CABINET.

BURMA ROUND TABLE CONFERENCE.

REPORT OF THE COMMITTEE OF THE
WHOLE CONFERENCE.

The attached Report is circulated by direction of the Secretary of State for India for consideration in connection with Item 2 of the Agenda for the Meeting of the Cabinet to be held at 10, Downing Street, S.W.1, on Monday next, January 11, 1932, at 11 a.m.

(Signed) M.P.A. HANKEY.
Secretary, Cabinet.

Whitehall Gardens, S.W.1,
January 9, 1932.
Burma Round Table Conference

Report of the Committee of the Whole Conference

St. James’s Palace, S.W.1.
January, 1932.
PREFATORY NOTE BY THE CHAIRMAN.

In preparing the Report of the Committee of the Conference, I have deliberately refrained from mentioning by name the individual exponents of particular views, and, so far as possible, from attributing particular opinions to particular groups of Delegates. In doing so I have followed precedents set by the Indian Round Table Conference and international Conferences. The purpose of any Conference being to achieve, by conciliation and accommodation of view, agreement on the subjects under discussion, it is the aim of a rapporteur, in the pursuit of agreement, to present the general sense of the opinions expressed; and, strictly, my duty as rapporteur would perhaps have been fulfilled by the presentation of the record contained in the last section of the Report of the points on which general agreement has been reached in the Committee. But the importance to Burma of the matters under discussion is so great that I have thought it necessary to include in my Report the views which have been expressed in various quarters even when agreement has been lacking.

Any attempt to assess the influence of the exponents of different views in the Report would be clearly improper, and to catalogue the supporters and opponents of every view recorded would not only be to attempt something new in the practice of Conferences, but would in my view be both a cumbrous and unnecessary proceeding. The views of individual Delegates can be ascertained at any time by reference to the verbatim records of the Conference.

(Sd.) PEEL.

5th January, 1932.
INDEX.

<table>
<thead>
<tr>
<th>Topic</th>
<th>Paras.</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introductory</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>The Federated Shan States</td>
<td>2-5</td>
<td>1-2</td>
</tr>
<tr>
<td>Plead for Maintenance as Separate Entity</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Matters of common concern</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Legislature</td>
<td>6-34</td>
<td>2-9</td>
</tr>
<tr>
<td>(I) The Second Chamber</td>
<td>6-19</td>
<td>2-4</td>
</tr>
<tr>
<td>Desirability of Second Chamber</td>
<td>6</td>
<td>2</td>
</tr>
<tr>
<td>Name</td>
<td>7</td>
<td>2</td>
</tr>
<tr>
<td>Powers</td>
<td>8</td>
<td>2</td>
</tr>
<tr>
<td>Size</td>
<td>9</td>
<td>2</td>
</tr>
<tr>
<td>Composition</td>
<td>10</td>
<td>3</td>
</tr>
<tr>
<td>Method of Election</td>
<td>11</td>
<td>3</td>
</tr>
<tr>
<td>Direct and Indirect Election</td>
<td>12</td>
<td>3</td>
</tr>
<tr>
<td>Representation of Minorities and Special Interests</td>
<td>13</td>
<td>3</td>
</tr>
<tr>
<td>Nomination of Officials</td>
<td>14</td>
<td>4</td>
</tr>
<tr>
<td>Tenure of Seat</td>
<td>15</td>
<td>4</td>
</tr>
<tr>
<td>Qualifications of Electors</td>
<td>16</td>
<td>4</td>
</tr>
<tr>
<td>Qualifications of Candidates</td>
<td>17</td>
<td>4</td>
</tr>
<tr>
<td>Life</td>
<td>18</td>
<td>4</td>
</tr>
<tr>
<td>Casual Vacancies</td>
<td>19</td>
<td>4</td>
</tr>
<tr>
<td>(II) The Lower House</td>
<td>20-27</td>
<td>5-8</td>
</tr>
<tr>
<td>Name</td>
<td>20</td>
<td>5</td>
</tr>
<tr>
<td>Size</td>
<td>21</td>
<td>5</td>
</tr>
<tr>
<td>Life</td>
<td>22</td>
<td>5</td>
</tr>
<tr>
<td>Officials in the House</td>
<td>23</td>
<td>5</td>
</tr>
<tr>
<td>Nomination and Representation of Minorities</td>
<td>24-25</td>
<td>5</td>
</tr>
<tr>
<td>Criticism of Minority Claims</td>
<td>26</td>
<td>7</td>
</tr>
<tr>
<td>Absence of Agreement</td>
<td>27</td>
<td>8</td>
</tr>
<tr>
<td>(III) Relations between the two Houses</td>
<td>28-34</td>
<td>8-9</td>
</tr>
<tr>
<td>Procedure regarding ordinary Bills</td>
<td>28</td>
<td>8</td>
</tr>
<tr>
<td>Money Bills</td>
<td>29</td>
<td>8</td>
</tr>
<tr>
<td>Certification of Money Bills</td>
<td>30</td>
<td>8</td>
</tr>
<tr>
<td>Solution of Deadlocks between the two Houses</td>
<td>31</td>
<td>8</td>
</tr>
<tr>
<td>Joint Sessions</td>
<td>32</td>
<td>9</td>
</tr>
<tr>
<td>Position of Ministers</td>
<td>33</td>
<td>9</td>
</tr>
<tr>
<td>Disqualification from Membership of the Legislature</td>
<td>34</td>
<td>9</td>
</tr>
<tr>
<td>The Franchise of the Lower House</td>
<td>35-36</td>
<td>9-10</td>
</tr>
<tr>
<td>Question as to whether Extension of Franchise is necessary</td>
<td>35-36</td>
<td>9</td>
</tr>
<tr>
<td>Franchise and Citizenship</td>
<td>37-43</td>
<td>10-12</td>
</tr>
<tr>
<td>Qualifications for Franchise</td>
<td>37</td>
<td>10</td>
</tr>
<tr>
<td>Definition of Local Citizenship</td>
<td>38</td>
<td>10</td>
</tr>
<tr>
<td>Citizenship and Domicile</td>
<td>39</td>
<td>11</td>
</tr>
<tr>
<td>British Nationality plus Residence</td>
<td>40</td>
<td>11</td>
</tr>
<tr>
<td>Threat to Burma of Unrestricted Immigration</td>
<td>42</td>
<td>12</td>
</tr>
<tr>
<td>The High Court</td>
<td>44-50</td>
<td>13-14</td>
</tr>
<tr>
<td>Constitution</td>
<td>44</td>
<td>13</td>
</tr>
<tr>
<td>Qualifications of Judges</td>
<td>45</td>
<td>13</td>
</tr>
<tr>
<td>Qualification of Chief Justice</td>
<td>46</td>
<td>13</td>
</tr>
<tr>
<td>Method of appointing Judges and filling Temporary Vacancies</td>
<td>47</td>
<td>13</td>
</tr>
<tr>
<td>Tenure of Appointments</td>
<td>48</td>
<td>14</td>
</tr>
<tr>
<td>Age of Retirement</td>
<td>49</td>
<td>14</td>
</tr>
<tr>
<td>Salaries of Judges</td>
<td>50</td>
<td>14</td>
</tr>
</tbody>
</table>

(5746 C)
REPORT OF THE COMMITTEE OF THE WHOLE CONFERENCE.

Introductory.

1. The Conference was resolved, on 7th December, 1931, into a Committee of the Whole Conference, and proceeded to consider the Heads of Discussion which were laid before it by the Chairman. These were discussed seriatim by the Committee sitting almost daily till 22nd December, 1931, inclusive; and the following Report records the opinions expressed and the conclusions reached on each.

The Federated Shan States.

2. Before proceeding to consider the structure of the Legislature for a Burma separated from India, the Committee turned their attention to the question of the position to be occupied by the Federated Shan States in relation to the government of a separated Burma. It was evident that the decision of this question would materially affect not only the composition of one or both Houses of the new Legislature, but perhaps also the whole nature of the government to be established.

3. Plea for maintenance as Separate Entity.—The Shan States' Delegation, both in discussion in Committee and also in a letter* circulated subsequently, plainly indicated that while they had every sympathy with the aspirations of their Burman friends and neighbours, their first objective was to preserve the separate entity of the Shan States Federation. With this aspiration the Committee generally expressed sympathy. As to their position in the polity of a separated Burma, the Shan Delegates indicated that the wish of the Chiefs, whose unanimous views they represented, was to maintain the position of the Federation in the direct charge of the Governor, subject to certain modifications which they desired in the internal administration.

