

B3

JOINT COMMITTEE
ON INDIAN CONSTITUTIONAL REFORM

[SESSION 1933-34]

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SUPPLEMENTARY

MEMORANDA

submitted to the Joint Committee on

**INDIAN CONSTITUTIONAL
REFORM**

BY THE DELEGATES FROM BURMA

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JOINT COMMITTEE ON INDIAN CONSTITUTIONAL REFORM

SUPPLEMENTARY MEMORANDA SUBMITTED TO THE
COMMITTEE BY THE DELEGATES FROM BURMA
COMMENTING ON MEMORANDA SUBMITTED BY
MR. K. B. HARPER ON TRADE RELATIONS BETWEEN
INDIA AND BURMA AND ON COMMERCIAL DIS-
CRIMINATIONS. (Vide Record B2, pp. 49 and 67.)

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I

Memorandum by U Chit Hlaing, M.L.C., on the Memoranda submitted by Mr. Harper

(Vide Record B2, pp. 49 and 67)

Mr. Harper's Memorandum on trade relations between India and Burma in the event of separation appears to me to be a striking corroboration of the demand of the Burmese anti-separationists that Burma should not be separated from India. The fiscal, economic and financial reasons, among others, which persuaded our anti-separationists to oppose separation have been, I am afraid, ignored until recently by all those who championed the cause of separation, or who, like the Europeans in Burma, followed in the wake of the Separationist Party.

Our anti-separationist parties have always realised the immense part which the economics and finances of a country play in its political development, and it is because we feel that no amount of trade agreements with their technique of formulas, certificates of origin, etc., can help Burma, once she is separated from India, that we have thought it our duty to oppose separation. Our conviction that the vast majorities of the people of Burma are opposed to separation was corroborated by the results of the elections when over 500,000 electors cast their votes against separation as compared with half this number in favour of separation. Such an overwhelming majority in the country was also reflected in the Council, but as a result of intrigues and manoeuvres into which it is not necessary to enter now, the Council was prevented from recording in clear terms the definite verdict of the electorate that Burma should not be separated from India. The situation has, however, cleared up during the last few months, and Dr. Ba Maw and I were voicing the verdict of the majority of the people of Burma when, before the Joint Select Committee, we insisted that "We are fully prepared to enter into the Indian Federation unconditionally and accept the division of the powers between the Centre and the Units of Federation".

Whilst on this point we must painfully draw the attention of the Joint Select Committee to the fact that, though we have been pressing for affording the anti-separationists an opportunity of discussing the question of Burma's entry into the Indian Federation ever since the inception of the Indian Round Table Conference discussions, this request remained unheeded up to the last, and the anti-separationists were prevented from presenting their case before the Round Table Conferences and the Joint Select Committee when the delegates from India were sitting with it. This partiality towards separation has also stood out very prominently in the fact that, though the Secretary of State for India has published from time to time various documents dealing with the position of Burma after separation, not a single memorandum has been prepared so far as we know to show the position of Burma as an autonomous member of the Indian Federation.

Nevertheless it is necessary for us, the anti-separationists of Burma, to give an indication to the Joint Select Committee of how Burma should be provided for in the forthcoming federation. As regards the Federal Legislature we claim that Burma should be treated as one of the major provinces

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and allotted no less than 25 seats in the Federal Assembly and 18 seats in the Council of State. As regards the composition of the local Burma Legislature, it is presumed that the proposals made by Government in this connection will apply to federated Burma as well. I might here add that we are perfectly prepared to accept the position that in the event of federation the local Burma Legislature should have only those powers that are conferred on the legislatures of the major provinces in India. It is, doubtless, essential that certain adjustments will have to be made in the matter of allocation of revenues between the Federal Government and Burma as a federal unit. These adjustments are more essential in so far as the finances of Burma are to-day in a very precarious condition. As a matter of fact, the recent discussion in the Burma Council on the question of the assignment to Burma of 50 per cent. of the export duty on rice has made it clear that the whole Council, including even the separationists, has become aware of the economic advantages of federation, and we hope that when the question of Burma's entry into the Federation is considered her claim in connection with the assignment of the excise-duty on kerosene and petrol consumed in Burma as also on the income tax levied on personal incomes, etc., will be favourably considered and the province provided with an opportunity of proper development as an autonomous federal unit. It is hoped that the policy of Burma remaining as a part of India advocated by our anti-separation parties, if adopted by the Joint Select Committee, will result in so satisfactory a solution of the economic and financial problems of Burma that the details contained in the Memorandum submitted by Mr. Harper will not require any further consideration.

II

**Memorandum by U Ba Pe, U Thein Maung, Dr. Ma
Saw Sa and U Shway Tha in reply to Mr. Harper's
Memorandum on Trade Relations between
India and Burma**

(Vide Record B2, page 49)

The importance of preserving the existing fiscal relationship in respect of the exchange of indigenous articles of trade between India and Burma is recognised by us. We generally support the recommendation of the Burma Sub-Committee of the first Indian Round Table Conference that it may be found possible to conclude a favourable Trade Convention between India and Burma, that a Trade Convention would benefit both countries and that Separation should cause a minimum disturbance of the close trade connection that exists between the two countries. In view of this recommendation and in view of the fact that the currency system of India and Burma would be linked up for some time to come, we agree that there should be a trade agreement between the new Government of India and the new Government of Burma and that in the meanwhile the existing relations should be maintained.

2. With reference to the suggested formula, we cannot agree to para. 111 (2) (b), as it will have the effect of perpetuating protective duties in favour of India, such as iron, steel and cotton piece goods, and thereby defeat one of the principal objects of Separation. There are no protective duties in India, for instance on rice, for the benefit of Burma to justify the suggestion on the ground of mutual benefit.

3. As regards the comparative bargaining powers of the two countries, we are of opinion that Mr. Harper's argument is based on a wrong premise.

A comparative study of the imports of the two countries for the last five years shows as follows:—

In Crores of Rupees.

—	1928-29	1929-30	1930-31	1931-32	1932-33
Burma's total imports ...	35	35	27	20	19
Burma's imports from India OR	14 40%	14 40%	11 40%	10 49%	9 45%
India's total imports ...	266	251	172	138	144
India's imports from Burma OR	34 13%	32 13%	24 14%	32 16%	22 15%

From this table it will be seen that an average of 43 per cent. of Burma's imports came from India as against an average of 14 per cent. of India's imports which went from Burma. Of these (Burma's export into India or

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India's import from Burma) the main item is rice; 16·7 crores in 1928-29, 13·7 crores in 1929-30, 9·5 crores in 1930-31, 9·3 crores in 1931-32 and 7·9 crores in 1932-33. The fall in value from 1933 onwards is due to the lower price of rice, though the quantity in tons is on the increase. At the Imperial Conference held in London in the year 1930, His Majesty's Government declared that they were opposed to any policy involving duty on food-stuff and raw materials. Burma being an agricultural country, her exports into India are rice (food-stuff) and other raw materials such as skin hides, etc., and thus Burma has no cause to be alarmed at a tariff wall, if that declaration is given effect to, as it should. India buys Burma rice simply because it is the cheapest available in the market, and as Burma has the nearest port to India she stands a better chance in all trade competitions for rice.

That India can and will produce more rice with a view to be independent of Burma rice is easier said than done because it will be economically unsound for India to do so. Paddy cannot be grown at all places in India with a lower incident of cost than that of Burma. Though India has been following a steady programme of agricultural expansion, the import of Burma rice as shown in Mr. Harper's note has not decreased. It is also beneficial to India to export its own rice and import Burma rice for its consumption, as done by farmers of Ireland. The demand for rice in India is so great that she has to buy not only from Burma but also from Siam, Indo-China and occasionally from Japan.

From the comparative statement shown below it will be found that the acreage of paddy lands and yield of rice in all India has been steadily increasing. Burma's acreage on the other hand has shown a decrease. It is due to the fact that the growing of paddy has been found not so profitable as it used to be and consequently Burma's exportable surplus of rice is bound to decrease in the near future.

	1929-30	1930-31	1931-32
In million acres	80.6	82.7	84.0
In million tons of rice produced in India	31.1	32.2	32.8
Import of Burma rice in tons only ...	902,953	810,979	1,036,899
In million acres in Burma	12.9	13.0	12.5

Further, if India refuses to buy Burma rice, as Mr. Harper fears, Burmans will not be the only sufferers. With the shrinkage in paddy cultivation, the immigrant Indian labour now required for harvesting purposes will not be required; the scope of Indian merchants and bankers now doing business with the Burman agriculturists will be considerably reduced; the Burman agricultural labourers thrown out of employment will rush towards industrial centres and claim for work from Indian labourers now being employed, the result would be that the Indian labourers will have to make legitimate room for the indigenous labourers. Consequently the Indian labourers will be thrown out of employment and incidentally check the inflow

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of future immigrant labourers. We do not think, therefore, that the Indians in India will refuse to buy Burma rice, as Mr. Harper fears, since it will have an adverse effect on their brethren in Burma.

