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ON INDIAN CONSTITUTIONAL REFORM

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I.

BURMA.

Notes by the Secretary of State for India on the Points of Difference between the Proposals in the Burma Constitutional Memorandum and those in the Indian White Paper, for analogous matters.

The matters in respect of which the Constitutional proposals for Burma, if separated from India, differ otherwise than verbally from those contained in the Indian White Paper have been indicated by the use of italics in the Constitutional memorandum on Burma already circulated—Joint Committee [Session 1932-33] Record, No. 4.

The following commentary explains these italicised points of difference, and also one or two matters in which, though the form of the proposal corresponds to that of the analogous proposal in the Indian White Paper, the underlying conditions in which the proposal is to be applied are substantially different.

Proposal 1.

Like the corresponding proposal in the Indian White Paper, this proposal deals with two categories of jurisdiction, that exercisable in territory belonging to the King—that is, that part of Burma which is British Indian territory—and that exercisable in those parts which, though embraced in the geographical limits of Burma as generally understood, are part of India, but not of British India. The Province of Burma, including the Shan States and the Chin and Kachin and other tribal territory, some of it almost unexplored and hitherto not brought under regular administration, which lies on the Burma side of the Indo-China and Indo-Siamese frontier, or of the provincial frontier (partly undefined) between Burma and Assam, is part of British India, and is British territory ("belonging" to the King). But the Indo-Siamese frontier leaves also on the Burma side the territory known as the Karenni States, the independence of which was guaranteed by a treaty with the former Burmese kingdom in 1875, and which, though not part of British India or the Province of Burma, are part of "India", since that term includes the "territory of any native Chief under the suzerainty of His Majesty exercised through the Governor-General (of India)." Actually, these tracts are "in the political control of the Government of Burma", and the jurisdiction exercised in them is exercised by the Governor (and his subordinate officers) on behalf of the Governor-General by virtue of notifications, etc., issued by the Foreign and Political Department of the Government of India under the Indian (Foreign Jurisdiction) Order in Council, 1902. Though the Karenni States are extremely backward and of little economic or political importance, their position seems constitutionally to be precisely that of the States in India, and it seems necessary therefore to vest in His Majesty in Burma authority in relation to them equivalent to and expressed in terms identical with those used to express the position of the Crown in relation to the Indian States.

For practical reasons it is evidently necessary that the jurisdiction exercised heretofore, in this regard, by the Crown through the Governor-General of India and, on the latter's behalf, through the Governor of Burma, shall be exercised in future by the Crown through the Governor of Burma direct, without the intervention of the Governor-General of India. For this purpose, it will be necessary to issue a new Foreign Jurisdiction Order in Council authorising the Governor of Burma to act for the Crown under the Foreign Jurisdiction Act.

Proposal 2.

It seems necessary to define the territories to which the new Constitution Act is to apply. But it does not seem necessary to include in the Act a categorical statement that these territories have been separated from India. If the fact of separation is to be recorded in some formal manner, this could be done by other means, e.g., in the Proclamation bringing the Constitution Act into effect.

Proposal 3.

The reasons underlying this proposal are explained shortly in paragraph 9 of the Introduction to the Burma Constitutional Memorandum.

There are a number of Imperial Acts which at present extend to Burma as part of British India; on the other hand, Acts extending to "the Colonies" as such, do not apply to British India, or consequently to Burma.

Imperial Acts extend to British India either because they are so extended in terms or else because they are declared to extend "throughout His Majesty's Dominions" or "to all British Possessions" or in some other phrase which includes British India.

Acts which are applied to British India *eo nomine* would (unless specially saved in the Constitution, as Proposal 4 suggests should be done) automatically cease to apply to Burma when she ceases to be part of British India, but she would still remain a "British Possession" and part of "His Majesty's Dominions," so that Acts, the extent of which is declared by such formula, will continue to apply to Burma.

On the other hand, the moment Burma ceased to be part of British India all Acts which are declared to extend to "Colonies" would, having regard to the definition of "Colony" in the Interpretation Act, 1889, as "any part of His Majesty's Dominions exclusive of the British Islands and of British India", automatically apply to Burma (or, at any rate, such of them as were passed after the Interpretation Act). Of such Acts the most important is probably the Colonial Laws Validity Act, 1865. Some of the provisions of this Act, and notably those which confer extensive powers of Constitutional Amendment and of establishing, abolishing, and reconstituting Courts of Judicature, are, however, not appropriate to the Constitution of Burma outlined in the Constitutional Memorandum, and it is necessary for this reason (as well as to avoid the implication that Burma is reduced to the status of a "Colony", which might be interpreted as meaning "Crown Colony") to prevent its application. Should it on further examination be found desirable in the interests of Burma to apply to her any Acts at present expressly applied to "Colonies", this could be done by means of an appropriate provision in the Constitution Act. It is doubtful whether there are more than one or two Acts of this kind, e.g., Colonial Boundaries Act, 1895, Colonial Naval Defence Act, 1931.

Put shortly, the objects to be achieved are (i) to ensure that Acts which previously applied to Burma because she was part of British India should continue to do so, and (ii) to rule out the possibility of Burma's change of status bringing her within the ambit of any Acts (possibly with certain specified exceptions) which previously did not apply to her. As the definition of "Colony" in the Interpretation Act, 1889, applied only to Acts passed after that Act, and in view of the extremely vague language employed with reference to "colonies", "colonial possessions," etc., in earlier Acts, and also for the removal of doubts, it seems advisable to draft the necessary clause in the Burma Constitution in the widest and most comprehensive terms.

Proposal 4.

It will be necessary to make provision for the continued application to Burma of laws of the British Parliament applying to British India and of existing Indian laws and the rules, regulations, notifications, etc., made thereunder by means of which the laws are interpreted and administered. This can perhaps best be done by means of a general clause empowering His Majesty by Order in Council to adapt the form of Indian laws, etc., to meet the situation, though Indian laws in which it is desired to make more than formal amendments (e.g., the Indian Railways Act and the Indian Tariff Act) will require to be specially dealt with.

Proposal 5.

See footnote on page 13 of the Burma Constitutional Memorandum.

Proposal 6.

See footnote on page 14 of the Burma Constitutional Memorandum.

Proposal 10.

As regards the reservation to the Governor of the control of monetary policy, currency and coinage, the proposal is that as laid down in the Prime Minister's statement at the end of the Burma Conference, this side of finance, of which Burma has no experience, should be reserved to the Governor as a department in his sole charge (assisted by a Financial Adviser).

Proposal 11.—(The Financial Adviser.)

The Prime Minister, in his announcement at the conclusion of the Burma Round Table Conference, made the following statement on this subject:—

“In view of the wider range of finance which would devolve on the Government of Burma as the result of separation, His Majesty's Government are of opinion that the Statute should provide for the appointment by the Secretary of State of a Financial Adviser to the Government. In respect of matters reserved to the personal administration of the Governor, the Financial Adviser would be the Governor's Adviser. Outside this field, all proposals having an important financial significance should be referred to him, and provision should be made to ensure that any objections that he may have to measures proposed should be made known to the Ministry and the Governor.”

As the Burma Memorandum now stands, it is proposed, in conformity with the Indian White Paper, that the Financial Adviser shall be appointed by the Governor in his discretion after consultation with Ministers (proposal 16), in exactly the same way as the Financial Adviser in India. It is further provided (proposal 11) that one of the Governor's Counsellors may be appointed Financial Adviser. This provision is not found in the Indian White Paper.

The position of the Financial Adviser is further dealt with in proposals 15 and 47 (ii). Proposal 15 authorises the Governor to make rules for the transmission of information to the Financial Adviser, and proposal 47 (ii) makes the salary and allowances of the Financial Adviser and his staff non-votable charges on the revenue.

It will be noted that proposal 16 in the Burma Memorandum, drafted to follow proposal 17 of the Indian White Paper, diverges from the lines of the Prime Minister's statement inasmuch as it proposes that the Financial Adviser should be appointed by the Governor in his discretion after consultation with Ministers instead of by a Secretary of State.

This is consequential upon the proposal in the Indian White Paper that in India the Financial Adviser should be appointed by the Governor-General in his discretion after consultation with Ministers. There would seem to be no grounds for differentiating in this respect in the case of Burma. Appointment by the Governor instead of by the Crown or a Secretary of State should not render it any more difficult to obtain an expert from outside Burma.

The provision that the Financial Adviser should be consulted by Ministers on matters in respect of which *they may ask for his advice*, might on account of its permissive nature appear to conflict with the last sentence of the passage quoted from the Prime Minister's statement. This provision, however, refers to matters on the transferred side of Government in which the Governor's special responsibility for the financial stability and credit of Burma is not involved. It is not intended to prevent the Governor in making rules of executive business under the provision in proposal 15, from requiring Ministers and Departments to submit to him through the Financial Adviser adequate advance information upon specified categories of proposals (e.g., borrowing and taxation) originating in the transferred side of Government, which might affect the reserved departments or involve the exercise of his special responsibilities.

In addition to advising the Governor in connection with the reserved subject of Currency and Coinage, the Financial Adviser would (a) advise the Governor in respect of the financial aspect of his reserved departments; (b) advise him upon any matters on the transferred side of Government upon which he desired to be kept informed; and (c) be available to advise Ministers upon any matters on the transferred side on which they chose to seek his advice. It is difficult to determine at present whether it will be found possible in the case of an officer entrusted with these varying responsibilities to take advantage of the permission afforded by proposal 11 to double the appointment of Financial Adviser with that of Counsellor. The intention of this proposal, should it be found practicable, is to avoid saddling Burma with the expense of both a Financial Adviser and a Financial Counsellor, who will be required in an executive capacity on the reserved side of Government, and for the purpose of expounding the Governor's policy in the Legislature.

It will be remembered that no provision is made in the Indian White Paper for the appointment of Financial Advisers in the Provinces. The Financial Adviser to the Government of Burma may therefore be required to advise the Governor on matters that in India would be Provincial as well as on those that would be Federal in India, and the field in which his counsel may be required will be more comprehensive than that of the Financial Adviser to the Federal Government of India.

Proposal 17.

Except that there is no provision making it a special responsibility of the Governor to safeguard the rights of the States (which, with the unimportant exception of the Karenni States, are non-existent in the Burma case), this list of special responsibilities corresponds to that in the Indian White Paper.

Proposals 21-29.

See the separate Memorandum (B 2) on the composition of the Legislature and the franchise, and also the footnote on page 17 of Burma Constitutional Memorandum.

Proposal 37.

This proposal merely states that Bills may be introduced in either Chamber of the Legislature. But in the footnote on page 18 of the Memorandum it is stated that it is proposed in the case of Burma to differ from the proposals for the Indian Federal Legislature to the extent of enabling Money Bills to be initiated in the Upper Chamber as well as in the Lower, instead of in the Lower Chamber alone, and it is also pointed out that the Burma Memorandum makes no provision similar to proposal 48 of the Indian White Paper, which allows a power to the Upper Chamber, if a motion to that effect is moved on behalf of Government, of requiring a Joint Session to be called if it disapproves of a reduction or rejection of any Demand by the Lower Chamber.

The reason for proposing, save in the case of Supply, equal powers for the two Chambers in Burma, is the desirability of imposing the check of a senatorial body upon an inexperienced Lower Chamber entrusted with a range of responsibilities wider than that to be accorded to any single Lower Chamber, Federal or Provincial, in India.

The same argument is not, of course, applicable to the question of Supply, which should normally vest in the Lower Chamber.

Proposal 38.

Erratum.—The reference to proposal 40 should be to proposal 41.

Proposals 54 and 55.

These taken together follow generally proposals 110-118 of the Indian White Paper so far as they are applicable to the case of Burma, where the complications attending the relative powers of Federal and Provincial Legislatures do not arise.

There are, however, certain points of divergence:—

(1) Sub-clause (d) of proposal 54 and the second sentence of proposal 55, differ somewhat from the corresponding Indian provisions owing to the mixed nature of the forces likely to be maintained in Burma at the outset. The "Burma Defence Force" will, it is contemplated, comprise the frontier battalions of the Burma Military Police, put on a definitely military basis, and internal security battalions of indigenous troops. For these troops a Burma Army Act will need to be passed by the Burma Legislature. In addition to these units there will be serving in Burma, at any rate for some years to come, one or two British and Indian Army battalions. The position of the former will be secured by the restriction on the Burma Legislature against legislation conflicting with the Army Act; a similar restriction will be required in respect of Indian units for the Indian Army Act. Similarly, just as the Air Force must be safeguarded, as in the present Act, so the Indian Air Force Act should be safeguarded against the event of any personnel of the Indian Air Force being lent for service in Burma.

Corresponding provision needs also to be made in respect of naval personnel or of Indian personnel of the Marine Service serving in

Burma. At present, personnel of the Royal Indian Marine are amenable to the Indian Marine Service Act; but it is not unlikely that this may be replaced (as has already been attempted) by an "Indian Navy (or Naval Discipline) Act".

The separation of Burma from India and her suggested position in the British Commonwealth as something not in terms a "Colony" would necessitate amendments of a verbal nature in the sections of the Army Act referring to His Majesty's Forces in India and His Majesty's Indian Forces, and, no doubt, corresponding amendments of the Air Force Act.

(2) The power of the new Burma Legislature not only to make new laws, but also to repeal and amend existing laws made by the pre-separation Indian or Local Legislatures, which otherwise would continue with unabated force in the new regime, should presumably be given in the Act, whether in the place shown (end of proposal 54) or elsewhere. The intention is to perpetuate *mutatis mutandis* the power accorded by section 80A (2) of the present Government of India Act.

(3) The object of the italicised third sentence of Proposal 55 is to ensure co-operation between the civil power in Burma and the military authorities responsible for personnel subject to the Indian Army Act.

Proposals 58-62.

A separate Memorandum on Discrimination will be submitted.

Proposal 64.

The Constitution Act will need to contain a provision giving statutory effect to the award of the Arbitral Body which it is proposed to set up to determine the shares to be borne by Burma and India respectively of assets and liabilities existing at the time of separation. Of the latter the most important are the debt and pension charges.

As regards the second sub-paragraph of this proposal, it may be anticipated that difficulties will arise in defining the partition between India and Burma of liability in respect of rights now existing against the Secretary of State in Council. How such partition should be effected in any particular case may depend very much on the terms of the financial settlement to be made between India and Burma. It seems not unlikely that, in addition to questions of the respective liabilities of the two Governments in respect of matters done before separation, there will be many other matters arising out of the settlement and requiring adjustment between the two Governments. It may prove desirable, in order to meet such cases, to provide for a body somewhat like the Joint Exchequer Board set up by section 32 of the Government of Ireland Act, 1920. It does not seem possible at this stage to make definite provision for the establishment of such a body; but assuming that such a body if set up should have statutory authority for its actions, it might be as well to include in the Constitution Act a permissive sub-clause under which it might be set up hereafter if the need arises. It is possible, however, that the same end could be achieved, if and when the need arises, by simultaneous legislation in India and Burma.

Proposal 65.

A provision of this nature is obviously necessary to enable the Executive charged with the responsibilities of the Crown in Burma to perform its functions.

Proposal 66.

Erratum.—The reference to proposal 64 should be to proposals 64 and 65.

Proposal 68.

A separate Memorandum on a Statutory Railway Board in Burma will be submitted.

Proposals 69 and 70.

These proposals closely follow Proposals 146 and 147 in the Indian White Paper, and therefore have not been printed in italics; the following remarks are, however, offered as the conditions of the two cases are not the same.

At present the Government of Burma, like all other Provincial Governments, may raise loans on the security of provincial revenues in accordance with the Local Government (Borrowing) Rules, which derive their authority from Section 30 (1A) of the present Act. Under these Rules a Local Government requires the prior sanction of the Governor-General in Council for raising a loan in India and of the Secretary of State in Council for raising one outside India, and in either case, under the governing section of the Act, the loan is raised "on behalf of and in the name of the Secretary of State in Council".

Future borrowing operations will be subject to the special responsibility of the Governor, who will have available the expert advice of the Financial Adviser.

The Treasury have agreed that arrangements should be made to secure that Burma sterling loans shall be eligible for Trustee status on appropriate conditions.

Proposal 79.

In the absence from Burma of a Federal or Supreme Court to which appeals could be carried, it seems clearly necessary to preserve all existing rights of appeal to the Privy Council and, in addition, to secure access to the Privy Council in cases involving the interpretation of the Constitution.

Proposals 80 and 83.

The question of the future of the Council of India, in relation to Burma, was not touched upon at the Burma Round Table Conference. The Burma Constitutional Memorandum follows the Indian White Paper in proposing that the Council as at present constituted should be replaced by a small body of advisers. These advisers would not retain the power over finance possessed by the existing Council, and the only matters in respect of which it would be obligatory for the Secretary of State to seek and follow their advice, would be rules made by the Secretary of State regulating conditions of service of those members of the Public Services who are under his control, and the passing of orders upon appeals from members of the Services.

The advantage of providing an additional safeguard of this kind for the Services, and of enabling the Secretary of State to have at hand advisers with expert and recent knowledge of local conditions, is as obvious in the case of Burma as of India. The difficulty to be met in the case of Burma is that, while it would be unwarrantable to appoint a larger number than one or two Advisers, such a body would be too small to hold in its hands a

final power of decision in important Service matters. Proposal 83 seeks to overcome this difficulty by providing that in the decision of Service questions the Advisers for Burma shall be augmented by the Advisers for India. If the portfolio for Burma is held in the hands of the Secretary of State responsible for India, whether separate secretaryships are created or not, this arrangement should work conveniently in practice.

Proposals 84-99.

The principal effects of the proposed constitutional changes upon the Public Services are set out in paragraphs 19-25 of the Introduction to the Constitutional Memorandum. Put shortly, the intention is to duplicate the position contemplated in India under the White Paper proposals, i.e., while preserving existing rights of all the Services, to confine recruitment by the Secretary of State in future to the Services which will replace the Indian Civil Service and Indian Police in Burma, and possibly to the Medical and Railway Services. At the same time it is obvious that the separation of Burma from India must involve the severance of a large number of All-India and Central Service Officers from the main bodies of their Services, and a diminution of some of the existing rights of such officers, e.g., eligibility for certain high appointments under the Government of India. Such diminution is, however, believed to be more theoretical than real; and in practice is likely to be offset by the future exclusive eligibility of Burma officers for new posts in Burma and for posts to which appointments are now frequently made from among officers serving in other Provinces or under the Government of India.

II.

BURMA.

Memorandum by the Secretary of State for India on the Franchise, Composition of the Legislature and Representation of Minorities and Special Interests

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BURMA.

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

INTRODUCTORY.

1. The Statutory Commission, after recommending in Volume II, Part 6, paragraph 225, that Burma should be separated from India, assumed that the framing of the details of the Constitution to be adopted in that event would be preceded by further enquiry into local conditions and opinions. Such a further enquiry, if it had taken place, would, no doubt, have investigated and made recommendations on the subjects of composition of the Legislature, franchise, representation of minorities and so forth. For a variety of reasons, however, among which the principal one perhaps was the extremely disturbed state of Burma during the period in which a commission of enquiry might conceivably have visited the country, no further investigation of the kind did take place, and, for reasons into which it is not necessary to go now, the Indian Franchise Committee, under the Marquess of Lothian, did not include Burma within the field of its enquiries. The resulting position is that the questions of franchise and cognate matters in Burma have not been the object of investigation and recommendation by any outside authority as has been the case in respect of the other Provinces of British India.

2. At the Burma Round Table Conference in December 1931 and January 1932 these questions were discussed, and the fruits of the discussion in the Conference itself are to be found in the Report of the Committee of the Conference, Cmd. 4004/1932. A perusal of the relevant paragraphs (6-43) of the Report will show that whereas there was a general consensus of opinion that in the event of separation a Second Chamber would be essential, no very great measure of agreement was reached at the Conference on the questions of extending the present franchise for the Lower House, the nature of the franchise for the Upper House, the qualification for membership of either House of the Legislature, or in regard to the representation of minority communities and special interests in the Legislature. The question of such representation in the Lower House was discussed informally in a sub-Committee over which Lord Lothian presided, but no means was found of reconciling the conflicting views of the various parties and special interests represented on the Committee.

3. The Statement delivered by the Prime Minister at the conclusion of the Burma Conference gave an outline of the

features of the Constitution which His Majesty's Government would recommend to Parliament for Burma in the event of that country being separated from India. The Statement recommended the establishment of two Houses, of which the Lower would contain about 120 or 130 members directly elected, and the Upper would be about one-third the size of the Lower and would consist partly of members elected and partly of members nominated. It was pointed out that two such Houses together would contain almost double the number of non-official members in the existing Legislature. The Statement insisted on the necessity of making provision to ensure adequate representation of minority communities and special interests in the Lower House, and, after expressing regret that the Conference had not been able itself to reach agreement on the question of the representation of minority communities and special interests in the future Legislature, intimated that should such agreement still fail to be achieved as a result of further efforts, His Majesty's Government would regard it as necessary to include in any constitutional scheme that they put forward provision for meeting the claims of minorities and special interests for representation by separate electorates. As regards any extension of the present franchise for the Lower House the Prime Minister's Statement remarked that His Majesty's Government were not satisfied that the practical administrative difficulties involved in considerable extension of the franchise could, in the present conditions, be overcome.

4. During the period succeeding the Burma Conference public attention was riveted on the controversy between the advocates and opponents of separation from India, and no suitable opportunity presented itself to pursue, in concert with leaders of public opinion in Burma, the examination of the questions of the composition of the Legislature, franchise, &c. which would be suitable in the event either of Burma being separated or of being included in the Indian Federation as a Province of British India. But when, last summer, it became evident that a clear decision on this dominant issue could no longer be expected of the Burma Legislative Council and that a decision of the issue between separation and federation must await the recommendations of the Joint Select Committee and the verdict of Parliament on them, the Government of Burma proceeded to formulate and to sound local political opinion on proposals to be incorporated in a revised Constitution for Burma, whether separated or not, in respect of franchise and the connected matters. The suggestions of the Government of Burma will be found in the Memorandum printed as Appendix II, which was circulated to leading members of the political parties in Burma and representatives of special interests, such as the various Chambers of Commerce; and in Appendix III will be found the comments on and criticisms of these proposals by the parties and the special interests consulted. A perusal of

this Appendix will show to what extent agreement between the representatives of the various communities and interests in Burma is likely to be found possible in respect of these questions and it will reveal in what respects they are divergent one from the other.

Put in tabular form the position in respect of communal representation is :—

Community	Present Elected Seats (in House of 103)	Future Elected Seats in House of 132	
		Proposed by Government of Burma (App. II)	Demanded by the Community concerned (App. III)
Karens - -	5	12	12
Indians - -	9	10 + 2 for Labour	15 or 16 excluding Labour plus increase in Commerce Seats
Anglo-Indians -	1	2	3
Europeans -	4	7	12 or 13
Chinese - -	1	1	2

5. Most careful consideration has been given to the opinions expressed by the party leaders and representatives of communities and special interests ; and in Appendix I will be found set out for consideration, suggestions for the composition of both Houses of the Legislature and the allocation of seats to the various communities and special interests that seem to require special representation. For facility of reference, statements of the composition of and allocation of seats in the present Legislative Council are included alongside these suggestions. The basis of the suggestions in Appendix I is afforded by the following prefatory and explanatory observations.

PART I.

FRANCHISE FOR THE LOWER HOUSE.

(See footnote on page 19 of Joint Select Committee [Session 1932-33] Records, No. 4.)

6. *Literacy.*—Literacy, in the sense used in Census reports (i.e. ability to read or write a letter in any one language) is very much more widely diffused in Burma than in any other Province or indeed any State in India. Taking only the areas of Burma out of which it is proposed to constitute the elective area, there are 600 per thousand males and 182 per thousand females, affording, with children, a total figure of over 390 per thousand, who satisfy the Census test of literacy. These remarkably high figures are due to the fact that the great bulk of the population are Buddhists, which secures that practically every boy passes through at least a monastic school and receives the elements of education. But the test is merely that of ability to write and read a letter in any one language. When more exacting tests, such as that of "literate in English," are applied, it is found that Burma takes a much lower place in the list of Provinces. From this and other facts the Census reporters infer that, were the standard of literacy made a little more severe than the present elementary test, Burma would not maintain her high position.

7. The foregoing remarks are designed simply as a caution against the inference which is sometimes drawn that the wide dissemination in Burma of literacy in the sense used for Census purposes, indicates a high degree of education in the population generally.

8. *The existing Franchise.*—The qualifications for electors to the present Legislative Council are shown in detail in the extract from the Burma Electoral Rules annexed to Appendix II. Apart from the qualification of community in the case of certain seats, the qualification on which in the main the present franchise is based (apart from such minor qualifications as past military service) is essentially property (assessment to income-tax, *thathameda*, capitation tax, payment of land revenue occupation of or possession of immovable property). In addition separate representation is provided for special interests such as Rangoon University and Chambers of Commerce, the qualification in these cases being, generally, membership of the organisation represented.

9. This franchise for the Legislative Council produces a present electorate (substantially larger than in any other Province of India) of 2·08 million persons, including 124,000 women, in a total population in the elective area of 12·3 millions.

10. The percentage of—

Electors to population is - - -	16·9
Male electors to adult male population -	57·4
Female electors to adult female population	4·0

and the proportion of female electors to male electors is 1 : 14·3.

11. This franchise, regarded as a whole, may appear to be already sufficiently wide; but it produces certain inequalities and contains certain defects (explained below) which it is desirable to take this opportunity to correct. The modifications necessary for this purpose, and also for the purpose of improving the ratio of women electors to men, will inevitably extend the existing franchise, relatively wide though it is. But at the same time it is proposed to take measures which will in effect meet the Burmans' demand for a period of residence as a qualification for the vote. This proposal will to some extent counteract the too wide extension which would otherwise result from the proposed lowering of the property qualification which is entailed by the modification of existing defects.

12. The defects in the present system to which particular attention was drawn at the Burma Round Table Conference result in an extensive disfranchisement, in Lower Burma, of bachelors and widowers. The most general form of qualification, particularly in the rural areas, is assessment in Upper Burma to *thathameda** or in Lower Burma to capitation tax† of not less than Rs. 5 per annum. This latter qualification is derived from the recommendation of the Burma Reforms Committee, 1921 (Whyte Committee). That Committee recommended adoption of the married rate of capitation tax (which is generally Rs. 5) rather than the unmarried rate (which is generally Rs. 2 as. 8) on the ground that it would enfranchise in Lower Burma much the same class of man as would be enfranchised in Upper Burma by the qualification of assessment to *thathameda*. But the rate of Rs. 5 is not the universal married rate, though mentioned as such by the Whyte Committee, and as a result some 90,000 married males who are assessed to capitation tax at a lower rate than Rs. 5, have been excluded from the franchise, contrary to the intention of the Whyte Committee.

13. The second reason why the Whyte Committee recommended adoption of the married instead of the unmarried rate for qualifi-

* A household tax levied in Upper Burma by which the average rate per household is fixed for each village at a periodical settlement, and the actual incidence in each year is fixed by village assessors for each household. It is payable by the head of the household, whether male or female, and the individual householder becomes liable to the tax at the age of 18.

† Virtually a poll tax levied in Lower Burma on all males between the ages of 18 and 60.

cation by assessment to capitation tax was to exclude the least responsible classes in the community, including the migratory coolie class. But, while it has to some extent achieved this object, the qualification has in fact also resulted in the exclusion from the franchise in Lower Burma of the bulk of unmarried men and widowers.

14. *Correction of these Defects.*—It is proposed now (vide paragraph 34 of Appendix II), for the correction of these defects, to abandon the *married* rate of capitation tax and to substitute assessment to *any* rate of capitation tax, thus bringing on to the franchise the adult bachelors and widowers, and also the 90,000 married men mentioned above. An additional minor change is proposed in paragraph 34 of Appendix II to ensure that a man qualified by assessment to capitation tax does not cease to be eligible on attaining the age of 60, when he ceases to be liable to assessment to that tax.

15. These modifications by themselves would produce a widening of the franchise which might prove excessive. But it is proposed now (vide paragraph 33 of Appendix II) that voters qualifying by assessment to capitation tax and similar low grades of property qualification should qualify not simply by inclusion in the applicable tax-assessment roll but by inclusion for three years previous to the exercise of the vote. This provision will (a) in the case of the great majority of indigenous voters who qualify under assessment to such taxes at the age of 18 at present, have the effect of putting up the age for the franchise to 21 years and thus excluding the youngest and presumably the least responsible categories; (b) ensure 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 exercise the vote they will have had the opportunity afforded by three years' residence to acquire an interest in local affairs and exercise their vote intelligently.

16. *Women Voters.*—It is proposed also to increase the female electorate. It is generally recognised that the women of Burma occupy a position of freedom and independence not attained in other Provinces. Socially there is practical equality between the sexes; purdah is unknown; women take their full share with men in the economic life of the country, and, as mentioned above, the percentage of literates among women is far higher than elsewhere. Adopting the literacy test recommended in paragraph 215 of its Report by the Indian Franchise Committee, and combining with it an *age qualification* for women of 21, it is proposed (paragraph 37 of Appendix II) to raise the number of women voters from 124,000 to about 700,000, including those who, apart from the literacy test, would be enfranchised by property

qualifications. The resulting ratio of women to men voters will be approximately 1 to 3·5. It seems unnecessary therefore to adopt in Burma the wifehood qualification which was recommended by the Indian Franchise Committee in paragraph 215 of their Report as an additional means for adoption in India of bringing the ratio up to 1 : 4.

17. All the women who qualify for the vote on a property test will be registered as such; and as recommended by the Indian Franchise Committee (paragraph 215), all women whose names are included in authoritative educational rolls will be registered by this means. For the remainder, who are not already registered by one of these means and qualify by literacy alone, it will, as proposed by the Indian Franchise Committee, be necessary to apply for registration for the vote, and to prove their literacy.

