

(8) The Secretary of State's Council will be replaced by his advisers, but during the transition period their number shall be between 8 and 12 and their control over central finance will continue.

(9) Sterling loans, during the period of transition, shall be contracted by the Secretary of State with the approval of a majority of his advisers under an East India Loans Act of the British Parliament, and not by the Governor-General.

CHAPTER LI.

The Constitution of Burma and its relations with India.

396. A detailed discussion of the Constitution of Burma is beyond the scope of this book. Only a bare outline thereof is attempted in this chapter, with special reference to the relations between India and Burma under the new Constitution.

The Burman Constitution closely follows the Indian Constitution. The Executive authority of Burma vests in the Crown and is exercised by a Governor appointed by the Crown. He will have a Council of Ministers not exceeding 10. The reserved departments in Burma include Defence, external affairs, ecclesiastical administration, control of monetary policy, currency and exchange, and excluded areas. These departments, as well as the functions in relation to tribal areas in Burma, will be administered by the Governor himself, and for this purpose, he may appoint not more than three Counsellors and a Financial Adviser.

The provisions as to special responsibilities, police rules, measures to combat terrorism, disclosure of sources of information, and the conduct of business of the Government are similar to those relating to India.

The Burman Legislature is bicameral with a Senate composed of 36 members and a House of Representatives consisting of 130 members. Half the Senate is elected by the Lower House by proportional representation and the other half is nominated by the Governor in his discretion. The House of Representatives will be constituted by direct election. Money Bills can be initiated only in the House of Representatives, and the budget is submitted only to the vote of the House of Representatives.

The previous sanction of the Governor is necessary for certain legislative proposals including those affecting immigration into Burma

or the procedure for criminal proceedings wherein European British subjects are concerned.

The legislative procedure, the power of the Governor to promulgate ordinances, and enact Governor's Acts, prohibition against legislative and administrative discrimination, the provisions relating to borrowing and audit, the Rangoon High Court, the Civil Services, the Defence Services, the Public Service Commission and with regard to various miscellaneous matters are similar to those relating to India.

There will be a Burma Railway Board corresponding to the Federal Railway Authority in India.

The Secretary of State shall have not more than three persons to advise him on matters relating to Burma.

397. In regard to the relations of Burma with India, the following points deserve to be noted :—

(1) India cannot impose any discriminatory taxation against Burmans, *i.e.*, Burman domiciled subjects of His Majesty, nor Burma against Indians, *i.e.*, Indian domiciled subjects of His Majesty. Neither can impose any such taxation against Britishers, *i.e.*, United Kingdom domiciled British subjects.

(2) India can restrict the right of entry of Burmans, and Burma of Indians. But neither can restrict the right of entry of a Britisher.

(3) There can be no commercial discrimination, legislative or administrative, as against Burmans in India, and as against Indians in Burma nor against Burman imports and Indian imports respectively. Neither can discriminate against Britishers and British imports.

(4) Burman shipping may be discriminated against in India, in which case Burma can discriminate against Indian shipping. But neither India, nor Burma can discriminate against British shipping, unless Britain takes the initiative and discriminates against India or Burma.

(5) Companies registered in Burma shall be entitled to the same treatment as companies registered in the United Kingdom.

(6) Holders of medical degrees granted in India shall be entitled to practise in Burma, and holders of Burman medical degrees shall be entitled to practise in India, provided that both countries shall, subject to a right of appeal to the Privy Council, be entitled to declare that a diploma granted is not up to the standard required or prescribed.

(7) Both India and Burma have got the right to prescribe qualifications for practising any other profession, or for holding any office, or performing any functions in India and Burma, respectively, without prejudice to the rights of existing practitioners and holders of offices.