With regard to Mr. Harper's attempt to run down Burmese labour, we are of opinion that Mr. Harper has not stated the matter fairly. That Burmans took to stevedore and wharf labour recently is partially true, but since then they have proved themselves equally efficient, as can be seen from the comparative statement below, obtained as a result of competition by one stevedore:—

S.S. Tonson Maru—loading by Burmese labourers.

5-6-30—2,028 bags by 2 Burmese gangs.
6-6-30—726 bags by 1 Burmese gang.
7-6-30—1,924 bags by 2 Burmese gangs.
8-6-30—No work done. No cargo.
9-6-30—1,512 bags by 2 Burmese gangs.
10-6-30—1,397 bags by 2 Burmese gangs.
11-6-30—No work done. No cargo.
12-6-30—No work done. No cargo.
13-6-30—No work done. No cargo.
14-6-30—1,790 bags by 2 Burmese gangs.
15-6-30—No work done. No cargo.
16-6-30—6,347 bags by 3 Burmese gangs.

In 7 days, 14 Burmese gangs completed 15,714 bags.

S.S. Moiwu Maru—loading by Indian labourers.

5-6-30—1,076 bags by 3 gangs.
6-6-30—4,524 bags by 4 gangs.
7-6-30—1,846 bags by 2 gangs.
8-6-30—2,284 bags by 2 gangs.
9-6-30—1,064 bags by 1 gang.
10-6-30—4,157 bags by 4 gangs.
11-6-30—1,566 bags by 2 gangs.
12-6-30— 652 bags by 1 gang.
13-6-30—1,126 bags by 1 gang.

In 9 working days, 20 Indian gangs completed 18,291 bags.

Result at a glance.

Burmese—14 gangs	Indian—20 gangs
1122.4 bags per gang or 2244.85 bags per day	914.6 bags per gang or 2072.3 bags per day

The result of this competition was published in all the local daily papers and its correctness has never been challenged by the detractors of Burmese labour. That competition took place in 1930, and at present we can assert with confidence that Burmese stevedore or wharf labour is in no way less

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efficient than Indian labour. From the above it will be seen that there need be no fear of lack of sufficient labour in Burma on account of Indians stopping their immigration into Burma.

During the world's war of 1914 the ability of the Burmese as mechanics was recognised and much praised. Thus with the advance and increase in the mechanisation of labour, the industrialists in Burma have no cause for alarm for dearth of efficient labour.

Mr. Harper's statement that the outturn of the Burmese labour employed at the Port of Rangoon has been found to be 45 per cent. that of Indian labour is true, but the comparison was not on a fair and equitable basis. It related to one kind of cargo only, namely, loading and unloading of zinc concentrates. This particular type of work can be done best by a class of Indians known as "Nagas." Neither Burma labourers nor any one of the other classes of Indian labourers known as "Telegus" and "Tamilians," who, from the greater majority of labourers employed at the Port, can do that work as well as Nagas.

Furthermore, Burmese labour had to work against prejudice and vested interests in that the supervising officers are Indians and it is, in fact, due to subtle methods employed by Indian supervising officers as hinted by Lord Salisbury in question 15,416 of A 68, that the Burmese labourers showed such a bad result.

We are of opinion that Burma has an equally strong bargaining power and we cannot therefore agree that Parliament should fetter the future actions of the new Governments of India and Burma.

We, however, have no objection if Parliament would accept the responsibility of arbitrating on points of difference as regards the first trade agreement between the two new Governments.

(Sgd.) U. BA PE.

(Sgd.) U. THEIN MAUNG.

(Sgd.) DR. MA SAW SA.

(Sgd.) U. SHWAY THA.

III

Memorandum by U Ba Pe, U Thein Maung, Dr. Ma Saw Sa and U Shway Tha in reply to Mr. Harper's Memorandum on Commercial Discrimination

(Vide Record B2, page 67)

We have already set out our views on this subject in Appendix A to our joint memorandum; and the following replies to the more important contentions of Mr. Harper should be read with the said Appendix.

Paras. 5 and 6 of Mr. Harper's Memorandum.

The distinction between British subjects in general and British subjects domiciled in the United Kingdom is obviously intentional. This is as it should be, and we are strongly opposed to the suggestion that they should be treated alike in all respects, i.e., to the suggestions for amendment of para. 3 (1) of Memo. A 68. We even object to the clause as it stands as we are of opinion that it gives undue advantage to other British subjects instead of enabling Burma to negotiate with other parts of the British Empire on equal terms.

Paras. 9 and 10.

We are against the proposed amendment. "Civil Rights" are too wide, and it is better to confine the safeguard to certain specified rights.

Para. 11 (a).

We are against the suggestion that companies which are merely trading with Burma should have the benefit of the same safeguards as companies which are trading in Burma. The difference in the interests that the companies have in the country and its people is quite obvious. Besides, acceptance of the suggestion would in actual practice mean extending the benefit of the safeguards to all and sundry companies.

Para. 11 (b).

Please see our remarks on Clause 3 (iii) in our joint memorandum.

Para. 12.

With reference to debenture holders it should be made clear that requirement of the debentures being thrown open, in the first instance, to the people of Burma is no infringement of the safeguard.

Paras. 15 and 16.

We are against the proposed amendments. The original provision with our amendment will not prevent employment of foreigners in technical and scientific work so long as facilities are provided for training Burmans as well.

Para. 17.

The suggestion that the onus should be on the Government of Burma is absurd. Whoever challenges the validity of any piece of legislation or any act of administration as *ultra vires* should be prepared to prove that it is so.

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MEMORANDUM ON COMMERCIAL DISCRIMINATION.

Para. 18.

It is only a matter of prudence and not one for express provision in the Constitution Act.

Para. 19.

Reciprocity being of the essence of the matter, there is no reason for distinction between existing and future persons and companies.

Para. 20.

The discretion of the Governor-General of Burma should not be fettered; and the original proposal is quite clear.

Para. 21.

We strongly object to the suggested amendment. Nothing but discrimination against a class as such should require interference by the Governor-General of Burma.

Para. 23.

Exception (1). We support the Secretary of State and claim that the Government of Burma should have full liberty to shape its own land policy. Difficulties raised by Mr. Harper are purely imaginary. Besides we are not discussing any definite Bill prepared by the Government of Burma in exercise of its right to shape its own policy as yet.

Exception (3). We take very strong exception to the allegation that the proviso being made expressly in the Act would "encourage rebellion or some lesser disorder of the kind directed perhaps to political ends." The people of Burma have on the whole been law-abiding, and we are confident that they will be more so under a responsible Government. We think it is a distinct advantage to have a special provision under which the Governor-General can act instead of relying too much on the omnibus clause about his powers.

Para. 25 (a).

The same principles should apply to subsidies and protection by import duties, i.e., our observations as regards bounties and subsidies in connection with Clause 3 (vii) (2) of Memo. A 68 in Appendix A to our joint memorandum should be taken into consideration as regards import duties to be imposed after the enactment of the Constitution Act.

Para. 25 (b).

Government and other statutory bodies should have the right to give preference to companies which comply with conditions as to employment of Burmese labour, etc., as set out in Appendix A to our joint memorandum under Clause 3 (ii) (b) and 3 (iii).

Para. 25 (c).

Please see Appendix A to our joint memorandum under Clause 3 (iii) and 3 (vii) (2).

Para. 28.

We are against the suggested amendment, "Any matter relating to status or civil rights" being too wide and dangerously vague.

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Paras. 29 and 30.

We agree with the Secretary of State and we are of opinion that Mr. Harper is expecting trouble where there can be none. There is no necessity for express provision in the Constitution Act or the instrument of instructions.

Para. 36.

We are against the suggestion. Clause 5 of Memo. A 68 should be left as it is in order that the Government of Burma may be able to negotiate with the Governments of the other parts of the British Empire on an equal footing.

Paras. 37-39.

We attach the greatest importance to the proviso that it shall be open to Burma to require additional qualifications from new entrants to professions which are justified by the special needs of conditions in Burma.

Paras. 41 and 42.

We are against the suggestion that statutory power to control immigration should be withheld until India and Burma have tried to come to an agreement. Mr. Harper admits that there should be some means of controlling labour immigration from India into Burma. He also admits that the best solution is an Immigration and Emigration Convention; and no satisfactory convention can be expected unless both parties have full powers.

Para. 43.

Please see Part B of Appendix A to our joint memorandum.