18. *The Electorate resulting from these Proposals.*—The total electorate—male and female—will thus, on these proposals, rise from about 2·08 millions (1,956,000 male and 124,000 female voters) in a population of 12·3 millions to about 3 millions (2·3 million males and 700,000 females) in a population of 12·9 million, i.e. 23·26 per cent.

19. Under these proposals the percentage of—

- male electors to adult male population would rise from 57·4 per cent. to about 70 per cent.;
- female electors to adult female population would rise from 4 per cent. to about 21 per cent.; and
- the proportion of female to male voters would rise from 1 : 14·3 to about 1 : 3·5.

Further, the present franchise, which favours rural constituencies as against urban in respect of proportion of electors to total population, will be corrected. In urban constituencies the percentage will increase, it is estimated, from 12·7 per cent. to 23·7 cent. and will be brought into closer agreement with the percentage in rural constituencies. For the whole of the elective area the future percentage is, as stated above, estimated at 23·26.

20. The Government of Burma anticipate no insuperable difficulty in arranging (by means, for example, of increasing voting stations and, if necessary, allotting more than one day for the poll and holding the poll on succeeding days in neighbouring constituencies) to deal with the additional numbers of potential voters brought on to the franchise. They assume that not more than 60 per cent. of the total new electorate will exercise the vote. This assumption seems to be a safe one, for, at previous elections, in 1922 of the registered voters 6·9 per cent. voted, in 1925 16·2 per cent., in 1928 15 per cent. and in 1932 38·8 per cent. The remarkable increase in 1932 is ascribable to the fact that the

main issue at this election was whether Burma should be separated from India, and that, with so important an issue at stake, great numbers of the electorate who under the influence of their political associations had hitherto boycotted the elections were on this occasion urged to vote. In some urban constituencies over 70 per cent. of the registered voters exercised the vote; but in no rural constituency was the percentage of 60 approached.

21. *Summary.*—In Appendix I-C, the revised qualifications resulting from the adoption of the suggestions described above are set out in general terms. They produce an electorate of reasonable size, with a substantial proportion of female voters; they remove certain admitted anomalies in the existing qualifications; they are fair as between urban and rural interests; and they are administratively practicable.

PART II.

REPRESENTATION OF MINORITY COMMUNITIES,
SPECIAL INTERESTS AND WOMEN.(a) *Communities.*

22. In its comments on the Local Government's proposals the People's Party (Appendix III (III)) strongly deprecate the perpetuation of separate communal electorates; the representatives of this Party argued this point of view at length in the Burma Round Table Conference; and the Hlaing-Myat-Paw Party (Appendix III (II)) develop a similar line in respect of separate electorates for the Karens.

23. It is stated that the communal question is less acute in Burma than in India. That may be so, though there have been occasions, some quite recent, when the animosity displayed between different communities in Burma has been no less marked than in India; but certainly the basis of communal division is different in the two countries. In India the division rests, in the main, on religious rather than racial differences; in Burma, where there is far greater uniformity of religion, the division is almost entirely racial. Religious differences seem to be an unimportant factor, for both among the Burmese and among Karens one finds an impartial acceptance of the individual, whether Buddhist or Christian, to represent their interests, and similarly acceptance by the Indian community of Hindu, Parsee or Muslim to represent it. Whatever the case may be for or against the continuance of the present arrangements there will be general agreement that it is highly undesirable either to extend the system of communal division or to introduce a second, the religious, line of cleavage which would cut across the racial divisions and create small and scattered sub-divisions of existing divisions. It is accordingly recommended that claims for separate representation which have been presented by Burma Muslims and Burmese Christians should be rejected, and also that made by the Southern Chins, some 98,000 of whom are scattered through a dozen or more separate districts. It would be administratively difficult, if not impossible, to arrange for separate representation of this small and scattered community, and unnecessary, since its needs and interests do not seem to differ materially from those of the other inhabitants of the areas in which these former hillmen are settled. For different reasons, it is also proposed not to accede to the request which was made at the Burma Round Table Conference for the separate representation of landowners and landlords. Burma is essentially a land of small peasant cultivators, and though there are a number, possibly a growing number, of landowners other than peasant proprietors, there is in Burma no class corresponding to the great landholders

of India. In actual fact such landowning interests as there are have, since 1922, succeeded in obtaining representation in the Legislative Council in adequate numbers by election in the ordinary way, and no case for a special form of representation in future has been made out.

24. Extension of the system of separate electorates may therefore be excluded from consideration. As regards the maintenance of the existing separate electorates, it has been the experience in Burma, as in India, that, however undesirable in theory the system may be, in fact it cannot be denied to substantial minorities who already have it and demand the continuance of it as a means of protecting their particular interests. These communities regard separate representation as the foremost of the means available of making public their point of view and of influencing the opinion of the majority. A great step forward is to be taken whether Burma becomes simply an autonomous Province in the Indian Federation or a separate political entity, and the feelings of uncertainty and anxiety as to their future which inevitably excite the minority communities would be intolerably increased if at this moment their power to secure their own representation in the popularly elected Chamber of the Legislature were taken from them. Moreover, the minorities in Burma can reinforce their claim to separate representation by reference to the measures proposed in the other Provinces of India for the separate communities to be found there.

25. In present circumstances, therefore, it appears essential to preserve the existing separate representation for certain minorities in Burma. But in order to provide a means of preventing the permanent stereotyping of communal divisions, it might be thought desirable to amend the electoral rule requiring that in the case of a Karen, Indian, European or Anglo-Indian general constituency the candidate must himself be a Karen, Indian, European or Anglo-Indian respectively. It would then become permissible for persons not members of the community concerned to stand as candidates for communal constituencies; this suggestion is evidently preferable to the alternative suggestion that an individual belonging to a minority community should no longer be eligible, as now, to stand as a candidate in a general constituency. Reciprocity in this regard, though it might not have much practical effect at first, is sound in principle in that it would tend to eliminate in course of time the need for strictly communal representation.

26. But whether this suggestion is adopted or not, it is assumed, as the basis of consideration, that for the present the existing system of representation through separate electorates should be preserved to the Karen, Indian, Anglo-Indian and European

communities. The question whether, after a certain period, revision of this arrangement should be made possible by the Constitution, and, if so, by what method and under what conditions, must depend on the consideration of the constituent powers to be accorded to the Legislature.

27. As to the communities now afforded separate communal representation, (i) the interests of the *Karens* settled in the plains are mainly agricultural like those of their Burmese neighbours, and do not by themselves constitute a cause for political differentiation; and in practice *Karen* members tend not to form a solid bloc but to vote in the lobbies with varying groups according to the matter in debate. But the *Karens*, though belonging to the same main branch of the human family, are a different race from the Burmese proper, speaking a different language, and holding aloof from the Burmese in many ways, both socially and politically. In the present Legislative Council of 103 the *Karens* have five seats out of 80 *elected*. Their population in the area made into constituencies amounted to 1,100,200 at the 1931 Census, and having regard to all the factors relevant to their case it is proposed to allot to them not less representation than could be accorded on the population ratio, i.e. 9 per cent. or 12 seats in a House of 133.

(ii) The *Indians* in Burma are largely temporary residents, remaining in the country as a rule for two or three years, though many stay for four or five; there are also considerable numbers who cross from India for harvest work only and return at the end of the season.

The Census for 1931 showed a total Indian population of 1,018,000 for all Burma (an increase in the decade of 15½ per cent.) and for the area made into constituencies a total of 955,300 out of 12,358,000 or 7·7 per cent. The sex-ratio among the *Indians* is very low, 39 women for 100 males in all Burma and in the urban areas only 25 to 100, as against the general ratio of 96 for the whole population and 103 for the indigenous races. This is a clear indication that the Indian residents generally, and particularly in the large towns where the bulk of them is to be found, comprise a large proportion of temporary sojourners, i.e. the migrant labourers. It is computed that more than one-third and probably as much as a half are temporary residents.

Another characteristic of the Indian community as a whole, tending also to prove the temporary residence of its members, is that the percentage of adults of over 20 years of age in the community is high, 63 per cent. as against 52 per cent. for the whole population.

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 ratio

of 7·7 per cent., i.e. 10 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.

(iii) The *Anglo-Indian* community in Burma includes Anglo-Burmans as well as Anglo-Indian families, some of which are long established in the country. It is stated that recently there has been a growing tendency among some Anglo-Burmans to adopt Burmese dress and modes of life and to merge their interests in those of the indigenous races. However this may be the Anglo-Indian community as a whole numbering 18,600 claims a continuance of the protection of its separate identity which is afforded by communal representation ; and it is proposed to grant two seats to this community.

(iv) The *European* community amounted at the 1931 Census to 11,650, of whom 9,860 were of the "non-official" class. They are distributed through Upper and Lower Burma, though naturally tending to be congregated in the larger towns. At present the community has one seat out of 80 elected members. Having regard to the special position of the European community which is pointed out in paragraphs 81 and 82 of Volume II of the Statutory Commission's Report and to the disappearance of the nominated non-officials (who in the Burma Legislative Council have hitherto included almost invariably since 1922 three European members) it is proposed to allot three general seats to the European community. This is a higher proportion in general seats than is accorded in any other Province in India except Bengal ; but 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.

(v) The *Chinese* community has not hitherto had a communal electorate. Its members are widely dispersed through the different districts and it is difficult to ascertain what proportion of the total number of 121,750 are British subjects. It would be administratively no less difficult to create a separate electorate for a community so scattered through the villages as the Chinese are. It is proposed, therefore, that such separate representation of its particular interests as it is necessary to secure to it should be provided not by the creation of a new communal general electorate, but by representation through the Chinese Chamber of Commerce. It may be remarked, however, that though the Chinese community is scattered through the length and breadth of Burma, so considerable a number are congregated in one part of Rangoon as to have been able since 1922 consistently to return a Chinese candidate for one of the seats of the West Rangoon general constituency

(b) *Special Interests.*

28. It is the case that, as is pointed out by the People's Party, the special interests in Burma which require separate representation are largely identifiable with the minority communities—though not exclusively so. Burma is predominantly an agricultural country, and Commerce, Industry, Banking and organised trade are largely in the hands of non-indigenous minority communities; industrial labour in the rice mills and in the oil-fields and in urban centres generally is at least as much Indian as Burman. Representation through special interests therefore tends to supplement the representation accorded to minority communities as such.

29. The special interests to which it is proposed to accord separate representation in the new Lower House as in the existing Council are Commerce and Industry, Labour, and Rangoon University.

(i) As regards the *University* it is proposed, adopting the principle applied in India, to preserve the allocation of one seat to the Rangoon University. Regarded from the communal point of view, this seat would ordinarily be an addition to the strength of the "majority" or Burmese community.

(ii) For *Commerce and Industry* there are in the present Legislative Council six special seats. Of these one is held by the Burmese Chamber of Commerce and must therefore be reckoned as an addition to the strength of the "majority" community. Of the remaining five, the Burma Indian Chamber of Commerce has one, the Chinese Chamber one, the Burma (European) Chamber of Commerce two, and the Rangoon Trades Association one. The last-named is the retail traders' organisation, which since 1916 has had an elected representation in the Legislative Council; it has hitherto always returned a European representative.

In a country which, like Burma, is predominantly agricultural, and the overwhelming majority of whose indigenous inhabitants are peasant proprietors and cultivators, but in which, nevertheless, a considerable proportion of the wealth of the country is derived from the enterprises of a comparatively few, but highly important, commercial and industrial organisations, it is evidently important that these interests should 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. Otherwise there is a risk that measures may in ignorance be adopted by the majority representing agricultural interests and themselves largely

agriculturists, which would seriously damage the commercial and industrial enterprises on which the prosperity of the country so largely depends.

An increase in the number of Commerce and Industry seats seems to be required. If they were increased to nine, one of the additional seats might be allotted to the Burma Indian Chamber of Commerce and two to the Burma (European) Chamber, the present allocation of the remainder being left unchanged.

If this suggestion were adopted, the total number of the Lower Chamber would be 133 instead of 132, the number recommended in the proposals of the Burma Government (Appendix II).

(iii) *Labour*.—Industrial labour in Burma is to be found, broadly speaking, in the rice-mills (of which the very great majority are in Rangoon and the neighbourhood), in the oil-fields, and in the docks of Rangoon. Much of the labour employed is of a shifting type. The greater part of it consists of Indians temporarily resident in the country; this is the case in Rangoon (population 400,415, of which 212,929 is Indian and 30,626 Chinese), and Indians probably supply most of the industrial labour also in the "up-country" towns of Lower Burma in which rice-milling is carried on or in which, as at Akyab, there is shipping to be dealt with; but in these centres the actual numbers of industrial labour are relatively small. The labour supplied by the Indian temporary resident has of late years tended to be supplemented by that of Burmans, who are mainly of the agricultural worker class, driven from the land by a combination of economic causes as the supply of fresh cultivable land becomes more restricted. With the exception perhaps of the oil-fields this Burman labour is largely seasonal and casual.

The labour so composed is little organised; in most places the greater part of it consists of gangs, holding together only for short periods, which are recruited and paid, not by the employers, but by "maistries" or labour contractors. Trades Unions are non-existent; there is, indeed, reported this year to be one registered Union—but it has a membership of no more than 56. Such unregistered Unions as are formed from time to time are ephemeral, and as a rule are associations not of labour in the strict sense, but of such persons as bus-owners, who are actual or potential employers.

In these circumstances the means of securing representation for Labour is a difficult problem.

In the past, recourse has been had to nomination, but it has not proved a satisfactory device in Burma, and in any case is, for the reasons given in paragraph 243 of the Indian Franchise Report, not recommended.

The formation of Trades Union constituencies of a character even remotely resembling that described in paragraph 247 of the

Indian Franchise Report, is not at present a practical suggestion ; the only practicable course in the circumstances is the creation of special industrial Labour constituencies in selected areas.

It is proposed to create four such constituencies, two in the oil-fields and two in Rangoon or in Rangoon combined with Syriam (an industrial area on the opposite side of the Rangoon River). In these areas both Indian and Burman labour is employed ; but there is so much risk of racial friction between Indian and Burman labour where the two are in close contact that it is proposed that of the two constituencies in either area one should be Indian and one Burman.

Four Labour constituencies only may appear short measure. A certain weightage would, however, be given to Labour in that it is proposed that the voter in each of these four special constituencies would be permitted also to vote in any general constituency for which he may be qualified.

In Burma the wide measure of enfranchisement now proposed, falling as it does little short of adult male suffrage, will bring on the electoral roll all but the most temporary sojourners in urban no less than in rural areas. In the Labour constituencies the temporarily resident Indian labourer also, and the labourer of under 21, whether male or female, Indian, Burman or Chinese, will, under these proposals, be given an opportunity to send their representative to the Legislature.

30. *Summary of Proposals for Representation of Communities and Special Interests.*—The arrangements suggested for consideration in regard to communal representation and special interests are shown in the tables set out in Appendix I. The broad result is that the Burmese parties (without the Karen members) might expect to command 98 seats (or 73·7 per cent. in a House of 133), against 35 (or 26·3 per cent.) held by the minority communities (including Karens) and non-indigenous special interests.

(c) *Representation of Women.*

31. Pursuant to the recommendations of the Statutory Commission and the Minorities Committee of the Indian Round Table Conference, and following the general lines of the allocation of seats in the Indian Legislatures, the Government of Burma have suggested that in three of the plural member general urban constituencies a seat should be reserved for women, and that, if that Karen community so desires, one of the seats allotted to the community might similarly be reserved for a woman member. A reservation of three or four seats in a House of 133 would correspond to the proportion proposed to be reserved for women in the Indian Provincial Legislatures.

32. The People's Party are opposed to the reservation of seats for women and cite the opinion expressed by the women's delegate

at the Burma Round Table Conference, who disclaimed any requirement by the women of Burma for special means of representation as a "special interest" or a "minority community." But she was postulating adult suffrage for both sexes, or failing that the same qualifications for the franchise for women as for men. Neither of these is practicable, and in the absence of equal franchise for the sexes it may be that women would wish for reservation of seats. If they do not, however, it is not proposed to press the suggestion. But if it is adopted the three reserved seats which it is proposed to create for that purpose should be three new urban seats and should be open to the candidature of a woman of any race or community, as are the rest of general constituencies.

PART III.

COMPOSITION OF THE LOWER HOUSE.

(a) *General Non-Communal Constituencies.*

33. Appendix II contains the Burma Government's proposals for the formation of constituencies which would be suitable on the franchise suggested to return members to a House so composed. The final definition of the constituencies will need further enquiry locally; but, broadly, the Burma Government's proposals, subject to such further detailed local enquiry as may be necessary, appear appropriate to the purpose in view. In particular, they will have the effect of materially reducing the present disparity between rural and urban constituencies in respect of the ratio of representation to electors.

34. It is evident from the statistics given in paragraphs 20 and 21 of Appendix II that rural interests are at present much under-represented so far as *seats* in the Legislative Council are concerned, although, as has been remarked in paragraph 19 *supra*, the proportion of *electors* to total population is much greater in rural than in urban areas. At present there are 14 general urban constituencies and 44 general rural, representing respectively an average population of 35,300 and 246,100 persons.

35. It is now proposed that the new Lower House of 133 should contain 94 general seats, an increase of 36; and the Local Government has recommended, in order to correct the disparity between rural and urban representation, that after allowing for the creation of three additional general urban seats to be reserved for women the whole of the remaining 33 seats should be divided among rural constituencies.

36. This proposed allocation of 33 additional seats to rural constituencies will have the effect of reducing the ratio of member to rural population represented from 246,100 to 140,600.

37. The number of new voters which will be added by the lowering of the franchise in rural districts and by the creation of three new rural constituencies in Upper Burma (Appendix II, paragraph 24) cannot yet be estimated with any accuracy; but it is probable that the ratio of member to rural electorate will be reduced, correspondingly, from the present average of 42,220.

38. In urban areas the lowering of the franchise qualifications will add materially to the number of voters except, for the reasons stated in paragraph 36 of Appendix II, in Rangoon. The estimated number of future electors in general urban constituencies is 185,600 (as against 99,900 now); this would give, for 17 seats (14 plus three newly created, to be reserved to

women) an average of 10,900 electors per member, as against 7,130 now.

39. In addition the new Labour constituencies will bring a number of the urban population on to the franchise.

(b) *Karen General Constituencies.*

40. A further improvement of the present under-representation of rural interests will also be effected by the increase of the Karen rural seats from 5 to 12, reducing the ratio of member to Karen population represented from the present figure of 149,940 in the five districts in which Karen seats now exist to about 74,700 in the seven districts in which it is proposed that they should be established.

41. It is not possible to arrange that these seats shall cover every district where a considerable number of Karens is to be found without giving under-representation in the districts where the greatest number of Karens is to be found. It is preferable to give additional representation to separate communities in the districts where the communal preponderance is great rather than to expand the area in which communal electorates are formed. The course suggested is therefore to give two seats in each of the five districts in which a Karen communal electorate now exists, and to create two new Karen constituencies in areas in both of which there is a Karen population of over 60,000.

(c) *Indian General Constituencies.*

42. For the reasons stated in paragraph 16 of Appendix II, it is proposed that there should be no change in the allotment of eight general seats proposed for the Indian community, that they should be, as now, all urban, and that the boundaries of the present Indian urban constituencies should remain unchanged.

43. Indians in rural areas, including such Indian labour as is employed in agriculture, will vote in the general non-communal rural constituencies.

(d) *Special Constituencies.*

44.—(i) *Labour.*—The four seats proposed for Labour, two Indian and two Burman, will have the effect of increasing the urban representation.

(ii) *Commerce and Industry, and University.*—The Local Government do not suggest any variation of the franchise for these special constituencies; but a final decision in this respect will also be a matter for further enquiry.

PART IV.

THE UPPER HOUSE.

(Cf. *Proposals 25-28 in Joint Select Committee [Session 1932-33] Records, No. 4.*)

45. There was general agreement at the Burma Round Table Conference that in the event of Burma being separated it would be necessary, in view of the very much widened field of legislation and administration, to have an Upper House vested with power to revise and delay the proceedings of the Lower House, so as to ensure deliberation in the measures proposed.

46. There was general agreement also that the Upper House should be in size about one-third or one-quarter of the Lower House, that it should be styled the Senate and that its composition should be such that its opinions and judgments should carry weight.

47. *Size.*—It is proposed that the Upper House should consist of 36 members, i.e. between one-quarter and one-third of the Lower House of 133.

48. *Qualifications of Members.*—(1) Senators must be British subjects (see proposal 26 of the Burma Constitutional Scheme.

(2) There was general agreement at the Burma Round Table Conference that the minimum age for a Senator should be 35. The Indian White Paper proposes 30 as the low age limit for members of the Federal and Provincial Upper Houses and the point has been left open in the Burma Constitutional Scheme (proposal 26). For the purpose of securing experience and sobriety of judgment in a small house the higher age is preferable.

(3) The questions what qualifications should be prescribed for candidates for election and whether any should be prescribed as conditions of nomination will require further examination. But the alternatives of a high property qualification or service in distinguished public appointments have been proposed as means of securing that the persons elected to the Senate are persons of sober judgment and experience.

The specific suggestion has been made to adopt the property qualifications of the present electorate for the Council of State, somewhat modified in a restrictive sense. The qualifications of the electorate to the Council of State are in Burma much lower than elsewhere, affording an electorate of some 15,000, and the field of selection so afforded seems too wide. The Government of Burma made certain suggestions, recorded in Appendix II, paragraph 46, both for property qualifications and for qualification by tenure of certain public offices, but the property

qualifications are considered to be too high by the People's Party and others, who also wish to increase the list of qualifying offices.

49. *Method of Composition.*—The proposal (25) in the Burma Constitutional Scheme is that one-half the members of the Senate should be indirectly elected by the Lower House and one-half nominated by the Governor in his discretion.

50. The People's Party recommend that at least one-third should be directly elected by an electorate formed on the basis of either that for the present Council of State or that for the Legislative Assembly. The existing method of election to the Council of State and Legislative Assembly has, in point of fact, not worked well in Burma, and as the Burma Government's Memorandum points out (Appendix II, paragraph 44), if half the proposed Upper House were elected directly by the Council of State electorate the average constituency would be of nearly 7,000 square miles with only 830 electors. If one-third were so elected the average constituency would contain 1,250 voters, but would average 10,250 square miles. Some of the constituencies would naturally be considerably larger, for a considerable proportion of the electorate would be concentrated in the large towns, particularly Rangoon. If the electorate for the Legislative Assembly were adopted, the number of electors in each constituency would, of course, be greater, but the constituencies would still be of the same unmanageable size.

51. Direct election therefore, whether of one-half or of one-third, appears impracticable.

52. Indirect election by the Lower House corresponds to the method proposed for election to the Indian Federal Upper Chamber.

53. If half the proposed Upper House (i.e. 18 seats) were filled by indirect election by a Lower House of 133 by the single transferable vote, the quota required to secure a seat would be seven votes—on which basis it would be possible for each of the minority communities (except the Anglo-Indians and Chinese) to return at least one member to the Upper House.

54. But if, as is proposed, the Upper House is to have a continuous life (subject to dissolution only in emergency), and the rotational system of retirement is adopted (proposal 28) this low quota would only apply at the first election (and any election following the dissolution of the House—a rare contingency). At the elections following the four-yearly retirement of half the elected members the quota of votes required to secure the return of a candidate would be 13, a figure barely within the compass of either the Karen or the Indian bloc in the Lower House, and

quite beyond the scope of the other minorities and special interests. (This difficulty would of course be enhanced if only one-third of the Upper House were elected indirectly.)

55. In the circumstances it is necessary to leave ample room for the redress of deficiencies in representation by election; and nomination by the Governor in his discretion of one-half of the Upper House is proposed for this purpose and also for the purpose of securing the service of individuals particularly qualified for membership of a revisory Upper House.

56. *Rotational Retirement.*—The system of rotational retirements proposed in Proposal 28 was advocated by the Federal Structure Committee, but the proposal has not been adopted in the Indian White Paper, and instead a fixed life of seven years has been proposed to provide for the necessary new blood in the Federal Second Chamber. The communal difficulties which have been held to render the rotational system undesirable in India hardly exist in Burma, and the system was generally supported at the Burma Conference.

57. It has been suggested that nominated members should be exempt from the rotational retirement rule, on the ground that they would, as a rule, be nominated for a further term. But a term of eight years seems a long enough period for any member to serve without the question of his continued suitability coming under review; and it appears best that nominated members should retire in rotation, but be eligible for re-nomination.

APPENDIX I.

A.—COMPOSITION OF BURMA LEGISLATIVE COUNCIL
(LOWER HOUSE).

	<i>Present Legislative Council</i> (103 members)	<i>Proposed</i> <i>Lower House</i>
ELECTED :		
<i>General Constituencies :</i>		
Non-Communal { Urban 14 } 58		17* } 94
{ Rural 44 }		77 }
Karen - - Rural - 5		12
Indian - - Urban - 8		8
Anglo-Indian - (All-Burma) 1		2
European - (All-Burma) 1		3
<i>Special Constituencies :</i>		
University of Rangoon - 1		1
Burmese Chamber of Commerce - - - 1		1
Burma Indian Chamber of Commerce - - - 1		2
Burma Chamber of Commerce (European) - 2		4
Chinese Chamber of Commerce - - - 1		1
Rangoon Trades Association (European) - - 1		1
Labour - - - - †		
— 80	Indian 2 } 4	Burman 2 }
NOMINATED :		
<i>Officials</i> - - - - 14		—
<i>Non-Officials</i> † - - - 7		—
<i>Ex-officio Members of Executive Council</i> - - - - 2		—
— 23§		—
— 103		— 133

* Including three seats reserved for women.

† Labour representative in present Council included in nominated non-officials.

‡ Including Government advocate, representative of Rangoon Port Trust and representative of Labour interests.

§ The Burma Electoral Rules lay down that the Legislative Council of the Governor of Burma shall consist of "... (3) such number of members nominated by the Governor as, with the addition of the Members of the Executive Council, shall amount to twenty-three . . ."

B.—ANALYSIS OF REPRESENTATION IN THE BURMA LEGISLATIVE COUNCIL AND PROPOSED LOWER HOUSE.

	Present House (103 Members)										Proposed House (133 Members)										
	Constituencies						Nomi- nated	Minorities Representa- tion		Total	Per cent.	Constituencies						Minorities		Total	Per cent.
	General		General Communal			Special		Total	Per cent.			General		General Communal			Special	Total			
	R.	U.	R.	U.	All Burma		R.			U.	R.	U.	All Burma	Total	Per cent.						
Non-Communal*	44	14	—	—	—	2(a)	2	—	—	62	60·2	77	17†	—	—	—	2(a)	—	—	98	73·7
Karen	—	—	5	—	—	—	—	5	4·8	—	—	—	12	—	—	—	—	12	9·0	—	—
Indian	—	—	—	8	—	1(c)	2(d)	11	10·7	—	—	—	—	8	—	—	2(c)	12	9·0	—	—
European	—	—	—	—	1	2(e)	3	7†	6·8	—	—	—	—	—	3	—	4(e)	8	6·0	—	—
Anglo-Indian	—	—	—	—	1	1(f)	—	1	1·0	—	—	—	—	—	2	—	1(f)	2	1·5	—	—
Chinese	—	—	—	—	—	1(g)	—	1	1·0	—	—	—	—	—	—	—	1(g)	1	·8	—	—
Executive Councillors and other officials	—	—	—	—	—	—	16	—	—	16	15·5	—	—	—	—	—	—	—	—	16	12·0
										103	100·0									133	100·0

* I.e. seats normally filled by Burmans.

† Excluding official bloc.

‡ Including three seats reserved for women.

(a) Rangoon University and Burmese Chamber of Commerce.

(b) Labour.

(c) Burma Indian Chamber of Commerce.

(d) Including representative of labour interests.

(e) Burma Chamber of Commerce.

(f) Rangoon Trades Association.

(g) Chinese Chamber of Commerce.

C.—SUMMARY OF PROPOSED QUALIFICATIONS FOR THE FRANCHISE
FOR THE LOWER HOUSE.

Note.—It should be emphasised that pending preparation of a new electoral roll the qualifications stated below are to some extent provisional, and modifications of detail may be found necessary when the preparation of the roll is taken in hand.

General Qualifications.

Voters must be British subjects.

(A)—*Qualifications of Electors in General Constituencies.*

Residence in the constituency.

No person shall be qualified as an elector—

- (a) for a Karen constituency unless he is a Karen ;
- (b) for a European constituency unless he is a European ;
- (c) for an Anglo-Indian constituency unless he is an Anglo-Indian ;
- (d) for an Indian constituency unless he is an Indian.

(1) *Urban Constituencies.*

- (a) Possession of immovable property in the constituency of the value of not less than Rs. 100 ; *or*
- (b) Payment for the three previous years of municipal or cantonment taxes ; *or*
- (c)—(i) Payment for the three previous years of house rent at a rate of not less than Rs. 48 per annum ; *or*
(ii) Occupation rent free during the three previous years in a house or part of a house owned or hired by his employer of which the rental value is not less than Rs. 48 per annum ; *or*
- (d) Possession of any of the qualifications of an elector in a rural constituency.

(2) *Rural Constituencies.*

- (a) Persons included in the capitation tax assessment roll or in the *thathameda* assessment roll for the three previous years who have not been exempted from payment of such tax on the ground of poverty or of being an immigrant from outside Burma, provided that an elector of over 60 years of age who, during the year preceding that in which he attained the age of 60, has either paid capitation tax or been assessed thereto and exempted on grounds other than that of poverty shall continue to be eligible as a voter though no longer liable to the tax ; *or*
- (b) Payment for the three previous years, of tax to a District Council ; *or*

- (c) Payment for the three previous years, of land revenue of not less than Rs. 5; *or*
- (d) Assessment in the previous year to income-tax; *or*
- (e) For residents within the municipalities of Toungoo, Kyaukpyu or Thayetmyo, possession of qualifications (a), (b) or (c) for urban constituencies; *or*
- (f) Being a retired, pensioned or discharged officer, non-commissioned officer or soldier of His Majesty's regular forces.
- (3) *Women electors in urban and rural constituencies not qualified under either (1) or (2).*
- Proof of attainment of 21 years of age and of literacy as required by the Census test.
- (B)—*Qualifications for Special Constituencies* (subject to further enquiry).
- Residence in Burma; and in the case of—
- (a) the University constituency, a voter must be a Fellow or Honorary Fellow or registered graduate of the University.
- (b) the Commerce constituencies :—
- | | |
|--------------------------------------------------------------------------|-----------------------------|
| Burma Chamber of Commerce, a voter must be a Chamber member or a member. | } a voter must be a member. |
| Burma Indian Chamber of Commerce | |
| Burmese Chamber of Commerce | |
| Chinese Chamber of Commerce | |
| Rangoon Trades Association | |
- (c) The question of the franchise for Labour constituencies is still under consideration.

