enable its being used to discriminate, then it should be possible to get it amended through an appeal to the Governor’s special powers. For instance in the matter of appointment in the public service if an unnecessarily high qualification in the Burmese language is laid down as a necessary qualification, or in fact if written or viva voce examinations of candidates in the Burmese language are made unnecessarily difficult, we think a case of discrimination by the back door would be established, and the Governor should then have the power to intervene.

III.—(a) *Provisos to para. 122 of Indian White Paper. (Cmd. 4263.)*

I. *1st proviso—power of enacting laws against land alienation.*—Prior to consideration of this proviso, we take the opportunity of removing some misconceptions in para. 10 of Record A.2 (I) [Joint Committee on Indian Constitutional Reform (Session 1933-34)].

(1) The definition of an agriculturist as per Section 1349 of the Land Records Manual is (a) “An agriculturist is a person who cultivates land for a livelihood, or did so until incapacitated by age or otherwise, or (b) the wife, widow or child of such a person.”

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(b) "Resident" means living within the surveyor's charge in which the land is situated.

These two very narrow definitions must be borne in mind, when considering the subject of land alienation to others than "agriculturists."

(2) According to the Report on the Land Revenue Administration of Burma for the year ending 30th June, 1932,

	Acres.
(i) The total occupied area in Burma is	18,755,026
(ii) Agriculturists occupy (or 73 per cent. of above)	13,753,202
(iii) Resident non-agriculturists occupy	1,251,657
(iv) Non-resident non-agriculturists occupy -	3,750,167

Therefore (iii) and (iv) together occupy 5,001,824 acres or 27 per cent. of the total occupied area. It should be remembered that non-agriculturists include Burmese, other indigenous races, Indo-Burmans, Chinese, and Indians. Therefore statements made that a major part of the land has passed into the hands of the Chettiyars are not borne out by facts.

(3) Total acreage of lands owned by Chettiyars is not high.

(4) The general policy of Chettiyar bankers is to keep their resources liquid.

(5) Paragraphs 36, 37, 38 and 67 of the Burma Provincial Banking Enquiry Committee Report may be referred to.

(6) Development of paddy cultivation in Burma within the last 30 or 35 years is remarkable.

(7) Total number of acres under paddy cultivation has increased from 55 lacs acres in 1896 to 121 lacs acres in 1933.

(8) From 1861-1870 the export of rice averaged 363,000 tons. In 1932-33 the exportable surplus is estimated at 3,450,000 tons.

(9) In this development Chettiyars have played a remarkable part.

(10) These facts do not prove the "extensive transfer of ownership to non-indigenous and non-agricultural classes," particularly so if the definitions of "agriculturist" and "resident" quoted above, are kept in mind.

II. We realise that Burma has even now the power to make laws to prevent alienation of agricultural lands, and we realise that just as it has been considered inadvisable to pass any such act in the past, so it may be in the future. We therefore do not desire to restrict this power of the Legislature, except in case of such a law being passed as a discriminatory measure against some particular class of persons, or some particular interest, in which case we request that power may be reserved to the Governor to intervene, or/and that such a Bill may be reserved for the signification of His Majesty's pleasure. We think that this clause should be so modified as to prevent the possibility of the introduction of discriminatory legislation as above indicated.

IV. 2nd proviso.—"or which recognises the existence of some right, privilege, or disability attaching to members of a community by virtue of some privilege, law or custom having the force of law."

Frankly neither in the Burma Legislative Council nor during the Joint Select Committee sittings have we been able to understand or realise the import and scope of this proviso. Under the Arbitration Board it

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was arranged in 1930 that a certain proportion of Indian and Burmese labour should be employed. Is it contemplated to cover a case of this nature as coming within the scope of this proviso? This is but an example of what we fear. If such be the intention of this proviso, then we say that it may be possible to read this proviso in such a manner as to nullify many of the safeguards proposed to be provided in the Constitution Act. We therefore desire that this proviso may be deleted.

V. 3rd proviso, viz.—“A Federal or Provincial law, however, which might otherwise be void on the ground of its discriminatory character will be valid if previously declared by the Governor-General or a Governor, as the case may be, in his discretion, to be necessary in the interests of the peace and tranquillity of India or any part thereof.*

* *Footnote.*—Without a qualification of this kind, legislation such as e.g. the Indian Criminal Tribes Act, would be invalidated by the provisions of this paragraph.”