(Sgd.) U BA PE.
(Sgd.) U THAIN MAUNG.
(Sgd.) DR. MA SAW SA.
(Sgd.) U SHWAY THA.

IV

**Memorandum by Mr. N. M. Cowasjee, on the
Memoranda submitted by Mr. K. B. Harper to
the Members of the Joint Parliamentary
Committee**

(Vide Record B2, pp. 49 and 67)

1. From a perusal of Mr. Harper's memorandum on trade relations between India and Burma in the event of separation, I am convinced that separation is economically unsound. There are a great many difficulties in the way of the negotiation of a trade agreement satisfactory to both sides. Leaving aside the intangible element of goodwill, there might be a conflict of bona fide interests not only of trade and industry, but also of Government finance on both sides. Burma is now in a very advantageous position as far as her trade is concerned, in that, at a time of contraction of foreign markets, she has the benefit of a widening market for her products in India. Burma's annual exports of rice to India have averaged about 800,000 tons, but during 1933, a year when Burma had the record exportable surplus of 3,450,000 tons, and when rice was subjected to restrictions in Japan, China, Java and Central European countries, her exports to India totalled very nearly 1,500,000 tons, so that she was saved the difficulties which would have arisen had an accumulation of unsaleable rice taken place. Burma will be giving up her vantage ground in this connection by separating herself from India.

2. During the current year exports to India form the outstanding characteristic of the rice market. The extent to which this privileged position would be threatened, in the event of separation, is already indicated by the beginnings of trade in rice between Siam and the East Coast of India. As Mr. Harper says, when Burma ceases to be a part of British India, it is quite possible that India's rice policy might change, and such a change is bound to react unfavourably on Burma. I need not emphasise the importance of the Indian market to both Burma kerosene and Burma timber.

3. Burma is too small a country to attempt experiments in economic self-sufficiency, and in view of the great dependence of Burma on the Indian markets, it appears to me that it would be extremely unwise to decide on the separation of Burma and face all the economic consequence arising therefrom, merely on the expectation that a satisfactory trade agreement could be concluded. It appears to me to be suicidal to create new and unnecessary economic difficulties and then seek their remedy. Having regard to the present world conditions and the certainty of the policy of economic nationalism throughout the world being emphasised in the near future, the economic interests of Burma should be safeguarded by continuing her as a unit of the Indian Federation rather than by separating her from India and exposing her to a fresh economic crisis. I repeat what I stated in my speech at the opening session of the Joint Select Committee proceedings, viz., that separation is economically indefensible and financially not feasible. I will now deal with some of the provisions of the Secretary of State's Memorandum on discrimination in Burma.

4. *Proposal 3 (ii) (a).*—It has been proposed by the Secretary of State that while the right of entry into Burma of British subjects domiciled in the

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MR. K. B. HARPER TO THE MEMBERS OF THE JOINT PARLIAMENTARY COMMITTEE.

United Kingdom should be safeguarded against attack by the Burma legislature by the inclusion of the safeguarding provision 3 (ii) (a) in the constitution, a similar safeguard should be denied to British subjects domiciled in India. At the outset, on behalf of the Indian Community, I must protest against this proposal which is in direct contradiction to the pledge uttered by the Prime Minister on behalf of the British Government on the last day of the Burma Round Table Conference, when in the course of his announcement of the policy of the British Government in regard to separated Burma he stated that "the main principle to be followed must be that of equal rights and opportunities for any British subject ordinarily resident or carrying on trade or business (whether through the medium of branches or agencies or otherwise) in Burma; and the Governor should have power to secure that this principle is observed both in legislation and administration." The withdrawal from the Indian community of a safeguard guaranteed by the British Government on a par with the British subjects in the United Kingdom is bound to have very unwholesome effects upon the faith of the Burma Indians in the sense of fair play and justice towards their community at the hands of the Imperial Government.

I would therefore very earnestly request that equality should be guaranteed alike to the British Indian and the United Kingdom subjects in a separated Burma. The proposed differential treatment of the Indians is more deplorable as its intention seems to be to give the Burma legislature the power to control immigration of Indian labour. Assuming for a moment that the power of controlling immigration of labour should be given to Burma, the right of refusing entry to any or all classes of British Indian subjects is too wide a power to be entrusted to Burma Legislature for the achievement of a limited object and would, in no event, be countenanced by the Indian community in Burma.

5. I am in agreement with Mr. Harper in all that he says about the present position of and need for Indian immigrant labour in Burma. The continued availability of Indian labour in Burma, in the present circumstances, is absolutely essential to the preservation of the economic fabric of Burma, and in no sense can it be said to displace Burmese labour. The situation has not, therefore, arisen in which it is desirable to envisage control of Indian labour immigration.

6. There is another aspect of this labour restriction problem to which I would particularly draw the attention of His Majesty's Secretary of State for India. Even if a trade agreement which is deemed by all parties is satisfactorily negotiated, notwithstanding the strain on good-will which the threat of shutting out Indians will impose, the existence of the power of controlling entry is likely to cause friction in the working of the trade agreement.

In these circumstances I think that the problem of labour should be dealt with as and when it arises and in a manner different from that contemplated by the Secretary of State; but in any case I am of the opinion that statutory power to control entry of Indians should not be given to the Burma legislature, and I strongly urge the extension of the scope of safeguard 3 (ii) (a) to comprise British subjects domiciled in India along with those in the United Kingdom.

If, however, in spite of the joint opposition of both the European and the Indian in Burma, the power to control entry of British Indian subjects is to be given to the legislature, it is of the utmost importance, that such legislation should be subject to the prior assent of the Governor of separated

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Burma and that the Instrument of Instruction should make it clear that the Governor has a special responsibility in respect of this subject and that he should see that the right of such legislation is not abused.

Exceptions. Para. 3 (vii) (b).—This provision in the case of Burma is of much wider scope than the corresponding provision in the proposed clause to be included in the Indian Constitution. While in the case of India it is intended to save only laws in operation at the date of the passing of the Constitution Act, such as the Criminal Tribes Act, it is proposed in the case of Burma to legalise any law, rule or order at the date of passing of the Constitution Act, which has a discriminatory effect. This provision will in practice hit the Indian community in the matter of entry into services and practice of the professions. The inclusion of this clause nullifies the effect of the general declaration 3 (i) and the special safeguard 3 (ii) (b). I claim that the Indian community settled in Burma is entitled to get their due share of the appointments in the Public Services and to have no restrictions placed in the way of their carrying on any occupation or profession. Any administrative regulations and orders now in force in this connection should be repealed and the Burma Legislature should not have the right of nullifying the safeguards in the manner now proposed by the Secretary of State.

I oppose the inclusion of sub-section (d) (i), (ii) and (iii) in the constitution. The intention of this proviso is to declare that certain laws shall not be deemed discriminatory by reason of safeguards 3 (i), (ii), (iii) and (iv).

Under (d) (i).—No law will be deemed to be discriminatory on the ground only that "it prohibits the mortgage or sale of agricultural land to a member of a non-agricultural class, that is, a class of persons engaged in or connected with agriculture in that area".

I agree fully with all Mr. Harper says on this subject and I would add the following additional considerations which make the inclusion of this proviso in the constitution inadvisable:—

From the very inception when the Revenue Act came to be enforced so far back as 1876, the settled law of the country was, that any person who had been in possession of any cultivable land for 12 years continuously and having for that period regularly paid the revenue thereon, or held the same under exemption from revenue, was deemed to have upon the expiration of that period to acquire the status of landholder in respect of such land, and possession under Section 3 meant not only the possession of servant or agent, but also mortgagee.

By Section 8 of the Lower Burma Revenue Act the status of landholder was defined. And that section enacted that landholder shall have permanent, heritable and transferable right of occupancy in the land subject only to the payment of Government revenues. It is thus clear that not only the policy of Government, but the Statutory Law of the country, provided that anybody who was in possession for 12 years of an agricultural land, and paid the Government revenues thereon for that period, was entitled as a matter of right to transfer his land either by way of sale or mortgage and then vested rights have been created from the passing of the Act.

The following is a definition given of cultivator in Rule 50 A 5 in the Rules of the Administration of Government Estate:—

"Cultivator" means any person who by reason of earning his livelihood in whole or in part by personal labour in the cultivation of land is classified by the Manager as cultivator.

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The following is the definition given in the draft of the abortive Burma National Mortgage Bill, 1926:—

“Agriculturist” means a person who:—

“(a) is engaged or has habitually been engaged in the cultivation of land with his own hands as his principal means of subsistence; or

“(b) satisfies both the following conditions, viz.—

“(i) he superintends directly (i.e., not through an agent, tenant or employee) and from day to day continuously throughout the working periods of the year the actual cultivation of land and all the processes connected with and the treatment of the cattle and other equipment used therein; and

“(ii) he derives the major part of his income either from such superintendence of the cultivation of land or from the actual cultivation of land or such superintendence and actual cultivation jointly; or

“(c) is included in any class of persons which may be declared by the rules to be included in the term ‘Agriculturist’.”