D.—UPPER HOUSE.

N.B.—It should be emphasised that the following proposals are to some extent tentative and provisional.

Number of members.—36.

Composition.—18 elected by the Lower House; 18 nominated by the Governor in his discretion to secure the senatorial quality of the House and to provide for the due representation of minorities or special interests that may not achieve it by election.

Qualification for membership.—The proposed qualifications for candidates for election have not been finally formulated, but,

generally, will include an age qualification, which it is suggested should be 35, and a high property qualification or distinguished public service. Members of the Lower House would be eligible for election, but membership would not itself be a qualification.

No restriction on the Governor's selection of persons for nomination is contemplated, but serving officials would not be eligible for nomination.

Tenure of seat (as proposed in Proposal 28 of the Memorandum of Proposals for a Constitution for Burma) for eight years, in normal conditions, terminable by a process of rotational retirement.

APPENDIX II.

MEMORANDUM BY THE GOVERNMENT OF BURMA ON THE REPRESENTATION OF MINORITIES AND ON THE CONSTITUENCIES AND FRANCHISE FOR THE LOWER HOUSE, AND PROPOSALS FOR THE UPPER HOUSE.

Minorities.

1. The proposals under this head are based in large measure on the communal award for India. Although the communal question is less acute in Burma than in India, it appears sound that similar methods of treatment should be adopted in both cases.

2. *Population and Size of Lower House.*—The racial composition of the population varies somewhat according to the area taken. The figures which might be regarded as relevant to this enquiry are as follows:—

Race	Population in			Percentage of Population in		
	Whole Burma	Elective Area	Area made into Constituencies	Whole Burma	Elective Area	Area made into Constituencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Burma group -	12,037,554	10,474,295	10,151,028	82·21	80·12	82·14
Karens -	1,367,673	1,146,262	1,100,226	9·32	8·99	8·90
Indians -	1,017,825	978,705	955,338	6·94	7·67	7·73
Chinese -	193,594	126,218	121,752	1·32	·99	·99
Anglo-Indians -	19,200	18,563	18,447	·13	·14	·15
Europeans -	11,651	11,069	10,858	·08	·09	·09
Total -	14,647,497	12,755,152	12,357,649	100·00	100·00	100·00

The choice of figures does not materially affect any calculations based on population. The minorities form about 17·86 per cent. of the total population.

In the announcement made by the Prime Minister at the close of the Burma Conference, it was stated that the number of the Lower House should be between 120 and 130. The calculations made by this Government suggest that 132 would be an appropriate number. A comparison of this figure with the figures for Provincial Legislatures given in Appendix III (Part I) of the Indian White Paper will show that this is a generous allowance for Burma. The Province whose population is nearest to that of Burma is the Central Provinces (with Berar) with a population of 15,500,000. The total number of members assigned to this Province is 112. Apart from other considerations a great increase of the total number of members would involve Burma in the expense of building a new Council Chamber, and such expense could hardly be justified at the present time.

3. *Separate Electorates already accepted in principle.*—Subject to agreement between the communities themselves, the maintenance of separate electorates as at present must be considered as *res judicata*.

On this point it is only necessary to quote two extracts from the Prime Minister's speech at the close of the Burma Conference :—

“The Lower House should be composed of members directly elected, and provision should be made to ensure adequate representation of minority communities and special interests, e.g. Commerce (European, Chinese and Indian as well as Burman).”

“His Majesty's Government regret that the Conference has not been able to reach agreement on the question of the representation of minority communities and special interests in the Legislature. They hope that agreement may still be achieved, for settlement by consent must be far more satisfactory than a decision imposed by any outside authority. Failing agreement, His Majesty's Government would find it very difficult to enforce any scheme which did not recognise the claims of minorities and special interests to representation by separate electorates.”

4. *Minorities and Interests which should have Separate Electorates.*—The minorities and special interests which have separate representation at present are :—

Minorities.—European community ; Anglo-Indian community ; Karen community ; Indian community.

Special Interests.—Rangoon University ; Burma Chamber of Commerce ; Burmese Chamber of Commerce ; Burma Indian Chamber of Commerce ; Chinese Chamber of Commerce ; Rangoon Trades Association.

Except in the case of the last named, to which reference will be made later, it is proposed that special representation should continue to be given to these minorities and special interests. It is not considered necessary to give special representation to any other minorities. It is undesirable to extend the system of giving separate electorates to minorities beyond what is absolutely necessary, and the fact that other minorities do not at present enjoy this privilege is a strong argument against any further extension. The minorities which are not at present represented are widely scattered and it would be impossible to constitute representative constituencies. As regards special interests, the only others which appear to require special representation are women and labour.

5. *Amount of Representation to be given to Minorities.*—(1) *Karens.*—On a population basis the Karens are entitled to about 9 per cent. of the total representation. It is proposed to give them 12 seats, which is approximately 9 per cent. of the total number of seats (132).

(2) *Anglo-Indians.*—As the Anglo-Indians have one seat in the present Council, there is a case for giving them more than one seat in an enlarged Legislature. Having regard to this consideration and to the number of general seats allotted to the community under the communal award, it is proposed to allot two seats to the Anglo-Indian community under the new constitution.

(3) *Europeans.*—It is proposed to allot three seats to this community. The argument in favour of adopting this figure runs as follows :—

The population of Europeans in the whole of British India, excluding Burma, has remained steady at about 142,000 between 1921 and 1931. If from this total be deducted the number of

Europeans for the sub-class "Public Force," the balance of the Europeans in British India in 1921 amounted to 85,253. This total is still probably much the same. To the Europeans in India 24 general constituency seats have been awarded, i.e. one seat has been allotted to every 3,552 of the European population other than the "Public Force." In the whole of Burma the European population at the 1931 census amounted to 11,651. If from this be deducted the 1,793 in the "Public Force" the balance amounts to 9,858. On the basis of one seat to every 3,552 of this population, three general constituency seats would be allotted to the European community in Burma.

(4) *Indians*.—From the figures given in paragraph 2 it will be seen that Indians number 7·73 of the total population in the area made into constituencies. There are arguments for and against the basing of representation of Indians on the population figure. On the one hand, many of them are only temporarily resident in Burma, and that might be regarded as justifying a representation ratio less than the population ratio. On the other hand, there is a marked disparity between the numbers of males and females; whereas to the population of Burma as a whole males and females contribute in very nearly equal proportions, among the Indian population 72 per cent. are males and 28 per cent. are females. Again, of the Indians in Burma 63 per cent. are 20 years of age and over, while for the population as a whole the proportion is 52 per cent. The higher proportion of males and adults in the Indian population of Burma might be urged in support of the grant of representation in excess of the population ratio. The appropriate representation ratio for Indians, therefore, cannot be determined precisely, but no great error would, it is thought, be made if they were given general representation in accordance with the population ratio (7·73). This ratio would give Indians just over 10 general seats in a house of 132. It is proposed that the two Indian Labour seats for which provision is made below should be included in this total.

6. *Representation for Special Interests*.—(1) *Rangoon University*.—The communal settlement for India provides for the existing number of University seats, and it is accordingly suggested that one seat in the Lower House should be allotted to the University of Rangoon.

(2) *Chinese Representation*.—The Chinese population in the area made into constituencies at the last census amounted to 121,752, of whom 82,979 were males and 38,773 females. About 13 out of every 30 classified themselves as temporarily resident in Burma, and about 51 per cent. were born outside Burma. No information is available as to the number of Chinese who are British subjects. It is not possible to compute accurately what the Chinese representation in general constituencies should be, but it could hardly amount to 1 per cent. Further, the distribution of the Chinese is so scattered that it would be difficult to constitute a constituency for them, and if representation on the usual lines were proposed it would probably be necessary to confine representation to a small area such as Rangoon. It is, therefore, proposed to continue the present arrangement and give representation to the Chinese community by allotting one seat to the Chinese Chamber of Commerce.

(3) *Representation for Women.*—In making the communal settlement His Majesty's Government stated that they attached great importance to securing that the new Legislatures should contain at least a small number of women members, and that they felt that this object could not be achieved at the outset without creating a certain number of seats specially allotted to women. They proceeded to state that it is essential that women members should not be drawn disproportionately from one community, and that for this reason communal electorates are necessary for the election of women.

In the provinces of India, 37 seats are to be reserved for women out of a total of 1,463 seats, i.e. about 2·5 per cent. If this percentage be adopted for Burma, the number of seats to be reserved in a House of 132 would be either three or four. At present it is suggested that one seat be reserved for women in each of the following constituencies :—

Rangoon East. Rangoon West. Mandalay Town.

If seats are reserved for women of any community other than the majority community, that community should probably be the Karen community. Government is, however, prepared to leave the matter to the Karens themselves, and if the Karens wish to have a seat so reserved would be prepared to support such a proposal on the understanding that this seat would count against the Karen quota.

(4) *Representation for Labour.*—It is proposed to allocate four seats to Labour, one for Burman and one for Indian Labour in Rangoon or Rangoon *cum* Syriam, and one for Burman and one for Indian Labour in the oilfields. The qualifications for the franchise present some difficulty and are still under investigation, and considerations as to the numbers who can be brought on to the rolls may affect the exact extent of the constituencies. Trade unions in Burma are almost non-existent, and it is not considered practicable to constitute a trade union constituency at present. It is intended that the two seats for Indian Labour should count against the quota allotted to the Indian community.

(5) *Representation for Commerce and Industry.*—At present the Burma Chamber of Commerce has two members, while the Burmese Chamber of Commerce, the Burma Indian Chamber of Commerce, the Chinese Chamber of Commerce and the Rangoon Trades Association have one each. Commerce and Industry have, therefore, six seats in a House of 103, and in order to give them equivalent representation in a House of 132 it will be necessary to increase the number of seats allotted to this special interest to eight. It is no longer considered necessary to grant separate representation to the Rangoon Trades Association as their interests can be looked after by the representatives of the Burma Chamber of Commerce, and it is proposed to allot the eight seats as follows :—

Burmese Chamber of Commerce	-	-	-	1
Chinese Chamber of Commerce	-	-	-	1
Burma Indian Chamber of Commerce	-	-	-	2
Burma Chamber of Commerce	-	-	-	4

It will be observed that the two additional seats are allotted to European and Indian Commerce. This follows the proposals in respect of India, where such increased representation as is allotted to Commerce is allotted to European Commerce, that is, to a minority interest.

7. *Summary.*—The above proposals may now be summarised as follows :—

Community (1)	Number of Seats		
	General (2)	Special (3)	Total (4)
Burmese - - -	94	4*	98
Karens - - -	12	—	12
Indians - - -	8	4†	12
Europeans - - -	3	4‡	7
Anglo-Indians - - -	2	—	2
Chinese - - -	—	1	1
Total - - -	119	13	132

* Rangoon University - - - 1	† Burma Indian Chamber of Commerce 2
Burmese Chamber of Commerce 1	Labour - - - - - 2
Burman Labour - - - 2	‡ Burma Chamber of Commerce - 4

In a House of 132—

Total minority representation - - -	34
Percentage of minority representation - - -	26
Number of Burmese - - - - -	98
Preponderance of Burmese - - - - -	64

Constituencies.

8. *Anglo-Indian Constituencies.*—It is proposed that there should be one constituency, with two members, covering the whole of Burma. If two constituencies were created the natural areas would be Upper and Lower Burma respectively. But the Anglo-Indian population of Lower Burma is 15,179, whereas that of Upper Burma is 3,268. This disparity in numbers alone is sufficient to determine the issue in favour of a single constituency covering the whole of Burma. It is proposed that election should be by postal ballot.

9. *European Constituencies.*—As in the case of Anglo-Indians, Europeans are concentrated in Lower Burma, for 7,700 reside there, compared with 3,100 in Upper Burma. It is proposed to have one constituency covering the whole of Burma with three members. In this case also postal ballot would be a suitable method of election.

10. *Karen Constituencies.*—The Karens now have five rural seats covering the following districts :—

Amherst	Myaungmya
Bassein	Thatôn.
Maubin	

It is proposed above that they should be allotted 12 seats.

The distribution of the Karen population by districts is as follows:—

Division	District	Karens			Order in population
		Males	Females	Total	
(1)	(2)	(3)	(4)	(5)	(6)
Pegu	Rangoon Town	1,600	1,600	3,200	17
	Pegu	18,600	18,700	37,300	10
	Tharrawaddy	13,000	13,700	26,700	12
	Hanthawaddy	14,600	15,200	29,800	11
	Insein	18,600	19,100	37,700	9
	Prome	2,200	2,400	4,600	16
Irrawaddy	Bassein	63,100	66,000	129,100	2
	Henzada	29,000	31,200	60,200	7
	Myaungmya	59,100	59,400	118,500	3
	Maubin	56,000	57,800	113,800	4
	Pyapôn	10,700	11,000	21,700	14
Tenasserim	Salween	23,500	22,300	45,800	8
	Thatôn	141,800	140,000	281,800	1
	Amherst	54,500	52,500	107,000	5
	Tavoy	6,800	6,600	13,400	15
	Mergui	11,200	10,800	22,000	13
	Toungoo	44,700	43,400	88,100	6
	Total	568,500	571,700	1,140,200	—

In India, paragraph 6 of the communal award prescribes that the electorates for Muhammadans, Europeans and Sikhs shall cover between them the whole area of the Province. This would not be in order for the Karens, for there are very few of them in Upper Burma. Thus in Magwe Division there are 300 only, in Mandalay Division 5,600, and in Sagaing Division 700. There are also less than 100 Karens in the Arakan Division.

11. The main question which arises in connection with the determination of Karen constituencies is whether the representation should be spread over a large area or concentrated over a comparatively small area.

It seems preferable to give additional representation to existing communal electorates where the figures warrant it and to restrict the area in which separate electorates are conceded. There are two good reasons for this:—

- (a) It is sound not to expand more than is necessary the areas in which communal electorates exist.
- (b) Within limits it is sound to endeavour to equalise the population in the various constituencies.

12. A suggestion was put forward at the Burma Conference that, in order to obviate the need for separate electorates for the Karens, certain areas which would contain a majority of Karens should be carved out as constituencies. It was asserted that in this way the Karens would be enabled to elect Karens if they desired to do so. The prospects of

manipulating areas so as to get the desired result seem remote, as the following figures of population show :—

District	Karens	Burmans	District	Karens	Burmans
Thatôn	281,300	136,500	Toungoo	88,000	283,700
Bassein	129,100	405,400	Henzada	60,200	531,000
Myaungmya	118,500	289,600	Insein	37,700	232,900
Maubin	113,800	238,700	Pegu	37,300	366,800
Amherst	107,000	74,200	Hanthawaddy	29,800	297,200

It is quite clear that it would not be possible so to arrange general constituencies containing both Burmese and Karens as to guarantee to the Karens the amount of representation to which they are fairly entitled, although it might be possible in Thatôn and Amherst.

13. In the light of all these considerations it seems best that the 12 seats recommended for this community should be distributed as follows :—

Thatôn District	-	-	2	Amherst District	-	-	2
Bassein District	-	-	2	Toungoo District	-	-	1
Myaungmya District	-	-	2	Henzada District	-	-	1
Maubin District	-	-	2				

In districts to which two seats are allotted, it is suggested that the question of dividing the district into two single member constituencies should be considered, and that, following Burma Electoral Rule 4, the electoral rules should authorise such action. But it may not be possible to complete these arrangements before the first elections under the new constitution are held.

14. In an earlier paragraph reference has been made to the possibility that seats should be reserved to Karen women. It is suggested that the following conditions should apply to any representation given to them :—

- (a) Not more than one seat should be reserved for Karen women.
- (b) The seat should count against the Karen quota.
- (c) The seat should be located in Thatôn District, which should then become a three-seat Karen constituency, of which one would be reserved for Karen women.
- (d) The number of seats allotted to Amherst District should be reduced to one, so as to retain unaltered the total amount of Karen representation.

15. *Indian.*—The Indian community now have eight representatives in the Legislative Council. The constituencies, which are entirely urban, and the number of members are as follows :—

Akyab Indian Urban	-	1	Moulmein Indian Urban	-	1
Bassein Indian Urban	-	1	West Rangoon Indian Urban	-	2
Mandalay Indian Urban	-	1	East Rangoon Indian Urban	-	2

It has been recommended above that the Indians should be given 10 General seats in a Lower House of 132 members. But this total representation should, in order not to disturb the communal balance, also cover any representation of Labour. As it is proposed that two seats should be allotted to Labour, the number of General seats which should be allotted to the Indians is eight. It is now for consideration through what constituencies this representation should be secured.

16. A general question arises at the outset. The present Indian constituencies are entirely urban, and it is for consideration whether this arrangement should continue or whether the constituencies should be expanded so as to cover rural areas as well. Any extension of the areas of Indian constituencies would add appreciably to the difficulties of conducting elections. With the extension of the general franchise, those difficulties are bound to be considerable. But the trouble will be disproportionately great in the case of the Indian community as special polling booths may be required for Indian women. Special arrangements of this kind could be made much easier in towns than rural areas. The difficulty of concerting suitable electoral arrangements will be particularly felt in areas in which separate electorates are being provided for both Indians and Karens, for it is precisely in these areas that the additions to the general electorate are likely to be greatest. The expansion of the Indian constituencies would also add to the difficulty of drawing up the electoral rolls. The primary object is to see that the Indian community is adequately represented and the precise areas of constituencies is less important. Further, it is wise not to expand more than is necessary the areas in which the system of communal electorates operates. Again, the maintenance of the extent of Indian representation at its present figure suggests that no change should be made in existing constituencies. In these circumstances the proper course seems to be to confine Indian representation to towns as at present.

17. The distribution of the Indian population by districts is as follows :—

Division (1)	District (2)	Indians (in thousands)			Order (6)
		Males (3)	Females (4)	Total (5)	
Arakan	Akyab	124	87	211	2
	Kyaakpyu	3	1	4	21
	Sandoway	2	—	2	22
	Rangoon	172	41	213	1
Pegu	Pegu	35	16	51	4
	Tharrawaddy	11	3	14	15
	Hanthawaddy	46	20	66	3
	Insein	31	13	44	5
	Prome	9	3	12	17
	Bassein	20	4	24	12
Irrawaddy	Henzada	9	3	12	18
	Myaungmya	24	4	28	11
	Manbin	11	2	13	16
	Pyapón	26	8	34	8
	Salween	1	—	1	—
'Tenasserim	Thatón	23	11	34	9
	Amherst	29	11	40	6
	Tavoy	5	1	6	20
	Mergui	7	2	9	19
	Toungoo	20	10	30	10
Magwe	Magwe	14	3	17	13
	Rest of division	9	3	12	—
Mandalay	Mandalay	27	11	38	7
	Rest of division	17	7	24	—
Sagaing	Myitkyina	11	6	17	14
	Rest of division	20	7	27	—
	Total	706	277	983	—

Having regard to these figures, this Government considers that, if Indian constituencies are to be expanded so as to embrace both urban and rural areas, the eight General seats for the Indian community should be apportioned as follows :—

Rangoon Town District -	4	Hanthawaddy District -	1
Akyab District -	2	Pegu District -	1

Any expansion of Indian constituencies would therefore necessitate the withdrawal of representation from Bassein, Amherst and Mandalay, which have separate (Indian urban) representation at present. This is an additional reason for making no change in the existing arrangements.

18. The towns in which the Indian population is heavy are as follows :—

Town (1)	Indians (in thousands)				Order (6)
	Hindu (2)	Muslim (3)	Other Indians (4)	Total (5)	
Akyab - - -	11	10	—	21	3
Rangoon - - -	140	58	15	213	1
Insein - - -	7	2	1	10	6
Bassein - - -	11	4	—	15	5
Moulmein - - -	16	6	1	23	2
Mandalay - - -	10	5	2	17	4
Pegu - - -	4	1	—	5	10
Syriam - - -	6	2	—	8	8
Toungoo - - -	4	2	1	7	9
Maymyo - - -	6	2	2	10	7
Pyinmana - - -	3	1	—	4	11

In the light of these figures, the eight seats recommended for this community might suitably be allotted as follows :—

Rangoon Town - - -	4	Akyab Town - - -	1
Moulmein Town - - -	1	Bassein Town - - -	1
Mandalay Town - - -	1		

It will be observed that this allotment is in accordance with the existing representation, and this is a strong point in its favour.

19. It would now be convenient to summarise the proposals regarding the representation of the Indian community. They are as follows :—

- There should be eight Indian General constituency seats.
- There should be two Labour seats allocated to Indians.
- All the general Indian representation should be urban.
- The present Indian urban constituencies should be maintained unaltered.

20. *General Constituencies.*—There are at present the following General non-communal constituencies :—

Urban - - - -	14	Rural - - - -	44
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Particulars of these are as follows :—

General Urban Constituencies.

Town	Population	Voters	Town	Population	Voters
Akyab Town -	16,793	4,921	Prome -	28,295	4,259
Bassein Town -	30,239	2,575	Rangoon Town	187,486	{ 8,950 14,499
Henzada -	28,542	2,166	East (2) -		
Mandalay (3) -	130,828	17,733	Rangoon Town		
Moulmein (2) -	42,634	6,631	West (2) -	29,018	4,423
			Tavoy -		
			14 Seats -	493,835	66,157

General Rural Constituencies.

Constituency (1)	Population (2)	Voters (3)	Constituency (1)	Population (2)	Voters (3)
Amherst -	344,769	51,100	Mergui -	161,987	16,538
Akyab District East	231,852	69,358	Minbu -	277,876	60,071
Akyab District West	367,634	49,965	Myaungmya -	326,359	37,902
South Arakan -	349,537	23,023	Myingyan North	277,599	61,998
Bassein District -	398,352	73,318	Myingyan South	194,958	37,608
Hanthawaddy East	223,980	27,191	Pakòkku East	313,459	62,957
Hanthawaddy West	184,851	23,962	Pakòkku West	185,722	35,864
Henzada District			Pegu North -	199,830	29,621
North -	288,067	51,314	Pegu South -	290,139	43,092
Henzada District			Prome District	382,356	57,036
South -	296,671	42,967	Pyapón -	334,158	37,861
Insein -	331,452	39,489	Sagaing East -	155,192	32,453
Katha -	253,311	40,262	Sagaing West -	180,773	36,929
Kyaukse -	151,320	30,766	Shwebo East -	201,107	46,265
Lower Chindwin			Shwebo West -	245,683	56,345
East -	203,884	38,145	Tavoy District	150,946	28,019
Lower Chindwin			Tharrawaddy North	250,210	40,491
West -	179,550	43,217	Tharrawaddy South	258,109	32,670
Magwe East -	243,227	55,840	Thatón -	251,396	42,984
Magwe West -	256,346	65,017	Thayetmyo -	274,177	44,330
Mandalay District -	223,704	44,804	Toungoo North	204,641	34,090
Maubin -	257,751	37,699	Toungoo South	224,029	36,223
Meiktila East -	138,058	26,930	Yamèthin North	206,502	41,640
Meiktila West	171,941	36,160	Yamèthin South	184,318	34,656
			Total -	10,827,783	1,857,665

21. The statistics concerning these general constituencies can be summarised as follows :—

Population in general urban constituencies	-	493,835
Voters in general urban constituencies	-	66,157
Population per general urban constituency	-	35,272
Voters per general urban constituency	-	4,725
Population in general rural constituencies	-	10,827,783
Voters in general rural constituencies	-	1,857,665
Population per general rural constituency	-	246,086
Voters per general rural constituency	-	42,220

It is clear from these figures that urban interests are at present over-represented and that, if additional seats are available, they should be given to rural areas.

22. It will be observed from paragraph 7 above that, in future, the number of general seats is to be 94. As stated in paragraph 20 the present number is 58. There will thus be an increase of 36 seats. But for the reasons given in paragraph 21 none of these additional seats (other than the three seats to be reserved for women, *vide* paragraph 25) should be allotted to urban areas.

23. At present Kyaukpyu and Sandoway districts are combined together in the South Arakan constituency. The district is usually taken as the unit. It is therefore proposed that this constituency should be dissolved and two constituencies created. On a population basis Kyaukpyu will in future be entitled to two members. This change will therefore account for two of the available seats.

24. It is further proposed that portions of the—

Upper Chindwin,
Myitkyina,
Bhamo

districts which are included in the elective area, but which have not yet been included in constituencies, should now be made into constituencies and given one representative each.

25. If these changes are accepted 31 seats will still be available for general constituencies. But it is proposed to reserve one seat for women in each of the following general urban constituencies :—

Rangoon East,
Rangoon West,
Mandalay.

26. There are still 28 seats available for allotment to general rural constituencies. These seats could be distributed according to—

(a) population ; or
(b) voters.

This Government favours a population basis. Under the proposals now put forward Upper and Lower Burma will compare as follows :—

Class of Seat (1)	Present		Future	
	Upper (2)	Lower (3)	Upper (4)	Lower (5)
Indian Urban - - -	1	7	1	7
Burman Labour - - -	—	—	1	1
Indian Labour - - -	—	—	1	1
General Urban - - -	3	11	3	11
Seats reserved for women	—	—	1	2
Karen General - - -	—	5	—	12
General - - -	20	24	32	45
Total - - -	24	47	39	79

27. *General Rural Constituencies.*—On a population basis the general seats should be allocated as shown below:—

Constituency (1)	Population (2)	Seats Proposed (3)	Constituency (1)	Population (2)	Seats Proposed (3)
Anherst - - -	344,769	2	Minbu - - -	277,876	2
Akyab District East	231,852	2	Myaungmya - - -	326,359	2
Akyab District West	367,634	2	Myingyan North - - -	277,599	2
Bhamo - - -	66,531	1	Myingyan South - - -	194,958	1
Bassein District - - -	398,352	2	Myitkyina - - -	89,298	1
Hanthawaddy East	223,980	2	Pakôkku East - - -	313,459	2
Hanthawaddy West	184,851	1	Pakôkku West - - -	185,722	1
Henzada District			Pegu North - - -	199,930	1
North - - -	288,067	2	Pegu South - - -	290,139	2
Henzada District			Prome District - - -	382,356	2
South - - -	296,671	2	Pyapôn - - -	334,158	2
Insein - - -	331,452	2	Sagaing East - - -	155,192	1
Katha - - -	253,311	2	Sagaing West - - -	180,773	1
Kyauksè - - -	151,320	1	Sandoway - - -	129,245	1
Kyaukpyn - - -	220,292	2	Shwebo East - - -	201,107	1
Lower Chindwin			Shwebo West - - -	245,683	2
East - - -	203,884	1	Tavoy District - - -	150,946	1
Lower Chindwin			Tharrawaddy North	250,210	2
West - - -	179,550	1	Tharrawaddy South	258,109	2
Magwe East - - -	243,227	2	Thatôn - - -	251,396	2
Magwe West - - -	256,346	2	Thayetmyo - - -	274,177	2
Mandalay District - - -	223,704	2	Toungoo North - - -	204,641	2
Manbin - - -	257,751	2	Toungoo South - - -	224,029	2
Meiktila East - - -	138,058	1	Upper Chindwin - - -	187,605	1
Meiktila West - - -	171,941	1	Yamèthin North - - -	206,502	2
Mergui - - -	161,987	1	Yamèthin South - - -	184,318	1
			Total - - -	11,171,217	77

Power should be taken, as is conferred by Burma Electoral Rule 4, to subdivide areas to which it is proposed to allot two members into two single-member constituencies. But it is doubtful whether this task can be undertaken in time for the new constituencies to be delimited for the first election under the new constitution.

28. *Special Constituencies.*—As stated above, it is proposed that the representation now enjoyed by the Rangoon Trades Association be withdrawn. No change is suggested in the constituencies to which it is proposed to continue to give representation.

Franchise for the Lower House.

29. *Franchise for the Lower House.*—The subject of the franchise was discussed at the Burma Conference, and proposals for the franchise in India have recently been made by the Indian Franchise Committee. The views of the Burma Conference are recorded in paragraphs 35 to 37 and in paragraph 43 of the Report of the Committee of the whole Conference. The opinion was widely held that a case existed for the extension of the franchise. It was also pointed out that the position of women and unmarried men under the present system is illogical and requires examination. In India a very wide extension of the franchise to males has been proposed, while women have been recommended for enfranchisement roughly in the ratio of one woman to four men. The Government of Burma has kept in view the recommendations of the Burma Conference and the proposals of the Indian Franchise Committee

in formulating the proposals which follow. Its object is to make such an extension of the male electorate as is reasonably practicable, and to effect a very considerable increase in the ratio of female to male voters.

30. *Present Electorate.*—The population of the portion of Burma now made into constituencies is 12·3 millions. The number of electors, male and female, is 2·08 millions. The number of female voters is about 124,000. The percentages of electors to population, of male electors to the adult male population and of female electors to the adult female population are 16·9, 57·4 and 4·0 respectively.

31. *Present Qualifications.*—The basis of the present franchise in general constituencies is defined in Burma Electoral Rule 8 (1), which reads as follows :—

“ 8.—(1) The qualifications of an elector for a general constituency shall be such qualifications based on—

Qualifications of Electors

- (i) community;
- (ii) residence; and
- (iii).—(a) occupation of a building, or
- (b) payment of municipal or cantonment taxes or capitation-tax or land-rate in lieu of capitation-tax, or
- (c) payment of land revenue, or of a tax on circumstances and property under the Burma Rural Self-Government Act, 1921, or
- (d) entry in the capitation-tax or the *thathameda*-tax assessment-roll, or
- (e) assessment to income-tax, or
- (f) military service, or
- (g) the possession of immovable property, as are specified in Schedule II in the case of that constituency.”