4. Matters of common concern.—It was recognised on all sides that between entities so closely knit as Burma and the Shan States Federation (which is not merely a neighbour, but actually within the territorial limits of Burma) there must be many matters of common interest which it will be necessary to regulate. In the event of

*Vide Appendix I.
Burma being separated from India, Burma will have additional responsibilities to undertake and new liabilities to meet; she will, however, gain new assets. The Federated Shan States, as part of the Burman polity, wish to bear their due share of such liabilities, provided that in return they receive their due share of the additional assets, e.g., customs receipts, which may be expected to accrue as the result of the separation of Burma from India. How this share of liabilities and assets should be determined will be a matter for careful enquiry; and this question should, in the view of the Shan Chiefs, be dealt with by the Governor.

5. On this basis the view was taken by some members of the Committee that there can be no advantage in the Shan States taking a direct part in the government of Burma proper nor in having any representation in the Legislature of Burma. The Shan States’ Delegates, however, are of opinion that the possibility should not be excluded of the Federation having representatives in the Upper Chamber for the discussion of matters of common concern. Some Delegates desired it to be recorded that the subject was only briefly alluded to in the proceedings of the Committee.

The Legislature.

(I) The Second Chamber.

6. Desirability of Second Chamber.—There was unanimous agreement upon the desirability of a Second Chamber, though many Delegates considered that the necessity for the Chamber depended on the grant to Burma of full responsible self-government.

7. Name of the Chamber.—The majority view was that the Second Chamber should be called the Senate.

8. Powers of the Chamber.—Many Delegates considered that the Chamber should have powers limited similarly to those of the Senate in the Irish Free State, as expressed in Article 35 of the Irish Constitution. The opinion was expressed by other Delegates that the Senate should have equal powers with the Lower House in every respect except the grant and withholding of supply. It was suggested that in the case of a refusal by the Lower House to sanction a grant deemed by the Governor necessary for the carrying on of government, the Governor might be empowered to obtain the necessary sanction from the Senate. This suggestion was not supported.

9. Size of the Chamber.—Numerical suggestions ranged from 30 to 60, but stress was laid generally more upon the proportion to be borne to the size of the Lower House than to the actual numbers. The proportions suggested varied from one-fifth to a little less than a half of the size of the Lower House, a number of Delegates being in favour of one-third.
10. Composition of the Chamber.—General opinion was in favour of a Chamber composed partly of nominated and partly of elected members, though there was divergence of view whether election should be direct or indirect, that is by the Lower House.

A substantial number of Delegates proposed that 50 per cent. of the members should be directly elected on a territorial basis, 25 per cent. elected by the Lower House from a panel of men of experience, and 25 per cent. nominated by the Governor acting with Ministers for the purpose of explaining and supporting Government policy and for the protection of minority interests. Others proposed that 50 per cent. should be elected by the Lower House and 50 per cent. nominated by the Governor. One Delegate suggested that part should be elected by electoral colleges, part by the Lower House, and part nominated by the Governor acting with Ministers, for the protection of minority interests.

11. Method of Election to the Second Chamber.—Considerable discussion took place, first, as to the method of election of the elected element, and secondly, as to the method by which the interests of minorities and special interests should be protected.

12. Direct and Indirect Election.—As regards the method of election there was a clear cut division of opinion between those who favoured the system of indirect election by the Lower House, and those who supported direct election.

Figures* were supplied to the Committee indicating the distribution of voters, in the various constituencies on the basis of 30 directly elected members on the qualification of the vote for the Indian Legislative Assembly and Council of State respectively. Opinion was divided, in the light of these figures, as to whether the method of direct election would be fair and practicable, for example, in respect of Rangoon Town.

13. Representation of Minorities and Special Interests.—The necessity for the protection of minorities and special interests in the Chamber was strongly pressed by the interests concerned, but no general agreement was reached as to the most suitable method. One opinion was that on the assumption that minorities would continue to have direct representation in the Lower House by means of separate electorates and that the elected element in the Senate would be elected by the Lower House, the minorities would probably obtain some representation in the Senate. Other speakers, taking the line that there must be some better guarantee of adequate representation of minority interests, advocated nomination of minority representatives by the Governor. One Delegate agreed that such nominations might be made on the advice of Ministers. The suggestion was also advanced that minority seats might be filled by direct election by the communities and interests concerned.

* Vide Appendix II.
14. Nomination of Officials in the Second Chamber.—It was also proposed that the nominated members should include some officials, whose experience would be very valuable to the Chamber in the early years of the new constitution: but the opinion of the greater number was that officials should not be eligible for selection for the nominated seats.

Some Delegates, however, objected to the appointment of officials as the Governor’s nominees, and would agree to nomination by the Governor, acting with Ministers, to 25 per cent. of the total seats, of persons to represent the Government’s policy and support it.

15. Tenure of Seat.—There was general agreement that the tenure of a seat in the Senate should be for six or seven years, and that about one-third of the members should retire in rotation every two or three years, though some Delegates preferred to apply the system of retirement in rotation only to such members as might be nominated or indirectly elected.

16. Qualifications of Electors.—It was generally agreed that the qualifications of electors should be higher than in the case of the Lower House. Some Delegates suggested the adoption of the qualifications which at present exist for the Indian Legislative Assembly. The Delegates advocated the present qualification in Burma for electors to the Council of State in India.

17. Qualifications of Candidates.—It was unanimously agreed that the qualifications for candidates must be more restrictive than for the Lower House, but no final conclusion was reached as to their precise nature. Some Delegates favoured the present qualifications of candidates for the Indian Legislative Assembly with the addition of past and present Presidents of Municipalities and District Councils; others favoured the qualifications applicable to the Council of State and yet other high property qualifications, or the holding of responsible posts or some specified educational tests. On the other hand it was pointed out that if the qualifications were fixed too high some communities, e.g., the Karens, might be altogether precluded from putting forward candidates.

18. Life of the Chamber.—It was generally agreed that continuity is desirable in the life of the Senate and that it should be dissolved by the Governor only in special circumstances, such as the occurrence of a complete deadlock between the two Houses.

19. Casual Vacancies.—The question of the method of filling casual vacancies was not generally discussed, but a suggestion was made that they should be filled by whatever method had been employed in the case of the previous holder of the seat.
The Lower House.

20. Name of the Lower House.—The majority view was that the Lower House should be called the House of Representatives.

21. Size of the Lower House.—The lowest figure suggested for the membership of the new House was 103. This is the size of the present Legislative Council, and the figure was put forward on the assumption that the seats now held by the "official bloc" would be thrown open to election. On the other hand, a considerable number of Delegates proposed a House of from 180 to 200 members, justifying this figure on the ground of the necessity of splitting up the present over-large rural constituencies. An increase in constituencies would in their view be even more necessary if adult suffrage at 21 were introduced, which would result in a total of 4,000,000 voters. A ratio of one seat to every 20,000 voters was suggested.

There was definite support for a proposal that, having regard both to expense and efficiency, the House of Representatives should consist of from 103 to 150 members. Those supporting this proposal questioned the advantage of giving Burma a larger proportion of members to the population than is the case with other countries in Europe or in the East.

22. Life of the Lower House.—It was unanimously agreed that the maximum life of the Lower House should be five years.

23. Officials in the House.—There was unanimous agreement that the "official bloc," in the sense of officials nominated by the Governor having power to vote as well as speak, should be abolished.

The discussion was then directed to the question whether it would be necessary for the House to have the assistance of officials. The majority of the Committee agreed that it would not be desirable for officials to deal on the floor of the House with matters under the control of Ministers; for Ministers would have access to official advice in the ordinary way.

There was much support for the suggestion that officials should attend to express the views of the Governor on matters relating to reserved subjects. Such officials would have the right to address the House, but would not vote.

24. Nomination and representation of Minorities.—Several Delegates declared their opposition on principle to any representation in the Lower House except by means of direct election. Others considered nomination necessary to secure representation of certain elements not likely to secure adequate representation by other means. The question of nomination was therefore discussed in conjunction with the larger question of the continuance of representation of minority communities and special interests by means of separate electorates.

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25. In this connection, it was explained on behalf of the European community that the share of commerce in European hands is as great in Burma as in Bengal, where the Europeans hold 11 per cent. of the seats in the Legislative Council, and that this community might therefore be given 10 per cent. of the seats in the Burma House of Representatives.

On behalf of the Indian community it was pointed out that Indian economic interests in Burma were as large as European, and that the Indian population numbered one million as against 11,000 Europeans. One proposal was that the 23 seats now held by the "official bloc" and nominated members should be divided among the minority interests in the proportion of their present representation, viz., Indians 9, Karens 5, Anglo-Indians 1, Europeans 4, Chinese 1, and that the Indians should be given altogether 18 per cent. of the total seats in the House. An alternative suggestion was that the total seats should be distributed as to 50 per cent. on a population basis, and as to 50 per cent. on the basis of economic interests. One Delegate contended that the minority interests constituted 25 per cent. of the population of Burma and held 50 per cent. of the country's wealth, distributed as to 20 to 25 per cent. in European hands and 25 to 30 per cent. in Indian and Chinese hands.