It is to be presumed that the terms “bona fide cultivator” is used in the Draft Constitution in the sense in which it is understood by Revenue Officers administering Revenue Law under the Land Revenue Act and the rules and directions thereunder. If so, the term excluded all landlords who rent out their lands to tenants and also others who employ agents or others to supervise the work of cultivation.

It is clear from these definitions (which are likely to be followed) that the class of people who will be designated cultivators will be cultivating owners and tenants; for the most part, a moneyless class of people who cannot buy land. It follows from this that land will not be saleable. Chettyars and bankers who have strained their resources to finance agriculturists so as to keep them on the land and who might have taken over the lands for debt, but have not, will be penalised for their laudable efforts by not being able to realise the lands—if their efforts turn out to be unsuccessful and loans are unpaid; and those who have already taken over lands for debt will have the strongest possible reasons for retaining them.

But the effect on the agricultural industry will be disastrous. It will kill agricultural credit altogether, and as agriculture in Burma is industrialised and must live on credit, this industry will gradually decline and die out. The export trade will be the first to go as without such credit as is supplied by capitalists, crops will be grown for subsistence only and not for export. The exportable surplus is 3½ million tons, but as sources of credit become exhausted this surplus will gradually dwindle until it ceases to exist.

Crop loans would not be advanced if lands are not a marketable security as all lenders of crop-loans look to the land as their ultimate security for these advances in the event of default.

Various commissions and committees have reported to Government that what is needed is organised credit for agriculture. The Royal Commission on Agriculture and the Indian Central Banking Enquiry Committee and Provincial Committees have all urged the extension and mobilisation of agricultural credit, but agricultural credit cannot be organised if it has as a basis assets which cannot be marketed.

(d) (ii).—“No law will be deemed to be discriminatory for this purpose on the ground only that it recognises the existence of some right, privilege

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or disability attaching to the members of a community by virtue of some privilege, law or custom having the force of law."

This exception is too wide and its exact significance is not quite clear. To my mind the inclusion of a provision like this will encourage riots and rebellions with the object of securing rights and privileges or imposing disabilities. I have in mind the riot of 1930 in the City of Rangoon when normal conditions were returned only after Burmese labour obtained 50 per cent. quota of port labour.

At the moment of writing Burmese port labour in Rangoon, though admittedly inefficient and unsuited for the type of work, has put forward the demand that 100 per cent. of the labour should be handed over to them instead of the 50 per cent. now given. This necessitated extensive precautions by the police to prevent a disturbance of the peace.

This is a dangerous precedent of any constitutional provision which gives recognition to rights and privileges, secured by riots or threats of riots and disorder, would act as a direct encouragement to disorders in future of greater or less intensity. Mr. Harper's suggestion of the inclusion of the words "at the date of separation" after the word "existence" only mitigates my objection to the clause.

(d) (iii).—It is declared by the Governor "to be necessary in the interests of the peace and tranquility of Burma or any part thereof".

I agree with Mr. Harper that there is no need for this proviso in the Act.

In conclusion I would add that, though some of my suggestions would have the effect of precluding the future Legislature of Burma from undertaking legislation which the present Legislative Council is competent to pass. I would strongly urge that the new experiment of a separated Burma is fraught with so many dangers that all measures intended to protect the safety of the State and its economic well-being should be judged on their own merits.

Moreover, it is well known that, under the safeguards which are being introduced in the new Indian Reforms, the future Indian Legislature will find various subjects now legitimately within its field becoming *ultra vires* its competence.

It is therefore without the slightest hesitation that I suggest, for separated Burma the application of the conservative principles which seem to be the guiding policy of the British Government in connection with the future reforms in India.

N. M. COWASJEE.

Rangoon,

5th March, 1934.

V

**Memorandum by S. A. S. Tyabji on the Memorandum
by Mr. K. B. Harper on Trade Relations
between India and Burma**

(*Vide Record B2, pp. 49 and 67*)

The Memorandum on Trade Relations by Mr. K. B. Harper came to my hand on the 24th February, 1934, and on the same day I received a letter from the Reform Secretary stressing the need of early despatch of any views I desired to express on it. On the 27th (25th and 26th being holidays) I addressed a letter to the Reforms Secretary asking him if I could place this Memorandum before the Burma Indian Chamber of Commerce, and the Indian Association for eliciting their views, I was informed that the Memorandum was confidential till it was published.

I have, therefore, not been able to obtain the views of these two important bodies, and the views expressed herein are my own.

Prior to any definite conclusions being arrived at, it will be advisable to give an opportunity for public discussion of this very important question, which may affect differently sections of the mercantile community.

2. I generally agree with Para. I. Introduction.

3.—(i) I generally agree with Para. II, sub-sections 1, 2, 3 and 5.

(ii) *Reference Sub-Section 4—para. II.—(a)* Since Mr. Harper's Memorandum was written, a central tax at Rs.2/4 per gross boxes has been imposed. Therefore, there is now the provincial consumption duty of annas eleven per gross boxes, and the control excise tax of Rs.2/4 per gross boxes on matches to which customs duty is not applicable.

(iii) I would further add to the five fiscal conditions laid down by Mr. Harper—the 6th fiscal condition—though consequential, yet real:—that indigenous products—agricultural or manufactured—exported from Burma or India to India or Burma enjoy a preference against products of a similar nature imported by either country from any other country.

4.—(A) *Reference Para. III.*—I am in general agreement with the remarks made by Mr. Harper.

(B) *Ref. Suggested Formula.*—Section I.—(i) I understand that the intention of the formula is to maintain free trade (i.e., freedom from both import and export duties) between Burma and India in all indigenous articles and products.

(ii) Secondly, to confirm to the "existing relations" with regard to Fiscal conditions; therefore, to provide:—

(a) that after separation, the excise, consumption, or luxury duties on goods imported by one country from the other shall not be higher on imported products of the other country than on the indigenous products of the importing country.

(b) that the parity between excise, consumption, or luxury duties and customs duty on corresponding class of goods, shall be maintained in the future, i.e., in future the difference between excise duty and import

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duty on Kerosene Oil at 11½ pies, or 25 per cent. (whether 11½ pies or 25 per cent. must be definitely indicated) of the import duty, and on salt at 2½ annas per maund shall be maintained during the status quo period until the new Governments of India and Burma negotiate a Trade Agreement.

5.—(i) *Ref. to Section 2 of suggested Formula.*—This section states “India and Burma shall each be free to alter its Tariffs in respect of its trade with other countries.”

(ii) The consequence of this proviso are clearly foreseen, viz.: “to allow for the possibility of outside tariffs by either country having the effect of *adversely altering “existing relations.”* (Vide Chapter IV—Clause C.)

(iii) The effect of such a condition as would “adversely alter the existing relations” clearly cuts across the desire to maintain “existing relations,” as also across the spirit of the Trade Convention.

(iv) But the adverse effect of section 2 under discussion is somewhat reduced by the proviso (b) to it, i.e., that lists shall be prepared by the Government of Burma, and that Government of India, of, I presume, articles imported into Burma or India by the other, on which import duty now exists, on foreign articles, but shall not be reduced, except by agreement between the two Governments from time to time.

(v) Therefore, the vigorous effect of Section 2 under consideration would fall on those articles which are not so listed.

(vi) Therefore it becomes at once necessary to examine whether the making of such lists by the two Governments would be possible, and if so, what would the lists be like, and what would the residue be like on which the effect of the section is to fall with full vigour; and whether the effect on the residue, if adverse, would be severe in the near future.

(vii) For such a purpose a very complete classification of the Imports from India into Burma and the Exports from Burma into India and the cross trades with other countries for the year 1932-33 and previous years is required. For lack of time, this is not possible for me to do, but as a sample, I give figures for the trades between India and Burma for the year 1929-30 and 1932-33, which I hope will be found fairly accurate.

(viii) I have divided the imports from India, and the exports from Burma into India into the following classes:—

- (a) Natural and Raw Products for internal consumption;
- (b) Natural and Raw Products not for internal consumption;
- (c) Manufactured articles, including articles for internal consumption.

6. Pointing to tables A, B and C, attached as annexure I to this note, I wish to draw attention to the following clear facts:—

(i) That under each of the three sections into which I have divided the Export Trade of Burma (columns 5 and 6), it will be found that one or two groups make up the largest portion of the Trade of that section, whilst other groups under the same section show comparatively a small trade.

- For instance: (Figures are in Lacs).