The qualifications which, under these powers, have been prescribed in respect of community, residence and property are defined in clauses 2, 3 and 4 of Schedule II to the Burma Electoral Rules, which are reproduced in the Annexure to this Memorandum.

32. *Qualification based on Community.*—Separate representation is proposed above for the Karen, Indian, Anglo-Indian and European communities. For so long as separate electorates are maintained it will be necessary to base a qualification on community. The existing qualifications based on community are specified in the Annexure to this Memorandum, and no modification seems necessary.

33. *Residential and Age Qualification.*—At the Burma Round Table Conference stress was laid on the point that a period of residence in Burma should be an essential qualification for the vote. In the Indian White Paper an age qualification of 21 is prescribed for the franchise for the Lower Houses of both the Provincial and the Federal Legislatures. It is possible and convenient to combine these qualifications in the case of Burma by requiring proof of payment of, or assessment to, the qualifying tax for a period of three years, and it is proposed to amend the qualifications based on payment of or assessment to taxes accordingly, except in the case of income-tax. In the case of the latter tax the nature of the qualification required 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. The three years' period would be applied also to the qualification based on payment of rent or the supply of rent-free quarters of a certain annual rental value, but it is not considered necessary to apply it to the qualification based on the possession of property (Rule 3 (a) of the Annexure to this Memorandum) which will in any case take some time to acquire. The names of persons on the present electoral rolls would, however, be allowed to remain and such persons would not be disfranchised.

34. *Qualification based on Capitation-tax.*—At present the qualification based on capitation-tax requires that the voter should be entered in the assessment roll as liable to pay capitation-tax of not less than Rs. 5. The present qualification therefore excludes all married males who are assessed to capitation-tax of less than Rs. 5 and these number some 90,000. It excludes also males over the age of 60 and all unmarried men. The latter defect is probably the most serious. It is proposed to prescribe simply assessment to capitation-tax as the qualification subject to the limitations at present imposed as regards exemption from payment on certain grounds; and to provide also that a person above 60 years of age who during the financial year preceding that in which he attained the age of 60 years has either paid capitation-tax or has been assessed to capitation-tax and exempted from payment otherwise than on the ground of poverty shall continue to be so eligible although capitation-tax is no longer payable by him.

35. *Other Qualifications in Rural Areas.*—It is proposed to modify Rule 4 (b) by prescribing merely payment of tax to a District Council without specifying any particular tax or any amount of tax. It is not proposed to make any change in the qualifications specified in items (c), (d), (e) and (f) of Rule 4.

36. *Qualifications in Urban Areas.*—Most of the voters in towns obtain the vote under one or other of the following qualifications :—

- (1) The occupation of a building.
- (2) The payment of municipal or cantonment taxes.
- (3) The possession of immovable property.

The percentage of the population enfranchised in urban areas is less than that in rural areas in Lower Burma and substantially less than that in rural areas in Upper Burma. The most recent electoral rolls show that these percentages are 12·7, 14·6 and 20·5 respectively. It is considered necessary to bring these percentages more into agreement with each other. The proposals which follow regarding the enfranchisement of women will tend in that direction, but that will not be enough and it is therefore proposed to revise the qualifications based on property as follows :—

- (a) The value of immovable property which will entitle the possessor to a vote should be reduced from Rs. 200 to Rs. 100.
- (b) Any person who pays any amount of municipal taxes or cantonment taxes should be enfranchised.
- (c) In the existing house rent qualifications Rs. 48 should be substituted for Rs. 60.

In the circumstances in which this Memorandum has been written it is impossible to estimate exactly the effect of the changes we propose. But it is anticipated that, if these proposals are adopted, the electorates in the various urban constituencies will be approximately as follows :—

Urban Constituency	Popula- tion	Voters	Perce- tage of Voters to Popu- lation	Estimated future No. of Voters with Pro- perty Qualifi- cation	Number of Literate Women	Estimated future Total Number of Voters	Percentage of Voters to Population
(1)	(2)	(3)	(4)	(5)	(6)	(9)	(8)
Akyab (General) - -	16,793	4,921	29.3	5,221	} 2,413	12,398	32.5
Akyab (Indian) - -	21,301	3,164	14.9	4,764			
Bassein (General) - -	30,239	2,575	8.5	3,865	} 4,357	9,490	20.8
Bassein (Indian) - -	15,423	1,020	6.7	1,268			
Henzada (General) - -	28,542	2,166	7.6	3,809	3,100	6,909	24.2
Mandalay (General) - -	130,828	17,733	13.6	26,733	15,524	42,257	32.3
Mandalay (Indian) - -	17,104	5,014	29.3	6,294	1,505	7,799	45.6
Moulmein (General) - -	42,634	6,631	15.6	6,969	} 5,861	15,330	23.4
Moulmein (Indian) - -	22,872	2,070	9.1	2,500			
Prome (General) - -	28,295	4,269	15.1	5,359	2,908	8,267	29.2
Rangoon East (General) - -	} 187,486 {	8,950	} 12.5 {	8,950	} 24,000 {	47,449	25.3
Rangoon West (General) - -		14,499		14,499			
Rangoon East (Indian) - -	} 212,929 {	12,625	} 10.5 {	12,826	} 4,815 {	27,467	12.9
Rangoon West (Indian) - -		9,826		9,826			
Tavoy (General) - - -	29,018	4,423	15.2	5,423	2,767	8,190	28.2
Total - - -	783,464	99,882	12.7	118,306	67,250	185,556	23.7

The table indicates that the proportions of the populations in the urban constituencies which will be enfranchised by the qualifications proposed will not be uniform. In particular, the modifications proposed in the property qualifications will not effect any appreciable increase in the electorate in Rangoon. The qualification based on the possession of immovable property is practically inoperative in Rangoon, and in any case almost all the houses in that area are worth not less than Rs. 200 each. Further, the minimum amount of municipal taxes assessed is considerably in advance of the sum of Rs. 4 which now appears in Schedule II to the Burma Electoral Rules. Finally, house rents are generally in excess of the Rs. 5 which is the sum which now entitles a person to a vote. In the result it seems inevitable that the electorate in Rangoon should remain practically unaltered to the extent that the number of voters depends on the possession of a property qualification. But the forming of Labour constituencies will add very considerably to the electorate and so redress the balance.

The above proposals will very largely reduce, if they do not altogether eliminate, the disparity between the proportions of the urban and rural populations which obtain the vote.

37. *Enfranchisement of Women.*—In his letter of instructions to the Indian Franchise Committee the Prime Minister stated that "His Majesty's Government attach special importance to the question of securing a more adequate enfranchisement of women than the existing system, which applies to women the same qualifications as to men, and has

produced a women's electorate numbering less than one-twentieth of the total male electorate." One of the qualifications recommended by the Indian Franchise Committee for women was literacy as defined for census purposes, viz. ability to read and write a letter in any language. It is proposed to adopt this qualification in Burma, and to couple with it an age qualification of 21. The number of literate women over 20 in the future elective area in Burma is 628,000, of whom 474,000 are resident in Lower Burma and 154,000 in Upper Burma. If allowance is made for the reduction in the numbers arising from the raising of the age to 21 and for the women who already possess the franchise through the property qualification, the number of women which will be added to the electorate will be in the neighbourhood of 600,000 and the total number of women voters over 700,000.

The Indian Franchise Committee found that the literacy qualification would not in India go very far to remove the disparity in voting strength between men and women, and they recommended other qualifications. The net result of all their recommendations is to make the ratio of men voters to women voters roughly 4 : 1. In Burma, however, the adoption of the literacy qualification alone will produce one woman voter for every 3·3 male voters, a higher proportion than that secured in India, and no additional qualification is considered necessary. The Indian Franchise Committee recommended that the vote should be given to the wives of all men who possess the property qualifications at present prescribed for the Provincial Councils. The present electorate in Burma numbers about 2·08 millions, of whom only 124,000 are women. Owing to the large proportion of the adult male population which is now enfranchised in Burma, the effect of applying to women in Burma the additional qualification recommended for women in India would almost double the electorate and would bring the number of women voters into practical equality with the number of male voters. At present this course is not practicable.

38. *Special Constituencies*: (1) *The University*.—Any person is now qualified as an elector for this constituency if he has a place of residence in Burma and if he is a Fellow or an Honorary Fellow or a registered graduate of the University. This is in accordance with the views of the majority of the Indian Franchise Committee as expressed in paragraph 335 of their Report. In the communal settlement for India this point has been reserved for further consideration. No change is proposed for the present in the qualifications for this constituency, but there would appear to be no objection to accepting whatever is decided for India.

(2) *Chambers of Commerce*.—No change is suggested in the present qualifications.

(3) *Labour*.—The qualifications to be prescribed for Labour constituencies, which must necessarily differ from those in other constituencies, are at present under consideration. A lengthy investigation will be necessary and it is not possible to include Government's proposals in this Memorandum.

39. *General Results of the Proposals*.—The results of these proposals can be only approximately gauged, but it is estimated that they will enfranchise 3,000,000 or over in the future elective area of Burma out of a total population in that area of 12·9 millions. Of these 3,000,000, about 2·3 millions will be males and about 700,000 women.

Proposals for an Upper House.

40. *Need for an Upper House.*—The great majority of the democracies of the world, even those which have come recently into being, have been established on a bicameral basis. The Burma Conference was unanimously in favour of the establishment of a Second Chamber, and the Burman representatives were generally anxious that it should be called the Senate. Further, the Indian White Paper proposes a Second Chamber in those Provinces which desire one.

41. *Functions and Character of an Upper House.*—A big advance in self-government in Burma is contemplated and the future Legislature will have to deal with legislation relating to a much wider field of subjects than hitherto. The main power of the Upper House will be to revise and delay and thus to ensure that legislative measures are adequately considered and are supported by public opinion. These considerations have to be borne in mind in examining the proposals set forth below.

42. *Size of the Upper House.*—In his speech at the close of the Burma Round Table Conference, the Prime Minister said that in size the Upper House should be about one-third of the Lower House. In paragraph 380 of its Report the Indian Franchise Committee stated that the prevailing opinion was that the size of the Provincial Second Chambers should be between a quarter and a third of the size of the Lower House. It is proposed that the membership of the Senate in Burma should be 36, which is between a quarter and a third of the membership of the Lower House, viz. 132.

43. *Composition of Upper House.*—It is necessary that a proportion of the members should be nominated in order to secure representation for minorities and special interests which may not secure representation through elected members, and also to secure in the Senate that element which is indispensable in a senatorial body and which may not be secured merely by the qualifications prescribed for candidates. It is proposed that half of the members of Senate should be elected and half nominated by the Governor.

44. *Method of Election.*—The elective area in Burma covers 123,000 square miles. The number of electors in Burma to the Council of State is about 15,000. If the existing franchise and method of election were maintained, there would thus be on the average one member to each 833 electors, and those electors would be spread over an average area of 6,833 square miles. Several of the constituencies would be considerably in excess of this average area, for a substantial proportion of the voters would be concentrated in Rangoon. The difficulty of maintaining contact between the members and constituents would be enhanced by the fact that the population in Burma is predominantly rural and communications are not highly developed. There would also be great difficulty in making suitable polling arrangements for even such a limited electorate spread over so large an area. It is, therefore, impracticable to subdivide Burma into territorial constituencies for the purpose of electing members to the Upper House. It would also be very difficult, under a system of direct election, to give effect to the principle of continuity which should be adopted for the Upper House. In view of these

considerations the most suitable method is indirect election of members of the Upper House by members of the Lower House voting in accordance with the principle of the single transferable vote.

45. *Term of Office.*—It is proposed that both elected and nominated members should normally hold office for eight years, and, in order to secure continuity, that one quarter should retire every two years, one half of the elected and nominated members retiring alternately. In the first senate after its creation and in the first senate after a dissolution it will not be possible for all the members to serve for their full term. In these cases provision should be made for the retirement of the nominated members at the end of the second and sixth years, and for the retirement of the elected members at the close of the fourth and eighth years.

46. *Qualifications for Members.*—The qualifications proposed are as follows:—

- (1) To be a British subject of not less than 35 years of age, and
- (2)—(a) Payment of not less than Rs. 1,000 land revenue or of income tax assessed on a minimum income of Rs. 12,000, or
- (b) a qualification based on service in certain distinguished public offices, viz. as a Member of the Governor's Executive Council, or as a Minister, or as a Judge of the High Court, or as a permanent Deputy Commissioner or as a permanent District and Sessions Judge.

47. *Representation of Minorities and Special Interests.*—Representation for these may be secured to a very limited extent through the system of the single transferable vote, but this will have to be supplemented by the Governor's power to nominate.

General.

48. Non-official opinion is being consulted on these proposals, but it must be understood that any recommendations resulting from such consultation will have to be open for further discussion with the Joint Select Committee. Conclusions therefore reached as a result of discussion of the proposals with non-officials cannot be regarded as being in any sense final.

ANNEXURE (paragraph 31 of the Memorandum).

Extract from Schedule II to the Burma Electoral Rules.

"2.—(1) No person shall be qualified as an elector—

Qualifications based upon
community.

- "(a) for a Karen constituency unless he is a Karen ;
- "(b) for a European constituency unless he is a European ;
- "(c) for an Anglo-Indian constituency unless he is an Anglo-Indian ;
- "(d) for an Indian constituency unless he is an Indian ;
- "(e) for any other general constituency if he is a European or an Anglo-Indian.

"(2) No Karen shall be qualified as an elector for any of the following constituencies, namely, the Amherst, Bassein District, Maubin, Myaungmya and Thaton general rural constituencies.

"(3) No Indian shall be qualified as an elector for any of the following general urban constituencies, namely, Akyab, Bassein, Mandalay, Moulmein and Rangoon.

"3. Subject to the provisions of paragraph 2 of this Schedule a person shall be qualified as an elector for an urban constituency who has a place of residence in the constituency and who—

Urban Constituencies.

"(a) possesses immovable property in the constituency of the value of not less than Rs. 200, or

"(b) has paid during and in respect of the previous financial year, municipal taxes or cantonment taxes, which, together with any capitation tax or land rate in lieu of capitation tax paid by him in respect of the previous agricultural year, amount to not less than Rs. 4, or

"(c)—(i) has paid during and in respect of the previous financial year rent at a rate of not less than Rs. 60 per annum for a house or part of a house which he has occupied in the constituency, or

"(ii) has lived rent free during the previous financial year in a house or part of a house in the constituency owned by his employer or hired by his employer on his behalf, of which the rental value is not less than Rs. 60 per annum, or

"(d) possesses any of the qualifications hereinafter prescribed for an elector of a rural constituency.

"4. Subject to the provisions of paragraph 2 of this Schedule, a person shall be qualified as an elector for a rural constituency who has a place of residence in the constituency and—

Rural Constituencies.

"(a) has been entered in the capitation tax assessment roll as liable to pay capitation tax of not less than Rs. 5 or in the thathameda tax assessment roll of the previous agricultural year as head of the household and liable to pay thathameda tax, and has not been exempted from payment of capitation tax or thathameda tax, as the case may be, on the ground of poverty or of being an immigrant from a country outside Burma, or

"(b) has paid during and in respect of the previous agricultural or financial year a tax on circumstances and property under section 26 of the Burma Rural Self-Government Act, 1921, or

"(c) has paid during and in respect of the previous agricultural year land revenue of not less than Rs. 5, or

"(d) was in the previous financial year assessed to income tax, or

"(e) in the case of a person possessing a place of residence within the municipalities of Toungoo, Kyaukpyu or Thayetmyo, possesses qualifications prescribed in subclauses (a), (b) or (c) of clause (1) of paragraph 3 of this Schedule, or

"(f) is a retired, pensioned or discharged officer, non-commissioned officer or soldier of His Majesty's regular forces."

APPENDIX III.

VIEWS OF PARTIES, MINORITIES AND SPECIAL INTERESTS IN BURMA ON THE GOVERNMENT OF BURMA MEMORANDUM* ON REPRESENTATION OF MINORITIES, FRANCHISE, &C.

I.—Independent Party.

1. Under paragraph 5 (2) of the Memorandum, it is proposed to allot two seats to the Anglo-Indian community. We do not consider that a sufficient case has been made out to justify this allotment. We are inclined to the view that they should have one seat as at present.

2. Under 5 (3) dealing with Europeans, in our view the total number of seats allotted to the European community are far too many, and out of proportion to the size of the European population in Burma. We suggest that 3 general seats should be reduced to 2, and 4 special seats representing the Burma Chamber of Commerce to 3.

3. Under 5 (4), it does not seem wise to accede to the Indians the same number of seats as the Karens, since percentage of Karen population in whole of Burma is 9·32 to 6·94 of the Indians. It is our considered opinion that the number of general representations should be restricted to 8, and Labour 1, and Chamber of Commerce 1, total representations 10.

4. In view of the fact that the Chinese have in Burma considerable vested interests in property and the amount and value of trade they carry on in Burma, and further no communal representation is allowed to them, we consider that their representation on the Chamber of Commerce should be increased to 2.

5. Under 6 (3) we recommend that women representation should be restricted to the Burmese only, and we strongly oppose should women of other nationalities be permitted.

According to our above proposal, seats should be allotted as follows :—

Anglo-Indians	-	1	Europeans	-	5
Karens	-	12	Chinese	-	2
Indians	-	10	Burmans	-	102

TUN PE,

Whip and Delegate of the Independent Party

II.—Hlaing-Myat-Paw Anti-Separation Party.

1. After a very careful study and analysis of the Memorandum of the Government of Burma relating to minority representation, &c., my Party is forced to conclude that the Memorandum is based chiefly on the discussions of the Burma Round Table Conference and consequently on the basis of a separate constitution for Burma. Moreover, my Party finds it extremely difficult to give an expression of opinion on the Memorandum, as the matter, as it stands, can only be dealt with on a hypothetical basis and on the basis of two alternatives, namely, Separation or Federation, and this is to be done before we know what

* Appendix II.

the actual constitutional position of Burma is at present, that is, before the vital issue of Separation or Federation is finally determined.

2. As a matter of fact my Party not only considers the Memorandum too premature, but also views it with considerable apprehension on the ground that it foreshadows separation of Burma from India, though the ultimate decision yet rests with the Parliamentary Joint Select Committee, who, it is hoped, will not arrive at this momentous decision without considering the views of the accredited Burman representatives on it, and more particularly without taking into account the wishes of the people of Burma and the various events and circumstances relating to the future association of Burma with India.

3. My Party feels confident that the Joint Select Committee would find no difficulty in deciding the issue in favour of Federation, if they took a fair and equitable view of the matter in the light of the views expressed by the people of Burma from time to time both inside and outside the Burma Legislative Council, and all the circumstantial evidence that go to support the case for Federation.

4. Though ordinarily my Party would refrain from making any comment on the Local Government's Memorandum relating to the question of the constitution of the Legislature, the formation of constituencies and on the question of franchise and minority representation at this stage, yet from a deep sense of respect towards the request made by His Excellency the Governor of Burma for a comment on the Memorandum, my Party is willing to give an expression of opinion on the matter, but wishes to do so from the Federationist point of view and also to submit a few of the salient facts and circumstances to indicate to His Excellency the Governor of Burma and the Joint Select Committee why my Party is compelled to oppose Separation and why they cannot view the Memorandum from the Separationist point of view.

5. It is common knowledge that the separationists and their claim for separation were hopelessly defeated on several occasions in the past and it is hardly necessary for me to recapitulate them herein. But at the same time it may not be out of place to recount a few of the outstanding occasions on which the separationists met with their defeats. They are as follows:—

- (a) On the 20th October 1929, long before the Premier's announcement about the Indian Round Table Conference, a big mass meeting was convened at the Jubilee Hall, Rangoon, by the Separation League headed by U Maung Gyee, M.A., Barrister-at-Law, after a great deal of propaganda in the country by the Separation League, and one of the resolutions before the meeting was to send a delegation to England for the purpose of advocating separation of Burma from India, but when the resolution was put to the meeting it was defeated by a large majority of votes.
- (b) At the last General Election when the separation issue was before the electorate the separationists were defeated by an overwhelming majority, the proportion being over 5 lakhs to about 2 lakhs and 70,000 votes.
- (c) At the Burma Legislative Council the separation motion moved by U Ba Pe, the leader of the People's Party during the December session (1932), also met with a clear defeat.

6. In the face of such consensus of opinion and such clear verdict on the part of the Burmese people against Separation, it seems to us that it would be a political blunder of the worst kind to act in defiance of the wishes of the Burmese people and to thrust Separation upon Burma. Such a false step is likely to create a grave political situation and is apt to lead to serious consequences.

7. In this connection the authorities concerned cannot overlook or disregard the views expressed by the General Councils of Burmese Associations in Burma, whose following constitute by far the greater bulk of the Burmese population and the many resolutions passed by them at their conferences and mass meetings, at which the question of Separation or Federation was discussed and determined upon. In this respect I would like to emphasise upon the resolutions passed at a very important and gigantic Convention of All-Burma General Councils of Burmese Associations and anti-separationists held on the 2nd July 1932 at the Jubilee Hall, Rangoon. This Convention explicitly rejected the proposed constitution offered by the Prime Minister and also rejected separation of Burma on the basis of the said constitution. This Convention also urged upon the people of Burma to vote for anti-separationists at the General Election. It ought, therefore, to be more than clear that this Convention was entirely opposed to separation and was absolutely in favour of Federation—a line of action which was consistent with their previous attitude and former resolutions passed by them.

8. The separationists and their sympathisers have viciously tried to deliberately misconstrue and misrepresent the proceedings of the Convention by endeavouring to make out that this Convention was prepared to accept the proposed constitution for Burma with some modifications and that it was in favour of Federation on a temporary basis. This is far from being true. For, the Convention realised to the fullest extent that the British Government would not make any radical changes in the fundamental principles of the proposed constitution for Burma and therefore rejected the proposed constitution, and with a view to removing any doubt or misgiving that might be created in the minds of the people by any counter-propaganda, the Convention felt it necessary to indicate to the people of Burma that if at any time after the alternative of Federation had been accepted the British Government was prepared to grant them a constitution acceptable to them, they would cease to oppose Separation of Burma. Hence we find that the Convention appealed to the people of Burma to continue to oppose Separation so long as the British Government did not grant a constitution acceptable to them. Again, as a matter of constitutional principle, the Convention passed a resolution deprecating the principle of permanent federation which was being put forward in some quarters as a substantial argument against Federation, pretending to rely on the announcement made by the Premier, though we find that the Prime Minister's remarks on the matter could only be interpreted as meaning that Burma could not separate as and when she liked, but that she could do so by mutual consent and when the parties concerned deemed it fit and proper. In this connection it might safely be stated that the feeling of the Convention against permanent Federation with India was on a par with their feelings against permanent association of Burma with Great Britain, which, however, was irrelevant to the matter under discussion and had no real bearing

on the separation issue. It is of vital importance to remember that the resolutions passed by this Convention were meant to serve partly as replies to the Premier's announcement and partly as an appeal to the Burmese people and that they were never meant to be propositions or resolutions for the Burma Legislative Council, which would come into existence after the General Election. For, at that time, the Convention did not have the slightest idea that the issue of Separation or Federation would be reviewed by the Burma Legislative Council or that the Council would be competent to do so, especially after the matter of deciding the issue was expressly and explicitly left to the electorate by the Premier's announcement. It was always understood that the British Government would accept the decision of the electorate as final and act accordingly.

9. It is also necessary to scrutinise and see how the separation issue has been confused and complicated from time to time. The confusion and complications are primarily due to—

- (a) the acceptance of the principle of Separation by the four separationists picked out from an unrepresentative Burma Council by a partisan Executive to represent Burma on the First Indian Round Table Conference, and who did so without considering the wishes of the people as a whole and without giving heed to the opposition of some of the recognised and most important political organisations outside the Council, who had by far the largest following among the masses ;
- (b) the British Government not accepting the clear verdict of the electorate, though the issue was expressly left to them for decision at the last General Election ;
- (c) Government referring the matter to the Burma Legislative Council for a review of the result in spite of the country's verdict ;
- (d) not granting an extension of time to the April—May session of the Burma Legislative Council to determine the issue by voting upon it ;
- (e) not giving Burma an opportunity to have representation on the Indian Federal Structure Committee and on the Second Indian Round Table Conference, where the pros and cons of the Federal Constitution and the basic principles of Federation were discussed ;
- (f) Burma not having an opportunity to discuss the special rights and privileges, which Burma claims, with the representatives of the various Indian Provinces ;
- (g) the authorities being unduly swayed by the false and vicious accusations made by the separationists against the anti-separationists and by being misled by the separationist propaganda through their newspapers, both vernacular and English ;
- (h) Government not giving due weight to the statements and utterances made by the anti-separationists and the various organisations supporting them, from time to time.

10. Hence it is our fervent appeal to the authorities concerned that it would be just and proper to give some credit to those who are

opposed to Separation that they, too, have the interests of their countrymen at heart and not discredit them because of some wild and sweeping accusations that they have all been bought up by Indian money or that they have been influenced by Indians. It is well-nigh impossible on the face of it; inasmuch as, to secure 5 lakhs of votes, it would be necessary to at least appeal to more than 10 lakhs of voters, and to conceive the idea that all those voters could be bought up would be a most preposterous conception. Then, such an accusation could hardly be made against all the General Councils of Burmese Associations who expressly demonstrated their attitude and opposition to Separation long before the Premier made his announcement to convene a Round Table Conference for India or Burma. In fact it would be a herculean task for anyone or for any body of men to approach and influence thousands of people who constitute the General Councils of Burmese Associations of Burma, unlike the separationist parties who have a scanty following in the rural areas. It is hardly necessary to mention herein that the accusations made against the *phongyis* (Buddhist monks) as to their exercise of undue influence and coercion over the electorate during the last election are most baseless and unwarranted. Unwarranted accusations have also been levelled against the anti-separationists with regard to the contents of leaflets and manifestoes issued by the anti-separationists during the last election. In this connection it may be sufficient to say that allegations with greater force and certainty could also be made against the separationists. I feel confident in submitting that the anti separationist candidates have fought the election on healthy propaganda and against most pernicious tactics on the part of the separationists. The last General Election has demonstrated beyond all reasonable doubt that Burma is opposed to Separation and that she accepts Federation as an alternative.

11. My Party, like the rest of the anti-separationists, feels convinced that even from the economic point of view it would be far more advantageous for Burma to make common cause with India at this juncture and to remain a part of India under the Federal Constitution. For, the Indian connection would go a long way in developing Burma's resources, at least partially to the advantage of the Burmese people. In order to develop Burma's commercial industrial and agricultural resources for the benefit of the Burmese people, Burma needs foreign capital and foreign co-operation, and her only prospect in this direction lies in her alliance with India. Partnership between Burmans and Indians for their mutual benefit has been usual in the past and is not only feasible but also practicable in the future, and more so under the Federal Constitution, whereby the destinies of the two countries would be thrown together and their more effective contact would bring about better relations and better understanding. Whereas separated Burma would be left helpless, and exploitation by foreigners of all kinds would continue and her present precarious position would be rendered far more worse by such exploitation. She would also lose any protection for her cottage and large-scale industries which under the Federation would be safeguarded by the Indian Protective Policy which must play a very important and effective part in promoting and preserving the industries of India. By being federated with India, Burma can hope to promote her textile, sugar, and paper pulp industries, which would bring substantial pecuniary advantage and

prosperity to the people of Burma. Moreover, Burma would not be isolated from India and would continue to have the largest market for her export of silver, petroleum, timber and rice. At this period of world-wide depression, when the different countries in the world are endeavouring their utmost to find markets for their exported goods, Burma can ill afford to lose the Indian market or to create any barrier between India and herself. Burma could also influence the Federal Legislature to adopt protective measures if foreign rice threatened competition with Burma rice, to the detriment of Burma's rice trade, for example, by the recent Japanese competition in the rice market of India. There are many other commercial and industrial advantages that may be derived from Burma's connection with India.

12. Even if Burma were separated, my Party realises that she would still be under the Indian control to a considerable extent so far as her financial, military and foreign policy are concerned, and she would only be a small circle of India so far as the Reserve Bank of India goes. Moreover, Burma's isolation from India would provide opportunities for India to create a tariff wall against Burma whenever she deemed it expedient and also for other manner of retaliation whenever Burma acted in a way that might be considered detrimental to Indian interests. Hence the many economic advantages which are likely to accrue to Burma far outweigh the probable and possible gain in the annual revenues of Burma of a few lakhs of rupees as against the exaggerated figure of three crores adumbrated in the Howard-Nixon Report.

13. Under these circumstances I am to submit my comments on the Local Government's memorandum only from the Federation point of view, and in doing so I would make the following observations :—

(1) Paragraph 1 of the Memorandum needs no comment on our part except that the communal question is not so complicated nor so acute in Burma as it is in India. Therefore, it is hardly necessary to apply the same principle in regard to communal representation in Burma.

(2) In regard to the population and size of the Lower House mentioned in paragraph 2 of the Memorandum, my Party is strongly of opinion that the Lower House should be made more fully and effectively representative to voice the interests of the Burmese people. Moreover, as we deem it unnecessary to have an Upper House in case of Federation, the argument in favour of more extensive representation in the Lower House becomes greater and more forceful. The commercial and political importance of Burma also render it necessary to make it as representative as possible. Hence we feel that the Lower House should be composed of at least 150 members and not 132 as it is now proposed by the Government of Burma. The contention that a further increase in the total number of members would involve considerable expense for the building of a new Council Chamber can hardly outweigh the consideration of adequate representation on behalf of the people of Burma.

(3) Paragraph 3 needs no comment on our part inasmuch as we accept the principle under the present circumstances.