As regards the Karen community, it was claimed that it would be reasonable to give the community separate electorates in every district in Lower Burma. In a wholly elected House of 180 to 200 members, this would give them an increased proportion of the representation.

A suggestion was made that the Chinese should be given 2 per cent. representation and that the Landowners' Association (owners of not less than 300 acres of agricultural land) should be given 2 per cent. representation in the Lower House and one representative in the Second Chamber. One Delegate argued that the Landlords' Associations (owners of Town property) should be included and the percentage increased. An alternative suggestion was that landowners, together with Labour and other interests, and also districts inside the elective area, but not yet made into constituencies, might be represented by giving the Governor power to nominate up to 5 per cent. of the total seats to provide for the representation of such interests. This suggestion received support, but the majority of the Committee did not favour separate seats for Landowners or Landlords.

On behalf of Burma-Muslims, in the most comprehensive sense of that term, a plea was put forward for either half the number of seats given to the Karens or for a minimum of 4 to 6 seats out of 200 from among the seats allotted to Indians; but the suggestion that the Indo-Burman should be thus distinguished from the Indian community was contested on behalf of the latter.
26. Criticism of Minority Claims.—These various claims put forward by the minorities were contested on a number of grounds. In the first place, objection was expressed to nomination in any form. Secondly, the idea of separate electorates was opposed on the ground that if the criterion of the existence of a minority adopted by the League of Nations were applied, namely, that a minority must constitute at least 20 per cent. of the total population, then there are no minorities in Burma. But if it were held that minorities in fact exist then they could claim no more than freedom from discrimination or interference in the spheres of industry, property, the professions, legislation and taxation, all of which could be adequately secured to them by a declaration of rights in the Constitution. In more detail, it was argued that European Government servants would be protected by statute, the European commercial community could be protected by the proposed declaration of rights, and Europeans who identified themselves with the country could always get into the Assembly through general non-communal constituencies. Anglo-Indians were mostly members of the Services and would have the protection of statutory safeguards, while the Anglo-Burmans included in the community should identify their interests with those of the majority community. Chinese commercial interests would be covered by the general declaration, while of the remaining Chinese the British Chinese, who alone could be considered, should identify themselves with Burma and depend on Burmese votes for representation. Similarly, the interests of those Indians who were permanently settled in Burma were identified with those of the Burmese, and the temporary residents had no right to claim special representation. As regards landlords, figures showed that on the suggested basis of a holding of 300 acres only absentee landlords, many of whom were only moneylenders, would receive representation. It was urged in the case of the Karens (though this statement was at once disputed), that there appeared to be no unanimity in favour of separate electorates, particularly for Buddhist Karens, and it might be possible to meet Karens generally by creating a sufficient number of mixed Burmese and Karen constituencies so defined as to contain a substantial majority of Karen voters, whereby it would be possible for the Karen voters to return a Karen member.

The view was expressed that it was necessary to avoid the possibility of a situation in the Lower House in which minority representatives could combine with a minority Burmese party to defeat the Burmese majority.

In the course of the discussion the suggestion was thrown out, but for various reasons did not prove acceptable, that representation of minority communities by separate electorates should be provided for in the Statute for a limited period only, such as ten years.
27. **Absence of Agreement.**—Despite great efforts made by members of the Committee to reach agreement by private and informal conversations, it is regretted that no solution of these conflicting views has been attained.

(III) **Relations between the two Houses.**

28. **Procedure regarding Ordinary Bills.**—The question of the relations of the Houses in legislation had already been touched on in the discussion on the powers of the Senate, when it had been generally agreed that the two Houses should have equal powers in respect of the initiation, amendment or rejection of non-money Bills. Definite proposals were now put forward by a group of Delegates. These were (a) both Houses to be able to initiate Bills; (b) Second Chamber Bill amended by Lower House, henceforth to be treated as initiated in Lower House; (c) Second Chamber Bill rejected by Lower House not to be re-introduced in Second Chamber in the same session; (d) in the event of amendment of a Lower House Bill by the Second Chamber the Lower House could either accept the amendment or demand a joint session; (e) joint session in the event of rejection of a Lower House Bill by the Second Chamber.

29. **Money Bills.**—In the earlier discussion on the Senate a difference of view had emerged as to the treatment of Money Bills, but the subject had not been explored in detail. It was now proposed by the group mentioned above that Money Bills should originate in the Lower House only, but that the Second Chamber must not retain a Bill for more than twenty-one days as provided in Article 38 (a) of the Irish Free State Constitution.

30. **Certification of Money Bills.**—A number of Delegates thought that the responsibility for certifying that a Bill is a Money Bill should rest with the Speaker of the Lower House, while a number of others favoured certification by the Governor. Alternative suggestions put forward by individual Delegates were (a) that the authority might be the Governor acting in consultation with the Chairmen of both Houses, and (b) that the Speaker would ordinarily certify, but that if his decision were challenged the question should go for decision to a Committee of Privileges presided over by a Senior Judge of the High Court, or to a Senior Judge of the High Court sitting alone.

31. **Solution of Deadlocks between the two Houses.**—General support was given to the proposal that Bills passed in one House but rejected by the other should be returned to the originating House for reconsideration. In the event of a second rejection there should ensue a period of delay, subject to a dispensing power by the Governor in case of urgency, followed by a joint session of the two Houses. The machinery for this might be incorporated in the Constituent Act.
Joint Sessions.—It was suggested that the Speaker of the Lower House should act as Chairman of joint sessions of the two Houses, but this was not supported. It was generally felt that joint sessions should not necessarily be called in every case in which a difference of opinion emerges between the two Houses, as it may sometimes be preferable to drop a measure in dispute. As regards the authority required for the calling of a joint session there was no general agreement. Proposals designed to provide some latitude in the convening of a joint session were made (a) that it should be called on the motion of either House, (b) that it should be called by the Governor at the request of either House, (c) that the Governor if requested by either House to call a joint session should be free to exercise his discretion.

The majority of the Committee considered that the period of delay before the calling of a joint session should be between 12 and 18 months reckoned from the time of failure to agree, and that decisions should be taken there by a bare majority of those present and voting. Other delegates suggested that a two-thirds majority should be required.

Position of Ministers.—As is mentioned in the section on the Ministers, it was generally agreed that Ministers might be selected from both Houses. There was also general assent to the proposition that Ministers should have the right to speak in both Houses, though they should vote only in that to which they belonged.

Disqualification from Membership of the Legislature.—As regards disqualification from membership of the Legislature there was agreement that there should be no sex disqualification, that there should be a minimum age limit of 35 for the Second Chamber and that the present conditions regarding insolvents should be modified in such a way as not to subject a bankrupt to harsher treatment than a criminal. One Delegate suggested that conviction by a criminal court should cease to disqualify, and there was a division of opinion as to the possibility of distinguishing between political crimes and crimes involving moral turpitude.

The Franchise for the Lower House.

Question as to whether Extension of Franchise is necessary.—Many Delegates proposed the adoption and immediate introduction of adult suffrage for both sexes at the age of 21, and considered that the suffrage should be restricted to “citizens” of Burma. The definition of citizenship and its relation to the franchise is more fully discussed in the following section. These Delegates also pressed that the first election under the new Constitution should be conducted on the basis of the revised suffrage, a point of view opposed by a number of other Delegates, who considered it essential to appoint a Committee of Enquiry before proceeding to extend the franchise.
One or two Delegates considered that no extension of the franchise should be considered until the Constitution had been tested over a period of years on the existing suffrage. It is also pointed out that, whatever the merits of adult suffrage, the position of women and unmarried men under the present system was illogical and required examination.

36. The discussion revealed a widely held opinion that a case existed for the extension of the franchise, but there was no general agreement either on this or on the questions of the date when a new franchise should be introduced and the machinery through which any change should be made.

Franchise and Citizenship.

37. Qualifications for the Franchise.—The Committee had under consideration the general qualifications to be required as a condition for the exercise of the right to vote and also the question of laying down in the Constituent Act a definition of “citizenship,” the possession of which should, in the opinion of some, be a necessary condition for the right to elect and to be elected to the Legislature. It was indicated in the course of the discussion that, in the view of those who advocated it, the test of “citizenship” might have a wider application than for the franchise only; it might also be used as a test of eligibility for Government appointments. It was, however, in relation particularly to the right to vote or stand for election to the Legislature that the Committee discussed the question. Those who advocated citizenship as a test for the right to vote and enter the Legislature took their stand on the general proposition that no man should be privileged to take part, either as a voter or as a legislator, in the management of the affairs of Burma unless he could show, either by the proved intention to establish a permanent abode or by the fact of long residence, that he had an abiding interest in the country.