This proviso in the Burma White Paper under para. 53, appeared without the footnote, and as such it was most objectionable on the grounds that any law of a discriminatory character could be declared valid by the authority concerned if sufficient political pressure was brought to bear on him through threats or through actual violence. If this proviso is to be included in the Constitution Act, it must be made quite clear that it should and would apply only to such cases as the explanatory footnote indicates, and to no other type of law of a discriminatory nature.

VI.—Control of Immigration.

[*Vide—paras. 9 and 15 of Record A2 (I) Joint Committee on Indian Constitutional Reform (Session 1933-34).*]

1. Para. 9 indicates that steps be taken to control and restrict the flow of Indian Labour immigration into Burma.

Para. 15 states: “No protection of the right of entry into Burma is contemplated in favour of British subjects domiciled in India such as is proposed by paragraph 3 (ii) (a) for British subjects domiciled in the United Kingdom.”

2. Read together, these paragraphs mean that Indians in general, including Indian Immigrant Labour would be discriminated against as regards right of entry into Burma, as against British subjects domiciled in the United Kingdom, who would have free right of entry. We protest most strongly against such a discrimination against British subjects domiciled in India. We agree that in all countries where there is considerable immigration of labour from another country, such immigration of labour is regulated through treaties between the two countries concerned, or by law by one of the countries concerned. As regards Indian labour immigration, we agree that it may be regulated by a Labour Convention between India and Burma; but we do protest against any similar restriction being placed against the entry of other Indians than Indian labour. We would consider this as grossly discriminatory, and the whole Indian community in Burma and the people of India also would resent such a gross act of discrimination against them, in a country which formed part of India and in the development of which the Government of India and the people of India have taken such a remarkable part.

3. We desire to point to the fact that Indian commerce and industry, professions and service are very important interests of Indians. Though many Indians have made Burma their home, their business connections and family connections make it necessary to visit India at intervals. A

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considerable number of Indians have to come to India for shorter or longer visits on account of business, or private requirements. It would, therefore be most objectionable in principle to discriminate against such Indians.

4. We therefore strongly advocate that paragraph 3 (ii) (a) mentioned should apply to Indians generally, with a proviso that so far as Indian immigrant labour is concerned it may be regulated through a Labour Convention between India and Burma.

VII.—Languages of the Indian minorities in Burma.

1. We desire to make the request that the languages of the Indian minorities in Burma, which are now recognised by law, may continue to be recognised under the Constitution Act.

2. If this be not done, we are apprehensive of discriminatory legislation being passed at some future date, which may have the effect of removing the recognition at present given to our languages. Such removal of recognition would mean that schools for such languages would not come within the competency of the educational authorities, and therefore no grant may be made to such schools; secondly, interpreters in court for such languages may be done away with. These are but two examples of how the removal of recognition of these languages may effect the Indian community.

VIII.—Discrimination in Government service.

1. We are apprehensive that in future there may be a great deal of discrimination even against those who are born in Burma and those who belong to the Indo-Burma class, as regards their entry into Government service.

2. We therefore request that minority communities may be represented by at least one member on the Public Services Commission to be formed under Proposal No. 100 of the Burma White Paper.

IX.—Discrimination in matters connected with Education.

1. We state that there is a strong feeling in the Indian community that their vernacular education is not supported by the educational authorities, i.e., Local Educational Boards, to the extent that their number and interest justify.

2. They find great difficulty in getting their schools recognised, and if they are recognised, to obtain sanction of adequate teachers and their salaries, or at least in the proportion given to Burmese schools.

3. The Educational Boards fall under two categories—those constituted under the Local Self-Government Act, and those coming under different municipal Acts, for instance, of Rangoon, Moulmein, etc.

4. We desire that some safeguard be created in this respect, either in accordance with paragraph 85 of the Report of the Burma Round Table Conference, or through the creation of special responsibilities of the Governor in this respect.

5. In case some safeguard as above is provided, machinery would be needed whereby effect could be given to a decision by the Governor, or a decision arrived at through other means, in respect of Educational Boards, whether controlled by District Councils or by Rangoon Municipality or other municipalities.

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“ B ” Representation of Indian Minority in the Lower House

I. At the outset the signatories desire to state that the “ Memorandum on the Representation of Minorities and on the Constituencies and Franchise of the Lower House, and proposals for the Upper House ” issued by the Government of Burma to some individuals was marked “ Strictly Confidential. ” As a result, contents of the Memorandum until very recently were known to a few.

II. Representation of Indian Community in the Lower House.

(a) Record A1 (II) (Joint Committee on Indian Constitutional Reform, Session 1933-34), para. 27 (ii), sets out the representation given to Indians on population basis of 7.7 per cent. which gives to Indians ten general seats.