In Section A, the export of rice accounts for Rs.1218.24 out of a total of Rs.1718.88 for 1929-30, and for Rs.739.40 out of Rs.969.15 for 1932-33, but the export of other articles which make up the balance, i.e., grain, pulse

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and flour, excluding rice, spices, fruits and vegetables and fish are of great importance.

(ii) On the other hand if the import from India (columns 1 and 2) is referred to, all the groups mentioned are important, though as compared to the value and volume of Export of paddy and rice from Burma to India, relatively they are small.

(iii) In Section B, Export from Burma to India (columns 5 and 6), timber is the one group of real value, whilst from articles imported from India to Burma, coal and coke is most important.

(iv) In the third, Section C, Mineral Oil and its products is the only important Burma group (columns 5 and 6). In 1932-33 out of a total of Rs.1544.73 of this section the sum of Rs.1481.66 was accounted for by this group. The only other articles of manufacture exported from Burma are matches and cigarettes, which seem to have the potentiality of development in the near future.

(v) On the other hand, under Imports from India, Textiles, metal ware and allied articles, manufactured articles for internal consumption stand out as of primary importance, whilst other groups as of secondary importance because of their present value and future potentiality.

7. Hereto, I attach the lists of articles of primary and secondary importance to India and Burma, as Annexure II.

8. *Excise and Consumption and Luxury Duties as per suggested Formula.*—If we now take the Burma List (annexure II), the justification for stabilising the “existing relations” as proposed in the proviso to the first part of the “suggested formula” is clear; and I agree with the first part of the formula, which would stabilise part of the present position of the following or those which come under this head on the day preceding day of Separation:—

	1929-30.	1932-33
Petrol	334.05	541.10
Kerosene	524.42	852.35
Sugar	3.31	2.14
Cigarettes	8.00	5.30
Matches	11.33	19.39
Silver (approx.)	100.00	100.00

9. After removing from the Burma list (annexure II) those articles whose “existing relations” are established through the first proviso to part I of the suggested formula, as per preceding para, the articles which remain on the list must be considered as to which of them be listed to form schedule B (Burma) of the proviso B to part 2 of the formula.

(i) Rice is the most important article of Burma's trade; as pointed out in Mr. Harper's Memorandum, and elsewhere, its position—as regards its export to India—is vulnerable. In the Legislative Council of Bengal and Madras questions have been raised of Burma rice depreciating the price of rice of those provinces. Large irrigation schemes in Sindh, the Punjab, United Provinces, Bihar, Mysore and in Hyderabad State will open out to rice cultivation extensive tracts of India; and may I repeat that the total export of rice from Burma forms but a minute proportion of the total rice production in India. Burma supplies rice to India, because of the present annual failure of crops in India. The position of Burma rice is insecure

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also because of the competition of rice from Saigon in Indian ports; it is possible that Japan will become a regular exporter of her surplus rice production in the near future. Therefore I say that the position of Burma's rice export to India is vulnerable, and "existing relations" must be established, if possible, with some further preference in its favour.

(ii) *Grain, Pulse and Flour.*—Cultivation of grain and pulse has been rapidly increasing. It has already reached a level, where one may legitimately say, it is sufficient to meet the total provincial requirement of Burma. I may here make the fact clear that out of this export trade of Rs.256.32 and Rs.109.47 wheat flour accounted for only Rs.2.14 and Rs.1.82 in 1929-30 and 1932-33 respectively. The volume of export of grain and pulse (excluding rice) was 71,000 tons and 72,000 tons in the two respective years.

Therefore, the balance of export trade in favour of Burma is large, and growing, and it will still expand provided "existing relations" are maintained.

It has to be noted that the Eastern Coast of India, particularly Karachi and Bombay are more and more supplied with grain and pulse from Mesopotamia, whilst the Western Coast is the natural market for Burma—provided existing relations are maintained; Starits and Saigon are her competitors, and if Burma has to compete on equal terms (because of reduction of duty) with these countries one can not but help thinking that her export trade would lose considerable ground. Therefore, "existing relations" must be maintained. There is another vital reason why Burma grain and pulse must have an assured market in India. She is dependent beyond the line of safety on rice. If her dependence on rice is to be reduced, increased cultivation of grain and pulse is one of the venue. Even if the existing relations with regard to rice are established, I submit it is a broken reed, and it is imperative to reduce Burma's reliance on rice.

(iii) Therefore I submit grain and pulse must make one of the items on the Burma schedule.

Fruits and Vegetables.—Comparatively it is a small item. Out of Rs.39.11 and Rs.36.04, values of export of 1929-30 and 1932-33, vegetables accounted for Rs.36.04 and Rs.34.47 for the respective years. The largest part of this group comprises of potatoes, which are cultivated in the Shan States. In former years potato was an imported article from India, mostly from Calcutta; since in cultivation in recent years in the Shan States, it is largely exported to Calcutta, and forms now one of the important and potential agricultural products of the Shan States. It has become an economic factor in the Shan States, and if, perchance, "existing relations" cannot be stabilised, the Shan States will receive a very severe shock in its present economic structure. Moreover, the increased cultivation of Fruits and vegetables is another venue, whereby Burma's dependence on rice may be reduced. In my opinion, therefore, this should make one of the items in Burma's schedule.

(iv) *Wood and Timber.*—India is the largest purchaser of Burma's wood and timber. The exports to India and other countries were as under:—

<i>Exports.</i>	1929-30.	1932-33
India	324.87	179.85
Foreign	147.83	43.37

It is necessary that this product of Burma should obtain a safe market in India, which has been her largest market for many years past. Even at present, though there is an import duty on foreign wood and

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timber, Teak from Siam is making headway in the Bombay and Madras Markets; if, on separation, the duty on teak is reduced on Burma teak and other timber have to compete on more equal footing with Siamese, Burma teak will find it difficult to compete.

Burma has sunk crores of rupees in the making of teak plantations; if she loses the market of India, the crores of rupees sunk in those forest plantations, can never be recovered.

(v) Therefore, I submit wood and timber must form one of the items on the Burma schedule.

Dyeing and Tanning materials, and Lac.—There are other forest produces, which largely come from the Shan States. On most of these items there is a 25 per cent. ad valorem duty on foreign products. Starits has been largely competing, even with 25 per cent. duty against her products. In Burma itself there is a small market for these products, and if the trade is ultimately lost, the economic effect on the people of the Backward Tract and Shan States would be considerable. It is true the trade in Lac has decreased to but one lac of rupees per annum, but I anticipate an improvement in its trade, provided that its present position is maintained. I am therefore strongly in favour of putting these on the list.

Note.—Since writing these a very brisk demand for Lac has sprung up in Bengal.

(vi) *Hides and Skins.*—This is a group which in former years was of considerable importance. In the year 1926-27 the shipments to India consisted of 1,591 tons to the value of Rs. 10.98, but the trade has dwindled down to the present value of Rs. 3.93. There is a small demand for its use in Burma itself, and I suggest that when an agreement is negotiated, India be induced to give Burma an opportunity of an export trade to India in it. I therefore suggest putting this on the list.

(vii) *Minerals and Ores.*—This is an important trade. The greater portion of its consists in exports of refined tin to India. If the duty on it is reduced, Penang and Singapore would probably take away the whole trade, as even at present their trade with India in tin block is large. Therefore I propose to place this on the list

(viii) *Candles, Paraffin, Lubricants, Oils and Other Mineral Oil.*—These are free of excise at present, and I propose their present position be stabilised.

(ix) *Vegetable Oil, Seeds non-essential and Spices.*—I propose to place these on the Burma List. Demand for these is considerable in Burma, as the imports from India prove. If the duty on these is reduced, the price of these commodities would be reduced, thereby a price war would follow between Indian and Straits import which would affect the agriculture of these products in Burma adversely. At present the cultivation of seeds and spices is increasing and the production of vegetable oil is also on the increase. Cultivation of seeds and spices must be increased in Burma to reduce its reliance on rice.

Para. 12.—I now propose to consider the question from the point of view of India, because it is necessary to realise that, and to make proposals in respect of Trade Convention which should be fair to India and Burma, for I can only visualise a Trade Convention between the two parties which is based upon the immediate requirements of trade of both, giving full

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consideration to their future requirements, and maintaining their self-respect, and fiscal powers obtained by each intact. Any Trade Convention proposed to India, which does not take into account her requirements of markets for her industrial products, would, if I know anything of India, be strenuously opposed. Any suggestion of superimposition of another will, even of Parliament, in fiscal matters, will raise a storm of resentment. Even if a Trade Convention is forced upon India by Parliament that Trade Convention, will, not only not achieve its objects, but may set up a reaction, and may mean a direct or indirect fiscal war between the two countries, and a continuous effort to get behind the letter and spirit of a Trade Convention by all means; and I cannot conceive of a Trade Convention which can stand such a strain. If under any forced agreement Burma rice is to be protected in India as against rice of other countries other than Burma, cultivation of rice in India can be urged which might inflict a lasting injury to Burma; production of other articles of very large importance to Burma, may be forced to expand in India. No one can legally object to such expansion of internal agriculture or industry, though the objective may lie clearly in nullifying the Convention. Such actions will have lasting effect.