38. Definition of Local Citizenship.—Certain of the Dominions have, for particular reasons, defined by statute local citizenship as distinct from British national status; and in one case, that of the Irish Free State, citizenship as defined in the Constituent Act is made the sole qualification (except age) for the franchise.

Several of the members of the Committee advocated that this precedent should be followed in the Constitution for Burma; but some difference of opinion was disclosed among them as to the length of residence in Burma to be imposed as a qualification for citizenship, some suggesting twelve years and some seven, five or three years.
39. Citizenship and Domicile.—In Article 3 of the Irish Free State Constitution, the provisions of which appeared to commend themselves to the advocates of "citizenship" as a qualification for adoption in the case of Burma, citizenship is defined in terms of domicile. Many members of the Committee strongly deprecated the introduction of domicile as a qualification for the franchise. It was pointed out that domicile is of two kinds, of origin and of choice, and that the latter form presents great difficulty of determination: for this depends not on questions of fact alone, such as residence in a country for a certain ascertainable period, but on intention to establish a permanent residence in that country though such residence may in practice be intermittent. The adoption of domicile it was contended would not only give rise to considerable difficulty in practice and tend to promote litigation but would also disfranchise a considerable portion of the non-indigenous community in Burma. For there are likely always to be many British subjects in Burma, resident for many years in the country in pursuit of business or professional avocations, who might never be in a position to prove the intention of settling there permanently. Another ground of objection which was taken to domicile was that the adoption of this qualification is at variance with the general practice throughout the world which makes the right to vote dependant on nationality, not on domicile, combined with a greater or less period of residence.

40. British Nationality plus Residence.—An alternative which received the support of a section of the Committee was that citizenship for Burma might be defined on the basis of British nationality, combined with a prescribed period of residence of not less than 5, and, preferably, not less than 7 years. It was recognised that a citizenship qualification on this basis would exclude from the franchise many members of the non-indigenous business community, and to meet this difficulty the suggestion was made that for such inhabitants of Burma, who constitute a "special interest" as distinct from a community, the right to vote might be secured not by a citizenship qualification but by membership of a Chamber of Commerce or similar recognised organisation.

More than one member of the Committee, however, expressed anxiety lest the institution of the principle of citizenship even on the basis suggested in the preceding paragraph might introduce not merely restrictions of the franchise, but also discrimination in favour of indigenous inhabitants against British subjects from overseas in respect of commercial enterprise, or at any rate against the inception of such enterprise after the establishment of the new Constitution.

41. The inclusion in the Constituent Act of a definition of Burman citizenship might, it was urged, affect the form of the oath of allegiance and jeopardize the right to appeal to common British nationality for the redress of grievances suffered by Burman citizens in other parts of the Empire.
42. Threat to Burma of Unrestricted Immigration.—It was admitted by some of those who advocate Burman citizenship, if only as a temporary measure, that a principal purpose to be achieved is the prevention of Burma’s national identity being swamped by the unrestricted influx of inhabitants of the densely populated countries lying to the east and the west of Burma. Anxiety was expressed by these Delegates as to the degree to which Indian labourers and industrialists (whatever useful part they may have played initially in developing Burma’s agricultural and other natural resources) now tend to dispossess the indigenous inhabitants of occupation and to depress their standard of living. Reference was made to the Report of the Royal Commission on Indian Labour in respect of the floating Indian population which resides in Burma for no more than a few years at the most and returns to India with its earnings; and it was urged that Burma must be empowered to prevent her own people from being submerged racially and economically by Indian entrants from the one side, and by Chinese from the other. Serious doubt was expressed by other Delegates in the light of Census figures as to the gravity of the menace whether it be regarded from the racial, industrial or economic standpoint; but it was contended that if it was serious it should be dealt with by other means, for example, by non-discriminatory restrictions on immigration. A suggestion was made that for non-indigenous persons a qualification similar to that laid down in the Constitution of Ceylon, viz., a literacy test combined with a property qualification and a period of residence might be prescribed. The view was strongly expressed that it was not in Burma’s interest to set up a test which would militate against the principle of equality of treatment for British subjects in all parts of the Empire. Some Delegates however, maintained that this principle of equality is not in practice applied throughout the Empire, and considered that in present circumstances it should not be applied to Burma.

43. In regard to the test for the franchise, many delegates held that it would be wise to avoid recourse to any qualification so disputable as that of domicile. A preference was expressed by many for as simple a qualification as possible, to rest firstly on British nationality and secondly on length of residence in Burma; and some Delegates thought that the existing electoral rules provided a suitable basis for the franchise. On the period of residence to be prescribed opinions varied; the advantage of a reciprocity with the United Kingdom, viz., 3 months, was mentioned; but positive suggestions ranged from a period of 6 months to 2 or 3 years. As between these suggestions a preference was expressed by several delegates for a shorter rather than a longer period, for the longer the period of disqualification the greater the number of aggrieved persons who pay taxes but may not vote.
The High Court.

44. Constitution of the Court.—The Committee is glad to be able to record a substantial measure of agreement on the question of a High Court. On certain points, some of considerable importance, there was a divergence of view. Many members of the Committee thought that the proper course was that the Constituent Act should make provision for the establishment of a High Court generally on the lines of the present High Court, to be constituted preferably by Letters Patent and to be composed of a Chief Justice and Judges appointed by Letters Patent. But some Delegates preferred that the constitution of the High Court should be laid down in the Statute.

45. Qualifications of Judges.—There was no question in the minds of the Committee as to the vital importance for Burma, that in selections for appointment to the High Court the proper administration for justice should be the sole criterion without regard to race, class or creed, and that the qualifications at present prescribed would appear to be suitable. One Delegate was opposed to the eligibility of members of the I.C.S. for appointment as Judges of the High Court, and another suggested that the number of I.C.S. Judges should not exceed one-third of the strength of the Court; subject to these exceptions the opinion of the Committee was that the Bench should be composed of the best men available with any of the qualifications indicated. A knowledge of the Burmese language among the Judges was mentioned by some Delegates as an important desideratum.

46. Qualifications of Chief Justice.—In regard to the qualifications for the appointment of Chief Justice the Committee was more equally divided in opinion. It was said by some Delegates that, rightly or wrongly, there is a feeling, not only among members of the Bar in Burma, but among the people generally, that the Chief Judicial appointment should be filled by a trained lawyer only, and the view was expressed that the best type of appointment is that of a King’s Counsel direct from England. For these reasons several of the Committee were of opinion that I.C.S. Judges (some of whom of course have been called to the Bar) should be ineligible for the Chief Justiceship. Others, however, considered that the only criterion should be merit, and that any person qualified to be a Judge of the High Court, including I.C.S. Judges, should be eligible for appointment as Chief Justice. It was observed that on several occasions in the absence of the Chief Justice an I.C.S. Judge has acted as Chief Justice and given general satisfaction in that capacity; and it was contended that the early administrative training of such Judges is a useful equipment for the discharge of the manifold administrative duties attached to the post of Chief Justice. The opinion of the Committee was, however, divided on this point.

47. Method of appointing Judges and filling Temporary Vacancies.—Opinion was similarly divided as to where the responsibility should
lie for recommendations to the Bench. It was agreed, except by one section of Delegates, that appointment should be by the Crown, but, setting apart the case of appointments from the United Kingdom (to which one or two Delegates were opposed), opinion was divided as to whether recommendations to the Crown should be made by the Governor in his unfettered discretion (though no doubt after consultation with those competent to advise), or at his discretion from a list put before him by his Ministers, or strictly in accordance with their advice. The existing practice of appointing temporary additional Judges who revert to the Bar was generally disapproved. It was pointed out that if the Court required assistance an additional Judge could be appointed and the original strength of the Court restored on the occurrence of a vacancy. It was agreed by many that acting appointments in short term vacancies should be made from among all persons qualified, including the Judicial Service, by the Governor in consultation with the Chief Justice; but those who advocated appointment by the Governor in the case of permanent incumbents thought that these acting appointments also should be made on the advice of Ministers.

48. Tenure of Appointments.—The general opinion of the Committee was, that the Judges should hold office during good behaviour, but some difference of opinion existed as to how removal, in the rare event of misbehaviour or incapacity, should be effected. Some of the Committee were strongly in favour of removal on presentation of an Address to the Governor by both Houses of the Legislature; others deprecated the Legislature being involved in any way with the Judiciary; the suggestion was made—but met with little support—that in accordance with what is understood to be the rule in the Crown Colonies, no Judge should be removed, except on the report of the Judicial Committee of the Privy Council, the highest appellate body in the Empire.