(b) Two labour seats for Indians are also provided for (reference para. 6 (4)—Record A1 (II) (Joint Committee on Indian Constitutional Reform, Session 1933-34)), which, however, are to be included in the ten general seats provided on population basis.

(c) Under para. 6 (5) of Record A1 (II) (Joint Committee on Indian Constitutional Reform, Session 1933-34)—Representation for Commerce and Industry—Burma Indian Chamber is given two seats.

(d) Summary, para. 7, Indian community is given twelve seats in all.

III.—(1) We join in the opinion expressed by the Burma Chamber of Commerce that the representation of the minorities is insufficient.

(2) We agree generally with the Burma Chamber of Commerce, Rangoon, in their Memorandum, Annexure VI to Record A1 (II) (Joint Committee on Indian Constitutional Reform, Session 1933-34) that “ the case of the Karens, however, is entirely different from that of the other minorities, ” i.e., Europeans, Indians, Chinese and Anglo-Indians.

(3) We agree with the statement made in para. 13 of the above quoted Memorandum and regret that though there shall be 132 elected seats as against 88 non-official seats in the present House, not a single seat out of the 44 increased seats would be given to Europeans, and we add, to the Indians.

(4) Equally with the Europeans we are aggrieved and contend that the drastic reduction of minorities from 24 per cent. in the present House to 17 per cent. in the future House does not seem to be justified by any line of reasoning.

IV.—(1) We maintain that the twelve seats given to the Indians is an inadequate representation of Indians in a House of 133 for the following reasons:—

(a) In the present House of 103, Indian Community is already represented by twelve seats as follows:—

	Seats.
(i) General—Urban	8
(ii) Special—Indian Chamber of Commerce	1
(iii) Nominated—Labour	1
(iv) Nominated	2
Total	12

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(b) Twelve seats in the present Council of 88 elected members forms 13·64 per cent., and of 103 members, including the official bloc and nominated members, 11·64 per cent.

(c) In an elected House of 133 seats, twelve proposed seats for the Indian Community forms 9·02 per cent., a reduction of 2·62 per cent. or 4·62 per cent.

(d) On behalf of the Indian Community we strongly protest against such reduction in the proposed Council, and inadequate representation given to the Indian Community. We refer to the protest made by Mr. A. Chandoo (Annexure IX of Record A1 (II) (Joint Committee on Indian Constitutional Reform, Session 1933-34)).

V. The proposal of the Secretary of State in Record A1 (II) (Joint Committee on Indian Constitutional Reform, Session 1933-34), para. 27 (ii), is: "Having regard to the conflicting considerations to be taken into account in regard to the Indian Community, it is proposed to allot to it a general representation proportionate to its population of 7·7 per cent., i.e., ten seats, these to include the two constituencies to be created for Indian Labour. This may be regarded as ample representation for a Community of which at least half consists of migratory labour."

(a) We will take the last statement first and definitely say that "at least half" does not consist of migratory labour. Approximately 300,000 labourers come into Burma, and the same number goes out every year. Therefore migratory labour at most forms $\frac{1}{4}$ th part of the Indian plus Indo-Burma population, as will be shown below. It may be stated that the census was taken at a time when most of those who were to return had already gone to India.

(b) Secondly, we state that the ratio of 7·7 per cent. on population basis is incorrect for the following reasons:—

(i) It will be noted that till now the Indo-Burma races have been included in the Indian electorate;

(ii) the request of the Indo-Burmans for a separate electorate was rejected as in para. 23, Part II of the Secretary of State's Record A 1 (II) (Joint Committee on Indian Constitutional Reform, Session 1933-34).

It is thus obvious that Indo-Burma races must be included in the Indian population for calculation of seats on population basis.

(iii) According to para. 27 (ii) of the Secretary of State's memorandum, the total Indian population was 955,300 out of 12,358,000. We contend that for divisional Burma, Indian population for electoral purposes was as under (vide Imperial Table VII 1-B. Census 1931).

Indian Hindus	...	...	...	...	...	...	538,650
Indian Muslims	...	...	...	...	...	...	391,558
Other Indians	...	...	...	...	...	...	53,330
							983,538
Indo-Burma races	...	...	...	...	...	...	180,733
							1,164,271

(iv) The difference between population in Divisional Burma and that in Elective area being only 27,000, this difference for purposes of calculation is ignored.

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(v) 1,164,271 Indians plus Indo-Burmans form 8.88 per cent. of 13,102,000 population of Divisional Burma.

(vi) Difference between percentage given for elective area, i.e. 7.67 and 8.88 is 1.21. If 1.21 is added to 7.73 to get an approximate correction of percentage under area made into constituencies, percentage of 8.94 is obtained, instead of 7.73.