(4) Regarding paragraph 4, I must emphatically protest against counting the Karens as a minority community. For, the Karens are an indigenous race and their interests are identical with those of the Burmans. Therefore, they should not be regarded as a distinct minority community, nor should they have separate representation or constitute a separate electorate. As to the special interests, my Party is definitely opposed to granting special representation to women. They enjoy the same rights and privileges as men in Burma and cannot be regarded as a special body under any circumstance.

(5) *Re* paragraph 5 of the Memorandum, i.e. regarding the amount of representation to be given to minorities, my Party's views are based on the assumption of a House of 150 members and in the light of this number I would make the following comment :—

- (i) *Karens*.—In view of what I have already stated no separate representation is necessary for them and, therefore, no seats need be reserved for them.
- (ii) *Anglo-Indians*.—In the present Council, where the total number is approximately 100, they have one seat. But as we propose to increase the number to 150 members, we would give them two seats as proposed by the Local Government provided Anglo-Burmans come under the same category.
- (iii) *Europeans* :—The Europeans, who, like the Anglo-Indians, have only one general constituency seat in the present House, and applying the same principle to them, we would allot them two seats and not three as recommended by the Local Government. In this connection it must be remembered that the Europeans are going to be adequately represented in so far as their special interests are concerned ; so that they do not require any special consideration in respect of their general constituency.
- (iv) *Indians*.—In the present House of about 100 members the Indians have eight representatives, and as we propose to increase the total number to 150, we consider it fair and equitable to give them a proportionate increase in the number of their representatives. We would, therefore, recommend that they be given 12 seats including labour and excluding special interests. In this respect it may be mentioned that the Indians include a large number of men of the labour class and, therefore, it is necessary to make labour a component part of Indian representation.

(6) Regarding paragraph 6, namely, representation for special interests, all that I need submit is that we are against separate representation for women, and that, therefore, no seats need be reserved for them. In other words, we are not prepared to accept the recommendation of the Local Government in regard to separate representation for women. As to the other special interests we are prepared to accept the recommendations, but we would do so only on the basis of the total increased number of 150 members which I have already suggested.

(7) The summary under paragraph 7 would stand as follows according to the proposals I have made in my aforesaid remarks :—

Community (1)	Number of Seats		
	General (2)	Special (3)	Total (4)
Burmans, including Karens -	123	4	127
Indians - - - - -	10	4*	14
Europeans - - - - -	2	4	6
Anglo-Indians - - - - -	2	Nil	2
Chinese	Nil	1	1
Total - - - - -	137	13	150

* Includes two members allocated to Labour.

CONSTITUENCIES.

(8) As to paragraphs 8 and 9 of the Memorandum, I do not think that they call for any remarks on my part.

(9) As to paragraph 10, my Party is of opinion that it was a mistake to have given separate constituencies to Karens for the reasons I have already given, and it is high time that we rectified the mistake. It is, moreover, imperative in the interests of the Burmese nation as a whole to keep it intact and not disintegrate it by dividing it into small communities. I may, therefore, merely reiterate that no separate seats should be allotted to the Karens.

(10) As to paragraphs 11, 12, 13 and 14, regarding the Karens no further comment is necessary in this connection, in view of what I have already stated in the previous paragraphs.

(11) As to paragraphs 15, 16, 17, 18 and 19 relating to Indians, it is not necessary for me to make any observation. I would rather leave this matter for the consideration of the Indians themselves. They are in the best position to consider and adjust the matter for themselves.

(12) As to paragraph 20 relating to General Constituencies existing at present and particulars relating to them, it is not necessary for me to make any observation.

(13) As to paragraph 21, I regret I am not prepared to accept the view that urban interests are over-represented at present, and that the additional seats available should go to rural areas. Considering the fact that the educated class of Burmans inhabit the urban areas and that property interests are of considerable magnitude in towns, they deserve more adequate representation than at present, and the additional seats should be allocated not only to the rural areas but also to the urban areas in accordance with the importance and the extent of their population.

(14) In regard to paragraph 22 of the Memorandum, our proposal is entirely different from that contained therein. We propose that the Lower House should be composed of a total number of 150 members, and according to the summary I have already given the number of

General Constituency seats would be 123, so that there would be an increase of 65 seats. Out of these additional seats available, we would allot eight more seats to the urban areas as detailed herein, proceeding on the basis of a population of 15,000 people per seat as far as practicable. The remaining 57 available seats should be allocated to the Rural General Constituencies on a population basis, and we regard that one seat for a population approximately numbering 100,000 people should be a fair estimate and should constitute an adequate constituency; and we propose to allocate accordingly when we come to deal with paragraph 27 of the Local Government's Memorandum.

General Urban Constituencies.

Town	Existing Seats	Seats proposed
Abyab	1	1
Bassein	1	2
Henzada	1	2
Mandalay	3	4
Moulmein	2	3
Prome	1	2
Rangoon Town East	2	3
Rangoon Town West	2	3
Tavoy	1	2
Total	14	22

(15) With regard to paragraph 23 of the Memorandum, it is necessary to take Kyaukpynu and Sandoway Districts separately, and on the basis of population I have already mentioned in the previous paragraph, Kyaukpynu should be divided into two single constituencies and Sandoway should have a separate seat by itself.

(16) As to paragraph 24 of the Memorandum, we would accept the proposal of the Local Government with one exception, and that is, we would divide Upper Chindwin into two constituencies and allot two seats according to the strength of its population.

(17) Regarding paragraphs 25 and 26 of the Memorandum, it is hardly necessary for me to repeat that after giving the urban areas eight additional seats available according to our proposal, the remaining seats should go to the General Rural Constituencies including the Districts mentioned in paragraphs 23 and 24 of the Memorandum; so that there should be no seats reserved for women as outlined in paragraph 25 of the Local Government's Memorandum. I have already stated that in our opinion the case of women does not warrant special and separate consideration. I do not think it is necessary for me to give a comparative table for Upper and Lower Burma to indicate the extent of representation in those two parts according to our proposal, inasmuch as the detailed statement relating to our proposal for the urban areas and for General Rural Constituencies together with the minority and special representation would give a clear view of the position so far as we are concerned.

(18) Regarding paragraph 27, General Rural Constituencies, we do not agree with the proposals made by the Local Government as to the allocation and increase of seats. In the first place we would include

the Karens in the General Rural Constituencies and would allot seats as enumerated below on the basis of population, giving one seat for a population of 100,000 people or thereabout. The proposal would therefore stand as follows :—

Constituency	Seats proposed	Constituency	Seats proposed
Amherst - - -	3	Myingyan North - - -	3
Akyab District East - - -	2	Myingyan South - - -	2
Akyab District West - - -	3	Myitkyina - - -	1
Bhamo - - -	1	Pakokku East - - -	3
Bassein District - - -	4	Pakokku West - - -	2
Hanthawaddy East - - -	2	Pegu North - - -	2
Hanthawaddy West - - -	2	Pegu South - - -	3
Henzada District North - - -	3	Prome District - - -	4
Henzada District South - - -	3	Pyapon - - -	3
Insein - - -	3	Sagaing East - - -	1
Katha - - -	2	Sagaing West - - -	1
Kyaukse - - -	1	Sandoway - - -	1
Kyaukpyu - - -	2	Shwebo East - - -	2
Lower Chindwin East - - -	2	Shwebo West - - -	2
Lower Chindwin West - - -	2	Tavoy District - - -	1
Magwe East - - -	2	Tharrawaddy North - - -	2
Magwe West - - -	2	Tharrawaddy South - - -	2
Mandalay District - - -	2	Thaton - - -	2
Maubin - - -	2	Thayetmyo - - -	2
Meiktila East - - -	1	Toungoo North - - -	2
Meiktila West - - -	1	Toungoo South - - -	2
Mergui - - -	1	Upper Chindwin - - -	2
Minbu - - -	3	Yamethin North - - -	2
Myaungmya - - -	3	Yamethin South - - -	2
		Total - - -	<u>101</u>

Power should be taken, as is conferred by Burma Electoral Rule 4, to subdivide areas into a number of single member constituencies in accordance with the number of seats proposed above.

(19) Paragraph 28 of the Memorandum calls for no comment.

FRANCHISE FOR LOWER HOUSE.

(20) As to paragraph 29, no remarks on our part are necessary.

(21) In regard to paragraph 30 of the Memorandum, all that we need say is that experience in the past has shown that electoral rolls which have existed so far are seriously defective, and that a large number of electors who are qualified are not brought on the rolls. It is hoped that in future the Government of Burma will take special pains to make the rolls as complete as possible, and thereby give the people of Burma the full benefit of the franchise that may be extended to them.

(22) Paragraph 31 of the Memorandum needs no comment.

(23) As to paragraph 32, it would be necessary to delete clause (a) of Schedule II of the Burma Electoral Rules, which are reproduced in the Annexure to the Local Government's Memorandum; by this I mean that the clause relating to the Karens should be omitted.

(24) As regards paragraphs 33 to 39, I have no special observations to make in view of what I have already stated above.

PROPOSAL FOR AN UPPER HOUSE.

(25) Regarding the proposal for an Upper House made by the Government of Burma in paragraphs 40 to 47, my Party is of the opinion that in case of Federation of Burma with India there is no necessity whatever for an Upper House, particularly in view of the fact that the minority and special interests would be adequately represented in the Lower House as suggested by us, and that the qualifications proposed would necessarily preclude Burmans to a very undesirable extent from becoming members in the Upper House, thereby giving the representatives of special and minority interests and the Government nominees a very strong weapon to undo what the Lower House proposes to execute in the interests of the Burmese people as a whole. My Party is also of the opinion that it is not necessary at all to have an Upper House to revise and counteract legislative measures which are passed after due consideration by a fully representative House.

GENERAL.

(26) I heartily welcome the statement made by the Local Government in paragraph 48 of the Memorandum, and would certainly like to keep an open door for further discussion on the various topics contained in the Memorandum in the light of what the Joint Select Committee may have to say and in the light of future developments in the political situation of Burma.

PAW TUN,
*Vice-President, Hlaing-Myat-Pau
Anti-Separation Party.*

7th October 1933.

III.—People's Party.

PROVISIONAL VIEWS.

1. We are unable to subscribe to the view that, although the communal question is less acute in Burma, similar methods of treatment should be adopted here as in India. In India the minorities such as the Mahommedans and the Depressed Classes are backward when compared with the more advanced Brahmins and other Hindus. The reverse is the case in Burma. The minority communities, namely, Europeans, Indians and Chinese, hold a superior position in regard to commerce, trade and industry and in the professions and services they are better represented than the indigenous races of Burma. The capitalists nearly all belong to the minority communities and in the field of labour, excepting agricultural, the people of the country are finding it extremely difficult to get a foothold. Some allowance should be made for the goodwill shown by the people of Burma towards other communities which has enabled the latter in the past to achieve the impregnable position which they now hold. Again, proportion of minorities to the majority community in India is large, probably not less than one-third of the total population; whereas in Burma, even including temporary residents, the percentage is only 17·86 and

this includes the Karens, an indigenous race, who, by themselves, form a group representing 9 per cent. of the population or more than half of the minorities.

2. On the facts and figures placed before the Party, we consider that the size of the Lower House should be determined not only on the population basis, but also by taking into consideration the area of the constituencies and the inaccessibility of various parts of the country through defective communications. The feeling of the Party is that the number of members for the Lower House should be 150. It realises that in view of the present finances of the country the construction of a new Council Chamber may not be justified at the present time and for that reason would agree to fix 150 members as a maximum—any excess of seats beyond 132, the figure suggested in the Memorandum, should be allotted to rural areas. It is desirable to note here that the present accommodation does not provide facilities for private discussion among leaders of parties or quiet reading or study even for the present Council, and greater facilities for such purposes are essential for the creation of an atmosphere in which conventions and traditions may grow. At present the members are restricted to one congested library for all purposes unless, as sometimes happened, the lobbies are utilised to the inconvenience of members in the House.

3. It cannot be admitted that the maintenance of separate electorates as at present must be considered as *res judicata*. The proposals contained in the Secretary of State for India's Memorandum were stated to be provisional, and inasmuch as the Joint Select Committee alone can put up definite recommendations to Parliament, which is the final authority to decide, nothing at this stage can be said to be *res judicata*. The Party desires to make it perfectly clear that it is anxious to satisfy all minority communities and special interests as to the safety of their legitimate interests. Communal representation has been universally condemned as a pernicious and evil system, and its introduction without justification in the Lower House, which should be an assembly of popular representatives working together for the general welfare of the whole country regardless of race, colour or creed, must as a matter of principle be opposed. The Governor will have powers to protect the legitimate interests of minorities, and in the event of there being an Upper House constituted *not* as proposed in the Memorandum under discussion but on an acceptable basis, minorities can be adequately represented in that Chamber. In view of the important part that such a Chamber, when established, will play, it is not known why minority interests should require any further and special safeguard by representation in the Lower House. Ceylon has succeeded in ridding itself of this undesirable feature. The Burma Reforms ("Whyte") Committee considered proposals for the constitution of the provincial Legislative Council (Dyarchy) and made the following observations in chapter 4:—

"19. The Committee set out on its enquiry in the hope that a general electorate unadulterated by any device for the special representation of minorities might satisfy the needs of Burma. We were and still are unanimously of opinion that communal electorates are an undesirable feature in any representative system,

but theory in this case, as in India, has had to give way to fact; and, in the face of the evidence presented, we have no course but to recommend certain special measures for minority representation."

The Committee went on further to recommend "communal representation for the European and the Anglo-Indian communities, and the reservation of special seats in certain plural member constituencies for the Indian and Karen communities. We propose to create separate communal electorates for Europeans and Anglo-Indians respectively because we see little or no possibility of securing their representation in any other way. The Indian and Karen minorities are more closely linked with the fortunes of the Province as a whole, and, when the present ferment of political nationalism subsides, may be expected to take a normal place in Burmese politics. It is therefore undesirable to segregate them completely from the general electorate. We therefore place them on the ordinary electoral roll; but we do not feel justified in depriving them altogether of some guarantee of representation. Hence our proposal to give them certain reserved seats."

These observations made more than 10 years ago are of great interest and should receive careful consideration before we decide to extend and perpetuate the system of communal representation which has been so strongly condemned everywhere. Although separate electorates for the Indian and Karen communities were not recommended, the British Government provided for them in the reformed Constitution for Burma. The principle is now sought to be extended. The merit of any constitution must be judged by the extent to which it will help to promote the welfare of the people of the country without unduly interfering with the legitimate interests of minorities. If the proposals in the Memorandum are adopted, it will certainly mean that a strong popular Ministry will be entirely out of the question, and the representatives of the majority community will be so hedged and hemmed in on all sides that it is difficult to see how any measure could be brought forward to improve the unenviable lot of the Burmans. As has been stated before, the Party is in favour of providing safeguards for minorities by empowering the Governor with authority to protect their legitimate interests, and also by giving them adequate representation in the Second Chamber. It is not, however, prepared to agree to safeguarding the interests of minority communities to the extent of sacrificing the interests of the majority. Further observations on this point will be made in connection with paragraph 7 of the Memorandum.

4. Without waiving our strong objection to special electorates for minority communities in the Lower House, the following tentative comments are offered:—

The Party recognises the existence of the special interests and the necessity for the presence of representatives in the Lower House to state the case from the point of view of such special interests. Necessarily these cannot be confined to any particular community, minority or otherwise. It agrees with the statement in the Memorandum that the special interests which should be represented in the Lower House are (1) Burmese Chamber of Commerce, (2) Chinese Chamber of Commerce, (3) Burma Indian Chamber of Commerce, (4) Burma Chamber of Commerce, (5) Indian Labour, (6) Burmese Labour, and (7) University. So far as the question of number of seats

proposed to be allotted to the various interests is concerned, it would appear that in view of the checks and safeguards that have been proposed, the representation proposed for the Burma Chamber of Commerce, namely, four, appears to be one too many. The Party, however, keeps an open mind on this point.

5. Coming to the proposed allocation of seats among minority communities :—

- (1) Karens : It is not known to what extent the Buddhist Karens desire a separate electorate. They form the majority of the Karen community. So far as our experience goes Buddhist Karens have always identified themselves with the Burmese and have never asked to be classified as a separate race. However, on the assumption that all desire separate electorates it is to be observed that the proposal to increase the representation of Karens to 12 appears to be out of proportion. The allocation is made on a population basis. No allowance appears to have been made for the number of Karens who will have the right of participating in electing members for general constituencies. Strictly speaking, to be logical, no Karens should be allowed to vote except for a Karen candidate in a Karen constituency. To award 12 seats to this community really means an additional strength for the minority bloc. No case has been made out that Karen interests have suffered because of their inadequate representation in the dyarchy councils for the last 10 years.
- (2) No remarks except that the point as to whether plumping of votes should be allowed or not has not been settled.
- (3) It is understood that the 24 general constituency seats referred to in this sub-paragraph are provincial seats as proposed some time ago. The position of the European in Burma cannot be said to be as difficult as that in India, and while it may be of primary importance in India to secure full weightage for the community there does not appear to be the same justification in Burma ; perhaps two seats would be ample.
- (4) Full allowance must be made for the temporarily resident Indians in Burma and it is estimated that about one-third of the Indian population in Burma are temporary residents. It may be that when the franchise has been decided upon and the electoral roll has been prepared due allowance will be made for those who are only temporary residents. But the number of seats will have already been determined. It appears to be out of proportion to allot eight reserved seats plus two labour seats and two to Indian commerce.

The foregoing comments with reference to representation of minorities in the Lower House have been made without prejudice to the strong objection taken by this Party against communal representation. In the opinion of the Party no case has been made out for its introduction in the Lower House. But if this evil system is to be forced on the Burmese people, then the Party would be inclined to oppose the establishment of a Second Chamber.

6. No comments, except that the Party opposes the idea of reserving seats for women. Burmese women claim equality of status with men

and they would refuse to be treated either as a minority or as a special interest. The Burmese lady delegate at the last Burma Round Table Conference made that perfectly clear. The position of women in India is admittedly quite different from that of women in Burma.

Another point that calls for comment is in regard to representation of Burmese labour. The representatives should be Burmans. This has not been specified in the Memorandum. It is inconceivable that either Europeans or Indians should represent Burmese labour. If there is no special representation for minority or special interests, then there would be no justification for special representation for Burmese labour. But in view of the fact that capitalists are mostly non-Burmans and the Burmese labour movement is in its infancy, it seems highly desirable that Burmese labour representatives should be Burmans for some time.

There is a feeling amongst members of the Party that if the minority communities consider it essential for them to have communal representatives to protect their interests, the members of such communities which are given special representation should not be allowed to stand as candidates in general constituencies.

7. In this summary it has been assumed that the Rangoon University will always return a Burman, and Burmese labour representatives would be also Burmans. So far as the University is concerned, it is estimated that the majority of electors, on the present roll at any rate, are non-Burmans and there could, therefore, be no guarantee that a Burman would always be returned.

It is also to be observed that although the percentage of minority population is given as 17.86 the percentage of representation is 26.6. This is out of proportion and the minority bloc must be looked upon as a very likely obstacle to the formation of a strong and popular Ministry which is highly desirable in the early stages of the life of the new Legislature. A minority of Burmese members combined with the communal groups could easily obstruct the efforts of the others. Moreover, the existence of a Second Chamber will certainly strengthen the hand of the minorities especially as it is proposed to be constituted.

26. The Party is of opinion seats should be distributed not only on a population basis but the number of voters and the area should be taken into account. While a member for a constituency would naturally work for the welfare of the whole population in his constituency it is essential for him particularly to get in touch with his voters. The figures given in paragraph 20 show that Bassein District has a population of nearly 400,000 and an electorate of over 73,000, while South Arracan has very nearly the same population, but only 23,000 voters. It is now proposed to split up the South Arracan constituency into two, namely, Kyaukpyu and Sandoway, and to allot two seats to Kyaukpyu and one to Sandoway. We are of opinion that the distribution of seats should be on a basis of population, number of voters and the area of the constituency.

27. We do not see why the task of subdividing areas to which it is proposed to allot two members into two single-member constituencies should not be capable of completion before the first election under the new constitution.

28. We agree that there is no justification for retaining the representation now given to the Rangoon Trades Association. The Burma

Reforms Committee (Whyte Committee) recommended the representation of the Rangoon Trades Association, "but the Chairman, U Myin and Mr. Smyth would have preferred to withhold representation on the ground that if the comparatively restricted 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."

40. On the assumption that a Second Chamber is necessary (though the Party is not yet convinced that it is) the following observations are offered :—

The Party considers that a proportion of the members should be elected directly. It supports the view put forward by the Burmese delegates at the Burma Round Table Conference, that one-third of the members should be directly elected, another one-third should be indirectly elected by the Lower House, and the remaining one-third nominated by the Governor in consultation with the Ministry.

41. The Burmese delegates at the Burma Round Table Conference discussed the establishment of a Second Chamber on the basis that Burma would be given a constitution analogous to that of a self-governing dominion. Further, the transfer of powers to the new Legislature is conditioned by so many restrictions and reservations that it is difficult to see why a revising body should be necessary at all. On the other hand, composed as it is proposed to be, it is bound to be a reactionary body which could safely ignore public opinion. Moreover, in conjunction with the minority bloc it could easily obstruct measures intended to benefit the indigenous people. The Party is, however, open to conviction and if the transfer of power to the people is in any sense real and if the danger of the Second Chamber becoming obstructive or reactionary is removed then the question could be reconsidered.

42. The proposal to restrict the size of the Upper House to between a quarter and a third of the membership of the Lower House appears reasonable.

43. It is agreed that a certain section of the Upper House should consist of nominated members. Such nomination should, however, as suggested previously, not exceed one-third of the total number and should be made by the Governor in consultation with the Ministry. In addition to securing representation for minorities and special interests it may be necessary for the Ministry to have its spokesman in the Upper Chamber to explain measures introduced by the Ministry or to state Government's position and attitude in regard to other questions.

44. The Party is unable to accept the remarks in this paragraph. It does not see why if members can be returned to the Indian Legislative Assembly and the Council of State by direct election the same method cannot be adopted for the proposed Upper House. As stated previously, it favours one-third of the members to be elected directly and another one-third to be elected indirectly by the Lower House.

46. The Party is strongly opposed to the proposal regarding qualifications for the members. It has no objection to the age limit, but considers that very few of the indigenous population would be

qualified under sub-paragraph 2 (a) and therefore the Second Chamber would consist almost entirely of capitalist elements, minority and special interests. The Party feels that even in its years of prosperity Burma was not placed in the same economic level as India. Qualifications for Burma candidates to the Assembly and to the Council of State were placed on a much lower level than those for Indians in India. In view of the very serious position of the Burma rice trade, the Party feels that qualifications for members of the Upper House should be the same as those for members of the Indian Legislative Assembly.

2 (b).—Fellows of the Rangoon University, Barristers of ten years' standing, Presidents and ex-Presidents of Municipalities and others distinguished in public life should be considered for inclusion in this list.

47. This ensures some representation of minority and special interests and if inadequate may have to be supplemented by nomination.

GENERAL.

The above views are provisional and are subject to modification. Within the short time allowed for consideration it has not been found possible to consult all the district members of the Party.

M. OHN GHINE.

13th September 1933.

IV.—Karen Community.

A.—DEMI-OFFICIAL LETTER FROM S'RA SHWE BA, T.P.S., M.L.C., TO R. G. McDOWALL, ESQ., I.C.S., REFORMS SECRETARY TO THE GOVERNMENT OF BURMA, DATED THE 21ST SEPTEMBER 1933.

I am more than sorry to say that your demi-official letter No. 37 Reforms-33, dated 8th September 1933, did not find me until I returned home last night. I have been busy of late in discussing with other leading Karens the proposals contained in the Memorandum. I was in Rangoon from 6th to 11th instant and at Maubin from 12th to 18th instant. During those days I was eagerly expecting your letter, but unfortunately the letter was mislaid in my house. Consequently, I missed both your appointment with me and the meeting on the 14th instant. I have but to tender you my sincere regret and apology for this unfortunate incident.

I enclose herewith my views on the proposals in the Memorandum and also the view expressed at a representative Karen meeting held in Rangoon on the 9th September 1933.

MINORITIES.

1. Numerous reports and many eminent persons have admitted that Burma is not India and that Burma stands quite distinct in the matter of communal question. The Government of Burma has adopted a wise measure on the weighty subject of communal question and communal award.

POPULATION OF KARENS.

2. Figures tell and convincingly do so in most cases, but the case of minorities stands on a different category. The figures for Indians, Chinese, Anglo-Indians and Europeans, whose languages, races and physical features are unmistakably distinct and who are to be found mostly in urban areas, may be considered so exact and correct, but many of the Karens, especially in the delta districts, do not differ much from their neighbours, the Burmans in dress, physical features and mode of living, and unless the enumerators take pains, time and care, I am afraid they will be classified as Burmans, hence the number of Karens, as the figures show, appears to us to be below the actual number.

SEPARATE ELECTORATES.

3. It is with deep regret that no agreement has been arrived at between the communities regarding the question of the representation of minority communities and special interests in the Legislature. It is emphatically asserted that the Karens' only chance to have their voice heard through the mouths of their own people is separate electorates. The Karens are true sons of the soil and but for their number have stood up shoulder to shoulder with their countrymen, the Burmans, in all matters embracing the administration, education and welfare of Burma.

MINORITIES—KARENS.

4. The Karens do not form a floating population nor are sojourners in Burma, but they are the indigenous race, the second largest in Burma, and thus have every claim to be adequately represented in the Legislature. The only means to achieve this end is by reservation of special seats for them, as it has been amply proved that they could not and will never get a seat in the Legislature by contest in the general election.

AMOUNT OF REPRESENTATION TO BE GIVEN TO KARENS.

5. The proposal is that the Karens will be given 12 seats in the Legislature. At the present juncture, in the Legislature of 132 seats, the Karens will have to accept the 12 seats allotted them on the basis of population.

REPRESENTATION FOR WOMEN.

6. The proposal that one seat be reserved for Karen women is unanimously approved and greatly appreciated, but the said seat should be termed "Special Seat" like "Labour" and should not be taken out of the Karen quota, as the said quota is so limited that it will not be possible to re-allocate the seats among the different Karen constituencies.

SUMMARY.

7. This summary clearly indicates the majority 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.

KAREN CONSTITUENCIES.

10-14.—(a) The Karens have cause to complain that the distribution of the seats for them does not appear to be a representative one, e.g. Pegu Division, with a local Karen population of 149,300, is not given a single Karen seat although it occupies a central position and is the most outstanding and conveniently situated division. The only drawback is the wide and almost even distribution of the Karen population in the four districts—Insein, Pegu, Hantbawaddy and Tharrawaddy. Consideration on the basis of population should be waived and the only ground left to maintain in the favour of allotting a seat to this division is to educate the Karen population in political affairs.

(b) Assuming that one seat is allotted to Pegu Division the Karen quota of 12 seats may thus be distributed :—

Irrawaddy Division	-	-	-	-	7
Tenasserim Division	-	-	-	-	4
Pegu Division	-	-	-	-	1
					12

The said distribution might be thus further subdivided :—

Irrawaddy—Bassein	-	-	-	-	2
Myaungmya	-	-	-	-	2
Maubin	-	-	-	-	2
Henzada	-	-	-	-	1
Tenasserim—Thatôn	-	-	-	-	2
Amherst	-	-	-	-	1
Toungoo	-	-	-	-	1
Pegu—(—)	-	-	-	-	1

The density of population, the easy means of communication, the facilities for education and physical features of the districts as well as the distribution of the Karens in the districts call for the above unequal distribution.

(c) The two reasons given in paragraph 11 of the Memorandum neatly answer all arguments in favour of spreading the Karen constituencies all over Burma. The 12 seats allotted are rather a very potent factor, if the 12 Karen members will solidly adhere and firmly stand together. But such solidity and adherence among them seem remote as hardly no two are alike in matters pertaining to political affairs.

(d) The reason set forth in paragraph 12 of the Memorandum is unanimously approved by the Karens.

FRANCHISE FOR THE LOWER HOUSE.

Qualifications of Electors.

Paragraph 33.—The existing qualifications based on community are entirely satisfactory.

Paragraph 33.—Residential and age qualifications laid down in the Memorandum are what the Karens expect to safeguard the interests of Burma, where a floating population will jeopardise the stability of the way to responsible government.

Paragraphs 34 to 36.—Other qualifications laid down in these paragraphs will ensure a better class of voters.

PROPOSALS FOR AN UPPER HOUSE.

Paragraphs 40 to 45.—There is nothing to be added to these proposals.

Paragraph 46.—The qualification proposed is too high and cannot, therefore, be accepted. One of the qualifications for the Council of the State is payment of not less than Rs. 300 land revenue or of income-tax assessed on a minimum income of Rs. 3,000 and this should be substituted in paragraph 46 (2) (a).

B.—REPRESENTATIVE KAREN MEETING.

A representative Karen meeting was held on 9th September 1933 at 10.30 a.m. at No. 7, U Loo-Nee Street, Karen Quarter, Kemmendine, to express Karen opinion on the Government Memorandum on the Representation of Minorities and on the Constituencies and Franchise for the Lower House, and Proposals for the Upper House.

U San Baw, O.B.E., K.I.H., President, Karen National Association, Burma, was voted to the chair, with U Ba Kin, B.A., General Secretary, Karen National Association, as Recording Secretary of the meeting. Delegates from six districts were present in person. Toungoo District represented its opinion by wire as its delegates missed the train. Amherst District represented its opinion by letter.

As the Memorandum is marked "Strictly Confidential," the meeting was of opinion that the Memorandum was laid before them only for general expression of Karen opinion on the principle of the Representation of Minorities, and on the Constituencies and Franchise for the Lower House, and of the Proposals for the Upper House. This meeting was not therefore called upon either to pass or move resolutions for or against the Memorandum. It was just called to get the non-official Karen opinion on the proposals contained in the Memorandum, and the proceedings should not therefore be recorded and published. It was for the leader of the Karen Party to whom copies of the Memorandum were entrusted to take the sense of the meeting to the Reforms Secretary for his information and necessary action personally.