49. Age of Retirement.—On the question of the age for retirement, it was generally agreed that it should be in the neighbourhood of 60 or 65. To many the climate of Rangoon is sufficiently trying to make 60 a suitable retiring age; but the Committee saw objection to giving an age limit which might prematurely deprive the Court of the services of able Judges; some flexibility between these limits was advocated. In this connection mention should be made of the opinion expressed that appointments to the Bench should be restricted to men of 40 years of age or more.

50. Salaries of Judges.—The salaries of the Judges should, in the unanimous view of the Committee, be excluded from the vote of the Legislature; for present incumbents, the existing rates of salary should be maintained, but in regard to the appointments made subsequently to the institution of the new Constitution, the opinion was expressed by some Delegates, that Judicial salaries might be fixed by the new Legislature.
The Services.

(I) Existing Members of the Services.

51. Maintenance of Rights and Safeguards.—Inasmuch as the Government of India Act and the rules made thereunder by the Secretary of State in Council guarantee certain rights and safeguards to members of the Services, the Committee was unanimously in accord with the recommendations made in this respect in the Report of the Services sub-Committee of the Indian Round Table Conference, and agreed that due provision should be made in the new constitution for the maintenance of those rights and safeguards for all persons who have been appointed before the new constitution comes into force. When the new constitution is drawn up, suitable safeguards for the payment of pensions (including family pensions and provident funds) should no doubt be provided.

52. Retirement on Proportionate Pension.—It was further unanimously agreed that the right of retirement on proportionate pension should be extended, but opinion was divided as to whether the extension should be for a period of five years only or for a longer or an unlimited period.

53. Officers transferred from India.—The Committee recognised that the transfer of existing members of the Services from service under Government in India to service under the new Government of Burma might raise questions in regard to their conditions of service that might not be precisely covered by any of the foregoing provisions. If any such questions arose, the Committee hoped that they would be dealt with in accordance with the general intention of those provisions, namely, that all necessary steps should be taken to reassure existing members of the Services and maintain their existing terms of service, so that they might serve with loyalty and efficiency for their normal term. The Committee were gravely impressed with the importance in the interests of Burma of making full provision to ensure that the new Constitution should not be handicapped in the initial stages by any diminution in the efficiency of the administrative machine or embarrassed by the economic waste and the difficulties which a change of staff on a large scale would entail.

(II) Public Services Commission.

54. In accordance with the view taken by the Statutory Commission as to the general need for Public Services Commissions to protect the Services from political influences, it was unanimously agreed that a Public Services Commission should be established in Burma.

55. Size.—With regard to the size of the Commission, the Committee was generally of the opinion that three members, including
the Chairman, should suffice. The suggestion was made but did not receive support that the Commission should be so composed as to include representation of minority interests.

56. Method of Appointment.—As to appointment, all members of the Committee agreed that the appointing authority should be the Governor, but opinion was divided as to whether the Governor in making an appointment should (i) act alone or (ii) act on the advice of the Ministers but with discretion to disregard that advice or (iii) be obliged to act on the advice tendered to him by the Ministers. The opinion was expressed that Members of the Public Services Commission should hold office "during pleasure" and be removable by the Governor only. Some, however, pressed the view that action by the Governor should only be on the advice of his Ministers. It was suggested that they should, after ceasing to be members, be ineligible, for a period to be fixed by the Governor, for further office under the Crown in Burma.

57. Functions.—As regards functions, there was general agreement that the Commission should be responsible, under the direction of the Government, for the recruitment of the public services; and that it should be the duty of the Commission to recommend for appointment the best candidates available without distinction of race, class or creed. The Governor, or the Government, as the case might be, should have discretion to consult the Commission before passing orders on disciplinary questions affecting members of the Services.

111) Recruitment of the Services (other than the Medical Service).

58. Maintenance of Efficiency.—It was generally agreed that it was essential that the efficiency of the Services should be maintained and that it was of particular importance that men of the required type should be encouraged to enter the Security Services, i.e., the Indian Civil Service and the Indian Police Service as now termed.

59. European Officers and Method of Recruitment.—It was also generally agreed that in the case of the Security Services at any rate, it would be essential for some time to come that European officers should continue to be recruited for service in Burma. But opinion was divided as to whether, if Europeans of the required type were to be obtained for these Services, it would be necessary that the recruiting authority should continue to be the Secretary of State. Some of the Committee were convinced of this necessity, as the only means of affording such recruits the assurance as to their position necessary to attract the best men; others were equally convinced that the security resulting from the establishment of a Public Service Commission should enable the Government of Burma to obtain European recruits of a suitable type; some others considered that it should be left to the new Government of Burma to decide
who the recruiting authority should be; while yet other Delegates wished to follow the majority view in the Report of the Services sub-Committee of the Indian Round Table Conference and to lay it down at the outset that the recruiting authority should be the new Government of Burma.

As regards the Irrigation Branch of the Indian Service of Engineers opinion, while not unanimous, was generally in favour of the transfer of appointment from the Secretary of State to the new Government of Burma, the Public Services Commission making the arrangements for recruitment.

60. Burmanisation.—The question of the rate of “Burmanisation” was briefly discussed by the Committee, and such opinion as was expressed was divided on this question. Some of the Committee were of opinion that the rate should be left for the new Government of Burma to decide, while others took the view that for the present recruitment might continue in the proportions laid down by the Lee Commission.

(IV) The Medical Services.

61. The Committee was generally in favour, in the interests of economy and efficiency, of a combination of the civil and military sides of the Medical Services. It was felt that the cadres of separate services would be too small to offer adequate prospects to suitable candidates. An adequate number of Europeans should be recruited for the requirements of the Army and of British officials and their families. A sufficient number of the members of the Service should be required by the terms of their engagement to undergo such military training and render such military service as they may be called upon to do. The rights and safeguards of officers of the Indian Medical Service serving in Burma at the date when the new Constitution came into force would be preserved, in accordance with the recommendation of the Committee that the rights and safeguards of existing members of the Services generally should be preserved.

(V) Loan of Officers from the Governments in India.

62. The Committee hoped that, on the analogy of what was said in the concluding sub-section of para. 3 of the Report of the Services sub-Committee of the Indian Round Table Conference, dated 13th January, 1931 (Cmd. 3772, page 66), it would be found possible in suitable cases to make arrangements between the Government of Burma and the Governments in India for the loan of officers. The Committee had particularly in mind the scientific services mentioned in para. 5 of the Burma sub-Committee’s Report, as well as the convenience of obtaining in this way expert advice in irrigation and railway problems. Burma, on its part, might reciprocate with the loan of officers especially qualified to advise on such matters as forestry development.
63. The Statutory Commission recommended that the areas in Burma now known as "Backward Tracts" should in future be termed "Excluded Areas." (For the purposes of the Government of India Act these areas include the Federated Shan States; but attention has been directed separately by the Committee to their case.)

64. This term "Excluded Areas" was intended by the Statutory Commission to mean tracts "which must be excluded from the general constitutional arrangements," and for the administration of which special provision must be made; and in pursuance of this intention several members of the Committee urged that the administration of these areas, the inhabitants of which, though akin to the Burmans, are admittedly backward, and not yet fitted for a share in representative democratic government, might well be entrusted to the Governor (and thus form a "reserved subject"). The view was expressed that, in such event, it would be advantageous that the Legislature should have opportunity from time to time to discuss the subject at the discretion of the Governor.

65. Several Delegates, on the other hand, strongly deprecated the proposal that these areas should be removed from the purview of the Legislature, and argued that it would promote advancement from their backward condition if the responsibility for administering and developing them were placed upon a Minister. Some doubt was expressed whether this "Minister" should at the outset be responsible to the Governor or to the Legislature; but the intention was that eventually the Minister in charge should be responsible to the Legislature.

Defence.

66. Some Delegates were of opinion that the control of the Army, including British troops, in Burma should at once be handed over to a Burman Minister responsible to the Legislature. But the Committee addressed itself to the consideration of Defence on the understanding that, applying to Burma, the principle underlying the Prime Minister's statement of policy in regard to India, the subject is one that in existing conditions must be reserved for administration by the Governor.

67. The Requirements of Burma.—The geographical circumstances of Burma are such that armed aggression by land on a large scale is not a very probable danger, and it was generally agreed that though there is need to guard against raids on the frontier, the armed forces required for frontier defence are not large. The Conference is, of course, not in a position to formulate any opinion as to the strength
of the Army required in Burma after separation, either for external or internal defence; but the hope was expressed that it need not exceed the forces hitherto maintained in the country in normal conditions. It is not contemplated that Burma should undertake her own Naval defence; for that she must for the present rely on the British Navy.