(vii) Therefore on 8.94 per cent. basis Indians should be given 12 seats.

(viii) The population of Karens is 1,100,200 and that of Indians is 1,164,271. On the basis of the seats given to Karens, i.e., 12 seats, the proportion of seats to be given to Indians is at least equal to the Karens, i.e., 12 seats on population basis.

(c) We contend that there is no justification for including two Labour seats within the general seats based on population basis, as proposed in Record A1 (II) (Joint Committee on Indian Constitutional Reform, Session 1933-34) because:—

(i) Labour seats are considered to represent special interests.

(ii) The election will be on a different basis, with its own electorate.

(iii) Therefore Labour seats must be treated as representing special interests and must not be included within the number based on population basis.

VI. We endorse the following views so ably expressed by the Burma Chamber of Commerce:—

(i) "It may be said without fear of contradiction that the country has been brought to its present stage of development by the enterprise and capital of the European, Indian and Chinese communities under sound administration. The whole economic structure of Burma to-day is based on a framework of an industrial, trading and banking organisation created by these minorities."

(ii) "It follows that these minorities, and the great commercial interests involved are politically in a very exposed position, etc."

(iii) "As compared with most of the Indian provinces there is ample room for giving weightage to minorities in Burma."

VII. At this stage we would state the main interests of the Indian community, and briefly indicate the difference between the interests of the Indian and European communities. The interest of the Indian community lies in professions, service and labour, and in property, commerce and industry and agriculture.

(i) So far as professions and liberal arts are concerned, earners and working dependants are indicated by the following figures (1931):—

	<i>M.</i>	<i>F.</i>
Total	175,724	23,166
Indians	11,400	600
Europeans	500	536
Anglo-Indians	423	812

The Europeans are generally highly placed, with European qualifications, whilst the Indians in the majority of cases are not so well placed, have a harder life, and have either Indian or Burmese qualifications. From the point of view of their number and diversity of profession they have a larger interest than the Europeans.

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Public administration.

(ii) *Service.*—The following figures set out the comparative position:—

	<i>M.</i>	<i>F.</i>		<i>M.</i>	<i>F.</i>
Total	44,479	388	Indians born in ...	993	19
Indians	14,559	92	Indians born out ...	12,742	68
Europeans	359	6	Indo-Burma	864	5
Anglo-Indians ...	725	50			

The Europeans in public administration almost all hold high positions, and are under the direct protection of the Secretary of State for India. The Indians on the other hand, in the majority of cases, are in the provincial services, and they are more exposed to the change of political conditions than the Europeans. Attention may be drawn to the fact that there has been an alteration in the compilation of the census of 1931 to include working dependants. Therefore, the 1921 census gives a clearer picture of those in service. Table XX, part III. (These do not include dependants.)

	<i>M.</i>	<i>F.</i>		<i>M.</i>	<i>F.</i>
Total	33,242	992	Burma Muslim	450	18
Indians	5,052	56	Indians born in ...	555	13
European and allied races	293	8	Indians born out...	4,047	25
				5,052	56

(iii) (a) *Industry.*—Earners and working dependants (1931).

	<i>M.</i>	<i>F.</i>		<i>M.</i>	<i>F.</i>
Total	309,400	35,500	Indians born in ...	5,500	1,600
Indians	102,200	7,600	Indians born out...	93,000	4,000
Europeans	645	15	Indo-Burma	3,700	2,000
Anglo-Indians	650	59		102,200	7,600

(b) *Trade.*

	<i>M.</i>	<i>F.</i>		<i>M.</i>	<i>F.</i>
Total	266,000	291,000	Born in	6,647	2,500
Indians	97,030	11,366	Born out	84,000	3,000
Europeans	698	59	Indo-Burma	6,383	5,866
Anglo-Indians ...	554	155		97,030	11,366

These figures show a very diversified and much extended interest in industry and trade of the Indian community, as against compact trade of the Europeans.