The sense of the meeting is that the Karens generally approve of the proposals to base the amount of representation for the Lower House for the minorities on population basis. Therefore, the 12 seats proposed for the Karens on a population basis of 9 per cent. of the total number of 132 seats are approved. The meeting cannot, however, agree to the proposals to restrict the area of constituencies for the Karens into the two Divisions only, viz. Irrawaddy and Tenasserim, and none is proposed in the Pegu Division, which is a very important Division. The Karens should have constituencies in such important Division.

The sense of the meeting is that Karen separate constituencies should be so expanded as to have 12 Karen separate constituencies for the 12 Karen seats as follows:—

Thaton with Karen population of 281,300	-	-	-	1
Bassein with Karen population of 129,100	-	-	-	1
Myaungmya with Karen population of 118,500	-	-	-	1
Maubin with Karen population of 113,800	-	-	-	1
Amherst with Karen population of 107,000	-	-	-	1
Toungoo with Karen population of 88,000	-	-	-	1
Henzada with Karen population of 60,200	-	-	-	1
Insein with Karen population of 27,700	-	-	-	1
Pegu with Karen population of 37,300	-	-	-	1
Tavoy and Mergui with Karen population of 35,400	-	-	-	1
Rangoon and Hanthawaddy with Karen population of 33,000	-	-	-	1

The meeting is of opinion that in order to educate the 'Karens to fit them in future Reforms, it is really necessary to expand the area of Karen constituencies as far as practicable.

Regarding reserved seats for women, the meeting is against the proposal to count the Karen women seat against the Karen quota which is based on Karens' population. This should be taken as Special Interests as in other cases, such as Labour and Commerce. The Karen women seat should not therefore be counted against the Karen quota 12 based on Karen population; the meeting is of opinion that this reserved Karen women seat should be located in Pyapôu District containing 21,700 Karen population, thereby making all the Karen Districts in Lower Burma Karen separate constituencies for the badly needed political education of the Karens for future Reforms.

9th September 1933.

BA KIN,
Recording Secretary.

V.—The Burma British Association.

1. The Committee of this Association has given anxious consideration to the Memorandum on the Representation of Minorities and on the Constituencies and Franchise for the Lower House and Proposals for the Upper House. The Committee has satisfied itself that the proposals of the Local Government with regard to the future representation of European interests are viewed with grave alarm by the European community as a whole.

2. The total number of seats allotted to minorities in the new Legislature is 34 out of 132, or 26 per cent. In the present House, leaving the official bloc out of account, the minorities hold 26 seats out of 88, or 30 per cent. With the disappearance of the official bloc there are strong grounds for claiming an increase in minority representation, but on the contrary the present Memorandum proposes to reduce the proportion of minority seats by 4 per cent. In the view of the European community there is no justification whatever for this reduction, and this Association holds that the minimum allotment for all minorities should be 30 per cent. of the total House, or not less than 40 seats.

3. In dealing with the question of minority representation it has to be remembered that a large proportion of the Karen community profess the Buddhist religion and identifies itself with the Burmese Buddhists who form the overwhelming majority of the inhabitants of the Province. In these circumstances this Association considers it difficult to regard the Karens as a minority community at all, and if the number of their seats were deducted the representation of the true minority interests, the business and trading communities of Burma, would be reduced to 22 seats out of the total of 132.

4. As regards European representation, the European community have at present, and have generally had in the past, seven out of 88 non-official seats, or 8 per cent. Without any improvement in their present position, therefore, they would be entitled to at least 10 seats out of 132 in the new House. But the elimination of the official bloc makes it essential that the proportion of European seats should be increased. This claim is made not only with a view to protecting European interests, including the interests of Europeans in the Services hitherto cared for by the official bloc, but also in order to ensure an adequate element of stability in the House.

5. With these considerations in mind it is not surprising that the proposals of the Local Government, which would allot the Europeans a total of seven seats out of 132, or a fraction over 5 per cent., should be received by the community with deep dissatisfaction and concern.

6. At the Burma Round Table Conference the European representatives asked for 10 per cent. of the total seats. Their claim was the first to be stated and the figure named was advanced, not with the idea of manœuvring for position in a game of haggling, but as moderate and reasonable demand, having regard to the vast European interests in Burma and the inexperience both in politics and business of the indigenous communities. The Indians followed with an obviously exaggerated claim for 18 per cent. and the Karens then held out for not less than the Indians. It is feared that the Europeans' moderate claim has suffered by comparison with the unreasonable claim of these two communities. It has apparently not been realised that the European claim would have been pitched much higher if it had been thought that the Indians and Karens would advance such inflated claims and that these claims would have any influence on the ultimate allotment.

7. It is noted that the only argument advanced for the allocation of no more than three seats to Europeans (exclusive of seats for the Burma Chamber of Commerce) is on the population basis and for this purpose the total European population in British India has been divided by the total number of seats allotted to Europeans in provincial Legislatures. This can hardly be defined as an argument at all and would merely appear to be an attempt to evade the real issue. As far as this Association is aware it is not an argument that has been put forward in the case of any one of the Indian Provinces.

8. In India the position in each Province has been considered separately on its merits and wherever European interests are large the community has been accorded representation on an adequate basis. This is particularly so in Bengal and Assam, where the conditions affecting Europeans approximate most closely to Burma. Furthermore, it must not be overlooked that in the Indian Provinces Hindu-Muslim discord militates against the formation of an overwhelming and unanimous majority. The position is by no means the same in Burma, where Burmans are to occupy 74 per cent. of the total seats. On the other hand, if India is to be taken as a guide at all, the representation given to Europeans in Bengal is obviously more in point than that given in other Provinces, such as the Punjab, Central Provinces and Orissa, where European interests are small.

9. This Association desires to emphasise that it rejects as unsound any allotment of seats to European interests on a population basis. There can be no real analogy between Burma and the majority of the Provinces of India in which the trade of the country is largely carried on by Indians. Trade in Burma is almost entirely in the hands of the minority communities, and it is claimed that the Europeans form the most important of these communities. The progress and development of Burma during the last century have been due almost entirely to the zeal, ability and industry of Europeans, both official and non-official. To-day, the administration, commerce and education of the country are still very largely in European hands and this position must continue to exist for many years to come. European interests in Burma

are vast and cover every portion of the country, and the withdrawal of European enterprise and capital would undoubtedly result in a complete stagnation of industry and commerce. It is only necessary to point to the rice, oil, timber, mining and planting industries and to the public utility companies like the Irrawaddy Flotilla Company and the Rangoon Electric Tramway and Supply Company. The European community cannot, therefore, concede that it is relatively of less importance than the Indian or Karen communities and it is astounded that the Local Government should consider it so. It claims to rank as highly in the matter of representation as any other minority in Burma.

10. In support of the claim that the European community occupies a unique position in India reference may be made to two often quoted passages from the Report of the Indian Statutory Commission taken from paragraph 66 of Volume I and paragraph 81 of Volume II :—

“The true significance of the position of the European in India can only be realised by bearing in mind the course of history and the economic development of the country. It is now more than three hundred years since the first British merchants settled in Surat, North of Bombay, and more than two centuries have passed since British traders established themselves in Bengal. The Indian railway system, designed and carried out by British enterprise, has transformed conditions of Indian commerce. It is British organisation and leadership which have promoted the modern industrial development of India, just as it has been the adoption of political conceptions derived from Britain which has chiefly affected the recent course of Indian politics. There can be few cases in history where so small a body of men has brought about changes so widespread and so fundamental. . . . The noteworthy fact is that, over areas so vast and amid populations so immense and diverse, the importance of the small European community, by whatever standard this may be measured, is out of all proportion with its size.”

“As to European representation, this must continue to be secured by means of separate electorates. The number of Europeans in India are no fair measure of the contribution they make to the country, or of the influence which they exert. One of the best features of the operation of the reforms is the way in which European business men of high standing and experience have contributed to the public life of the country by their membership of the legislatures.”

“It is clear that it will not be easy in the enlarged councils to find a sufficient number of suitable European business representatives able to devote their time to the work of the legislatures. But we attach great importance to every effort being made, not only to secure the increased number but to maintain the high standard of representation so far achieved.”

It is clear that what the authors of the above report had in mind was the necessity of maintaining the stable influence of European representation and that with the removal of the official bloc such representation would need to be increased. So far as Burma is concerned it can be said without hesitation that there will be no difficulty in finding men to fill any seats that may be allotted to the community.

11. The European population of this Province is the only community with any extensive experience of democratic government. It is European influence and training that has brought the Burmese people to a stage when a reformed constitution can be considered, but if the future Legislature is to function successfully, too much stress cannot be laid upon the necessity of a strong, stable European element in the Lower House. It is also significant that the only minority community which the Burmese in any way recognise as having a strong claim to representation is the European community.

12. This Association can see no good reason for the abolition of the seat heretofore allotted to the Rangoon Trades Association and considers that this body should continue to be represented.

13. The Local Government proposes to reserve three seats for women and to allocate all of these to the Burmese community. This Association agrees that it is important that the new Legislature should contain some women members and desires to put forward the claims of European women in this connection. These women have done and are still doing splendid pioneer work in Burma. In their own sphere they have been responsible, probably even to a greater extent than their menfolk, for the progress and enlightenment of the indigenous people of this country. Much still remains for them to do and they have an unanswerable claim to representation.

14. It is suggested that the 12 European seats should be distributed as follows :—

Burma Chamber of Commerce	-	-	-	4
Rangoon Trades Association	-	-	-	1
Rangoon Town	-	-	-	2
Lower Burma (excluding Rangoon)	-	-	-	2
Upper Burma	-	-	-	2
Women	-	-	-	1

15. The European community have, whilst reserving to themselves the right of independent thought and action, almost invariably given the full weight of their support to the Government in all matters of importance. In times of crisis and in questions concerning the public safety they have always wholeheartedly supported the Government. Of recent years they have been unanimous in their insistence upon guarantees and safeguards in the matter of conditions of service, salaries and pensions for Government servants under the new Constitutions. Attention is drawn to paragraph 86 of the Scheme of Constitutional Reform in Burma if separated from India. This preserves to Government servants their rights and provides for compensation for the loss of any of them. This Association is in entire agreement with these provisions, but feels that the non-official European is equally entitled to consideration and protection and considers that the loyalty and public spirit of the non-official European has counted for little and that the Local Government has made the proposals under review with a cynical disregard for his future interests.

16. At a general meeting of the members of this Association held at Rangoon on the 8th September 1933, at which all classes and

interests among the European population in Rangoon were fully represented, the following Resolutions were unanimously passed :—

- (1) This meeting of the Burma British Association, being fully representative of all classes and interests among the European community in Rangoon, desires to express its deep concern at and emphatic dissatisfaction with the proposals of the Government of Burma for the representation of European interests.
- (2) This meeting is unanimously of opinion that it is in the best interests of the country as a whole that Europeans should receive representation no less than that afforded to any other minority community and in any case not less than 12 seats in the Lower House.

W. A. W. DAWN,
President.

E. FOUCAR,
Honorary Secretary.

11th September 1933.

VI.—Burma Chamber of Commerce, Rangoon.

1. This memorandum expresses the views of the Burma Chamber on the proposals for representation of minorities in the Lower House of the new Legislature as contained in the Confidential Memorandum recently issued by the Government of Burma.

The membership of the Chamber includes :—

The Burma Railways,
The Rangoon Port Trust,
The Exchange Banks,
The Irrawaddy Flotilla Co., Ltd.,
The Agents of the British and Foreign Steamship Companies serving Burma and
All the important European Rice, Oil, Mining, Timber, Engineering and Importing Companies.

The Chamber, therefore, may be regarded as representing the entire European business community in Burma, with the exception of those engaged in retail trade, whose interests are represented by the Rangoon Trades Association.

2. It is understood that the present proposals of Government are intended to have effect, irrespective of whether Burma is to be a part of Federated India or is to be a separate State. The arguments in the body of this memorandum are based on the assumption that Burma will be in the Indian Federation, but, as pointed out in a later paragraph, the considerations that will arise in the event of Burma being separated give added weight to the objections raised herein to the proposed allotment of seats to European interests.

3. The opening paragraph of the Local Government's Memorandum reads as follows :—

“The proposals under this head are based in a large measure on the Communal Award for India. Although the communal question is less acute in Burma than in India, it appears sound that similar methods of treatment should be adopted in both cases.”

We agree that adequate representation of minority interests in Burma should be ensured by means of separate electorates. On the other hand, we entirely reject the assumption, implied in the above paragraph, that in determining the extent of representation to be allowed to minorities, the conditions to be provided for in Burma are similar to those obtaining in India.

4. Communal problems in India arise from the historical antagonism between the two main indigenous communities—Hindu and Muslim. This antagonism, in the words of the Statutory Commission Report, "is a basic opposition manifesting itself at every turn in social custom and economic competition as well as in religious antipathy." The Hindu-Muslim issue in India is primarily based on mutually antagonistic religious creeds, and for that reason is fundamentally different from the communal question in Burma.

5. In Burma such communal friction as does exist has no religious basis. To quote the Report of the Statutory Commission again, "the Burman being a Buddhist recognises none of the social divisions of caste and customs erected by Brahmanism." It is therefore unlikely that communal antagonisms will ever be so deep-seated and permanent as the Hindu-Muslim issue in India. In that sense the communal problem in Burma is less acute than in India, but for reasons stated later it is no less important from a political aspect.

6. The three principal minorities in Burma are the Europeans, the Indians and the Karens, and it would therefore appear that the communal question is based entirely on racial grounds. The case of the Karens, however, is entirely different from that of the other minority communities. The Karens are an indigenous community almost entirely engaged in agricultural pursuits and their economic interests are broadly indistinguishable from those of their Burmese fellow countrymen. A very large number of them are Buddhists and there is no friction between the Christian section and the Burmese on religious grounds. Their need for separate representation, which we have no desire to oppose or minimise, is largely based on a desire to ensure for their community a fair share of educational benefits and appointments in the public services, and they are most likely to try to secure this by aligning themselves with the Burmese majority in the Legislature.

7. In the case of the other minorities there is a marked divergence between their interests and those of the Burmese majority which, in our opinion, sharply differentiates their position from that of the Karens. This difference lies in the fact that the industrial trading and financial interests in Burma are very largely in the hands of these minorities. This is not the result of accident or privilege, but is entirely due to the fact that the indigenous peoples have in the past shown little aptitude or inclination for commercial and industrial pursuits. 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. The interests of these minorities are by no means identical, but broadly speaking when we come to compare the relative representation of majority and minority

communities in the Legislature, 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.

8. It follows that these minorities, and the great commercial interests involved, are politically in a very exposed position, and an alleviation of this situation can only come about by the majority communities taking an increasing interest in commerce and industry. We would welcome a development in this direction, but there is no indication of the question solving itself along these lines in the near future, and the situation can, therefore, only be met by giving adequate weightage to these minorities in the new Legislature.

9. As compared with most of the Indian Provinces, there is ample room for giving weightage to minorities in Burma. Under the proposals before us, the Burmese and Karens between them are allotted 110 seats out of 132, or 83 per cent. This could be considerably reduced without any danger of throwing undue power into the hands of the minorities, while at the same time it would give a much needed addition to the influence of these minorities in the House. The overwhelming voting power in the hands of the indigenous majority communities would remain unassailable. A moderate addition to the strength of minority representation could influence legislation only by the extra weight of reasoning or persuasion which it could contribute and not by the added weight of its vote.

10. The foregoing considerations appear to have been entirely overlooked in the proposals set out in the Franchise Memorandum. Minority representation as a whole has been reduced instead of increased and no reasons have been adduced in support of this somewhat surprising rearrangement of voting strength. Another important consideration, to which no weight has apparently been given, is the disappearance of the official bloc which will leave minorities in a more exposed position *contra* the majority representation.

11. In the present Legislative Council, the number of non-official seats totals 88, and of these the minority communities occupy altogether 26 seats, made up as under :—

Europeans	-	-	-	-	7
Indians	-	-	-	-	12
Karens -	-	-	-	-	5
Anglo-Indians -	-	-	-	-	1
Chinese-	-	-	-	-	1
					<u>26</u>

This represents 30 per cent. of the non-official seats. In the new House it is proposed to make the following allotment to minorities out of 132 seats :—

Europeans	-	-	-	-	7
Indians	-	-	-	-	12
Karens -	-	-	-	-	12
Anglo-Indians -	-	-	-	-	2
Chinese	-	-	-	-	1
					<u>34</u>

This represents 26 per cent. of the House, so that the total minority representation has been reduced from 30 per cent. to 26 per cent.

12. In view of the distinction we have already drawn between the Karens and other minority communities, it is necessary to analyse separately the position of the latter. In the present Council these hold 21 seats out of 88, or 24 per cent. In the proposed new Legislature they are allotted 22 seats out of 132, or 17 per cent. This drastic reduction does not seem to be justified by any line of reasoning. On the contrary, as already pointed out, the arguments are all in favour of a substantial increase in the total representation of these minorities.

13. In the new Lower House it is proposed that there shall be 132 elected seats as against 88 non-official seats in the present House, an increase of 44 non-official seats. These 44 seats are to be distributed among the communities as under :—

Burmese	-	-	-	-	36
Karens	-	-	-	-	7
Anglo-Indians	-	-	-	-	1
					44

No seats have been allotted to Europeans.

14. In the matter of European representation, although the Chamber is more particularly concerned with representation of commercial interests, we propose to deal with the whole question of the allocation of seats to the European community.

Europeans have been allotted three general seats, and it is stated in the Memorandum that these have been allotted on the basis of the average number of European population per European general constituency seat in India. This method of fixing seats involves acceptance of the theory that conditions in Burma affecting the question of European representation are the same as the *average* of conditions in all the Indian Provinces. We can find no force or logic in this line of reasoning, and in fact no such basis has been adopted in fixing the number of European general seats in any Province in India. The question of European representation in the Indian Provinces has obviously been decided on its merits, having regard to the importance and nature of European interests in each Province.

15. If we are to draw any analogy from the communal settlement in India, we must turn our attention to the award in Bengal, where conditions as regards the need for European representation most closely approximate those in Burma.

In Bengal, with its large European commercial interests, 11 general constituency seats have been allotted to Europeans out of a House of 250, or 4.4 per cent. On the basis of the proposed allotment in Burma, Europeans in Bengal would have received only six general seats. It may be noted also that the proportion of European population to total population in Bengal is only about half the corresponding figure in Burma. The contrast between the treatment of European interests in Bengal and Burma is remarkable and we can find no reason to justify it.

16. As regards "Special Interests," European interests in Bengal have been given 14 seats out of 250, whereas the same interests in

Burma have been allotted only four out of 132. Here again we can find no reason for the differentiation against Europeans in Burma. The importance of European commercial and industrial interests in Bengal is not to be disputed, but we hold that in Burma the European position is even more predominant. In Bengal, European interests are mainly centred in the jute, coal and tea industries. In Burma we have the counterpart of these in rice, oil and timber. But the capital invested in industries under European management in Burma is to a much greater extent European than in Bengal, where behind a façade of European management under the managing agency system a vast amount of Indian capital is invested, particularly in the jute and coal industries. This fact gives an element of political security to European investment in Bengal which does not exist in Burma.

In this connection, it may be remarked that in Bengal the European "Special Interests" representatives, apart from the one representative elected by the Calcutta Trade Association, consist of six elected by the Bengal Chamber of Commerce and seven elected by a number of Associations representing particular sections of commerce and industry, e.g. the tea, jute and mining industries. In Burma, the whole of the European commercial and industrial interests are represented by the Burma Chamber of Commerce and there are no sectional Associations to claim representation apart from that obtained through the Chamber.

17. Taking General Constituencies and "Special Interests" together, European representation in the new Legislature in Bengal will total 25 seats out of 250, or 10 per cent. We hold that the European community is fully justified in claiming equivalent representation in Burma, say 13 seats out of 132.

18. The position in the present Legislative Council in Burma is that Europeans occupy seven out of 88 non-official seats, or 8 per cent. Of these seats, four are elected and three are nominated non-official seats. It has been suggested that the occupants of these non-official seats have not been nominated to represent European interests, but on account of special qualifications which they possess. The reasons which underlie such nominations are not made known, as these nominations are entirely in the discretion of the Governor. It may be noted, however, that in the Report of the Indian Statutory Commission, the following statement appears (see page 133, Volume I) :—

"Nomination is resorted to for two purposes. In some cases it is the method adopted for securing a spokesman for a class or community which would otherwise go unrepresented. In other cases, a nominated seat is filled by the Governor in the exercise of his general discretion, to redress inequalities or to fill up an undesirable gap."

In the case of the seats under reference it is reasonable to conclude that the need has been felt to place Europeans in these seats either in the interests of the European community or in the interests of the Legislature as a whole. In either case it is beyond question that, with the elimination of the official bloc, the need for additional strength to the European element in the House will be even more keenly felt, and speculation as to the special reasons for particular nominations in the past is beside the point.

19. We maintain, therefore, that the effective representation of Europeans in the past has been seven seats or 8 per cent. and that in the Legislature of the future, in view of the disappearance of the official bloc on which the European community have relied for protection, and for reasons we have touched upon in dealing with the question of minority representation in general, the case for an increase in non-official European representation is overwhelming.

20. In the new Legislature we hold that the European community have an unassailable claim to 10 per cent. of the total seats in the Lower House, i.e. 13 seats out of 132, and in no circumstances can we agree to accept a lower representation than any other minority community. In considering the respective representation claims of the Indian and European communities, while we have no wish to minimise the contribution which the Indian community has made to the development of Burma, it should be borne in mind that the Indian stake in commerce and industry is generally of a less permanent nature than the European. Indian business activities are, in a large degree, devoted to trading and banking, which involve little investment of long-term capital, whereas European enterprise has been more generally directed to the development of large-scale industries such as oil, timber and mining, in which vast investments of fixed capital have been made. This fact, as also the fact that Indian commercial interests derive an indirect protection from the comparatively large representation secured on a population basis, requires to be given full consideration in estimating the relative needs of the two communities for weightage in the Legislature.

21. With regard to the apportionment of European seats between General Constituencies and "Special Interests" this is a matter of minor importance, but on the basis of 13 seats we suggest that a suitable allocation would be as under:—

General Constituencies.

Upper Burma	-	-	-	-	3
Lower Burma	-	-	-	-	2
Rangoon City	-	-	-	-	2

Special Interests.

Burma Chamber of Commerce	-	-	-	-	6
Rangoon Trades Association	-	-	-	-	1

22. In this connection, we are strongly opposed to the suggestion that the Rangoon Trades Association should be deprived of their present seat. They have held this seat since 1914 and we see no good reason why they should be required to give it up now. The Franchise Committee's Report (paragraph 320) emphasises the importance of securing the presence in the Provincial Legislatures of men qualified to speak with knowledge and authority on subjects connected with trade, commerce and industry, which call for expert consideration from time to time. The members of the Trades Association have special knowledge and experience of the problems of the retail trade in this country, which the members of the Burma Chamber of Commerce do not possess, and in this respect the Trades Association member in the House has a special qualification which is not likely to be possessed by

any of the elected members of the General Constituencies. It is true, as suggested in the Local Government's Memorandum, that one of the members of the Chamber of Commerce or General Constituencies could be briefed to represent the Trades Association's interests when need arose, but, lacking an expert knowledge of the retail trade, he could not be as useful, either to the House or to the interests comprised in the Rangoon Trades Association, as a representative of their own. It may also be pointed out that this suggestion could have been made with greater force in respect of the various subsidiary commercial associations which have representation in the Bengal Legislature, apart from the representation they enjoy through the Bengal Chamber of Commerce. No proposal has been made that because the Bengal Chamber of Commerce could look after their interests, these associations should be deprived of direct representation. Nor, it may be noted, has the Calcutta Trades Association been deprived of its seat in the new Legislature. We can therefore see no grounds, unless a desire to reduce European representation as a whole, for doing away with the Rangoon Trades Association's seat, and we would strongly urge that this seat, which has historical sanction as well as a definite practical value to the Legislature, should be retained.

23. The arguments so far adduced in our opinion constitute an unanswerable case for a much increased European representation in the Lower House if Burma remains within the Indian Federation. If, on the other hand, Burma is separated from India, these arguments gain in weight, and the matter becomes of even more vital importance. Under Separation, the Burma Legislature will have control of all the subjects which in India will come within the power of the Federal Legislature, with the sole exception of monetary policy, currency and coinage. These subjects include many of special and direct importance to the interests represented by this Chamber, for example, Railways, Inland Navigation, Mining, Port Administration, Customs, Excise, Income-tax, Posts and Telegraphs. The Burma Legislature, based on a much wider franchise than the Federal Legislature in India, will thus be dealing with subjects vastly more important and more vital to European interests and the general economic welfare of the country than will be the case in any Indian Provincial Legislature.

It is obvious, therefore, that if Burma is separated the need for stability and political moderation in the Lower House will be more keenly felt in Burma than in the Indian Provinces, and these are the very qualities which the European representatives are by experience and tradition best fitted to contribute.

With these considerations in view the need for strong European representation cannot be too strongly emphasised, and, indeed, it may be said that in all probability the successful working of the new Legislature will depend to a considerable extent on the steadying influence of the European element in the Lower House.

C. G. WODEHOUSE,
Chairman.

13th September 1933.

VII.—The Rangoon Trades Association.

The primary object of this Memorandum is to state in as strong a manner as possible the extreme dissatisfaction that is felt by the Rangoon Trades Association with the proposal that is contained in the

Franchise Memorandum issued confidentially by the Local Government whereby it is intended to deprive this Association of representation in the new Lower House.

2. In the Franchise Memorandum the representation of this Association is referred to in paragraphs dealing with the representation for Special Interests and by joining its representation with that of the Burma Chamber of Commerce the Memorandum has in paragraph 7 classified this Association under the European community. It is desired, therefore, first of all to briefly express the Association's views on the general proposals in relation thereto, that is, the representation of the European community and the representation for Special Interests.

3. By its constitution the membership of the Rangoon Trades Association is not limited to Europeans, but in the meantime the preponderant interest of Europeans in the Association justifies the Government of Burma in classifying it as a European interest.

4. The particular viewpoint of the Association, however, is the trading viewpoint, and, from this angle, the Association views with the greatest concern the inadequacy of the representation that is given in the Government proposals to European interests. The element of stability and the respect for law and order which the European group supplies are the requisites the trader, no matter what his nationality may be, looks for in a sound Government, and this Association therefore gives its fullest support to the representations that are being made on this matter by the Burma Chamber of Commerce and the Burma British Association. It supports the view that the representation of minorities should not be less than 30 per cent. of the total number of seats and that in any case the European representation should not be less than that of any other minority community.

5. In the conditions that obtain in Burma and are likely to obtain for some time to come the Association agrees that in the interests of sound Government, Special Interests should be represented. Its criticism of the allocation of the representation proposed to be given to commercial interests is that it is proposed to give the whole representation, viz., eight seats, to bodies whose preponderant interest is in industry and/or external trade, and no representation is given to the interests dealing with internal distribution.

6. It is now proposed to deal with the proposal to deprive this Association of the representation it has hitherto held in the Legislatures of Burma. In the Franchise Memorandum, paragraph 6 (5), it is stated : "It is no longer considered necessary to grant separate representation to the Rangoon Trades Association, as their interests can be looked after by the representatives of the Burma Chamber of Commerce."

7. If by the statement that separate representation is no longer necessary, it is intended to convey that this Association will still be represented through the Burma Chamber of Commerce, this Association desires to take the strongest possible exception to this distortion of the facts. The members of this Association are not, and are not eligible to be, members of the Burma Chamber of Commerce and they would have no voice in the choosing of the latter's representatives. Without a voice in the choosing of representatives there can be no representation.

8. In the Franchise Memorandum it is further stated that the interests of the Rangoon Trades Association can be looked after by the

representatives of the Burma Chamber of Commerce. This statement is entirely fallacious. The interests of the Burma Chamber of Commerce are centred on industrial and commercial matters predominantly on the export side, such as rice, timber and oil. The interest of the Trades Association is centred round imports and the retail distribution of these throughout the Province. There can be no similarity in their interests; it is in fact, conceivable that matters may be raised in future Legislatures on which there may be a wide difference in the views held by the two bodies. In such circumstances it would be unfair to place the onus of protecting the interests of the Trades Association on the shoulders of these representatives of the Chamber of Commerce and, frankly, the view the Association holds is that, in these circumstances, the interests of this Association would be sacrificed.

9. By the nature of its activities, the interests of the Burma Chamber of Commerce are akin to those of the Indian Chamber of Commerce, the Chinese Chamber of Commerce, and the Burmese Chamber of Commerce, to which bodies it is proposed to give separate representation, and had it been suggested in the Franchise Memorandum that the representatives of the Burma Chamber of Commerce could look after the interests of these bodies, there might have been some justification for the joint representation of these interests, but there can be no justification in the statement that their representatives can look after the interests of this Association and this Association feels sure that the Burma Chamber of Commerce has no desire to assume this responsibility.

10. This Association was formed in 1898. It is, therefore, not of recent growth; it is virile and its members have a permanent stake in the country.

11. This Association has always in the past had representatives, not only in the Legislatures, but in bodies such as the Corporation of Rangoon, Commissioners for the Port of Rangoon, the Council of the Rangoon University, the Railways Advisory Board, &c. Its representatives in past Councils have given good service to the country, and men like the late Mr. Goodliffe and the late Mr. Du Bern have not only claimed respect, but have been leaders in the House itself.

12. In the new House, whether it be under a Federal Constitution and more so if under a Separation Constitution where all-India subjects, such as Customs, &c., will be transferred, it is most desirable, in the interests of good government and enlightened legislation, that the special experience which a representative of this Association will have, should be at the disposal of the Legislature.

13. The protection of the trading interests of the country in such matters as licences for various trades—chemists, firearms, ammunition, liquors, &c.—regulations for motor-vehicles and other forms of transport, the law regarding debtors, public holidays, shop hours, methods of assessment of customs duty of widely varied classes of articles, &c., &c., are all matters on which a representative of this Association would be one of the few persons able to speak with authority.