68. Control of Arrangements and Influence of Public Opinion on Defence matters.—Though it was generally agreed that control of the administrative side of Defence should be entrusted to the Governor for the present, and though some Delegates admitted that a Burman Ministry would not be in a position to undertake this responsibility at once (one Delegate suggested that reservation of the subject should be limited to five years), a desire was expressed by several Delegates for opportunity for the Legislature to discuss and exert some influence over certain aspects of Army policy, particularly that of “Burmanisation.” It was recognised that time must elapse before indigenous forces could be recruited and trained; but several Delegates expressed the opinion that recruits for such forces would readily be forthcoming, and some were of opinion that conscription could be enacted by a popularly elected Legislature. A suggestion was made that the administration of Defence should be entrusted to a “Minister” who might be responsible to the Governor—to whom the whole control and disposition of the troops would be entrusted—for technical and strategical matters, and responsible to the Legislature for policy in regard to recruitment and Burmanisation and matters less directly affecting operations.

This suggestion met with considerable criticism. The view was widely expressed that division of a subject, all branches of which are so closely connected as in Army administration, is not practicable. It was pointed out that unity of control is essential, and that so long as there are maintained in Burma forces such as British troops for which Parliament is responsible, control must be vested in the Governor who owes responsibility to His Majesty’s Government and Parliament.

69. Discussion of Defence matters in Legislature.—On the question of the medium by which the Governor might maintain contact with the Legislature in regard to Defence matters and explain his policy and requirements, there was some divergence of view. Some of the Delegates thought it would be objectionable and inconsistent with the theory of joint responsibility of the Ministry that the medium should be a “Minister”—particularly if he were an official—responsible to the Governor and not to the Legislature. It was suggested that a procedure might be adopted similar to that practised in the Indian Legislature by which, when opportunity is afforded for discussion of Army affairs, the Secretary to the Government in the Army Department or, on occasion, the Commander-in-Chief addresses one or other House; and the suggestion was put forward, which
received considerable support, that a Committee of the Legislature might be established to which information on military matters might be imparted, and through which the Legislature might gain familiarity with problems of military administration and acquire the knowledge requisite before transfer of responsibility could be practicable.

70. **Expenditure on the Defence of Burma.**—The view was expressed that lack of control of Defence by the Legislature was inconsistent with liability for the cost; but it was generally agreed that, wherever control lay in existing conditions, Burma must pay for her military forces, and that the necessary supply should not be subject to the vote of the Legislature. The system of a fixed Budget grant for a term of years was mentioned as possibly a convenient arrangement, though it might be necessary in cases of emergency to exceed such grant.

71. **Building up of Indigenous Forces.**—As was recognised by the Indian Conference in respect of India, defence questions must be of increasing concern to the people of a self-governing country; and the general feeling of the Committee was in favour, not only of the development of indigenous forces, but also of the provision of means by which the Legislature of Burma might be kept acquainted with Army matters during the period in which, as was generally recognised to be necessary, the responsibility for Defence remains vested in the Governor as answerable to Parliament.

**The Ministers.**

72. **The Council of Ministers, its Appointment and Composition.**—The ideal in contemplation being responsible government by a Ministry responsible to the Legislature and, through it, to the electorate, for the administration, in existing circumstances, of most, and eventually, of all branches of government, the Committee held, without any dissentient opinion, that the Ministry should normally be appointed on the usual constitutional method by the Governor in consultation with the leader of the party commanding the largest following in the Lower House, assuming that he was willing to undertake to form a Government. This party leader (who after the formation of the Government would be described as Chief Minister, or perhaps preferably, as Prime Minister) need not be confined in his choice of Ministers to the Lower House, and, in the general view of the Committee, it would be desirable that one of the responsible Ministers at least should be a member of the Upper House. Several Delegates, however, despite the objections to laying down any restriction on the Chief Minister's field of choice and to specifying any particular class in the Legislature as ineligible for ministerial appointment, thought that in present circumstances nominated members of the Upper House (if nomination were prescribed in the Constitution) should not be eligible for selection.
73. The Number of Ministers.—On the question of the number of Ministers under the new Constitution, the Committee was not in a position to make a definite recommendation, but comparing the volume of administrative work likely to devolve on the Ministry with that hitherto borne by two Ministers and two Executive Councillors, it inclined to the view that six to eight would be suitable and that it would be well to prescribe eight as a maximum. This maximum, it was suggested, might be laid down in rules attached to the Constitution Act, as not to be exceeded without the approval of the Governor.

74. Joint Responsibility.—The Committee had no hesitation in adopting the view that the Ministry should be collectively responsible to the Legislature, and though some would have preferred that, as in most constitutions, this principle should be established by practice and convention, a greater number considered that the collective responsibility of the Ministry should be definitely stated in the Constituent Act.

75. Circumstances in which the Ministry should relinquish Office.—The Committee considered the question whether, having regard to the principle of joint responsibility, it is possible to define in what circumstances a defeat should lead to the resignation (or dismissal) of the Ministry. Several thought that when the Ministry of the day was defeated on an important Government Bill, it should resign forthwith; others considered that it should be at liberty to decide whether the measure lost was in fact of such importance to the Government's programme, and the circumstances of the defeat such as to indicate the forfeiture of the confidence of the House; others again were of opinion that the Government should not be forced to resign save on a direct vote of no-confidence, which in the view of a minority should not be effective save by a prescribed minimum majority of votes. Few of the Committee supported this last suggestion which, if adopted, would in theory enable a Ministry to cling to office though unable to command a majority in the House to support its measures; the majority of the Delegates took the view that it was unwise to put into a Constituent Act a direction which the circumstances of the case might make it impossible to follow. All, however, agreed that, in accordance with the principle of joint responsibility, an adverse vote must be held to affect the whole Ministry and not an individual Minister only.

76. Position of the Governor.—The Committee was of opinion that while the Chief (or Prime) Minister would ordinarily preside over the Cabinet (or Council of Ministers) the Governor should have full discretion to summon his Ministers and preside at such meetings. They were agreed, also, that the Governor should be fully apprised of the policy of his Ministers and be kept informed of decisions taken at meetings at which he is not present in person.
was taken that while full information as to the Ministers' actions would be essential to the Governor to enable him to discharge his duties and special responsibilities, it would be of no less advantage to the Ministers that he should preside, at his discretion, at Cabinet meetings. This would also afford opportunity to keep them in touch with subjects reserved for his administration.

77. Administration of Reserved Subjects.—The question was also raised whether the Ministry or Cabinet should contain "Ministers" responsible, not to the Legislature, but solely to the Governor, in respect of subjects reserved for his administration: some Delegates held, and others strongly opposed, the opinion that the Governor should have discretion to appoint officials or non-officials as "Ministers" in charge of subjects administered by him, who should stand or fall with the Ministry as a whole, thus preserving the appearance of joint responsibility, though they would in fact be responsible to the Governor, and not to the Legislature, and should be eligible for reappointment by the Governor to every succeeding Ministry; others took the view that the Governor should not appoint "Ministers," to be included in the Ministry, in charge of subjects administered by himself, but should have discretion to bring to meetings of the Cabinet the officials engaged in the administration of these subjects, so that the Ministers responsible to the Legislature would be enabled to discuss matters of common concern.

78. Rules for Conduct of Executive Business.—In regard to rules for the conduct of Executive business, the suggestion was made that they should be framed by the Governor in consultation with his Ministers; some Delegates viewed with anxiety any relaxation of the Governor's control of this power, which at present reposes with the Governor-General or the Governor of a Province, as the case may be.

79. Remuneration of Ministers.—As to the salaries of the Ministers, several of the Committee felt that under the new Constitution a scale of salaries considerably lower than those now drawn by Ministers would be adequate (the figures of Rs. 2,000 per mensem for a Minister, and perhaps Rs. 2,500 per mensem for the Chief Minister, have been suggested); and the opinion was held by many that the salaries should be fixed, in the first instance, in rules framed under the Constituent Act, the Legislature to be empowered to amend the rate thereafter, having regard to the financial resources of the country. There was general agreement that whatever power might be given in the new Constitution to vary the scale of salaries of Ministers, it should not be permissible to make any change affecting adversely any Minister during his tenure of office. The suggestion was made by more than one Delegate that, whereas ministerial salaries might well be reduced below their present level, it would consort with the dignity of the Ministers' position that they should be provided with official residences.
The Governor's Powers.

80. Reserved Subjects and Safeguards.—It was agreed, except by certain Delegates who were unwilling to accept any safeguards at the present stage, that the transfer of power to Ministers responsible to the Legislature must be accompanied by safeguards necessary in the interest of Burma until further experience had been acquired in the management of the machinery of responsible government. In general, the Committee accepted the principles enunciated in the Second Report of the Federal Structure Committee of the Indian Conference in respect of the ordinary and special powers of the Governor-General of India, as suitable to be applied to the case of the Governor of a separated Burma. Paragraphs 15, 21, and 22 were specifically cited as directly applicable in substance.