(iv) Since the British occupation of Burma, in the opening up of the country, the British subjects of United Kingdom have played a great part, but at the same time it cannot be denied that the Indians have taken at least an equal if not a greater part. Whilst the British have opened out Oilfields and worked Mineral Mines and Forests, through capital, it would have been impossible for them to have done so without Indian labour. Whilst the Railways were capitalised by the British, the labour was entirely Indian; whilst British capital supplied steam launches on the rivers, the labour again was Indian; whilst rice mills and saw mills were first started by the Britishers, labour was supplied by India. At the same time Indians also opened up the forests and worked rice mills and saw mills and started

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other industries. Immense amount of Indian capital has been invested in such concerns, and it is a known fact that all industrial labour in Burma is Indian. On the other hand we make bold to say that Indian labour and Indian capital has very largely benefited and expanded agriculture in Burma, in comparison with British capital and enterprise. British capital, if it has been invested in agriculture has been so invested only through Indian Bankers who have shouldered all the risks of a credit so uncertain as agricultural credit. It was Indian capital which opened up the Delta and many areas on the new Rangoon Mandalay line even before the Railway was laid, and from swamps turned them into huge rice-producing areas which have so largely benefited the European Exporters and Industrialists. Whilst British merchants have been the Importers, the Indian merchants have been the distributors bearing all the risks of credit. The present vast dimensions of the British import trade, if not wholly, are mainly due to the enterprise of the Indian merchants who have carried the British goods to the remotest corners of Burma.

(v) To recapitulate, Indians numerically are more largely interested in professions and Liberal arts, and perhaps their total interest in this respect may be larger than that of the Europeans. In public administration again their numerical strength is much larger, but conditions of service give them much less protection than the Europeans; in trade and industry the number of those working in it are considerable; although the interest of the Europeans in trade and industry is very extensive and vast it is compact and well guarded, whilst the interest of the Indians is diffused and spread out to the most interior areas of Burma, and it therefore carries much larger risks; whilst Indians are labourers, Europeans are large employers of labour, and in the agricultural field Indians are bankers, owners of land, cultivators, cultivating tenants and agricultural labourers. Therefore whilst appreciating and fully realising the great part that has been played by European capital and organisation, we desire that the part played by Indian capital and labour may be appreciated equally, and we claim that it is the right of the Indian community to receive a larger and fairer representation than has been proposed.

VIII. The minorities are represented in the present Burma Legislative Council as under:

Europeans	7
Karens	5
Indians	12
Anglo-Indian	1
Chinese	1
Special interests	4
	30

Out of 30 seats Indians have 12 seats. If the present 14 official seats are proportionately distributed amongst the minorities and interests, Indians would get 6 seats.

IX. Therefore we desire that Indian community be given:

- (1) Seats on population basis of 9 per cent.
- (2) Labour seats be not included within the number based on population basis.
- (3) Proportion of seats out of the official bloc of 14 as per VIII above.

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X. Out of the increased number of seats, we press that one more seat be given to the Nattukottai Chettiyar Association for the following reasons:

1. The Nattukottai Chettiyar Association, Rangoon, has a membership of 1,300 Chettiyars.

2. It has been recognised as spokesman and custodian of Chettiyar interests in Burma.

3. It was given the privilege of nominating a member to the Burma Provincial Banking Enquiry Committee, and also to the Agricultural Debtors' Protection Committee, Burma.

4. The Chettiyar community has held a unique position during the last 70 years in the economic life of Burma and has contributed largely to the development of the agricultural, industrial and economic growth of the country.

5. The existing financial state of the Chettiyar firms in Burma has been put down at about 75 crores of rupees. (Ref. p. 211, Vol. I of Banking Enquiry Report, Burma.)

6. This large interest is spread over almost every economic life of the country. The Banking Enquiry Report states that "the internal and external trade of the country would break down, and the rice crop could not even be produced" without this financing agency. (Page 190, Banking Enquiry Reports, Burma, Vol. I.)

7. It may be mentioned that in Madras the Nagarathar Association representing the Chettiyar community is treated as a "special interest" and has the right to elect one member to the Legislative Council.

XI. We submit, even if the representation of the Indian Community is increased in the manner proposed, and even if the representation of other communities is increased, the total strength of the minority seats will be far below the total strength of the majority seats, and there is no cause for fear that any combination of minority groups could out vote the majority group.

XII. The last point that we desire to press upon the Joint Select Committee is that the change of political conditions of Burma, i.e., separation (if separation takes place) plus further reforms, fundamentally alters the political status of Indians in Burma, and new conditions of things are likely to affect them to a larger degree than to any other community. Greater representation of the community in the Lower House is one of the means of allaying genuine apprehension and anxiety which the question of separation is causing them.

On behalf of the Indian community of Burma, we press for a substantial increase in their representation in the Lower House.

**RECORD CONTAINING MEMORANDA
SUBMITTED TO THE JOINT
COMMITTEE ON INDIAN CON-
STITUTIONAL REFORM BY THE
DELEGATES FROM BURMA ON
THEIR DEPARTURE**

[SESSION 1933-34]

Die Veneris, 16^o Martii, 1934

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