If a Trade Convention is desired, then the basis of the Convention must be fair dealing between the two countries, so that, when it is proposed to India, she may at least feel that it is a straight deal. I would reduce bargaining to the minimum. Burma will come out worse in it. I propose to deal with the question on this basis.

13.—(i) I may at once make one point clear. The first part of the suggested formula deals with excise, consumption and luxury duties. So far as Indian articles imported into Burma are concerned, it affects only the importation of cigarettes and sugar. In terms of trade value, articles of each country imported by the other, conditions of which are stabilised are as under:—

	Burma.		India.	
	1929-30.	1932-33.	1929-30.	1932-33.
Salt	nil	nil	2.45	4.08
Petrol	334.05	531.10	—	—
Kerosene	524.42	862.35	—	—
Matches	11.33	19.39	—	—
Cigarettes	8.00	5.30	101.07	59.12
Sugar	3.31	2.14	5.42	4.05
Total	881.11	1,420.28	108.94	67.25
Silver (approx.)	100.00	100.00	—	—
TOTAL	981.11	1,520.28	108.94	67.25

(ii) In other words, India consents to stabilise condition of Burma imports, as to excise, consumption and luxury duties, to the tune of Rs. 981.11 and Rs. 1520.28 whilst Burma agrees to stabilise condition of Indian imports

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to the extent of Rs. 108.94 and 67.25 as per values of trade of 1929-30 and 1932-33 respectively. This result of the first portion of the formula must be clearly kept in mind.

14. I suggest a list of Indian articles of primary and secondary importance, which are exported to Burma as per Annexure II. The total comes to Rs. 1034.80 and Rs. 737.98; out of these must be deducted the articles which are stabilised by Part I of the formula (as per para. 13 (i)). This leaves Rs. 925.86 and Rs. 670.73 for the years 1929-30 and 1932-33 respectively. I suggest all the articles mentioned in the list as per annexure II therein except salt and cigarettes and sugar be put on schedule (India) as contemplated in proviso B to part 2 of Mr. Harper's formula.

15. I have selected these articles after a careful study of direct cross trades affecting each article, as between Burma and India, and Burma and foreign countries. I have, unfortunately, not the time at my disposal to go into the details of each article proposed to be put on schedule, but I think the list would fairly represent India's view point which I am considering. I have omitted coal and jute from the list, because these do not require protection.

Broadly speaking, however, the demand in Burma of India's agricultural products as shown by trade returns and in India for agricultural products of Burma is the general reason, apart from considerations of trade conditions, which have made me place the India's agricultural products on the list. As to manufactured goods, India's cotton textile industry and other industries are making a rapid headway. Just as India is the natural market for Burma's products, so is Burma the natural market for India's products.

A study of the trade has shown me that just as Burma's goods need protection from goods of other countries, and that if her goods had to compete on equal terms with those of other countries than India, Burma's goods may not be able to hold the market; so India's goods need protection from goods of other countries; in passing it may be mentioned that Burma's manufactured articles—kerosene—though well established still requires a favourable treatment from India. If detailed consideration of trade is desired, I am prepared to supply a note on each article.

16.—(i) I now compare the effect on the process of maintaining "existing relations" with regard to the trade of India and Burma.

(ii) For the sake of clarity, I divide the Trade of Burma and India into three parts:—

(a) Goods of either country, whose "existing relations" are stabilised by the first part of Mr. Harper's suggested formula.

(b) Articles listed in Schedule A (Indian) and Schedule B (Burma) which shall not be subject to any reduction of import duty except by agreement between India and Burma.

(c) Articles which do not come under the category A or B above, and would be open to the rigours of reduction of duty in respect of trade with other countries.

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(iii) The following figures show the comparative values of goods stabilised as under 16 (ii) A—above:—

	1929-30.	1932-33.
India	108·94	67·25
Burma	981·11	1520·28

(iv) The following figures show the comparative value of goods which I suggest to place on Schedule A (India) and Schedule B (Burma) as per 16 (ii) B—above:—

	1929-30.	1932-33.	
India	925·86	670·73	Schedule A.
Burma	2059·34	1244·52	Schedule B.

(v) Articles which do not come under the category of A or B of 16 (ii) above and would be open to rigours of alterations of duty, having the effect of altering "existing relations" amount as under:—

	1929-30.	1932-33.
India as per 16 (ii) (a)	108·94	67·25
India as per 16 (ii) (b)	925·86	670·73
Total of (a) and (b)	1034·80	737·98
India: total imports from	1531·30	999·52
India as per 16 (ii) (a) and (b)	1034·80	737·98
Unstabilised residue affected by part 2 of proposed formula	496·50	261·54
Burma as per 16 (ii) (a)	981·11	1520·28
Burma as per 16 (ii) (b)	2059·34	1244·52
	3040·45	2764·80
Total export to India, including silver	3118·45	2823·35
Burma total of 16 (ii) (a) and (b)	3040·45	2764·80
Unstabilised residue	78·00	58·55

(vi) The percentage of articles as per 16 (ii) (a) to the total trade would be in the case of:—

	1929-30.	1932-33.
	Per cent.	Per cent.
Burma	29	51
India	7	7

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(vii) The approximate percentage of articles as per 16 (ii) (b) to the total trade, i.e., Indian Export and Import Trade, would be in the case of:—

	1929-30.	1932-33.
	Per cent.	Per cent.
Burma	64	44
India	60	66

(viii) The approximate percentage of articles as per 16 (ii) (a) and (b) to the total import from India to Burma and export from Burma to India would be in the case of:—

	1929-30.	1932-33.
	Per cent.	Per cent.
Burma	93	95
India	67	73

(ix) With regard to India the value of goods as per 16 (ii) (b) does not include the value of coal and coke and jute textiles, because, as stated above, these require no protection. But Burma would be justified in her statement that she is willing to place these on Schedule A (India). This would add to the value:—

	1929-30.	1932-33.
Coal Coke	117-09	54-97
Jute Textile	258-30	123-76
	<hr/>	<hr/>
	376-39	178-73
16 (ii) (b) India	925-86	670-73
	<hr/>	<hr/>
16 (ii) (b) India, inclusive of coal and jute	1302-25	849-46

(x) In this case the approximate percentage of articles as per 16 (ii) (b)—the total import from India to Burma, and export from Burma to India would be in the case of:—

	1929-30.	1932-33.
	Per cent.	Per cent.
Burma	64	44
India	85	85

(xi) The approximate percentage of articles as per 16 (ii) (a) and (b) to the total import from India to Burma and export from Burma to India would be in the case of:—

	1929-30.	1932-33.
	Per cent.	Per cent.
Burma	93	95
India	92	92

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17.—(i) I arrive at the conclusion that the Schedule A (India) and Schedule B (Burma) must be on similar lines to the schedules I have made, as to group of items and their value, to serve the purpose of keeping as close as possible to "free trade" in letter and in spirit between India and Burma, or that they will utterly fail in their purpose of anything near free trade and of maintaining "existing relations."

(ii) If only a few articles of large importance are to be placed on the Schedule B (Burma), I am convinced from a close study of cross trades that other exports would decrease very considerably and immediately, if the duties on foreign imports were reduced. As they consist mostly of agricultural or forest produce the effect would be disastrous on the agriculture of the Province, and on the economic condition of the people engaged in the collection of forest produces.

(iii) With regard to those articles which are not placed on Schedules A and B, great uncertainty would be created, with a bad psychological effect on the minds of traders, which will be disastrous to trade. Therefore, I submit that the schedules should be either large or not at all.

(iv) It would seem that it would be better to bring the whole trade under one condition, i.e. that if either party desired to reduce the import duty on corresponding articles imported from foreign countries that such reduction shall be agreed to by both parties.

(v) But what are the chances of such reduction of duties either by Burma or Burma? India's fiscal policy at present is rather to increase the customs duties either for reasons of finance or for protection of her industries and it seems likely that this position will remain for the next ten years at least. On the other hand Burma's financial conditions preclude any considerable reduction of duties for financial reason; it is not likely that Burma's financial condition would so change as to enable her to reduce the duties to any extent. If such be facts, why give such undue importance to the reduction of duties.