81. Subjects to be administered by the Governor.—In particular it was proposed that the Governor should himself be responsible for the administration of the following subjects: Defence; External Affairs, Excluded Areas (including the Shan States); Monetary Policy, Currency and Coinage; Ceremonial, Titles and Honours; Ecclesiastical Administration; and Officials recruited by the Crown or the Secretary of State or by the Governor for services administered by himself.

82. The Governor's Power of Intervention for particular purposes.—It was further proposed that the Governor should have the power to intervene in the fields of legislation and administration for the purpose of safeguarding the following matters:—the protection of minorities; the preservation of Burma from grave internal peril; the financial stability and credit of Burma and fulfilment of her debt obligations; the protection of Imperial interests; the rights and privileges guaranteed to officials; and any matters affecting the reserved subjects enumerated above. It would be for the Governor to decide whether any particular issue did or did not fall within either of the categories referred to in paragraphs 81 and 82. In certain cases there would be an overlap of Ministers' and Governor's responsibilities as is pointed out in paragraph 11 of the Fourth Report of the Federal Structure Committee in regard to the reaction on external relations of commercial, economic and other relations, which would fall primarily within the purview of Ministers and Legislature; the Governor would in this case have a special responsibility to secure that the latter are so handled as not to conflict with his responsibility for the former.

83. Emergency Powers.—The reservation in existing conditions to the Governor of powers over the field covered above was generally agreed to, and it was also admitted that he must be given adequate powers to enable him to carry on government in an emergency and to take over the government in whole or in part in the unhappy event of a breakdown of the constitutional machine. All agreed
that the safeguarding and emergency powers of the Governor, as opposed to the powers in the reserved field, should be employed as rarely as possible, both in order to demonstrate the reality of the transfer of power to the Ministry and to discourage Ministers from relying upon the Governor’s powers to relieve them of the burden of unpopular decisions that might be demanded in the interests of the nation.

84. An Alternative Suggestion.—As an alternative to the express reservation of certain subjects, a suggestion was made that all subjects might be placed under the control of responsible Ministers, the Governor being given a power of superintendence which he would exercise to an unlimited extent in the case of subjects classed above as reserved, but only rarely for the purposes mentioned above in the remaining field. By such means it was urged, Ministers would be trained in the handling of reserved subjects, and a gradual further transference of power could take place within the framework of the Constitution. In opposition to this proposal it was pointed out that under it Ministers would in fact be responsible both to the Legislature and to the Governor in respect of certain subjects, thereby producing a blurred responsibility and perpetuating dyarchy in its worst form. The whole object of placing certain subjects directly under the Governor’s control was to preserve in a limited field his responsibility to Parliament direct and undivided. There would be no difficulty in instructing the Governor in his administration of the reserved subjects to maintain touch with his Ministers and the Legislature, and through them with public opinion.

85. Fundamental Safeguards for Minorities.—In the course of the discussion of the Governor’s duty to safeguard the interests of minorities the suggestion was made that additional statutory protection, for which the Governor should be made responsible, should be afforded on the following lines:—

(1) Protection of life and labour, irrespective of birth, race, language or religion.

(2) Free exercise of religions or beliefs, the practice of which is not inconsistent with public order.

(3) All inhabitants to be equal before the law, and to enjoy the same civil and political rights, as, for instance, admission to public employment, functions of ownership, exercise of professions, ownership of land and property, participation in industrial and commercial undertakings, irrespective of race, language or religion.

(4) No person to be under disability for admission into any branch of the public services merely by reason of race, language or religion.
(5) No laws, rules or orders, intended to discriminate against minorities to be passed by Government, Legislatures, Corporations, Municipalities, local self-governing bodies or other official or semi-official bodies.

(6) Racial, religious or linguistic minorities to have the right to establish their cultural and welfare institutions, and to be assured an equitable share in the enjoyment and application of the sums which may be provided from funds under the State, municipal or other budget for educational, religious and charitable purposes.

It was suggested that in upholding these rights, there should be a final right of appeal to the Privy Council. But this suggestion was criticised on the ground that it would inevitably have the effect of bringing the Government or Governor of Burma, in the discharge of their administrative responsibilities, into conflict with the highest Court of Appeal in the Empire.

86. Commercial Discrimination.—It was urged that there should be no discrimination against any community carrying on business or trading in Burma, and it was proposed that the Constituent Act should contain provisions defining clearly the position and rights of commercial communities. The view was expressed that the general principles recorded in the Fourth Report of the Federal Structure Committee of the Indian Conference, document R.T.C.22, particularly paragraphs 18 and 26, would form the basis of a suitable provision. But it was urged that in addition to security so provided for subjects of the Crown in Burma, British subjects should be secured the right to enter and to engage in trade and industry in Burma in the future as hitherto. The Governor, it was suggested, should be given full statutory powers to ensure that effect was given to such provisions.

It was agreed that the Act should provide that there should be no discrimination, legislative or administrative, against any existing commercial interests carrying on business or trading in Burma. But there was a division of opinion whether this protection should be extended in the Statute to cover future enterprises.

Financial Arrangements.

87. Governor’s Powers.—There was general agreement that supply for the reserved subjects and service of debt should be non-voted and should form the first claim on the revenues of Burma, and further, that the Governor should be given whatever powers might be necessary to secure, without dependence on the vote of the Legislature, funds for the discharge of his responsibilities. It was also proposed, without objection being raised, that the existing system of the presentation of an annual financial statement in lieu of a Finance Bill should be continued, and that all the revenues of Burma should be paid into a single account. As is mentioned in the section on Defence, paragraph 70 above, it was thought that
in respect of Defence the desirability of a contract grant fixed for a term of years might be left to be settled as a matter of administrative convenience. It was suggested that the Governor's prior sanction should be required to measures affecting the public debt, and public revenue, or imposing a charge on the revenues, and that in accordance with usual practice, proposals involving taxation or appropriation should be made only on the recommendation of the Governor, acting, of course, on the advice of Ministers in matters falling within the field for which they are responsible.

88. Railways.—As regards Railways, there was some discussion as to the desirability of entrusting the management of the railways, as opposed to policy (which it was agreed should rest with a responsible Minister), to a Railway Board to be set up by Statute. The Committee was not unanimous on this point, but it was agreed that if such a Board were set up it need only be very small. There was a majority in favour of separating the railway from the ordinary budget. One Delegate suggested the establishment of a similar Statutory Board for the management of Posts and Telegraphs, which, like Railways, is a “commercial” department and as such should be run on strictly business lines, free from the political pressure to which a department under the direct control of an elected Minister is liable.

89. Appointment of a Financial Adviser.—In the event of Burma being separated from India, her Government will have to deal with financial questions of which neither officials nor non-officials in Burma have hitherto had opportunity to gain experience. It was, accordingly, proposed that the Governor and the Ministers (including the Finance Minister), should have the assistance of an expert Financial Adviser, who would have important duties in connection with the annual budget and capital transactions. Many Delegates, however, only accepted this proposal on the assumption that the subjects of currency and coinage should be transferred to the control of a Minister. It was emphasized that the financial stability of a country and its credit abroad depend to a great extent on the soundness of its budgetary arrangements. As it is proposed (para. 82) that the Governor should have a special responsibility in respect of Burma's financial stability and credit, it was suggested that to enable him the more effectively to discharge this responsibility, the Financial Adviser should bring to the notice of the Governor (to whom he would be responsible in this regard) any proposals tending to impair stability and credit. Some Delegates objected to this proposal on the ground that it would interfere with the authority of the Finance Minister and his colleagues. The Financial Adviser should have the right to speak in the Legislature, but not to vote.

90. Loans.—Some general discussion took place regarding the manner in which external loans should be raised, but no definite conclusions were formulated. It was pointed out that it might not
be possible for a self-governing Burma to raise loans in the name of a Secretary of State. A possible plan might be for the provisions of the Colonial Stocks Act to be applied to Government of Burma loans.

91. Appointment of an Auditor-General.—There was general agreement to the proposal that the Constituent Act should provide for the appointment of an Auditor-General.

Conclusions of the Committee.

The Committee failed to reach agreement upon a number of the Heads for Discussion contained in the Agenda submitted to it by the Chairman. Among such matters must be included the claim of the Minorities to separate representation in the new Parliament, the question of the franchise, and the method of election to elected seats in the Senate.