14. Although the headquarters of this Association are in Rangoon, its members, through their branches and agencies, have an interest in

the retail business throughout the Province and, through this, it has a personal contact no other body has, and has a first-hand knowledge of the individual reaction to the subjects that may come before the new House, and yet, by its compactness, it is eminently suitable to form a constituency by itself.

15. In the opening paragraph of this Memorandum it was stated that its object was to protest against the proposal to deprive this Association of its seat in the new Lower House. On account of its stake in the country this Association views with grave anxiety the proposals contained in the Franchise Memorandum, but it will conclude on a higher plane and express the view that it is in the interest of Burma itself that the Trades Association should continue to be represented in the Reformed Burma Legislature.

H. W. SMITH,
President.

VIII.—Anglo-Indian Community.

I have consulted representative Anglo-Indian opinion, both in Rangoon and the Districts, on the proposals made in the Memorandum, for the representation of the Anglo-Indian community in the new legislative bodies.

There appears to be strong opinion that the community should claim at least three seats in the Lower House. This was the claim made in the Memorandum approved at a public meeting of the community, and submitted to the Indian Statutory Commission (Simon) in 1930.

After eliminating Europeans in the "public force" there are only 2,858 Europeans in Burma, and yet it is proposed in the Memorandum to allot three seats to the European constituency in Burma on the basis of one seat to every 3,552 of the population. The population of Anglo-Indians in the elective area is 18,583, i.e. nearly double the European population. On the population basis, therefore, Anglo-Indians should be given twice the number of seats allotted to Europeans, i.e. six seats. There is no desire on the part of Anglo-Indians to reduce the number of seats allotted to Europeans, but it is felt that having regard to the size of the Anglo-Indian population, their high standard of literacy, the important part they play in the life of the Province, and the fact that they are a community permanently domiciled in Burma, that the three seats which they originally asked for should be allotted to them.

It may be pointed out that the Indian Franchise Committee has recommended that in the Province of Bengal, in which the Anglo-Indian population is 27,673, four seats should be allotted to the community, which works out at one seat for every 6,918.25 of the community. On this basis, it will be seen that Anglo-Indians in Burma should be allotted three seats.

There is a general consensus of opinion that election should be by postal ballot. My own view is that the ballot should be secret, and that "plumping" of votes should be allowed.

As to representation in the Upper House, this should be secured by a clause in the Instrument of Instructions issued to the Governor that at least one nominated member should be an Anglo-Indian.

C. H. CAMPAGNAC.

IX.—Indian Community.

After consultation with my constituency and other Indian interests on the proposals contained in the Memorandum I hereby submit the views generally held by them.

I must state at the outset that the procedure adopted by the Local Government is most objectionable. It is generally felt that if Government were anxious to consult non-official opinion on the question of the composition of the future Legislature, such opinion should have been ascertained prior to the framing of concrete proposals. Instead, the Government have first framed certain proposals on their own initiative and are now consulting non-official opinion. Such a procedure, it is apprehended, is calculated to prejudice the issue, and result in injustice being done to certain interests. It would have been more appropriate if the Government, instead of prejudging the issue, had left the decision of the questions involved to the Joint Select Committee in consultation with the Burma Delegation.

REPRESENTATION OF MINORITIES IN THE LOWER HOUSE.

In respect of the proposals regarding the representation of the minorities in the Lower House, it is strongly felt that the minority interests on the whole have not been given adequate representation. In particular, gross injustice has been done to the Indian interests. In the present House, taking the elected bloc only, the minorities have got 20 seats and the Labour seat specifically provided for under the Burma Electoral Rules can rightly be said to belong to them. Thus they hold even now 21 seats by right, which are further supplemented by nomination of at least four to five members. Thus the representation of minorities in the present House is about 30 per cent. exclusive of the official bloc. As regards the official bloc, it is the general view that it is intended to protect the interests of the minorities and special interests against any misuse of power by the majority and may thus be regarded as rightly belonging to them. Assuming that in the new Constitution no change is made in the strength of the House, and the official bloc is eliminated, it is a perfectly legitimate claim to suggest that the 14 official seats should naturally go to the minorities and special interests comprised in the non-official nominations. To illustrate the point the following calculation is given.

The seats for various minorities and special interests at present are as follows:—

Europeans	-	-	4	
Karens	-	-	5	
Indians	-	-	10	(including one Labour seat allotted under the Electoral Rules).
Anglo-Indians	-	-	1	
Chinese	-	-	1	
Nominated interests	-	-	8	
			<u>29</u>	

If the 14 seats now held by officials are distributed as suggested in proportion to the existing representation of the various interests, the

seats to which respective interests would be entitled would be as follows :—

Europeans	-	-	-	-	2
Karens	-	-	-	-	2
Indians	-	-	-	-	5
Anglo-Indians	-	-	-	-	1
Nominated interests	-	-	-	-	4
					—
					14
					—

On this basis five out of the 14 seats would come to the Indians as a matter of right and probably one out of the four seats allotted to nominated interests. This is in a House of 103 members. Without any extra representation in the new House it is clear in the light of the above calculation that the 12 seats proposed to be given to Indians are far below their due share.

It must be specifically pointed out that there is absolutely no justification whatsoever for including the two Labour seats in the representation to which the Indian community is legitimately entitled through General constituencies. Labour is a special interest and must be treated as such in the same manner as Burmese Labour has been treated. The inclusion of Labour seats in the representation through General constituencies deprives the Indian community of two seats to which they are entitled.

If the figures proposed for other minorities are scrutinised it is felt that so far as the Europeans and Karens are concerned Government appear to have adopted a more liberal basis than in the case of the Indians. While Indian opinion does not grudge the increased representation given to other minorities, it is not out of place to point out that the interests of the Karens, who have been given considerably increased representation, appear to be almost identical with those of the majority community, viz. the Burmese. Indian opinion insists that the representation of the Indian minority and Indian special interests must also receive fair treatment and feels that they are entitled to increased representation on the basis of the suggestions made above.

As regards the proposed representation of Indian commercial interests, Indian commercial bodies strongly hold that it is entirely inadequate and must be increased. It may be pointed out that Indians in Burma have got commercial and industrial interests in almost every sphere besides agricultural interests also. While the Europeans have got their interests more compact, those of the Indians are spread out in diverse directions and embrace every branch of the economic activity of Burma. As such Indian commercial interests deserve representation in a much more liberal measure than what has been proposed for them.

A. CHANDOO.

X.—The Burma Chinese Chamber of Commerce.

The Burma Chinese Chamber was formed in the year 1907 by the Chinese British subjects as an Association of wholesale and retail merchants, millers, bankers and others engaged in the commerce of Burma. The Chamber is fully representative of all the important and well-known Chinese commercial houses dealing essentially in the trades of

rice, oil, mining and timber throughout the Province. While at all times the Chamber chiefly takes a commercial interest in the affairs of the country, yet it has not been indifferent or slow to act or express its views in other matters for securing peace and tranquillity to the country and for progressive development of Burma's trade and resources and for the promotion of goodwill, co-operation and friendly relationship between the various communities in Burma.

For many years the Chamber has returned one representative to the Legislature. The principle of election of a representative was conceded to other Chambers of Commerce in India when the Morley-Minto Scheme of Reforms were introduced, and perhaps in consonance with such methods and precedents in other Provinces, the Chamber's whilom Chairman, the late Mr. Lim Chin Tsong, was nominated for many years in succession as an Hon'ble Member of the then Lieutenant-Governor's Legislative Council. Since the introduction of Burma Reforms in 1922 and the actual inception of the first Reform Council in 1923, the Chamber has elected as its representative Mr. Chan Chor Khine for the first and fourth terms of the Council and the late Sir Lee Ah Yain for the second and third terms. The confidence and trust reposed in the Chamber's representatives combined with the intelligent and high qualities of the representative concerned resulted in the appointment of the late Sir Lee Ah Yain as one of the trusted Ministers of the Government for two successive terms. The active participation of the Chinese in elections to public bodies and Legislative Council and the important parts they played therein as President, Chairman or members not only prove the fitness and ability of such persons to perform their civic duties and exercise their franchise, but also indicate the intensive desire on their part to identify their interest with that of the indigenous people of Burma.

The Chamber understands that the recommendations for a suitable form of government which will satisfy and content the various people of Burma and which will yet contain adequate safeguards for the preservation of internal peace and for the protection of all commercial interests are well in hand except for definite allocation of seats in the Council, and ventures to submit this Memorandum in the hope that suitable recommendations be made for adequate representation and reservation of seats in the proposed Council.

The Chinese population in Burma for the elective area is given as 121,752 and the following figures gleaned from the Census Reports shows our numerical position in the Province:—

Born in Burma	-	-	Male	-	35,659	
			Female		23,594	
						59,253
Born out of Burma	-	-	Male	-	47,320	
			Female		15,179	
						62,499
			Total	-		121,752
Permanent Residents	-	-	Male	-	62,299	
			Female		32,320	
						94,619
Non-permanent Residents	-	-	Male	-	20,680	
			Female		6,453	
						27,133
			Total	-		121,752

Although no separate figure is given for Chinese who are British subjects, it can safely be taken that out of the permanent residents, 59,253 Chinese born in Burma are British subjects by birth and the rest are naturalised British subjects having made Burma their permanent home with Burmese wives and family. These Chinese occupy the entire length and breadth of Burma, and the tremendous growth of financial, industrial and trading interests of the community needs no advertisement in that no large city in the Province is without its "China Town," "Taroktan," and no village tract without its "Chinese Shop." As for their social and other activities, they have lived in peace and amity with their neighbours and have taken part in all important local functions, sharing their responsibility and duties as good citizens. They yield to none in their loyalty to the Government, they have helped the Government in bringing in more revenue by plying in legitimate and licensed trade and business which other people have neither the means nor inclinations to take up. Neither have they been backward and discriminate in contributing towards War Loans, Government Loans, University Endowment Funds, hospitals and other various public charitable institutions.

The basis of the present number of elective members in the Provincial Council is as follows:—

Burmese	-	-	-	-	60
Indians	-	-	-	-	9
Europeans	-	-	-	-	4
Karens	-	-	-	-	5
Anglo-Indians	-	-	-	-	1
Chinese	-	-	-	-	1
					80

The Chamber feels that in view of the important part played by the community in the life of the Province and by reason of our foremost place in trade and commerce of the country and our heavy contribution to the provincial revenue and the extent of our property in lands and buildings and the capital sunk and invested in the country, the single seat reserved for the community from the Chamber is entirely inadequate even on the basis of numbers. Added to which is the boundless difficulty of the limited choice of a representative to satisfactorily represent the diverse interests of the members who being descendants of Fukkien and Kuantung Provinces of China have their business places in Lower Burma and some in Upper Burma.

The Chamber, therefore, respectfully urges that the number of seats reserved for the Chamber in the proposed new Council should be raised to 2 per cent. of all the seats, or at least two seats to protect the wide and considerable vested interests of the community. Such a recommendation is not only equitable but also justified in view of the fact that no separate or communal representation is sought for in other constituencies where members of the community will be content with the existing right to compete with others in the General Elections. Further, it will be in consonance with the spirit of reforms and its consequent increase of representation.

The Chamber submits that this request for more seats is not new, but is a reiteration and repetition of the one made by Mr. Hoe Kim Seng, the Chinese member of the Burma Delegation during the deliberations of the last Burma Round Table Conference.

To safeguard and sponsor the interests of the community and for such other purposes, this Chamber strongly pleads that a suitable Chinese representative (from this Chamber) be chosen and sent as one of the delegates to the Joint Select Committee to be held in London in connection with the proposed Burma Reforms.

CHAN CHOR KHINE.
HOE KIM SENG.
SAW BAH CHYE.
YEO MOH SEONG.
S. BOON TIN.
L. AH LYE.
TAN HAN TI.

III.

BURMA.

Excluded Areas.

Memorandum by the Secretary of State for India.

INTRODUCTORY.

1. As in India, there are in Burma certain areas which it is necessary to exclude wholly or partially from the administration of Ministers responsible to the Legislature and from the unrestricted application of Acts of the Legislature.

Paragraph 18 of the introduction to the Burma Constitutional Memorandum made a general reference to the problem presented by these areas (which were provisionally defined in the two Schedules A and B attached); reference to particular points arising in regard to them was also made in the footnotes on pages 14, 16 and 25. But no detailed provisions were included in the Memorandum and this deficiency is now repaired by the proposals set out in the Appendix to the following explanatory note.

2. The areas which it is proposed to treat as wholly excluded are those which have already been notified under the Government of India Act as "backward tracts"; those which it is proposed to exclude partially are certain areas which have not been formally notified as "backward tracts" (though some of them are of generally similar character to those tracts), and are consequently at present subject in law to the Legislature and amenable to its measures; but which have been excluded from the operation of the Burma Rural Self-Government Act and do not return members to the Legislative Council.

3. As regards the existing backward tracts, the opinions of the delegates at the Burma Round Table Conference were divided. Some considered that their administration should be entrusted to the Governor as a reserved subject, and that the Legislature should have opportunity from time to time to discuss the subject at the discretion of the Governor. Others thought that responsibility for administration should be placed on a Minister; though there was division of opinion as to whether at the outset the Minister should be responsible to the Governor or to the Legislature.

4. In the declaration made by the Prime Minister on the 12th January, 1932, it was stated that the administration of the Federated Shan States and of the other "backward tracts" would be vested in the Governor.

PROPOSALS IN THE BURMA CONSTITUTIONAL MEMORANDUM.

5. The Burma Constitutional Memorandum has attached to it in Appendix II two schedules, viz. :—

A. Areas which it is intended should be wholly excluded from the purview of the Legislature and of the Ministers responsible to it. The administration of the areas in Schedule A is proposed to be one subject in the Governor's Reserved Department (Proposal 10).

B. Areas which would be only Partially Excluded from the purview of the Legislature. In these administration would be carried on through Departments and Services in the charge of Ministers responsible to the Legislature, but the supervision of this administration would be a special responsibility of the Governor (Proposal 17), who would have full power to enable him to discharge his responsibility to Parliament, in respect to the administration.

6. The Memorandum further contained a footnote to Proposal 50 stating that some provision would have to be made corresponding to Proposal 109 of the Indian White Paper, which deals with the discussion of matters concerning those areas in the Legislature. Otherwise the Burma Memorandum confined reference to these matters to a paragraph in the Introduction (No. 18), which ran as follows:—

“Again, in regard to the administration of what, in the case of India, have been described as Excluded or Partially Excluded areas, conditions in Burma may demand slightly different treatment. Detailed provisions for the treatment of such areas in Burma have therefore been excluded from the scope of this tentative scheme. It is proposed in the case of Burma that the areas falling within the two categories mentioned above should be enumerated in two separate Schedules, A and B, to the Constitution Act, and it will therefore be convenient to refer to them as Schedule A or Schedule B areas rather than Wholly or Partially Excluded areas. A provisional list of these areas will be found in Appendix II”.

SCHEDULES A AND B.

7. The provisional Schedules in Appendix II of the Burma Memorandum have been re-examined by the Government of Burma, and it is now possible to substitute the following amended Schedules, which it is thought should be appended to the Constitution Act.

Schedule A.

1. Federated Shan States.
2. Arakan Hill Tracts.
3. Chin Hills District.
4. The Kachin Hill Tracts of the Myitkyina, Bhamo and Katha Districts.
5. The territory known as Hkamti Long in the Myitkyina District.
6. The Somra Tract and the Shan States of Hsawngsup (Thaungdut) and Singkaling Hkamti (Kanti State) in the Upper Chindwin District.

The above areas cover about 90,200 square miles, and have a population of about 1,876,000.

[There are also certain inaccessible tribal areas, at present unadministered, but the greater part of which it is proposed to bring under a loose form of administration in the near future, which are of course at present entirely outside the purview of the Legislature and which should continue to be so excluded. It is proposed to include them in Schedule A when the exact terminology of the entry to be made in respect of them has been decided upon. The areas in question are the following:—

1. The area known as the Triangle in the Myitkyina District.
2. The area known as the Hukawng Valley lying to the north of the Upper Chindwin District.
3. The Upper Chindwin Naga Hills lying to the north-west of the Upper Chindwin District.]

Schedule B.

1. Such parts of the Myitkyina and Bhamo Districts as are not included in Schedule A.
2. Such parts of the Upper Chindwin District as constitute the Homalin Subdivision together with the village tracts which were included in the former Tamu township of the Mawlaik subdivision on the date preceding its abolition.
3. The Salween District.

The areas in Schedule B cover about 22,200 square miles, and have a population of about 366,500.

SCHEDULE A AREAS.

1.—*General.*

8. In considering the future constitutional arrangements for the backward tracts in Burma it is important to remember that the word "backward" which is the technical term used to denote areas notified under Section 52a of the Government of India Act, 1919, may lead to a serious misunderstanding of the position. It suggests that the difference between these tracts and the ordinary districts is one of degree of development which will necessarily tend to disappear with time. This is far from the whole truth. The existing backward tracts are hill districts lying on the north, west and east of Burma, and resembling in their general characteristics the backward tracts along the eastern border of Assam. Their inhabitants, mainly Kachins, Chins and Shans, differ radically from those of the plains in race, religion, law, customs, and language, and most of these differences will be bridged, not by a simple process of development, but by the much slower and more difficult process of abandonment of their existing culture. It is the absence of common outlook and aspirations which is perhaps the main factor militating against the assimilation of the backward tracts in the hills in the political institutions of the plains. The history of the relations between the backward tracts and the plains is one of opposition and hostility, and the main reason for undertaking the administration of the tracts was the protection of the plains. Such feelings of antipathy die slowly in remote places; and the inhabitants of the backward tracts are still devoid of any real sense of community, political or otherwise, with the plains. Further, the inhabitants of the backward tracts are ignorant of conditions in the plains and those of the plains are equally ignorant of conditions in the tracts. It is true that since the annexation of Upper Burma, civilising influences have been at work. The Kachins come down with confidence from their hills to market in the villages of the plains and mix more freely with the plainmen, and in some areas they have come under the influence of missionaries. Kachins and Chins also are recruited to the Burma Rifles and Burma Military Police. But the fact remains that the plains and the backward tracts are different worlds with no adequate mutual knowledge and no adequate contact by which such knowledge may be readily diffused.

9. The "backward tracts" in Burma are admittedly not ripe for representative institutions and have not, it is believed, shown any desire for them. The time will not be ripe for such a change until conditions in the tracts have undergone a fundamental change and until their inhabitants have learned to feel that they are part of a larger political whole. Such a state of affairs is not likely to come to pass within any period that can at present be foreseen.

10. Meanwhile, the provincial legislature, however capable of legislating for the plains which it knows and represents, is clearly not qualified to legislate for people it does not represent and for conditions of which it has no adequate knowledge. Added to this is the consideration that law in the backward tracts is mainly customary law supplemented by simple regulations issued under Section 71 of the Government of India Act—a very refractory substance for amalgamation with acts of the Legislature.

11. The form of administration is equally simple, being loose and flexible and often depending upon the personality of an individual officer.

12. The foregoing remarks apply to all the areas which it is proposed to include in Schedule A (Wholly Excluded) and indeed are very largely applicable to some at least of the areas in Schedule B which it is proposed to exclude only partially.

2.—*The Shan States.*

13. Among the areas at present notified as backward under the Government of India Act is the Shan States Federation. At the Burma Round Table Conference the Shan States delegation indicated that they desired to preserve the separate existence of the Shan States Federation, and asked that the Federation should be placed in the direct charge of the Governor. The other delegates generally expressed sympathy with the Shan Chiefs' desire to preserve the position of the Federation.

14. In the Declaration made by the Prime Minister on the 12th January, 1932, it was stated that the administration of the Federated Shan States would be vested in the Governor, and following upon this announcement, it is proposed to place the Shan States in Schedule A to the Constitution Act.

15. The Shan States (Northern and Southern), are British territory. They occupy a block of some 60,000 square miles of mountainous territory, traversed from North to South by the Salween River, and lying between the Irrawaddy valley and the Chinese, French Indo-Chinese and Siamese frontiers. The line of division between the Northern and Southern groups is roughly due east of Mandalay. The two main groups, Northern and Southern, have together a total population of rather more than 1½ million and a total revenue of about 47½ lakhs.

16. The Shan States became British territory following the Proclamation of 1886, annexing the territories formerly governed by King Thibaw, and making them over to the Viceroy and Governor-General of India for administration. Prior to the British annexation, sovereignty over the Shan States had been claimed by the Kings of Ava.

17. British policy in the States after the annexation was aimed at establishing orderly administration at the least possible cost. The existing system of administration by the Shan Chiefs were therefore maintained. The result was an arrangement under which, though the States are British territory, and the Rulers and their subjects are British subjects, the criminal, civil and revenue administration are generally vested in the Chiefs.

18. The sanads of appointment issued to the Chiefs are not hereditary as is the rule in the rest of India. A fresh sanad is issued to each Chief on appointment, and though the selection of successors is generally made in the family of the governing Chief, this is not obligatory. It has been the deliberate policy of the British authorities to retain authority over the Chiefs (Sawbwas), while making use of their traditional position as the most appropriate method of administering a great variety of very simple races.

19. Under the Burma Laws Act of 1898, the civil, criminal and revenue administration was vested in the Chiefs, subject to obedience to the Superintendent of the States, and it was prescribed that the Law to be administered was "the customary law of the States so far as it is in accordance with justice, equity and good conscience, and not apposed to the spirit of the law in British India". (This customary law can, however, be modified by orders issued by the Governor, who also has power to appoint officers to take part in the administration of the States.) At the same time the States were excluded from the operation of any Burma Act not specifically extended to them.

20. In 1922, in connection with the application to Burma of the Reforms of 1919, the main block* of Northern and Southern Shan States was formed into a Federation—a separate sub-administration in the charge of the Governor (not the Governor in Council) and removed therefore from the scope of the new Burma Legislature.

21. The scheme contemplated no interference in the internal management of the States, and the Chiefs continue to collect their taxes and to be responsible for law and order, maintain courts, appoint their own officials and control their own subjects under the advice of their respective Superintendents (and Assistant Superintendents) as before. But the common services of Public Works, Medical Administration, Forests, Education and Agriculture, and, to a small extent, local Police, have been centralised under the control of the Federation.

22. The funds of the Federation are principally derived from—

(a) contributions from the individual States, varying from 40 per cent. to 50 per cent. of their revenues,

(b) the mineral and forest royalties accruing within the Federation, less 25 per cent. allotted to the individual Chiefs,

(c) a contribution from Burma revenues,†

and amount to rather over Rs.30 lakhs per annum. The Federal Council, consisting of seventeen Sawbwas, four elected representatives of the lesser Rulers and the Superintendents of the Northern and Southern Shan States, is an Advisory Body only, possessing no legislative power. The Superintendent of the Southern Shan States, who is also Commissioner for the whole of the States, is President of the Council, and Agent of the Governor in respect of the administration. All Departmental officers employed in the States are removed from ordinary departmental control, and directly responsible, through the Superintendents, to the Governor. This method of administration corresponds to what is proposed for all the other areas placed in Schedule A to the new Constitution Act.

23. When the States were notified in 1922, at the time of the formation of the Federation, as “backward tracts” under the Government of India Act, the revenues levied in them were scheduled as allocable solely to the Governor for the purpose of the administration of them. Such revenues are not shown in the Finance and Revenue accounts of the Province generally, but in a separate account. It will be necessary to conserve this arrangement.

SCHEDULE B AREAS.

24. It should be explained that in accordance with the Prime Minister's statement of 12th January, 1932, all the tracts at present notified as “backward” have been placed in Schedule A, and will be controlled exclusively by the Governor.

25. There are, however, three administrative districts, Myitkyina, Bhamo and Upper Ohindwin, in which in addition to considerable areas already notified as backward, there are comprised other areas which, though never formally declared to be “backward tracts” under Section 52A of the Government of India Act, have always been wholly excluded from the

* There are a few isolated blocks of Shans elsewhere in the northern districts of Burma, notably Hsawngsup and Singkaling Hkamti.

† This will probably disappear when the financial arrangements for the Shan States Federation are reviewed in the near future.

operation of the Burma Rural Self Government Act,* and have not been included in constituencies for the election of members to the Legislative Council. A fourth district, Salween, which contains no areas at present notified as backward, consists entirely of areas of this class.

26. There seems very little doubt that, judged by existing conditions, the areas referred to in these four districts should be wholly excluded and placed in Schedule A. They are definitely backward areas in the general sense of the word, having a scattered population and a very low level of literacy. It will be difficult to form satisfactory constituencies in some of them, and still more difficult to make satisfactory polling arrangements. Nevertheless, as these areas have never been formally declared "backward tracts", and do not consist exclusively of hill districts, it is obviously undesirable to withdraw them from the scope of Ministers and the Legislature. It is, therefore, proposed to treat them in the same way as Partially Excluded Areas in India. A list of them is given in Schedule B above. The following notes give some description of the districts in which these areas occur, and the manner in which it is proposed to treat them.

27. *Myitkyina District*.—This district is the most northerly district of Burma and runs up to the borders of Tibet. The district contains large areas of unadministered territory, notably the Triangle, but even excluding these areas, it comprises a total area of 18,350 square miles. Nevertheless, the population is only 171,000, made up, mainly of Burmans (including Karens) 38,000, Kachins 40,000, Shans 62,000, Indians 17,000 and Chinese 4,000. Half of the population is located in the hill tracts, already notified as "backward tracts". Of the total population only 31,000 are literate.

The district comprises the Putao (Fort Hertz), Sumprabum (these subdivisions are referred to in the Schedule as the territory known as Hkamti Long), Sadon, Htawgaw, Myitkyina, Mogaung and Kamaing subdivisions. The first four subdivisions are composed wholly of hill tracts which are now classified as "backward tracts" and which must continue to be treated as "totally excluded areas." There remain for consideration the Myitkyina, Mogaung and Kamaing subdivisions. The "plains" areas in these subdivisions have not been excluded from the scope of the Legislative Council, but have not been formed into a constituency and do not return a member to the Legislative Council. The total area of these "plains" areas is about 3,500 square miles and the population is about 89,000. Most of the 31,000 literates of the district are found in the plains. The proposal is that these plains areas should be treated as "partially excluded", and that as far as possible they should be formed into a constituency and should return a member to the Lower House of the Legislature.

28. *Bhamo District*.—The area of this district is 6,900 square miles, of which 2,800 square miles are Kachin Hill Tracts and 4,100 square miles plains areas. The total population is 121,000, made up chiefly of Burmans (including Karens) 32,000, Kachins 47,000 and Shans 34,000. Only 22,000 of the population are literates. The proposals in respect of this district are much the same as those made for Myitkyina. The Kachin Hill Tracts, which are at present "backward tracts" should continue to be "totally excluded", and the rest of the district, that is the plains area, should be "partially excluded". These plains cover an area of rather more than 4,000 square miles and contain a population of about 66,000, mostly Burmans and Shans. The plains areas are more compact than in Myitkyina, and no particular difficulty is anticipated in forming them into a constituency and making suitable polling arrangements.

* The purpose of which is to provide for the institution in rural areas of District Councils Circle Boards and School Boards "for the purpose of associating the inhabitants of such areas more closely with the administration of matters affecting their daily lives."

29. *The Upper Chindwin District.*—This district adjoins Manipur in the west and towards the north runs up to the borders of the “human sacrifice” area of the unadministered Naga Hills. Large tracts of unadministered area are also included in the district itself. Leaving this unadministered territory out of account, the total area of the district is 16,000 square miles, of which 2,400 square miles are accounted for by the three existing “backward tracts”, the Somra Tract, Singkaling Hkamti (Kanti State) and Hsawngsup (Thaungdut State). The total population of the district is about 205,000, and the number of literates is only 63,557. The “backward tracts” should continue to be “totally excluded areas”. The Somra Tract is a wild tract in which there was a rising some years ago, and the Thaungdut and Kanti States are backward Shan States each with its own Sawbwa. The rest of the district is made up of the Kalewa, Mawlaik and Homalin subdivisions, and in these districts the Burmese, who form nearly half of the total population of the district, are located. The three subdivisions are in different stages of development and require separate consideration. The Kalewa subdivision is inhabited mainly by Burmans. No special treatment is required, and there is no reason why the subdivision should not be entirely within the jurisdiction of the Legislature and the Ministers. The same remarks apply to the Mawlaik subdivision other than what was formerly the Tamu township. This township (now amalgamated with the neighbouring township of Mawlaik) covers an area of 540 square miles on the border of Manipur. It is wild and difficult country. The people are not ripe for representative institutions, and it would be impossible to make proper polling arrangements. The rest of the Mawlaik subdivision on the other hand is occupied by people who speak Burmese, and it might be brought wholly under the control of Ministers and the Legislature. The Homalin subdivision, however, stands much in the same category as the Tamu township. Generally speaking, the people are backward, the standard of literacy is low, and the population is mixed. In the greater part of the subdivision the people are quite incapable of exercising the franchise. It is proposed that the Kalewa subdivision and the Mawlaik subdivision excluding the Tamu township should be formed into a constituency of the Legislature, and come wholly under its authority, and that the Tamu township of the Mawlaik subdivision and the Homalin subdivision should be treated as “partially excluded areas”, no attempt being made at present to form constituencies out of these two latter areas.

30. *Salween District.*—This district is a remote and inaccessible tract on the eastern frontier of Burma adjoining Siam. The area of the district is 2,666 square miles, and the population only 54,000. The district consists of wild and hilly country, and the population is composed entirely of Karens. These Karens, though of the same racial stock as those of the plains, retain all the characteristics of unsophisticated and primitive hillmen, and in respect of political development and aptitude are wholly distinguishable from their kinsmen who have settled in and accommodated themselves to the plains. There are only 4,400 literates in the district. It is impossible to understand why the district was never declared a backward tract, and the proper course is totally to exclude the area. It is, however, proposed to treat it as a “partially excluded area,” but to make no attempt to form it into a constituency.