(vi) If any question of reducing duties has been mooted in Burma it has been with regard to Iron and steel machinery. If this question is to be raised—there are two sides to the question—from the point of view of Burma and India—I submit it should be raised as a distinct individual matter with India, rather than make of it a general question, and insert a general proviso in the formula.

(vii) There has been no question raised in Burma with regard to import duties on cotton textiles, as everyone realises that such a step would mean flooding of Japanese cotton textiles, neither in the interest of India or of the United Kingdom, which countries are large purchasers of Burma's goods.

(viii) Neither has there been any suggestion reducing duties on any other goods except iron and steel machinery.

(ix) Therefore, I suggest to isolate the question of reduction of duty on iron, steel and machinery, particularly the latter; if Burma decides that it desires to do so, then this should be one of the questions to be settled

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as between India and Burma when the Trade Convention is being arranged between the two countries. If properly put to her, India will listen to reason.

18.—(i) Because of the complexity of the question which the previous paragraphs prove, I am in favour of the first suggestion of Mr. Harper, i.e., "to enact that in spite of political separation the 'existing fiscal relationship' between India and Burma shall be maintained during the status quo period, i.e., till both the parties enter into Trade Convention". This is my first choice.

(ii) By the above, I mean, that till the Trade Convention is entered into, the customs duties, excise duties, provincial consumption duty, luxury duty, and all other duties shall apply to Burma in the same manner, as if, for that purpose Burma were to be a province of India.

(iii) (a) Provided proceeds of Export and Import Customs duties shall be credited to Burma.

(b) Provided proceeds of Central excises collected in Burma shall be credited to Burma, except central excises on Kerosine and Silver, shipped to India, which shall be paid to India.

(c) Provided Provincial Excises collected in Burma shall be credited to Burma.

19.—(i) But, if it is not possible to enact that in spite of political separation of Burma the existing fiscal relationship between India and Burma shall be maintained during the status quo period as suggested in the preceding paragraph, I suggest that the next best course would be to accept the first paragraph of the formula suggested by Mr. Harper.

(ii) As to the second part, i.e., "India and Burma shall each be free to alter its tariffs in respect of its trade with other countries," I do not agree.

(iii) Increase of tariffs by Burma or India on trade with other countries would raise no complex question.

(iv) If either Burma or India increases the tariffs on goods imported from other countries, the country so raising the tariff shall have the right to impose a duty on corresponding goods of the country, India or Burma, from whence corresponding goods may be imported, the duty being equivalent to the percentage increase in duty, prevailing on the date of Separation of Burma from India.

20.—(i) Decrease of tariffs by Burma or India on trade with other countries, "having the effect of adversely altering 'existing relations'" raises questions of great complexity as previous paragraphs dealing with this aspect have shown.

(ii) Safeguard provided in Mr. Harper's formula proviso B to part 2 of it, is in itself full of complexities.

(iii) The possibility of reduction in tariffs by either country are remote except in case of Burma on Iron or Steel or Machinery.

(iv) Therefore, I submit there shall be no inclusion of a general power to reduce tariffs.

(v) The question whether duties on iron or steel or machinery be reduced or has not been passed by the Burma Council. But if it were so decided,

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the matter should be taken up with the Government of India as an individual case.

(vi) Therefore, I suggest that in the second part of the formula, the word "alter" be deleted, and in its place the word "increase" be inserted.

(vii) Proviso "B" be deleted, and in place of proviso "B" the following proviso be inserted:—

"If India or Burma, increases its tariffs in respect of its trade with other countries, the country so increasing the tariff shall have the right of imposing on corresponding trade of goods of the other country a duty which shall not be more than the percentage increase on the previous rate of duty, provided that the 'existing relations' on the date prior to separation of Burma from India is maintained."

(viii) If proviso "B" standing in Mr. Harper's formula is not deleted for any reason, then I suggest that the proviso suggested in 20 (vii) be inserted as proviso "C."

21.—(i) Again, if the Joint Select Committee does not agree to the deletion of part 2 with proviso "B" or in essence maintains the position as expressed in part 2, though in other words, then I submit, that it must be made perfectly clear, that to alter tariffs in respect of its trade with other countries, "having the effect of adversely altering existing relations between India and Burma," is definitely not contemplated, and would be against the spirit of the arrangement made for the period of status quo.

(ii) The reason for the above statement is that once such an alteration of tariffs as would adversely affect the other party, Burma or India, is made, a direct or indirect Fiscal War between the two countries will be inaugurated.

(iii) Also, that if the schedules A and B, as contemplated in proviso "B" of Part 2 of Mr. Harper's suggested formula are not deleted, they shall be as complete as possible, and they shall be based rather on inclusion of as many articles as possible, than on exclusion of as many (articles) as possible; the more the excluded articles will be, the greater will be the risk of a fiscal war.

22.—(i) Whether my above amendments and suggestions in part or whole are accepted or rejected, I suggest that Fiscal Boards be established in India and Burma, which shall deal with all matters connected with Fiscal relations between Burma and India. They shall serve as the Tariff Board of India now serves. The Fiscal Board of India and Burma should have six monthly conferences at least, so that through personal contact between the representatives of the two countries points of view of both the sides may be understood and appreciated, and above all, a friendly and continuous contact may be obtained between the two countries.

(ii) Unlike the Tariff Board, the Chairman of the Board shall be a member of the Council, or at least be able to speak as an expert in the Council in Burma or the Indian Assembly in India. To this I attach importance particularly with regard to Burma Council, in which knowledge of Fiscal matters is undeveloped. A Board somewhat on the lines of the proposed Railway Board is what I contemplate.

23.—(i) With regard to excise, as per proviso to Part I of Mr. Harper's formula, I venture to think that as it stands, it stabilises present position, but does not contemplate imposition of any new excise duty, or provincial

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consumption duty or luxury duty, or any other similar new duty. I am of opinion that new Excise or similar duties may be imposed by Burma or India or a Province of India, provided that "existing relations" are maintained, that is, that the parity which prevailed the day previous to Separation between the articles from India or Burma imported by one or the other and corresponding foreign articles and indigenous articles shall be maintained.

23.—(ii) *Reference Certificate of Origin—Chapter VI.*—It is a detail which can be considered later. I have not been able to make myself sufficiently acquainted with details of the matter, and therefore express no opinion at present.

24. *Comparative Bargaining Power of the two countries—Chapter VII.*—I generally agree with Mr. Harper's remarks. In respect of remarks by Mr. Harper with regard to Indian Labour, I desire to point out one fact. The provinces from where "coolies" come are the best customers of Burma as the following figures prove:—

	1929-30.	1932-33.
Bengal	1019.48	689.89
Madras	936.35	824.73
United Kingdom	536.96	368.26
Ceylon	507.89	244.98
Germany	442.68	219.35
Japan	104.41	149.97

ANNEXURE I.

SUMMARY OF IMPORT AND EXPORT TRADE BETWEEN BURMA AND INDIA.

Section.	Articles.	Import into Burma from				Export from Burma to			
		India.		Foreign.		India.		Foreign.	
		1929-30.	1932-33.	1929-30.	1932-33.	1929-30.	1932-33.	1929-30.	1932-33.
		1.	2.	3.	4.	5.	6.	7.	8.
		Lakhs of Rupees.	Lakhs of Rupees.	Lakhs of Rupees.	Lakhs of Rupees.	Lakhs of Rupees.	Lakhs of Rupees.	Lakhs of Rupees.	Lakhs of Rupees.
A. 1.	Fishery, salted, unsalted, wet-salted, etc. (excluding canned fish).	64.88	42.59	21.30	9.82	16.67	9.17	—	—
2.	Fruits and vegetables—fresh and dried.	55.87	40.07	14.50	12.21	39.11	36.04	—	—
3.	Grain, pulse and flour (excluding rice)	100.00	65.00	13.52	1.20	256.23	109.47	51.66	19.88
4.	Rice and paddy	21.42	13.49	—	—	1,218.24	739.40	2,597.21	1,166.10
5.	Vegetable oils	67.04	42.17	53.48	36.09	13.00	7.50	—	—
6.	Seeds—non-essential... ..	44.96	27.56	—	—	4.08	2.58	—	—
7.	Spices	97.80	49.80	16.79	10.15	8.36	8.76	—	—
8.	Salt	2.45	4.05	—	—	.22	.42	—	—
		454.42	284.73	119.59	69.47	1,555.91	913.34	2,648.87	1,185.98
B. 1.	Coal and coke	117.09	54.97	4.35	4.09	—	—	—	—
2.	Dyeing and tanning material	2.27	2.23	—	—	12.61	6.80	7.84	2.72
3.	Lac	—	—	—	—	37.35	1.86	5.62	.35
4.	Hides and skins	—	—	—	—	15.08	3.93	19.06	9.99
5.	Precious stones	—	—	—	—	—	—	—	—
6.	Metals and ores	53.12	39.53	182.81	63.89	35.10	33.20	469.85	286.62
7.	Wood and timber	—	—	—	—	324.87	179.85	147.83	43.37
8.	Other unmanufactured	8.12	11.44	—	—	—	—	—	—
9.	Cotton	—	—	—	—	3.44	—	99.14	67.96
10.	Tobacco unmanufactured	51.67	33.37	—	—	14.88	8.68	16.24	3.23