The general principles underlying the proposals dealing with the relations between India and Burma under the new Constitution is "that, inasmuch as the association between India and Burma in the last 50 years has been, broadly, of a similar nature to that which has been built up over a longer period between the United Kingdom and India, Indians should be afforded in Burma, generally, the same measure of protection in regard to their business avocations and commercial undertakings"* as have been recommended for the United Kingdom subjects. The special provision with regard to the right of entry of Indians into Burma is sought to be justified as follows:—"There are in Burma over 1,000,000 persons either domiciled in India or originating from some Indian Province. Some are in the permanent service of the Government, but the greater number are labourers who only intend to stay in Burma for a few years, and who by accepting smaller wages tend to oust the indigenous labourer, and to lower his standard of living. Others are Indian moneylenders who advance money on the security of agricultural land and crops, and whose operations, especially in times of depression, are such as to bring about an extensive transfer of ownership from an indigenous agricultural population to a non-indigenous and non-agricultural class. It is clear that in these circumstances it would be unreasonable to include in a new Constitution for Burma provisions which would, in effect, give to all persons domiciled in India an unrestricted right of entry into Burma; and it is accordingly proposed that it should be competent for the Burma Legislature to enact legislation restricting or imposing conditions of entry into Burma in respect of all persons other than British subjects domiciled in the United Kingdom. . . . With a view to preventing the imposition of vexatious or unreasonable restrictions or conditions for the entry of Indians of good standing into Burma, the introduction of any legislation regulating immigration into Burma should be subject to the Governor's Prior Consent."*

Provision has also been made, following the recommendations of the Joint Select Committee, for the entering into a temporary agreement relating to emigration and immigration, between the Governor-General of India in Council, and the Governor of Burma in Council, pending the setting up of a convention on this and other matters.

* Report of the Joint Select Committee, para. 472.

The provisions in the Act dealing with the relations between a separated Burma and India, especially those relating to Indian Capital, and Indian Labour are open to serious criticism. It is no doubt true that Indians who claim for themselves complete financial and commercial autonomy in the Government of India cannot deny it to Burmans in the Government of Burma. But the mischief in the proposals lies in the discrimination made as between Europeans and Indians in Burma. The basic principle underlying the detailed provisions in the Act protecting the rights of Britishers, and British Capital from discrimination of any kind in India, either legislative or administrative, is that during the period of 'partnership' between India and England during the last 150 years the Britishers have earned the right to be treated exactly as the Indians themselves. This principle is with greater force applicable to the relations between the Indians and the Burmans. On account of the long association of the Indians with Burma, an Indian in Burma is in the "same position as a Scotchman in England," and yet Indians are to be denied the unrestricted right of entry into Burma, while the Britisher is free to enter. As we have seen, Indian Labour is sought to be excluded on the ground that the Indian labourer is ousting the Burman labourer and lowers his standard of living. Indian Capital is to be shut out on the ground that it tends to deprive the Burman agriculturer of his land. If this is the test by which the right of entry is to be judged, assuming that these grounds are well-founded—then, Indians can, with equal justification, say that the Britishers have no place in India. It is well-known that British Capital and British enterprise are throttling Indian industries and Indian enterprise. Indian shipping has been destroyed by British competition. British commerce and banking hold a privileged position in India. It is usually estimated that from 700 to 800 million pounds of British Capital are invested in India. Yet the British Capitalist in India is to be treated as a benefactor entitled to equal treatment with Indians, while the Indian Capitalist in Burma, notably the Chettiar Community which contributed very largely to the material prosperity, progress and advancement of Burma, is branded as an exploiting money-lender.

The Simon Commission recognised that a considerable part of the capital and enterprise which developed Burma's trade is Indian. They also stated that the fears of Burma being over-run by Indian immigrants may easily be exaggerated, and that the presence of Indians in Burma is due not to any special privileges extended to them, but to the plain fact that Indians can perform many services which the Burman is *unable* or *unwilling* to perform for himself. They also stated that the Indian immigrant, if he does intend to stay in Burma, tends

to be absorbed into the Burmese population, unlike the Britisher in India. If, in these circumstances, Indian Capital and Indians are to be restricted entry into Burma while British Capital and Britishers are to possess unrestricted right of entry, it is difficult to resist the impression that "it is an ill-conceived attempt to make Burma a close preserve for Britishers to the exclusion of Indians."

398. There will be no separate Reserve Bank for Burma; the Reserve Bank of India will serve Burma also, and Burma would continue within India's currency system thus avoiding currency uncertainty.

399. Although Burma will have her own audit system within its territories, in view of the fact that the amount of Burma business transacted in London may not be sufficient to justify the appointment of a separate officer as Home Auditor, provision has been made enabling the Auditor of Indian Home accounts to act on behalf of Burma also, on terms to be agreed between the two Governments.

400. The separation of Burma from India necessitates a financial settlement as between India and Burma including an apportionment of the assets and liabilities as well as of the revenues and charges which are now classed as central. For the purpose of deciding on the principles of the apportionment, a tribunal was appointed by the Secretary of State, and its report is under the consideration of His Majesty's Government.