There was, nevertheless, agreement, save on the part of those Delegates who are unwilling to agree to any safeguards at the present stage (vide para. 80), upon the outlines of a constitution which, applying to the case of Burma the principle underlying the Prime Minister's statement of 1st December, 1931, in regard to India, should place upon the Legislature of Burma responsibility for the government of the country, subject to the qualification that, in existing circumstances, certain specified subjects must be reserved to the Governor, that, in finance, such conditions must apply as would ensure the fulfilment of Burma's due obligations and build up her credit and maintain her financial stability, and finally, that the Governor must be given the necessary powers in all fields to discharge the responsibilities specifically placed upon him. It is possible to embody the agreement reached on this broad question in the following general conclusions:

1. The Committee agreed upon the establishment of a Legislature, consisting of two Houses, to be styled the Senate and the House of Representatives, the two bodies to be collectively described as the Parliament of Burma.

2. It was agreed that the Senate should be about one-third of the size of the House of Representatives, that it should be composed partly of elected and partly of nominated members, that a rotational system should be introduced under which the tenure of a seat in the Senate should be for 6-7 years, and that the Senate should only be dissolved in exceptional circumstances.

3. It was agreed that the maximum life of the House of Representatives should be five years, and that the "official bloc," in the sense of officials entitled to vote as well as speak, should be abolished.

4. It was agreed that Bills passed in one House, but rejected by the other, should be returned to the originating House for
reconsideration. In the event of a second rejection, there should ensue a period of delay, subject to a dispensing power by the Governor in cases of urgency, followed, if necessary, by a joint session of the two Houses.

(5) It was agreed that Ministers might be selected from either House and should have the right to speak in both Houses. The number of Ministers should, in existing circumstances, be not more than eight, they should be collectively responsible to the Legislature, and there should be a Chief or Prime Minister, who would normally be the leader of the strongest party in the House of Representatives. It was also agreed that, while the Governor might not ordinarily preside over the Council or Cabinet of Ministers, he should be able to do so at his discretion.

(6) It was agreed that there should be no sex disqualification from membership of either House of the Legislature, that there should be a minimum age limit of 35 for membership of the Senate, and that the present conditions regarding insolvents should be modified in such a way as to prevent a bankrupt from harsher treatment than a criminal.

(7) There was general agreement as to the field of the Governor's responsibilities and that, in addition to the ordinary powers of returning, reserving, and disallowing legislative measures, the Governor should have all necessary powers to enable him to discharge his special responsibilities, including the power to secure requisite funds. It was considered that the Governor should be instructed to keep in touch with the Ministry and the Legislature in the administration of subjects entrusted to him.

(8) It was agreed that there should be no discrimination against minorities or existing commercial interests.

(9) As regards Defence, the desirability of the development of an indigenous defence force was generally recognised, and it was agreed that means should be found to keep the Legislature informed of questions of Army administration.

(10) There was a general measure of agreement upon the structure of the new High Court.

(11) As regards the Services, it was agreed to preserve the existing rights and safeguards (including pensions) for officers appointed before the new Constitution should come into effect, and that the right of retirement on proportionate pension should be extended. The establishment of a Public Services Commission was also agreed upon.

Signed on behalf of the Committee,

PEEL.

5th January, 1932.
APPENDIX I.

LONDON,
9th December, 1931.

To the Chairman and Members of the Burma Round Table Conference.

My Lords and Gentlemen,

There appears to be a great measure of doubt and confusion as to the exact attitude of the Shan States towards Burma. A simple explanation will do much to clear the air of a misapprehension that has arisen through the misinterpretation of the clause on page 5 of last year's Memorandum.

It should be understood first and foremost that all the delegated Chiefs and their Advisers are completely in agreement, not only between themselves but with their fellow Chiefs that deputed them to come over here and who still remain in agreement with the Memorandum of last year. In this connection it should also be remarked that when the Sawbwa of Hsipaw stated he was not the writer of the Memorandum he did not for a moment mean he was not in agreement with it. He merely wished to infer that it was not his fault if the intention therein was not clearly set out.

They have no desire to say in any sub-Committee anything they would not say in full Committee, and would prefer to speak openly rather than their brother Chiefs should think they had said anything they did not wish the whole of the Representatives Chiefs on the Federal Council to know.

The signatories to this letter must make it clear that although they appreciate the attitude of the Burmese Delegates towards their aims—and they have sought their help—they gave no authority to U Chit Hlaing to suggest that they have been induced by any officers to say anything at all. The insinuation of U Chit Hlaing should be categorically denied.

The disputed clause on page 5 of the Memorandum should be explained.

The Chiefs did not for one moment consider that the four points contained therein could be granted by the future Constitution of Burma. Granted those four points, then the Shan States have no objection to a close relationship with Burma, confined, however, to those matters which intimately concern the mutual welfare of the two separate countries—such as matters of defence, communication, customs, etc.

In order to attain the four points upon which so much discussion has arisen, representation in the future Legislature of Burma is not necessary and cannot be helpful; and the Federated Shan States would much rather rely solely upon its relationship with His Majesty's Government through His Excellency the Governor of Burma than to have the double channel to which they have already objected (see para. 7, page 8). Upon this paragraph may we emphasise what we say there: "In the event of separation of Burma from India under a new Constitution, and the claim of the Shan States to be treated independently of Burma being successful"—surely this clearly means that we, at that time as now, desired to remain a separate entity.

If further evidence from our original Memorandum be desired, how can the clause on page 5 be considered to be an overture to be included in the new Legislature of Burma in the face of our reiterated aim to attain to the status of an independent State under the Crown (page 2, clause 5; page 7, clauses 3 and 6)?
In the Supplementary Memorandum of the Committee of Six Chiefs addressed to His Excellency the Governor of Burma (page 10, clause 14) the Chiefs have again stated their desire for a revision of their status. This could not possibly be acceded to by any new Constitution of Burma, however wide its powers may be.

Mr. Foot, in a constructive speech, stated definitely that which we wished to hear—that "there is no demand upon the other (i.e. Burman) side and no anxiety that they should be forced to come into any such Legislature"; and "there is nothing that will prevent the subsequent discussion as to the Shan States having representation in the Upper House to deal with the points that have been mentioned by Lord Lothian."

As to our representation in the Upper House, that may well be discussed later, when it is decided upon what matters will be dealt with there. If those be, alone, matters of international relationships between the two countries, then representation will be imperative.

Dr. Thein Maung and other Delegates stressed the question of frontier defence. We suggest that this is a matter of detail, of important detail admittedly, but one of those subjects which, in common with others, will inevitably have to be discussed later.

This letter is addressed to the Lord Chairman and Members of the Conference solely with the intention of removing any misunderstanding that may exist as to our position, and to ensure that no misconception may remain that the whole of the Sawbwas, here and in the States, are other than of a united mind and uninfluenced by any consideration beyond their own States' welfare.

We have the honour to be,
My Lords and Gentlemen,
Your obedient servants,
SAW ON KYA, SAWBWA OF HSIPAW.
SAO SHWE THALKE, SAWBWA OF YAWNGHEWE.
SAO HOM HPA, SAWBWA OF NORTH HSERNWI.
SAO KAWNG TAI, KYEMMONG OF KENTUNG.
APPENDIX II.

UPPER CHAMBER.

Geographical distribution of seats on the basis of 30 directly elected members on the electors’ qualifications for (a) the Council of State, (b) the Legislative Assembly.

<table>
<thead>
<tr>
<th>Territorial unit</th>
<th>Area</th>
<th>(a) Council of State basis</th>
<th></th>
<th>(b) Legislative Assembly basis</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Voters</td>
<td>Seats</td>
<td>Voters</td>
<td>Seats</td>
</tr>
<tr>
<td>Rangoon Town</td>
<td>76</td>
<td>3,006</td>
<td>4</td>
<td>8,745</td>
<td>5</td>
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<td>Arakan Division</td>
<td>13,301</td>
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<td>1,982</td>
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<tr>
<td>Pegu Division</td>
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<td>4,693</td>
<td>7</td>
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<tr>
<td>Irrawaddy Division</td>
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<td>13,115</td>
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<tr>
<td>Tenasserim Division</td>
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<td>2,682</td>
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<td>4,088</td>
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<tr>
<td>Magwe Division</td>
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<td>2,016</td>
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<tr>
<td>Mandalay Division</td>
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<td>5,518</td>
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<tr>
<td>Sagaing Division</td>
<td>18,886</td>
<td>801</td>
<td>1</td>
<td>3,482</td>
<td>2</td>
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</table>

<table>
<thead>
<tr>
<th>(a) Council of State basis</th>
<th>(b) Legislative Assembly basis</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of voters</td>
<td>20,269</td>
</tr>
<tr>
<td>Number of seats (assumed)</td>
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<tr>
<td>Average number of voters per seat</td>
<td>675</td>
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