The Burma Frontier Service.

31. In connection with the subject of Excluded Areas, reference may be made to paragraph 22 of the Introduction to the Burma Constitutional Memorandum, which runs as follows:—

“In addition to the ordinary Provincial Service, which covers the whole of the civil administration in the middle and lower grades, Burma

possesses the Burma Frontier Service. This Service is now controlled and recruited by the Local Government, but many of its members, in common with many members of the Provincial Services, have rights guaranteed by the Secretary of State. In view of the fact that if Burma were separated from India most of the officers of the Burma Frontier Service would serve in areas under the sole control of the Governor, it would seem proper that the Service should be recruited and controlled by the Governor acting in his discretion."

32. The object aimed at by the proposal in this paragraph regarding the future control and recruitment of the Burma Frontier Service is to secure that the Service through which the Excluded Areas are mainly administered shall be recruited by the Governor, in his discretion, with particular regard to the characteristics requisite in officers charged with the administration of these remote areas and their untutored inhabitants.

APPENDIX.

THE SECRETARY OF STATE FOR INDIA'S PROPOSALS IN RESPECT OF EXCLUDED AREAS IN BURMA.

N.B.—These are practically identical with the corresponding proposals 106-109 in the Indian White Paper.

(A) His Majesty will be empowered to direct by Order in Council that any area within Burma is to be an "Excluded Area" (Schedule A) or a "Partially Excluded Area" (Schedule B) and by subsequent Order in Council to revoke or vary any such Order.

(B) In respect of areas in Schedule B the Governor will be declared to have a special responsibility (see paragraph 17).

The Governor will himself direct and control the administration of any area in the Province for the time being placed in Schedule A. (See paragraph 10.)

(C) Legislation required, whether for areas in Schedule A or Schedule B, will be obtained in the following manner:—

No Act of the Legislature will apply to such an area unless the Governor in his discretion so directs, and in giving such a direction the Governor will be empowered to direct that the Act, in its application to the area, or to any specified part thereof, is to have effect subject to such exceptions or modifications as he thinks fit.

The Governor will also be empowered at his discretion to make Regulations for the peace and good government of any area which is for the time being in Schedule A or Schedule B and will be competent by any Regulation so made to repeal or amend any Act of the Legislature which is, for the time being, applicable to the area in question.

Regulations made under this provision will have the same force and effect as an Act of the Legislature made applicable to the area by direction of the Governor, and will be subject to disallowance in the same manner as an Act of the Burma Legislature, but will not be subject to repeal or amendment by any Act of that Legislature.

(D) Rules made by the Governor in connection with legislative procedure will contain a provision prohibiting the discussion in the Legislature of, or the asking of questions on, any matter arising out of the administration of an area in Schedule A, and enabling the Governor, at his discretion, to disallow any resolution or question regarding the administration of an area in Schedule B.

A1

RECORDS OF THE JOINT COMMITTEE ON INDIAN CONSTITUTIONAL REFORM

[SESSION 1933-34]

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UNREVISED

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JOINT COMMITTEE
ON INDIAN CONSTITUTIONAL REFORM

[SESSION 1933-34]

RECORDS

of the Joint Committee on

INDIAN CONSTITUTIONAL REFORM

Die Iovis, 21^o Decembris, 1933

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H.L. 6(II)

H.C. 5(II)

I.

DISCRIMINATION IN BURMA

Memorandum by the Secretary of State for India

1. The Indian White Paper contains in Proposals 122, 123 and 124 indications of the provisions contemplated to be included in the Indian Constitution for the prevention of discriminatory legislation against any British subject in India whatever his domicile (122), for the specific protection (on a basis of reciprocity) of British subjects (and companies) domiciled in the United Kingdom (123) against discriminatory legislation, and for the passage, nevertheless, of Subsidy Acts intended to foster Indian industries (124) by methods which, but for this provision, might be inadmissible as being discriminatory. Corresponding proposals in relation respectively to British subjects of whatever domicile in Burma, and British subjects of United Kingdom domicile in Burma are included in the Burma Memorandum (Joint Select Committee [Session 1932-33] Records No. 4) in paragraphs 58, 59 and 61; and in paragraph 60 an indication is given that it will be necessary to consider whether and to what extent a specific protection should be accorded in Burma to British subjects of Indian domicile corresponding to that proposed for British subjects of United Kingdom domicile.

2. On 3rd November the Secretary of State for India circulated a Memorandum A.68 (printed in Joint Committee [Session 1932-33] Minutes of 6th November, 1933) affording a more precise and detailed statement of the purposes sought to be achieved by the Proposals in the Indian White Paper. No new proposals were made; the original objects were simply set out in a more complete form. It will be convenient therefore, to consider the question of protection from discrimination in Burma in relation to the provisions set out in Memorandum A.68 rather than to those in Burma Proposals 58, 59 and 61 which correspond to the superseded statements in the Indian White Paper, Proposals 122, 123 and 124.

Provision for British subjects of United Kingdom domicile and companies incorporated in the United Kingdom, but trading in Burma.

3. It will be generally agreed, no doubt, 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. It is proposed accordingly that the protection which is provided in India for British subjects of United Kingdom domicile and for companies incorporated in the United Kingdom by paragraph 3, sub-paragraphs (i)-(vi) inclusive, of Document A.68 should be provided in precisely similar form and degree in Burma. These paragraphs, it is proposed, should apply *totidem verbis* in the case of Burma, with the substitution of the words "Burma" and "Burman" for "India" (or "British India") and "Indian".

4. These proposals, it will be observed, when so amended will afford liberty to the Burma Legislature to take reciprocal action in the event of the imposition in the United Kingdom of restrictions and disabilities on Burman British subjects.

5. It is contemplated further that the exceptions to the foregoing provisions which are indicated in paragraph 3 (vii) of Document A.68, so far as they are applicable to British subjects of United Kingdom domicile or British companies incorporated in the United Kingdom, should apply in Burma as in India, and that the provisions of sub-paragraph (viii) should equally be made applicable to United Kingdom shipping by the substitution of the words "Burma" or "Burman" for "British India" and "Indian".

6. In relation to protection against administrative discrimination it is proposed to adopt in Proposal 17 (e) of the Burma Memorandum (Joint Select Committee [Session 1932-33] Records No. 4) the amendment of Proposal 18 (c) of the Indian White Paper suggested in paragraph 4 of the Secretary of State's memorandum.

British subjects domiciled elsewhere than in the United Kingdom or India.

7. The provisions to be made in respect of the protection in Burma of British subjects domiciled in India are dealt with below. But as regards other British subjects, domiciled elsewhere in the Empire than in the United Kingdom, it is proposed that a similar liberty (subject, however, to the proposal in paragraph 15) to impose conditions on the entry into Burma of such persons and to negotiate with the Governments of their countries of domicile, should be left to the Burma Legislature as it is proposed in paragraph 5 of Document A.68, should be left to the Indian Legislatures. For the disabilities and restrictions which in some parts of the Empire are applied to Indian British subjects apply to those domiciled in Burma no less than those domiciled in other Provinces of British India.

Protection for British subjects domiciled in India and for companies incorporated in India, but trading in Burma.

8. By virtue of Burma's incorporation in the Indian Empire as a Province of British India, subordinate to the same Central Government as her sister Provinces, Indian domiciled in or originating from those other Provinces constitute an important element in Burma. They number over one million in a total population of about fourteen millions. Many are serving in Government departments, in the Police, civil and military. Indian enterprise has contributed largely to the agricultural development of Burma and Indians have established in Burma commercial and trading organisations involving capital expenditure of many crores of rupees which are invested in the country.

9. On the other hand, a very great proportion of the Indian population in Burma consists of labourers who do not intend to stay in that country more than a few years and who while they are there tend to oust the indigenous labourer and by accepting lower wages to lower his standard of living. The Royal Commission on Labour in India made a strong recommendation that steps should be taken to control and restrict the flow of Indian labour immigration into Burma.

10. Further, Indian money lenders who advance money on the security of agricultural land and on the crops operate on so extensive a scale as seriously to affect in times of depression the ownership of the land by the indigenous agricultural population. Such money lenders no doubt fulfil a useful function in general; but in a country where the natural land system

is that of peasant proprietorship the extensive transfer of ownership to non-indigenous and non-agricultural classes is a matter which requires careful attention.

11. It is no easy matter to reconcile the claims, on the one hand, of the continental Indian to be protected in the position he has acquired as a result of Burma's inclusion in British India, and, on the other, of the Burman to be protected from the pressure reckoned by so vast and so populous a neighbour.

12. It is proposed to meet these conflicting claims by the application to Indians in Burma of provisions corresponding generally to those proposed for the protection of British subjects of United Kingdom domicile in paragraph 3 of Document A.68, but modified to meet the particular circumstances in which the two cases differ—notably in respect of labour immigration, which from India is of serious importance, but from the United Kingdom not existent.

13. On this basis the provisions of paragraphs 3 (i), 3 (ii) (b)—but not (a)—3 (iii), 3 (iv), 3 (v), 3 (vi) and 3 (viii) would apply, generally, to Indians in Burma as to United Kingdom subjects in India, the words Burma or Burman being substituted for India (or British India) and Indian. The provisions in question, so amended, are appended to this vote.

14. It would, of course, be necessary to qualify the protection so afforded by exceptions on the lines of paragraph 3 (vii). In particular an exception on the lines of sub-paragraph (vii) (1) (b) will be required to maintain the existing limitations on the rights of persons of non-Burman birth or domicile to compete for certain public appointments or qualify for the exercise of certain professions; and an exception on the lines of sub-paragraph (d) will be required in order to preserve to the Burma Legislature the right to pass legislation designed to prevent the undue alienation of land, referred to above, from the indigenous agriculturist to non-agricultural classes, whether Indian or other.

15. 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. The right of the Burma Legislature to pass legislation restricting or imposing conditions on entry into Burma will apply in respect of British subjects domiciled in India as in respect of those domiciled elsewhere (except in the United Kingdom). But with a view to preventing the imposition of any vexatious restrictions or unreasonable conditions for the entry of Indians of good standing into Burma, it is proposed that the introduction of any legislation regulating immigration, whether from India or from any other country—since differentiation between country and country in this respect will obviously be undesirable—should be subject to the Governor's prior consent. In case this precaution is considered insufficient to prevent injudicious legislation affecting the entry of Indians into Burma, it is suggested that the Governor's Instrument of Instructions should indicate that this category of legislation is one in which particularly his discretionary power to reserve Bills for the signification of His Majesty's pleasure might be exercised.

16. It may be remarked that the best solution of this question, apart from such provisions in the constitution Act as may be required to safeguard the position of the Burma Legislature, on the one hand, and of British-India subjects, on the other, lies in the conclusion by the Governments concerned of an Immigration and Emigration Convention.

Professional Qualifications.

17. As regards professional qualifications other than those of the medical profession, the remarks in paragraph 6 of Document A.68 are applicable to the case of Burma no less than to that of India, and to the case of persons holding Indian qualifications no less than to those holding British qualifications. The Governor should refuse in Burma, as in India to assent to legislation debarring from the practice of their profession persons already practising on the strength of a British or an Indian qualification. And, while it should not be permissible for a person to be disabled from the practice of his profession in Burma merely because his qualification is a British or India qualification, it would be unreasonable to prevent the requirement in Burma of additional qualifications justified by special local conditions.

18. As regards Medical qualifications it is not possible at the present time to indicate with precision what provisions will be required in the Burma Constitution. Hitherto the registration of Medical practitioners in Burma has been regulated by the Burma Medical Act of 1915 (amended in 1927) which besides providing for the recognition of certain qualifications conferred in Burma, entitles to registration in Burma any person holding a qualification under the Medical Acts (i.e. a British qualification) and any person registered as a Medical practitioner in any province of British India. (Incidentally it authorises the Burma (Provincial) Medical Council to refuse to register any person holding only a qualification conferred in a Dominion or foreign country which does not recognise Indian medical degrees).

19. On the other hand the recently passed Indian Medical Council Act which applies to Burma does not recognise, for the rest of India, the qualifications granted by Medical institutions in Burma, but provides for early inspection of the courses and examinations prescribed by the University of Rangoon with a view to framing conditions for the recognition of its degrees.

20. The existing position, therefore, is somewhat fluid, and it is hardly possible at present to frame proposals, for inclusion in the Burma Constitution, in relation to it. In the event of separation the position of the Indian Medical Council in relation to medical institutions in Burma, and of the successor to the present Provincial Burma Medical Council in relation to medical institutions and Medical Councils outside Burma will evidently need consideration and regulation. Possibly the most convenient course would be an arrangement either with the General Medical Council or with the Indian Medical Council similar to the agreement established between the Irish Free State and the General Medical Council in 1927. In the meantime no more precise proposal seems possible than that provision should be made in the Burma Act for the continued acceptance, as qualifications entitling to registration in Burma, of the British qualifications from time to time recognised by the General Medical Council, and of the Indian qualifications from time to time recognised under the Indian Medical Council Act. If necessary, provision might perhaps be made for an appeal to the Privy Council in case the Indian Medical Council declined or ceased to recognise as valid for India the diploma granted by a Medical institution in Burma for Doctors, Masters, Bachelors or Licentiates of Medicine or Surgery. Provision for an appeal of this kind is made in Section 13 (2) of the Medical Act 1886, which allows an appeal to the Privy Council, upon a refusal of the General Medical Council to recognise in this country a colonial or Indian medical qualification. Something of this kind could perhaps be provided if necessary to afford a means of appeal against refusal of recognition which appeared to conflict with the Convention suggested above.

ANNEXURE.

PROVISIONS IN PARAGRAPH 3 OF DOCUMENT A.68 MODIFIED TO MEET REQUIREMENTS IN BURMA OF BRITISH SUBJECTS DOMICILED IN INDIA.

General declaration as to British Subjects in Burma.

(i) It is proposed that the Constitution Act should contain a general declaration that no British subject (Burman or otherwise) shall be disabled in Burma from holding public office by reason only of his religion, descent, caste, colour, or place of birth, nor, on the same grounds, from practising any profession, trade or calling.

Special provision for persons who are British subjects domiciled in British India.

(ii) As regards British subjects domiciled in British India in so far as they are not covered by clause (i), it is intended, subject to what is said in clause (v), to provide a special form of protection in respect of the following matters:—

Taxation*	} in Burma
Travel and residence	
The holding of property	
The holding of public office	
The carrying on of any trade, business, occupation or profession	

against statutory disabilities based upon domicile, residence, duration of residence, language, race, religion or place of birth.

Special provision for companies incorporated in British India but trading in Burma.

(iii) As regards companies which are or may hereafter be incorporated in India and trading in Burma, it is intended to prevent (subject to the provisions of any Immigration law and to the special provision as regards bounties and subsidies of clause (vii) (2)), the imposition in Burma of any discriminatory taxation* or of any statutory disability upon any such company, if the incidence of that taxation or disability is based upon

the place of incorporation of the Company; or
The domicile, residence, duration of residence, language, race, religion, descent or place of birth of its directors, shareholders, or Agents or Servants.

Special provision for companies incorporated in Burma.

(iv) In the case of a company which is or may hereafter be incorporated in Burma, British subjects domiciled in British India 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 the domicile, residence, duration of residence, language, race, religion, descent or place of birth of its Directors, Shareholders, Agents or Servants.

Provisions for reciprocity.

(v) It is, however, intended to provide that if any restriction, disability or condition of the kind, and based upon any of the grounds, indicated in clauses (ii), (iii) or (iv), is imposed by the law of the Federal or Provincial Governments of India (or by provisions having the force of law) affecting in British India Burman subjects of His Majesty or companies incorporated in Burma, the provisions of those paragraphs will not apply to any Burman

*"Taxation" is intended to cover imposts of all kinds, including, e.g., rates and cesses.

law imposing in Burma the like restrictions, etc., based upon the same ground.

Reservation of Bills which, though not in form, are, in fact, discriminatory.

(vi) In addition, it is proposed that the Constitution Act shall require the reservation for the signification of His Majesty's pleasure of any Bill which, though not in form repugnant to the provisions indicated in clauses (ii), (iii), or (iv), the Governor in his discretion considers likely to subject to unfair discrimination any class of His Majesty's subjects protected by those clauses.

Exceptions.

(vii) The provisions indicated above will be subject to two other forms of exception or qualification:—

Savings.

(1) It will be necessary to save, notwithstanding the provisions of clauses (i), (ii), (iii) and (iv)—

(a) laws which exempt from taxation persons not domiciled or resident in Burma;

(b) laws rules and orders in operation at the date of the passing of the Constitution Act (e.g. the Burma Courts (Amendment) Act of 1931 which places, in effect, restrictions on non-Burmans in respect of practice before courts subordinate to the High Court of Rangoon);

(c) the due operation of the Governor's special responsibility for the prevention of any grave menace to the maintenance of peace and tranquillity;

(d) the right to legislate in the sense indicated in the proviso to paragraph 122.

Exceptions in regard to bounties and subsidies.

(2) It is proposed that an Act, which, with a view to the encouragement of trade or industry in Burma, authorises the payment of grants, bounties, or subsidies out of public funds, may lawfully require in the case of any Company not engaged in Burma at the time the Bounty Act was passed in the branch of trade or industry which it is sought to encourage, as a condition of eligibility for any such grant, bounty or subsidy, that a company shall be incorporated by or under the laws of Burma, or compliance with such conditions as to the composition of the Board of Directors or as to the facilities to be given for training of Burmans, as may be prescribed by the Act.*

In the case of companies engaged in Burma in the trade in question at the time the Subsidy Act was passed, the general provisions indicated in clauses (iii) and (iv) will apply: and such companies will be eligible for such grants, bounties or subsidies equally with Burman Companies.

Special provision for ships and shipping.

It is proposed that provision on the following lines should be inserted in the Constitution Act:—

“Without derogation from the generality of the provisions as to discrimination, ships registered in British India shall not be subjected by law in Burma to any discrimination whatsoever, either as regards the ship or her officers or crew or her passengers or cargo, to which ships registered in Burma would not be subjected in India.”

* This proposal is intended to give effect to the recommendations of the External Capital Committee's Report 1925.

II.

PROPOSALS FOR THE FUTURE ADMINISTRATION OF THE BURMA RAILWAYS

Memorandum by the Secretary of State for India

INTRODUCTORY.

1. Proposal 63 of the Burma Constitutional Memorandum (Joint Committee [Session 1932-33] Records No. 4) suggests that under the constitution outlined for a separated Burma, the Burma Railways should be managed by a Statutory Board constituted on similar lines to the Board which it is proposed to set up in India. The proposals made in the following memorandum consequently represent an attempt to bring a scheme for the establishment of a Railway Board, drafted by the Government of Burma, as far as possible into line with the scheme for India set out in Joint Committee [Session 1932-33] Record No. 3 (pages 11-17), bearing in mind the differing circumstances of the two cases. It should be understood that the proposals now put forward are of a tentative nature.

2. The principal difference between the two schemes is concerned with the constitution and functions of the Railway Board, and it may be useful to offer some comments on these points.

3. It should be explained that there is a marked difference in the nature of the problem presented by the railways in India and in Burma. In the first place, as regards mileage, the State-owned lines in India cover some 30,000 miles, while the Burma railways cover only a little more than 2,000 miles. Secondly, the Indian Railway Authority will be concerned with a large system of State railways operating in all provinces, some of them managed by the State, and others by Companies, and also a certain number of Company-owned lines. In Burma there is a unitary system of railways. There are no problems of railway inter-communication with other provinces, and such small separate lines as exist, *e.g.*, the Burma Mines Railway and certain light railways in forests and factories, have not yet been brought under the Indian Railways Act. Thus, not only is the problem presented by the railways in Burma a far smaller problem than that to be faced in India, but it is a far more compact problem, inasmuch as no question arises of the reconciliation and co-ordination of a number of possibly conflicting interests. The Burma railways will be the concern of the State alone, and the solution of the problem of their future management does not necessitate the establishment, as is proposed in India, of a Railway Authority intermediate between the Legislature and Government on the one hand, and the executive management on the other.

4. It is therefore proposed in the case of Burma to establish a single Board of Management, which will combine in itself the functions which in the case of India it is proposed should be shared between the Railway Authority and the executive management. Thus, in India it is proposed that the Railway Authority will be a Board directing the control of all railways, including non-State railways, but having nothing to do with their day-to-day management, whereas in Burma the authority will more

appropriately be of the nature of a Board of Directors for the one railway system owned by the State. This will enable the Burma Board to exercise a more detailed control than the Indian Board, and this consideration explains the apparently more restricted nature of the proposals for the composition of the Board. In Burma it is possible to make the Agent or General Manager the *ex officio* President of the Board, whereas in India it would not be practicable to make one of the Agents of the numerous railways President. The Board in Burma will gain an intimate knowledge of the internal working of the railway: it will be responsible, among other things, for the earning capacity of the railway, and, therefore, it is necessary that persons of business and financial capacity should predominate in the Board. The scheme put forward provides for two official members, namely the Financial Adviser and the Secretary to Government in the department responsible for railways. The presence of the Financial Adviser on the Board is necessary because of the vital importance of railway finance to general finance, and is in the ultimate interest of the tax-payer. As regards the inclusion in the Board of the Secretary to Government in the Department which deals with communications, a link is required between the Board and the Ministry. As in the Indian scheme, it is not proposed that the Minister responsible for railways should be a member of the Board or have a vote at any meeting. He may however be called upon to defend railway policy in the Legislature and to speak on proposals for a loan or contribution; it therefore seems important that he should have a permanent representative on the Board. The question whether this representative should be entitled to vote need not for the present be decided. As in the Indian proposals the Minister responsible for Transport and Communications might be authorised to convene special meetings of the Railway Board to discuss matters of policy or questions of public interest, and to preside at such meetings.

5. It may be mentioned here that the retention of the present Advisory Council is not an essential part of the scheme, and there is no need to provide for it in the Statute. The Advisory Council is at present not a very active body, because it has no financial control. It has, however, been found useful, and it is inexpensive. The Board of Management will occupy the position of a Board of Directors of a commercial concern, and will deal with the management of the railways on business lines, having, however, so far as possible, regard to commercial, agricultural and industrial interests. The Advisory Council represents the general public using the railways and brings to notice questions relating to amenities at railway stations, the needs of passengers and matters of that kind. It gives the general public and members of the Legislative Council elected to it an opportunity of ventilating grievances and advancing suggestions. It is not intended that it should be allowed to discuss questions affecting labour and personnel. The Chairman of the Advisory Council (*i.e.*, the Chief Commissioner and President of the Board of Management) should have the power to rule out any matter and decide whether or not minutes of the discussions should be published in the newspapers, subject to the approval of the Board of Management. The Advisory Council will, therefore, not be an authority parallel to the Board of Management. On subjects discussed by it, it will advise the Chief Commissioner who will either deal with such suggestions on his own authority or refer them to the Board. The question of the continuance of the Advisory Council could, however, be considered later in the light of experience. In any case the composition of the Council would require alteration in view of the representation proposed on the Board of Management of interests now represented on the Advisory Council. The four Chambers of Commerce at present send four representatives to the

Advisory Council, and since it is proposed that they should appoint four of the non-official members of the Board of Management it is considered that they need no longer be represented on the Advisory Council. This question, however, might well be left to be dealt with by the Board of Management itself.

Notes on the Secretary of State's Memorandum in Joint Committee
[Session 1932-33] Records No. 3 (pages 11-17).

Paragraph 2 of the Memorandum.

The composition of the Board has been dealt with above. As regards the two non-official members who do not represent the Chambers of Commerce, it seems advisable, in order to ensure the independent and non-political character of the Board, that they should be appointed by the Governor in his discretion.

Paragraph 4 of the Indian Memorandum.

The principles laid down in this paragraph including the remarks on the subject of defence, apply *mutatis mutandis* to the case of Burma.

Paragraph 5 of the Indian Memorandum.

As regards the method of enacting provisions for the railway authority, neither (1) nor (4) of the methods suggested in paragraph 5 of the Memorandum in the Indian proposals is appropriate in the case of Burma, and possibly the best solution would be on the lines of the second course there suggested.

Sketch proposals for the future administration of the Burma Railways.

1. The property in all railways existing in Burma and administered by the Indian Railway Board at the time of the passing of the Act and in all railways constructed in Burma at the cost of public revenues after the passing of this Act shall vest in His Majesty represented by the Governor.

2. Railway finance shall be separated from general finance.

3.—(a) The Railways of Burma shall be administered on business principles, due regard being paid to the interests of agriculture, commerce, industry and the general public, and to defence requirements.

(b) Subject to (a) above the general control of policy will rest with the Government and the Legislature.

4.—(a) The executive control and management of the railways in Burma shall be exercised by a Board of Management.

(b) The Chief Officer of the Board shall be called the Chief Commissioner and shall be General Manager of the railways and President of the Board of Management. The Chief Commissioner shall be appointed by the Governor acting in his discretion, and shall receive such salary as the Governor acting in his discretion shall determine. He shall carry out the duties from time to time delegated to him by the Board of Management, and may delegate such powers to his subordinate officers as may be approved by the Board. He shall have right of access to the Governor. He must be a person having an expert knowledge of and practical training in the work of railways.

(c) In addition to the President the Board of Management shall consist of eight members as follows:—

(i) the Financial Adviser;

- (ii) the Secretary to the Government of Burma in the department which for the time being deals with the subject of railways;
- (iii) six non-official members.

The four Chambers of Commerce in Rangoon, i.e., the Burma Chamber of Commerce, the Burma Indian Chamber of Commerce, the Burmese Chamber of Commerce and the Chinese Chamber of Commerce, shall each nominate one non-official member. The two remaining non-official members shall be appointed by the Governor acting in his discretion. The six non-official members shall hold office for five years and their remuneration for the first three years after the coming into force of the Act shall be fixed by the Act at rates sufficient to secure suitable men: and thereafter their emoluments shall be such as the Governor in his discretion, after consultation with the Government, may from time to time determine. They shall be eligible for re-appointment, and may be removed from office by the Governor in his discretion, if in his opinion, after consultation with the Government, there is sufficient cause for such action.

The Minister responsible for Transport and Communications may at any time convene a special meeting of the Board of Management for the purpose of discussing matters of policy or questions of public interest. At such meetings the Minister will preside. The Minister may by order require or authorise the Board of Management to give effect to decisions of the Government and the Legislature on matters of policy, and it shall be obligatory on the Board of Management to give effect to such decisions.

No Minister or Member of the Legislature shall be eligible to hold office as a member of the Board till one year has elapsed since he surrendered his office or seat, and if a member of the Board becomes a member of the Legislature, or holds any interest in any railway contract in Burma he shall be deemed to have vacated his seat on the Board. No person may be appointed as a member of the Board who has personally held a railway contract, or has been concerned in the management of companies holding such contracts, within one year of the termination of the contract.

5. The Board shall be responsible for the proper maintenance and efficient operation of the railways of Burma and shall so adjust rates, fares and other charges as to meet the necessary outlay on

- (i) working expenses, including maintenance, renewals, bonus, interest on provident funds and provision for gratuities admissible to staff;

- (ii) depreciation (calculable on such scale as may be approved by Government);

- (iii) interest on existing and future capital and any other fixed charges,

with due regard to the provision of a surplus for appropriation, subject to the provisions of paragraph 6 below, to the railway reserve fund.

6. After meeting from receipts the necessary outlay specified in paragraph 5 above, the surplus will be disposed of in such manner as may be agreed upon between the Government and the Board of Management under a scheme of apportionment running for a period of not less than five years. In the event of such agreement not being reached the decision will lie with the Governor in his discretion. In the event of a dispute as to the adequacy or otherwise of the allowance to be made in respect of renewals and depreciation the Chief Audit Authority shall be the deciding authority.

7. Revenue estimates will be submitted annually to the Government, which will in turn submit them to the Legislature, but these estimates will not be subject to vote. If the revenue estimates disclose the need for a contribution from general revenues, a vote of the Legislature will be required. The programme of capital expenditure which is to be financed from loans

by the Government and proposals for the construction of new lines, in whatever manner they are to be financed, will be submitted to the Government for approval by the Legislature. The Government may, however, empower the Board of Management to incur capital expenditure subject to conditions to be prescribed.

8. Subject to the powers of the Governor in the exercise of his special responsibilities, and subject to the safeguarding of the rights of all officers in the service at the time of the establishment of the Board of Management, the Board is empowered in consultation with the Public Service Commission to regulate by rules and by general or special order the classification of railway services and methods of recruitment, qualifications for appointment, conditions of service, pay and allowances, provident fund benefits and pensions, gratuities, discipline and conduct of those services. In making such rules or issuing such general or special orders the Board shall be subject to the control of the Government of Burma. All other rules required for the efficient conduct of railway administration shall be made by the Board of Management subject to the control of the Governor acting in his discretion.

9. The Government shall have power to make rules not inconsistent with the Act regarding the powers and functions of the Board, the maintenance of and payments to and from the depreciation and reserve funds, and the investment of surplus monies pertaining to the Funds.

10. The Board of Management will at all times furnish the Government with such information as Government may desire, and will publish an Annual Report and Annual Accounts. The Accounts will be certified by or on behalf of the Auditor-General.

11. Should any question arise involving a conflict of interest between the various authorities responsible for railways, waterways and roads, as competitive means of transport, a Commission will be appointed by the Governor to ascertain the views of all the interests concerned and to report, with recommendations, to the Government, whose decision shall be final. The Commission shall consist of one independent expert of the highest standing and experience in transport matters, with whom will be associated, at the discretion of the Governor, two or more assessors.

12. Maxima and minima rates and fares shall be fixed by the Board of Management, subject to the control of the Government. Any individual or organisation having a complaint against the railway administration in respect of any of the matters which may, at present, be referred by the Railway Department to the Railway Rates Advisory Committee, may have their matter referred, under such conditions as the Government may prescribe, to an Advisory Committee to be appointed by the Government. Before the Government passes any order on a recommendation of the Advisory Committee it shall consult the Board of Management.

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RECORDS OF THE JOINT
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[SESSION 1933-34]

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