401. Burma, on separation, will cease to be an economic, no less than a political part of British India, and ordinarily the tariffs of each country would apply against the other. "Burma imports on an average $15\frac{1}{2}$ crores worth of goods from India, chiefly consisting of gunnies, tobacco and cigarettes, twist and yarn, piece goods, coal and coke, and betel nuts. India imports from Burma goods of the average annual value of 24 crores; rice and paddy account for nearly 11 crores, kerosene and petrol for $8\frac{1}{2}$ crores, and teak and other timber for $3\frac{1}{2}$ crores."* In other words India imports from Burma about 14% of her total imports and exports to Burma about $5\frac{1}{2}$ % of her total exports. From the Burman point of view Burma's total exports to India amounts to 48% of her total exports and her imports from India amount to 42% of her total imports.† The heavy duties of the Indian protective tariff are likely to have serious

* Report of the Simon Commission, Vol. II, para 222. According to the report of the Select Committee, the Burman imports have dwindled to 12 crores from $10\frac{1}{2}$ crores, and the exports have gone up to 27 crores.

† Report of the Select Committee, para. 425.

effect upon the Indo-Burma trade. Provision has, therefore, been made that, pending the conclusion of a trade convention between India and Burma, and with a view to the preventing of the undue disturbance of the trade between India and Burma, His Majesty may, by Order-in-Council, during a prescribed period immediately following the separation, fix the customs duties relating to the Indo-Burma trades, and make provision for ancillary and related matters.

402. One of the charges which, on the separation of Burma, has to be apportioned between India and Burma is that under the head of Defence. The existing political unity of Burma with India and the existence of a powerful Army in India, coupled with the absence of a North-West Frontier problem has not necessitated the stationing of any considerable body of troops in Burma. There are normally stationed in Burma only two infantry battalions composed of British and Indian troops and two Companies of Sappers and Miners. The rest of the *personnel* responsible for the defence of Burma are comprised in the "Burma Military Police" a body of 10,000 men—10 battalions, out of which six battalions are frontier battalions stationed almost wholly in the excluded tribal areas contiguous to the frontiers, one is a reserve battalion which provides drafts mainly for the frontier battalions, and is also responsible for the protection of the Railways in times of internal disorder, and the other three are merely 'garrison' battalions. In future, the six frontier battalions and the reserve battalion would form part of the defence organisation of Burma and the other three would form part of the police forces of Burma. It is, however, not intended that the former should form part of the regular Defence Force, or lose their primary police character. The need for a regular Defence Force for Burma will be accentuated by the Separation of Burma from India, because, as observed by the Simon Commission, although Burma has not a North-West Frontier problem, she has a North-East Frontier problem "a definite but less potential danger" than the North-West Frontier problem but which, "if it actually emerged in concrete shape, she could not deal with single-handed." "The defence of India Proper, and the defence of Burma are closely related questions, especially as the frontier to be watched in the North-East extends from Burma to Assam. . . . The value to Burma of the heavy armaments which India has, in any case, to maintain must surely be judged in terms of the liability which Burma's possible requirements impose. Burma's insurance premium should be proportionate to the risks incidental to her position. . . . If, after separation, Burma continues to place reliance upon the existence of the Army in India, she must contribute towards its cost. . . . The North-Eastern Frontier problem cannot, therefore, be considered in

isolation ; the arrangements for meeting it must continue to be concerted with the authorities responsible for India's defence."*

The Simon Commission envisaged a politically separated Burma, with a common military organisation for the defence of both India and Burma under arrangements to be entered into between both the countries ; and in an appendix appended to the report it is estimated that Burma should contribute three crores of Rupees towards her defence charges. This estimate has been made on the assumption that the North-East Frontier problem is a 'less potential danger' than the North-West Frontier problem. We have already observed† that since the establishment of a stable Government in Afghanistan, and the entry of both Afghanistan and Russia into the League of Nations, the situation in the North-West Frontier has become considerably easy, whereas the recent disturbances on the Chinese border show that the North-East Frontier problem may become as potential as the North-West Frontier problem, in which case Burma will have to pay a much larger contribution than three crores, if the Army in India is to be maintained at its present strength for the joint defence of India and Burma.

* Report of the Simon Commission.

† *Vide* Para. 115-H, page 118 *ante*.