11.	Silver	—	—	—	—	100·00	100·00	—	—
		235·16	161·35	187·16	67·98	543·33	334·32	765·58	414·24
C. 1.	Textile								
	Cotton	202·29	199·32	567·95	337·05	11·18	13·31	—	—
	Haberdashery	—	—	24·59	15·40	—	—	—	—
	Hemp	—	—	—	—	—	—	—	—
	Jute	258·30	123·76	2·17	1·16	6·44	5·89	—	—
	Silk	·34	·49	36·95	17·56	—	—	—	—
		460·93	323·57	631·66	371·17	17·62	19·20	—	—
2.	Metalware, including—	—	—	182·81	63·89	—	—	—	—
	Building and engineering material	—	—	32·75	12·23	—	—	—	—
	Hardware and cutlery	—	—	62·63	26·03	—	—	—	—
	Instruments and apparatus	—	—	37·48	19·40	12·27	8·49	—	—
	Machinery and millwork	—	—	191·87	65·90	—	—	—	—
	Mechanically propelled vehicles	29·97	29·95	83·21	27·66	—	—	—	—
		29·97	29·95	590·75	215·11	12·27	8·49	—	—
3.	Articles of internal consumption—								
	Provision	66·63	39·87	156·80	80·74	5·27	3·30	—	—
	Sugar	5·42	4·05	72·93	29·67	3·31	2·14	—	—
	Tobacco and cigarettes	106·30	62·90	22·73	2·46	8·34	8·94	2·03	—
	Spirit and wine	—	—	53·02	28·41	—	—	—	—
		178·35	106·82	305·48	141·28	16·92	14·38	2·03	—
4.	Matches	—	—	—	—	11·33	19·39	—	—
		—	—	—	—	11·33	19·39	—	—
	Carried forward	669·25	460·34	1,527·89	727·56	58·14	61·46	2·03	—

ANNEXURE I—(continued).

SUMMARY OF IMPORT AND EXPORT TRADE BETWEEN BURMA AND INDIA.

Section.	Articles.	Import into Burma from				Export from Burma to			
		India.		Foreign.		India.		Foreign.	
		1929-30.	1932-33.	1929-30.	1932-33.	1929-30.	1932-33.	1929-30.	1932-33.
		1.	2.	3.	4.	5.	6.	7.	8.
		Lakhs of Rupees.	Lakhs of Rupees.	Lakhs of Rupees.	Lakhs of Rupees.	Lakhs of Rupees.	Lakhs of Rupees.	Lakhs of Rupees.	Lakhs of Rupees.
	Brought forward ...	669.25	460.34	1,527.89	727.56	58.14	61.46	2.03	—
C. 5.	Drugs and medicines ...	4.06	4.00	11.33	7.92	—	—	—	—
	Chemicals ...	3.06	1.47	25.10	18.52	2.38	1.61	—	—
		7.12	5.47	36.43	26.44	2.38	1.61	—	—
6.	Paper and pasteboard ...	4.92	5.34	31.91	24.12	—	—	—	—
	Stationery ...	1.45	—	11.00	5.26	—	—	—	—
		6.37	5.34	42.91	29.38	—	—	—	—
7.	Perfumery ...	.24	—	—	—	—	—	—	—
	Toilet requirements ...	—	—	10.69	8.49	—	—	—	—
	Soap ...	1.57	—	33.81	14.34	1.21	—	—	—
		1.81	—	44.50	22.83	1.21	—	—	—
8.	Tallow and stearine ...	—	—	—	—	3.13	—	—	—
	Mineral oils ...	26.21	20.20	50.74	20.86	896.90*	1,469.36†	1.19	.91
	Candles ...	1.49	1.29	—	—	9.74	8.83	10.87	4.72
	Paraffin wax ...	—	—	—	—	3.83	3.47	236.54	142.12
		27.70	21.49	50.74	20.86	913.60	1,481.66	248.60	147.75

9.	Earthenware—Porcelain	...	...	—	—	19·01	11·41	—	—	—	—
	Glassware	...	...	—	—	13·35	7·29	—	—	—	—
				—	—	32·36	18·70	—	—	—	—
10.	Leather	...	...	9·87	4·87	1·99	1·47	—	—	—	—
				9·87	4·87	1·99	1·47	—	—	—	—
	Total Section C.	...	...	722·12	497·51	1,736·82	847·24	975·33	1,544·73	250·63	147·75
	GRAND TOTAL—A, B and C	...	...	1,411·70	943·59	2,043·57	984·69	3,074·57	2,792·39	3,667·08	1,747·97

	*1929-30.	†1932-33.
	Lakhs of Rupees.	Lakhs. of Rupees.
Petrol	334·05	541·10
Lubricating	35·58	70·60
Kerosene	524·42	852·35
Other...	2·85	5·31
TOTAL	896·90	1,469·36

EXPLANATION—

I.—(a) This table summarises Trade between India and Burma.

(b) Section A : natural and raw products for internal consumption ;

Section B : natural and raw products *not* for internal consumption ;

Section C : manufactured articles including articles for internal consumption ;

(c) each section is made up of single or group of articles.

II.—(a) Columns 1 and 2 and columns 5 and 6 form basis of Annexure II.

(b) Columns 3 and 4 and 7 and 8 show comparative trade in corresponding articles with countries other than India.

III.—The totals of Sections A, B and C are less than the total of the whole Trade as some of the articles are not included.

The omissions amount to :

	1929-30.	1932-33.
India	119·60	55·93
Burma	143·88	132·96

ANNEXURE II.

LIST OF PRIMARY AND SECONDARY ARTICLES OF IMPORTANCE

India.		Articles.	Burma.	
1929-30.	1932-33.		1929-30.	1932-33.
—	—	Petrol... ..	334.05	541.10
—	—	Kerosene	524.42	852.35
—	—	Matches	11.33	19.39
101.07	59.12	Cigarettes	8.00	5.30
5.42	4.05	Sugar	3.31	2.14
—	—	Silver (approximate)	100.00	100.00
2.45	4.08	Salt	—	—
64.88	42.59	Fish, dry, salted and unsalted	16.67	9.17
55.87	40.07	Fruits and vegetables (fresh and dried).	39.11	36.04
100.33	65.04	Grains, pulse and flour (except rice).	256.23	109.47
21.42	13.49	Rice and paddy	1,218.24	739.40
2.27	2.23	Dyeing and tanning	12.61	6.80
97.80	49.80	Spices	8.36	8.76
67.04	42.17	Vegetable oils	13.00	7.50
44.96	27.56	Seeds, non-essential... ..	4.08	2.58
—	—	Lac	37.35	1.86
—	—	Hides and skins	15.08	3.93
53.12	39.53	Metals and ores	35.10	33.20
9.87	4.87	Leather	—	—
51.67	33.37	Tobacco—unmanufactured... ..	14.88	8.68
106.28	62.89	Tobacco—manufactured	8.32	8.93
—	—	Wood and timber	324.87	179.85
—	—	Cotton—raw	3.44	.14
—	—	Haberdashery	—	—
29.97	29.95	Metalware, including building and engineering material, hardware and cutlery, utensils, apparatus, machinery and millwork, mechanically propelled vehicles.	—	—
202.29	199.32	Cotton textile	—	—
66.53	39.87	Provisions	—	—
4.06	4.00	Drugs and Medicines	—	—
3.06	1.47	Chemicals	—	—
1.45	—	Stationery	—	—
1.57	—	Soap	—	—
1.49	1.29	Candles	9.74	8.83
—	—	Paraffin wax... ..	3.83	3.47
—	—	Lubricating oils	35.58	70.60
26.21	20.20	Other mineral oils	2.85	5.31
—	—	Earthenware... ..	—	—
—	—	Glassware	—	—
1,034.80	737.98		3,040.45	2,764.80
108.94	67.25	Deduct—stabilised (Excise)... ..	981.11	1,520.28
925.86	670.73	Schedule A— India. Schedule B— Burma.	2,059.34	1,244.52

B3

JOINT COMMITTEE ON INDIAN CONSTITUTIONAL REFORM

[SESSION 1933-34]

RECORD CONTAINING SUP- PLEMENTARY MEMORANDA SUBMITTED BY THE DELEGATES FROM BURMA

Die Mercurii, 30° Maii, 1934

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